

## LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into as of the 1st day of January, 2009, between Sport 2 Sport One, L.L.C., a Kansas limited liability company, hereinafter referred to as Lessor, and Unified School District No. 497, Douglas County, Kansas, hereinafter referred to as Lessee.

IN CONSIDERATION OF THE MUTUAL COVENANTS and agreements contained herein, the parties agree as follows:

1. Demise and Description. Lessor does hereby agree to let and lease unto Lessee the following-described premises in the City of Lawrence, Douglas County, Kansas;  
  
Lot 1, in Sport 2 Sport Addition, an Addition to the City of Lawrence, Kansas, as further described in Exhibit A attached hereto.
2. Term of Lease. The term of this lease shall be for one (1) year, to commence on the 1st day of January, 2009, and terminate on the 31st day of December, 2009; unless sooner terminated as hereinafter provided.
3. Rent. Lessee shall pay to the Lessor as rent for the full term of the sum of Nine Thousand Six Hundred Dollars (\$9,600.00) payable by Lessee in installments of Four Thousand Eight Hundred (\$4,800.00), with the first payment due April 1, 2009, and the second payment due on July 1, 2009, at such place designated by Lessor; provided that Lessor will submit to Lessee an invoice for rent at least twenty (20) days in advance of the due date.
4. Use of Leased Premises. The leased premises shall be used by Lessee for baseball and softball athletic fields and related activities and for no other purposes without the written consent of Lessor. Lessee will use reasonable care to limit access to the Lake Alvamar dam, including restricting baseball and softball players, coaches, spectators, and other persons, except Lessee employees and one person to retrieve foul balls, from going on the dam.
5. Maintenance, Repairs, and Replacements. The Lessee shall, at its own expense, maintain the athletic fields and adjoining grounds in good condition. Lessor will maintain in good condition, and make replacements as necessary to maintain in good condition, the parking lot, all walkways and curbs, and the irrigation system for the leased premises. Lessee shall provide a dumpster for trash removal and general cleanliness of the leased premises.
6. Vehicular Access and Parking. Lessee shall have the right of vehicular access to the leased premises by the existing driveway from Clinton Parkway. Lessee will have the right to the exclusive use of the parking lot on the leased premises; except that when not required for its activities, it will reasonably share use of the parking lot with First Serve Tennis, L.L.C., or its successor or assigns. Lessee will contract for snow and ice removal for the driveway and parking lot, and Lessor and Lessee will share equally the cost for such removal.

7. Mechanic's Liens. Lessee shall not permit any liens to stand against the premises for any labor or materials furnished to Lessee in connection with any work performed thereon. Lessee shall not be the agent of Lessor with respect to any such liens, and no such liens shall attach to or affect the interest of Lessor.
8. Utilities. Lessee shall pay for all utilities furnished the leased premises for its use.
9. Signs. Any signs installed on the premises by Lessee must be approved, in writing, by the Lessor before the same can be installed. However, Lessor's approval will not be unreasonably withheld or delayed if such signs meet all City Codes.
10. Insurance. The Lessee will also, at its sole cost and expense, maintain comprehensive general public liability insurance for bodily injury, and property damage with a combined single limit of the Five Hundred Thousand Dollars (\$500,000.00).

All insurance required to be maintained by the Lessee shall be effected by valid and enforceable policies issued by insurers of recognized responsibility.

11. Lessee to Hold Lessor Harmless. The Lessee hereby covenants and agrees to indemnify, protect and save harmless the Lessor, its successor and assigns, for and from any and all claims, demands and liabilities for any loss, damage, injury or other casualty to property and to persons, whether third persons or employees of the Lessee, caused by Lessee's conduct of its business or use and occupancy of the leased premises due to the negligence or misconduct of the Lessee, its agents and employees.
12. Nonassignability. The Lessee shall not assign this lease and shall not sublet the premises or any portion thereof, without the prior written consent of Lessor, which consent will not be unreasonably withheld or delayed; Lessee may permit other persons or entities to use the leased premises for their activities subject to prior consent of Lessor, which will not be unreasonably withheld or delayed.
13. Condition of Premises Upon Occupancy. The Lessee agrees to accept the leased premises in its present condition, and the taking of possession of the leased premises by the Lessee shall be deemed an acceptance of the condition thereof by the Lessee.
14. Default. If default shall be made by the Lessee in the payment of rent, or any part thereof, or in the performance of the agreements, on its part required to be fulfilled and performed, or in the event the Lessee shall abandon or vacate the leased premises without the consent of the Lessor, and such default is not cured within twenty (20) days after the Lessee has received written notice of default in payment of rent and within thirty (30) days after the Lessee has received written notice of any default other than payment of rent, the Lessor, at its option, shall have the right to deem the Lessee in default, and Lessor shall have the right, at its option, to enter the leased premises, or any part thereof, and to remove the Lessee and all other persons therefrom, and shall have the option of terminating this lease. No such reentry or taking possession of the leased premises shall be construed as an election of Lessor to terminate this lease unless a written notice of such termination shall be given to Lessee. No remedy provided in this lease shall be

