

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
December 5, 2023
6:00 p.m.

1. Pledge of Allegiance

2. Call to Order

3. Public Forum

4. Additional Agenda Items:

5. Approval of Agenda

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

6. Consent Agenda

i. Minutes of the Regular November 21, 2023

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

7. Open - Public Hearing for 219, W Trapp St, Herington, Kansas

8. Close Public Hearing

9. Discussion and further action on 219 W Trapp St.

10. Discussion on Continuation of UPTICC Program and budget for 2024/2025

11. Consider Comprehensive Plan Master Services Agreement and Work order and Approve funding in the amount of \$20,000 for the plan to be completed

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

12. Executive Session – Executive Session – I move that the Herington 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
- _____

13. City Manager Comments

14. Commissioner Comments

15. Adjourn

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek, Commissioner Gares, Mayor Bell

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.

**Regular Meeting
November 21, 2023
6:00 p.m.**

The Herington City Commission met on the above date and time in the commission chambers at City Hall. In attendance were Mayor Robbin Bell, Commissioner Eric Gares, Commissioner Debi Urbanek, and Commissioner Dan McDonald, absent was Commissioner Ben Castleberry. Also in attendance were City Manager Thatcher Moddie, City Attorney Brad Jantz, City Clerk Megan Lawrenz, Chief of Police Chad Langley, Fire Chief Andrew Avantagiato, Neighborhood Services Director James Masters, Electric Superintendent David Kahle, John Bell, Maggie Eades, Christine McDonald, Larry Mann, Zachary Feist, Carl Urbanek, Shianne Davis, Janet Wade, Bryan Parrish, Jonathan Murphy, and Cynthia Naylor.

The meeting opened with the Pledge of Allegiance.

Mayor Bell called the meeting to order.

Public Forum – None.

Additional Agenda Items – 7a D&A Variance for Ampride Cooler Expansion.

Approval of Agenda – Commissioner Gares made a motion to approve the agenda, seconded by Commissioner Urbanek. Motion carried 4-0.

Consent Agenda – Commissioner Urbanek made a motion to approve the following consent agenda items Minutes of the Regular November 7, 2023, Approval of the September 20, 2023, CVB Minutes, Approval of the October 10, 2023, Library Board Minutes, seconded by Commissioner Gares. Motion carried 4-0.

Presentation from Memorial Health System on potential Downtown Health Clinic – Harold Courtois, Elgin Glanzer, Lease has been signed at former eye doctors. Working to get approved from CMS and the state of Kansas, also working on staff credentials. Anticipate 90 days. Equipment is currently being purchased. March/April time frame to open.

7a - D&A Variance for Ampride Cooler Expansion – Maggie Eades had submitted a variance on 9/22, revisited James in October, and spoke with Thatcher. On 11/19 she refiled the variance, city will deed over property. Planning and Zoning won't meet until January 2024.

Update from Police Chief – There were 321 calls for service with 78 traffic stops, 6 misdemeanor arrests and 1 felony arrent. Officer Walker is almost complete with FTO process. The department is looking for maintenance projects around the public safety building to use remaining 2023 budget funds.

Update from Fire Chief – There were 62 calls for service including 1 grass fire, 42 medical assists, 3 motor vehicle accidents with injuries, 1 extrication of victim from vehicle, 1 gasoline spill, 1 gas leak, 1 oil spill, 1 electrical problem, 1 smoke odor, 1 unauthorized burning, 2 good intent calls, 1 dispatch/cancelled enroute, 4 authorized burnings and 1 unintentional smoke detector activation. The department is still looking for volunteers. Equipment updates: KSFM office turnout gear application was awarded one set of turnout gear valued at \$4,932.27. Tender arrived, total cost with equipment and fees approximately \$55,000 for the city, would be \$369,000 purchased new. Rescue is in service total cost for the city \$44,000, total paid for the vehicle \$220,000, if purchased new \$1.8 million.

