

## SETTLEMENT AGREEMENT

This Settlement Agreement (“**Agreement**”) made by and between CENTENNIAL NEIGHBORHOOD ASSOCIATION (“**CNA**”), JEANNE KLEIN, MARGARET BARLOW, WILLA ALSTROM, GLORIA JACOB, CRAIG JACOB, HELMUT HUELSBERGEN, BOB TRYANSKI, AND HANNAH BRITTON (collectively “**Plaintiffs**”) and UNIFIED SCHOOL DISTRICT NO. 497, DOUGLAS COUNTY, KANSAS, (“**Lawrence Public Schools or LPS or Defendant**”),

### I. Recitals

- A. Plaintiffs have initiated a lawsuit in Douglas County District Court, Case No. 2008 CV 682 (“**Litigation**”), seeking a permanent injunction preventing LPS from constructing and using certain facilities as allowed under Special Use Permits, SUP 07-04-08 and 07-06-08 (“**SUPs**”), issued by the City of Lawrence.
- B. The parties wish to compromise and settle this Litigation. LPS wishes to construct and use said facilities under the conditions set forth in this Agreement, and Plaintiffs wish to lessen the adverse impact of the facilities and activities upon their properties and use thereof.

### II. Specific Agreement

In consideration of the mutual covenants herein contained, the parties agree to settle the Litigation, and all associated claims and issues, on the following terms and conditions:

- A. LPS agrees to make the following changes to the site plans, attached as Exhibit A, and subsequent construction and installation of the facilities allowed under the SUPs. If there are any differences between the site plans and this agreement, this agreement will control. It is understood and agreed that LPS will install the facilities under the SUPs as weather conditions and funding permit.

1. LPS will construct the Lawrence High School (LHS) football stadium as set forth in the attached plans (Exhibit B) which are incorporated as part of this Agreement, provided, however, that LPS will construct the LHS press box and related structures, including the access ramp, on the east side of the football stadium.
2. LPS will build the LHS football stadium using the Versa-Lok retaining wall system or comparable materials and design. The construction will have the appearance as identified in the attached photograph (Exhibit C), which is incorporated as part of this Agreement. A black wrought iron fence, or other metal finished in black, will be installed along the top of the stadium and will be no taller than 60 inches.
3. The retaining wall on the west side of the LHS football stadium will be no closer than 87 feet from the west LHS property line.
4. The west side of the LHS football stadium will contain a berm that will extend to about 8 feet above ground level with a 3 to 1 slope, except that there may be two openings along the berm to allow entry underneath the stadium from the west. If, and only if, required by City Code, an exit stair in the middle of the west side of the stadium will be installed with a 5 foot landing and a sidewalk on top of the berm.
5. LPS agrees to install additional landscaping on the above referenced berm including a mixture of trees, bushes, and grass, in addition to the landscaping currently designated and required along the property line, all of which will be planted prior to the permitted use of the facilities. The Plaintiff owners' of adjacent properties shall have input and participation in the selection of trees and bushes to be used in the landscaping,

recognizing that landscaping is subject to the limitations of a reasonable allocation of the construction budget by LPS and final approval by the City of Lawrence planning department. If the owners and LPS are unable to agree upon the selection of the trees and plants, Crystal Miles will make the final selection of trees and bushes, subject to the recommendations of the owners and LPS. If Crystal Miles is not available or is unwilling, than Plaintiffs' counsel and counsel for LPS shall jointly designate a person with landscaping experience and skills. The designated person shall not have any prior or current business transactions with the Plaintiffs or LPS. The decision of by the designated person shall be final, subject to the final approval by the City of Lawrence planning department. LPS shall maintain the landscaping, and shall replace any dead trees or bushes within a reasonable time.

6. The lights at the LHS football stadium will be of a nature and kind that will limit the amount of light reaching the neighborhoods surrounding the field in a technologically advanced, yet reasonably feasible manner.
7. LPS will not install permanent LHS softball field structures closer than 75 feet to the LHS west property line, except for the dugout portion of the fencing which will be no closer than 65 feet to the LHS west property line. LPS will be allowed to have and use temporary bleachers at the LHS softball field, estimated to seat no more than 300 people. The temporary bleachers will be erected and used during the softball season and removed and stored off site when not in use.

