

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
March 5, 2024
6:00 p.m.**

1. Pledge of Allegiance
2. Call to Order
3. Public Forum
4. Approval of Agenda
Motion _____ Seconded _____ Action _____
Commissioner Naylor, Commissioner Scarff, Commissioner McDonald, Commissioner Bell,
Mayor Gares
5. Consent Agenda
 - I. Minutes of the Regular Commission Meeting February 20, 2024
 - II. Appointment of Jennifer Fredrick to HHA
 - III. Planning Commission Minutes, Special Meeting December 21, 2023
 - IV. Planning Commission Minutes, Regular Meeting January 23, 2024
6. Update from Dennis Vahsholtz on status of Father P Disc Golf Park Updates
7. Discussion on expanding Lake Disc Golf Course through partnership with Discs Unlimited; 15-year lease for Western Course expansion
Motion _____ Seconded _____ Action _____
Commissioner Naylor, Commissioner Scarff, Commissioner McDonald, Commissioner Bell,
Mayor Gares
8. Consider Final Real Estate Purchase Agreement with Krause Mechanical
Motion _____ Seconded _____ Action _____
Commissioner Naylor, Commissioner Scarff, Commissioner McDonald, Commissioner Bell,
Mayor Gares
9. Update on Trailhead cleanup, Discussion on Secondary Trail Head at Father P Ball Fields
10. Discussion on Implementation of Neighborhood Revitalization Plan (Adopted 2021)
11. Discussion on Development Plan for Tripp Field, North Park Amenities
12. Update on ROW Vacation Ampride, Public Hearing scheduled for April 2, 2024

13. Update on April 5, 2024, Governing Body Retreat

14. City Manager Comments

15. Commissioner Comments

16. Adjourn

Motion _____ Seconded _____ Action _____
Commissioner Naylor, Commissioner Scarff, Commissioner McDonald, Commissioner Bell,
Mayor Gares

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.

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**Regular Meeting
February 20, 2024
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 Eric Gares, Commissioner Robbin Bell, Commissioner Dan McDonald, Commissioner Dalton Scarff, Commissioner Cynthia Naylor, City Manager Thatcher Moddie, City Attorney Brad Jantz, Deputy City Clerk Chanda Wilson, Fire Chief Andrew Avantagiato, Police Chief Chad Langly. Also in attendance were Larry Mann, Jennifer Duenas, Bryant Duenas, Morgan Hanschu, Brian Hanschu and Rhonda Rice.

The meeting opened with the pledge of allegiance.

Mayor Gares called the meeting to order.

Public Forum – None

Approval of Agenda – Commissioner McDonald made a motion to approve the agenda, seconded by Commissioner Naylor. Motion carried 5-0.

Consent Agenda – Commissioner Naylor made a motion to approve the consent agenda with correction to Minutes of the February 6, 2024; in the Ampride ROW Commissioner Bell made the motion and Mayor Gares seconded. - reappointment of Nathan Lawrenz and Scott Stroda to the board of construction, trades and appeals for 3-year terms to end in February 2027, December 2023 Library Board minutes and October 2023 BCTA Meeting Minutes. Commissioner Scarff seconded. Motion passed 5-0.

Considered resolution for temporary exemption of licensing in Utility Vehicle Ordinance for April 6, 2024 Tri-County poker run. Commissioner Bell made a motion to accept the resolution with staff review of document, seconded by Commissioner Scarff, the motion passed 4-1 with Commissioner McDonald dissenting.

Chief Avantagiato reported that their calls have doubled from this time last year.

Chief Langly reported call volume has dropped compared to last year. The Police department has hired two people. They are considering new vehicle purchases. Reports were submitted by both Chiefs.

The commission considered a lease agreement with Union Pacific on 5th street building for the Fire Department. The FD intends to use the building for storage and training. The commission asked questions of Chief Avantagiato and the city attorney raised some questions as well. Commissioner McDonald requested updates regarding the questions raised and Staff review. Commissioner Bell made a motion to accept the lease agreement with staff review. Commissioner Naylor Seconded and the motion passed 5-0.

The commission discussed and considered an update to the Personnel Policy regarding Maternity/Paternity leave for city employees. Presented was a policy to include 6 weeks of paid leave. Mayor Gares made a motion to accept the policy with changes including the 6 weeks must be used within the first 12 weeks and to strike “primary” from the policy allowing leave for caregivers of the child. The motion was seconded by Commissioner McDonald and the motion passed 5-0

City Manager Moddie reported that there are grants coming in for Logan Point including one for \$180,000.00 and one for \$160,000.00. This should support construction of 5 homes.