Update from Neighborhood Services Director – There were 4 complaints and 56 inspections. There were 12 grass inspections with 4 violations written, 3 cut orders issued and 4 yards mowed. There was one no-occupancy violation. There were 13 building permits issued with 24 inspections. There were 7

inspections to connect utilities. There were 6 structural building inspections. James attended the Kansas Association of Code Enforcement classes from November 1-3 for continuing education points, classes covered were Residential Framing, Effective Local Government Management, Hording and Vacant Buildings and 4th Amendment Search and Seizure.

Executive Session – Mayor Bell made a motion that the Herington 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, and City Attorney with the open meeting to resume at 6:47pm, seconded by Commissioner Gares. Motion carried 4-0. The regular meeting resumed with no action taken.

Unseal and Award Bids for Demolition Properties – Commissioner Urbanek made a motion to award 507 N F and 211 N E to Dalkey for \$3,500 and \$10,500 respectively, seconded by Mayor Bell. Motion carried 4-0. Commissioner Gares made a motion to award 315 S A to Feist for \$17,985 and authorizes the 1/3 down payment, seconded by Commissioner Urbanek. Motion carried 4-0.

Consider Authorizing Purchase of Transformers for Electrical Department in the amount of \$46,249.00 for a total of 29 Transformers – Commissioner Gares made a motion to approve the purchase of 29 Electrical Transformers, seconded by Commissioner Urbanek. Motion carried 4-0.

Executive Session – Mayor Bell made a motion that the Herington City Commission recess into Executive Session, Pursuant to the Personnel matters of non-elected personnel exception, K.S.A. 75-4319(b)(1) in order to discuss personnel matters to include the following: Governing Body, City Manager and City Attorney if needed with the meeting to resume at 7:10pm, seconded by Commissioner Gares. Motion carried 4-0. The regular meeting resumed with no action taken.

City Manager Comments – Christmas tree lighting December 2nd. Will be at KS Association of City Managers Wednesday and Thursday next week. Filed the Logan Pointe grant for the 2nd time. Staff is working hard on winter weather preparations. Casey's progressing nicely. Concrete was poured at Homestead garage entry. City hall closed Thursday and Friday. Utility bills will be due Monday by close of business.

Commissioner Comments –

Commissioner McDonald – Wants staff to look at animal at large policies.

Commissioner Urbanek – None.

Commissioner Gares – Asked about entries into the public safety. Brought up moving the transformers to a fenced in location. Status of grant that was possibly received for Father Padilla.

Mayor Bell – Light at school is excellent. Thanked all city workers who participated. Branches near the lake roads.

Adjourn – Commissioner Gares made a motion to adjourn, seconded by Commissioner Urbanek. Motion carried 4-0.

Megan Lawrenz, City Clerk



THE CITY OF HERINGTON

P.O. Box 31 • 17 North Broadway • Herington, KS 67449

Telephone: (785) 258-2271

FAX: (785) 258-3552

October 27, 2023

Donna Sue Moore
201 E South St
Wellington, KS 67152

To whom it may concern,

This letter is in regard to the property located at:

219 W Trapp St, Herington, KS 67449

There has been great progress with the property and the structure. If the property is brought into code compliance by December 5th, 2023, there will be no need for a hearing. I will give a report that the property is in compliance with the city code concerning the violations that were cited in previous notices.

Attached is the resolution setting the hearing date.

If you have any questions concerning this letter, the resolution, or the structure please contact me at City Hall, 785-258-2271.

Thank you for your immediate attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "James Masters".

James Masters
Neighborhood Services Director
785-258-2271

*Resolution published twice weekly in the Dickinson County News Times on
October 25, 2023, and November 1, 2023.*

RESOLUTION NO. 992

A RESOLUTION OF THE CITY OF HERINGTON, KANSAS FIXING A TIME AND PLACE FOR SHOW CAUSE HEARING PURSUANT TO PURSUANT TO THE HERINGTON CITY CODE CHAPTER IV, ARTICLE 10, SECTION 4-1007 ET. SEQ. ADOPTED BY THE CITY OF HERINGTON, KANSAS.

WHEREAS, the City of Herington, Kansas is authorized to cause the repair or removal of certain structures and the removal of certain environmental code violations located within the City which may have become unsafe or dangerous.