8. The lights at the LHS softball field will be of a nature and kind that will limit the amount of light reaching the neighborhoods surrounding the field in a technologically advanced, yet reasonably feasible manner.
9. The lights at the Lawrence Virtual School (LVS) tennis courts will be of a nature and kind that will limit the amount of light reaching the neighborhoods surrounding the field in a technologically advanced, yet reasonably feasible manner. This includes technology that will turn the lights off if they are not in use for more than 30 minutes and will prevent use of the lights at times not allowed under this Agreement.
10. The LVS tennis courts will be constructed to include wind screens within its fencing.
11. LPS will install additional landscaping or privacy fences between the tennis courts and the 2 adjacent residence, prior to the permitted use of the tennis courts. The selection process for the landscaping and fences shall be in the same manner set forth in paragraph 5 above.
12. Prior to the construction of any LHS restrooms or concession stands relating to the LHS athletic facilities under SUP 07-04-08 beyond those currently existing, LPS will participate, in good faith, with the individual Plaintiffs and the CNA Executive Committee to determine the location and size of said facilities, after reasonable prior notice of a time and place for such meetings. It is the intention of the parties that such construction shall be located on the east side of the football stadium, or at a location furthest away from the property line as is feasible.
13. Traffic flow and congestion is a concern of all parties. LPS has been consulting with local law enforcement officials regarding this subject.

Plaintiffs are encouraged to directly participate in these discussions and planning with the appropriate law enforcement officials, as well.

B. LPS agrees to the following limitations of use of the facilities allowed under the SUPs:

1. Except for the LVS tennis courts, LPS will not allow the facilities to be used by Lawrence Parks and Recreation. Lawrence Parks and Recreation can continue to use the existing LHS facilities that are not covered by the SUPs.
2. Except for the tennis courts, LPS will not allow the lights or sound systems of any of the facilities to be used by any third party at any time, except those events which are for the specific participation of LHS students and other public schools, such as playoff games or tournaments.
3. LPS will not allow the lights on the LVS tennis courts to be used later than 10:00 p.m. on any night.
4. LPS will not allow the sound systems to be used on any of the facilities later than 10:00 p.m. on any night except in extraordinary circumstances beyond the control of LPS, such as weather delays, injury, or "extra innings".
5. LPS will not allow the lights to be used on any of the facilities later than 10:00 p.m. on any night, except in extraordinary circumstances, beyond the control of LPS, such as weather delays, injury, or "extra innings".
6. No event will be scheduled that would be reasonably expected to cause the facilities to be used inconsistent with the limitations set forth hereinabove.

### **III. General Terms**

- A. This Agreement shall not, under any circumstance, be construed as evidence of or an admission by Lawrence Public Schools as to the validity of any claims asserted by Plaintiffs, it being the express intent of the parties to resolve all past and present claims made by Plaintiffs against LPS and the City of Lawrence, Kansas asserted in the Litigation.
- B. This Agreement shall not, under any circumstance, be construed as evidence of or an admission by Plaintiffs that their claims are without merit or that the defenses asserted by LPS or the City of Lawrence are valid. It is the express intent of the parties to resolve all past and present claims currently brought by Plaintiffs against LPS and the City of Lawrence, Kansas asserted in the litigation.
- C. Plaintiffs acknowledge and understand that this Agreement must be approved in open public meeting of LPS's Board of Education (the Board) as required by law, and LPS and its Board may state practical cost considerations as its justification for entering into this Agreement. The parties acknowledge that LPS is required to comply with the Kansas Open Records Act ("KORA"), and that copies of this Agreement must be provided upon proper requests under KORA.
- D. Plaintiffs agree to sign this Agreement prior to approval by LPS's Board and signature by the Board's authorized representative. Subject to the condition of signature by the Board's representative on or before January 27, 2009, this Agreement constitutes the Plaintiffs' irrevocable offer of settlement.
- E. Plaintiffs hereby authorize their legal counsel to enter into and execute a Stipulation of Dismissal of the Litigation with legal counsel for LPS and the City of Lawrence, Kansas, providing for the Litigation to be fully dismissed

with prejudice and, with Court costs assessed to Plaintiffs, subject to signature of the Board's representative to this Agreement on or before January 27, 2009. Subject to timely signature to this Agreement by the Board's representative, the Plaintiffs will obtain an Order of Dismissal of the Litigation by not later than the end of five business days following execution of this Agreement by the Board.

