

**DEVELOPER'S AGREEMENT
CONCERNING THE DEVELOPMENT
OF LYCEE
BEL AIRE, SEDGWICK COUNTY, KANSAS**

THIS AGREEMENT is made and entered into by and between GREGORY HISER, hereinafter referred to as the "DEVELOPER" and the CITY OF BEL AIRE, KANSAS, hereinafter referred to as the "CITY."

WHEREAS, the Developer desires platting and development by the City of a tract of land more fully described below and herein referred to as LYCEE to the City of Bel Aire, Kansas; and

WHEREAS, the City is willing to consider platting and development of said LYCEE PUD Project;

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 execution of the development PLAN*** and the platting process. This agreement is distinct from the PUD Agreement signed_____.

WHEREAS, the DEVELOPER desires development of a tract of land more fully described below and herein referred to as **LYCEE**, Bel Aire, Sedgwick County, Kansas and has the following legal description to-wit:

Lots 1, 2, 3, and 4, Block B, Lycee, Bel Aire, Sedgwick County, Kansas.

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

PURPOSE. The approval of this Agreement is a condition precedent to final consideration by the CITY of the DEVELOPER'S request for public infrastructure on a tract of land more fully described below and herein referred to as Lycee.

Specifically, this agreement is to assure that necessary improvements are in place to support development of Lycee. 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 DEVELOPER shall strictly observe and comply with the terms of this Agreement, all regulations, resolutions, policies, and ordinances of the CITY and Sedgwick County, and all statutes and laws of the State of Kansas and of the United States.

The development of Lycee shall proceed in accordance with this Agreement. Any deviation, as determined by the CITY, shall constitute a violation of the building permit authorizing construction of the proposed development, and may result in suspension or termination of such building permit. It is understood by the parties that the final site dimensions, grading plan, drainage, landscape plan, street plan, parking plan and utility plans will be submitted by the DEVELOPER and approved by the CITY in phases based on the conceptual plans. Any deviations from the conceptual drawing shall be submitted for review and approval by the CITY. Any and all costs permit fees, review fees, and building and zoning permit and review fees incurred or required by city staff and review and/or through building and zoning review shall be paid by the DEVELOPER.

PERMITTED USE. The following uses are permitted in accordance with the PUD and the zoning:

C-1 - Neighborhood Commercial Office & Retail (Lot 4, Block B):

- Uses as define in Chapter 7 zoning code – section 7.11; Neighborhood Commercial, Office Retail, Small Scale Retail Businesses, Retail Activities conducted wholly indoors and Office.

C-2 - Planned Commercial (Lot 4, Block B):

- Restaurant with alcohol sales; food venues to include patio dining and temporary structures as approved by the City Manager.
- Accessory structure as approved by the City Manager.
- Special Events permits approved by the City Manager

C-1 and C-2 BUILDING SETBACKS. The minimum building setback shall be forty feet (40') from adjacent public right-of-way property lines. There shall be a minimum building setback of ten feet (10') along adjoining lots, if such adjoining lots are not maintained in common ownership. No building shall be constructed within a public utility easement.

SITE. The proposed construction project for Lot 4, Block B, consists of one building with a total 3,200 sq. ft. with paved parking, with no current plans of future growth or additions. The PUD and the Zoning code will govern any future growth. Lot 4 shall honor all existing easements on the Lot including the rural water easement, pipeline easement and KG&E easement. Prior to any development, all lots shall be maintained in accordance with the municipal code of the City of Bel Aire. Approval of a site circulation and pedestrian plan by the Zoning Administrator is required for each phase of construction prior to the issuance of a building permit.

R-6 - Multi Family District (Lots 1, 2, and 3, Block B):

- Duplex
- Multi-Family
- Adult Day-care
- Leasing office
- Playgrounds or community spaces.
- Accessory structures as approved by the city manager.

R-6 Building Setbacks (Lots 1, 2, and 3, Block B). The minimum building setback shall be thirty feet (30') from adjacent public right-of-way property lines. There shall be a minimum building setback of ten feet (10') along adjoining lots, if such adjoining lots are not maintained in common ownership. No building shall be constructed within a public utility easement.

