

**This is a business meeting of the governing body for the City of Herington. There is no implied or expressed right for persons outside the governing body to speak or voice their opinion unless specifically recognized by the chair.**

**Regular Meeting  
May 18, 2021  
5:30 p.m.**

1. Pledge of Allegiance

2. Call to Order

3. Consider Minutes of the Regular Meeting May 4, 2021

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Hartman, Mayor Urbanek

4. Public Forum

5. Additional Agenda Items

6. Approval of Agenda

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Hartman, Mayor Urbanek

7. Discuss and Action on Confluence's Lake Master Plan Services

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Hartman, Mayor Urbanek

8. Discuss and Action on Resolution for KDHE Waste Site 211 N E

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Hartman, Mayor Urbanek

9. Discuss and Action on Merging Planning and Zoning Boards

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Hartman, Mayor Urbanek

10. Discuss and Action on Quit Claim Deed Regarding Lot 20 at the Industrial Park

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Hartman, Mayor Urbanek

11. Executive Session – I move the City Commission recess into Executive Session, Pursuant to the: Consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception, K.S.A. 75-4319(b)(2) In order to discuss potential litigation.

To include the Following:

- Governing Body
- City Manager
- City Attorney
- City Clerk
- \_\_\_\_\_

The open meeting to resume in the City Commission Chamber at \_\_\_\_\_.

12. City Manager Comments

13. Commissioner Comments

14. Adjourn

Motion \_\_\_\_\_ Seconded \_\_\_\_\_ Action \_\_\_\_\_  
Commissioner Castleberry, Commissioner Donahue, Commissioner Bell,  
Commissioner Hartman, Mayor Urbanek

**To join the City Commission meetings from your computer, tablet, or smartphone, go to <https://www.youtube.com/channel/UCbvSBw6l4w85XQHSX0S1BXg>**

Public Forum Comments can be dropped in the deposit box or emailed to [cityoffice@cityofherington.com](mailto:cityoffice@cityofherington.com). Must be received before 8:00AM the day of the meeting. Please keep statement to a maximum of 3 minutes.

**Regular Meeting**  
**May 4, 2021**  
**5:30 p.m.**

The Board of City Commissioners of the City of Herington, Kansas met at City Hall at 5:30 p.m. on the above date – the following being present: Mayor Debi Urbanek, Commissioner Robbin Bell, Commissioner Vance Donahue II, Commissioner Ben Castleberry, City Manager Branden Dross, City Attorney Brad Jantz and City Clerk Megan Lawrenz. Absent was Commissioner Hartman. Also, in attendance were Chief of Police John Matula, Assistant Chief of Police Curtis Tyra, Fire Chief Andrew Avantagiato, Neighborhood Enforcement Officer Crystal Parris, Police Officer Chad Langley, MacKenzie Langley, Shelly Langhofer, Larry Mann and Gloria Boomer.

The meeting opened with the Pledge of Allegiance. Mayor Urbanek called the meeting to order. A motion was made by Commissioner Castleberry, seconded by Commissioner Bell to approve the Minutes of the Regular Meeting April 20, 2021 and both Special Meetings from April 10, 2021 and the Special Meeting April 15, 2021. Motion carried 4-0.

Public Forum Items – None.

Additional Agenda Items – Addition of 9a. Cereal Malt Beverage Application

A motion was made by Mayor Urbanek, seconded by Commissioner Bell, to approve the Agenda with the addition of 9a. Motion carried with all voting 4-0.

Police Update – Chief of Police John Matula presented the following stats: 32 traffic stops, 172 calls for service. 2 felony arrests and 1 misdemeanor arrest. Officer Canby is in her 3<sup>rd</sup> week of training at KLETC and has passed her 2<sup>nd</sup> exam. HPD received a grant for \$1200 through the Program Director Chris's Place Children's Advocacy Center for Officer Langley to attend Forensic Interview Training in September 2021. The records clerk attended training on KIBRS to understand what does and does not need to be submitted monthly to KBI. Staffing Update: Detective Thompson is leaving HPD and going to Dickinson County Sheriff's Office and Officer Langley will be promoted to Detective Sergeant Effective 5/4/2021. Department & Equipment Update: Requesting an increase in vehicle maintenance budget for 2022 to allow another year without requesting a vehicle, as the city needs fire apparatus and other big-ticket items. Equipment budget will be over due to mass exodus and hiring of officers since predecessor left. Working on a policy/procedure handbook for HPD, should be done within a few months. Lengthy process and a lot of research is involved. Will be forwarded to City Manager and City Attorney for review ASAP. National Night Out is going well and receiving donations from community businesses and will continue to promote by social media and reaching out in person. John has been invited to be an assistant coach for a rec league baseball team this summer.