exclusive, but each shall be cumulative with all other remedies provided in this lease and at law or in equity.

15. Bankruptcy of Insolvency of Lessee. In the event of insolvency, bankruptcy, or attachment proceedings against Lessee this lease shall not be deemed an asset that can be passed to the trustee in bankruptcy of Lessee, or to its creditors, and if such proceedings continue beyond the period for which rent has actually been paid, then Lessor shall have the option immediately and without notice to terminate this lease.
16. Quiet Enjoyment of Leased Premises. If Lessee shall perform, all and singular, the agreements on its part herein contained, Lessor, its successor and assigns, shall warrant and defend Lessee in the quiet enjoyment and peaceful possession of the leased premises during the term or any renewal term.
17. Inspection of Leased Premises. Lessor shall have the right to enter into and upon the leased premises or any part thereof at any reasonable hours for the purpose of inspection to determine compliance with the terms of this lease, and for other business purposes reasonably related to Lessor's ownership of the premises.
18. Termination and Removal of Lessee's Property. Upon the expiration or the sooner termination of this lease, Lessee shall quit and surrender the leased premises in as good condition as the reasonable use thereof permits, ordinary wear and tear excepted. Upon the expiration or sooner termination of this lease, Lessee shall remove such of its personal property as is not permanently affixed to the leased premises. All personal property of Lessee not removed from the leased premises within twenty (20) days following the expiration of this lease, or its sooner termination, shall become the property of Lessor at the option of Lessor.
19. Condemnation. If substantially all of the leased premises be taken for public or quasi-public use by any public or quasi-public authority under the power of eminent domain, or a portion of the property be so taken so as to substantially interfere with Lessee's use of the leased premises, then the term of this lease shall terminate as of the date of such taking, and the rent shall be paid up to that date with a proportionate refund by the Lessor of any rent paid in advance. In the event of such a termination of this lease, the Lessee shall be entitled to claim in the condemnation proceedings its leasehold interest and any portion of the award for damages which may be allowed for Lessee's relocation expenses and interference with its use.
20. Notices. All notices in connection with this lease shall be sent by certified mail. Notices to the Lessor shall be addressed to: Sport 2 Sport One, LLC, 1067 N. 1665 Road, Lawrence, Kansas, 66049, or at such address as Lessor shall, from time to time, designate in writing. Notices to the Lessee shall be addressed to the Lessee at Lawrence Public Schools, 110 McDonald Drive, Lawrence, Kansas, 66044, Attention: Superintendent of Schools, or at such address as the Lessee shall, from time to time, designate in writing.
21. Holding Over. Should the Lessee hold over for any reason after the expiration of the basic term, said holding over shall create only a tenancy from month to month, terminable on thirty (30) days written notice from either party to the other.

22. Waiver of Breach Not Waiver of Others. The waiving of any of the covenants, provision or terms of this lease by either Lessor or the Lessee shall be limited to the particular instance and shall not be deemed to waive any other breach or breaches.
23. Contractual Provisions Attachment. The provisions found in the Contractual Provisions Attachment, which is attached hereto, are hereby incorporated in this lease and made a part hereof.
24. Binding Effect of Lease. This lease shall inure to the benefit of and be binding upon the successors and permissible assigns of the parties hereto.
25. Lessor Right to Terminate. If during the term or any renewal term of this Lease the Lessor desires to sell the leased premises to a third party, but be unable to effect sale subject to this Lease and Lessee's renewal options contained herein, Lessor may terminate this Lease by 180 days prior written notice to Lessee to be effective: i) at the end of the initial term of this Lease if given during such term; or ii) 180 days after Lessee's receipt of the notice if given during any renewal term of this Lease.
26. Memorandum of Lease. The parties agree to sign a Memorandum of Lease setting forth the term of the Lease and Lessee's Renewal Options which Memorandum may be recorded by Lessee at its cost with the Douglas County Register of Deeds.