SITE. The proposed construction project for Lots 1, 2, and 3, Block B, consists of a maximum of thirteen (13) buildings with each living unit having 1,000 to 1,500 sq. ft. of livable space on the ground floor with a maximum total 37,500 sq. ft. allowed on the ground floor of the parcel with paved parking for each unit. Each living unit shall have a maximum height of three stories. There is no current plans of future growth or additions. The PUD and the Zoning code will govern any future growth. Lots 1, 2, and 3, shall honor all existing easements on the Lots including the rural water easement, and pipeline easement. Prior to any development, all lots shall be maintained in accordance with the municipal code of the City of Bel Aire. Approval of a site circulation and pedestrian plan by the Zoning Administrator is required for each phase of construction prior to the issuance of a building permit.

CONSTRUCTION PERIOD REQUIREMENTS. In addition to other requirements set forth within this agreement regarding property maintenance, the following requirements shall be met specifically during the period of time during which construction of Lycee is being developed:

All lots covered by this Agreement shall be subject to the CITY'S storm water regulations. The Contractor shall install and the DEVELOPER maintains the storm water protection devices established by the CITY and the master drainage / grading plan until such time the devices are no longer needed due to the adequate establishment of ground cover. All lots covered by this agreement shall be kept clean, shall not pond water, shall be mowed to a height not exceeding eight (8) inches, and shall comply with all applicable laws and regulations pertaining to erosion control.

All temporary construction units must be removed when building in the immediate vicinity is completed.

All temporary utility connections made to expedite the development must be removed immediately as utility services are provided; i.e. temporary above ground power supply.

Vehicle access to the tract of land herein referred to as the Lycee shall be limited to one entry point along Rock Road and one entry point along Lycee Street that will serve Lots 1, 2 and 3, Block B and one entry point along Rock Road that will serve Lot 4, Block B as recommended by the Sedgwick County Fire Department for fire protection purposes and emergency vehicles. Traffic in Lycee shall be limited to vehicles under 20 tons. Construction traffic shall enter from Lycee Street, as much as practical. DEVELOPER shall be responsible for installation and removal of any temporary roads during construction. Such temporary roads shall be approved by the CITY. All roadways must be kept free of construction debris and mud. Dust created during construction must be controlled avoiding a nuisance for motorist and neighbors.

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 by applicable regulations and DEVELOPER is 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 provision as a nuisance abatement action, and charge all costs back to the DEVELOPER as set forth in K.S.A. 12-1617e.

DRAINAGE. Protecting surrounding platted property from the impacts of changes in drainage across such property resulting from the development of Lycee must be addressed. The DEVELOPER shall maintain 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 landscape to ensure the reduced yard requirements have no consequence to the drainage of the property.

The CITY shall maintain Reserve A of Block A for drainage / future development.

DRAINAGE PLAN. The DEVELOPER must provide a maintenance plan within the HOA Covenant document 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 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. Failure of the HOA to maintain such records or provide such records to the CITY in a timely manner, shall be grounds for the CITY, or the CITY'S designee, to conduct an inspection and charge the costs associated with such inspection back to the HOA.

ELECTRIC. All electric lines shall be installed underground and paid for by the DEVELOPER.

EROSION 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 and sediment control on site.

FENCING & SCREENING. Fencing and screening methods and materials shall blend in with the architectural design of the buildings and to reasonably hide the materials, trash and recycling containers from ground view, and all fencing and screening methods and materials must be pre-approved in writing by the CITY. Vinyl coated chain link fencing materials and other similar fencing material may be allowed if such materials blend in with the architectural design elements of the building and adjacent sites. Any plans for outside storage facilities shall comply with the applicable ordinances and zoning regulations of the CITY and be submitted in writing to the CITY for prior approval. No barbed wire is allowed.

FIRE HYDRANTS. All fire hydrants shall be of a type and quality specified by CITY 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 pads indicated on the face of the plat.