Fire Update – 23 total calls. 2 fire, 1 structure. 9 EMS, 1 Service and 11 good intent (control burns, burn permits and unauthorized burning). Training Update: Covered hand lines, new nozzles, hose, master streams and foam usage. Staffing Update: 7 applications were received will be starting the hiring process. 1 volunteer application received, and 1 application handed out. Department and Equipment Update:

Ordered a forcible entry door prop with donation money received last year. All hose tested and ladders tested and passed. Lost 3 sections of 3-inch hose during testing, ordered replacements. No spare 3-inch hose. 7 lengths 2.5 from 1977 are still in service that passed but are recommended to be replaced due to age. Will budget for next year. Quote came back for brush truck at \$113,100, current price on SQ1 is \$152,500. Quote sent to Oswalds and Jost Fabrications Need to send out official bid request. The fire department will provide coverage at the races on the 15<sup>th</sup>. Fire 1 class still progressing looking at a June/July testing time frame. ISO review is May 25<sup>th</sup>. Currently the city is an ISO 4/4XX. Goal is to maintain the 4 and see what needs to be done to get to a 3. Outside city limits is currently a 9. We are going to try and improve that to a 6/7. Far reach but going to give it a shot.

City Clerk Update – Arbor day sale was Friday April 30, 2021. The city purchased approximately 60 plants and trees and there were about 8 left over. The City Clerk talked with the Street Superintendent about places to plant the remaining plants. The City Clerk reminded the Commissioners and the Community about the upcoming deadline of June 1<sup>st</sup> for anyone interested in running for City Commissioner.

9a. Cereal Malt Beverage License Application - Mayor Urbanek made a motion to approve the temporary Cereal Malt Beverage Application submitted by David Gehrke for the Herington Fireworks Committee at the races May 15<sup>th</sup>, 2021, seconded by Commissioner Castleberry. Motion carried 4-0.

Neighborhood Enforcement Officer Update – Crystal reported about 18 cases, 8 active, 7 that need to be closed, and 2 that may possibly go to court.

City Attorney Update – Brad clarified that the Ordinance passed tonight will be numbered next sequential and that Ordinance 1827 will be repealed to clean up previous changes. Nothing much to report for the Hospital, everything is in their hands right now. Airport leases – 6 or 7 need tweaking. Lake leases are done, would like Commissioner Bell to look over them one more time. Should be ready to merge planning and zoning at the next meeting. Looked over the Hilltop Advisory Board, no longer needed. Suggested some ordinance changes for permitting and food trucks etc. Need to follow up and finish some boundary issues on C street from a couple years ago.

205 N 10<sup>th</sup> St – Property Abatement Update – Lots were cleaned up last week, it took about 2.5 days. Owner will have about 30 days to address the property around the house.

211 N E St – Update- City staff are looking at different solutions for the owner. Moving forward with clean-up, will be putting out dumpsters. May have to start the abatement process.

Pool House Update- The preliminary report to become designated historical has been approved. Hoping to add the pool house as the 4<sup>th</sup> historical location in Herington.

Herington City Lake and Reservoir Master Plan RFQ Update – 4 firms met with the interview panel. The individuals on the panel are working on grading the engineers on a matrix to bring a recommendation at the next meeting.

Ordinance 1827 – Added check in time of 12pm and check out time of 11am. Changed ordinance to include both the lake and the reservoir in one ordinance. This ordinance will repeal 1827. Mayor Urbanek motioned to approve the Ordinance in the next sequential order, seconded by Commissioner Bell. Motion carried 4-0.

Audit Services Contract with Vogel Pierce Faris Chartered. Commissioner Bell made a motion to approve the contract with Vogel Pierce Faris Chartered for the Annual City Audit not to exceed \$15,300 and to authorize Mayor Urbanek to sign, seconded by Mayor Urbanek. Motion carried 4-0.

KMEA Board of Directors Appointment for David Kahle term to expire April 30, 2023. Mayor Urbanek motioned to appoint David Kahle to the KMEA board of directors' term to expire April 30, 2023, seconded by Commissioner Bell. Motion carried 4-0.

Trapp Street CCLIP-Bids – Mayor Urbanek motioned to approve the engineering bid from Kay Valley Engineering for the Trapp Street CCLIP project for \$11,700, seconded by Commissioner Donahue. Motion carried 4-0.

Hilltop Advisory Board – Joan Matten – Renewal – Term to expire May 10, 2025. Commissioner Castleberry motioned to approve Joan Matten to the Hilltop Advisory Board term to expire May 10, 2025, seconded by Commissioner Donahue. Motion carried 4-0.