WHEREAS, an updated inspection report has been received by the duly authorized building inspector for the City of Herington, Kansas and filed with the City of Herington on October 17, 2023, referencing possible unsafe or dangerous conditions of structure(s) including environmental code violations, on property which is located within the City of Herington, Kansas described as follows:

Legally described as follows:

A tract of land in the Northwest Quarter of Section 13, Township 16 South, Range 4 East of the 6th Principal Meridian, Dickinson County, Kansas Described as follows: Beginning at a point 60 feet South and 10 feet West of the Southeast corner of Block 130 in the city of Herington, Kansas; thence South 310 feet, thence East 240.9 feet, more or less, to West Boundary of tract Condemned by United States Government, in Civil Action No. 4853; thence North along said boundary line 310 feet; thence West 240.9 feet, more or less to the point of beginning.

Commonly known by Street Address as:

219 W Trapp Street, Herington, Kansas

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HERINGTON, KANSAS:

That the Governing Body has, pursuant to Herington City Code Chapter IV, Article 10, Section 4-1007 et. seq., as duly adopted by the City of Herington, Kansas, hereby authorized the fixing of a time and place for hearing at which the owner, her agent, any lienholders of record, and any occupant of such structure(s) may appear and show cause why such structure should not be condemned and ordered repaired or demolished and the yard abated of environmental code violations. The time and place of hearing is hereby established as December 5th, 2023, at 6 p.m., or as soon thereafter as is practicable, at the Herington City Hall, 17 N. Broadway, Herington, Kansas 67449.

BE IT FURTHER RESOLVED:

That a copy of this resolution shall be published once each week for two (2) consecutive weeks on the same day of each week. A copy of this resolution shall be mailed by certified mail within three (3) days after its publication to each owner, agent, lienholder, and occupant at his, her, or its last known address and that any owner who is a Kansas resident shall be personally served with three (3) days after publication in lieu of mailing the same.

ADOPTED AND APPROVED by the Governing Body of The City of Herington, Dickinson County, Kansas this 17TH day of October, 2023.

s/Robbin Bell
Robbin Bell, Mayor

ATTEST:

s/ Megan Lawrenz
Megan Lawrenz, City Clerk

Seal:



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Donna Sue Moore
 201 E South St
 Wellington, KS 67152



9590 9402 8092 2349 6626 78

2. Article Number (Transfer from service label)
 7020 1290 0001 3548 4684

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 X Donna Sue Moore Addressee
 B. Received by (Printed Name) C. Date of Delivery
Donna Sue Moore 10-30-2023
 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type Priority Mail Express®
 Adult Signature Registered Mail™
 Adult Signature Restricted Delivery Registered Mail Restricted Delivery
 Certified Mail® Signature Confirmation™
 Certified Mail Restricted Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery all Restricted Delivery

7020 1290 0001 3548 4684

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CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL RECEIPT

Certified Mail Fee	\$ 4.35	
Extra Services & Fees (check box, add fee to amount)		
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ 1.55	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	Postmark Here
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	\$ 0.63	
Total Postage and Fees	\$ 8.53	
Sent To: <u>Donna Sue Moore</u>		
Street and Apt. No., or PO Box No.: <u>201 E South St</u>		
City, State, ZIP+4®: <u>Wellington, KS 67152</u>		

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

November 28, 2023

Thatcher Moddie
City Manager
City of Herington
17 N. Broadway
Herington, Kansas 67449

Reference: MASTER SERVICES AGREEMENT (MSA)
City of Herington MSA
PEC Project No. 36-237359-000-7441

Dear Mr. Moddie:

Professional Engineering Consultants, P.A. (“PEC”) is pleased to provide professional services to City of Herington (“Client”) in accordance with this Master Services Agreement (“Agreement”). The specific services to be performed by PEC (the “Services”) for any project subject to this Agreement (each a “Project”) will be described in a written work order in the form of Exhibit A to this Agreement (“Work Order”). The parties’ rights and obligations under this Agreement shall also be governed by the following terms and conditions.