HOMEOWNERS' ASSOCIATION. DEVELOPER, Business owners and/or Homeowners Association will be required to provide continuous maintenance and irrigation for all identified reserves, common areas, ponds, drainage systems, detention ponds and construction areas associated with Lycee. Any land dedicated to or owned by a municipal authority shall be exempt from any and all assessments including those assessed by Homeowners Association Covenants. Land within this plat owned by such a municipal organization exempt from taxation by the laws of the State of Kansas, shall not be subject to any non-taxing authority assessments throughout the duration of such ownership.

INFRASTRUCTURE PETITION AND INSTALLATION. The development of Lycee is being accomplished by virtue of a multiple-phase process. 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. All electric power, street lights and telephone service shall be installed underground. The CITY shall perform the engineering design, construction and inspection 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 Lycee, Bel Aire, Sedgwick County, Kansas which said improvements shall be dedicated to and owned and maintained by the CITY. Said improvements shall be installed on CITY owned property or within public right of ways or easements. The DEVELOPER shall reimburse the CITY 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 Lycee unless otherwise petitioned and approved by the Governing Body of the City of Bel Aire, Kansas.

The DEVELOPER shall dedicate necessary public right-of-ways and easements and install, or cause to be installed, all improvements necessary for development of this tract of land. Said improvements include, but are not limited to streets, curb, gutter, street signs, storm water system, sidewalks, water distribution system, sanitary sewer lines, corner pins, driveways 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, Kansas and/or another unit of government.

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 and/or another unit of government. The DEVELOPER shall indemnify and hold harmless the CITY from any liability from damages that may occur during construction.

LANDSCAPING & SCREENING. The DEVELOPER shall adhere to the landscape plan approved by the CITY at the time of PUD application, such "Landscape Plan" shall be representative of the landscaping to be provided as each phase of Lycee is developed. The "Landscaping Plan" shall show contours, utilities, size and spread at planting, any type of ground cover, shrubs, and coordinate with the Drainage Plan and Site Plan for the project.

Planting of interior trees shall meet the CITY'S street tree requirements. 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. Any future Phases to be constructed shall also submit 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 be screened from ground level view.

LIGHTING. A Street and parking lighting plan shall be submitted to the CITY for approval and comply with the City zoning ordinance. Outdoor lighting sources shall employ cutoff luminaires to minimize light trespass and glare. Wood poles will not be allowed.

MAINTENANCE. DEVELOPER, business owners, and/or Homeowners Association will be required to provide continuous maintenance, including mowing as required by code, for all identified reserves, common areas, ponds, Rock Road Street frontage in addition to any future reserves or lots or easements granted to DEVELOPER, Business owners and/or Homeowners Association.

PERMITS. No construction shall commence on any portion of the tract of land herein referred to as LYCEE without the DEVELOPER having first obtained the proper building and zoning permits from the CITY.

The development of Lycee shall proceed in accordance with this Agreement. Any deviation, as determined by the CITY, shall constitute a violation of the building permit authorizing construction of the proposed development. The final site dimensions, grading plan, drainage, landscape plan, street plan, parking plan and utility plans will be submitted and approved in phases based on the conceptual plans. Any deviations from the conceptual drawing shall be submitted for review and approval by the CITY. Any and all costs permit fees, review fees, and building and zoning permit and review fees incurred or required by city staff and review and/or through building and zoning review shall be paid by the DEVELOPER.

ROADWAYS, PARKING, DRIVES, and ACCESS. The DEVELOPER shall cause to be installed, according to the design standards of the CITY, minimum twenty nine (29) foot back to back paved street with curb and gutter on all streets in LYCEE. If asphalt paving is used, the section shall consist of a minimum of 7" of asphalt with either a 5" reinforced rock base or a 5" concrete stabilized subgrade. If concrete paving is used, the pavement section shall be a minimum of 6" with 5" reinforced rock base. The CITY will determine which material shall be used after reviewing cost, safety, feasibility, and feedback from the DEVELOPER.

All driveways shall be per CITY ordinance. Access controls are as shown on the final plat of Lycee.