City Manager Comments – Senate bill 87 died but may be a possibility in the future. Ended up filling 10 dumpsters during the city wide clean up, approximately 40 tons and 2 dumpsters of metal. Met with Tandi to renew the swim team and airport insurance for \$1089 and \$3564, respectively. One layer of asphalt has been laid at the lake, anticipating 4 or 5 more hopefully before Memorial Day, the county will charge quarterly, and the first bill received was approximately \$2000. Branden met with the saddle club; horseback riding will be allowed near the reservoir from June 1 to August 31. Received some grant money for the Airport, hoping to use it for a hot water heater and a touchless sink. Branden is planning on attending upcoming airport meetings. Current Airport manager suggested hiring a fixed based operator to increase revenue at the Airport.

Commissioner Castleberry – Asked the City Manager to provide the exact numbers made on the metal from city wide clean up. Asked about the roads on the back side of the lake.

Commissioner Donahue – Clarified the amounts of the insurance policies renewed for the swim team and airport. Asked when they could expect the electric rate study. Branden said the study was in KMEA's and we will have it back in June. Commissioner Donahue pointed out that getting it back sooner will help with the budget process.

Commissioner Bell – Nothing.

Mayor Urbanek – Asked if the motion to dismiss for the Danzman case was complete.

Commissioner Castleberry made a motion to adjourn, seconded by Commissioner Donahue. Motion carried 4-0.

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Megan Lawrenz, City Clerk

DRAFT

Herington City Lake and Reservoir Master Plan Services

Decision Matrix

Selection Criteria	VALUE	KEY PERSONNEL AND QUALIFICATIONS					PROJECT UNDERSTANDING AND APPROACH		SUM
		Written quality, clarity, and detail	Firm experience	Qualifications and past performance of project lead	Qualifications and past performance of key personnel	Demonstrate project understanding	Documented approach, communication, and responsiveness		
Strategies	Weighting Factor (WF)	0.00	0.10	0.15	0.20	0.15	0.20	0.20	1.0
SWT Design	*Rating Factor (RF)	9	9	9	9	9	10	9	
	WF x RF	0.90	1.35	1.80	1.35	2.00	1.80	1.80	9.20
Land3	*Rating Factor (RF)	7	8	8	8	8	8	8	
	WF x RF	0.70	1.20	1.20	1.20	1.20	1.50	1.50	7.90
Olson	*Rating Factor (RF)	8	7	8	7	8	7	7	
	WF x RF	0.80	1.05	1.60	1.05	1.60	1.40	1.40	7.50
Confluence	*Rating Factor (RF)	9	10	10	10	9	9	9	
	WF x RF	0.90	1.50	2.00	1.50	1.80	1.80	1.80	9.50

Committee Member Signature: Josh Lowert

Firm/Team	Average Total
SWT Design	8.05
Land3	7.52
Olson	7.83
Confluence	8.87

Selection Criteria	VALUE	KEY PERSONNEL AND QUALIFICATIONS					PROJECT UNDERSTANDING AND APPROACH		SUM
		Written quality, clarity, and detail	Firm experience	Qualifications and past performance of project lead	Qualifications and past performance of key personnel	Demonstrate project understanding	Documented approach, communication, and responsiveness		
Strategies	Weighting Factor (WF)	0.00	0.10	0.15	0.20	0.15	0.20	0.20	1.0
SWT Design	*Rating Factor (RF)	8	7	8	8	8	7	7	
	WF x RF	0.80	1.05	1.60	1.30	1.60	1.40	1.40	7.65
Land3	*Rating Factor (RF)	6	6	8	6	7	8	8	
	WF x RF	0.60	0.90	1.60	0.90	1.40	1.60	1.60	7.00
Olson	*Rating Factor (RF)	8	8	9	8	8	8	8	
	WF x RF	0.80	1.20	1.80	1.20	1.60	1.60	1.60	8.20
Confluence	*Rating Factor (RF)	9	8	9	8	9	9	9	
	WF x RF	0.90	1.20	1.80	1.20	1.80	1.80	1.80	8.70

Committee Member Signature: Brianne Davis

Selection Criteria	VALUE	KEY PERSONNEL AND QUALIFICATIONS					PROJECT UNDERSTANDING AND APPROACH		SUM
		Written quality, clarity, and detail	Firm experience	Qualifications and past performance of project lead	Qualifications and past performance of key personnel	Demonstrate project understanding	Documented approach, communication, and responsiveness		
Strategies	Weighting Factor (WF)	0.00	0.10	0.15	0.20	0.15	0.20	0.20	1.0
SWT Design	*Rating Factor (RF)	6	8	8	8	8	7	7	
	WF x RF	0.60	1.20	1.60	1.20	1.60	1.40	1.40	7.60
Land3	*Rating Factor (RF)	8	9	8	9	9	8	8	
	WF x RF	0.80	1.35	1.60	1.35	1.80	1.60	1.60	8.50
Olson	*Rating Factor (RF)	5	8	9	9	7	8	8	
	WF x RF	0.50	1.20	1.80	1.35	1.40	1.60	1.60	7.85
Confluence	*Rating Factor (RF)	10	10	9	9	10	9	9	
	WF x RF	1.00	1.50	1.80	1.35	2.00	1.80	1.80	9.45

