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**Before the
CITY OF CAMAS
HEARINGS EXAMINER**

SUBMITTED BY,

CLARK AND CARYN VITEK
5225 NW 38TH AVE
CAMAS, WA 98607

IN THE MATTER OF,

OPPOSITION TO CUP24-1001
ADDITIONAL COMMENTS and
CAUSES FOR DENIAL

APRIL 2, 2025

I. INTRODUCTION

We previously provided written and verbal comments into the hearing record for CUP24-1001 held on March 20, 2025. Under continuance of open record, we provided further written comments on March 25, 2025 on the topic of traffic impact. The comments contained in this correspondence detail unconstitutional activity and harm to the public welfare that we believe warrant causes for DENIAL of CUP24-1001. The proposed use is an unconstitutional gift of public funds from the Camas School District (CSD), a municipal corporation in the State of Washington, to the United States Tennis Association / Pacific Northwest Section (USTA/PNW), an Oregon corporation.

II. BACKGROUND

CMC 18.43.050 provides the criteria under which a conditional use permit is evaluated. The first criteria reads as follows:

A. The proposed use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity of the proposed use, or in the district in which the subject property is situated.

In Washington State, compliance with state laws is a fundamental requirement for obtaining a business license or permit from a city or local jurisdiction. Both state and local authorities mandate adherence to applicable laws and regulations to ensure lawful and ethical business operations.

The approval criteria for CUPs *must* encompass the legality of the use: For example, a CUP could never be approved for an illegal use such as sales of fentanyl, or an unconstitutional use, such as one that prohibits a race or religion. The CUP approval process must address the constitutionality of the use: an illegal or unconstitutional use would be, *per se*, a use that will be materially detrimental to the public welfare or injurious to property or improvements in the vicinity.

Accordingly, and in addition to all the other reasons previously submitted, the underlying unconstitutional use of the property, for which this CUP is sought, is an unconstitutional gift from a municipal corporation (CSD) to a private corporation (USTA/PNW). This mandates that the CUP be denied.

1 The Washington State Constitution, Article VIII § 7, states:

2 *"No county, city, town or other municipal corporation shall hereafter*
3 *give any money, or property, or loan its money, or credit to or in aid of*
4 *any individual, association, company or corporation."*

5
6 As set forth below, the underlying lease and operating agreement supporting this CUP
7 application is, in fact, an unconstitutional gift of public funds. The USTA/PNW has already
8 received direct benefits of CSD funds in pursuit of this CUP. If the CUP is approved, the contract
9 provides for long term use of CSD land and improvements at far-below market value. This will
10 significantly aid the USTA/PNW in gaining an unfair economic advantage over its competitors in
11 Camas and elsewhere in Washington State.
12

13
14 Gifts of public funds or property are prohibited by our State Constitution. The parties
15 engaged in this unconstitutional activity must not be allowed to proceed.
16

17 **III. CAUSES FOR DENIAL**

18

19 **A. The CUP Will Advance an Unconstitutional Business Agreement**

20

21 The Washington State Attorney General has provided a detailed Attorney General
22 Opinion "AGO" relevant to this topic (AGO 1978 No. 10 -April 17, 1978). For reference, we
23 provide this entire AGO as Exhibit A to these comments. This long standing AGO gives a
24 detailed interpretation of the Washington State Constitution, Article VIII § 7 and statutory laws
25 as they relate to leasing or renting school property. The AGO also gives key guidance to follow in
26 order to avoid the potential for an unconstitutional gift of the public property involved.
27
28

1 The applicant, Camas School District (CSD), and the proposed tenant operator,
2 USTA/PNW (“Tenant”) have not followed the long-standing interpretation contained in the AGO
3 and have engaged in an unconstitutional agreement. On July 22, 2024 the Camas School Board
4 approved a contract “as presented” between CSD and Tenant. For reference, we provide the
5 entirety of this contract as Exhibit B to these comments.

6
7 The following provides a comparison of what is contained in the Attorney General
8 Opinion (“AGO”, Exhibit A) to the CSD-Tenant contract clauses (“CSD Contract”, Exhibit B):

9
10 AGO (attached Ex. A) reads:

11 “Article VIII, § 7 of our state constitution which says that:

12
13 ‘No county, city, town or other municipal corporation shall hereafter
14 give any money, or property, or loan its money, or credit to or in aid of
15 any individual, association, company or corporation.’

16
17 “What is constitutionally required in the case of any rental of school district
18 property to a private person or organization is that there be a sufficient rental
19 imposed to avoid the possibility of an unconstitutional gift of the property
20 involved - and merely because the parties have agreed to a certain rental
21 amount does not necessarily mean that this amount is sufficient.”

22
23 “As a general rule this means, in the case of school district property, a rental
24 rate based upon a consideration of at least (a) the additional expenses (e.g.,
25 utilities, janitorial services, administration and maintenance), if any, incurred
26 by the district as a result of the rental and (b) the fair rental market value of
27 the resulting use and occupancy, per se. We should further note, however,
28

that the entire rental need not be paid to the school district in money. Thus, for example, a portion of the rental in a given case could be in the form of maintenance services, security, etc., that are provided by the private user and have a measurable value to the school district.”

CSD CONTRACT (Attached Ex. B) Comparisons:

The approved CSD contract is a 30-year, zero dollar recurring lease and operating agreement, publicly referred to by both parties as a “partnership”¹. Clause 6 (a) of the approved contract states that the “Initial Improvements” are “adequate consideration” for the entire agreement.

Yet, the agreement:

- provides no fair market estimates,
- provides no lease component or consideration for the land value,
- does not assign ongoing utilities to the Tenant,
- does not assign business excise or property tax on the bubble to the Tenant,
- and does not assign maintenance costs for the entire premises to the Tenant, who just maintains the bubble.
- The contract Clause 3 specifies that upon completion of the improvements, the CSD “shall deliver possession of the premises” to the Tenant, for a 30 year term.
- Per AGO opinion above, “Merely because the parties have agreed to a certain rental amount does not necessarily mean this amount is sufficient.”

¹ USTA Press Release “USTA/PNW Explores Exciting Partnership with Camas High School”. See Exhibit C.

Versions of this release appeared in all local newspapers.

1 The CSD contract provides a list of the general "CSD Improvements" for the site such as
2 the lobby/bathroom building and a list of the "USTA Improvements" such as the court
3 resurfacing and the bubble. Clause 5 of the contract provides that "the Parties" will obtain
4 permits and approvals, but does not specify which party will apply for the CUP. At this time, the
5 CSD is the only party who has approved and provided funds in the amount of \$160,000 to
6 pursue preliminary engineering and application fees in support of the CUP. Note, however, that
7 the CSD itself has no need for a CUP to accommodate any school uses. The CUP is only
8 required to support the Tenant's proposed operation of the new facility as a commercial tennis
9 center. To cover its own tennis courts for the high school's own uses, the school would not need
10 a CUP and would not be required to engineer or construct any new parking or access roadways.
11 Significant additional engineering and infrastructure expense is required only to support the
12 Tenant's proposed commercial operations under the CUP. Therefore, the CSD approval of
13 \$160,000 and payment of expenses in pursuit of this CUP (such as permit application fees)
14 already represents an unconstitutional gift from the CSD to the Tenant.

15
16 The CSD-Tenant 30 year lease and operating contract was developed outside of the public
17 view, with no advance publication of the proposed project, and without seeking multiple bidders. It
18 is widely accepted in public contracts that an open and public Request for Proposal ("RFP"), and
19 subsequent evaluation and selection process provides a valid assessment of the constitutionally
20 required "fair market value". The RFP process achieves valuation through obtaining multiple
21 market bids and proposals for the lease or services sought. The CSD-Tenant 30 year contract was
22 presented to the public for the first time, by attachment to the CSD board regular meeting agenda on
23 July 22, 2024, at 8 am, and then voted on and approved in a single sitting at its 5:30 PM meeting the
24 same day without any public comment. At that meeting, the CSD board of directors also approved
25 \$160,000 for engineering services, to be paid by CSD in pursuit of preliminary engineering and
26 obtaining the CUP. Importantly, no public notice or competitive bid process was ever engaged for
27 the CSD-tenant contract, as would be typical for a lease or outside operating agreement when a
28 municipal corporation's funds or assets will be committed.

1 We again refer directly to the AGO for comment, and draw comparisons with the CSD-Tenant
2 contract provisions:

3
4 AGO (attached Ex.A) states:

5
6 “If the lease was negotiated privately rather than through a call for bids,
7 with other potential lessees thereby being excluded, the essential
8 neutrality required by the constitution might well be lost”.

9
10 “In all such cases some rental, either in money or something of
11 equivalent value, must be paid; and with the exception of a rental to
12 another governmental agency, that rent must be such as will (a) fully
13 compensate the school district for additional costs and expenses to the
14 district that result from the use, and (b) encompass the fair rental market
15 value of the rented premises.”

16
17 CSD CONTRACT (Attached Ex. B) comparison:

18
19 The CSD contract fails to pass the AGO’s described criteria for constitutionality :

- 20
21 1. There is no rent assigned,
22 2. There is no fair market value provided for any of the itemized new improvements,
23 3. No value is considered for Tenant’s use of the land and existing infrastructure,
24 4. No offsetting value is assigned to the Tenant’s proposed services to be provided to CSD,
25 5. Ongoing Tenant related costs for maintenance and utilities are assigned to CSD,
26 6. There is no provision for revenue sharing with CSD. All revenues from selling tennis
27 access and instruction on the public property are provided solely to Tenant,
28 7. The finished project will be solely possessed and controlled by Tenant for 30 years.

1 Importantly, as with any application, the burden of proof is upon the Applicant. With the
2 constitutionality of the project at issue, and with the record devoid of the data necessary to prove
3 no “gift of public funds or property,” the Applicant has the burden to establish that there is no
4 gift of public funds that will result from the proposed use. Given the lack of specificity in the
5 contract as to the value of the improvements, maintenance and utilities, the shared operating
6 hours, income from court rentals and tennis instruction, income from related pro shop goods and
7 concessions, and therefore the total value of the 30 year lease, the applicant has not and cannot
8 establish that the proposed use is constitutional.

9
10 This is a detriment to the public welfare in the City of Camas because the citizens of
11 Camas provided the school district with the resources for school land and improvements that are
12 now being unconstitutionally gifted to Tenant.

13
14 On this basis, the CUP should be **DENIED**.

15
16 We provide additional causes in the sections that follow.

17
18 **B. The Proposed Tenant was non-compliant with corporate law in the State of Washington,**
19 **and applicant was aware that Tenant was non-compliant at the time of application for the**
20 **CUP.**

21
22 We note again for the record the CUP is only required to support the Tenant’s
23 commercial activities. As such, the compliance history of the Tenant is relevant and this issue is
24 within scope of Hearing Examiner’s consideration. Illegal business activities are deemed by the
25 City of Camas and State of Washington to be detrimental to the public welfare (*prima facie*).
26 Exhibit D to these comments provides details of the proposed tenant’s past seven years of non-
27 compliance with WA Secretary of State corporate registration requirements. We first raised this
28 issue to the applicant (CSD) at the public school board meeting on August 26, 2024 and the

1 applicant was thereafter made fully aware of this issue in writing (as described in Exhibit D). At
2 the time of CUP application, October 1, 2024, the proposed Tenant was not compliant with State
3 Laws. The applicant could have confirmed Tenant's compliance at any time prior to
4 application, as we did, through a simple search on the Washington Secretary of State's public
5 corporations and non-profits registration website, which lists over 55,000 corporations in WA
6 State that comply with the registration and reporting requirements every year.

7
8 The exact reasons for Tenant's non-compliance are not known to anyone except Tenant,
9 but we observe that the period of non-compliance commenced when Tenant first expanded into
10 "tennis facility operations" in 2017, which was a new business activity for Tenant and
11 potentially outside of Tenant's historical IRS approved 501(c)(3) exempt non-profit mission. By
12 allowing its WA State non-profit registration to administratively dissolve in 2016, the Tenant has
13 not fully afforded WA State the opportunity to review its new business of tennis facility
14 operations. Tenant has filed none of the required annual reports with the Secretary of State for
15 seven years, while generating over \$10MM in revenues from "Tennis Facility Operations" in
16 Washington. To date, Tenant still exclusively engages in this activity in Washington State and
17 nowhere else in its four-state region, where it could be exposed retroactively to state income
18 taxes if it is later determined by the IRS that "tennis facility operations" are in fact an activity
19 that is outside of its exempt non-profit core mission of organizing amateur competitions.

20
21 Based on the fact that the applicant's proposed Tenant was not compliant with WA State
22 laws at the time of application, and for seven preceding years, and the applicant was aware of
23 this fact at the time the application was made, this CUP should be **DENIED**.

1 **C. Negative Impacts on the security and safety of students**

2
3 The proposed commercial operations on a school campus introduce new security
4 concerns by bringing the general public onto the school campus at times and in ways that are not
5 yet well understood. The applicant did not include any analysis of the impact its proposal would
6 have on the high school campus security and safety policies. The applicant also did not provide
7 any analysis of impact on student pedestrian traffic across the access route of the proposed
8 commercial facility, between the existing athletic fields and the school. The applicant had the
9 burden to show that these new safety and security concerns can be adequately addressed due to
10 the high level of seriousness of the topic. Lacking any evidence provided by the applicant, the
11 safety and security of the students by introducing “open to the public” commercial operations
12 onto a school campus, during the school day, is almost certainly presumed to have as yet
13 unquantified negative impacts.

