

**ROCK CHALK PARK DEVELOPMENT AGREEMENT**

**by and between the**

**CITY OF LAWRENCE, KANSAS,**

**RCP, LLC,**

**BLISS SPORTS, LC**

**and**

**BLISS SPORTS II, LC**

**Dated as of February 19, 2013**

**Relating to the Development, Design and Construction  
of the Rock Chalk Park Project**

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**ROCK CHALK PARK DEVELOPMENT AGREEMENT**

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## ROCK CHALK PARK DEVELOPMENT AGREEMENT

THIS ROCK CHALK PARK DEVELOPMENT AGREEMENT (“Agreement”) is entered into as of February 19, 2013, by and between the CITY OF LAWRENCE, KANSAS, a municipal corporation (the “City”), RCP, LLC, a Kansas limited liability company (“RCP”), BLISS SPORTS, LC, a Kansas limited liability company (“Bliss Sports”) and BLISS SPORTS II, LC, a Kansas limited liability company (“Bliss Sports II”) (each a “Party” and collectively the “Parties”). Capitalized terms not defined elsewhere in this Agreement shall have the meaning set forth in Section 1.01 hereof.

### WITNESSETH:

**A.** RCP owns approximately 89 acres of real property located at the northwest intersection of Rock Chalk Drive and George Williams Way east of K-10 within the City, as legally described on Exhibit A attached hereto (the “Property”).

**B.** RCP, the City, Bliss Sports and Bliss Sports II desire to develop and construct on the Property and adjoining parcels a sports village (collectively, the “Rock Chalk Park Project”), as generally depicted on Exhibit B attached hereto (the “Site Plan”) consisting of (i) an approximately 181,000 square foot recreation center for the City (the “Recreation Center”), (ii) that certain track and field stadium, softball stadium, soccer stadium and related improvements which are defined as the “Initial KU Improvements” in that certain Ground Lease between RCP and Bliss Sports dated as of February \_\_\_\_, 2013 (such lease being referred to herein as the “Stadium Lease” and such stadia and other improvements being referred to as the “Stadium Facilities”) and (iii) certain additional amenities and infrastructure improvements hereinafter defined as the Infrastructure Improvements.

**C.** RCP and the City will enter into a Purchase Agreement for 26 acres of the Property as legally described on Exhibit A-1 attached hereto (the “Recreation Center Site”) in the form attached hereto as Exhibit C, (the “Purchase Agreement”) which provides that upon (i) the City’s selection of, and execution of the Recreation Center Construction Contract with, the Recreation Center Contractor for the construction of the Recreation Center, (ii) delivery by RCP of an approximately 5 acre site as shown on Exhibit B (the “Pad Site”) in Pad-Ready Condition for construction of the Recreation Center on the Recreation Center Site, and (iii) certain other conditions specified in Section 5.03 hereof and the Purchase Agreement, the City will purchase the Recreation Center Site from RCP for a purchase price set forth in the Purchase Agreement which is consistent with Section 5.02 hereof (the “Purchase Price”), and the City will cause development and construction of the Recreation Center on the Recreation Center Site.

**D.** RCP shall engage Bliss Sports II to develop and manage construction of the following: (i) on approximately 21 acres of the Recreation Center Site, as generally shown on the map attached hereto as Exhibit A-2 attached hereto (the “Infrastructure Site”), construct approximately 800 paved parking spaces and drives, and eight lighted tennis courts, adjacent to the Recreation Center, and all landscaping and irrigation, (ii) on portions of the Stadium Site, approximately 700 paved parking spaces and drives and approximately five linear miles of walking trails (portions of which will be located on the Property and adjacent property currently owned by the City), and (iii) on portions of both the Infrastructure Site and the Stadium Site, all necessary sanitary sewer, potable water, storm sewer, water detention facilities, public and private streets, sidewalks and related improvements (collectively, the “Infrastructure Improvements”), which shall include the Infrastructure Improvements described in Exhibit F attached hereto (the “Infrastructure Improvements”).

**E.** Upon completion of the Infrastructure Improvements in accordance with Section 10.01, the City will pay RCP for completion of the Infrastructure Improvements located on the Infrastructure Site the amount determined in accordance with Section 11.01 hereof (the “Infrastructure Payment”).

**F.** RCP owns approximately **57** acres of the Property adjacent to the Recreation Site and the Infrastructure Site, as legally described on **Exhibit A-3** attached hereto (the “**Stadium Site**”), and will lease the Stadium Site to Bliss Sports for the development, construction and operation of the Stadium Facilities subject to the terms and conditions in the Stadium Lease.

**G.** The Stadium Site will be conveyed by RCP to the City and then leased by the City to RCP in connection with the issuance by the City of industrial revenue bonds for purposes of obtaining property tax abatement and sales tax exemption on construction materials for the Stadium Site.

**H.** Bliss Sports will sublease the Stadium Site and the Stadium Facilities to Kansas Athletics, Inc., or its affiliate (“**KAI**”), under a triple-net lease (the “**Stadium Sublease**”).

**I.** The Parties desire to enter into this Agreement in connection with the development and construction of the Rock Chalk Park Project.

**NOW, THEREFORE**, for and in consideration of the premises, and the mutual covenants herein contained, the City, RCP, Bliss and Bliss Sports II agree as follows:

**ARTICLE I**  
**DEFINITIONS AND RULES OF INTERPRETATION**

**Section 1.01 Definitions.**

“**Applicable Laws and Requirements**” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any unit of government.

“**Architect**” means Gould Evans and Paul Werner.

“**Bonds**” means general obligation temporary notes and/or general obligation bonds issued by the City in order to fund the City’s costs related to the Recreation Center and Infrastructure Improvements.

“**Completion Dates**” means the schedule of dates by which specified portions of the Recreation Center, Stadium Facilities and Infrastructure Improvements, as applicable, must be completed in accordance with this Agreement and the Project Timeline set forth in **Exhibit E**, subject to extension due to Excusable Delays as provided herein.

“**Contract Documents**” means the Recreation Center Construction Documents and the Infrastructure Improvements Construction Documents, as applicable.

“**Contracting Parties**” means all entities that a Party employs to perform Work in connection with the construction and development of the Recreation Center Improvements or Infrastructure Improvements, as applicable.

“**Contractor**” means the Recreation Center Contractor to provide Work for the Recreation Center and RCP (and its construction manager and the contractors for the construction manager) to provide Work for the Infrastructure Improvements, as applicable.

“**Environmental Laws**” means any federal, state or local law, statute, regulation, rule or ordinance or amendments thereto, and all applicable judicial, administrative or regulatory decrees,



judgments or orders relating to the protection of human health or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* (“CERCLA”), as amended, the Resource, Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* (“RCRA”), the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2671, the Clean Air Act, 42 U.S.C. Sections 7401 *et seq.*, and the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 to 1387, as the foregoing may be amended from time to time.

**“Excusable Delays”** means delays due to acts of terrorism, acts of war or civil insurrection, strikes, riots, floods, earthquakes, fires, tornadoes, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, national or regional material shortages, failure to obtain regulatory approval from any Federal or State regulatory body, unforeseen site conditions, extraordinary rainfall or snowfall, or any other condition or circumstances beyond the reasonable or foreseeable control of the applicable Party using reasonable diligence to overcome which prevents such Party from performing its specific duties or obligation hereunder in a timely manner; provided, however, Excusable Delay does not include lack of financing, unanticipated or unexpected increases in the costs of construction, or errors in business judgment by a Party; and provided further that Excusable Delay shall only extend the time of performance for the period of such Excusable Delay, which shall begin on the date which the event of Excusable Delay first occurs and extend until the date which the event which has caused the Excusable Delay has been corrected or performed, or reasonably should have been corrected or performed.

**“Final Completion”** means the stage in the progress of the Work after Substantial Completion has been achieved when the Work (including all so-called “punch list” items) is complete in accordance with the respective Contract Documents and all obligations of a Party under this Agreement (except for those obligations which are intended to be satisfied after Final Completion) are fully satisfied.

**“Final Completion Date”** means the date shown for the Final Completion of the Recreation Center, the Stadium Facilities and the Infrastructure Improvements in the Project Timeline, as applicable.

**“Government Authorities”** means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence, including the City.

**“Infrastructure Improvements”** is defined in the Recitals.

**“Infrastructure Improvements Construction Contract”** shall have the meaning set forth in Section 7.01 of this Agreement.

**“Infrastructure Improvements Construction Documents”** shall have the meaning set forth in Section 7.02(e) of this Agreement.