The city completed a sexual harassment workplace harassment training course which was very helpful. We are looking at the next round of CDBG grants. Working on a grant application for Safe Walk to School which is due March 1. He reported that we think Casey’s grand opening will be March 7. Insurance has been secured for the waterline project.

Commissioner Comments

Commissioner Naylor: None

Commissioner Scarff: None

Commissioner McDonald: Announced that at 6PM at the VFW would be a Girl Scout Cookie Sale and Sunday from 11:30AM-1:00PM would be a soup and chili supper benefit for the Historical Museum.

Asked about the removal of a recreational vehicle and if the towing company would charge the city? Mr. Moddie answered that costs will be assessed to the owner.

Commissioner Bell: Asked about the Camper at the lake. Mr. Moddie stated that we hope to know more by the end of the week. Notice has been given to the owner and the Castleberry's are able to help us with it. Commissioner McDonald asked if the towing company will charge us for removal? Mr. Moddie stated that those charges are typically assessed to the owner.

Mayor Gares also asked about the contract software for the commission and the disk golf. Mr Moddie answered that the software is in process, but Mayor Gares is set up. We will be discussing expanding the disc golf course at the next meeting. Mayor Gares also noted that they have had a group of volunteers helping to clear out debris from Father Padilla park.

Adjourn – Commissioner Bell Made a motion to adjourn, seconded by Commissioner Naylor. Motion carried 5-0.

Chanda Wilson, Deputy City Clerk

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**City of Herington Housing Authority
201 E. Helen Street
Herington, Kansas 67449**

It is our policy to provide individuals with disabilities an equal opportunity to participate in and enjoy the benefits of our services, programs, and activities. In order for us to provide a suitable accommodation, we ask that you request what assistance is desired by contacting the Herington Housing Authority, 201 E. Helen Street, Herington, Kansas, 67449, at (785) 258-2510 or (587-2448) TDD Kansas Relay Center. We are here to assist you in the application process as well.

**Interest Form for Serving on the
Housing Authority Board of Commissioners**

Name Jennifer Fredrick Date 2/29/24

Address

Telephone

Occupation

Real Estate Broker

**The Herington Housing Authority Board of Commissioners governs all business of
the Herington Housing Authority.**

Following is a list of questions, which will allow the Mayor and City Commission to appoint the most qualified citizens to this Board. You must live within five (5) miles of the territorial city boundaries of Herington, Kansas and are encouraged to attach your resume to this Interest Form along with any other sheets needed to respond to the questions below.

Please state why you are interested in serving on this Board.

working w/ the local community & the Housing Authority Board would be a great fit for my occupation. I have ^{always} enjoyed

Please specify what expertise, experience, and/or capabilities you would bring to this Board?

Lic. Real Estate Broker since 2018

How much time are you willing to invest to this Board?

As needed.

What would you like to accomplish while serving on this Board?

I would like to see more positive goals reached

How will you accomplish this?

Working w/ HUD & FHA. Also forming relationships w/ area lenders

What other boards (city, county, school, hospital, etc.) are you currently serving on?

none at the moment

What other boards (city, county, school, hospital, etc.) have you served on in the past?

Fremont Civic Theatre (Colorado)

Planning & Zoning Commission Special Meeting
Board of Zoning Appeals
December 21, 2023
12:00 PM

The planning commission members met on the above date and time in the commission chambers of Herington City Hall. In attendance were Karen Soliz, Rhonda Rice, Joshua Lawrenz, Janet Wade, Marcus Hawkes, City Manager Thatcher Moddie, Neighborhood Services Director James Masters, Maggie Eades and Deputy City Clerk Chanda Wilson.

The meeting opened with the pledge of allegiance.

Chair Marcus Hawkes called the meeting to order.

Janet Wade made a motion to approve the agenda, the motion was seconded by Karen Soliz and the motion passed 6-0.

Opened public hearing on variance request. There were no comments.

Closed public hearing on variance request.