14
15 For this reason, the CUP should be **DENIED**.

16 **D. Loss of existing community access to publicly owned property**

17
18
19 Last, we present the fact that the community will be negatively impacted by loss of use of
20 their own school grounds. The proposed CUP should be denied because it will result in a
21 significant loss of free community use and enjoyment of their own school grounds. CSD Policy
22 4260P states (See Exhibit E):

23
24 “Because of the value of the district's playing fields to the community's total
25 recreational opportunity, the fields may be used by all residents.”

26
27 This CUP will remove after-hours, weekends, and summer free public access that is
28 allowed under current district policy. The public will now have to pay the Tenant to use their

1 own school's facilities that they already paid for with bonds. This is a loss of access to publicly
2 owned property and loss of related community benefit. This CUP will convert the public's
3 existing and freely accessible property into the Tenant's exclusive pay-for-access use, which will
4 benefit the Tenant. There is no offsetting public benefits presented by the applicant for the loss
5 of free use that will result from this CUP approval.

6
7 Therefore this CUP should be **DENIED**.

8
9 **IV. CONCLUSION**

10
11 For the reasons stated herein, the conditional use permit CUP24-1001 should be
12 **DENIED**.

13
14 Signed,

15
16
17 
18 

19 Clark and Caryn Vitek

20 5225 NW 38th Ave.

21 Camas, WA 98607
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23
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26
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EXHIBIT LIST

A: Washington State Attorney General Opinion (AGO 1978 No. 10)

source: <https://www.atg.wa.gov/ago-opinions/districts-schools-property-lease-surplus-school-district-property>

B: Contract Approved by Camas School Board on July 22, 2024

source: [https://go.boarddocs.com/wa/camas/Board.nsf/files/D78RJ46E295C/\\$file/USTA-%20-%20Management%20Agreement%20\(CSD\)\(102575761.pdf](https://go.boarddocs.com/wa/camas/Board.nsf/files/D78RJ46E295C/$file/USTA-%20-%20Management%20Agreement%20(CSD)(102575761.pdf)

C: Press release “USTA/PNW Explores Exciting Partnership with Camas High School”

source: <https://www.ustapnw.org/s/FOR-IMMEDIATE-RELEASE-USTA-PNW-and-Camas-High-School-Explore-Partnership-1-1.pdf>

D. Letter from Clark and Caryn Vitek to Camas School Board, January 8, 2025

source: [https://go.boarddocs.com/wa/camas/Board.nsf/files/DD7W298347B9/\\$file/Written%20Public%20Comments%20-%20Caryn%20and%20Clark%20Vitek.pdf](https://go.boarddocs.com/wa/camas/Board.nsf/files/DD7W298347B9/$file/Written%20Public%20Comments%20-%20Caryn%20and%20Clark%20Vitek.pdf)

E: Existing School Board policies 4260 & 4260P on public use of facilities, including athletic fields, etc.

source(s): <https://go.boarddocs.com/wa/camas/Board.nsf/goto?open&id=BRT3LH06A67F>

DISTRICTS -- SCHOOLS -- PROPERTY -- LEASE OF SURPLUS SCHOOL DISTRICT PROPERTY

DISTRICTS -- SCHOOLS -- PROPERTY -- LEASE OF SURPLUS SCHOOL DISTRICT PROPERTY

(1) Subject to the qualifications stated below, a school district may lease its surplus facilities, under RCW 28A.58.040, to private schools, profit or nonprofit organizations or other governmental agencies so long as the leasing thereof will not interfere with the building's use for school purposes and the tenancy to be granted will not place the facility beyond the control of the district in the event it again becomes necessary for school purposes.

(2) In all such cases some rental, either in money or something of equivalent value, must be paid; and with the exception of a rental to another governmental agency, that rent must be such as will (a) fully compensate the school district for its costs and expenses and (b) encompass the fair rental market value of the rented premises.

(3) If the lease is either to a church-related school or to a private group for the conduct of religious worship or instruction, the property being rented must be sufficiently remote from other property being retained for school purposes to avoid the appearance of an endorsement of the religious activities of the lessee and also prevent any sectarian influence of the remaining public school operations. In addition, a procedure, preferably involving competitive bidding, must be utilized in the formation of the lease which will assure that all prospective tenants, religious or otherwise, have an equal opportunity to rent the property.

April 17, 1978

Honorable Ron Dunlap
State Representative, 41st Dist.
3129 - 109th S.E.
Bellevue, Washington 98004

Cite as: AGO 1978 No. 10

Dear Sir:

This is written in response to your recent request for our opinion on several questions regarding the legal ability [[Orig. Op. Page 2]] of a school district to lease its surplus facilities to certain outside individuals or groups. Specifically you have asked:

1. To whom can districts rent or lease surplus space?

(a) Private schools? (b) Church-related schools? (c) Profit-making organizations? (d) Non-profit organizations? (e) Governmental agencies? (f) Other groups?

2. How much must districts charge the groups named above for rental or lease payment?

EXHIBIT A

(a) An amount equal to the cost of operating the building? (b) Any amount agreeable to the parties involved? (c) Fair market value? (d) Other?

We respond to the foregoing questions in the manner set forth in our analysis.

ANALYSIS

Public school districts, as you know, may exercise only those powers which have been granted to them by the legislature, either expressly or by necessary implication. See, e.g., Seattle High School Ch. No. 200 v. Sharples, 159 Wash. 424, 293 Pac. 994 (1930); Juntila v. Everett School Dist. No. 24, 178 Wash. 637, 35 P.2d 78 (1934). Thus, the first inquiry to be made in responding to your questions is whether, and to what extent, the legislature has authorized school districts to lease their facilities either to other governmental agencies or to private individuals or organizations. And then, secondly, it will be necessary for us also to discuss certain applicable constitutional limitations because a school district, even in the exercise of an expressly granted statutory power, must obviously abide by the state and federal constitutions as well.

[[Orig. Op. Page 3]]

I. Statutory Authorization:

From your letter, with its emphasis upon the term "surplus," we understand your basic concern to be with the rental, to outside groups, of those public school facilities which, at least for the time being, are no longer needed for the conduct of the schools themselves. Thus we may, at the outset, merely make passing note of three statutes which appear to deal, instead, with the occasional rental or other outside use during nonschool hours of classrooms or other school facilities which are still in general use for school district purposes. The first of these statutes is RCW 28A.58.048 which provides that:

"Boards of directors of school districts are hereby authorized to permit the use of, and to rent school playgrounds, athletic fields, or athletic facilities, by, or to, any person or corporation for any athletic contests or athletic purposes.

"Permission to use and/or rent said school playgrounds, athletic fields, or athletic facilities shall be for such compensation and under such terms as regulations of the board of directors adopted from time to time so provide."

The second such statute is RCW 28A.58.105 which reads as follows:

"Every board of directors, unless otherwise specifically provided by law, shall:

"(1) Authorize school facilities to be used for night schools and establish and maintain the same whenever deemed advisable;

"(2) Authorize school facilities to be used for summer schools or for meetings, whether public, literary, scientific, religious, political, mechanical, agricultural or whatever, upon approval of the board under such rules or regulations as the board of directors may adopt, which rules or regulations may require a reasonable rental for the use of such facilities."

[[Orig. Op. Page 4]]

And the third statute of like import is RCW 28A.60.190, which deals only with second class

EXHIBIT A

1 school districts and provides that:

2 "School boards in each district of the second class may provide for the free, comfortable and
3 convenient use of the school property to promote and facilitate frequent meetings and association
4 of the people in discussion, study, improvement, recreation and other community purposes. . . ."

5 The rental of surplus school facilities, on the other hand, is now covered - along with sales - by
6 a somewhat more generalized statute, RCW 28A.58.040, which reads, in full, as follows:

7 "The board of directors of each school district shall have exclusive control of all school
8 property, real or personal, belonging to the district: said board shall have power, subject to RCW
9 28A.58.045, in the name of the district, to convey by deed all the interest of their district in or to
10 any real property of the district which is no longer required for school purposes. Except as
11 otherwise specially provided by law, and RCW 28A.58.045, the board of directors of each school
12 district may purchase, lease, receive and hold real and personal property in the name of the district,
13 and rent or sell the same, and all conveyances of real estate made to the district shall vest title in the
14 district." (Emphasis supplied)

15 In the foregoing statutory context we would view the "rentals" which are thus authorized as
16 being an alternative form of alienation of that property which is no longer (at least for the present)
17 needed for school district purposes. Under the provisions of RCW 28A.58.040, supra, school
18 districts may either sell such property (subject to the procedures contained in RCW 28A.58.045)¹/
19 or they may rent it - but unlike those short-term or occasional use rentals that are covered by RCW
20 28A.58.048, RCW 28A.58.105 or RCW 28A.60.190, supra, the rental by a school district of its
21 surplus property is not statutorily restricted by any listing of [[Orig. Op. Page 5]] designated
22 purposes. Cf., our previous letter opinion of February 24, 1959, to the Superintendent of Public
23 Instruction, copy enclosed, at p. 6, where we likewise concluded that such express statutes as RCW
24 28A.58.048 and RCW 28A.58.105, supra, do not impliedly negate the ability of a school district to
25 rent surplus school property for other purposes - the point being that those statutes deal only with
26 the rental of nonsurplus facilities for use during nonschool hours while both the implied authority
27 which was found to exist in our earlier opinion and the express statutory authorization which now
28 appears in RCW 28A.58.040, supra, relate to the rental of surplus school district property.²/
29

30 Insofar as it related to the rental of surplus school facilities this same 1959 opinion is also
31 worthy of further note. The reason that it relied on the doctrine of implied authority in that regard
32 was simply that RCW 28A.58.040, supra, did not then exist in its present form - that statute being a
33 product of the legislature's later enactment of the present state education code in 1969.³/
34 Nevertheless, we there said that a school district could legally rent out its surplus buildings or the
35 like for noncommercial purposes if:

36 ". . . (1) the space is not required for school purposes; (2) the leasing or renting thereof will
37 not interfere with the building's use for school purposes; (3) the tenancy to be granted . . . either by
38 a lease or rent agreement will not be for an unreasonable term so as to place this portion of the
39 building beyond the control of the district in the event that the same should become necessary for
40 school purposes; (4) a reasonable rental charge is imposed for the use of the space by the [lessee]
41 corporation."

42 To the extent that this prior opinion only sanctioned rentals for noncommercial purposes in
43 accordance with those four criteria we think that it may, even then, have been more restrictive than
44 necessary. And now, given the unqualified (as to purpose)⁴/ express authorization of RCW

45 EXHIBIT A

28A.58.040, [[Orig. Op. Page 6]] supra, it is most definitely our opinion, contrary to what we earlier concluded when dealing only with the implied authority of a school district, that if all four elements of the above-quoted text are present the rental may be for either commercial or noncommercial purposes. Basically, we are now persuaded that there is simply no good reason why a school board should be precluded from renting truly surplus property to an outside group even for a commercial purpose so long as the other factors which we identified in our 1959 opinion are all present. As the Idaho Supreme Court aptly observed in the recent case of Hansen v. Kootenai County Bd. of County Comr's, 93 Idaho 655, 471 P.2d 42 (1970):

"The general rule that a municipality can lease its property to a private business when not needed for public purposes is supported by convincing rationale. There is no purpose in requiring property not needed for public use to lie idle when it could be leased, thus relieving the taxpayers of the cost of maintenance and upkeep on the property. . . ." 471 P.2d at 49. See also, Atlas Life Ins. Co. v. Board of Education, 83 Okla. 12, 200 P. 171 at 172 and 173 (1921)5/

With this one notable exception, however, we are otherwise of the view that what we said in the above-quoted excerpt from our prior opinion continues to reflect the current state of the law on the subject. To begin with, the first two elements of its four-pronged test are, of course, fairly obvious; i.e., the facilities being rented must be surplus and their rental must not interfere with the continuing use of possibly adjacent nonrented facilities for school purposes. Thirdly, however, since a rental rather than a sale is involved (even though the property is presently surplus) the school district must retain the right to terminate the lease and retake possession within a reasonably short period of time if, and when, the property is again needed for school purposes. See, e.g., Cottrill v. First Huntington Nat. Bank, 119 W.Va. 120, 192 S.E. 131 (1937), where the court invalidated a certain lease of vacant school district real property not so much because of the long-term (20 years) of the lease [[Orig. Op. Page 7]] itself but because, in its judgment, a prior termination clause within the lease was too narrowly drafted with regard to both the reasons and the time period within which the school district could regain possession for school district purposes.

This brings us, then, to the fourth requirement which is that ". . . a reasonable rental charge is imposed for the use of the space by the lessee. . . ." But for reasons which will next be apparent this requirement, although also still valid, should more properly be discussed as a part of the next section of this opinion dealing with constitutional limitations - to which we now may turn.

II. Constitutional Limitations:

As heretofore explained a school district, in addition to its need for statutory authorization, is also subject to certain constitutional restrictions or limitations in the exercise of even its expressly granted powers. First and foremost of these restrictions is that contained in Article VIII, § 7 of our state constitution which says that:

"No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation."