Committee Member Signature: Leo Schwaner

Selection Criteria	VALUE	KEY PERSONNEL AND QUALIFICATIONS					PROJECT UNDERSTANDING AND APPROACH		SUM
		Written quality, clarity, and detail	Firm experience	Qualifications and past performance of project lead	Qualifications and past performance of key personnel	Demonstrate project understanding	Documented approach, communication, and responsiveness		
Strategies	Weighting Factor (WF)	0.00	0.10	0.15	0.20	0.15	0.20	0.20	1.0
SWT Design	*Rating Factor (RF)	7	9	9	8	9	9	9	
	WF x RF	0.70	1.35	1.80	1.20	1.80	1.80	1.80	8.65
Land3	*Rating Factor (RF)	8	9	9	8	9	9	9	
	WF x RF	0.80	1.35	1.80	1.20	1.80	1.80	1.80	8.75
Olson	*Rating Factor (RF)	9	9	9	9	7	9	9	
	WF x RF	0.90	1.35	1.80	1.35	1.40	1.80	1.80	8.60
Confluence	*Rating Factor (RF)	8	8	8	8	8	8	9	
	WF x RF	0.80	1.20	1.60	1.20	1.60	1.80	1.80	8.20

Committee Member Signature: Steven Thompson

Selection Criteria	VALUE	KEY PERSONNEL AND QUALIFICATIONS					PROJECT UNDERSTANDING AND APPROACH		SUM
		Written quality, clarity, and detail	Firm experience	Qualifications and past performance of project lead	Qualifications and past performance of key personnel	Demonstrate project understanding	Documented approach, communication, and responsiveness		
Strategies	Weighting Factor (WF)	0.00	0.10	0.15	0.20	0.15	0.20	0.20	1.0
SWT Design	*Rating Factor (RF)	8	8	8	8	8	8	8	
	WF x RF	0.80	1.20	1.60	1.20	1.60	1.60	1.60	8.00
Land3	*Rating Factor (RF)	6	6	6	6	6	6	6	
	WF x RF	0.60	0.90	1.20	0.90	1.20	1.20	1.20	6.00
Olson	*Rating Factor (RF)	7	7	7	7	7	7	7	
	WF x RF	0.70	1.00	1.40	1.00	1.40	1.40	1.40	7.00
Confluence	*Rating Factor (RF)	9	9	9	9	9	9	9	
	WF x RF	0.90	1.35	1.80	1.35	1.80	1.80	1.80	8.00

Committee Member Signature: Mary Beth Urbank

Selection Criteria	VALUE	KEY PERSONNEL AND QUALIFICATIONS					PROJECT UNDERSTANDING AND APPROACH		SUM
		Written quality, clarity, and detail	Firm experience	Qualifications and past performance of project lead	Qualifications and past performance of key personnel	Demonstrate project understanding	Documented approach, communication, and responsiveness		
Strategies	Weighting Factor (WF)	0.00	0.10	0.15	0.20	0.15	0.20	0.20	1.0
SWT Design	*Rating Factor (RF)	5	6	8	8	7	8	8	
	WF x RF	0.50	0.90	1.60	1.20	1.40	1.60	1.60	7.20
Land3	*Rating Factor (RF)	8	6	7	7	7	7	7	
	WF x RF	0.80	0.90	1.40	1.05	1.40	1.40	1.40	6.95
Olson	*Rating Factor (RF)	8	7	8	8	8	8	8	
	WF x RF	0.80	1.05	1.60	1.20	1.60	1.60	1.60	7.85
Confluence	*Rating Factor (RF)	8	8	8	9	9	8	8	
	WF x RF	0.80	1.20	1.60	1.35	1.80	1.60	1.60	8.35

Committee Member Signature: Chuck Scott

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**From:** Philip Griffin  
**Sent:** Tuesday, May 4, 2021 10:51 AM  
**To:** sally41hc@gmail.com  
**Subject:**

It sure looks like the vacant lot is not included in your ownership, however, there are still a couple of issues to look at:

- On the county website, the ownership of Lot 20 (vacant lot) is vested in HMI. County websites can be wrong, but one would think that Lot 20 would still be vested with the City, not HMI.
- Your RE estate tax bill includes Lot 20, so that issue would need to be rectified before closing. If the lot is not included, then the lot needs to be removed from your tax roll. I know it is not much in taxes, but still shouldn't be there.

I will send the site plan separately.