There was a presentation of materials related to V4-2023-Cenex/Ampride adding more freezer space to the existing structure. A variance is needed due to setback regulations. Maggie Eades, from Ampride stated how the current freezer space is not enough for the needs of the business. The current area would be turned into a "beer cave cooler". The additional space would then be used more for food products with better access to the kitchen. Currently the city owns the parking spaces next to the building and has considered abandoning the property. There was discussion regarding the trash service/placement, the surrounding businesses and the rules for granting a variance. It was discussed about having an offsite freezer across the street on property Ampride owns. Maggie Eades stated how it would not be practical to build the freezer off site because staff are constantly needing to enter for the purpose of stocking etc. This would require staff to leave the building to get to the freezer. A concern was made about the proximity of the addition to the driving area behind the building. Vehicles might be more likely to hit the building. MS. Eades stated they can add caution poles outside of the new building.

Cynthia Naylor made a motion to grant the variance, seconded by Joshua Lawrenz. Motion passed 6-0. Janet Wade stated Aye with reservations.

Cynthia Naylor made a motion to adjourn. Joshua Lawrenz seconded, and the motion passed 6-0

Planning & Zoning Commission Special Meeting
Board of Zoning Appeals
January 23, 2024
12:00 PM

The planning commission members met on the above date and time in the commission chambers of Herington City Hall. In attendance were Karen Soliz, Rhonda Rice, Joshua Lawrenz, Janet Wade, Marcus Hawkes, City Manager Thatcher Moddie, Neighborhood Services Director James Masters, and Deputy City Clerk Chanda Wilson.

The meeting opened with the pledge of allegiance.

Chair Marcus Hawkes called the meeting to order.

Marcus Hawkes made a motion to accept the minutes of November 28, 2023. Joshua Lawrenz seconded motion. The motion passed 4-0

Welcome new member of the Planning and Zoning Commission Bryan Parrish.

Chair Marcus Hawkes opened the Public Forum and there was none. Add one item to the agenda this month, 14A Commissioner Comments.

Marcus Hawkes made a motion to approve the agenda with 14A added, seconded by Joshua Lawrenz. Motion passed 5-0.

Joshua Lawrenz nominated Marcus Hawkes for Commission Chair, Janet Wade Seconded and motion passed 5-0.

Janet Wade nominated Rhonda Rice for Vice-Chair, seconded by Joshua Lawrenz and motion passed 5-0.

A public hearing for updated floodplain ordinance was opened. There were no comments from the public and the hearing was closed.

Planning commission members considered and discussed the updated floodplain ordinance. A point was made that perhaps the ordinance should have come before the planning commission before being sent to the state for approval.

Points were made that the map we are using is from the 1980's and was last revised in 1999. The new map is very accurate. This ordinance was adopted by the department of agriculture. James reviewed the changes that were made from the template to our actual proposed ordinance. It was pointed out that the language regarding hazardous substances/materials was vague.

Josh Lawrenz made a motion to recommend the adoption of the updated floodplain ordinance pending staff review of the hazardous materials section. Motion was seconded by Bryan Parrish and passed 5-0.

Discussion on the Neighborhood Revitalization Plan was tabled to the February or March meeting.

Discussion was had on rezoning the 5th street business corridor to residential. Neighborhood Services Director James Masters presented the idea of rezoning the area between 4th and 5th and north of Trapp Street up to Clark Lumber Company to residential. It is unclear at the time why this is zoned commercial when the area is populated with housing except for the former car wash. A change in zoning would help aid in cleaning up the area. The item was discussed with no action taken.

Commissioner Comments:

Bryan Parrish expressed he was happy to be on the commission.