It is this provision which, by and large, constitutes the underlying basis for the fourth, or "reasonable rental," element to which we referred in our February 24, 1959 opinion to the Superintendent of Public Instruction, supra. What is constitutionally required in the case of any

EXHIBIT A

rental of school district property to a private person or organization (as earlier also explained in our letter opinion of November 17, 1972, to Representative Al Williams, supra) is that there be a sufficient rental imposed to avoid the possibility of an unconstitutional gift of the property involved - and merely because the parties have agreed to a certain rental amount does not necessarily mean that this amount is sufficient. Instead, what is required is that the public lessor receive a [[Orig. Op. Page 8]] rental amount which represents a fair return, under all the surrounding factual circumstances, for the use and occupancy, by the private person or organization involved, of the particular property. As a general rule this means, in the case of school district property, a rental rate based upon a consideration of at least (a) the additional expenses (e.g., utilities, janitorial services, administration and maintenance), if any, incurred by the district as a result of the rental and (b) the fair rental market value of the resulting use and occupancy, per se. We should further note, however, that the entire rental need not be paid to the school district in money. Thus, for example, a portion of the rental in a given case could be in the form of maintenance services, security, etc., that are provided by the private user and have a measurable value to the school district.

But what if the lessee, on the other hand, is another public agency; e.g., a county, city or town - or, perhaps, even another school district? In such a case a considerably greater latitude is available in fixing the rental rate because of the fact that, according to previous rulings by our state supreme court, Article VIII, § 7, supra, is inapplicable to purely intergovernmental transactions. See, e.g., Rands v. Clarke County, 79 Wash. 152, 139 Pac. 1090 (1914). Nevertheless, in our opinion, there still must be some monetary or other rental paid to the school district in such cases by reason of the fact that the applicable statute (RCW 28A.58.040, supra), in effect, says so. In other words, even though the constitution does not require some rental to be paid in the intergovernmental transaction context the statute does - because the authorization which is thereby granted is to "rent," and not merely to allow the free use of, surplus school district property. The practical result, however, in the case of an intergovernmental rental agreement is that the rental amount may thus legally be whatever amount the two governmental agencies involved agree upon.

In addition to the limitations imposed by Article VIII, § 7, supra, there is one other area of significant constitutional restraint upon the rental of property by a school district to be noted - particularly in the light of part (b) of your first question. That area is, of course, where the tenant or lessee is a sectarian religious organization of some kind. In such cases what we have said thus far with regard to [[Orig. Op. Page 9]] the rental of school district property to a private person or organization, generally, will apply as well. But in addition, it will also be necessary for the district in this situation to be concerned with the ramifications of what is commonly referred to as the "establishment" clause of the First Amendment to the United States Constitution^{6/} along with Article I, § 11 (Amendment 34) of our state constitution which similarly provides that:

"... No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment: ..."

Also of concern, in such cases, is Article IX, § 4 of our state constitution which further requires that:

"All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence."

While none of these constitutional provisions serve entirely to preclude the rental of school district (or other public) property to a religious organization they do impose very stringent

EXHIBIT A

facts are present. Suppose, for example, that a school district determines that a certain school building is surplus to its current needs because of a decline in student population. But because of an anticipated need for the building at some foreseeable point in the future the district decides simply to rent it out for, say, one year for the purpose of obtaining revenue for the maintenance of school district programs. Pursuant to the rental arrangement, the renter would have full control and possession of the building, and full responsibility for its maintenance. In order to insure the best possible rental return during this period the district, although not statutorily required to do so, then issues a call to the public for rental bids and, in response, the highest bid is submitted by a church organization which desires to use the building as a church school. It is then further determined that this use will not be associated in the minds of the public with the operation of the school district or result in sectarian influence within the public school system, because the building to be rented is separated geographically from any site upon which the school district conducts activities. Query: Under those circumstances is the [[Orig. Op. Page 12]] school district nevertheless constitutionally prohibited from accepting the bid and entering into the resulting rental agreement simply because the high bidder is a religious organization proposing to use the building as a church school? We do not think so.

In the case of nonsurplus property the problem, basically, is the appearance of an endorsement which is, at least, more pronounced in the case of a long-term lease than in that of a one time only or occasional rental. Once again, in the words of the Arizona court in Pratt v. Arizona Board of Regents, *supra*,

"... The lease to a religious group, on a permanent basis, of property on the University campus, for example, would be an entirely different matter because by the permanency of the arrangement, the prestige of the state would be placed behind a particular religion or religion generally. . . ."

But where, instead, the property is both surplus and physically removed from other school district facilities this "appearance" factor would seem to us largely to disappear. True, the building would still be in public ownership under a long-term lease but that could also be so in the case of a "sale" in the event that, for example, the sale was made pursuant to an installment contract with title retained as security. Yet we have no doubt that such a sale would be constitutionally defensible.

On the other hand, if any of the critical elements of our above-stated hypothetical case were to be eliminated the result could well be different. For example, if the lease was negotiated privately rather than through a call for bids, with other potential lessees thereby being excluded, the essential neutrality required by the constitution might well be lost. And if the building in question were to be one located in close physical proximity to other structures to be retained for public school use, both the "endorsement" problem of the Pratt case, *supra*, and the "sectarian influence" factor under Article IX, § 1, *supra*, could possibly come into play. Therefore, in the final analysis, what we are here attempting to sanction is, perhaps, a fairly limited approach. Nevertheless, it is one which, in our considered opinion, would be found by the courts to be acceptable for the above-stated reasons.

[[Orig. Op. Page 13]]

III. Application of Legal Principles to Questions Presented:

In closing let us attempt briefly to apply the various legal principles which we have

EXHIBIT A

heretofore established to the specific questions which you have asked and, thereby, answer those questions:

(1) Subject to the qualifications stated below, a school district may lease its surplus facilities, under RCW 28A.58.040, supra, to any of the entities listed in your first question (i.e., private schools, church-related schools, profit or nonprofit organizations or governmental agencies) so long as the leasing thereof will not interfere with the building's use for school purposes and the tenancy to be granted will not place the facilities beyond the control of the district in the event they again become necessary for school purposes.

(2) In all such cases some rental, either in money or something of equivalent value, must be paid; and with the exception of a rental to another governmental agency, that rent must be such as will (a) fully compensate the school district for additional costs and expenses to the district that result from the use, and (b) encompass the fair rental market value of the rented premises.

(3) If the lease is to either a church-related school or to a private group for the conduct of religious worship or instruction, the foregoing requirement regarding the rental amount must first be met with particular care.^{9/} In addition, the property being rented must be sufficiently remote from other property being retained for school purposes to avoid the appearance of an endorsement of the religious activities of the [[Orig. Op. Page 14]] lessee and also prevent any sectarian influence of the remaining public school operations. And finally, a procedure, preferably involving competitive bidding, must be utilized in the formation of the lease which will insure that all prospective tenants, religious or otherwise, have an equal opportunity to rent the property.

Beyond this we can, in the abstract, say little more. In the final analysis, each case must depend upon its own peculiar facts - and each school district must similarly depend on the sound advice of its own legal counsel (either the prosecuting attorney of the county in which the district is located or such private counsel as has been retained for that purpose) with regard to the overall legality of a given proposal. We trust that you will understand and will nevertheless find the foregoing to be of assistance.

Very truly yours,

SLADE GORTON
Attorney General

PHILIP H. AUSTIN
Deputy Attorney General

ROBERT E. PATTERSON
Assistant Attorney General

*** FOOTNOTES ***

^{1/}RCW 28A.58.045, to which reference is made in RCW 28A.58.040, supra, further regulates the sale of surplus real property by a school district but not its rental. Accord, letter opinion dated November 17, 1972, to then state Representative Al Williams [[an Informal Opinion, AIR-72580]], copy enclosed.

EXHIBIT A

2/See also, to the same effect, AGO 63-64 No. 111 [[to Charles O. Carroll, Prosecuting Attorney of King County, on June 30, 1964]], a copy of which is also enclosed.

3/See chapter 223, Laws of 1969, 1st Ex. Sess.

4/Contrast, once again, RCW 28A.58.048, RCW 28A.58.105 and RCW 28A.60.190, supra.

5/See also, Winkenwerder v. Yakima, 52 Wn.2d 617, 624, 328 P.2d 873 (1958) and Com'l Waterway Dist. No. 1. v. King County, 200 Wash. 538, 560, 94 P.2d 491 (1939).

6/Applicable to the states through the due process clause of the Fourteenth Amendment.

7/Arizona Constitution, Article II, § 12.

8/520 P.2d at p. 517. The amount of the rental,i.e., \$39,995 for seven days, was not alleged to be less than a fair rental value.

9/The rental amount in the case of a rental to a private school subject to sectarian control or influence is of particular constitutional sensitivity. A series of state supreme court cases involving aid at public expense to sectarian schools teaches that so much as a small and indirect benefit to such schools at public expenses is prohibited. Most recently in Weiss v. Bruno, 82 Wn.2d 199, 509 P.2d 973 (1973) our court emphasized at page 206 that: ". . . There is no such thing as a 'de minimus' violation of article 9, section 4. Nor is a violation of this provision determined by means of a balancing process. The words of article 9, section 4 mean precisely what they say; the prohibition is absolute."

EXHIBIT A

FACILITY USE AND MANAGEMENT AGREEMENT

THIS FACILITY USE AND MANAGEMENT AGREEMENT (this “**Agreement**”) between the Camas School District No. 117, a Washington municipal corporation (“**CSD**”) and the United States Tennis Association/Pacific Northwest Section, a Oregon nonprofit corporation (“**USTA PNW**”), collectively referred to as the “**Parties**,” dated as of _____, 2024 (the “**Effective Date**”), relates to the management of the Premises (as described below), located on the grounds of Camas High School at 26900 SE 15th St, Camas, WA 98607, as legally described on **Exhibit A** attached hereto.

WHEREAS, CSD owns the real property on which the Premises are located;

WHEREAS, CSD has determined that USTA PNW possesses the qualities and experience to operate and manage the Premises in a professional, efficient, and effective manner for the benefit of CSD and the local community;

WHEREAS, CSD and USTA PNW desire for USTA PNW to operate and manage the Premises, including tennis programming and the provision of certain centralized services across certain of USTA PNW’s other various locations;

WHEREAS, in connection with this Agreement, the Parties will make certain capital contributions and perform other acts intended to provide tennis related opportunities for CSD students and other members of the local community;

NOW, THEREFORE, the Parties hereby agree as follows:

1. Property Description and Management.

a. The “Premises” consist of eight (8) tennis courts located on the north side of Camas High School, a new Bubble (as defined on **Exhibit B** attached hereto) to be constructed over such tennis courts and a new support building to be constructed on the east side of the tennis courts in accordance with **Exhibit B** attached hereto.

b. USTA PNW shall have the exclusive right to manage, control and use the Premises as a public tennis facility, subject to the terms hereof. USTA PNW and its members and guests shall be entitled to use the Premises for tennis and related activities and events, after-school programs, and for ancillary uses such as pickleball. CSD also hereby approves the retail sales of food and beverages permitted by CSD policies and procedures, as well as tennis-related apparel, shoes, clothing, and equipment, provided that if CSD reasonably deems any such items for sale to be objectionable or inconsistent with CSD policies and procedures, CSD shall provide written notice thereof to USTA PNW and USTA PNW shall immediately cease sales of such items. No other uses shall be allowed without the prior written consent of CSD, not to be unreasonably withheld, conditioned, or delayed.

c. USTA PNW shall determine how best to provide the Services (as defined below), including operation days, hours and staffing, subject to the terms hereof. USTA PNW is permitted to close the Premises for up to two (2) weeks each year for cleaning and maintenance, and, except in case of closures due to emergency or other events outside of USTA PNW’s control, USTA PNW will schedule closures so not to unreasonably interfere with the Camas High School Tennis Team Schedule for the boys and girls high school tennis teams.

d. USTA PNW and its employees, members and guests shall have a license, for the duration of this Agreement, to use the parking areas to be constructed by CSD adjacent to the Premises in

accordance with **Exhibit B** attached hereto, and such other parking areas as may be designated by CSD, in CSD's sole discretion, from time to time at Camas High School, while using the Premises. The Parties agree that no on-site parking meters will be placed on the parking areas to be constructed by CSD adjacent to the Premises in accordance with **Exhibit B** attached hereto during the Term (defined below).

e. USTA PNW agrees that the Premises shall be made available for use by the Camas High School tennis teams, physical education classes, and similar school-related uses. The use of the Premises by CSD school teams, classes, and similar school-related uses shall be without fees and charges. USTA PNW will work in good faith to accommodate such uses, and the Parties shall agree (and revise from time to time) on schedules of use that are mutually acceptable. CSD shall supply their own tennis equipment and balls, including practice balls and balls for the USTA PNW ball machine, when used by CSD, subject to the exception outlined in Section 1.e. below. Except during periods specifically reserved for use by USTA PNW or CSD, the Premises shall be open to the public during all operating hours. Examples of CSD use of the Premises include:

(i) Regularly scheduled practices for fall and spring Camas High School tennis seasons, the length of which is determined by the Washington Interscholastic Activities Association ("WIAA");

(ii) Hosting all home Camas High School tennis matches inside the Premises, the number of which per season is determined by the WIAA;