Term; Conflicts. This Agreement will commence on the effective date and continue in effect for a period of 7 years. Thereafter, it shall automatically renew for successive 1-year periods unless terminated by either party upon 3 calendar days’ written notice prior to the end of the then current term, or terminated earlier for cause. The parties agree that this Agreement, by itself, does not guarantee any future work, and neither party shall be obligated to execute any Work Order. With respect to any Work Order entered into prior to termination (except termination for cause), this Agreement shall continue in effect for the remaining term of the Work Order.

Each executed Work Order shall be incorporated into this Agreement reference. In the event of a conflict between this Agreement and a Work Order, the Work Order shall govern.

Client Responsibilities. To enable PEC to perform the Services, Client shall, at its sole expense: (1) provide all information and documentation regarding Client’s requirements as necessary for the orderly progress of the Services; (2) designate a person to act as Client’s representative with authority to transmit instructions, receive instructions and information, and interpret and define Client’s requirements and requests regarding the Services; (3) provide access to, and make all provisions for PEC to enter the Project site as required to perform the Services, including those provisions required to perform subsurface investigations such as, but not limited to, clearing of trees and vegetation, removal of fences or other obstructions, leveling the site, and providing access roadways to the site as needed; (4) site restoration and repair, as needed following field investigations; (5) establish and periodically update a Project budget, which shall include a contingency to cover additional services as may be required by changes in the Project; and (6) timely respond to requests for information and timely review and approve all design deliverables. PEC shall be entitled to rely on all information and services provided by Client.

Client recognizes field investigations may damage existing property. PEC will take reasonable precautions to minimize property damage whenever field investigations are included in the Services.

Payment. Invoices will be submitted periodically and are due and payable net 30 days from invoice date. Unpaid balances past due shall be subject to an interest charge at the rate of 1.5 % per month from the date of the invoice, and any related attorneys' fees and collection costs. PEC reserves the right to suspend the Services and withhold deliverables if the Client fails to make payment when due. In such an event, PEC shall have no liability for any delay to the Project or damage to Client or any third-party resulting from such suspension.

Work Product. PEC is the author and owner of all reports, drawings, specifications, test data, techniques, photographs, letters, notes, and all other work product, including in electronic form, created by PEC in connection with the Services (the "Work Product"). PEC retains all common law, statutory, and other reserved rights in the Work Product, including copyrights. The Work Product may not be reproduced or used by the Client, or anyone claiming by, through or under the Client, for any purpose other than the purpose for which it was prepared, including, but not limited to, use on other projects or future modifications to the Project, without the prior written consent of PEC. Any unauthorized use of the Work Product shall be at the user's sole risk and Client shall indemnify PEC for any liability or legal exposure arising from such unauthorized use. To the extent PEC terminates this Agreement due to non-payment by Client, Client shall not be entitled to use the Work Product for any purpose without the prior written consent of PEC.

Unless otherwise agreed by Client and PEC, Client may rely upon Work Product only in paper copy ("hard copy") or unalterable digital files, with either wet or digital signature meeting the requirements of the governing licensing authority having jurisdiction over the Project. In all instances, the original hard copy of the Work Product takes precedence over electronic files. All electronic files furnished by PEC are furnished only for convenience, not reliance by Client, and any reliance on such electronic files will be at the Client's sole risk.

Insurance. Client and PEC agree to each maintain statutory Worker's Compensation, Employer's Liability Insurance, General Liability Insurance, and Automobile Insurance coverage for the duration of this Agreement. Additionally, PEC will maintain Professional Liability Insurance for PEC's negligent acts, errors, or omissions in providing Services pursuant to this Agreement.

Change Orders. Changes in the Services may be accomplished after execution of this Agreement or any Work Order only by a written change order signed by Client and PEC. For any change that increases PEC's cost of, or time required for performance of any part of the Services, PEC's compensation and time for performance will be equitably increased.

Differing, Concealed, or Unknown Conditions. If PEC encounters conditions in performance of the Services that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the information provided to PEC, or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Project or Work Order, PEC will, if practicable, promptly notify Client before conditions are disturbed. Subsurface condition identification is limited to only those points where samples are taken.