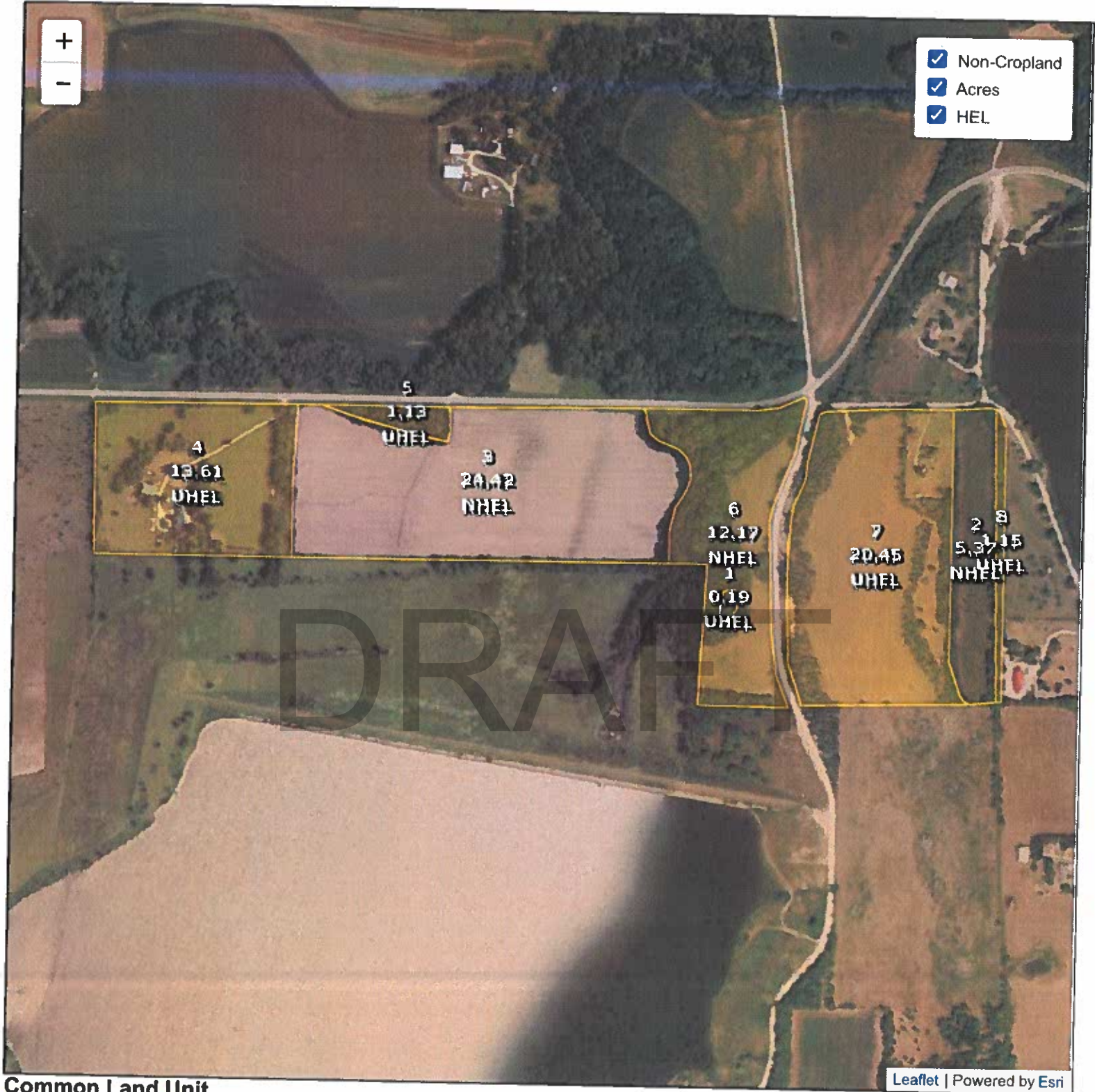
Janet Wade talked about the lack of announcements for the floodplain and public hearing besides in the newspaper. She asks for better advertising to include the city website and Facebook. She also thought the commission had a good discussion on the floodplain today.

Josh Lawrenz did not have any comments to share.

Rhonda Rice is happy to talk about the comprehensive and revitalization plan. The idea of Karen Soliz to have work sessions to work items out before the regular meetings is a good one. She would like to see the meeting notes, agenda, and attachments posted on the website in a timelier matter.

Janet Wade made a motion to adjourn. Motion was seconded by Josh Lawrenz and passed 5-0.

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- Non-Cropland
- Acres
- HEL

Common Land Unit
 Cropland
 Non-cropland
 CRP

- Wetland Determination Identifiers**
- Restricted Use
 - ▼ Limited Restrictions
 - Exempt from Conservation Compliance Provisions

2024 Crop Year

Farm 3742
 Tract 2506



Tract 3 of 3

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

CONTRACT FOR SALE OF REAL ESTATE

THIS AGREEMENT, made and entered into this 5th day of March, 2023, by and between the CITY OF HERINGTON, KANSAS, a municipal corporation, hereinafter referred to as "Seller" and, KRAUSE MECHANICAL, an S Corporation hereinafter referred to as "Buyer".

WITNESSETH:

For and in consideration of the mutual covenants and payments hereinafter set forth, the parties hereto agree as follows:

FIRST: **CONVEYANCE:** Seller agrees to sell and convey to Buyer, by good and sufficient warranty deed, real estate legally described as follows, to wit:

The property fully described in the attachment identified as **EXHIBIT A**, which is attached hereto and incorporated by reference as if set out in full.