(iii) Hosting one regular season Saturday high school tennis tournament per season at the Premises;

(iv) Hosting the district high school tennis tournament at the Premises at no additional cost over two days each season; and

(v) Providing 2-3 week tennis units for each PE class in the Premises (at a time to be mutually agreed, and preferably in September and May)

f. CSD shall provide after-school spaces (such as gyms, cafeterias, and rooms) for USTA PNW to host and administer four weeks of after-school programs at each elementary school in the Camas School District, twice per week, during both the Fall and Spring semesters in accordance with CSD Policy and Procedure 4260, with additional programs at middle schools in the Camas School District subject to availability and mutual agreement of the Parties. Such 4-week programs shall be on a schedule for each school to be mutually and reasonably determined by the parties, and shall rotate throughout such schools unless the parties otherwise agree to hold them simultaneously. Recognizing the comprehensive tennis program USTA PNW will provide for the entire CSD community, CSD will waive rental or service fees for the after-school space. CSD will work in good faith to accommodate such uses, and the Parties shall agree (and revise from time to time) on schedules of use that are mutually acceptable. Additionally, CSD will allow USTA PNW to actively promote tennis programs and activities to CSD students through CSD channels (in accordance with CSD Policy and Procedure 4060. USTA PNW will provide physical education teachers at participating CSD elementary and middle schools with free access to certain tennis equipment during the day.

g. USTA PNW shall be solely responsible for overseeing activities on the Premises; provided, however that CSD shall be solely responsible for supervising School Users (as defined below) and their activities on the Premises. Except as provided in the prior sentence, USTA PNW understands, agrees, and acknowledges that CSD shall have no obligation to supervise the activities of any person,

EXHIBIT B

including but not limited to USTA PNW's employees, agents, contractors, representatives, participants, volunteers, servants, members, invitees, licensees, or guests, who are in or upon the Premises. "**School Users**" shall mean students, coaches, teachers, spectators and other persons (whether from CSD, competitors or neutral observers) to the extent present at the Premises because of a CSD event, such as a school tennis practice or match, gym class or other CSD-related function.

h. USTA PNW and CSD each understand and assume the risks of their respective activities within the Premises. By entering into this Agreement, but subject to each party's respective indemnity obligations under Section 8 below, each Party acknowledges and assumes the risks of its specific activities within and uses of the Premises, and hereby releases, discharges, and holds harmless the other Party from any and all liability arising from its activities in the Premises.

i. USTA PNW shall have the right to hire, train, supervise and terminate employees and contractors as USTA PNW deems necessary to manage the Premises, in USTA PNW's sole discretion; provided, however, that all USTA PNW staff working at the Premises will be "SafePlay" certified and shall otherwise comply with CSD hiring requirements (including the use of background checks). Pursuant to RCW 28A.400.303, any applicant, employee, agent, subcontractor, or volunteer of USTA PNW working at the Premises who will have regularly scheduled unsupervised access to children or developmentally disabled persons pursuant to this Agreement, shall be required to complete a record check through the Washington State Patrol Criminal Identification System, under RCW 43.43.830-.834, RCW 10.97.30 and .50, and through the Federal Bureau of Investigation before hiring and before unsupervised access to such persons. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. Record checks required above shall be at the sole cost and expense of USTA PNW. Pursuant to RCW 28A.400.330, USTA PNW shall prohibit any employee or volunteer of USTA PNW from working at the Premises who has contact with children at the Premises during the course of his or her employment, if such individual has pled guilty to or been convicted of any felony crime specified under RCW 28A.400.322. Any failure by USTA PNW to comply with this section shall be grounds for immediate termination of this Agreement by CSD.

2. Term.

a. Initial Term. The initial term of this Agreement (the "**Initial Term**") shall commence on the **Effective Date** and expire on the last day of the calendar month in which the 30-year anniversary of the Opening Date occurs. This term aligns with the minimum estimates for the useful life of the new Bubble. The "**Opening Date**" shall mean the date that all Initial Improvements (as defined on **Exhibit B** attached hereto) are complete and the Premises are open and fully operable for the uses contemplated herein. On or around the Opening Date, the Parties shall execute an "Opening Date Certificate" setting forth the Opening Date, expiration date, and other relevant dates.

b. Renewal Terms. This Agreement shall automatically renew for up to one (1) additional period of five (5) years (a "**Renewal Term**") upon the same terms and conditions as provided herein, unless either Party, in their sole discretion, elects by written notice delivered to the other Party elects to terminate this Agreement at least one (1) year before the then-applicable last day of the Term. Both Parties should discuss the future of this arrangement mid-way through the 28th year of the Agreement for appropriate consideration of the arrangement and Bubble condition before the notice date. The Initial Term and applicable Renewal Term are referred to collectively herein as the "**Term**."

3. Possession. CSD shall deliver possession of the Premises to USTA PNW upon substantial completion of the CSD Improvements (as defined on **Exhibit B** attached hereto), anticipated to occur no later than November 1, 2025, or such earlier date that the Parties agree is appropriate for the commencement of the USTA Improvements (as defined on **Exhibit B** attached hereto).

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4. Offramps and Termination.

a. Conditions. The Parties' respective rights and obligations under this Agreement are conditioned upon the following:

(i) Conditional Use Permit and Sprinkler Requirements. Commencing on the Effective Date, CSD shall use diligent, good faith efforts to obtain a conditional use permit from the applicable governmental authorities to permit the use of the Premises for the uses intended hereunder, including the offering of tennis and other programs by USTA PNW to the general public. In the event that CSD fails to obtain such required conditional use permit by December 31, 2024, USTA PNW shall have the right, by written notice to CSD, to terminate this Agreement at any time following such date but prior to the actual issuance of such use permit.

Additionally, commencing on the Effective Date, the Parties shall use diligent, good faith efforts to determine if the local fire marshal or other applicable governmental department or permitting agency requires installing a sprinkler system inside the Bubble. In the event the local fire marshal or other applicable governmental department or permitting agency requires the installation of a sprinkler system inside the Bubble in connection with the conditional use permit, permitting, construction and/or use thereof, either Party shall have the right, by written notice to the other Party, at any time within thirty (30) days following receipt of written notice of such sprinkler requirement, to terminate this Agreement.

(ii) Approval Process. Commencing on the Effective Date, CSD shall use its best efforts to obtain all required approvals, including approval by its board of directors, to perform its obligations under this Agreement.

(iii) Supply Chain Challenges. Commencing on the Effective Date, USTA PNW shall use its best efforts to obtain all necessary materials and supplies to construct the USTA PNW Improvements for using the Premises intended hereunder. In the event that USTA PNW, fails to obtain all necessary materials and supplies for the construction of the USTA Improvements before CSD awards the contract for the CSD Improvements, the Parties shall meet and determine in good faith whether to continue waiting for such materials and supplies or to terminate this Agreement.

b. CSD Recapture Right. CSD and USTA PNW acknowledge the requirements of RCW 28A.335.040(1), which requires that CSD be permitted to recapture the use of the Premises should it be needed for school purposes. If CSD elects to recapture the Premises pursuant to RCW 28A.335.040(1), CSD agrees to provide no less than one hundred eighty (180) days' prior written notice of such recapture to USTA PNW, and such recapture shall be conditioned upon and subject to CSD's payment to USTA PNW of the Unamortized Value of all USTA Improvements. As used herein the "**Unamortized Value of the USTA Improvements**" shall be determined by taking the entire actual cost (including hard (i.e. construction and materials) and soft costs (including but not limited to, architectural, engineering, permitting costs, insurance and project management costs) of the USTA Improvements (and any subsequent capital improvements to the Premises paid for by USTA PNW) and amortizing them on a straight-line basis over their useful lives, as determined in accordance with generally accepted accounting principles or as otherwise agreed by the Parties in good faith and in writing; provided, however that CSD and USTA PNW hereby agree that the Bubble shall be amortized over the Initial Term of this Agreement (i.e. 30 years), regardless of its "useful life". As an example of the amortization concept for clarity, if a particular USTA Improvement costs \$100,000 and has a useful life of 20 years, and CSD exercised its recapture right after 5 years, the amortized amount of such improvement would be \$25,000 so the Unamortized Value of such USTA Improvement would be \$75,000. Upon completion of the USTA Improvements, USTA PNW shall provide CSD with a summary of all USTA Improvements with their final costs and the useful life of each. The total value of the Unamortized Value of such USTA Improvements that can be claimed for purposes

EXHIBIT B

of this paragraph will not exceed the sum of \$1,800,000 plus the value of subsequent capital improvements made by USTA PNW at USTA PNW's expense.

c. Replacement of Bubble. If at any time during the Term the Bubble fabric needs to be replaced (this does not include replacement of the Bubble generator, HVAC, and related Bubble equipment referenced in Section 11(b)), as reasonably determined in good faith by the Parties in consultation with a qualified contractor, USTA PNW shall have the option, in its sole discretion, to either (i) replace the Bubble fabric at USTA PNW's cost, in which event the Term will be deemed to have restarted (i.e. the Term will be extended for an additional thirty (30) years from the date of completion of the replacement Bubble, with one (1) additional five (5) year option for the Parties to renew the Term on all of the same terms provided herein, or terminate this Agreement. Notwithstanding the foregoing, in the event the Bubble fabric needs to be replaced due to casualty or other event covered by CSD's insurance, CSD shall replace the Bubble fabric using the insurance proceeds, and in such event, the Term shall not restart.

5. Management and Operation of the Premises.

a. Engagement. CSD hereby engages USTA PNW, and USTA PNW accepts such engagement, to oversee daily operations of the Premises and provide premier tennis programming to its members, guests, and the general public for all skill levels, with a focus on inclusion, equity, and affordability, including the specific services set out on **Exhibit B** attached hereto (the "Services"). USTA PNW will not receive any compensation from CSD for its Services hereunder.

b. Assistance. CSD shall be available to provide historical and community perspective in connection with the Premises, the school district and the local community, and shall reasonably assist in communications to stakeholders and facility users when reasonably requested by USTA PNW.

c. Expenses. Except as otherwise provided herein, USTA PNW shall directly incur all expenses and collect all revenues associated with its management and operation of the Premises.

d. Fees and Charges for Use of Premises. USTA PNW shall, in its sole discretion, establish usage programs and memberships, and set and collect usage charges for the Premises by members and the public. The use of the Premises by CSD school teams and classes shall be without fees and charges. USTA PNW may collect information from its individual members and any other members of the public who enter the Premises as part of the registration process for usage programs and memberships, and any may require such persons to sign USTA PNW's standard waivers prior to entry (except for School Users entering solely for purposes of CSD events). USTA PNW agrees to use the collected information in compliance with all applicable laws, rules and regulations, including, without limitation, those governing online privacy and use of credit card data, and applicable Payment Card Industry Data Security Standards.

e. USTA PNW Equipment and IP. Except as otherwise provided herein, USTA PNW shall provide its own equipment, furnishings and supplies for use at the Premises. All such items provided by USTA PNW shall remain the sole and exclusive property of USTA PNW, free from any claim or right by CSD. Notwithstanding anything contained herein to the contrary, USTA PNW, in its sole discretion, may determine which equipment and furnishings to bring onto the Premises together with the timing for doing so. Additionally, all USTA PNW signage, trademarks, logos, marketing materials, marketing and branding concepts, and art, educational material, operational material, USTA PNW's website and domain, including all USTA PNW content on the website, curricula, programming, staffing and training philosophies, the point of sale system, the membership tracking software and its data, and the registration and scheduling system that USTA PNW develops, acquires and/or uses in its operation of the Premises shall be and shall remain the sole and exclusive property of USTA PNW, free from any claim or right by

CSD. CSD agrees not to use, copy or interfere with USTA PNW's rights in such property without USTA PNW's prior written consent, in its sole discretion.

