

**AGREEMENT  
CONCERNING THE DEVELOPMENT  
OF SKYVIEW AT BLOCK 49 2<sup>ND</sup> ADDITION,  
BEL AIRE, SEDGWICK COUNTY, KANSAS**

This agreement is made and entered into by and between Skyview at Block 49, LLC, a Kansas limited liability company, hereinafter referred to as the "DEVELOPER" and the CITY OF BEL AIRE, KANSAS, hereinafter referred to as the "CITY."

**WHEREAS**, the DEVELOPER desires replatting by the CITY of a tract of land more fully described below and herein referred to as SKYVIEW AT BLOCK 49 2<sup>ND</sup> ADDITION, Bel Aire, Sedgwick County, Kansas (hereinafter, SKYVIEW AT BLOCK 49 2<sup>ND</sup>); and

**WHEREAS**, the CITY is willing to replat said SKYVIEW AT BLOCK 49 2<sup>ND</sup> under certain applicable conditions stated herein;

**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 public interest, infrastructure, financial, and drainage conditions arising from the platting process. As such, approval of this Agreement is a condition precedent to the filing of the final plat and conveyance of the tract of land more fully described below and herein referred to as SKYVIEW AT BLOCK 49 2<sup>ND</sup>.

Specifically, this agreement is to assure that necessary improvements are in place to support development of SKYVIEW AT BLOCK 49 2<sup>ND</sup>. 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 SKYVIEW AT BLOCK 49 2<sup>ND</sup> shall proceed in accordance with this Agreement and all other platting requirements. Any deviation, 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 incurred by DEVELOPER to comply with the requirements of this agreement including permit fees, review fees, and building and zoning permit and review fees, shall be paid by the DEVELOPER.

**SKYVIEW AT BLOCK 49 2<sup>ND</sup> LEGAL DESCRIPTION:** The tract of land herein referred to

as SKYVIEW AT BLOCK 49 2<sup>ND</sup> ADDITION, Bel Aire, Sedgwick County, Kansas, has the following pre-replatting legal description, to-wit:

A tract of land located in the Northeast Quarter of Section 20, Township 26 South, Range 2 East of the 6th/ Principal Meridian, Sedgwick County, Kansas being more particularly described as follows:

Beginning at the Southeast Corner of Lot 1, Block 5, Sky View At Block 49, Bel Aire, Sedgwick County, Kansas; thence N 01°57'35" W along the East Lot Line of said Lot 1 and East Lot lines of Lots 28-34, Block 4 and East Line of Reserve "D" and Lots 20-23, Block 3, in said addition, a distance of 1314.05 feet to a point on the North line of said addition, said point being the Northeast Corner of said Lot 23 Block 3; thence N 89°26'13" E along the north line of said addition, a distance of 752.87 feet to the northeast corner of said addition; thence S 02°02'42" E along the east line of said addition, a distance of 1317.95 feet to the southeast corner of said addition; thence S 89°43'46" W along the south line of said addition, a distance of 754.94 feet to the Point of Beginning.

**PERMITTED USE:** All lots will be zoned to R-5 and remain controlled by a for-profit development, as a single controlling entity or owner for the approved development as presented, and construction upon such lots shall adhere to the following conditions:

- A.
  - 1. Single-family dwelling units as shown on the approved site plan.
  - 2. Accessory structures to contain trash or mowing equipment as approved.

B. Height and Area Regulations for R-5 Developments.

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum site area per dwelling unit permitted on any lot shall be as follows, except as otherwise provided in these Regulations relating to Height and Area Regulations, Exceptions, and requirements set forth within the Subdivision Code:

- 1. Maximum density per acre – 6 dwelling units
- 2. Maximum height:
  - Residences – two (2) stories, not exceeding thirty-five (35) feet from
  - From finished grade
- 3. Minimum dwelling unit – 1,000 square feet

**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 SKYVIEW AT BLOCK 49 2<sup>ND</sup> 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 shown in the construction plans for 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 twelve (12) 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. Temporary construction units will be relocated to areas actively being constructed.

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.

Traffic in SKYVIEW AT BLOCK 49 2<sup>ND</sup> shall be limited to vehicles under 20 tons. Construction traffic shall enter from WEBB ROAD along TIERRA LAKES PKY. 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 motorists and neighbors. Any damage made by construction equipment to SKYVIEW AT BLOCK 49 2<sup>ND</sup> on TIERRA LAKES PKY shall be repaired by the DEVELOPER and/or contractor at no cost to the CITY. The repairs shall be made to the satisfaction of the CITY.

**DETENTION PONDS.** 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.

**DRAINAGE.** Protecting surrounding platted property from the impacts of changes in drainage across such property resulting from the development of SKYVIEW AT BLOCK 49 2<sup>ND</sup> 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. That master drainage plan shall be a four corner grading plan with

proposed grades for homes and the DEVELOPER shall require all homes to be built on the property to comply with the approved drainage plan. Variations from the plan shall only be allowed with the approval of the DEVELOPER and the CITY.