**LESSOR**

**Sport 2 Sport One, L.L.C.**

By: \_\_\_\_\_  
Roger A. Morningstar, Member

**LESSEE**

**Unified School District No. 497,  
Douglas County, Kansas**

By: \_\_\_\_\_  
Craig Grant, President  
Board of Education

STATE OF KANSAS                     )  
                                                  ) ss:  
COUNT OF DOUGLAS                )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Craig Grant, President of the Board of Education for Unified School District No. 497, Douglas County, Kansas.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

STATE OF KANSAS                    )  
                                          ) ss:  
COUNT OF DOUGLAS                )

      This instrument was acknowledged before me on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2009, by Roger A. Morningstar, Member of Sport 2 Sport One,  
L.L.C.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## **EXHIBIT A**

### **Legal Description**

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID QUARTER SECTION, WHICH IS 280.03 FEET NORTH OF THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89°18'39" WEST, 30.00 FEET; THENCE SOUTH 00°41'21" EAST, 175.60 FEET TO THE NORTH RIGHT-OF-WAY LINE OF CLINTON PARKWAY; THENCE SOUTH 88°09'20" WEST, 36.97 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE; THENCE SOUTH 01°50'40" EAST, 35.00 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE; THENCE SOUTH 88°09'20" WEST, 160.00 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 87°16'14" WEST, 250.80 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 01°50'40" WEST, 40.00 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 38°43'05" WEST, 450.77 FEET; THENCE NORTH 51°32'35" EAST, 955.21 FEET TO THE EAST LINE OF SAID QUARTER SECTION; THENCE SOUTH 00°41'21" EAST, 780.48 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 10.47 ACRES, ALL IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

**MEMORANDUM OF LEASE**

Sport 2 Sport One, L.L.C., and Unified School District No. 497, Douglas County, Kansas, hereby agree to the following Memorandum of Lease:

1. Sport 2 Sport One, L.L.C. as Lessor, and Unified School District No. 497, Douglas County, Kansas, as Lessee, entered into a written Lease agreement dated as of the 1st day of January, 2009.
2. The Leased Premises as described as Lot 1, in Sport 2 Sport Addition, an addition to the City of Lawrence, Kansas, and as further described on Exhibit A attached hereto.
3. The term of the Lease is for one (1) year commencing on January 1, 2009, and terminating on the 31st day of December, 2009.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**LESSOR**

**Sport 2 Sport One, L.L.C.**

By: \_\_\_\_\_  
Roger A. Morningstar, Member

**LESSEE**

**Unified School District No. 497,  
Douglas County, Kansas**

By: \_\_\_\_\_  
Craig Grant, President  
Board of Education

STATE OF KANSAS                    )  
                                                  ) ss:  
COUNT OF DOUGLAS            )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Craig Grant, President of the Board of Education for Unified School District No. 497, Douglas County, Kansas.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

STATE OF KANSAS                    )  
                                              ) ss:  
COUNT OF DOUGLAS                )

      This instrument was acknowledged before me on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2009, by Roger A. Morningstar, Member of Sport 2 Sport One,  
L.L.C.

\_\_\_\_\_  
Notary Public  
My Commission Expires:



## **SUBLEASE AGREEMENT**

THIS SUBLEASE AGREEMENT is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2009, by and between Unified School District No. 497, Douglas County, Kansas (hereinafter Sublessor) and the City of Lawrence, Kansas, a municipal corporation (hereinafter Sublessee).

### **I. RECITALS**

1. Sublessor has entered into a Lease Agreement with Sport 2 Sport One, L.L.C. (hereinafter Lessor), dated January 1, 2009, for the use of Real Estate described as:

Lot 1, in Sport 2 Sport Addition, an Addition to the City of Lawrence, Kansas, as further described in Exhibit A attached hereto;

which Lease is referred to herein as the Master Lease, a true copy of which is attached hereto as Exhibit B.

2. Sublessor and Sublessee desire to enter into a sublease agreement under which the Sublessee shall have the right to exclusive use of said real estate for a portion of the term of the Master Lease, subject to consent to sublease by the Lessor.

### **II. AGREEMENT**

In consideration of mutual covenants herein contained, the parties agree as follows:

A. The Sublessor hereby subleases to the Sublessee the above described real estate for exclusive use by the Sublessee commencing May 13, 2009, to extend through December 31, 2009 (Sublease Term).

