REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
October 8, 2020

Department Housing **Director Approval** **April Nutt**

AGENDA ITEM Sale of property located at 1901 Bradley Court

SUMMARY RECOMMENDATION Approve Request

BACKGROUND This home has been constructed with funds from the Independence Housing Authority's Development Account. Due to the Housing Authority not being able to hold property in the Independence Housing Authority's name, the City of Independence provides that service. The IHA Board has approved the sale of this home and requests the City of Independence to honor that agreement.

BUDGET IMPACT This project is not a project of the City of Independence and therefore does not impact the City budget.

SUGGESTED MOTION I move to approve the sale of 1901 Bradley Court to Michael Joseph Powell

SUPPORTING DOCUMENTS New Home Real Estate Contract

KANSAS ASSOCIATION OF REALTORS®

RESIDENTIAL REAL ESTATE CONTRACT

Document updated: April 2016

1. PARTIES: The parties to this Contract are: (Print Names and Indicate Marital Status)

SELLER: City of Independence, KS ☐ MARRIED

BUYER: Micheal Joseph Powell ☐ MARRIED

2. EFFECTIVE DATE OF THE CONTRACT: The "Effective Date" of this Contract shall be the date of final acceptance by the last party to sign this Contract.

3. AGREEMENT TO SELL AND PROPERTY ADDRESS: BUYER agrees to purchase and SELLER agrees to sell the real property and the improvements on the Property (the "Property") commonly known as:

STREET ADDRESS: 1901 Bradley Ct

CITY: Independence **COUNTY:** Montgomery **STATE:** KS **ZIPCODE:** 67301-3062

LEGAL DESCRIPTION:

EISENHOWER ADD, S24, T32, R15, 11836 SQUARE FEET, BLOCK 1 LOT 1 REPLAT EISENHOWER ADD 02/04/2005

4. PURCHASE PRICE OF THE PROPERTY: BUYER shall pay $ 180,900.00 to the SELLER as the Purchase Price as consideration for the purchase of the Property in the manner as follows:

A. **EARNEST MONEY** (See Section 9): $ 500.00

B. **NEW MORTGAGE** (See Section 10): $ 154,400.00

C. **OTHER FUNDS:** Grant $ 31,000.00

D. **APPROXIMATE BALANCE DUE FROM BUYER** at the time of Closing, excluding adjustments and prorations, financing as set forth in the Contract or the attached financing addendum, closing costs and any pre-paid expenses (if any). Amount shall be in the form of Cash, Certified, Cashier's Check or wired funds on the date of Closing. $

E. **OTHER SELLER PAID COSTS IN ADDITION TO COSTS SPECIFIED ABOVE,** SELLER agrees to pay BUYER'S other allowable closing costs or pre-paid expenses not to exceed (this amount ☒ shall ☐ shall not include the amount of any title insurance charges and closing agent fees the SELLER has also agreed to pay under Sections 5 and 26 of this Contract): $ 5,000.00

5. CLOSING AND POSSESSION:

A. Closing shall be completed on or before November 13, 2020 (the "Closing Date"). SELLER shall deliver possession of the Property to the BUYER on or before November 13, 2020 (the "Possession Date").

B. If the SELLER is unable to provide clear title to the Property on or before the Closing Date, but the clearing of the title is in process, BUYER and SELLER agree that the Closing Date shall be extended for a reasonable period of time not to exceed 30 calendar days. If closing is delayed through no fault of either party, BUYER and SELLER agree that the Closing Date shall be extended for a reasonable period of time not to exceed 30 calendar days.