Except as otherwise provided herein, and subject to USTA PNW's policies regarding allowable equipment and uses thereof (which shall be clearly posted at the Premises), CSD shall provide its own tennis equipment and supplies for use on the Premises. All such items provided by CSD shall remain the sole and exclusive property of CSD, free from any claim or right by USTA PNW. Additionally, all CSD signage, trademarks, logos, art, educational material, operational material, CSD's website and domain, including all CSD content on its website, curricula, programming, shall be and shall remain the sole and exclusive property of CSD, free from any claim or right by USTA PNW. USTA PNW agrees not to use, copy or interfere with CSD's rights in such property without CSD's prior written consent, in its sole discretion.

f. USTA PNW Information. CSD agrees to provide the opportunity to USTA PNW to inform the CSD community of tennis programs and special event offerings through CSD's communication tools, which may include website, email, newsletters, and other strategies. CSD maintains the right to edit the information to ensure compliance with all CSD policies and procedures. The frequency of messaging and space provided therein shall be reasonably and mutually agreed by USTA PNW and CSD. CSD shall provide such informing at no cost to USTA PNW. USTA PNW is not required to use CSD's communication tools, but may do so in its sole discretion. Any information that USTA PNW contributes to or publishes through CSD's communication tools remains the sole and exclusive property of USTA PNW and CSD does not obtain any rights therein.

g. Signage. USTA PNW may install, at its sole cost and in its sole discretion, signage bearing its name and trademarks and brands at the Premises, both interior and exterior, including signs near the abutting roadways and exterior signs with CSD's prior written consent, in its sole discretion. All signs must comply with state law, zoning regulations, CSD policies and procedures, and CSD's prior written consent, which shall not be unreasonably withheld. CSD consents to signage by USTA PNW that includes "Camas High School Tennis Center", "Camas Tennis Center" or "Camas Community Tennis Center" and/or a co-brand with any version of the following: "USTA PNW" "United States Tennis Association Pacific Northwest" "USTA PNW Tennis Centers."

h. Procurement Rules For Goods and Services. The Parties agree that USTA PNW, by virtue of its specialized knowledge and experience in operating tennis programs and facilities, may be required to employ technical and specialized services and goods at its sole cost from experienced third-party vendors. USTA PNW shall have sole authority to select vendors for those goods and services. If no CSD funds are being contributed to such goods and services, USTA PNW agrees that it shall comply with all applicable state and federal laws governing such process including, but not limited to, procurement and prevailing wage, if and to the extent applicable. If any CSD funds are contributed to such goods and services, USTA PNW agrees that CSD's procurement process must be followed and that CSD shall take the lead on these projects from start to completion.

i. Compliance with Law. USTA PNW shall have the authority to control and direct the performance and details of the Services described herein, and USTA PNW agrees to comply with all relevant federal, state and municipal laws, rules and regulations relating thereto.

j. Non-exclusivity. The Services to be provided by USTA PNW are not exclusive to CSD and nothing contained herein will prohibit USTA PNW from providing the same or similar services to other third parties.

k. USTA PNW as Independent Contractor; No Agency. USTA PNW operates its own wholly owned business free from the direction and control of CSD, and agrees to perform the Services hereunder solely as an independent contractor. USTA PNW has the sole right to control and direct the means, manner and method by which the Services will be performed. USTA PNW will furnish all equipment and materials used to provide the Services except as otherwise provided herein. USTA PNW is responsible for paying all ordinary and necessary expenses of its staff. Neither USTA PNW nor its staff will receive any training from CSD in the professional skills necessary to perform the Services. Neither USTA PNW nor its staff will be required to devote full-time to the performance of the Services. CSD will not provide insurance coverage of any kind for USTA PNW staff. The Parties agree that nothing in this Agreement shall be construed as creating a joint venture, partnership, franchise, agency, employer/employee, or similar relationship between them, or as authorizing either Party to act as the agent of the other. This paragraph shall survive expiration or earlier termination of this Agreement.

l. Non-compete. CSD agrees that it will not use IP Assets (as defined below) to provide the same Services as provided by USTA PNW. Furthermore, CSD agrees that it will not enter into an arrangement, or otherwise allow at the Premises, services or programs similar to the Services or programs contemplated herein with any other person or entity during the Term.

m. USTA PNW's Warranties. USTA PNW warrants to CSD that: (i) USTA PNW will devote as much productive time, energy, labor, management and ability to the performance of its duties hereunder as may be necessary to provide the required Services in a timely and productive manner; (ii) USTA PNW will perform the Services in a workmanlike manner and with professional diligence and skill; (iii) USTA PNW has the right to control and direct the means, details, manner and method by which the Services will be performed; and (iv) USTA PNW has the experience and ability to perform the Services.

6. Consideration and Revenues.

a. The Parties acknowledge and agree that their respective construction of the Initial Improvements (as defined on Exhibit B attached hereto) and the performance of their respective obligations hereunder are adequate consideration for this Agreement.

b. All revenues received in connection with USTA PNW's management and operation of the Premises, including without limitation, membership and program fees, shall be the sole property of USTA PNW.

7. Annual Meeting. CSD and USTA PNW shall meet annually to determine the following school year's Camas High School tennis teams' schedules. Any proposed change in usage by Camas High School including additional court usage time shall be subject to the prior written approval of USTA PNW, in its reasonable discretion.

8. Indemnity and Hold Harmless.

a. Except to the extent caused by the negligence or willful misconduct of USTA PNW or its employees, contractors, or agents, and subject to the waiver of subrogation provisions in Section 13(c) below, CSD will neither hold nor attempt to hold USTA PNW, its employees, or agents liable for, and CSD will indemnify, defend and hold harmless USTA PNW and its employees and agents from and against, any and all demands, claims, causes of action, fines, penalties, damages, liabilities, judgments, and expenses (including without limitation reasonable attorneys' fees) incurred in connection with or arising from (i) the negligence or intentional misconduct of CSD or its employees, contractors, agents, or School Users, or (ii) a breach of this Agreement by CSD.

b. Except to the extent caused by the negligence or willful misconduct of CSD or its employees, contractors, agents or School Users, and subject to the waiver of subrogation provisions in Section 13(c) below, USTA PNW will neither hold nor attempt to hold CSD, its employees, or agents liable for, and USTA PNW will indemnify, defend and hold harmless CSD and its employees and agents from and against, any and all demands, claims, causes of action, fines, penalties, damages, liabilities, judgments, and expenses (including without limitation reasonable attorneys' fees) incurred in connection with or arising from (i) the negligence or intentional misconduct of USTA PNW or its employees, contractors, or agents, or (ii) a breach of this Agreement by USTA PNW.

c. The Parties' obligations herein to indemnify, defend and hold harmless shall include any claim made against the other Party by an employee or subcontractor or agent of the indemnifying Party even if the indemnifying Party is otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW. Each Party specifically acknowledges the provisions contained herein have been mutually and specifically negotiated by the Parties and it is the intent of the Parties that their indemnity obligations herein provide the broadest scope of indemnity permitted by RCW 4.24.115.

9. Subcontracting. CSD agrees that USTA PNW may subcontract certain aspects of the daily management, operations and maintenance of the Premises, specifically, training, coaching, retail sales and food and beverage operations, janitorial services, and maintenance services to third-party vendors.

10. Utilities and Taxes. USTA PNW shall be solely responsible for providing and paying for the following utilities for the Premises: phone and internet. CSD shall be solely responsible for providing and paying for the following utilities for the Premises: sewer, electric, gas, water, stormwater, recycling and refuse. CSD agrees to be responsible for, and timely pay, all taxes and assessments which may hereinafter be assessed against the Premises during the Term (if any) and agrees to hold USTA PNW harmless in connection therewith. USTA PNW agrees to be responsible for, and timely pay, all federal, state, and local taxes including, but not limited to, business and occupation taxes, and personal property tax, that may be charged against the Agreement and USTA PNW's equipment, or other personal property located on the Premises during the Term (if any), and agrees to hold CSD harmless in connection therewith.

11. Maintenance of Property.

a. Except as otherwise provided in Section 11(b) below or to the extent damaged by the negligence or willful misconduct of USTA PNW or its employees, agents, contractors, representatives, participants, volunteers, servants, members, invitees, licensees, or guests, CSD, at its sole cost and expense, shall (i) maintain in good condition and repair the entry building roof, foundations, and all structural elements of the Premises (not including the Bubble structure), the lobby-entry way and bathrooms in the entry building, and HVAC, mechanical, electrical, plumbing and other building systems and utility systems and infrastructure within and/or serving the Premises (not including the Bubble structure), (ii) perform any necessary remediation of mold or other environmental hazards at or around the Premises not caused by affirmative actions of USTA PNW, and (iii) maintain in good condition and repair parking lots, roads, sidewalks, landscaping, hardscaping, sewer, electric, gas, water, parking lot lighting and security features that are adjacent to or used in connection with the Premises during the Term, reasonable wear and tear to be expected over time.

b. Except as otherwise provided in Section 11(a) above or to the extent damaged by the negligence or willful misconduct of CSD or its employees, contractors, agents, or School Users, USTA PNW, at its sole cost and expense, shall maintain in good condition and repair the interior of the Premises, including tennis-specific property and property related to the daily management and operation of the Premises, the Bubble, the Bubble entry, and the courts, lighting, nets, backdrops, and on and off-court

EXHIBIT B

equipment, and will provide janitorial service to the Premises during the Term. USTA PNW, at its sole cost and expense, shall maintain in good condition and repair and replace (subject to Section 4.c. above) the Bubble infrastructure, generator, HVAC, and related Bubble equipment.

12. Surrender of Property. Upon expiration or earlier termination of this Agreement, USTA PNW shall remove all of its furniture, equipment and other personal property from the Premises. All alterations, improvements and fixtures in or on the Premises shall remain a part of the Premises and shall be the property of CSD upon installation; provided, however, that USTA PNW shall have the right (but not to the obligation) to remove the Bubble upon any early termination of this Agreement for reasons which do not entitle USTA PNW to be reimbursed for the Unamortized Value of the USTA Improvements. USTA PNW, at the expiration or termination of this Agreement, shall quit and surrender the Premises in good, neat, and clean condition.

13. Insurance.

a. CSD Insurance.

(i) CSD, at CSD's sole cost and expense, shall for the duration of the Term, keep the Premises insured against loss or damage by fire and other hazards and risks of loss that are covered by property damage insurance with extended coverage for the full insurable value thereof (including the Bubble and other improvements to be made in connection with this Agreement, regardless of whether performed by CSD or USTA PNW), and such additional coverages reasonably necessary in connection with the physical condition of the Premises. CSD shall also maintain a Commercial General Liability insurance with respect to the Premises and use thereof consistent with the policies and practices of CSD.

b. USTA PNW Insurance. USTA PNW, at its sole cost and expense, shall obtain and maintain for the duration of the Term:

(i) Commercial General Liability insurance with a limit of not less than one million dollars (\$1,000,000) for each occurrence and not less than one million dollars (\$1,000,000) combined single limit automobile liability coverage. The policy shall include coverage for bodily injury, broad form property damage, personal injury, athletic participation, products and completed operation and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Agreement. All liability insurance required herein shall be under a commercial general liability and business policies.

(ii) Washington Stop Gap. The commercial general liability policy must be endorsed to include "Washington Stop Gap" insurance. The limits and aggregates referenced must apply to the Stop Gap coverage as well. This must be indicated on the certificate.

(iii) Worker's Compensation. USTA PNW shall carry workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over USTA PNW's employees engaged in the performance of the work or services, and Employer's Liability insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) for each disease for each employee, and one million dollars (\$1,000,000) for each disease policy limit.

(iv) Cyber Liability Coverage. Cyber Liability Insurance, with limits not less than one million dollars (\$1,000,000). Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by USTA PNW in this Agreement and shall include, without limitation, claims involving infringement of copyright, trademark, trade dress arising from electronic publishing activity, invasion of privacy violations' information theft, damage to or destruction of electronic information, release

of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

(v) Fidelity Coverage. Employee Dishonesty or Fidelity Bond coverages for CSD-owned property in the care, custody, or control of USTA PNW. Coverage limits shall not be less than ten thousand (\$10,000) dollars.

(vi) Umbrella Liability. USTA PNW shall obtain Umbrella Liability coverage at limits of not less than two million dollars (\$2,000,000) per occurrence and annual aggregate. This umbrella liability coverage shall apply, at a minimum, to both the Commercial General and Auto Insurance policy coverage. This requirement may be satisfied instead through USTA PNW's primary Commercial General and Automobile Liability coverage, or any combination thereof.

(vii) Trainers Professional Liability. USTA PNW shall obtain professional liability insurance (errors and omissions) against any and all claims for damages to person or property which may arise out of the performance of this Agreement, whether such work shall be by USTA PNW, contractors or anyone directly or indirectly employed by either USTA PNW or a contractor. The amount of coverage provided by such insurance shall be not less than one million dollars (\$1,000,000) combined single limit.

(viii) Employment Practices Liability. USTA PNW shall comply with all other relevant employment laws of Washington State, and shall timely make all required payments in connection therewith.

(ix) Coverage Trigger. The insurance required above must be written on an "occurrence" basis. This must be indicated on the certificate, except that claims-made policies shall be accepted for professional liability coverage only.

(x) ACORD Form. USTA PNW shall provide evidence of all insurance required, at CSD's request, by submitting an insurance certificate to CSD on a standard "ACORD" or comparable form.

(xi) CSD named as an Additional Insured. CSD must be named as an additional insured on the Commercial General Liability policy and shown on the certificate as additional insureds. A copy of the additional insured endorsement CG 20 10 11 85, CG 20 10 07 04 and CG 20 37 07 04, or their equivalents, must be included with the certificate of insurance.

c. Waiver of Subrogation. CSD and USTA PNW each hereby waive and release any and all rights of recovery against the other, and/or against the officers, employees, agents and representatives of the other, for loss of or damage to such waiving Party or its property (or the property of others under its control) resulting from a fire or other cause that is, or is required to be, insured against by the waiving Party under this Agreement or is otherwise actually carried by such Party. In addition, no Party's insurance company will have a claim, by subrogation or otherwise, against the other Party(ies) for any such loss or damage which is insured against under any insurance policy in effect at the time of such loss or damage (or required to be insured against by such Party hereunder). If such waiver of subrogation is not expressly permitted by any policy of insurance that is required hereunder (or that is otherwise in effect and could cover a loss or damage as described in the foregoing waiver of subrogation), then the Party obtaining the policy in question will obtain from its insurance company an agreement in writing that the waiver will not affect coverage under the policy.