- F. Upon signature of the representative of the Board to this Agreement, this Agreement shall operate as a full and complete release of any and all claims the Plaintiffs asserted against LPS and the City of Lawrence, Kansas in this Litigation, or any claims that existed at the filing of this Litigation, and as a full and complete release of any and all claims LPS has asserted against Plaintiffs in this Litigation, or any claims that existed at the filing of this Litigation
- G. CNA is an unincorporated association representing homeowners in the Centennial Neighborhood of Lawrence, Kansas. The agents for CNA represent that it has the authority to execute and deliver this agreement and to perform the obligations hereunder. The execution, delivery, and performance of this agreement have been duly authorized by all necessary association action and, upon signature of the agents of CNA, this agreement constitutes a valid and binding obligation of CNA enforceable against CNA and its membership, but not in their individual capacity, according to its terms.
- H. This Agreement will be binding upon and inure to the benefit of the personal representatives and heirs of individual Plaintiffs, their successors and assigns; and to the successors, lessors, lessees, all subsequently elected school boards, and assigns of LPS; and the successors and assigns of Plaintiff CNA.

- I. If any provision of this Agreement, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby and shall remain enforceable.
- J. In the event any of the Plaintiffs believe LPS has violated any term, covenant, or condition of this Agreement, they will send LPS notice of such alleged violation in writing to the Superintendent of LPS. The Notice shall outline the date, and time of the alleged violation and outline the nature of the violation to the best of their ability. LPS will have 10 business days to respond to the notice with an explanation of the situation or the incident and, if a violation occurred, an assurance that a similar violation will not occur in the future and outlining the steps taken to correct the specific violation. The response shall be directed, in writing, to the person identifying such violation. If the proposed action to correct or remedy the violation is not acceptable to any of the Plaintiffs, they may pursue any remedy provided by the laws of Kansas.
- K. In the event any of the Plaintiffs, individually or collectively, make a claim or initiate a lawsuit against LPS in any court, federal, state, or municipal agency, relating to this Agreement, and it is determined that LPS has committed a material breach of this Agreement such that Plaintiff or Plaintiffs are the prevailing party, such Plaintiff or Plaintiffs shall be entitled to recover from LPS their reasonable attorneys fees and costs incurred to enforce this Agreement. If LPS is the prevailing party on any such claim or lawsuit, it shall be entitled to recover from such Plaintiff or Plaintiffs its reasonable attorneys fees and costs



incurred relating to such claim or lawsuit, if the court finds that the Plaintiffs' action was filed in bad faith.


- L. All parties acknowledge this Settlement Agreement contains the entire agreement between them, and that there are no other understandings or agreements, written or oral, regarding this Agreement.
- M. The terms of Section II(B) of this Settlement Agreement can be amended from time to time in writing by mutual agreement of all Plaintiffs, or their heirs, personal representatives, or assigns, and LPS, or its successors, subsequent school boards, and assigns. Upon request of any party, the parties agree that on or about ten (10) years from the date of this agreement, they, or their successors as set forth in the following sentence, will in good faith meet within 60 days to reevaluate, consider, and negotiate if the terms of Section II(B) should be changed or amended. If agreed upon by all parties, the terms of Section II(B) may be amended in writing at said time. The Plaintiffs will be represented by CNA, or its successor; the individual plaintiffs will be represented by the then owners of the properties, as determined by the Register of Deeds, in which the Plaintiffs reside as of the date of this agreement; and LPS will be represented by LPS or its successor.
- N. Each party acknowledges and agrees that they have carefully read and reviewed this Agreement, that each has had the advice of legal counsel concerning the advisability of entering into this Agreement, and that each has executed this Agreement freely and voluntarily.
- O. Nothing in this Agreement shall be interpreted to prevent any party from pursuing any future claim or cause of action not specifically released, herein, or

dismissed with prejudice in the action currently pending in the District Court of Douglas County, Kansas.

P. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original. Any party may provide their signature via facsimile and such shall be deemed to be an original.