C. ☐ BUYER ☐ SELLER ☒ BUYER and SELLER equally shall pay any closing agent fees.

6. INCLUSIONS AND EXCLUSIONS FROM THE PROPERTY:

A. This Contract includes the real property described in this Contract, all existing improvements on the Property and any appurtenances, equipment or fixtures that are bolted, buried, glued, nailed, screwed or otherwise permanently affixed to the real property or any existing improvements on the Property. This includes the following (if present on the Property): attic and ceiling fans; bathroom mirrors (attached and unattached); burglary, fire and smoke detection systems (if owned); central air conditioning; central vacuum and attachments; curtain and drapery rods (if attached); fences; fireplace doors and screens (if attached); floor coverings (if attached); flowers, shrubs and trees; garage door openers (and remote transmitters); gas heaters, gas logs and fireplace grates; heating and plumbing equipment (and fixtures); humidifiers (if attached); installed water well pumps; keys to all doors; kitchen appliances (built-in); lighting and light fixtures; mailboxes; other mirrors (if attached); outside cooking units (if attached); owned butane and propane tanks; rural water certificates and meters; screens; shelves (if attached); shutters; soft water conditioner (if owned); storm doors, screens and windows; swimming pool and all pool equipment; television antennas (if attached and excluding satellite dishes); sprinkler systems and controls; window air conditioning units; and window coverings and components.

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B. The following items are also included in the sale and are considered to be a part of the Property under this Contract: **Dishwasher, garbage disposal**

C. The following items are not included in the sale and are excluded from the Property under this Contract:

D. BUYER and SELLER agree that this Contract shall be the sole determinant of the property that is transferred pursuant to this Contract. BUYER and SELLER agree that the description of the Property in this Contract supersedes any descriptions of the Property found in the multiple listing service (MLS), Residential Property Disclosure Statement and any other promotional materials used to market the Property.

7. PERSONAL PROPERTY: Personal property is ☐ included ☐ not included in the sale of the Property. If personal property is included, please specify below:

8. ☐ **CONTINGENCY FOR CLOSINGOF BUYER'S PROPERTY:** (Section must be checked if applicable)

A. This Contract is contingent upon the closing of the BUYER'S property located at the following address: .

B. If this section is checked, the Contingency for Closing of Buyer's Property Addendum must be completed and signed by both parties as an addendum to this Contract.

9. EARNEST MONEY:

A. BUYER agrees to deposit $ **500.00** as Earnest Money in the form of ☐ Cash ☐ Personal Check ☐ Money Order ☒ Cashier's Check ☐ Other with **Security 1st** (the name of the earnest money holder) as a guarantee that the BUYER shall fulfill the terms and conditions of this Contract.

B. BUYER acknowledges that the Earnest Money shall be deposited within five business days after this Contract is signed by all parties. BUYER agrees and acknowledges that these funds may be deposited into an interest-bearing account and that the Escrow Agent or Listing Broker has the right to retain all interest earned on the funds. BUYER agrees and acknowledges that BUYER is not entitled to any interest on the Earnest Money.

C. In the event that the BUYER fails for any reason to fulfill any of the BUYER'S obligations under this Contract, SELLER may at the SELLER'S option cancel this Contract and, upon the cancellation of this Contract by the SELLER, the Earnest Money shall become the sole property of the SELLER. In the event that the Earnest Money is forfeited by the BUYER as stated in this subsection, all expenses of the sale incurred by the BUYER, SELLER and any real estate licensees involved in the transaction as of the date of cancellation or default, including but not limited to appraisals, credit reports, inspections, repairs, surveys and title insurance, shall be paid prior to any remaining funds from the forfeited Earnest Money being released to the SELLER.

D. If either the BUYER or SELLER cancels this Contract as provided under one of the provisions concerning appraisals, financing, inspections, liens or title evidence contained in this Contract, BUYER'S Earnest Money shall be returned to the BUYER. In the event that the Earnest Money is returned to the BUYER under this subsection, all expenses of this transaction incurred by the BUYER, SELLER and any real estate licensees involved in the transaction as of the date of cancellation, including but not limited to appraisals, credit reports, inspections, repairs, surveys and title insurance, shall be deducted from the Earnest Money and paid prior to the release of the remaining funds to the BUYER.

E. In the event that the SELLER is unable to provide merchantable title to the Property or otherwise defaults on the SELLER'S obligations under this Contract, the Earnest Money shall be returned in full to the BUYER.