EXHIBIT B

1 **14. Casualty.** In the event of a fire or other casualty to the Premises, USTA PNW shall
 2 reasonably cooperate with CSD in evaluating the extent of the damage and developing plans for the
 3 restoration of the Premises. In the event of a casualty, CSD shall, to the extent of available insurance
 4 proceeds, promptly restore the Premises to substantially their prior condition; provided, however, that in
 5 the event such restoration is expected to take longer than twelve (12) months (or actually does take longer
 6 than twelve (12) months) USTA PNW may terminate this Agreement by notice to the CSD given within
 7 thirty (30) days after receipt of the estimated timeline for restoration (or any time after twelve (12) months
 8 from the date of casualty if the Premises but prior to the actual completion of the restoration). Upon a
 9 termination of this Agreement in accordance with this Section 14, CSD shall be obligated to pay to USTA
 10 PNW a fee in an amount equal to the Unamortized Value of the USTA Improvements (and any subsequent
 11 capital improvements to the Premises paid for by USTA PNW) in accordance with the process described
 12 in Section 4(b) above.

13 **15. Ownership of Intellectual Property; Assignment.** All right, title and interest in and to
 14 any work or reports or other products developed or provided by USTA PNW pursuant to this Agreement
 15 (“**Work**”), and all intellectual property contained in the Work, and including all ideas, expression,
 16 inventions, patents, copyrights, trademarks, designs, trade dress, trade secrets, content, script, forms, text,
 17 graphics, photographs, videos, website, domain name, signage, and all other components contained in the
 18 Work and in the revisions, enhancements and subsequent versions of the Work, and including all derivative
 19 rights thereto (collectively, the “**IP Assets**”), are owned exclusively by USTA PNW, and CSD disclaims
 20 and waives all rights and interest therein. CSD will not claim or make application for any interest in the IP
 21 Assets, nor shall it assert an adverse interest to USTA PNW in the IP Assets. This paragraph survives
 22 termination of this Agreement.

23 All right, title and interest in and to annual work or reports or other products developed or provided
 24 by CSD pursuant to this Agreement, and all intellectual property contained in the work, and including all
 25 ideas, expression, inventions, patents, copyrights, trademarks, designs, trade dress, trade secrets, content,
 26 script, forms, text, graphics, photographs, videos, website, domain name, signage, and all other components
 27 contained in the work and in the revisions, enhancements and subsequent versions of the Work, and
 28 including all derivative rights thereto, are owned exclusively by CSD, and USTA PNW disclaims and
 waives all rights and interest therein. USTA PNW will not claim or make application for any interest in the
 CSD intellectual property assets, nor shall it assert an adverse interest to CSD in the CSD intellectual
 property assets. This paragraph survives termination of this Agreement.

1 **16. Anti-Kickback.** No officer, employee or agent of CSD, having the power to perform an
 2 official act relating to this Agreement, will have, obtain or acquire any financial interest in this Agreement,
 3 or any component part of this Agreement, or have solicited, accepted or granted a present or future benefit,
 4 gift, service or other thing of value from or to any person who is a Party, employee, officer or agent of a
 5 Party to this Agreement.

6 **17. Non-discrimination.** No individual will be excluded from participating in, denied the
 7 benefit of, subjected to discrimination under, or denied employment in the administration of or in
 8 connection with this Agreement due to age, gender, race, color, religion, creed, marital status, familial
 9 status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of
 10 any sensory, mental or physical disability, or use of a service animal by a person with disability.

11 **18. Business Registration Requirement.** If required by law, USTA PNW will obtain
 12 appropriate business registration under relevant state and local laws for its business of providing the
 13 Services. USTA PNW will not allow any required business registration to lapse during the Term of this
 14 Agreement.

EXHIBIT B

1 **19. Failure to Perform.** Time is of the essence for this Agreement and the failure on the part
 2 of either Party to pay its costs and perform its obligations hereunder shall constitute a breach of this
 3 Agreement. Prior to any claim for breach being made, both CSD and USTA PNW, as applicable, shall have
 4 an opportunity to cure any alleged breach. If a Party fails to comply with any provision of this Agreement,
 5 the other Party shall deliver written notice to the non-complying Party specifying the non-compliance. The
 6 non-complying Party shall have thirty (30) days after delivery of such notice to cure the non-compliance or
 7 to reach substantial compliance. If after expiration of the cure period, the claimed breach is not cured,
 8 substantial compliance is not reached, or if more time is not granted (in the non-breaching Party's sole
 9 discretion), the non-breaching Party may, at its option, elect to terminate this Agreement, in which event
 10 USTA PNW shall immediately quit and surrender the Premises in accordance with Section 12 above. Such
 11 termination shall be in addition to any other rights or remedies that may be available to the non-breaching
 12 Party at law or in equity, and each and every right and remedy will be cumulative and in addition to any
 13 other right or remedy under this Agreement, at law or in equity. In the event USTA PNW elects to terminate
 14 this Agreement in connection with an uncured breach by CSD, in addition to all other available rights and
 15 remedies to USTA PNW, CSD shall be obligated to pay to USTA PNW a fee in an amount equal to the
 16 Unamortized Value of the USTA Improvements (and any subsequent capital improvements to the Premises
 17 paid for by USTA PNW) in accordance with the process described in Section 4(b) above. In the event CSD
 18 elects to terminate this Agreement in connection with an uncured breach by USTA PNW and such
 19 termination occurs prior to substantial completion of construction of the Bubble, in addition to all other
 20 available rights and remedies to CSD, USTA PNW shall be obligated to pay to CSD a fee in an amount
 21 equal to the Unamortized Value of the CSD Improvements in accordance with the process described in
 22 Section 4(b) above. Following substantial completion of the Bubble, such obligation for USTA PNW to
 23 pay to CSD the Unamortized Value of the CSD Improvements CSD shall be deemed null and void.

13 **20. Notices.** All notices which are given, or required to be given, pursuant to this Agreement
 14 shall be given by (a) hand delivery in which event the notice is deemed given as of the time of hand delivery,
 15 (b) mailed with postage pre-paid and correctly addressed, in which event the notice is deemed given three
 16 days after delivery to the U.S. Postal Service, (c) overnight carrier, correctly addressed, in which event
 17 notice is deemed given as of the time of physical delivery by the carrier to the Party, or (d) e-mail correctly
 18 addressed, in which event the notice is deemed given as of the time the e-mail is received by the Party
 19 (provided that if such email is sent after 5:00 p.m. in Camas, Washington, it will be deemed delivered the
 20 following business day), to the Parties' addresses set out below or as subsequently amended following
 21 notice:

18 **If to CSD:**

19 Camas School District
 20 841 NE 22nd Avenue,
 21 Camas, WA 98607
 22 Attn: Jasen McEathron
 23 Email: Jasen.McEathron@camas.wednet.edu

18 **If to USTA PNW:**

19 United States Tennis Association Pacific
 20 Northwest Section
 21 29030 SW Town Center Loop E, Suite 202 - #507
 22 Wilsonville, OR 97070
 23 Attn: China Kirk
 24 E-mail: ckirk@pnw.usta.com

EXHIBIT B

with a copy to:

Anthony Anselmo
Stevens Clay, PS
421 W. Riverside, Suite 1575
Spokane, WA 99201-0402
E-mail: tanselmo@stevensclay.org

with a copy to:

Thomas Scott
Foster Garvey PC
121 SW Morrison Street, 11th Floor
Portland, OR 97204
E-mail: thomas.scott@foster.com

21. Non-Waiver. Any waiver of any breach of covenant, condition or agreement herein contained to be kept and performed by either Party shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the other Party from declaring a forfeiture for any subsequent breach either of the same covenant, condition or agreement or otherwise.

22. Modification. This Agreement contains the entire agreement between the Parties, and no modification of this Agreement, or waiver, or consent hereunder shall be valid unless the same be in writing, signed by the Parties to be bound or by a duly authorized representative and this provision shall apply to this condition as well as all other conditions of this Agreement.

23. Miscellaneous. No remedy herein conferred upon or reserved to either Party shall be exclusive of any other remedy herein provided or provided by law, but each remedy shall be cumulative. In interpreting or construing this Agreement, it is understood that if the context so requires, the singular pronoun shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed, and implied to make the provisions hereof apply equally to corporations, partnerships, and individuals. Section headings are for convenience and shall not affect any of the provisions of this Agreement.

24. Intentionally Deleted.

25. Force Majeure. Whenever a period of time is prescribed in this Agreement for action to be taken by either Party, such Party shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, acts of terrorism, pandemic, epidemic or public health emergency, emergency governmental acts or any other causes which are beyond the reasonable control of such Party.

26. Public Disclosure Compliance. The Parties acknowledge that CSD is an “agency” within the meaning of the Washington Public Records Act, Ch 42.56 RCW, and that materials submitted by USTA PNW to CSD become public record. Such records may be subject to public disclosure, in whole or part, and may be required to be released by CSD in the event of a request for disclosure. In the event CSD receives a public record request for any data or deliverable that is provided to CSD from USTA PNW or created by USTA PNW, CSD shall notify USTA PNW of such request and withhold disclosure of such information for not less than five (5) business days, to permit USTA PNW to seek judicial protection of such information, provided that USTA PNW shall be responsible for attorney fees and costs in such action and shall save and hold harmless CSD from any costs, attorney fees or penalty assessment under Ch. 42.56 RCW for withholding or delaying public disclosure of such information. In the event that USTA PNW receives a public record request directly, USTA PNW shall notify CSD immediately of the record request and immediately provide a copy of the request to CSD.

27. Attorneys’ Fees and Expenses. In the event of any proceeding under or in connection with this Agreement, or applying or construing this Agreement, whether arbitration or litigation, the prevailing Party in any such proceeding shall be entitled to reasonable attorneys’ fees and expenses, including the full cost of any arbitration, trial and on any appeal.

EXHIBIT B

1 **28. Applicable Law; Venue; Arbitration.** This Agreement shall be governed by and
 2 construed in accordance with the laws of the State of Washington, without regard to its conflicts of law
 3 principles. Any controversy or claim arising out of, or related to, this Agreement, or the making,
 4 performance or interpretation of this Agreement which the Parties are unable to resolve themselves, shall
 5 be determined by arbitration according to the procedure set out herein. Any Party may initiate arbitration
 6 proceedings by giving written notice to the other Party. Within ten (10) days after initiation of the
 7 proceedings, each Party shall separately designate an arbitrator and, within thirty (30) days after their
 8 appointment, the designated arbitrators shall unanimously designate a third arbitrator and (b) shall resign
 9 immediately after the appointment. Unless the Parties otherwise agree, the remaining arbitrator, within
 10 thirty (30) days of appointment, shall settle by arbitration the controversy or claim according to the
 11 provisions of the applicable arbitration statutes and law of the State of Washington. Judgment on the
 12 arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy.
 13 Each of the Parties hereto consent to submit themselves to the jurisdiction in the courts located in the
 14 designated venue, and waive any objection to personal jurisdiction. Subject to Section 28 above, each Party
 15 shall pay one-half of the fees of the arbitrators together with the costs of the arbitration proceeding.

16 **29. Non-Transferable.** This Agreement, and the rights and obligations of the Parties
 17 hereunder, shall not be transferred, delegated, subcontracted or assigned in whole or in part, by either Party
 18 without the express written consent of the other Party, except for USTA PNW's right to engage third-party
 19 vendors as subcontractors as provided in Section 9.

20 **30. Entire Agreement; Amendment.** This Agreement contains the entire agreement and
 21 understanding of the Parties with respect to the matters herein set forth, and all prior negotiations and
 22 understandings relating to the subject matter of this Agreement are merged herein and are superseded and
 23 canceled by this Agreement.

24 **31. No Waiver or Modification.** No waiver of any right under, or waiver of any breach of,
 25 any provision of this Agreement shall be binding unless made in a writing signed on behalf of the Party
 26 against whom such waiver is sought to be enforced. No waiver of any such right or breach shall be construed
 27 to be a waiver of any other right or breach hereunder, or of any succeeding breach of any of the provisions
 28 hereof. This Agreement may not be modified except by a written document signed by both Parties.

29 **32. Interpretation and Application.** In interpreting or applying any provision of this
 30 Agreement, (i) each Party shall be deemed to be a co-scribener of this Agreement and there shall not be
 31 applied any inference or presumption against either Party as scrivener, (ii) any word in the singular shall
 32 also include the plural, and vice versa, and (iii) the captions of each section and paragraph are intended
 33 solely for identification and convenience purposes and shall not be employed to vary the meaning of the
 34 content of the sections and paragraphs.

35 **33. Representations and Warranties.** Each Party represents and warrants, as to itself, that:

36 a. the signatory of such Party below is authorized to execute this Agreement on behalf
 37 of such Party and such Party consents to be bound hereby.

38 b. the execution, delivery and performance of all or any portion of its obligations
 39 under this Agreement does not require any consent or approval of any governmental authority that has not
 40 been obtained (except as otherwise provided herein), does not violate any provisions of law or any
 41 governmental or court order, and does not conflict with, result in a breach of, or constitute a default under
 42 any operating agreements or other agreement or instrument to which it is a Party or by which it is bound.

EXHIBIT B

c. it has obtained all rights, permissions, and authorizations, including any consents required under the law, to perform its obligations hereunder.

34. Severability. If any provision of this Agreement or the application thereof to any person or circumstance is, at any time or to any extent, held to be invalid or unenforceable by an arbitrator or court of competent jurisdiction, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law unless the invalid or unenforceable provision causes a Party to lose the material benefit of this Agreement on which it relies, in which case the Parties shall in good faith promptly negotiate and agree to a reasonable accommodation in respect thereof.