Philip Griffin, CHA  
High Plains Management & Development, LLC  
Office/Voice Mail ~~913-894-5631~~  
Office Fax ~~913-894-0284~~  
Cell ~~913-219-5983~~  
•|||||•





August 15, 2017

Herington Motel Investors, LLC  
att: Vance Donahue  
410 S Broadway  
Herington, KS 67449

Dear Herington Motel Investors, LLC;

Enclosed is your Warranty Deed and Owner's Policy of Title Insurance issued in the amount of \$450,000.00. The premium is paid in full, and the coverage continues as long as Herington Motel Investors, LLC owns the real estate. You should read the policy very carefully and keep it in a safe place.

If anyone ever makes a claim of interest in the title to your real estate, please let us know at once.

Our Company has been the leader for quality title evidence for over 65 years. We would appreciate your consideration for future title needs.

Thank you for the opportunity to handle this transaction.

Sincerely,

Security 1<sup>st</sup> Title, LLC

Judy Argyle  
Policy Department Manager



Entered in Transfer Record in my office this 30 day of June, 2017 A.D.  
Barbara M. Jones Co. Clerk  
Blaney Stone Deputy Co. Clerk



STATE OF KANSAS, DICKINSON COUNTY  
Karen J. Freeman, Register of Deeds  
Book: D258 Page: 413-415  
Receipt #: 267092 Recording Fee: \$46.00  
Pages Recorded: 3 Authorized By: Karen J. Freeman  
Cashier Initials: JF  
Date Recorded: 6/30/2017 11:08:18 AM

XJW

MA

This Deed is exempt from filing a Real Estate Sales Validation Questionnaire pursuant to Exception No. 2 of K.S.A. 79-1437(e) and is made for the purpose of releasing an ownership interest in property which provided security for a debt or other obligation.

SPECIAL WARRANTY DEED

THIS INDENTURE, made as of the 30<sup>th</sup> day of June, 2017, by and between the City of Herington, Kansas, a municipal corporation duly organized and existing under the laws of the State of Kansas and located in Dickinson County, Kansas (the "Grantor"), and Herington Motel Investors, LLC, a Kansas limited liability company (the "Grantee").

WITNESSETH: That Grantor, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents grant, bargain, sell and convey to Grantee, its successors and assigns, all of Grantor's interest in the real property situated in Dickinson County, Kansas, specifically described on Schedule I attached hereto and incorporated hereby.

Grantor hereby covenants that its interest as conveyed hereby is conveyed free and clear of all liens and encumbrances except (i) those liens and encumbrances to which title to the described property was subject when conveyed to Grantor; (ii) those liens and encumbrances created by the Grantee or to the creation or suffering of which the Grantee has consented; (iii) those liens and encumbrances resulting from the failure of the Grantee to perform and observe any of the agreements on its part contained in the Lease under which it has heretofore occupied the described property; (iv) the rights of the public in and to any part of the described property lying or being in public roads, streets, alleys or highways; (v) any unpaid taxes or assessments, general or special; and (vi) the rights, titles and interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the described property; and further covenants that it will warrant and defend the same in the quiet and peaceable possession of Grantee, its successors and assigns, forever, against all persons claiming the same through Grantor.

After recording, return to:  
TRIPLETT WOLF GARRETSON, LLC  
Attn: J. T. Klaus  
2959 N. Rock Road, Suite 300  
Wichita, Kansas 67226  
Telephone: (316) 630-8100



**EXHIBIT "A"**

**Lot 19 and the North 10.0 feet of Lot 20, Herington Industrial Park, First Plat, in the City of Herington, Dickinson County, Kansas, Except all mineral rights, including Oil and Gas, that may be on, in, under, or produced from the above described real property, and the right and privilege of making and delivering leases and contracts for the extraction or production of Minerals, Oil, or Gas therefrom, reserved by Harold A. Sigle and Eddlene M. Sigle in a certain Warranty Deed dated January 15, 1983, and recorded in Deed Book 199, page 578.**



# Chicago Title Insurance Company

POLICY NO.: 131716-1-2209213-2017.7230672-211982748

## OWNER'S POLICY OF TITLE INSURANCE

Issued by

*Chicago Title Insurance Company*

*Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.*

### COVERED RISKS

*SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:*

1. *Title being vested other than as stated in Schedule A.*
2. *Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from*
  - (a) *A defect in the Title caused by*
    - (i) *forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation*
    - (ii) *failure of any person or Entity to have authorized a transfer or conveyance,*
    - (iii) *a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;*
    - (iv) *failure to perform those acts necessary to create a document by electronic means authorized by law;*
    - (v) *a document executed under a falsified, expired, or otherwise invalid power of attorney;*
    - (vi) *a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or*
    - (vii) *a defective judicial or administrative proceeding.*
  - (b) *The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.*
  - (c) *Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.*
3. *Unmarketable Title.*
4. *No right of access to and from the Land.*
5. *The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to*
  - (a) *the occupancy, use, or enjoyment of the Land;*
  - (b) *the character, dimensions, or location of any improvement erected on the Land,*
  - (c) *the subdivision of land, or*
  - (d) *environmental protection**if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.*
6. *An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.*
7. *The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.*
8. *Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.*
9. *Title being vested other than as stated Schedule A or being defective*
  - (a) *as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or*
  - (b) *because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records*
    - (i) *to be timely, or*
    - (ii) *to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.*
10. *Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.*