**“Infrastructure Improvements Plans”** shall have the meaning set forth in Section 6.03 of this Agreement.

**“Infrastructure Payment”** is defined in the Recitals.

**“Infrastructure Site”** is defined in the Recitals.

**“KAI”** is defined in the Recitals.

“**Lien**” shall have the meaning set forth in Section 7.05 of this Agreement.

“**Pad-Ready Condition**” shall have the meaning set forth in Section 8.02 of this Agreement.

“**Pad Site**” is defined in the Recitals.

“**Parking Easement Agreement**” means the Parking Easement Agreement to be entered into between the City, RCP, Bliss Sports, Bliss Sports II and KAI regarding access and parking cross-easements of such parties for the parking facilities located on the Property.

“**Person**” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other form of entity.

“**Project Timeline**” means the schedule for development of the Recreation Center, the Stadium Facilities and the Infrastructure Improvements Site, including details regarding the timing for design, engineering and construction thereof attached hereto as Exhibit E.

“**Property**” is defined in the Recitals.

“**Property Access and Maintenance Agreement**” means the Property Maintenance Agreement to be entered into among the City, RCP, Bliss Sports and Bliss Sports II with respect to maintenance of the parking lots, landscaping, trails, detention areas and other common areas within the Property, during the term of the Stadium Lease.

“**Purchase Agreement**” is defined in the Recitals.

“**Purchase Price**” is defined in the Recitals.

“**Quality Control Manager**” means a qualified construction consultant engaged by the City at City expense to fulfill certain functions described in Article VIII.

“**Recreation Center Architect’s Fee**” shall have the meaning set forth in Section 3.01 of this Agreement.

“**Recreation Center**” is defined in the Recitals.

“**Recreation Center Construction Contract**” means the agreement by and between the City and the Recreation Center Contractor for construction of the Recreation Center.

“**Recreation Center Contract Documents**” means the contracts by and between City and any entities to provide Work on the Recreation Center; the Recreation Center Construction Contract together with the general conditions, exhibits and schedules thereto; purchase orders together with terms and conditions thereof; plans and specifications prepared, approved, or reevaluated by Architect; all approved written or graphic interpretations, clarifications, amendments, and changes to any of the foregoing documents; and change orders and scope changes relating to the performance of Work or provision of services in connection with the design, construction and development of the Recreation Center.

“**Recreation Center Contractor**” shall have the meaning set forth in Section 4.02 of this Agreement.

“**Recreation Center Plans**” shall have the meaning set forth in Section 3.03(a) of this Agreement.

“**Recreation Center Site**” is defined in the Recitals.

“**Rock Chalk Park Project**” is defined in the Recitals.

“**Site Plan**” means the site plan and land use plan for development of the Property prepared by Bliss Sports II attached as Exhibit B.

“**Stadium Facilities**” is defined in the Recitals.

“**Stadium Lease**” is defined in the Recitals.

“**Stadium Site**” is defined in the Recitals.

“**Stadium Sublease**” is defined in the Recitals.

“**Substantial Completion**” means the stage in the progress of the Work when the Work is sufficiently complete in accordance with the Recreation Center Plans or Infrastructure Improvement Plans, as applicable, and in accordance with the respective Contract Documents so that the Recreation Center or Infrastructure Improvements, as applicable, can be utilized for its intended uses and all aspects of the Recreation Center or Infrastructure Improvements, as applicable, can be open to the general public. Substantial Completion with respect to the Recreation Center only shall not be achieved until, among other things, all Recreation Center systems included in the Work are operational as designed, all designated or required governmental certificates of occupancy and other permits, inspections and certifications have been achieved, made and posted (provided that a temporary certificate of occupancy rather than a permanent certificate of occupancy may have been achieved, made and posted, so long as the obtaining of a temporary, rather than a permanent, certificate of occupancy does not prevent any aspect of the Recreation Center from being open to the general public) and all instruction of the personnel of the City in the operation of the Recreation Center systems that is provided for in the Contract Documents has been completed. In general, the only remaining Work after Substantial Completion has been achieved shall be minor in nature, so that the completion of all remaining Work would not materially interfere with or hamper the normal business operations of the Recreation Center or Infrastructure Improvements, as applicable.

“**Work**” means the performance and supply through Recreation Center Contractor’s and RCP’s, and their Contractors, as applicable, own forces of all work, labor, services, materials, supplies, and equipment necessary to develop and construct the Recreation Center or Infrastructure Improvements, as applicable, which Work is to be specified in the Recreation Center Plans and Infrastructure Improvement Plans and the respective Contract Documents.

**Section 1.02 Rules of Interpretation.** Unless the context clearly indicates to the contrary or unless otherwise provided herein, the following rules of interpretation shall apply to this Agreement:

(a) The terms defined in this Agreement which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document; provided, that nothing contained in this sentence shall be construed to authorize any such renewal, extension, modification, amendment or restatement other than in accordance with Section 15.04 below.

(b) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection and exhibit references are to this Agreement unless otherwise specified. Whenever an item or items are listed after the word “including”, such listing is not intended to be a listing that excludes items not listed.

(c) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing person shall include individuals, corporations, partnerships, joint ventures, associations, joint stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

(d) The table of contents, captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

(e) In the event of some ambiguity in this Agreement, the Parties shall be deemed to have jointly authored this Agreement and nothing shall be construed against or in favor of one party based on it being deemed the sole author.

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## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.01 Representations and Warranties of the City.** The City hereby represents and warrants to RCP, Bliss Sports and Bliss Sports II that: (i) the City is authorized to enter into and perform this Agreement and each agreement to be executed and performed by the City, pursuant to this Agreement; (ii) this Agreement was duly authorized by the City Commission pursuant to City ordinance; and (iii) this Agreement is binding upon, and enforceable against the City, in accordance with its terms.

**Section 2.02 Representations and Warranties of RCP.** RCP hereby represents and warrants to the City, Bliss Sports and Bliss Sports II that: (i) RCP is a duly organized limited liability company existing under the laws of the State of Kansas (ii) RCP is authorized to enter into and perform this Agreement and each agreement to be executed and performed by RCP, pursuant to this Agreement; (iii) the execution and delivery of this Agreement by RCP has been duly and validly authorized and approved by all necessary proceedings; and (iv) this Agreement is binding upon, and enforceable against RCP, in accordance with its terms.

**Section 2.03 Representations and Warranties of Bliss Sports II.** Bliss Sports II hereby represents and warrants to the City, Bliss Sports and RCP that:

(a) *Due Authority.* Bliss Sports II is a duly organized limited liability company existing under the laws of the State of Kansas and has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of Bliss Sports II herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of Bliss Sports II, enforceable in accordance with its terms.

(b) *No Defaults or Violation of Law.* The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing. To its knowledge Bliss Sports II is not in default of its obligations under any other agreement related to the Recreation Center, and the execution and performance of Bliss Sports II's obligations hereunder will not constitute a default under any agreement to which Bliss Sports II is a party.

(c) *No Litigation.* No litigation, proceedings or investigations are pending or, to the knowledge of Bliss Sports II (including the knowledge of any member of Bliss Sports II executing this Agreement), threatened against Bliss Sports II (or any member of Bliss Sports II). In addition, no litigation, proceedings or investigations are pending or, to the knowledge of Bliss Sports II (including the knowledge of any member of Bliss Sports II executing this Agreement), threatened against Bliss Sports II (or any member of Bliss Sports II) seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of Bliss Sports II (or any member of Bliss Sports II) to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by Bliss Sports II (or any member of Bliss Sports II) of, the terms and provisions of this Agreement.

(d) *No Material Change.* Bliss Sports II has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement. There has been no material adverse change in the business, financial

position, prospects or results of operations of Bliss Sports II, which could affect Bliss Sports II's ability to perform its obligations pursuant to this Agreement.

(e) *Governmental or Corporate Consents.* No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by Bliss Sports II of this Agreement.

(f) *No Default.* No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of Bliss Sports II under this Agreement, or any other material agreement or material instrument to which Bliss Sports II is a party or by which Bliss Sports II is or may be bound.

(g) *Approvals.* Except as otherwise provided herein, Bliss Sports II has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it.

(h) *Compliance with Laws.* Bliss Sports II is in compliance with all Applicable Laws and requirements with respect to any of its affairs, business, and operations as contemplated by this Agreement.

(i) *Contracting Parties.* Bliss Sports II expressly affirms for and on behalf of each Contracting Party identified in this Agreement, and which may be identified by Bliss Sports II after the date of this Agreement, that each Contracting Party is or will be contractually bound to perform each and every service described by Bliss Sports II for each Contracting Party.