F. In the event that the Earnest Money is either forfeited to the SELLER or returned to the BUYER, BUYER and SELLER shall both have the option of seeking specific performance of this Contract or any other applicable legal or equitable relief.

G. Notwithstanding any other terms or conditions of this Contract regarding the distribution of the Earnest Money deposit, the BUYER and SELLER understand that applicable Kansas law prohibits the Listing Broker or the Escrow Agent from distributing the Earnest Money deposit without the consent of all parties to this Contract. Pursuant to K.S.A. 58-3061(g), the Listing Broker can only disburse Earnest Money under the following conditions: (1) pursuant to a written authorization of both the BUYER and SELLER; (2) pursuant to a court order; or (3) upon the closing of the transaction according to the agreement of the parties.

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H. BUYER and SELLER agree that the failure to either (1) respond in writing to a certified letter from the Listing Broker within seven (7) calendar days of receiving the letter or (2) make written demand for return or forfeiture of any Earnest Money deposit within thirty (30) calendar days of notice of cancellation of this Contract shall constitute consent to the distribution of the Earnest Money deposit as suggested in any such certified letter or as demanded by the other party to this Contract. If a dispute arises over the disposition of funds or documents deposited with the Listing Broker or Escrow Agent, BUYER and SELLER agree that any attorneys' fees, court costs or any other legal expenses incurred by the Listing Broker or Escrow Agent in connection with such dispute shall be reimbursed from the Earnest Money or other funds deposited with the Listing Broker or Escrow Agent.

10. [X] NEW MORTGAGE FINANCING CONTINGENCY (Section must be checked if applicable):

A. This Contract shall be contingent upon the BUYER obtaining mortgage financing to purchase the Property. BUYER will obtain a mortgage loan in the principal amount of $ **154,400.00** _____ plus financed mortgage insurance premiums (if any) at an initial rate not to exceed **6.000** % for a term of not more than **30** years.

B. BUYER shall complete a written application for the mortgage loan and pay the fees required by the mortgage lender within _____ calendar days (15 if left blank) after the Effective Date of this Contract.

C. BUYER agrees to make a good faith effort to obtain a commitment for the mortgage loan within _____ calendar days (45 if left blank) after the Effective Date of this Contract or by the Closing Date, whichever is earlier. In the event that the BUYER is unable to obtain a financing commitment within the time frame specified in this subsection, the BUYER shall notify the SELLER or the real estate licensee assisting the SELLER in writing and, if requested by the SELLER or the real estate licensee assisting the SELLER, provide satisfactory written evidence of rejection.

D. Once the SELLER has received the required written notice that the BUYER has been unable to obtain a commitment for a mortgage loan and the SELLER cannot or elects not to assist the BUYER in obtaining the required mortgage financing, this Contract shall be cancelled and the Earnest Money and all refundable deposits paid by the BUYER pursuant to this Contract shall be refunded to the BUYER subject to the terms and conditions contained in this Contract.

11. [X] APPRAISED VALUE CONTINGENCY (Section must be checked if applicable):

A. When the purchase of the Property is not contingent upon the BUYER obtaining new mortgage financing under this Contract, the BUYER may obtain at BUYER'S sole expense an appraisal of the value of the Property by an independent licensed real estate appraiser within _____ calendar days (ten if left blank) after the Effective Date of this Contract.

B. Notwithstanding any other terms and conditions of this Contract, if the final appraised value of the Property as determined by the BUYER'S appraiser is not equal to or greater than the Purchase Price, the BUYER may send a written notice informing SELLER of the BUYER'S request to renegotiate the Purchase Price under this Contract. This written notice shall contain a complete copy of the appraisal report prepared by the BUYER'S appraiser.

C. Within five (5) business days after the SELLER'S receipt of the BUYER'S written request for the renegotiation of the Purchase Price under this Contract, BUYER and SELLER may keep the Contract in effect by agreeing to a Purchase Price that is agreeable to both the BUYER and SELLER and signing an addendum to the Contract containing the agreed upon Purchase Price.