*The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.*

*IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.*

Agent File #: 2209213  
Security 1st Title, LLC - 785-263-7722  
209 NW 15th, PO Box 503, Abilene, KS 67410

CHICAGO TITLE INSURANCE COMPANY

By:

Authorized Signatory  
Judy C. Argyle



ATTEST

President

Secretary

Countersigned:



## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10), or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
  - (i) The term "Insured" also includes
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
    - (C) successors to an Insured by its conversion to another kind of Entity;
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      - (2) if the grantee wholly owns the named Insured,
      - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.
  - (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens

filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A. (k)

"Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

### 5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary

or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

#### **6. DUTY OF INSURED CLAIMANT TO COOPERATE**

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

#### **7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay, or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

#### **8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance, or (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

#### **9. LIMITATION OF LIABILITY**

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

#### **10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY**

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

#### **11. LIABILITY NONCUMULATIVE**

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

#### **12. PAYMENT OF LOSS**

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

#### **13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT**

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

#### **14. ARBITRATION (INAPPLICABLE IN KANSAS AND MISSOURI)**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the

transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

**16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**17. CHOICE OF LAW; FORUM**

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, P. O. Box 45023, Jacksonville, Florida 32232-5023.



# OWNER'S POLICY OF TITLE INSURANCE

Issued by

*Chicago Title Insurance Company*

## SCHEDULE A

Name and Address of Title Insurance Company:  
**CHICAGO TITLE INSURANCE COMPANY**  
106 W 11th St  
Suite 1800, Kansas City, Missouri 64105

File No.: 2209213

Policy No.: 7230672-211982748

Address Reference: 565 Highway 77, Herington, KS 67449

Amount of Insurance: \$450,000.00

Date of Policy: June 30, 2017, at 11:09 am

1. Name of Insured:

**Herington Motel Investors, LLC, a Kansas limited liability company**

2. The estate or interest in the Land that is insured by this policy is:

**Fee Simple**

3. Title is vested in:

**Herington Motel Investors, LLC, a Kansas limited liability company**

4. The Land referred to in this policy is described as follows:

**Lot 19 and the North 10.0 feet of Lot 20, Herington Industrial Park, First Plat, in the City of Herington, Dickinson County, Kansas, Except all mineral rights, including Oil and Gas, that may be on, in, under, or produced from the above described real property, and the right and privilege of making and delivering leases and contracts for the extraction or production of Minerals, Oil, or Gas therefrom, reserved by Harold A. Sigle and Eddlene M. Sigle in a certain Warranty Deed dated January 15, 1983, and recorded in Deed Book 199, page 578.**

# OWNER'S POLICY OF TITLE INSURANCE

Issued by

**Chicago Title Insurance Company**

## SCHEDULE B

File No.: 2209213

Policy No.: 7230672-211982748

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Deleted.
2. Deleted.
3. Easements or claims of easements, not shown by the public records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
5. Deleted.
6. Taxes or special assessments which are not shown as existing liens by the public records.
7. **Mortgage dated June 30, 2017, executed by Herington Motel Investors, LLC, a Kansas Limited Liability Company to Central National Bank, filed June 30, 2017, in Book M379, Page 62, which states it secures a debt in the principal sum of \$250,000.00.**
8. **General taxes and special assessments for the year 2017 and subsequent years not yet due and payable.**
9. **Easements, setback lines or servitudes, if any, reflected on the plat of said land or otherwise appearing in the public records.**
10. **Rights of the owners of the mineral estate as conveyed or reserved on/in Deed Book 199, page 578, and of the parties claiming thereunder.**
11. **Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exceptions, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interest or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.**
12. **Rights of parties in possession under unrecorded leases.**
13. **Subject to existing road, street or highway rights of way.**



August 15, 2017

Herington Motel Investors, LLC  
att: Vance Donahue  
410 S Broadway  
Herington, KS 67449

Dear Herington Motel Investors, LLC;

Enclosed is your Warranty Deed and Owner's Policy of Title Insurance issued in the amount of \$450,000.00. The premium is paid in full, and the coverage continues as long as Herington Motel Investors, LLC owns the real estate. You should read the policy very carefully and keep it in a safe place.

If anyone ever makes a claim of interest in the title to your real estate, please let us know at once.

Our Company has been the leader for quality title evidence for over 65 years. We would appreciate your consideration for future title needs.