**Section 2.04 Representations and Warranties of Bliss Sports.** Bliss Sports hereby represents and warrants to the City and RCP that:

(a) *Due Authority.* Bliss Sports is a duly organized limited liability company existing under the laws of the State of Kansas and has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of Bliss Sports herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of Bliss Sports, enforceable in accordance with its terms.

(b) *No Defaults or Violation of Law.* The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing. To its knowledge Bliss Sports is not in default of its obligations under any other agreement related to the Recreation Center, and the execution and performance of Bliss Sport's obligations hereunder will not constitute a default under any agreement to which Bliss Sports is a party.

(c) *No Litigation.* No litigation, proceedings or investigations are pending or, to the knowledge of Bliss Sports (including the knowledge of any member of Bliss Sports executing this Agreement), threatened against Bliss Sports (or any member of Bliss Sports). In addition, no litigation, proceedings or investigations are pending or, to the knowledge of Bliss Sports (including the knowledge

of any member of Bliss Sports executing this Agreement), threatened against Bliss Sports (or any member of Bliss Sports) seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of Bliss Sports (or any member of Bliss Sports) to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by Bliss Sports (or any member of Bliss Sports) of, the terms and provisions of this Agreement.

(d) *No Material Change.* Bliss Sports has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement. There has been no material adverse change in the business, financial position, prospects or results of operations of Bliss Sports, which could affect Bliss Sport's ability to perform its obligations pursuant to this Agreement.

(e) *Governmental or Corporate Consents.* No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by Bliss Sports of this Agreement.

(f) *No Default.* No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of Bliss Sports under this Agreement, or any other material agreement or material instrument to which Bliss Sports is a party or by which Bliss Sports is or may be bound.

(g) *Approvals.* Except as otherwise provided herein, Bliss Sports has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it.

(h) *Compliance with Laws.* Bliss Sports is in compliance with all Applicable Laws and requirements with respect to any of its affairs, business, and operations as contemplated by this Agreement.

(i) *Contracting Parties.* Bliss Sports expressly affirms for and on behalf of each Contracting Party identified in this Agreement, and which may be identified by Bliss Sports after the date of this Agreement, that each Contracting Party is or will be contractually bound to perform each and every service described by Bliss Sports for each Contracting Party.

**Section 2.05 Warranty Right to Make Agreement.** The City, RCP, Bliss Sports and Bliss Sports II each warrant to each other with respect to itself that neither the execution of the Agreement nor the finalization of the transactions contemplated hereby shall: (i) violate any provision of law or judgment, writ, injunction, order or decree of any Governmental Authority having jurisdiction over it; or (ii) result in or constitute a breach or default under any indenture, contract, other commitment or restriction to which it is a party or by which it is bound.

### **ARTICLE III**

#### **RECREATION CENTER DESIGN AND CONSTRUCTION DOCUMENTS**

**Section 3.01 Engagement of Architect.** The City shall engage the Architect to design the Recreation Center. The fees and expenses of the Architect for the Recreation Center Plans and construction administration by the Architect (the “**Recreation Center Architect’s Fee**”), shall be paid by the City (payable directly to the Architect to the extent unpaid, or reimbursed to Bliss Sports II to the extent Bliss Sports II has paid) prior to bidding the Recreation Center construction pursuant to **Section 4.01**. The Recreation Center Architect’s Fees will be a credit against the Infrastructure Payment in accordance with **Section 11.01**. If the City does not construct the Recreation Center as herein provided, the City shall bear the full cost of the Recreation Center Architect’s Fees without reimbursement from any other Party.

**Section 3.02 Approval of Recreation Center Plans.** The City, RCP and Bliss Sports II shall review and approve the Recreation Center Plans as soon as practicable after completion.

**Section 3.03 Design and Construction Documents.**

(a) The Architect has prepared or hereafter will prepare design, drawings, plans and specifications setting forth in detail the requirements for development of the Recreation Center consistent with the Site Plan (once approved in accordance with Section 3.03 (b), collectively the “**Recreation Center Plans**”).

(b) The Architect shall complete the Recreation Center Plans, including coordination of all documents and corrections based on such coordination, prior to preparing and issuing bid documents for the Recreation Center.

**Section 3.04 Incorporation of Recreation Center Plans.** Upon approval of the City, RCP and Bliss Sports II, the Recreation Center Plans shall be incorporated into this Agreement by addendum as **Exhibit D**. Incorporation of the Recreation Center Plans may occur administratively, as approved by City staff, and no action of the City Commission of the City will be required. The Recreation Center Plans shall be the sole and exclusive property of the City.

**Section 3.05 Recreation Center Plans Change Orders.** Once approved pursuant to **Section 3.03(b)**, no material change to the Recreation Center Plans shall be permitted without the prior written consent of the Parties, provided, however, the Parties will agree to change orders in the ordinary course of construction projects of similar scope and design to render the Recreation Center fully functional and useable for its intended purpose, so long as (i) the scope or design of the Recreation Center is not changed, or (ii) there are no upgrades in building materials or finishes (except to the extent of a corresponding savings in other material or finish line items).

**Section 3.06. Accounting.** Within ten (10) days of RCP notifying City that the Recreation Center Site is in Pad-Ready Condition (as is provided for in the Purchase Agreement), RCP or at RCP’s direction Bliss Sports II as RCP’s Contractor for the Infrastructure Improvements, will provide to the City an accounting of the costs to cause the Recreation Site to be in Pad-Ready Condition and a written estimate of the costs theretofore incurred or anticipated to be incurred thereafter relating to the balance of the Infrastructure Improvements. Within ten (10) days of RCP notifying City that the Recreation Center Site is in Pad-Ready Condition Bliss Sports will provide City with an estimate of the total costs anticipated for construction of the Stadium Facilities.



## ARTICLE IV

### SELECTION OF RECREATION CENTER CONTRACTOR

**Section 4.01 Bidding.** Within thirty (30) days after the later of final approval and completion of the Recreation Center Plans by the City, RCP and Bliss Sports II and of RCP notifying City that the Recreation Center Site is in Pad-Ready Condition, the City shall solicit bids from contractors for the construction of the Recreation Center. The City shall solicit Guaranteed Maximum Price bids for the construction of the Recreation Center on the Recreation Center Site in Pad-Ready Condition from contractors using the normal bidding process used by the City for its construction projects, including the requirement of payment and performance bonds by the contractor. The opening of the bids for the Recreation Center shall be at City Hall of the City at a time and place as advertised in the bid announcement.

**Section 4.02 Bid Selection** After reviewing the amount of each bid submitted by a contractor in accordance with City requirements, the City shall select the lowest responsible bid (the “**Recreation Center Bid Amount**”) and shall award the job to such contractor (the “**Recreation Center Contractor**”). A “responsible bid” is one that meets the prescribed specifications required by the bidding instructions. Notwithstanding the aforesaid, if the lowest bid exceeds \$25,000,000 (minus the Recreation Center Architect’s Fee, the Purchase Price and the Infrastructure Payment as estimated by the Parties), the City shall have thirty (30) days from the date the City opens the bids, to give notice to each of the other Parties that it is electing to terminate the Agreement and no Party shall have any obligation or liability to any other Party as a result of such termination with respect to the construction and development of the Recreation Center or the sale of any portion of the Property to the City. The Parties agree to act in good faith in connection with this provision, since each Party acknowledges that each of the Parties will have made substantial expenditures in connection with the Property, the Recreation Center and the Infrastructure Improvements.

Notwithstanding the aforesaid, if the City elects to terminate this Agreement in accordance with the preceding paragraph, the City will reimburse RCP for RCP’s actual costs incurred to prepare the Recreation Center Site to Pad-Ready Condition (which shall include the actual costs of Bliss Sports II plus a reasonable construction management fee of ten (10%) prior to the bidding process (as is provided for in the Purchase Agreement), and the City’s monetary contribution to the cost of Infrastructure Improvements, as the same may be modified, will be negotiated in good faith by the Parties, and is subject to approval by the governing body of the City.

**Section 4.03 Contract for the Recreation Center.** Unless the City timely elects to terminate this Agreement with respect to the construction and development of the Recreation Center as provided in **Section 4.02**, the City and Recreation Center Contractor shall execute the form of construction contract and general conditions at a Maximum Guaranteed Price as specified by the City during the bidding process (the “**Recreation Center Construction Contract**”).

**Section 4.04 Permits.** The City shall cause the Recreation Center Contractor to obtain all necessary permits, licenses, consents, approvals, and other authorizations, including those required by Environmental Laws, and pay all fees, impositions, and other changes in connection therewith. Such permits, licenses, consents, approvals and other authorizations, together with the Recreation Center Construction Contract and the Recreation Center Plans are collectively referred to herein as the “**Recreation Center Construction Documents**”.