Vehicle access to the tract of land herein referred to as the Lycee shall be limited to one entry point along Rock Road and one entry point along Lycee to serve Lots 1, 2 and 3, Block B and one entry point along Rock Road to serve Lot 4, Block B as recommended by the Sedgwick County Fire Department for fire protection purposes for emergency vehicles. Traffic in Lycee shall be limited to vehicles under 20 tons.

SANITARY SEWER. The DEVELOPER shall petition the CITY to perform the engineering design review, construction and inspection of collection lines, not less than (8) inches in diameter. Said sewer main shall be dedicated to and owned and maintained by the CITY. Said sewer main shall be installed within dedicated easements. If not shown on the final plat, necessary easements shall be granted by the DEVELOPER or acquired prior to the construction project and dedicated by separate instrument. All Sanitary Sewer User Fees and Hookup Fees are subject to City Ordinances.

SIDEWALKS. Sidewalks shall be installed on one side of streets as delineated in the sidewalk plan submitted with the final plat. Sidewalks shall comply with the ADA Accessibility Guidelines (ADAAG). Sidewalks shall be handicap accessible and be required to extend or complete connecting links in the sidewalk system.

In general, sidewalks shall be constructed with the outside edge of the sidewalk as close as practical to the property line, subject to the discretion of the engineer designated by the CITY. The Sidewalk along shall be 5 feet wide (4" thick). Sidewalks shall be installed per the sidewalk plan approved by the CITY with curb ramps for road crossings. The sidewalk shall be continued along Lycee Street from east to west as the property is developed.

SIGNAGE. Signs of such location, type and size as shall be approved as part of the building permit process or by the Governing Body, giving due regard to the prevailing type, size and pattern of location utilized throughout the area. 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.

Signs and monuments are to be maintained by the DEVELOPER indefinitely unless transferred to a home owner's association or equal resolution 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, and charge all costs back to the DEVELOPER as set forth in K.S.A. 12-1617e.

WATER. The DEVELOPER shall petition the CITY to perform the engineering design, construction and inspection of transmission water lines minimum (8) inches in diameter, to the municipal water supply system of the City of Bel Aire, Kansas. Said water transmission lines shall be dedicated to and owned and maintained by the CITY. Lines shall be designed to loop. Said water transmission lines shall be installed within dedicated easements. If not shown on the final plat, necessary easements shall be granted to the CITY by the DEVELOPER or acquired prior to the construction project and dedicated by separate instrument. All Water User Fees and Hook Up Fees are subject to City Ordinances.

BONDING CAPACITY. Assurances are to be provided whenever the CITY has been

furnished a financial guarantee (irrevocable letter of credit, corporate completion bond, cashier's check, escrow account or cash) on 35% of the estimated cost of the project (engineering design, construction, inspections, temp note interest and administration). The Letter of Credit (LOC) or bond will be in the form approved by the CITY and name the City of Bel Aire as beneficiary. The assurances will serve to protect the general taxpayers of Bel Aire from subsidizing the special assessment debt. The assurance shall be filed prior to any debt being issued by the CITY for any of the expenses mentioned above and be equal to 35% of these same costs. It is understood that this letter of credit shall be automatically renewed for additional 2-year periods unless the DEVELOPER notifies the CITY in writing at least sixty (60) days prior to the current relevant expiration date, requesting the LOC be released. Provided there are no delinquent taxes or special assessments owed by the DEVELOPER, the financial guarantee will be released upon request of the DEVELOPER when 35% of the properties covered by the LOC, are developed meaning the CITY has identified satisfactory framing and construction of 35% of the properties. Upon any release of LOC, the CITY will execute such release, by written instruction, authorizing the release of this letter of credit, provided, however, that before this letter of credit is released the CITY shall be entitled to a partial drawing against the credit in the amount of any delinquent special assessments.

MISCELLANEOUS.

The DEVELOPER must make mail delivery provisions for each household with the U.S. Postal Services.