Approved by:

**STEVENS & BRAND, L.L.P.**

By   
Peter K. Curran  
Counsel for Unified School District No. 497,  
Douglas County, Kansas

Approved by:


**RONALD SCHNEIDER, Attorney at Law**

By \_\_\_\_\_  
Ronald Schneider  
Counsel for Plaintiffs

**COLLISTER & KAMPSCHROEDER**

By \_\_\_\_\_  
Adam Hall  
Counsel for Plaintiffs

**UNIFIED SCHOOL DISTRICT NO. 497,  
DOUGLAS COUNTY, KANSAS**

By:   
CRAIG GRANT  
President, Board of Education

**PLAINTIFFS**

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

Authorized agents for CENTENNIAL NEIGHBORHOOD ASSOCIATION

By: \_\_\_\_\_  
JEANNE KLEIN

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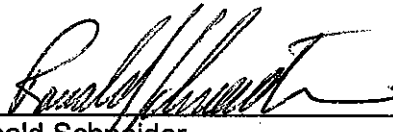
Approved by:

**STEVENS & BRAND, L.L.P.**

By \_\_\_\_\_  
Peter K. Curran  
Counsel for Unified School District No. 497,  
Douglas County, Kansas

Approved by:

**RONALD SCHNEIDER, Attorney at Law**

By  \_\_\_\_\_  
Ronald Schneider  
Counsel for Plaintiffs

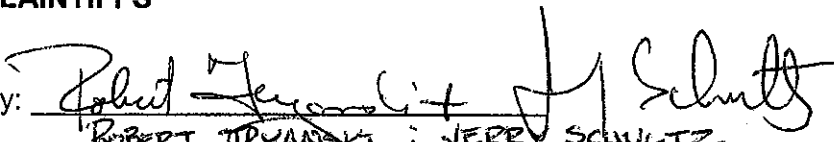
**COLLISTER & KAMPSCHROEDER**

By \_\_\_\_\_  
Edward Collister  
Counsel for Plaintiffs

**UNIFIED SCHOOL DISTRICT NO. 497,  
DOUGLAS COUNTY, KANSAS**

By: \_\_\_\_\_  
CRAIG GRANT  
President, Board of Education

**PLAINTIFFS**

By:  \_\_\_\_\_  
ROBERT TRYANSKI ; JERRY SCHULTZ  
Authorized agents for CENTENNIAL NEIGHBORHOOD ASSOCIATION

By:  \_\_\_\_\_  
JEANNE KLEIN

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Approved by:

STEVENS & BRAND, L.L.P.


By \_\_\_\_\_  
Peter K. Curran  
Counsel for Unified School District No. 497,  
Douglas County, Kansas

Approved by:

RONALD SCHNEIDER, Attorney at Law

By   
Ronald Schneider  
Counsel for Plaintiffs

COLLISTER & KAMPSCHROEDER

By   
Edward Collister - Adam Hall, # 23664  
Counsel for Plaintiffs

UNIFIED SCHOOL DISTRICT NO. 497,  
DOUGLAS COUNTY, KANSAS

By: \_\_\_\_\_  
CRAIG GRANT  
President, Board of Education

PLAINTIFFS

By:   
Authorized agent for CENTENNIAL NEIGHBORHOOD ASSOCIATION

By:   
JEANNE KLEIN

By: Margaret Barlow  
MARGARET BARLOW

By: Willa Alstrom (SA)  
WILLA ALSTROM

By: \_\_\_\_\_  
GLORIA JACOB

By: \_\_\_\_\_  
CRAIG JACOB

By: \_\_\_\_\_  
HELMUT HUELSBERGEN

By: Bob Tryanski  
BOB TRYANSKI

By: Hannah Britton  
HANNAH BRITTON

By: \_\_\_\_\_  
MARGARET BARLOW

By: \_\_\_\_\_  
WILLA ALSTROM

By: *Gloria Jacob*  
GLORIA JACOB

By: *Craig Jacob*  
CRAIG JACOB

By: \_\_\_\_\_  
HELMUT HUELSBERGEN

By: \_\_\_\_\_  
BOB TRYANSKI

By: \_\_\_\_\_  
HANNAH BRITTON

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By: \_\_\_\_\_  
GLORIA JACOB