**Section 4.05 Project Timeline and Agreement to Proceed.** The Parties expect that: (a) the development of the Recreation Center Plans, (b) solicitation for bids of contractors, (c) bidding for the

Recreation Center, (d) construction of the Infrastructure Improvements and (e) construction of the Stadium Facilities, will each occur in accordance with the Project Timeline attached hereto as **Exhibit E** and incorporated herein by this reference, subject to Excusable Delays and delays caused by any change orders agreed to in writing by the Parties.

## ARTICLE V

### SALE AND DEVELOPMENT OF THE RECREATION CENTER SITE

**Section 5.01 Delivery of Pad Ready Site.** RCP shall cause, as part of the Infrastructure Improvements, the preparation and construction of the Recreation Center Site by Bliss Sports II in Pad-Ready Condition as defined in **Section 8.04** hereof and delivery to the City in accordance with the Project Timeline, and subject to and in accordance with the Infrastructure Improvements Construction Contract and the Purchase Agreement.

**Section 5.02 Purchase of Recreation Center Site.** In accordance with the terms of the Purchase Agreement after execution of the Recreation Center Construction Contract and RCP causing the Recreation Center Site to be in Pad-Ready Condition, the City will acquire fee simple title to the Recreation Center Site and the Infrastructure Site in accordance with the terms of the Purchase Agreement.

**Section 5.03 Recreation Center.** Upon the sale of the Recreation Center Site to the City, the City shall cause the Recreation Center to be developed and constructed thereon by the Recreation Center Contractor in accordance with the Recreation Center Construction Documents in good and workmanlike fashion on or before the Final Completion Date set forth in the Project Timeline, subject to Excusable Delays. As a condition to the closing on the purchase of the Recreation Center Site by the City, the following conditions, in addition to the conditions contained in the Purchase Agreement, shall have been satisfied:

- (a) The Parking Easement Agreement shall have been executed by the parties thereto and recorded against the Property; and
- (b) The Property Access and Maintenance Agreement shall have been executed by the parties thereto and recorded against the Property.

**Section 5.04 Funding of the Recreation Center.** The City shall pay all the costs of the purchase of the Recreation Center Site, the Infrastructure Payment and development and construction of the Recreation Center, subject to issuance of the Bonds.

**Section 5.05 Project Coordination.** The Parties will cause their respective Contractors to reasonably coordinate construction of the Stadium Facilities, the Recreation Center and the Infrastructure Improvements. Unless the Recreation Center Contractor is Bliss Sports II, access to the Recreation Center Site will be established by temporary easement from George Williams Way right of way and, until completion of the Infrastructure Improvements, RCP and its Contractor for construction of the Infrastructure Improvements will have the sole right to occupy the Infrastructure Site.

**Section 5.06 Repurchase Right.** If the City does not construct the Recreation Center within two (2) years of the date hereof, or once constructed, does not open or thereafter ceases to operate the Recreation Center for twelve (12) consecutive months for its intended purpose as primarily a recreational facility, RCP shall have the first right of offer to repurchase the Recreation Center Site pursuant to the Purchase Agreement.

## ARTICLE VI

### INFRASTRUCTURE IMPROVEMENTS DESIGN AND CONSTRUCTION DOCUMENTS

**Section 6.01 Engagement of Architect.** RCP shall cause Bliss Sports II to engage the Architect to design the Infrastructure Improvements. The fees and expenses of the Architect shall be paid by Bliss Sports II.

**Section 6.02 General.** The City, RCP and Bliss Sports II agree that the Architect shall design the Infrastructure Improvements, subject to the approval of RCP, Bliss Sports II and the City and compliance with Applicable Laws and Requirements.

**Section 6.03 Design and Construction Documents.**

(a) The Architect has prepared or hereafter will prepare the final design, drawings, plans and specifications setting forth in detail the requirements for development of the Infrastructure Improvements consistent with the Site Plan (once approved in accordance with Section 6.03 (b) and the Stadium Lease, collectively the “**Infrastructure Improvements Plans**”).

(b) The City, RCP, Bliss Sports and Bliss Sports II shall review and approve the Infrastructure Improvements Plans as soon as reasonably possible.

(c) The Architect shall complete the Infrastructure Improvements Plans, including coordination of all documents and corrections based on such coordination.

**Section 6.04 Incorporation of Infrastructure Improvements Plans.** The Infrastructure Improvements Plans shall be incorporated into this Agreement by addendum as **Exhibit G**. The Infrastructure Improvements Plans shall be the sole and exclusive property of RCP and Bliss Sports II.

**Section 6.05 Design Changes.** Subject to **Section 4.02** and **Section 7.01**, once approved pursuant to Section 6.03(b) and the Ground Lease, no material change to the Infrastructure Improvements Plans shall be permitted without the prior written consent of the Parties.

## ARTICLE VII

### DEVELOPMENT OF THE INFRASTRUCTURE IMPROVEMENTS

**Section 7.01 Infrastructure Improvements.** RCP shall engage Bliss Sports II to be the construction manager and general contractor for the development and construction of the Infrastructure Improvements pursuant to a construction management agreement between RCP and Bliss Sports II which permits Bliss Sports II to engage King Construction to construct the Infrastructure Improvements (collectively, the “**Infrastructure Improvements Construction Contract**”). Bliss Sports II shall cause the Infrastructure Improvements to be developed and constructed in accordance with the Infrastructure Improvements Plans and the Infrastructure Improvements Construction Contract in a diligent manner. Subject to **Section 4.02**, in no event shall RCP or Bliss Sports II have the right to reduce the design, scope, functionality or amenities of the Infrastructure Improvements or to amend or modify the Infrastructure Improvements Plans without the prior written approval of RCP, Bliss Sports II and the City. In no event shall the City have the right to increase the design, scope, functionality or amenities of the Infrastructure Improvements or to amend or modify the Infrastructure Improvements Plans without the prior written approval of the City, RCP and Bliss Sports II.

**Section 7.02 Development.** Bliss Sports II hereby agrees that it shall, subject to the terms of the Infrastructure Improvements Construction Contract and this Agreement:

(a) Develop and construct the Infrastructure Improvements. The Infrastructure Improvements shall be constructed on the Infrastructure Improvements Site in accordance with the Infrastructure Improvements Plans, with only such changes as RCP and the City may approve in writing;

(b) Provide all things required for completion of the development and construction of the Infrastructure Improvements, and to do all other things necessary to prepare the Infrastructure Improvements for operation;

(c) Complete or cause the Infrastructure Improvements to be completed in substantial conformance with the Infrastructure Improvements Plans in good and workmanlike fashion on or before the Final Completion Date set forth in the Project Timeline and deliver the Infrastructure Improvements to the City on or before the Final Completion Date, subject to Excusable Delays;

(d) Perform or cause to be performed, in a diligent and efficient manner, general administration and supervision of the development and construction of the Infrastructure Improvements;

(e) Obtain and comply with all necessary permits, licenses, consents, approvals, and other authorizations, including those required by Environmental Laws, and pay all fees, impositions, and other changes in connection therewith (such permits, licenses, consents, approvals and other authorizations, together with the Infrastructure Improvements Construction Contract and the Infrastructure Improvements Plans are collectively referred to herein as the “**Infrastructure Improvements Construction Documents**”); and

(f) Provide, as part of the Infrastructure Improvements Cost, policies of insurance which satisfy the insurance requirements set forth in **Article XIV** hereof.

**Section 7.03 Compliance with Applicable Laws.** Bliss Sports II shall comply with all of the City’s ordinances, rules and procedures in connection with development and construction of the Infrastructure Improvements.

**Section 7.04 Payment of Fees.** Bliss Sports II and Bliss Sports shall pay all impact, building permit, system development and other fees associated with the development and construction of the Infrastructure Improvements and the Stadium Facilities, respectively; provided that whether or not the City purchases the Recreation Center Site or the Infrastructure Site the City shall, by ordinance agree that, within thirty (30) days of payment of such fees, the City will pay them back to the respective Party which paid them as an economic development grant.

**Section 7.05 Liens.** Bliss Sports II shall complete the Work for the Infrastructure Improvements, including without limitation making the Recreation Center Site into Pad-Ready Condition, free of any laborer’s, materialman’s, mechanic’s or other liens (“**Lien**”) on any part of the Recreation Center Site, the Infrastructure Site or the Infrastructure Improvements and shall not voluntarily permit any Lien to be filed or otherwise imposed on any part of the Recreation Center Site, the Infrastructure Site or the Infrastructure Improvements.