Any land dedicated to or owned by a municipal authority shall be exempt from any and all assessments including those assessed by Homeowners Association Covenants. Land within this plat owned by such a municipal organization, exempt from taxation by the laws of the State of Kansas, shall not be subject to any non-taxing authority assessments throughout the duration of such ownership.

MODIFICATION OF PLAT THROUGH REPLATTING PROCESS. While it is intended by the parties that the development will precede in compliance with this Agreement and the existing plat of LYCEE nothing herein shall be construed to prohibit modifications to the Lycee development as a result of the formal replatting process.

RESPECTIVE RESPONSIBILITIES OF CITY AND DEVELOPER. Notwithstanding anything to the contrary contained herein, the CITY shall be responsible for the construction of streets, sewer, and water facilities for LYCEE or other projects or additions, including excavation, storm sewers and detention ponds, on behalf of the DEVELOPER the costs for which shall be spread as special assessments against the addition on a square footage basis.

The DEVELOPER agrees to assume responsibility to see that all original purchasers of lots in the Addition receive a copy of this Developer's Agreement and the Restrictive Covenants at the time of purchase.

Each DEVELOPER, individual, or entity who is presently an owner of a lot or lots in Lycee or any individual or entity who later becomes a DEVELOPER by acquiring ownership of a lot or lots in said projects, shall do so subject to the terms of this Development Agreement, and shall be liable for the

payment of other costs and expenses payable by DEVELOPER including existing special assessments on the land and all payments hereunder which are incurred for improvements or facilities located on the lots or which are used or are available for the benefit of the lot or lots owned by the DEVELOPER.

Likewise, each DEVELOPER shall be responsible for the performance or compliance with other obligations or requirements contained herein which may be performed on the lot or lots owned by the DEVELOPER or which the DEVELOPER otherwise has the legal power and authority to perform. In the event any improvements or facilities are constructed on the lot or lot of a DEVELOPER not to serve the needs of that lot or lots, but rather to serve the needs of a lot or lots owned by a different developer and a different development, the DEVELOPER shall have no liability or responsibility for the costs and expenses incurred in the construction or maintenance of those improvements or facilities.

Finally, in the event improvements or facilities are constructed and maintained to serve lots across multiple developments, the costs and expenses for such construction and maintenance shall be paid by all DEVELOPERS whose lots are served by such improvements and facilities which costs and expenses shall be allocated to those DEVELOPERS whose lots are being served in the proportion that the number of square feet in the lots being served and respectively owned by them bears to the total square feet of all lots being served.

RECORDING. The DEVELOPER 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.

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.

THIS AGREEMENT is hereby executed on this _____ day of _____, 2022.

GREGORY HISER, DEVELOPER
Lycee, Bel Aire, Sedgwick County, Kansas

REBECCA HISER, DEVELOPER
Lycee, Bel Aire, Sedgwick County, Kansas

THIS AGREEMENT was approved by vote the City Council of the City of Bel Aire, Kansas on the ____ day of _____, 2022 and is hereby executed on this ____ day of _____, 2022.

COUNCIL PRESIDENT, JUSTIN SMITH

[SEAL]

ATTEST:

CITY CLERK, MELISSA KREHBIEL

ACKNOWLEDGEMENTS

STATE OF _____

COUNTY OF _____

BE IT KNOWN BY ALL PERSONS that on this _____ day of _____, 2022, before me, a Notary Public, came Gregory Hiser and Rebecca Hiser, husband and wife, who are known to me and who personally acknowledged execution of the foregoing Agreement as the Developer of Lycee, Bel Aire, Sedgwick County, Kansas.

[Notary Stamp]

NOTARY PUBLIC

My Appointment Expires: _____

STATE OF KANSAS
COUNTY OF SEDGWICK

BE IT KNOWN BY ALL PERSONS that on this _____ day of _____, 2022, before me, a Notary Public, came Mr. Justin Smith, who is known to me to be the Council President of Bel Aire, Kansas and who personally acknowledged execution of the foregoing Agreement Concerning the Development of Lycee, Bel Aire, Sedgwick County, 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 Mr. Justin Smith.

[Notary Stamp]

NOTARY PUBLIC

My Appointment Expires: _____