Thank you for the opportunity to handle this transaction.

Sincerely,

Security 1<sup>st</sup> Title, LLC

Judy Argyle  
Policy Department Manager



Entered in Transfer Record in my office this 30 day of June, 2017 A.D.  
Barbara M. Jones  
Deputy Co. Clerk



STATE OF KANSAS, DICKINSON COUNTY  
Keren J. Freeman, Register of Deeds  
Book: 0258 Page: 413-415

Receipt #: 267092  
Pages Recorded: 3  
Cashier Initials: JF

Recording Fee: \$46.00  
Authorized By: Karen J. Freeman

Date Recorded: 8/30/2017 11:08:18 AM

XJJ

[Handwritten mark]

This Deed is exempt from filing a Real Estate Sales Validation Questionnaire pursuant to Exception No. 2 of K.S.A. 79-1437(e) and is made for the purpose of releasing an ownership interest in property which provided security for a debt or other obligation.

SPECIAL WARRANTY DEED

THIS INDENTURE, made as of the 30<sup>th</sup> day of June, 2017, by and between the City of Herington, Kansas, a municipal corporation duly organized and existing under the laws of the State of Kansas and located in Dickinson County, Kansas (the "Grantor"), and Herington Motel Investors, LLC, a Kansas limited liability company (the "Grantee").

WITNESSETH: That Grantor, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents grant, bargain, sell and convey to Grantee, its successors and assigns, all of Grantor's interest in the real property situated in Dickinson County, Kansas, specifically described on Schedule I attached hereto and incorporated hereby.

Grantor hereby covenants that its interest as conveyed hereby is conveyed free and clear of all liens and encumbrances except (i) those liens and encumbrances to which title to the described property was subject when conveyed to Grantor; (ii) those liens and encumbrances created by the Grantee or to the creation or suffering of which the Grantee has consented; (iii) those liens and encumbrances resulting from the failure of the Grantee to perform and observe any of the agreements on its part contained in the Lease under which it has heretofore occupied the described property; (iv) the rights of the public in and to any part of the described property lying or being in public roads, streets, alleys or highways; (v) any unpaid taxes or assessments, general or special; and (vi) the rights, titles and interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the described property; and further covenants that it will warrant and defend the same in the quiet and peaceable possession of Grantee, its successors and assigns, forever, against all persons claiming the same through Grantor.

After recording, return to:

TRIPLETT WOOLF GARRETSON, LLC  
Attn: J. T. Klaus  
2959 N. Rock Road, Suite 300  
Wichita, Kansas 67226  
Telephone: (316) 630-8100

IN WITNESS WHEREOF, we have hereunto set our hands and affixed the official seal of the City of Herington, Kansas for delivery as of the date set forth above.

CITY OF HERINGTON, KANSAS

[seal]

Kathleen Souza  
Kathleen Souza, Mayor

ATTEST:

Brenda Wildman  
Brenda Wildman, City Clerk

“ISSUER”

ACKNOWLEDGMENT

STATE OF KANSAS                    )  
  )  
COUNTY OF DICKINSON            )        ss:

BE IT REMEMBERED that on this 6 day of June, 2017, before me, a notary public in and for said County and State, came Kathleen Souza and Brenda Wildman, Mayor and City Clerk, respectively, of the City of Herington, Kansas, a municipal corporation of the State of Kansas, 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.

Julie M Newbury  
Notary Public

My Appointment Expires:

06-17-2017



**EXHIBIT "A"**

**Lot 19 and the North 10.0 feet of Lot 20, Herington Industrial Park, First Plat, in the City of Herington, Dickinson County, Kansas, Except all mineral rights, including Oil and Gas, that may be on, in, under, or produced from the above described real property, and the right and privilege of making and delivering leases and contracts for the extraction or production of Minerals, Oil, or Gas therefrom, reserved by Harold A. Sigle and Eddlene M. Sigle in a certain Warranty Deed dated January 15, 1983, and recorded in Deed Book 199, page 578.**



# Chicago Title Insurance Company

POLICY NO.: 131716-1-2209213-2017.7230672-211982748

## OWNER'S POLICY OF TITLE INSURANCE

Issued by

*Chicago Title Insurance Company*

*Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.*

### COVERED RISKS

*SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:*

1. *Title being vested other than as stated in Schedule A.*
2. *Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from*
  - (a) *A defect in the Title caused by*
    - (i) *forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation*
    - (ii) *failure of any person or Entity to have authorized a transfer or conveyance.*
    - (iii) *a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;*
    - (iv) *failure to perform those acts necessary to create a document by electronic means authorized by law;*
    - (v) *a document executed under a falsified, expired, or otherwise invalid power of attorney;*
    - (vi) *a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or*
    - (vii) *a defective judicial or administrative proceeding.*
  - (b) *The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.*
  - (c) *Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land*
3. *Unmarketable Title.*
4. *No right of access to and from the Land.*
5. *The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to*
  - (a) *the occupancy, use, or enjoyment of the Land;*
  - (b) *the character, dimensions, or location of any improvement erected on the Land.*
  - (c) *the subdivision of land; or*
  - (d) *environmental protection**if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.*
6. *An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice*
7. *The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.*
8. *Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without knowledge.*
9. *Title being vested other than as stated Schedule A or being defective*
  - (a) *as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws, or*
  - (b) *because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records*
    - (i) *to be timely; or*
    - (ii) *to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.*
10. *Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.*