The nature and extent of subsurface condition variations across a Project site may not become evident until construction commences. PEC assumes no liability for site variations differing from those sampled, or concealed or unknown conditions discovered during construction. If the differing, concealed, or unknown conditions cause an increase in PEC's cost of, or time required for performance of any part of the Services, PEC's compensation and time for performance will be equitably increased.

Additionally, Client (1) waives all claims against PEC and (2) agrees to indemnify and hold harmless PEC as well as its respective officers, directors and employees, from and against liability for claims, losses, damages, and expenses, including reasonable attorneys' fees from all claims, including third-party claims resulting from differing, concealed, or unknown conditions.

Fast-Track, Phased or Accelerated Schedule. Accelerated, phased or fast-track scheduling increases the risk of incurring unanticipated costs and expenses, including costs for PEC to coordinate and/or redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant construction documents, and costs for others to remove and replace previously installed work. If Client selects accelerated, phased or fast-track scheduling, Client agrees to include a contingency in the Project budget sufficient to cover such costs.

Force Majeure. PEC will not be liable to Client for delays in performing the Services or for any costs or damages that may result from: labor strikes; riots; war; acts of terrorism; acts or omissions of governmental authorities, the Project owner, Client or third-parties; extraordinary weather conditions or other natural catastrophes; acts of God; unanticipated site conditions; or other acts or circumstances beyond the control of PEC. In the event performance of the Services is delayed by circumstances beyond PEC's control, PEC's compensation and time for performance will be equitably increased.

Construction Means; Safety. PEC shall have no control over and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for construction safety precautions and programs. PEC shall not be responsible for the acts or omissions of any contractor, subcontractor or any other person performing any work (other than the Services), or for the failure of any of them to carry out their work in accordance with all applicable laws, regulations, codes and standards, or the construction documents.

Cost Estimates. Upon request, PEC may furnish estimates of probable cost, but cannot and does not guarantee the accuracy of such estimates. All estimates, including estimates of construction costs, financial evaluations, feasibility studies, and economic analyses of alternate solutions, will be made on the basis of PEC's experience and qualifications and will represent PEC's judgment as a design professional familiar with the construction industry. However, PEC has no control over (1) the cost of labor, material or equipment furnished by others, (2) market conditions, (3) contractors' methods of determining prices or performing work, or (4) competitive bidding practices. Accordingly, PEC will have no liability for bids or actual costs that differ from PEC's estimates.

Termination. Both Client and PEC have the right to terminate this Agreement for cause upon seven calendar days' written notice to the other party. In the event the PEC terminates this Agreement for cause, PEC shall be entitled to payment for all Services performed and expenses incurred up to the time of such termination, plus fees for any required transition services, and reimbursement of all costs and damages attributable to such termination.

Environmental Hazards. Client acknowledges that the Services do not include the detection, investigation, evaluation, or abatement of environmental conditions that PEC may encounter, such as mold, lead, asbestos, PCBs, hazardous substances (as defined by Federal, state or local laws or regulations), contaminants, or toxic materials that may be present at the Project site. Client agrees to defend, indemnify, and hold PEC harmless from any claims relating to the actual or alleged existence or discharge of such materials through no fault of PEC. PEC may suspend the Services, without liability for any damages, if it has reason to believe that its employees may be exposed to hazardous materials.

Betterment. PEC will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of any Project.

Dispute Resolution. The Client and PEC will endeavor to resolve claims, disputes and other matters in issue arising out of this Agreement, the Project or the Services through a meet and confer session. The meeting will be attended by senior representatives of Client and PEC who have full authority to resolve the claim. The meeting will take place within thirty (30) days after a request by either party, unless the parties mutually agree otherwise. Prior to the meeting, the parties will exchange relevant information that will assist in resolving the claim.

If the parties resolve the claim, they will prepare appropriate documentation memorializing the resolution. If the parties are unable to resolve the claim, Client and PEC agree to submit the claim (except PEC claims for nonpayment) to mediation prior to the initiation of any binding dispute resolution proceedings. The mediation will be held in Wichita, Kansas, and the parties will share the mediator's fees and expenses equally.