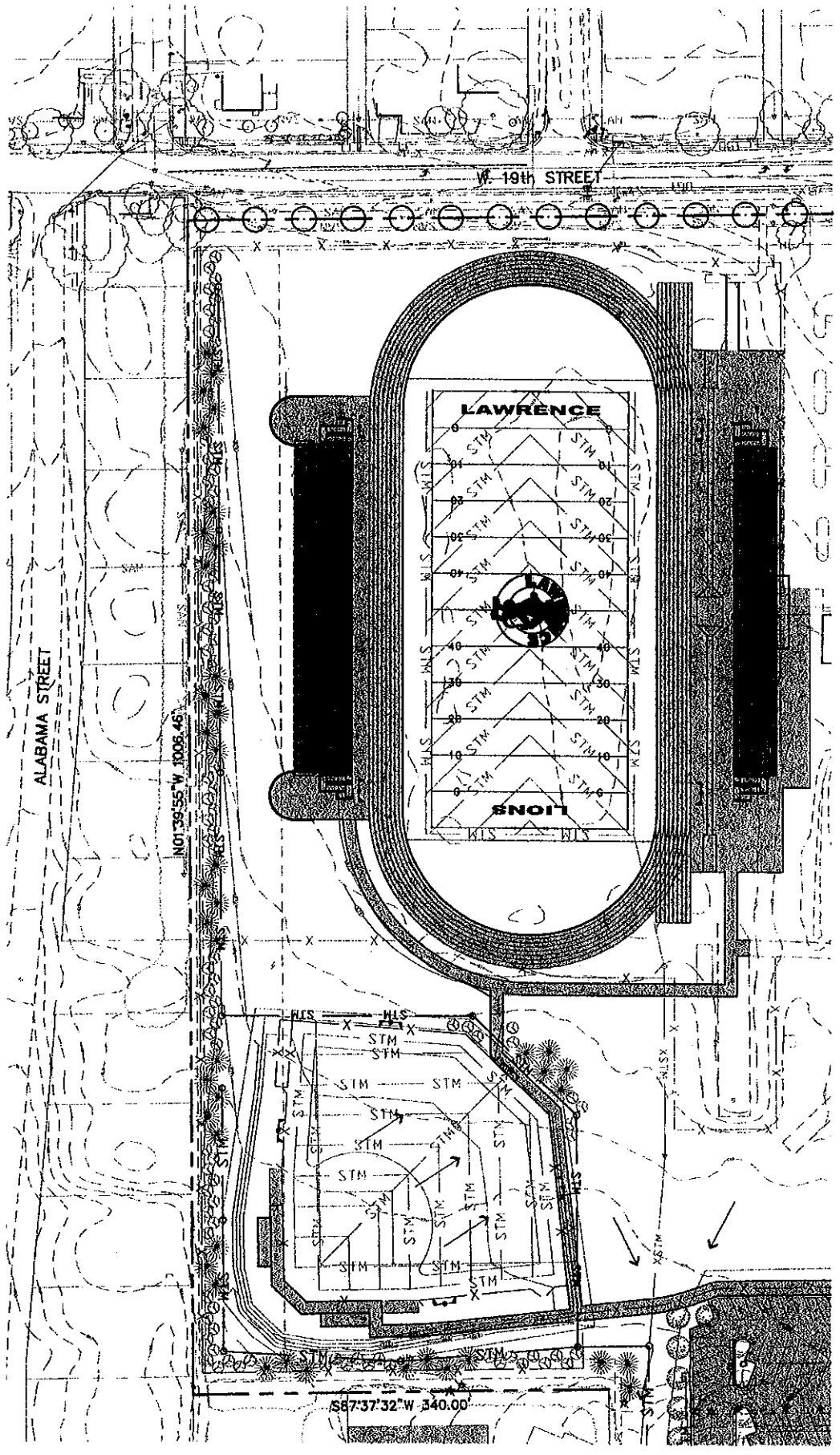
By: \_\_\_\_\_  
CRAIG JACOB

By: Helmut Huelsbergen  
HELMUT HUELSBERGEN

By: Robert Tryanski  
BOB TRYANSKI

By: \_\_\_\_\_  
HANNAH BRITTON

**EXHIBIT**  
**LAWRENCE HIGH SCHOOL**  
**FOOTBALL GRAND STAND LAYOUT**





  
**Landplan Engineering, P.A.**  
 Landscaping Architecture  
 Community Planning  
 Surveying  
 1111 ...  
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EXHIBIT "B"



EX "C"