35. Survival. All agreements (including, but not limited to, indemnification obligations) set forth in this Agreement, the full performance of which are not required prior to the expiration or earlier termination of this Agreement, shall survive the expiration or earlier termination of this Agreement and be fully enforceable thereafter.

36. Condition. USTA PNW acknowledges that it has examined the Premises, including inspection for obvious conditions, and it has found the Premises are in all respects suitable for the permitted uses described herein. Except as otherwise provided herein, USTA PNW acknowledges that CSD has made no representations whatsoever as to the suitability of the Premises for USTA PNW'Ss intended, foreseeable, and permitted uses. CSD has no obligation to make any additions or improvements thereto not specified in this Agreement and expressly disclaims any warranty that the Premises are suitable for the permitted uses. Except as otherwise provided herein, the Parties expressly understand that the Premises will be provided to USTA PNW in their as-is condition.

37. Campus Lockdowns. USTA PNW staff shall adhere to all CSD policies and procedures during any lockdown event, whether a drill or a live situation. CSD agrees to provide annual training to USTA PNW staff on these policies and procedures. Additionally, CSD will notify USTA PNW staff with reasonably sufficient time before any scheduled lockdown drills. CSD will also install notification equipment in the lobby and oversee the security of the building during such events.

38. Employee Status. Nothing contained in this Agreement, or related documents shall be construed as creating any form of employment between the CSD and USTA PNW or the employees, agents, officers, contractors, or volunteers of USTA PNW. USTA PNW's employees, agents, officers, contractors, or volunteers shall not be entitled to any rights or privileges of CSD's employment. USTA PNW assumes responsibility for any and all acts of its employees, agents, officers, contractors, or volunteers.

39. Board Approval. Each Party represents that this Agreement was approved by its Board of Directors, and has received all other necessary approvals to enter into and perform this Agreement, prior to execution by such Party.

[signature page follows]

EXHIBIT B

In witness whereof, the Parties have executed this Agreement as of the Effective Date.

**United States Tennis Association/Pacific Northwest
Section**, an Oregon nonprofit corporation

Camas School District No. 117,
a Washington municipal corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

FG: 102575761.16

Page 16

EXHIBIT B

STATE OF WASHINGTON

ss.

COUNTY OF CLARK

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of Camas School District, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2024.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state/commonwealth of _____,
residing at

My appointment expires

STATE OF OREGON

)

) ss.

County of _____)

This record was acknowledged before me on this _____ day of _____, 2024 by _____, as _____ of United States Tennis Association Pacific Northwest Section, an Oregon nonprofit corporation.

Notary Public for Oregon

My Commission Expires: _____

(NOTARIAL SEAL)

EXHIBIT A**LEGAL DESCRIPTION OF CAMAS HIGH SCHOOL**

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 2 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CLARK COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 35 AS SHOWN IN BOOK 44 OF SURVEYS AT PAGE 90, RECORDS OF THE CLARK COUNTY AUDITOR, THENCE NORTH 88°42'20" WEST, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER 260.00 FEET TO A POINT 260.00 FEET FROM WHEN MEASURED PERPENDICULAR TO THE EAST LINE OF SAID SOUTHEAST QUARTER AND THE POINT OF BEGINNING (SAID POINT ALSO BEING THE SOUTHEAST CORNER OF THE "HAGENSON" PARCEL AS RECORDED UNDER AUDITOR'S FILE NO. 9507130065); THENCE CONTINUING ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER 1728.58 FEET TO A POINT 649.00 FEET FROM, WHEN MEASURED PERPENDICULAR TO THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35; THENCE SOUTH 01°15'19" WEST, (PARALLEL WITH AND 649.00 FEET FROM, WHEN MEASURED PERPENDICULAR TO THE WEST LINE OF SAID NORTHWEST QUARTER), 1317.44 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 35; THENCE SOUTH 88°36'35" EAST, ALONG SAID SOUTH LINE, 1726.63 FEET TO A POINT 260.00 FEET FROM, WHEN MEASURED PERPENDICULAR TO THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 01°20'26" EAST (PARALLEL WITH AND 260.00 FEET FROM, WHEN MEASURED PERPENDICULAR TO THE EAST LINE OF SAID SOUTHEAST QUARTER), 1320.33 FEET TO THE POINT OF BEGINNING.

EXCEPT SE 15TH STREET.

ALSO EXCEPT THAT PORTION CONVEYED TO CLARK COUNTY RECORDED OCTOBER 22, 2001 UNDER AUDITOR'S FILE NO. 3382187, RECORDS OF CLARK COUNTY, WASHINGTON.

TAX PARCEL NOS: 178111-000 AND 178174-000

That portion of the above-described real property which constitutes the "Premises" is depicted on the attached map as **Exhibit A-1**.

EXHIBIT B

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EXHIBIT A-1

DEPICTION OF THE PREMISES

[to be added]

FG: 102575761.16

Page 19

EXHIBIT B

EXHIBIT B**IMPROVEMENTS AND CONTRIBUTIONS****The Improvements:**

1. CSD shall, at CSD's sole cost and expense, construct the following facilities (collectively, the "**CSD Improvements**"), in locations approved by USTA PNW (not to be unreasonably withheld, conditioned or delayed): (i) a new building to include a check-in lobby, and bathrooms, (ii) indoor bleachers/seating within the Bubble; (iii) a new parking lot adjacent to the Premises containing 40-55 parking spots; (iv) access roads and driveway facilities; (v) electrical, gas, plumbing and other utility connections, (v) fencing around the Premises, and (vi) landscaping and hardscaping of areas adjacent to the Premises.
2. USTA PNW shall, at USTA PNW's sole cost and expense, construct the following facilities (collectively, the "**USTA Improvements**"), in locations approved by CSD (not to be unreasonably withheld, conditioned or delayed): (i) eight (8) tennis court resurfacing (US Open quality); (ii) LED lights and liner; (iii) an approximately 58,500 square foot air structure dome (the "**Bubble**") that is weather-specific, including inflation unit generator, fabric membrane, doors and other access components, lighting, mechanical equipment, air structure retention; (iv) and other hardware and services, installation of ceiling liner, indoor court improvements including lighting, court resurfacing, and on-court technology.
3. The CSD Improvements and the USTA Improvements are collectively referred to herein as the "**Initial Improvements.**"
4. CSD and USTA PNW shall develop plans and specifications for the CSD Improvements and USTA Improvements, respectively, as soon as reasonably practicable. Such plans and specifications (and any subsequent changes thereto) shall be subject to the review and approval of the other Party, such approval not to be unreasonably withheld, conditioned or delayed. All budgets for Initial Improvements, and all contractors who will perform the Initial Improvements, and any subsequent changes thereto, shall be subject to the review and approval of both Parties, such approval not to be unreasonably withheld, conditioned or delayed.
5. The Parties shall be solely responsible for, and as soon as reasonably practicable following the Effective Date, will obtain, all authorizations, permits and approvals necessary to perform their respective Initial Improvements, at their sole cost and expense, except as expressly provided for in this Agreement.
6. Construction of USTA Improvements:
 - a. The Parties understand that USTA PNW will make USTA Improvements to the Premises at USTA PNW'S sole cost and expense. USTA PNW's plans and specifications for the USTA Improvements shall be submitted to CSD and CSD shall approve such plans and specifications. CSD does not and will not make any covenant or warranty, express, or implied, that any plans and specifications submitted by USTA PNW are accurate, complete, or in any way suited for the intended purpose. With respect to the USTA Improvements to be transferred to the CSD upon their completion and acceptance, USTA PNW shall provide an opportunity for the CSD to review and comment on those proposed designs.

EXHIBIT B

b. USTA PNW shall cause the USTA Improvements to be completed in their entirety. The costs of the USTA Improvements include but are not limited to costs of design, construction, permitting (which includes inspection and review fees from the City), insurance, professional fees (including attorney fees) and other reasonable costs incurred in the performance of the USTA Improvements.

c. USTA PNW shall use its good faith efforts to have all work provided and called for by the plans and specifications done in a good and workmanlike manner and in compliance with all applicable laws, ordinances, regulations, or requirements of any governmental authority.

d. All contractors awarded a contract for work performed on the USTA Improvements shall be selected by USTA PNW through a competitive bidding process with all qualified bids considered, which process shall be substantially similar to that used by the CSD for public works bidding, consistent with RCW 28A.335.190 and Chapter 39.04 RCW. Payment for all labor in connection with the USTA Improvements shall be based on the Washington State Prevailing Wage for each appropriate job classification. USTA PNW and any of its contractors/subcontractors involved in constructing the USTA Improvements shall comply with the following: USTA PNW and all contractors and subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries prior to any payments. Upon completion of the USTA Improvements, the contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

e. In all contracts for the USTA Improvements, USTA PNW shall require contractors, or the general contractor and its subcontractors, to maintain all project information, records, and documents for a period of not less than six years from the date of USTA PNW's final acceptance of the work, and the CSD shall have a right to direct audit of such information, records, and documents upon reasonable prior written notice to USTA PNW and at CSD's sole cost and expense.

f. USTA PNW shall obtain payment and performance bonds to guarantee payment of laborers, suppliers, materialmen, taxes and penalties and performance of the USTA Improvements as generally set forth in RCW Chapter 39.08 (the "**Bonds**"). The Bonds shall be issued in an amount equal to the agreed amount to be paid for the USTA Improvements and list as obligees both the USTA PNW and CSD ("**Obligees**"). In the event of a default by the USTA PNW (including its contractor retained to construct the USTA Improvements), Obligees may execute on the Bonds for the purpose of paying amounts due pursuant to RCW 39.08.010 and causing the USTA Improvements to be completed using the bond proceeds.

g. The construction of the USTA Improvements on public property is subject to the provisions of chapter 60.28 RCW. USTA PNW shall treat those retained amounts in trust for the protection and payment of claims and taxes as set forth in RCW 60.28.011. The amounts so retained by USTA PNW shall be later released to the contractor consistent with RCW 60.28.011.

h. USTA PNW shall deliver or cause to be delivered to CSD complete sets of "as-built" drawings with respect to the USTA Improvements to be transferred to CSD. USTA PNW shall also provide such documents as are appropriate to ensure the transfer to CSD of the USTA Improvements.

i. The indemnity, defense, and hold harmless provisions outlined in Section 8 shall apply to the development and construction activities of the USTA PNW Improvements.

j. USTA PNW shall procure and maintain the insurance that a reasonably prudent operator would maintain from the commencement of USTA PNW's construction of the USTA Improvements through the final completion and acceptance date of the USTA Improvements by the CSD, or as

EXHIBIT B

otherwise reasonably required by CSD in accordance with CSD policies and procedures, including but not limited to:

(i) Builder's Risk. During the course of construction of the USTA Improvements, USTA PNW or its general contractor shall keep in place a policy of "builder's risk" insurance fully insuring the replacement value of portions of the constructed USTA Improvements.

(ii) Other Insurance. During the construction of the USTA Improvements, USTA PNW or its general contractor shall keep appropriate insurance coverage in amounts and types reasonably sufficient to cover the risks associated with all USTA Improvement activities. This includes general liability insurance for bodily injury and property damage, workers' compensation insurance, and property insurance for damage to CSD's property.

(iii) Named Insureds. The insurance policies above shall be issued in the name of CSD and USTA PNW as named insureds.

7. Ongoing Small Capital Projects. USTA PNW shall be responsible, at its sole expense, for other ongoing small capital projects valued at \$10,000 or less, which USTA PNW desires, in its sole discretion, for the operation of the Premises.
8. Other Large Capital Projects. Other than the Initial Improvements, the Parties may, but are not required to, mutually agree from time to time concerning additional future large capital projects of a cost in excess of \$10,000. Prior to any project, both Parties shall commit in writing to the scope of improvements, financial commitments and which Party shall manage implementation. Either Party may also decide to entirely fund a capital improvement project, subject to the prior written approval of the other Party, such approval not to be unreasonably withheld, conditioned or delayed.
9. The Parties shall coordinate with one another to complete the Initial Improvements, and any additional projects described herein, in a timely and efficient manner.

Community Hub Services Model:

1. In addition to the USTA Improvements, USTA PNW will make additional contributions (in money or in-kind contributions or services) for the following services (the exact type and scope of which shall be subject to mutual review and adjustment from time to time).
 - a. startup expenses, including on-court and off-court needs, website/registration system, tennis specific equipment and first-class tennis experience;
 - b. annual shared-services and value add services, including scholarships and professional centralized services, including accounting and financials, HR, DEI, marketing, public relations, fundraising and scholarships, program development and training, special events, legal support, IT services related to website/registration, POS, and other digital and app-based platforms such as Club Automation, Salesforce, Tableau, and Pardot.
2. USTA PNW RecTennis Public Schools Commitment: USTA PNW will provide training to CSD physical education teachers and tennis coaches. Additionally, USTA PNW will provide free use of tennis equipment to all Camas Public Schools (elementary and middle) to be used in the in-school setting whereby USTA PNW hosts programs in the afterschool space. USTA PNW will invest (in USTA PNW's discretion) in school programs including jobs creation and training, free loaner

EXHIBIT B

1 tennis equipment, and all management and operations of afterschool and summer programs
2 including insurance, online registration, and professional services.