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

**EROSION, STORMWATER, AND SEDIMENT CONTROL.** The DEVELOPER must follow all National Pollution Discharge Elimination System (NPDES), Kansas Department of Health & Environment (KDHE) and City of Bel Aire Standards for erosion, stormwater, 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. Black ornamental iron 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. If any fencing or screening is installed by the DEVELOPER during Development, all future maintenance and upkeep shall be performed by the Developer or HOA.

**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.

**HOMEOWNERS' ASSOCIATION.** DEVELOPER and/or Homeowners Association will be required to provide continuous maintenance for all identified reserves, common areas, ponds, drainage paths, detention ponds and construction areas associated with SKYVIEW AT BLOCK 49 2<sup>ND</sup>. 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 SKYVIEW AT BLOCK 49 2<sup>ND</sup> 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 SKYVIEW AT BLOCK 49 2<sup>ND</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 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 SKYVIEW AT BLOCK 49 2<sup>ND</sup> 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 the platting and development of the tract of land herein referred to as the SKYVIEW AT BLOCK 49 2<sup>ND</sup>. 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, 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.

**LANDSCAPING & 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 SKYVIEW AT BLOCK 49 2<sup>ND</sup> 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 shall not be used.

**MAINTENANCE:** DEVELOPER and/or Homeowners Association will be required to provide continuous maintenance for Reserves "A", "B" and "C", and all identified common areas, ponds, irrigation systems within said reserves in SKYVIEW AT BLOCK 49 2<sup>ND</sup>, Bel Aire, Sedgwick County, Kansas. Improvements within Reserve "D" shall be installed by the DEVELOPER. The improvements within Reserve "D" shall be owned and maintained by the City of Bel Aire.

**PERMITS.** No construction shall commence on any portion of the tract of land herein referred to as SKYVIEW AT BLOCK 49 2<sup>ND</sup> without the DEVELOPER having first obtained the proper building and zoning permits from the CITY.

**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 SKYVIEW AT BLOCK 49 2<sup>ND</sup>. 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 constructed in compliance with CITY ordinance.

**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, to transport sewage and discharge into existing downstream sanitary sewer mains. 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 as part of the construction project and dedicated by separate instrument. Each living unit is required to have a separate sewer tap and sewer service line. 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 preliminary 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. Sidewalks shall be installed on individual lots at the time of home construction. After 24 months has passed following the completion of the street construction, any missing adjoining sidewalk sections will be installed by the CITY unless an alternate approved plan is accepted by the city Engineer and DEVELOPER.

A sidewalk petition shall be executed to cover the cost of installing said sidewalk.

**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 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 are to be maintained by the DEVELOPER indefinitely unless transferred to a home owner's association 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.

**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 as part of the construction project and dedicated by separate instrument. Each living unit is required to have a separate water tap and water line. All water taps and service lines up to the meter shall be installed at the time of the water line construction. All Water User Fees and Hookup 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 principal 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 in the amount 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 then relevant expiration date that it will not be renewed at which time the DEVELOPER may draw up to the full amount of the credit available at that time. 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 development (issuance of satisfactory framing by the City of Bel Aire) of 35% of the properties covered by the LOC, the CITY will, by written instruction, authorize 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.

**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 SKYVIEW AT BLOCK 49 2<sup>ND</sup> nothing herein shall be construed to prohibit modifications to the SKYVIEW AT BLOCK 49 2<sup>ND</sup> 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 SKYVIEW AT BLOCK 49 2<sup>ND</sup> or other projects or additions, including excavation, storm sewers and detention ponds, the costs for which shall be spread as special assessments against the addition on a square footage basis, but not for three (3) years, or until the year 2025.

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

The DEVELOPER agrees to provide the CITY with a copy of the Restrictive Covenants once adopted.

Each DEVELOPER, individual, or entity who is presently an owner of a lot or lots in SKYVIEW AT BLOCK 49 2<sup>ND</sup> 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 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 lots 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 not owned by the DEVELOPER, 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 owned by more than one DEVELOPER or for the use of all DEVELOPERS, 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.

DEVELOPER  
Skyview at Block 49, LLC, a Kansas  
limited liability company

\_\_\_\_\_,  
Andrew Reese, Managing Member  
Skyview at Block 49, 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 \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR, JIM BENAGE

SEAL

ATTEST:

\_\_\_\_\_  
CITY CLERK, MELISSA KREHIBEL

#### ACKNOWLEDGEMENTS

BE IT KNOWN BY ALL PERSONS that on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, a Notary Public, came Andrew Reese, who is known to me and who personally acknowledged execution of the forging Agreement as the Developer of SKYVIEW AT BLOCK 49 2<sup>ND</sup>, Bel Aire, Sedgwick County, Kansas.

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

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

BE IT KNOWN BY ALL PERSONS that on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, a Notary Public, came Mr. Jim Benage, who is known to me to be the Mayor of Bel Aire, Kansas and who personally acknowledged execution of the forgoing Agreement Concerning the Development of the SKYVIEW AT BLOCK 49 2<sup>ND</sup>, Bel Aire, Sedgwick County, Kansas, and Stacey Cook, who is known to me to be the City Clerk of Bel Aire, Kansas and who personally acknowledged attesting the signature of said Mr. David Austin.

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

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