**Section 7.06 Coordination with Recreation Center Development.** RCP, Bliss Sports and Bliss Sports II will make reasonable efforts to coordinate development and construction of the Infrastructure Improvements with the City and the Recreation Center Contractor to provide coordination of construction efforts on the Property.

## ARTICLE VIII

### ADDITIONAL PROVISIONS CONCERNING CONSTRUCTION OF THE INFRASTRUCTURE IMPROVEMENTS

**Section 8.01 Funding of the Infrastructure Improvements.** Subject to the terms of the Infrastructure Improvements Construction Contract, Bliss Sports II shall pay all the costs of the design, development, and construction of the Infrastructure Improvements.

**Section 8.02 Pad-Ready Condition.** As part of the Infrastructure Improvements, RCP shall cause Bliss Sports II improve the Recreation Center Site to a pad-ready, building-permit ready condition, with plans for all necessary potable water, sanitary sewer, storm sewer, gas, electric, and other utility improvements, complete with locations for stubbing to the 5 acre site on which the Recreation Center is to be constructed (“**Pad-Ready Condition**”) in accordance with the Purchase Agreement and prior to solicitation of bids under **Section 4.01** hereof. Upon the occurrence of Substantial Completion of the Recreation Center Site in Pad-Ready Condition, RCP shall cause Bliss Sports II, pursuant to the Infrastructure Improvements Construction Contract, to submit to the City a certificate substantially in the form attached hereto as **Exhibit H** attesting that the Recreation Center Site is in Pad-Ready Condition, and within seven (7) days the City, acting reasonably and in good faith, will issue a certificate of acceptance agreeing that the Recreation Center Site is in Pad-Ready Condition or state in a writing delivered to RCP and Bliss Sports II any alleged deficiency from Pad-Ready Condition; provided that any disagreement as to whether or not there is Pad-Ready Condition will be resolved in accordance with **Article XIII** hereof.

#### **Section 8.03. Infrastructure Improvements.**

(a) Subject to **Section 4.02**, as part of the Infrastructure Improvements, pursuant to the Infrastructure Improvements Construction Contract RCP shall cause Bliss Sports II to be responsible for the design, construction and completion of the Infrastructure Improvements, which shall be included within the Infrastructure Improvements Plans approved in accordance with **Section 6.03**.

(b) Subject to **Section 4.02**, RCP shall make reasonable efforts to cause Bliss Sports II to make reasonable efforts to cooperate and coordinate the construction of the Infrastructure Improvements in order to (i) not unreasonably delay the construction of the Recreation Center or Stadium, and (ii) insure full compatibility of the Recreation Center, the Infrastructure Improvements and the Stadium Facilities.

(c) Within fifteen (15) days after the Infrastructure Improvements Plans are approved in accordance with **Section 6.03**, Bliss Sports II will provide to RCP and the City a schedule of the completion dates for the Infrastructure Improvements, subject to Excusable Delays.

**Section 8.04 Performance Deficiencies.** If the City or the Quality Control Manager determine in their reasonable belief that any of the Infrastructure Improvements are not being constructed in accordance with the Infrastructure Improvement Plans or this Agreement in any material respect, they shall immediately notify RCP and Bliss Sports II in writing stating the alleged deficiency and the City, the Quality Control Manager, the Architect, RCP and Bliss Sports II will meet within seven (7) days of the giving of such notice to discuss whether the Infrastructure Improvements are not being constructed in accordance with the Infrastructure Improvement Plans or this Agreement in any material respect and, if the City, RCP and Architect agree that they are not, then RCP shall cause Bliss Sports II to correct such

deficiencies. The failure by the City to provide any notice of any observed deficiency shall not give rise to any liability to the City and shall not be considered a waiver of any right of the City under this Agreement, including without limitation, the enforcement of the representations and warranties of Bliss Sports II under this Agreement and any warranties that may be made to the City by any Contracting Parties under the Infrastructure Construction Contract Documents with respect to the completion of the Infrastructure Improvements in accordance with the Infrastructure Improvement Plans and the Project Timeline.

**Section 8.05 Park Entrance Signage.** If the City acquires title to the Recreation Center Site and the Infrastructure Site, the City, Bliss Sports and RCP will negotiate in good faith concerning the design and construction of a possible monument entrance sign for the Property, which, if approved by all three parties, shall comply with all applicable City codes and requirements and all design criteria, approval and other provisions of the Stadium Lease.

**Section 8.06 City Construction Responsibility.** Except for the amounts payable to RCP under this Agreement and the Purchase Agreement and any violation of such Agreements by the City or the Recreation Center Construction Contractor, the City (i) shall have no liability, obligation or responsibility whatsoever with respect to the conduct of the construction of the Infrastructure Improvements and (ii) shall not be liable for the performance or default of RCP, Bliss Sports II or their respective Contracting Parties. Nothing, including any inspection on behalf of the City, shall be construed as a warranty, expressed or implied, to any party by the City; provided that for purposes of the Agreement and the Purchase Agreement the City will be bound by any written acceptance by the City of the Infrastructure Improvements, including without limitation the Pad-Ready Condition of the Recreation Center Site, as being in compliance with the terms of this Agreement, the Purchase Agreement and the Infrastructure Improvement Plans.

**Section 8.07 Stadium Facilities IRB's.** City agrees to issue industrial revenue bonds upon request of RCP and Bliss Sports II for the construction of the Stadium Facilities and the portions of the Infrastructure Improvements located on the Stadium Site in order to assist RCP and Bliss Sports II in obtaining the 10-year property tax exemption and sales tax exemption for construction materials available for projects financed with industrial revenue bonds under Kansas law.

## ARTICLE IX

### **CITY OVERSIGHT OF CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS**

**Section 9.01 Infrastructure Improvements Updates and Team.** The City shall have the right, and upon RCP's request will attend, to review in an Infrastructure Improvements team meeting, which may, but unless provided otherwise in the Infrastructure Improvements Construction Contract are not required to, occur more frequently than monthly, the development and construction of the Infrastructure Improvements to determine that the Infrastructure Improvements are being developed and constructed in accordance with this Agreement, the Infrastructure Improvement Documents and all Applicable Laws and Requirements.

**Section 9.02 Infrastructure Improvements Site Access.** Bliss Sports II agrees to permit the City, or its designees access to inspect the construction of the Infrastructure Improvements in order to ascertain and determine that the requirements of the City and the terms of this Agreement have been met and that the Infrastructure Improvements are being constructed in accordance with the Infrastructure Improvements Construction Documents. Such inspections shall be in accordance with the City's normal construction inspection process for similar types of improvements. Unless otherwise agreed in writing by

Bliss Sports II and RCP, the Recreation Center Construction Contractor cannot access the Infrastructure Site until completion of the Infrastructure Improvements.

**Section 9.03 Reports.** Bliss Sports and Bliss Sports II agree to provide the City and, without waiving any more frequent or other reports required under the Infrastructure Improvements Construction Agreement or the Stadium Lease, RCP with monthly progress reports and updates on the status of causing the Recreation Center Site to be in Pad-Ready Condition and of constructing the Stadium Facilities and the Infrastructure Improvements and all reports relating to the Recreation Center Site, Stadium Facilities and Infrastructure Improvements prepared for submission to any other Governmental Authority as soon as practicable after they are available. Such reports should contain at a minimum the following: (i) a status report on the progress of development; (ii) a description of all construction issues, liens or potential liens or controversies; (iii) a review of whether the Infrastructure Improvements is on schedule, and (iv) as to the Infrastructure Improvements such other matters as the City, RCP and Bliss Sports II shall reasonably agree.

## **ARTICLE X**

### **FINAL ACCEPTANCE OF INFRASTRUCTURE IMPROVEMENTS**

**Section 10.01 Acceptance .** If the City has acquired title to the Recreation Center Site in accordance with the Purchase Agreement, then upon the occurrence of Substantial Completion of the Infrastructure Improvements, RCP shall cause Bliss Sports II, pursuant to the Infrastructure Improvements Construction Contract, to submit to the City a Certificate of Completion of Construction substantially in the form attached hereto as **Exhibit H**, and within thirty (30) days the City, acting reasonably and in good faith, will issue a certificate of acceptance of the Infrastructure Improvements as having achieved Final Completion or state in a writing delivered to RCP and Bliss Sports II any alleged deficiency from the Infrastructure Improvement Plans, as the same may have been amended in accordance with the provisions of this Agreement; provided that any disagreement as to whether or not there is a deficiency will be resolved in accordance with Article XIII hereof (the date of acceptance or other determination that the Infrastructure Improvements have achieved Final Completion in accordance with the Article XIII being the “**Infrastructure Improvements Completion Date**”).

## **ARTICLE XI**

### **INFRASTRUCTURE PAYMENT**

**Section 11.01 Payment of the Infrastructure Payment.** If the City has acquired title to the Recreation Center Site in accordance with the Purchase Agreement, then within thirty (30) days after the Infrastructure Improvements Completion Date, the City will pay RCP the Infrastructure Payment which shall equal: (a) Twenty-Five Million Dollars (\$25,000,000) minus (b) the sum of (i) the Recreation Center Construction Contract amount, (ii) the amount of all Recreation Center Construction Contract change orders pursuant to **Section 3.05**, (iii) the Recreation Center Architect’s Fee and (iv) the Purchase Price. The Parties acknowledge that the Infrastructure Payment could equal zero.

The Infrastructure Payment shall not exceed the sum of (a) all of the hard costs and soft out of pocket costs incurred by Bliss Sports II in connection with development and construction of the Infrastructure Improvements plus (b) ten percent (10%) of the amount described in (a) as overhead and construction management fee (the “**Infrastructure Improvements Cost**”).

Bliss Sports II shall be responsible for its costs and those of its Contractors of completing the Infrastructure Improvements regardless of whether they exceed the Infrastructure Payment or not.

**Section 11.02 Infrastructure Improvements Cost** Without limiting any reporting requirements that Bliss Sports II may have to RCP under other written agreements, Bliss Sports II shall provide to RCP and the City copies of those of Bliss Sports II's books and records which evidence out of pocket costs incurred and payments made by Bliss Sports II which constitute a portion of the Infrastructure Improvements Cost, and substantiation of actual costs incurred and payments made on a monthly basis and shall also provide to RCP and the City a complete accounting of such out of pocket costs and payments within ten (10) days after the completion of the Infrastructure Improvements as determined in accordance with **Section 10.01**. Without limitation, soft costs included in the Infrastructure Improvements Cost include interest carry costs incurred in financing such costs, compliance costs, engineering and architectural fees, legal fees and other professional services costs attributable to the zoning, platting, plan approval and permitting of the Recreation Center Site, the Infrastructure Site and the Infrastructure Improvements and to the negotiation of this Agreement, the Purchase Agreement and the Infrastructure Improvements Construction Contract. To the extent that third party fees pertain to work performed with respect to the Recreation Center Site, the Infrastructure Site, the portions of the Stadium Site upon which Infrastructure Improvements are located and other portions of the Property, such monthly reports and final, complete accounting shall show the allocation of the out of pocket costs and payments for the Infrastructure Improvements between those located on the Stadium Site and those located on the Property outside of the Stadium Site, which, unless agreed otherwise in the Infrastructure Improvements Construction Contract will be split based on the relative acreages of (a) Recreation Center Site and (b) the Stadium Site.

## **ARTICLE XII**

### **INSURANCE**

**Section 12.01 Obligation to Obtain Insurance.** RCP shall carry or cause Bliss Sports, Bliss Sports II or other third parties to carry, at no cost to the City, only with respect to any portion of the Property on which Infrastructure Improvements are to be constructed under this Agreement and during the period from the date of this Agreement until the Infrastructure Improvements Completion Date (except that this **Article XII** will not apply to the Recreation Center Site and any portion of the Infrastructure Improvements thereon following the transfer of title to the Recreation Center Site to the City):

(a) Builder's risk insurance for the Infrastructure Improvements from the date of the execution of this Agreement until the Final Completion Date of the Infrastructure Improvements, which shall be on a 100% completed value (replacement cost) form and shall cover the perils covered under a special causes of loss ("all-risks") form and include cold testing, windstorm, and collapse, including collapse resulting from design error;

(b) Property insurance, in each case (i) providing coverage during the construction of the Infrastructure Improvements for full replacement cost for the full insurable value (as defined below) for property damage during the construction of the Infrastructure Improvements, (ii) providing coverage (including increased costs from changes in building laws, demolition costs and replacement cost coverage) for those risks which is equal or broader than that currently covered by an all-risk policy covering all improvements, fixtures and equipment comprising the Infrastructure Improvements, (iii) providing for no deductible in excess of \$100,000 (as increased each year by multiplying such number by the increase in the CPI for the preceding calendar year, if any) for all such insurance coverage, and (iv) covering, without limitation, loss, including but not limited to the following:

- (1) fire,



- (2) extended coverage perils,
- (3) vandalism and malicious mischief,
- (4) water damage,
- (5) debris removal,
- (6) collapse,
- (7) comprehensive boiler and machinery insurance,
- (8) earthquake, and
- (9) flood

in each case on a replacement cost basis in an amount equal to “full insurable value” of the Infrastructure Improvements. “Full insurable value” means the greater of (i) an amount sufficient to prevent the application of any co-insurance contribution on any loss but in no event less than one hundred percent (100%) of the actual replacement cost of the Recreation Center, including but not limited to additional costs and expenses over and above original construction costs, such as engineering, legal and administrative fees, costs that may be incurred for late delivery, without deduction for depreciation, or (ii) if the Recreation Center is not replaced, the “actual cash value” of the Recreation Center;

(c) Commercial general liability (“CGL”) insurance (providing coverage for those liabilities which is equal or broader than that currently covered by a CGL policy (a standard ISO CGL form)) (including at least the following hazards: (1) premises and operations; (2) products and completed operations; (3) independent contractors; and (4) blanket contractual liability for all legal contracts); such insurance (a) to be on an “occurrence” form with a combined limit of not less than \$2,000,000 in the aggregate and \$1,000,000 per occurrence, and (b) with excess coverage of not less than \$10,000,000;

(d) Workers’ compensation insurance or self-insurance, subject to statutory limits and employer’s liability insurance with a limit of at least \$1,000,000 per accident and per disease per employee, and \$1,000,000 for disease aggregate in respect of any Work or operations on or about the Recreation Center Site, or in connection with the Recreation Center or its operation if applicable in accordance with the applicable worker’s compensation laws;

**Section 12.02 Policy Requirements.**

(a) Each insurance policy obtained in satisfaction of the foregoing requirements:

(i) shall be by such insurer or insurers as shall be financially responsible, and shall have a rating equal to or higher than A- or better by Best Insurance Guide and Key Ratings or shall be acceptable to the Insurance Consultant as evidenced by a written certificate delivered to the City, and

(ii) shall be in such form and with such provisions as are generally considered standard provisions for the type of insurance involved as evidenced by a written report of the Insurance Consultant delivered to the City.

(b) All such policies, or a certificate or certificates of the insurers that such insurance is in full force and effect, shall be deposited with the City and, prior to expiration of any such policy, RCP shall furnish the City with satisfactory evidence that such policy has been renewed or replaced or is no longer required by this Agreement; provided, however, RCP may choose to satisfy this requirement by providing blanket policies now or hereafter maintained by RCP if the Insurance Consultant certifies to the effect that such coverage is substantially the same as that provided by individual policies.

(c) In the event RCP shall fail to maintain, or cause to be maintained, the full insurance coverage required by this Agreement, the City may (but shall be under no obligation to) contract for the required policies of insurance and pay the premiums on the same; and RCP agrees to reimburse the City to the extent of the amounts so advanced, with interest thereon at the 7% per annum. The City shall notify RCP in writing that RCP has failed to maintain the insurance coverage required by this Agreement prior to purchasing any such insurance.

(d) The City shall be named as an additional insured on all policies. Nothing in this Agreement shall be deemed to waive the City's sovereign immunity or a defense against any tort claim based on sovereign immunity.

(e) All such policies shall apply to property intended for incorporation into the Infrastructure Improvements for the duration of the applicable contract including: (i) property in the course of construction, reconstruction, or repair; (ii) property while in transport to the Infrastructure Improvements Site; (iii) property stored at the Infrastructure Improvements Site or off premises; and (iv) scaffolding, staging, shoring, formwork, fences, false work, and temporary buildings and any similar items commonly referred to as construction equipment located at the Infrastructure Improvements Site (except that this Article XII will not apply to the Recreation Center Site and any portion of the Infrastructure Improvements thereon following the transfer of title to the Recreation Center Site to the City).

(f) The policies shall cover the cost of removing debris, including demolition as may be made legally necessary by the operation of any applicable law, ordinance or regulation.

(g) The policies shall contain permission to occupy or a partial occupancy clause or definition and shall allow occupancy without qualification.

**Section 12.03. Obligation to Restore.** During the performance of its obligations under this Agreement until the Final Completion Date, RCP hereby agrees that if any portion of the Infrastructure Improvements shall be damaged or destroyed, in whole or in part, by fire or other casualty (whether or not covered by insurance), RCP shall promptly restore, replace or rebuild the same, or shall promptly cause the same to be restored, replaced or rebuilt, to as nearly as possible the value, quality and condition it was in immediately prior to such fire or other casualty, with such alterations or changes as may be approved in writing by the City, which approval shall not be unreasonably withheld. RCP agrees that it will cause Bliss Sports II to include in any documents for Bliss Sports II private financing a requirement that, in the event insurance covering fire or other casualty results in payment of insurance proceeds to a lender of Bliss Sports II, the lender shall be obligated to restore the Infrastructure Improvements in accordance with this Section. Bliss Sports II shall within one hundred eighty (180) days give written notice to the City of any damages or destruction to any of the Infrastructure Improvements by fire or other casualty, irrespective of the amount of such damage or destruction, but in such circumstances Bliss Sports II shall make the property safe and in compliance with all applicable laws as provided herein.

## ARTICLE XIII

### DISPUTE RESOLUTION

**Section 13.01 Good Faith Negotiations.** The parties agree that in the event of a disagreement under or in connection with this Agreement, including, without limitation, any disagreement concerning any proposed change in the Construction Documents, the parties agree to negotiate, in good faith, in an attempt to resolve such disagreement for a period of no more than thirty (30) days following receipt of notice from either party setting forth the specifics of the disagreement and the relief requested.

**Section 13.02 Mediation.** If the parties are unable to resolve such disagreement through good faith negotiation, the City, RCP and/or Bliss Sports II agree to attempt in good faith to resolve such disagreement through mediation administered by a reputable organization offering commercial mediation services. All mediation proceedings shall be conducted in Lawrence, Kansas, and the cost thereof shall be divided amongst the number of Parties that are parties to the Mediation.

**Section 13.03 Litigation.** Should the City, RCP and/or Bliss Sports II be unable to resolve such disagreement through mediation, the parties hereto may seek an adjudication of the controversy in the District Court of Douglas County, and the prevailing party therein shall be entitled to recover all costs and expenses, including reasonable attorneys' fees and expenses associated therewith.

## ARTICLE XIV

### EVENTS OF DEFAULT AND REMEDIES

**Section 14.01 Event of Default.** Each of the following shall constitute an "Event of Default" by the respective Party:

(a) failure of RCP (or of a third party, whether Bliss Sports, Bliss Sports II or otherwise, which has agreed in writing to fulfill RCP's obligations) to obtain and maintain or to cause a third party to obtain or maintain the insurance required by Article XII hereof;

(b) any representation or warranty made by Bliss Sports or Bliss Sports II herein or in any written statement or certificate furnished to a Party by another Party with respect to the performance of this Agreement, proves untrue in any material respect as of the date of the issuance or making thereof which is not corrected or brought into compliance within 30 days after the recipient Party gives the Party which gave the untrue written statement or certificate a written notice specifying such untruth and requiring it to be remedied; provided, that if such untruth cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied and the defaulting Party is diligently attempting to remedy such untruth, such untruth shall not constitute an event of default if the defaulting Party shall immediately upon receipt of such notice diligently attempting to remedy such untruth and shall thereafter prosecute and complete the same with due diligence and dispatch; or

(c) any judgment which is final, writ or warrant of attachment or any similar process shall be entered or filed against a Party which remains unvacated, unpaid, unbonded, unstayed or uncontested in good faith for a period of 90 days; provided, however, that none of the foregoing shall constitute an event of default unless the amount of such judgment, writ, warrant of attachment or similar process, together with the amount of all other such judgments, writs, warrants or similar processes so unvacated, unpaid, unbonded, unstayed or uncontested, exceeds \$2,000,000; or

(d) the entry of a decree or order by a court having jurisdiction in the premises for relief in respect of a Party, or adjudging a Party a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, adjustment or composition of or in respect of a Party under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of or for a Party or any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 120 consecutive days; or

(e) the commencement by a Party of a voluntary case, by it of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to a Party of bankruptcy or insolvency proceedings against it,

or the filing by it of a petition or answer or consent seeking reorganization, arrangement or relief under the United States Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of a Party or any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability or its failure to pay its debts generally as they become due, or the taking of corporate action by a Party in furtherance of any such action; or

(f) any default by a Party in the performance, or breach, of any covenant or agreement of such Party in this Agreement, and continuance of such default or breach for a period of thirty (30) days after the other Party entitled to performance of such covenant or agreement has been delivered to defaulting Party a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such thirty (30) day period, but can reasonably be expected to be fully remedied and the defaulting Party is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if defaulting Party shall, immediately upon receipt of such notice, diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

**Section 14.02 Remedies.** Upon the occurrence of an Event of Default, the non-defaulting Party shall have the right to pursue any one or more of the following courses of action: (i) to take such actions as deemed necessary by the non-defaulting Party to remedy the breach, the costs of which may be charged to the defaulting Party or offset against any payments due under this Agreement to the defaulting Party; (ii) to terminate this Agreement by written notice to the defaulting party, which termination shall be effective as of the effective date which is set forth in said notice, provided that said effective date shall be at least thirty (30) days after the date of said notice; (iii) and to institute an action for specific performance or actual damages. In no event will a Party be entitled to consequential or punitive damages for a breach of any obligations or covenants hereunder.

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

**Section 15.01 Consents and Cooperation.** Wherever in this Agreement the consent or approval of the City, RCP and/or Bliss Sports II is required, such consent or approval shall not be unreasonably withheld, delayed or conditioned, shall be in writing and shall be executed by a duly authorized officer or agent of the party granting such consent or approval; provided that RCP does not waive, and expressly retains, any rights to grant or withhold consents that RCP has the right to grant or withhold under the Stadium Lease, for any or no reason. Further, the City, RCP and Bliss Sports II agree to take such reasonable actions as may be necessary to carry out the terms, provisions and intent of this Agreement, and to aid and assist each other in carrying out such terms, provisions and intent. Any consent or approval required by the City may be provided by the City Manager unless otherwise indicated, and the City Manager may seek the input or a decision from the City Commission on any matter.

**Section 15.02 Relationship.** Neither this Agreement nor any agreements, instruments, documents, or transactions contemplated hereby shall in any respect be interpreted, deemed or construed as making any Party to be a partner, joint venturer with, or agent of, any other Party and any Party performing Work or other obligations or covenants for another Party pursuant to this Agreement, the Contract Documents, the Purchase Agreement or any other agreement referred to herein shall be acting as an independent contractor and no Party will make any contrary assertion, claim or counterclaim in any

action, suit, arbitration or other legal proceedings involving the Parties hereto with respect to any of such agreements.

**Section 15.03 Applicable Law.** This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by, the laws of the State of Kansas for all purposes and intents.

**Section 15.04 Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the Parties with respect to the matters herein and no other agreements or representations other than those contained in this Agreement have been made by the parties. It supersedes all prior written or oral understandings with respect thereto. Notwithstanding the preceding two sentences, any contrary provisions of the respective Contract Documents, the Purchase Agreement and Stadium Lease shall supersede the provisions of this Agreement as between the parties to such other agreements. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the Parties.

**Section 15.05 Counterparts.** This Agreement is executed in multiple counterparts, each of which shall constitute one and the same instrument.

**Section 15.06 Severability.** In the event any section, term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect to the extent the remainder can be given effect without the invalid provision.

**Section 15.07 Limit on Liability.** The Parties agree that no member, director, officer, agent, employee, representative, attorney or consultant of a Party shall be personally or otherwise in any way liable to another Party in the event of any default, breach or failure of performance by such Party under this Agreement or for any amount which may become due to a Party or with respect to any agreement, indemnity, or other obligation under this Agreement.

**Section 15.08 Headings.** Headings of articles and sections are inserted only for convenience and are in no way to be construed as a limitation or expansion on the scope of the particular articles, sections or subsections to which they refer. Words in the singular shall include the plural, and vice versa, where appropriate.

**Section 15.09 Notices.** Any notice, demand, or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States First Class Mail, postage prepaid, or delivered personally.

To Bliss and Bliss Sports II:

President  
Bliss Sports, LC  
Bliss Sports II, LC  
209 Fallcreek Road  
Lawrence, KS 66049

To the City:

City Manager  
City of Lawrence  
6 E. 6<sup>th</sup> Street  
Lawrence, KS 66044

With copies to:

Trip Frizell  
Polsinelli Shughart PC  
700 W. 47<sup>th</sup> Street, Suite 1000  
Kansas City, MO 64112

With copies to:

City Attorney  
City of Lawrence  
6 E. 6<sup>th</sup> Street  
Lawrence, KS 66044

and

Gary Anderson  
Gilmore & Bell, P.C.  
2405 Grand Blvd., Suite 1100  
Kansas City, MO 64108

To RCP:

RCP, LLC  
Attention: Monte Soukup  
1891 Constant Avenue  
Lawrence, KS 66047-3743

With copies to:

Harry Wigner  
Lathrop & Gage LLP  
10851 Mastin, Suite 1000  
Overland Park, KS 66210

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

**Section 15.10 Waiver.** The failure of a Party to insist upon a strict performance of any of the terms or provisions of this Agreement, or to exercise any option, right or remedy contained in this Agreement, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by a Party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such Party.

**Section 15.11 Negotiation of Agreement.** The Parties are governmental and business entities, as applicable, each having been represented and advised by competent counsel, and each has fully participated in the negotiation and drafting of this Agreement and has had ample opportunity to review and comment on all previous drafts. Accordingly, this Agreement shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Agreement differs in any respect from any previous draft hereof.

**Section 15.12 Assignment.** None of the Parties may transfer, lease or permit any assignment or lien to exist or in any other manner dispose of its rights in this Agreement without the prior written consent of the other Parties hereto, as applicable. Until the Infrastructure Improvements Completion Date, the membership interests in RCP may not be transferred to a third party other than the University of Kansas or Kansas Athletics, Inc. Bliss Sports II may collaterally assign its interest in this Agreement to

Bliss Sports II's lender for the Infrastructure Improvements to solely secure Bliss Sports II's financing for the construction of the Infrastructure Improvements and any Infrastructure Improvements constructed by Bliss Sports II.

**Section 15.13 Tax Implications.** Bliss Sports, Bliss Sports II and RCP each acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents nor any other Party hereto have provided to Bliss Sports, Bliss Sports II and/or RCP any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) Bliss Sports, Bliss Sports II and RCP are each relying solely upon their own tax advisors in this regard.

**Section 15.14 Indemnity.**

- (a) Bliss Sports and Bliss Sports II agrees to indemnify, defend, and hold the City, its commissioners, officers, employees, agents, and independent contractors and consultants (the **"City Indemnified Parties"**) harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, and costs and/or expenses, including court costs and reasonable attorneys' fees and expenses, resulting from, arising out of, or in any way connected with: (i) the development and construction of the Infrastructure Improvements, or (ii) the gross negligence or willful misconduct of Bliss Sports or Bliss Sports II, its members, employees, agents or independent contractors in connection with the development and construction of the Infrastructure Improvements.
- (b) In the event any suit, action, investigation, claim or proceeding (collectively, an **"Action"**) is begun or made as a result of which Bliss Sports or Bliss Sports II may become obligated to one or more of the City Indemnified Parties hereunder, any one of the City Indemnified Parties shall give prompt notice to Bliss Sports or Bliss Sports II of the occurrence of such event. After receipt of such notice, Bliss Sports or Bliss Sports II may elect to defend, contest or otherwise protect the City Indemnified Parties against any such Action, at the cost and expense of Bliss Sports or Bliss Sports II utilizing counsel of their choice. The City Indemnified Parties shall assist, at Bliss Sports or Bliss Sports II sole discretion, in the defense thereof. In the event that Bliss Sports or Bliss Sports II shall fail timely to defend, contest or otherwise protect any of the City Indemnified Parties against such Action, the City Indemnified Parties shall have the right to do so, and (if such defense is undertaken by the City Indemnified Parties after notice to Bliss Sports or Bliss Sports II asserting their failure to timely defend, contest or otherwise protect against such Action) the cost of such defense shall be at the expense of Bliss Sports and Bliss Sports II.
- (c) Any one of the City Indemnified Parties shall submit to Bliss Sports and Bliss Sports II any settlement proposal that the City Indemnified Parties shall receive which may only be accepted with the approval of Bliss Sports and Bliss Sports II. Bliss Sports and Bliss Sports II shall be liable for the payment of any amounts paid in settlement of any Action to the extent that and only with respect to any part RCP expressly assumes in writing as part of such settlement. Neither Bliss Sports nor Bliss Sports II nor the City Indemnified Parties will unreasonably withhold their respective consent to a proposed settlement.
- (d) The indemnifications set forth in this Article shall survive termination or expiration of this Agreement.

[Remainder of page intentionally left blank]

DRAFT



IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

**CITY OF LAWRENCE, KANSAS**  
a Kansas limited liability company

(Seal)

By: \_\_\_\_\_  
Name: Robert J. Schumm  
Title: Mayor

ATTEST:

\_\_\_\_\_  
Name: Jonathan M. Douglass  
Title: City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS.  
COUNTY OF DOUGLAS        )

BE IT REMEMBERED that on this \_\_\_\_ day of February, 2013, before me, a notary public in and for said county and state, came Robert J. Schumm, Mayor of the City of Lawrence, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Jonathan M. Douglass, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**RCP, LLC**, a Kansas limited liability company

By: The Kansas University Endowment Association, its sole member

By: \_\_\_\_\_  
Dale Seuferling, President

**ACKNOWLEDGMENT**

STATE OF KANSAS )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of February, 2013, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Dale Seuferling as the President of The Kansas University Endowment Association, a Kansas not for profit corporation, as the sole member of RCP, LLC, a Kansas limited liability company, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed the within instrument on behalf of said corporation in its capacity as member of such limited liability company, and such officer duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**BLISS SPORTS II, LC**

By: \_\_\_\_\_  
Name: Thomas S. Fritzel  
Title: Manager

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS.  
COUNTY OF DOUGLAS     )

BE IT REMEMBERED, that on this \_\_\_\_ day of February, 2013, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Thomas S. Fritzel, the Manager of Bliss Sports II, LC, a Kansas limited liability company, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed the within instrument on behalf of said limited liability company, and such officer duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**BLISS SPORTS, LC**

By: \_\_\_\_\_  
Name: Thomas S. Fritzel  
Title: Manager

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS.  
COUNTY OF DOUGLAS    )

BE IT REMEMBERED, that on this \_\_\_\_ day of February, 2013, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Thomas S. Fritzel, the Manager of Bliss Sports, LC, a Kansas limited liability company, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed the within instrument on behalf of said limited liability company, and such officer duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

**EXHIBIT A-1**

**LEGAL DESCRIPTION OF RECREATION CENTER SITE**

**EXHIBIT A-2**

**LEGAL DESCRIPTION OF INFRASTRUCTURE SITE**

**EXHIBIT A-3**

**LEGAL DESCRIPTION OF STADIUM SITE**



**EXHIBIT B**  
**SITE PLAN**

**EXHIBIT C**

**PURCHASE AGREEMENT**

**EXHIBIT D**

**RECREATION CENTER PLANS**

**[TO BE ATTACHED OR INCORPORATED UPON COMPLETION]**

**EXHIBIT E**  
**PROJECT TIMELINE**

**EXHIBIT F**

**INFRASTRUCTURE IMPROVEMENTS**

**EXHIBIT G**

**INFRASTRUCTURE IMPROVEMENT PLANS**

**[TO BE ATTACHED OR INCORPORATED UPON COMPLETION]**

**EXHIBIT H**

**CERTIFICATE OF PAD-READY CONDITION**

The undersigned, Bliss Sports II, LLC (“Bliss Sports II”), pursuant to that certain Rock Chalk Park Development Agreement (the “Development Agreement”) dated February 19, 2013, among the City of Lawrence, Kansas (“City”), RCP, LLC, Bliss Sports, LC and Bliss Sports II, and Bliss Sports II, hereby certifies to the City as follows:

1. That as of \_\_\_\_\_, 20\_\_\_, the construction of the Pad Site in Pad-Ready Condition (as such term is defined in the Development Agreement) has been completed in accordance with the Development Agreement.
2. The Pad Site has been completed in a good and workmanlike manner and in accordance with the Contract Documents (as defined in the Development Agreement).
3. The Pad Site has achieved Substantial Completion and is in Pad-Ready Condition (as defined in the Development Agreement).
4. This Certificate of Pad-Ready Condition is being issued by Bliss Sports II to the City in accordance with the Development Agreement and the Purchase Agreement.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**BLISS SPORTS II, LLC**

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

**ARCHITECT'S CERTIFICATE**

The Pad Site has been fully completed substantially in accordance with the Plans, as amended to date, and is in Pad-Ready Condition.

\_\_\_\_\_

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

Title: \_\_\_\_\_



**ACCEPTED:**

**CITY OF LAWRENCE, KANSAS**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Insert Notary Form(s) and Legal Description)