*The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions*

*IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.*

Agent File #: 2209213  
Security 1st Title, LLC - 785-263-7722  
209 NW 15th, PO Box 503, Abilene, KS 67410

CHICAGO TITLE INSURANCE COMPANY

By:

ATTEST

President

Countersigned

Authorized Signatory  
Judy C. Argyle



Secretary



## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions or location of any improvement erected on the Land;
  - (iii) the subdivision of land, or
  - (iv) environmental protectionor the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A
  - (i) The term "Insured" also includes
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
    - (C) successors to an Insured by its conversion to another kind of Entity;
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      - (2) if the grantee wholly owns the named Insured,
      - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.
    - (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
  - (e) "Insured Claimant": An Insured claiming loss or damage.
  - (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title
  - (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
  - (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law
  - (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens

filed in the records of the clerk of the United States District Court for the district where the Land is located.

- (j) "Title": The estate or interest described in Schedule A. (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage

### 5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary



or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

#### **6. DUTY OF INSURED CLAIMANT TO COOPERATE**

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

#### **7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

##### **(a) To Pay or Tender Payment of the Amount of Insurance.**

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

##### **(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.**

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

#### **8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

#### **9. LIMITATION OF LIABILITY**

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

#### **10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY**

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

#### **11. LIABILITY NONCUMULATIVE**

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

#### **12. PAYMENT OF LOSS**

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

#### **13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT**

(a) Whenever the Company has settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

#### **14. ARBITRATION (INAPPLICABLE IN KANSAS AND MISSOURI)**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the

transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

**16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**17. CHOICE OF LAW; FORUM**

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, P. O. Box 45023, Jacksonville, Florida 32232-5023.



# OWNER'S POLICY OF TITLE INSURANCE

Issued by

*Chicago Title Insurance Company*

## SCHEDULE A

Name and Address of Title Insurance Company:  
**CHICAGO TITLE INSURANCE COMPANY**  
106 W 11th St  
Suite 1800, Kansas City, Missouri 64105

File No.: 2209213

Policy No.: 7230672-211982748

Address Reference: 565 Highway 77, Herington, KS 67449

Amount of Insurance: \$450,000.00

Date of Policy: June 30, 2017, at 11:09 am

1. Name of Insured:

**Herington Motel Investors, LLC, a Kansas limited liability company**

2. The estate or interest in the Land that is insured by this policy is:

**Fee Simple**

3. Title is vested in:

**Herington Motel Investors, LLC, a Kansas limited liability company**

4. The Land referred to in this policy is described as follows:

**Lot 19 and the North 10.0 feet of Lot 20, Herington Industrial Park, First Plat, in the City of Herington, Dickinson County, Kansas, Except all mineral rights, including Oil and Gas, that may be on, in, under, or produced from the above described real property, and the right and privilege of making and delivering leases and contracts for the extraction or production of Minerals, Oil, or Gas therefrom, reserved by Harold A. Sigle and Eddlene M. Sigle in a certain Warranty Deed dated January 15, 1983, and recorded in Deed Book 199, page 578.**

# OWNER'S POLICY OF TITLE INSURANCE

Issued by

**Chicago Title Insurance Company**

## SCHEDULE B

File No.: 2209213

Policy No.: 7230672-211982748

### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Deleted.
2. Deleted.
3. Easements or claims of easements, not shown by the public records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
5. Deleted.
6. Taxes or special assessments which are not shown as existing liens by the public records.
7. Mortgage dated June 30, 2017, executed by Herington Motel Investors, LLC, a Kansas Limited Liability Company to Central National Bank, filed June 30, 2017, in Book M379, Page 62, which states it secures a debt in the principal sum of \$250,000.00.
8. General taxes and special assessments for the year 2017 and subsequent years not yet due and payable.
9. Easements, setback lines or servitudes, if any, reflected on the plat of said land or otherwise appearing in the public records.
10. Rights of the owners of the mineral estate as conveyed or reserved on/in Deed Book 199, page 578, and of the parties claiming thereunder.
11. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exceptions, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interest or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.
12. Rights of parties in possession under unrecorded leases.
13. Subject to existing road, street or highway rights of way.