SECOND: **PURCHASE PRICE:** Buyer agrees to purchase said property and to pay to Seller as consideration therefore the sum of \$1.00, payable as follows:

- a) The total purchase price of \$1.00 shall be due in cash at closing.
- b) All liens, taxes, and utilities accrued or accruing to date of closing as noted herein, to the extent owed, shall be paid in full by Seller.

THIRD: **CLOSING DATE:** Closing date for purposes of this contract shall be mutually agreed by the parties and shall be no later than May 1, 2024. Possession shall be delivered to Buyer upon closing. The closing shall be conducted at a mutually agreed upon location. Closing fees, including but not limited to all those listed herein, shall be paid as assigned in paragraph NINTH herein. **The real estate is being sold "AS IS"**. Buyer accepts the property in its present condition based upon Buyer's inspection of the same.

FOURTH: **TAXES:** Taxes and special assessments for 2022 and all prior years, to the extent owed, shall be paid by Seller. Taxes and special assessments for 2023, shall be prorated between Buyer and Seller to date of closing. Taxes and special assessments after closing and all subsequent years shall be paid by Buyer.

FIFTH: **LIMITED SALVAGE RIGHTS:** Buyer shall be granted ownership of any current salvage from the remediation of the property done by Seller. Salvage items currently preserved and stored on the subject premises shall be considered part of the property transfer in this subject transaction.

SIXTH:

PERFORMANCE CONDITIONS:

A. CONDITIONS IMPOSED BY SELLER:

1. It is expressly understood that Seller is entering into this transaction with the full expectation of Buyer, and as an element of binding consideration to this conveyance, that Seller will, use all best efforts, in good faith develop the subject property into a commercial enterprise offering services to the community. To that end, the development of the property to a usable and commercially viable state shall timely proceed with completion of any remodeling and rehabilitation to be concluded and a certificate of occupancy issued on or before the two (2) year anniversary from date of closing herein. This deadline may, at the discretion of the Seller be extended for what the Seller, in its sole discretion imposing good faith and fair dealing, deems to be good cause at the request of the Buyer.
2. The parties hereto expressly agree that if this deadline is not met or extended, the failure shall constitute a breach of this agreement and serve as the necessary condition precedent for payment of liquidated damages pursuant to paragraph THIRTEENTH hereof.

B. CONDITIONS IMPOSED BY BUYER:

1. Each of the conditions set forth below must be met to the satisfaction of buyer during the inspection period:
 - a. Seller agrees to cooperate with buyer during the inspection period in order for buyer to obtain all documents and records required by buyer, including but not limited to the following, all of which must be satisfactory to buyer:
 - i. A list of utilities presently serving the Property;
 - ii. Copies of all engineering, structural, environmental reports or other similar reports available to Seller;
 - iii. Copies of current tax bills; and
 - iv. Such other documents or information relating to the Property as Buyer may reasonably request.
 - b. Buyer shall have received an owner's title policy insuring title free and clear of all liens, encumbrances, encroachments and easements, except as expressly permitted by buyer.
 - c. Title shall be conveyed subject to no monetary

liens except for non-delinquent real property taxes. Any taxes assessed after the Closing, attributable to a period prior to the closing, shall be paid by Seller. The Seller will pay off and discharge all monetary and other liens and encumbrances against the Property.

- d. Buyer shall have completed its due diligence concerning the purchase of the Property during the inspection period to Buyer's satisfaction.

SEVENTH: **CONDEMNATION:** Seller shall notify Buyer immediately of the institution or maintenance of any condemnation or similar proceedings with respect to the Property. In the event of any condemnation or similar proceedings are instituted or maintained with respect to a portion of the Property, Buyer at its option, may either (i) terminate this Agreement, or (ii) consummate the transaction contemplated by this Agreement. In the event that Buyer elects to complete the transaction, all condemnation proceeds collected in connection with such proceedings shall be delivered to Buyer upon the Closing, and all entitlement to all other condemnation proceeds arising out of such proceedings shall be assigned by Seller to Buyer upon the Closing.

EIGHTH: **ASSIGNMENT:** Buyer shall not sell, assign, or transfer this contract, or any interest hereunder, without first obtaining the written consent of Seller.