- 3 3. USTA PNW Scholarship Commitment: USTA PNW will, in its discretion an in accordance with
4 its own policies, provide need-based scholarships with the goal of mitigating the cost barrier to
5 entry.
- 6 4. CSD and USTA PNW will work together in good faith to raise awareness, funding, scholarships,
7 and fundraising campaign strategies. USTA PNW will drive an initial capital campaign for the
8 project, subject to the reasonable input of CSD. USTA PNW and CSD shall share (at 67% and 33%
9 respectively), the net value of any donations or sponsorships earmarked specifically for the Initial
10 Improvements during such initial capital campaign. USTA PNW will otherwise be permitted to
11 seek sponsorship and fundraising opportunities for naming rights of the Bubble, the tennis courts
12 and/or other components or areas thereof (e.g. nets, locker rooms, etc.), which names shall be
13 subject to the prior written approval of CSD, not to be unreasonably withheld). All revenues from
14 such naming rights and other campaigns and fundraisers (which may be related to, among other
15 things, accessibility, scholarships and ongoing operations) not specifically related to the initial
16 campaign for the Initial Improvements shall be the sole property of USTA PNW.

EXHIBIT B



PACIFIC NORTHWEST

FOR IMMEDIATE RELEASE

United States Tennis Association Pacific Northwest Explores Exciting Partnership with Camas High School

A Proposed Joint Project Aims to Expand Year-Round Access to Indoor Tennis Courts for High School Athletes and the Greater Community

Camas, WA – August 14th, 2024 – The United States Tennis Association Pacific Northwest (USTA PNW) and Camas High School are excited to announce the exploration of a transformative partnership. This potential collaboration seeks to repurpose the existing outdoor tennis courts at Camas High School, turning them into a year-round indoor tennis facility that would serve both high school athletes and the broader community.

"The game of tennis is a vehicle that can transform lives; tennis promotes life-long fitness and wellness while instilling leadership and sportsmanship. The game also teaches teamwork, life skills, and builds strong families and healthier communities," said USTA PNW CEO and Executive Director Matthew Warren. "We are overjoyed at the possibility of widening access for both high school students and the public in Camas to be able to play tennis and promote active lifestyles."

The proposed project, currently in its development, permitting, and planning stages, envisions covering the outdoor courts that are currently home to the Camas High School tennis teams' practices and matches. Under this plan, when the courts are not in use by the school district, they would be available for public use, hosting programs and recreational play. USTA PNW plans to apply its successful "community hub" model, already in place at the Vancouver Tennis Center, as a blueprint for the Camas initiative. If all goes according to plan, the project is expected to be completed by Fall 2025.

Adapting to the Elements and Increasing Access

With the increasing frequency of extreme weather conditions, including heatwaves and poor air quality due to wildfires, outdoor physical activities like tennis have faced significant challenges. By converting these courts to an indoor facility, the project aims to remove barriers that currently hinder year-round play. Tennis is a lifelong, no-cut sport that offers unique social, mental, and physical benefits—according to a recent Mayo Clinic study, playing tennis can increase life expectancy by an average of 9.7 years.

EXHIBIT C

1 "This is an amazing opportunity for our students and community," said Stephen Baranowski,
 2 Assistant Principal and Athletic Director for Camas High School. "Tennis is one of our most
 3 popular sports, with over 90 girls participating in our program last year. The sport's inclusivity,
 4 welcoming all skill levels, combined with our region's wet weather, often limits our athletes'
 5 opportunities to practice and compete. We are thrilled about the investment USTA PNW is
 6 proposing to make in our community. This would be a great way to get even more students of all
 7 levels involved, and at the same time, support our varsity teams that have won four state
 8 championships in the past three years."

9 **Addressing Equity Challenges in High School Sports**

10 The lack of indoor court access in Camas not only shortens the high school tennis season but
 11 also prevents the hosting of critical competitive events such as district and state championships.
 12 The boys' tennis season in the fall is largely unaffected by weather, while the girls' spring
 13 season faces significant disruption. In 2023, the girls' season saw only 12 playable days due to
 14 inclement weather, highlighting the equity challenges this project aims to address.

15 Camas School District Superintendent John Anzalone, Ed.D., emphasized the potential impact
 16 of the partnership: "Teaming up with a trusted organization like USTA PNW can open the door
 17 to lasting change in our community. Offering tennis programs year-round would bring joy and
 18 benefits to Camas's students of all ages, promoting inclusivity and providing a welcoming place
 19 for everyone to enjoy the lifelong sport of tennis."

20 Kelly O'Rourke, Principal of Camas High School, echoed this sentiment, stating, "As a high
 21 school principal, a partnership with USTA PNW is the best of both worlds. An indoor facility,
 22 especially given our beautiful but damp climate, makes tennis accessible to many of my
 23 students year-round. Additionally, the opportunity to provide a community resource solidifies the
 24 importance of bringing partners together for the benefit of kids."

25 #####

26 **About the USTA PNW**

27 Founded in 1904, the United States Tennis Association Pacific Northwest (USTA PNW) is a
 28 leading 501(c)(3) non-profit organization dedicated to growing the game of tennis and making it
 accessible to everyone. As one of the 17 sections of the USTA and the national governing body
 for tennis in Washington, Oregon, Alaska, and parts of Idaho, USTA PNW represents over 1.3
 million tennis enthusiasts and more than 200 facilities.

Through our low-cost RecTennis programs, we bring tennis to over 40,000 participants in after-
 school and summer parks settings, fostering lifelong fitness, teamwork, and leadership. Our
 extensive network of 300+ community partners, including schools, public parks, and
 recreational spaces, underscores our commitment to diversity, inclusion, and community
 impact.

EXHIBIT C

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2 As the largest employer of recreational tennis jobs in the Pacific Northwest, USTA PNW
3 annually engages over 400 full-time, part-time, and seasonal staff, creating meaningful
4 opportunities in the communities we serve. At USTA PNW, we believe tennis is more than a
5 game—it's a powerful tool for transforming lives, promoting wellness, and building stronger,
healthier communities.

6 Our mission, "To promote and develop the growth of tennis to inspire healthier people and
7 communities everywhere," guides us every day as we work to make tennis a catalyst for
8 positive change.

9 **Media Contact:**

10 Renée Gordon
11 Chief Advancement Officer
12 United States Tennis Association Pacific Northwest (USTA PNW)
13 Phone: (503)-320-0667
14 Email: rgordon@pnw.usta.com
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27 **EXHIBIT C**
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January 8, 2025

To: Camas School Board, Superintendent John Anzalone and Jasen McEathron

From: Evergreen Tennis

Re: Opposition to the proposed USTA PNW Tennis Center at Camas High School

This correspondence is additional information we would like to provide to district staff and the school board regarding the previously approved contract with USTA PNW to build and operate a tennis center on the Camas High School campus.

At the school board meeting on August 26, and in follow up letter to the board on November 14, we questioned whether the USTA PNW is a valid non-profit in Washington State. We noted that the USTA PNW allowed its non-profit status in Washington State to be administratively dissolved in 2017 and did not appear to maintain any corporate registration with the Secretary of State, as required by Washington State laws since the end of 2016. We questioned whether this meant the USTA PNW was already in breach of clause 10 of the contract the school board approved at the general meeting on July 22, 2024.

On December 4, 2024, Mr. Matthew Warren, CEO of USTA PNW, filed for and was granted a new WA foreign non-profit corporate registration, now listed as UBI 605 647 874. Mr. Warren's actions are confirmation that the USTA PNW was not properly registered as a non-profit in Washington State since 2017, and maintained no corporate registration with the WA Secretary of State since its previous expiration at the end of 2016. This includes the date of July 22, 2024 when the contract was presented and approved by the school board.

The USTA PNW's repeated claims to be a "non-profit" before the board last year was a material misrepresentation when in fact the USTA PNW didn't maintain its non-profit recognition, or any corporate registration in Washington, for over seven years. Importantly, due to the significant delay in compliance and lack of answers to some questions on Mr. Warren's application for a new non-profit registration in Washington, the USTA PNW has yet to fully disclose its 2017 entry into the tennis center business for review by the Washington Secretary of State to resolve the question of whether operating tennis centers is a qualifying non-profit activity for the USTA PNW in our state. It may be determined that tennis center operations are in fact outside the USTA PNW's original approved IRS 501(c)(3) mission and as such are not an exempt non-profit business activity in Washington.

We give the following additional information for the board's consideration:

1. The USTA PNW started operating tennis centers in WA in 2017, coincident to the year they allowed their previous WA non-profit registration to expire.
2. Because the delay in registration was more than 5 years, the Secretary of State did not allow the previous USTA PNW non-profit to be reinstated. Instead, Mr. Warren filed for an entirely new non-profit entity on December 4, 2024. Based on the answers he provided on the application, the system generated a new non-profit registration.

EXHIBIT D

3. By answering “no” to the question of whether the USTA PNW had a previous registration, and thus obtaining an entirely new registration, Mr. Warren avoided answering additional questions on the application form, notably question 17 which reads as follows:

*“Has the Nonprofit Corporation operated a significant program or activity that is different from
a. A program or activity that the Nonprofit has previously operated; and
b. A program or activity described in the most recent application for recognition of
exemption from federal tax income YES___ NO___”*

We note that for tax year 2017, the same year USTA PNW allowed its Washington State non-profit registration to expire, Mr. Warren answered “Yes” to effectively the same question on the USTA PNW’s federal IRS form 990 non-profit return :

“Did the organization undertake any significant program services during the year which were not listed on the prior form 990?” YES

The USTA PNW then provided “Tennis Facility Operations” as the name of new activity to the IRS, but subsequently failed to refile its Washington State registration for the same tax year (2017) or the subsequent years until the above new application on Dec 4, 2024.

By not filing in Washington in 2017 as required, and then failing to do so for the subsequent seven years, the above change in program service activity still has never been reported to or reviewed by the Washington Secretary of State against the original approved IRS 501(c)(3) mission statement. This is notable because Washington is the only state in its four state section where USTA PNW has conducted the new activity of “Tennis Facility Operations.” In addition, USTA PNW filings and reports that are normally required to be filed annually with the WA Secretary of State and made public are not available for anyone’s review for the past seven years.

Based on material deficiencies in USTA PNW corporate compliance for the past seven years, and the resulting inability to review annual reports that would have been required to be filed with the Washington Secretary of State, we believe the USTA PNW should be disqualified from contracting for use of school district property. Any vendor selected for a long term partnership with the school district must have a history of compliance with the law. The district should seek to avoid future contingent liabilities relating to corporate and tax compliance of any third party commercial operator.

We encourage the school board to rescind its July 22, 2024 approval of the USTA PNW contract. We recommend that the board consider alternative approaches to repairing, resurfacing and covering the tennis courts that do not require a conditional use permit to allow commercial operations on the school campus and instead retain full control over school property for school use.

Thank you,



Caryn and Clark Vitek, Owners
Evergreen Tennis

EXHIBIT D

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4 Camas School District Policy 4260 Use of School Facilities, excerpts:

5 The board believes that public schools are owned and operated by and for the community. Although the buildings and grounds of
6 the Camas School District are primarily for public school purposes, the district shall make facilities available and accessible to the
7 community for appropriate activities that do not infringe upon or interfere with the primary purpose for which the buildings and
8 grounds are intended. The public is encouraged to use school facilities but will be expected to reimburse the district for such use to
9 ensure that funds intended for education are not used for other purposes. On the recommendation of the superintendent, the
10 board will set the rental rates schedule. The superintendent is authorized to establish procedures for use of school facilities,
11 including rental rates, supervisory requirements, restrictions, and security.

12 **Nonprofit Groups** Nonprofit groups and organizations may use school facilities for lectures, promotional activities, rallies,
13 entertainment, college courses, or other activities for which public halls or commercial facilities generally are rented or owned. The
14 district may charge a rental rate in excess of the costs incurred. Excess charges may be waived when a service club or other
15 nonprofit group is raising funds for charitable purposes. Professional fundraisers representing charities must provide evidence that
16 they are registered and bonded by the state of Washington. Such fund-raisers must provide evidence that the charity will receive
17 one hundred (100) percent of the gross revenues received from the public prior to approval to use the facilities. *(amended in Policy*
18 *4260P below).*

19 Camas School District Policy 4260P Use of School Facilities, excerpts:

20 Application for use of school facilities will be made to the facilities coordinator. Professional fundraisers representing charities must
21 provide evidence that the fundraiser: A. Is recognized by the Philanthropic Division of the Better Business Bureau; B. Is registered
22 and bonded by the state of Washington; and C. Will give the charity at least sixty (60) percent of the gross revenues.

23 The superintendent or designee will develop and recommend to the board a fee schedule applicable for use of school facilities. The
24 fee schedule will be evaluated on a biennial basis.

25 If the use of the district's facilities is to be ongoing, the applicant will provide evidence to the district once every thirty days that
26 the insurance remains in effect.

27 Because of the value of the district's playing fields to the community's total recreational opportunity, the fields may be used by all
28 residents. The use must be appropriate and compatible with each playfield and its surrounding area.

A custodian or other authorized staff member must be on the premises when any non-school group is using school facilities.

EXHIBIT E