Jurisdiction; Venue; Governing Law. To the fullest extent permitted by law, Client and PEC stipulate that the Eighteenth Judicial District, District Court, Sedgwick County, Kansas is the court of exclusive jurisdiction and venue to determine any dispute arising out of or relating to this Agreement, the Project or the Services. Client and PEC further agree that this Agreement shall be construed, interpreted and governed in accordance with the laws of the State of Kansas without regard to its conflicts of laws principles.

Indemnity. To the fullest extent permitted by law, Client and PEC each agree to indemnify and hold harmless the other, as well as their respective officers, directors and employees, from and against liability for claims, losses, damages, and expenses, including reasonable attorneys' fees, provided such claim, loss, damage, or expense is attributable to bodily injury, sickness, disease, death, or property damage, but only to the extent caused by the negligent acts or omissions of the indemnifying party, or anyone for whose acts they may be liable.

Agreed Remedy. To the fullest extent permitted by law, the total liability, in the aggregate, of PEC and PEC's officers, directors, employees, agents, and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages, including, without limitation, attorneys' fees, arising out of or in any way related to this Agreement, the Services, or the Project, from any cause and under any theory of liability, shall not exceed PEC's total fee under the applicable Work Order. In no event will PEC be liable for any indirect, incidental, special or consequential damages, including, without limitation, loss of use or lost profits, incurred by Client or anyone claiming by, through or under Client.

Assignment. Neither Client nor PEC will assign any rights, duties, or interests accruing from this Agreement without the prior written consent of the other. This Agreement will be binding upon Client, PEC, and their successors and assigns.

No Third-Party Beneficiaries. This Agreement is solely for the benefit of Client and PEC. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of Client or PEC in favor of such third parties. Further, PEC assumes no obligations or duties other than the obligations to Client specifically set forth in this Agreement. PEC shall not be responsible for Client's obligations under any separate agreement with any third-party including, without limitation, any agreement between Client and a Project owner.

Performance. PEC will perform the Services with the level of care and skill ordinarily exercised by other consultants of the same profession under similar circumstances, at the same time, and in the same locality. PEC agrees to perform the Services in as timely a manner as is consistent with the professional standard of care and to comply with applicable laws, regulations, codes and standards that relate to the Services and that are in effect as of the date when the Services are provided.

Entire Agreement. This Agreement represents the entire and integrated agreement between Client and PEC and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may only be amended by a writing signed by Client and PEC.

Severability. If any provisions of this Agreement is determined to be unenforceable, in whole or in part, the remainder shall not be affected thereby and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

This Agreement is effective upon the later of the two dates below.

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

By: _____

Printed Name: Benjamin M. Mabry, P.E.

Title: VP Municipal Transportation Engineering

Date: _____

CITY OF HERINGTON

By: _____

Printed Name: _____

Title: _____

Date: _____

WORK ORDER NO. _____

This Work Order No. _____ is made as of this _____ day of _____, 20____, under the terms and conditions established in the Master Agreement between Client and Professional Consultant dated _____ (the “Master Services Agreement” between _____ (Client) and _____ (PEC). Except to the extend modified herein, all terms and conditions of the Master Services Agreement shall continue a full force and effect.

SECTION A – SERVICES

A.1 PEC shall perform the following services (collectively, the “Services”):

[Enter detailed scope of services]

A.2 In conjunction with the performance of the Services as described above, PEC shall provide the following submittals, documents or other deliverables to Contractor:

[Enter list of deliverables]

A.3 Exclusions:

[Enter list of exclusions]

SECTION B – SCHEDULE

PEC shall perform the Services and deliver the above documents according to the following:

[List milestone dates for performance of Services]

SECTION C – COMPENSATION

In return for the proper performance by Consultant of its Services, Client shall pay to PEC an amount not to exceed _____ Dollars (\$_____), payable according to the following terms:

[Enter payment terms and attach rate schedule if appropriate]

SECTION D – OTHER PROVISIONS

The parties agree to the following additional provisions with respect to this Work Order:

[Enter other provisions]

CLIENT

CONSULTANT

By: _____
Printed Name: _____
Title: _____
Date: _____

By: _____
Printed Name: _____
Title: _____
Date: _____

WORK ORDER NO. 23-01

This Work Order No. 23-01 is made as of this _____ day of _____, 2023, under the terms and conditions established in the Master Agreement between Client and PEC dated _____ (the “Master Services Agreement” between City of Herington (Client) and Professional Engineering Consultants, P.A. (PEC). Except to the extent modified herein, all terms and conditions of the Master Services Agreement shall continue a full force and effect.