B. The Sublessee will pay to Sublessor as rent for use of said real estate one lump sum rent payment of Four Thousand Eight Hundred Dollars (\$4,800.00) on or before May 1, 2009.

C. Sublessor hereby agrees to perform all of the obligations of Lessee under the Master Lease through May 12, 2009, and will not commit or permit to be committed on the leased premises any act or omission which will violate any term or condition of the Master Lease. Sublessor shall indemnify, defend, protect and hold Sublessee harmless from any and all damages, claims, loss, liability, cost and expense (including without limitation, court costs and reasonable attorneys fees) incurred in connection with or arising from Sublessor's breach of any of its obligations under the Master Lease.

D. This Sublease is subject and subordinate to all of the terms and conditions of the Master Lease and any and all mortgage liens, if any, on the Real Estate. Sublessee hereby agrees to assume and perform all the obligations of Sublessor and Lessee under the Master Lease during the Sublease Term to the extent said terms and conditions are applicable to the leased premises, all of which are incorporated herein. Sublessee shall not commit or permit to be committed on the leased premises any act or omission which will violate any term or condition of the Master

Lease. Sublessee shall indemnify, defend, protect and hold Sublessor harmless from any and all damages, claims, loss, liability, cost and expense (including, without limitation, court costs and reasonable attorney's fees) incurred in connection with or arising from Sublessee's breach of any of its obligations under the Master Lease assumed hereby. Subject to the provisions set forth hereinbelow, in the event of the termination of Sublessor's interest as Lessee under the Master Lease for any reason, then this Sublease shall terminate simultaneously therewith without any liability of Sublessor to Sublessee.

E. Sublessee shall not either voluntarily or by operation of law assign, transfer, mortgage, pledge, hypothecate or encumber this Sublease or any interest therein, and shall not sublet the leased premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the employees, agents, servants and invitees of Sublessee excepted) to occupy or use the leased premises, or any part thereof, without the prior written consent of Sublessor and Lessor. Sublessor's and Lessor's consent to any assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person or entity. Any such assignment or subletting without such consent shall be void, and shall, at the option of Sublessor or Lessor, constitute a default under this Sublease.

F. Relating to its use of the leased premises, Sublessee will self fund comprehensive general liability insurance coverage with a combined single limit of \$500,000, the State of Kansas statutory limit set forth in the Kansas Tort Claims Act.

G. This Sublease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Sublease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provisions of this Sublease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

H. All notices or demands of any kind required or desired to be given by Sublessor or Sublessee hereunder shall be in writing and shall be deemed delivered 48 hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the Sublessor or Sublessee, respectively, at the addresses set forth below, or to such other address as Sublessor or Sublessee may, from time to time, designate to the other in writing. All rent and other payments due under this Sublease or the Master Lease shall be made by Sublessee to Sublessor at the same address.

Sublessee: City Manager  
City of Lawrence, Kansas  
6 E. 6th Street  
Lawrence, KS 66044

Sublessor: Superintendent of Schools  
110 McDonald Drive  
Lawrence, Kansas 66044

**SUBLESSOR**

**City of Lawrence, Kansas**

By: \_\_\_\_\_

**SUBLESSEE**

**Unified School District No. 497,  
Douglas County, Kansas**

By: \_\_\_\_\_  
Craig Grant, President  
Board of Education

STATE OF KANSAS                    )  
                                              ) ss:  
COUNT OF DOUGLAS                )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
2009, by Craig Grant, President of the Board of Education for Unified School District No. 497,  
Douglas County, Kansas.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

STATE OF KANSAS                    )  
                                              ) ss:  
COUNT OF DOUGLAS                )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
2009, by \_\_\_\_\_, \_\_\_\_\_ of the City of Lawrence,  
Kansas.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**CONSENT OF LESSOR**

The undersigned before and on behalf of the Lessor, Sport 2 Sport One, L.L.C., under the Master Lease referred to in the foregoing Sublease, hereby consents to the sublease of the described real estate on the terms set forth in the foregoing Sublease, without waiver of the restriction in the Master Lease concerning further subletting or assignment.

**LESSOR**

**Sport 2 Sport One, L.L.C.**

By: \_\_\_\_\_  
Roger A. Morningstar, Member

STATE OF KANSAS                    )  
                                                  ) ss:  
COUNT OF DOUGLAS            )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Roger A. Morningstar, Member of Sport 2 Sport One, L.L.C..

\_\_\_\_\_  
Notary Public  
My Commission Expires: