

**PLANNED UNIT DEVELOPMENT AGREEMENT  
CONCERNING THE DEVELOPMENT  
OF SUNFLOWER COMMERCE PARK 4<sup>TH</sup>  
TO THE CITY OF BEL AIRE, KANSAS**

THIS AGREEMENT is made and entered into by and between Aspen Sunflower Industrial, LLC, a Kansas Limited Liability Company, hereinafter collectively referred to as the "DEVELOPER" and the City of Bel Aire, Kansas, hereinafter referred to as the "CITY."

WHEREAS, the DEVELOPER desires zoning by a Planned Unit Development (PUD) from the CITY on a portion of land more fully described below and herein referred to as SUNFLOWER COMMERCE PARK 4<sup>TH</sup> to the City of Bel Aire, Kansas; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the DEVELOPER and the CITY agree as follows:

**PURPOSE:** This Agreement is necessary to address certain financial, infrastructure, and drainage conditions arising from the platting process which must be dealt with prior to final plat approval and as such, is a condition precedent to final consideration by the CITY of the DEVELOPER'S request for approval of the final plat on a tract of land more fully described below and herein referred to as the SUNFLOWER COMMERCE PARK 4<sup>th</sup> PUD Project to the City of Bel Aire, Kansas.

This Agreement also assures that the necessary improvements are in place to support development of the SUNFLOWER COMMERCE PARK 4<sup>TH</sup> PUD to the City of Bel Aire, Kansas. Therefore, the DEVELOPER'S compliance with the Terms and Conditions of this Agreement shall be a condition precedent to the granting of building and/or occupancy permits for development on said property. The CITY reserves the right to clarify any conflicts between this Agreement and the plat.

**SUNFLOWER COMMERCE PARK 4<sup>TH</sup> PUD PROJECT LEGAL DESCRIPTION:**  
A portion of SUNFLOWER COMMERCE PARK 4<sup>th</sup> PUD, City of Bel Aire, Kansas, more particularly described as, to-wit:

Lots 1, 2, 3, Block 1, and Lots 1, 2, Block 2, and Reserve A and B, SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, Bel Aire, Sedgwick County, Kansas.

**PERMITTED USE:** The SUNFLOWER COMMERCE PARK 4<sup>TH</sup> to the City of Bel Aire, Kansas shall have the uses permitted in the "M-1" Industrial, as defined in the 2023 revised Bel Aire codified City code, including the following uses:

Sunflower Commerce Park 4<sup>th</sup> shall have the uses permitted in the "M-1" Planned Industrial District, as defined in the City of Bel Aire Planned Industrial District. This is

intended to provide for the development of a wide variety of industrial and commercial uses, including warehousing, manufacturing, and assembly. Where activities shall occur inside a building, however, limited outside storage is permitted, and as further defined in the Sunflower Commerce Park Declaration of Covenants, conditions, restrictions, Disclosures and Easements of Sunflower Commerce Park.

"C-1" and "C-2":

- Accessory structure as approved by the City Manager.
- Special events permits approved by the City Manager.
- C-1 permitted uses as defined in Chapter 7 Zoning Code - Section 7.11, Neighborhood Commercial, Office Retail.

The building setback for "C-1" and "C-2" shall be per the recorded plat of SUNFLOWER COMMERCE PARK 4<sup>TH</sup>. No building shall be constructed within a public utility easement.

**HEIGHT AND AREA REGULATIONS:**

- A. Maximum Height:
  - 1. Buildings: Two stories, not exceeding 75 feet from finished grade.
  - 2. Accessory Structures: One story.
- B. Maximum Lot Coverage: Per approved Drainage Report.
- C. Minimum building setbacks shall be as stated on the recorded Final Plat(s).

**DRAINAGE.** Protecting surrounding platted property from the impacts of changes in drainage across such property resulting from the development of SUNFLOWER COMMERCE PARK 4<sup>TH</sup> PUD must be addressed as part of the platting process. The DEVELOPER shall prepare a storm drainage plan which shall address the various impacts of increased/modified drainage, meet CITY drainage specifications, and be approved by the City Engineer. Prior to approval of said proposed storm drainage plan, the City Engineer may impose modifications upon such proposed plan as Engineer deems necessary to insure the effectiveness of such plan. After approval by the City Engineer of said storm drainage plan, including any necessary modifications, the DEVELOPER shall install, or cause to be installed, the improvements pursuant to the drainage plan.

The DEVELOPER shall maintain a master drainage plan throughout the development stage for each parcel, by providing grass and installing landscaping to ensure the reduced yard requirements have no consequence to the overall drainage of the property and Development as a whole.

**DRAINAGE PLAN.** The DEVELOPER must provide a maintenance plan that will provide adequate provisions to protect the master drainage plan engineered design as such was approved by the CITY. The Maintenance Plan will include but not be limited to: how to initiate the maintenance process for the drainage plan, how to inspect, what to inspect, when to inspect, how to correct drainage problems that are discovered, the appropriate records to be maintained and designating the party responsible for maintaining such records. The CITY may request a copy of the inspection report to monitor compliance on a biannual basis.

**DETENTION PONDS.** Any on-site detention ponds will be designed to control two, twenty-five year storm events and one, hundred year storm event. Additionally, the ponds will act as temporary sedimentation basins during construction but are limited to the amount of sediment allowed and DEVELOPER responsible for any dredging required.

Any on-site detention ponds and associated inflow and outflow systems to the property as well as the reserves, and ditches are to be maintained by the DEVELOPER indefinitely unless transferred to a home owner's association or equal resolution approved by the CITY, excluding paving and utilities within dedicated rights of ways as indicated on plat documents. Failure of the DEVELOPER to maintain such areas and property as described shall be grounds for the CITY to enforce this provisions as a nuisance abatement action, and charge all costs back to the DEVELOPER as set forth in K.S.A. 12-1617e.

**LANDSCAPING AND SCREENING:** The DEVELOPER shall submit and have approved by the CITY a "Landscape Plan" that is representative of the landscaping to be provided as each phase of SUNFLOWER COMMERCE PARK 4<sup>TH</sup> is developed. The Landscaping Plan shall show contours, utilities, size and spread at planting, any type of ground cover, shrubs, and shall coordinate with the Drainage Plan and Site Plan for the Project.

- A. Planting of interior trees shall be approved at the time of the building permit application. Any areas outside of the general boundaries of each development phase shall be planted to appropriate turf or ground cover adequate to prevent undue soil erosion, and shall be maintained in accordance with applicable CITY ordinances.
- B. Any future phases to be constructed shall also be submitted and have approved by the CITY detailed landscape plans for that phase. Within all detailed landscape plans, ground-mounted mechanical equipment and trash receptacles shall have screening requirements set and approved at the time of the building permit application. Deviations from the Sunflower Commerce Park Declaration of Covenants, conditions, restrictions, Disclosures and Easements of Sunflower Commerce Park shall be approved administratively.

**MAINTENANCE:** DEVELOPER and/or Association will be required to provide continuous maintenance for Reserves "A" and "B," and all identified common areas within

said reserves in SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, Bel Aire, Sedgwick County, Kansas.

**PERMITS:** No construction shall commence on any portion of the tract of land herein referred to as SUNFLOWER COMMERCE PARK 4<sup>TH</sup> without the DEVELOPER having first obtained building and zoning permits from the CITY.

Representatives of the parties shall formally meet and review the existing and proposed phases of development as well as the requirements of this Agreement, prior to the submission of petitions for infrastructure improvements for each phase of development.

Installation of all improvements shall be in compliance with requirements of all applicable Federal, State and local legislation, including the Americans with Disabilities Act (ADA). All electric power, street light service, and telephone service shall be installed underground. The DEVELOPER shall coordinate the engineering design and construction of water mains, sanitary sewer mains, storm water systems, and paving necessary for the platting and development of the SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, Bel Aire, Sedgwick County, Kansas. The CITY shall inspect the construction of water mains, sanitary sewer mains, storm water systems and paving necessary for the platting and development of the tract of land herein referred to as the SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, Bel Aire, Sedgwick County, Kansas. With the exception of storm sewer systems, all other improvements shall be dedicated to and owned and maintained by the CITY. Said improvements shall be installed on CITY-owned property or within public rights-of-way or easements. The DEVELOPER shall be responsible for the actual costs of the engineering design, construction, and inspection of all improvements necessary for the platting and development of the tract of land herein referred to as the SUNFLOWER COMMERCE PARK 4<sup>TH</sup> unless otherwise petitioned and approved by the Governing Body of the City of Bel Aire, Kansas.

The DEVELOPER shall dedicate necessary public rights-of-way and easements and install, or cause to be installed, all improvements necessary for the platting and development of the tract of land herein referred to as the SUNFLOWER COMMERCE PARK 4<sup>TH</sup>. Said improvements include, but are not limited to streets, curb, gutter, street signs, storm water system, water distribution system, sanitary sewer lines, corner pins, and utilities.

The DEVELOPER shall indemnify and hold harmless the CITY from any liability from damages that may occur during construction. The DEVELOPER shall pay one hundred percent (100%) of the cost of the improvements unless otherwise petitioned and approved by the Governing Body of the City of Bel Aire.

Whenever existing sanitary sewer, storm water, water lines, drainage channels, culverts, underground and overhead electric, communications, gas lines, pipe lines, or transmission lines are required to be installed, lowered, encased, modified, or relocated due to the subdivision or construction improvements required, and in the event it was not known at time of platting approval, the DEVELOPER shall pay one hundred percent (100%) of the cost of the improvements unless otherwise petitioned and approved by the Governing Body

of the City of Bel Aire, Kansas. The DEVELOPER shall indemnify and hold harmless the CITY from any liability from damages that may occur during said construction.

**EASEMENTS:** All easements recorded on the face of the final plat of SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, Kansas, shall remain in effect pursuant to this PUD Agreement. The surface of such easements may be used by the Owner for driveways, parking and landscaping, provided that such parking does not block sidewalks.

**FENCING AND SCREENING:** Any provided fencing and screening methods and materials shall be approved at the time of building permit application. Any plans for outside storage facilities shall comply with the applicable ordinances and zoning regulations of the CITY and shall be submitted in writing to the CITY for prior approval. No barbed wire is allowed. If any fencing or screening is installed by the DEVELOPER during development, all future maintenance and upkeep shall be performed by the DEVELOPER or homeowner's association (HOA).

**LIGHTING:** A Street and Parking Lighting Plan shall be submitted to the CITY for approval and shall comply with the CITY zoning ordinance. Outdoor lighting sources shall employ cutoff luminaries to minimize light trespass and glare.

**SIDEWALKS:** Sidewalks are not required for SUNFLOWER COMMERCE PARK 4<sup>TH</sup>.

**SIGNAGE:** Signs, other than street or traffic/regulatory, of such location, type, and size as shall be approved as part of the building permit process giving due regard to the prevailing type, size and pattern of location utilized throughout the area.

- A. All signage shall comply with the applicable ordinances and zoning regulations of the CITY and be submitted in writing to the CITY for written approval.
- B. Signs shall be maintained by the DEVELOPER indefinitely unless transferred to an HOA. Any alternative plan must be approved by the CITY. Failure of the DEVELOPER to maintain such areas and property shall be grounds for the CITY to enforce this provision as a nuisance abatement action, at the cost and expense of the DEVELOPER and/or HOA.
- C. The City Manager can approve a PUD sign request based on review.

**RECORDING:** The CITY shall file an executed copy of this Agreement with the Sedgwick County Register of Deeds. A copy of this Agreement, showing said recording along with a copy of the recorded plat, shall be furnished by the DEVELOPER to the General Contractor before building permits are issued. The CITY shall be reimbursed for all required filing fees.

**BINDING:** Upon full execution hereof and upon attachment of the PUD Site Plan, the Landscape Plan, all approved as provided herein, the Terms and Conditions of this Agreement, as set forth herein, shall be binding upon the CITY and the DEVELOPER, their successors, representatives, trustees, and assigns.

**ELECTRIC:** All electric primary lines shall be installed underground by Evergy and paid for by the DEVELOPER. All public roadway light pole service lines pole mounted light fixtures shall be paid for by the CITY and installed by Evergy.

**EROSION, STORMWATER, AND SEDIMENT CONTROL:** The DEVELOPER must follow all National Pollution Discharge Elimination System (NPDES), Kansas Department of Health and Environment (KDHE), and City of Bel Aire Standards for erosion, storm water, and sediment control on site.

**FIRE HYDRANTS:** All fire hydrants shall be of a type and quality specified by CITY Specification Standards, but not less than the minimum standards of the National Board of Fire Underwriters, and shall be provided and connected to the CITY'S municipal water supply system. Such hydrants shall be subject to the inspection and approval of the applicable Fire Chief.

**FOUNDATION CERTIFICATIONS:** Foundation Certifications will be required on each foundation after construction. Minimum low opening certifications will be required on all lots with minimum pad elevations indicated on the face of the plat. A variance from minimum pad elevations indicated on the face of the plat shall be approved administratively by the CITY. A FEMA LOMR-F and KDA-DWR Floodplain Fill permit shall be obtained prior to the issuance of Building Permits for Lots 1 and 2, Block 2, and Lot 2, Block 1. A copy of the approved FEMA LOMR-F permit and KDA-DWR Floodplain Fill permit shall be provided to the CITY with application for building permit for said lots.

**GENERAL PROVISIONS:** This Agreement shall be subject to all General Provisions as outlined in the Final Plat of SUNFLOWER COMMERCE PARK 4<sup>TH</sup>, a PUD in the City of Bel Aire, Sedgwick County, Kansas as recorded on \_\_\_\_\_.

**BINDING:** The Terms and Conditions of this Agreement, as set forth herein, shall be binding upon the CITY and the DEVELOPER, their successors, representatives, trustees, and assigns. If any discrepancies exist between this agreement and the Sunflower Commerce Park Declaration of Covenants, conditions, restrictions, Disclosures and Easements of Sunflower Commerce Park, this agreement shall govern.

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THIS AGREEMENT is hereby executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

ASPEN SUNFLOWER INDUSTRIAL, LLC,  
a Kansas Limited Liability Company

\_\_\_\_\_  
Dan Schulte, Member

STATE OF KANSAS            )  
COUNTY OF SEDGWICK ) ss:

BE IT KNOWN BY ALL PERSONS that on this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public, came Dan Schulte, as Member of Aspen Sunflower Industrial, LLC, a Kansas limited liability company, who is known to me and who personally acknowledged execution of the foregoing Agreement concerning the Aspen Sunflower Industrial, LLC PUD to the City of Bel Aire, Kansas, for said limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC

My Appointment Expires: \_\_\_\_\_

THIS AGREEMENT was approved by vote of the City Council of the City of Bel Aire, Kansas on the \_\_\_\_ day of \_\_\_\_\_, 2024, and is hereby executed on this \_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF BEL AIRE

\_\_\_\_\_  
Jim Benage, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

(SEAL)

STATE OF KANSAS        )  
COUNTY OF SEDGWICK ) ss:

BE IT KNOWN BY ALL PERSONS that on this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public, came Jim Benage, who is known to me to be the Mayor of Bel Aire, Kansas and who personally acknowledged execution of the foregoing Agreement Concerning the Development of Aspen Sunflower Industrial, LLC PUD to the City of Bel Aire, Kansas, and Melissa Krehbiel, who is known to me to be the City Clerk of Bel Aire, Kansas and who personally acknowledged attesting the signature of said Jim Benage.

\_\_\_\_\_  
NOTARY PUBLIC

My Appointment Expires: \_\_\_\_\_