SECTION A – SERVICES

A.1 PEC shall perform the following services (collectively, the “Services”):

1. See attached Exhibit A, Section D.

SECTION B – SCHEDULE

PEC shall perform the Services and deliver the above documents according to the following:

1. See attached Exhibit A, Section B.

SECTION C – COMPENSATION

In return for the proper performance by Consultant of its Services, Client shall pay to PEC an amount not to exceed Twenty Thousand Dollars (**\$20,000.00**), payable according to the following terms:

1. See attached Exhibit A, Section H.

SECTION D – OTHER PROVISIONS

The parties agree to the following additional provisions with respect to this Work Order:

1. None

CITY OF HERINGTON

**PROFESSIONAL ENGINEERING
CONSULTANTS, P.A.**

By: _____

By: _____

Printed Name: _____

Printed Name: Benjamin M. Mabry, P.E.

Title: _____

Title: VP Municipal Transportation Engineering

Date: _____

Date: _____

EXHIBIT A

A. Project Description:

1. The Project shall consist of providing planning services in support of CLIENT's update to its Comprehensive Land Use Plan.

B. Anticipated Project Schedule:

1. PEC shall commence its services on the Project within 7 days after receiving CLIENT's notice to proceed.
2. PEC and CLIENT agree that the scope of services will be completed in accordance with a mutually agreed upon schedule.
3. CLIENT acknowledges that directed changes, unforeseen conditions, and other delays may affect the completion of PEC's services. PEC will not have control over or responsibility for any CLIENT, contractor, or vendor's performance schedule.

C. Project Deliverables:

1. Herington Tomorrow – Comprehensive Land Use Plan Update (.pdf format)
 - a) Existing and Future Land Use Maps.

D. Scope of Services:

1. Herington Tomorrow – Comprehensive Plan Update:
 - a) Review and edit 12/21/2022 draft for accuracy and clarity.
 - b) Update document formatting to be consistent and engaging throughout.
 - c) Supplement existing data to complete a Community Profile – a short summary of the key demographic, population, and economic information.
 - d) Develop an existing land use map and future land use map.
 - e) Facilitate an in-person workshop with the Planning Commission to review:
 - i. Future land use map.
 - ii. Drafted goals and implementation strategies.
 - f) Revise goals and implementation strategies.
 - g) Facilitate virtual workshop with the Planning Commission to review final plan.
2. Project Management Services:
 - a) Provide project correspondence and consultation with CLIENT.
 - b) Provide quality control review prior to submission of project deliverables.

E. Additional Responsibilities of CLIENT:

The CLIENT agrees to provide the following pursuant to PEC accomplishing the Scope of Services outlined herein.

1. Attend all PROJECT progress meetings.
2. Write and send correspondence for meetings with Planning Commission.

F. Additional Services:

The following services can be provided by PEC at an additional cost by Supplemental Agreement:

1. Facilitation of an additional workshop with the Planning Commission or Governing Body.
2. Assist with Plan adoption process.
3. Provide site/corridor/area concepts.
4. Provide design guidelines.
5. Additional services associated with an expansion of the PROJECT or increase in PROJECT site and construction cost.

G. Exclusions:

The following shall be specifically excluded from the Scope of Services to be provided by PEC.

1. Printing costs.
2. Outside consultants.
3. Engineering design services.

H. PEC's Fees:

1. PEC's Fee for its Scope of Services will be on a lump sum basis in the amount of **\$20,000.00**.
2. Taxes are not included in PEC's Fees. CLIENT shall reimburse PEC for any sales, use, and value added taxes which apply to these services.