NINTH: **TITLE INSURANCE:** Buyer will procure a standard owner's title insurance policy commitment in the amount of the purchase price, showing good and merchantable title in the name of the Seller or its successor in interest, free and clear of mortgages, lines or encumbrances, save those referred to therein. Buyer shall have ten (10) days to examine the title insurance commitment after receiving same, and it is understood and agreed that the Seller or Buyer, as agreed by the parties, shall have a reasonable time to correct any title defects; and if legal proceedings shall be necessary, such proceedings shall commence promptly after return of the title report to Seller, and shall be completed as soon as possible. Should Seller be unable to furnish marketable title as herein provided, then this contract shall be null and void. The title insurance shall be delivered to Buyer at closing or as soon thereafter as possible. Since title insurance is to be provided, the abstract need not be certified to date; however, the present abstract, if any, shall be delivered to Buyer at closing. Any future extensions of said abstract shall be the sole responsibility of Buyer.

TENTH: **DIVISION OF COSTS:** Buyer shall be responsible for all usual costs associated with closing including costs of the title insurance policy, closing fees, and costs of survey on the property. Seller shall be responsible for the costs and expenses of their attorneys to meet reasonable title requirements of the Buyer unless waived by the Buyer. The Buyer shall be responsible for her own attorney's fees, including costs of examination of the commitment for title insurance; recording of the affidavit of equitable interest and payment of the required recording fees.

ELEVENTH: **DEED:** Seller shall execute and deliver to Buyer, at the time of closing, a good and sufficient warranty deed, conveying merchantable title in the real estate, subject to rights of way, restrictions of record and other exceptions as set herein by Buyer.

TWELFTH: **DEFAULT:** In the event default is made in fulfilling the terms of this contract, or any part thereof, by or on behalf of the Buyer, the Seller may, at Seller' option, cancel this contract and Seller shall have the right to re-enter and take possession of the real estate, or pursue any other remedy of law. In the event default is made in fulfilling the terms of this contract, or any part thereof, by or on behalf of the Seller, the Buyer may, at Buyer's option, cancel this contract, and Buyer shall have the right to pursue any other remedy at law.

THIRTEENTH: **LIQUIDATED DAMAGES:** It is acknowledged that the Buyer's failure to achieve substantial completion in the development of the property to a usable and commercially viable state as evidenced by issuance of a certificate of occupancy issued on or before **May 5, 2026** as noted in paragraph SIXTH hereof will cause the Seller to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Seller of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Buyer agrees, consistent with the requirements of Kansas Statutes Annotated 84-2-718, that liquidated damages may be assessed and recovered by the Seller as against Buyer and her Surety, if any, in the event of delayed completion and without the Seller being required to present any evidence of the amount or character of actual damages sustained by reason thereof; therefore Buyer shall be liable to the Seller for payment of liquidated damages in the total amount of Twenty-five Thousand (\$25,000.00) Dollars after the specified deadline enumerated herein if substantial completion evidenced by the issuance of a certificate of occupancy is delayed beyond such deadline including any adjustments for time extensions provided by the Seller for good cause shown. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Buyer shall pay them to Seller without limiting Seller's right to terminate this agreement for default as provided elsewhere herein.

FOURTEENTH: **COUNTERPARTS:** This Agreement may be executed in one or more counterparts. All counterparts so executed shall constitute one contract, binding on all parties, even though all parties are not signatory to the same counterpart.

FIFTEENTH: **NO MERGER:** The provisions of this agreement shall not merge with the delivery of the Deed or other instruments at Closing, but shall survive the closing of the transactions contemplated herein and the delivery of all such documents.

FIFTEENTH: **BINDING ON HEIRS AND ASSIGNS:** This agreement shall bind the parties hereto, their heirs, executors, administrators, devisees, trustees, creditors and assigns.

SIXTEENTH: **ENTIRE AGREEMENT:** This agreement constitutes the sole and entire agreement between the parties, and no modification hereof shall be binding unless made in writing and signed by all the parties.

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

City of Herington, KS

By _____
Mayor Eric Gares

Title _____

Megan Lawrenz, City Clerk
ATTEST:

Krause Mechanical

Chase Krause

By: _____
Authorized Agent

Chris Krause

By: _____
Authorized Agent

Pam Krause

By: _____
Authorized Agent

EXHIBIT A
LEGAL DESCRIPTION

INSERT LEGAL DESCRIPTION

LEGAL DESCRIPTION: PARCEL #18

(As Recorded in Deed Book 198, Page 125-126)

All that part of the North Half (N ½) of Block 120, Original Town of Herington, Kansas, lying East of the West Bank of Lime Creek; lying and situated in the county of Dickinson and the state of Kansas.

Current Street Address:

00000 COMMERCIAL DR, Herington, KS 67449

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