D. If BUYER and SELLER cannot agree in writing to a Purchase Price that is agreeable to both parties within the time frame allowed under this section, this Contract shall be cancelled and the BUYER'S Earnest Money and any additional deposits shall be returned to the BUYER subject to the provisions of this Contract.

12. CONDITION OF PROPERTY:

[ ] This Contract shall be contingent upon the SELLER's completion of and the BUYER's signature on the Residential Property Disclosure Statement (the "Statement"). In the event that the BUYER fails to sign and accept the Property with the defects disclosed in the Statement, this Contract shall be cancelled and any Earnest Money shall be returned to the BUYER subject to the provisions of this Contract. SELLER affirms that the information contained in the Statement is correct as of the Effective Date of this Contract.

[X] This Contract shall not be contingent upon the SELLER'S completion of and the BUYER'S signature on the Residential Property Disclosure Statement. SELLER agrees and acknowledges that this does not relieve the SELLER of the obligation to disclose all material facts actually known about the condition of the Property to the BUYER.

13. INTERIM MAINTENANCE OF PROPERTY AND UTILITIES:

A. Unless otherwise agreed in writing, SELLER agrees to leave all utilities on until the Possession Date. SELLER shall advise utility companies to read meters on the Possession Date for final billing purposes and to leave all utilities on until the BUYER takes possession under this Contract.

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B. SELLER shall maintain the Property in its present condition through the Possession Date with the exclusion of reasonable wear and tear to the Property. SELLER agrees to perform ordinary and necessary maintenance, repair and upkeep to the Property until the Possession Date.

C. Unless otherwise agreed in writing, SELLER shall remove all of the SELLER'S possessions and all debris and trash from the Property and SELLER shall clean the Property prior to the delivery of possession of the Property to the BUYER.

14. CASUALTY LOSS:

A. If the improvements on the Property are damaged or destroyed by fire or other casualty after the Effective Date of this Contract and prior to the Closing Date, SELLER shall notify the BUYER within _____ hours (24 if left blank) of such damage.

B. If the Property has been damaged or destroyed, SELLER shall repair the damage done and restore the Property to its current condition prior to the Closing Date. If the repair or restoration cannot be completed prior to the Closing Date, BUYER and SELLER shall agree in writing to one of the following options to complete the repair or restoration of the Property:

(1) The Closing Date will be extended until the completion of the repair or restoration of the Property;

(2) BUYER shall agree to accept the Property "AS IS" in its damaged or destroyed condition and the SELLER shall assign and transfer all insurance deductibles and proceeds to the BUYER;

(3) With the consent of the BUYER'S mortgage lender (if applicable), the SELLER shall place 150% of the estimated repair or restoration costs into escrow until the repair or restoration is completed and any funds remaining after full payment for the repair or restoration shall be remitted to the SELLER following the completion of the repair or restoration; or

(4) If SELLER elects not to repair or replace the Property, the BUYER may cancel this Contract within _____ calendar days (ten if left blank) of the BUYER'S receipt of written notification of the damage. In the event that the Earnest Money is returned to the BUYER under this subsection, all expenses of this transaction incurred by the BUYER, SELLER and any real estate licensees involved in the transaction as of the date of cancellation, including but not limited to appraisals, credit reports, inspections, repairs, surveys and title insurance, shall be deducted from the Earnest Money and paid prior to the release of the remaining funds to the BUYER.

15. INSURANCE COVERAGE ON THE PROPERTY:

A. SELLER shall maintain current property insurance coverage on the Property until the Closing Date. If BUYER takes possession of the Property prior to the Closing Date, BUYER shall secure insurance coverage for the BUYER'S personal property that is effective on or before the Possession Date.

B. At closing, the BUYER shall furnish the property insurance coverage necessary for the protection of the instrument holders and containing loss clauses in favor of the instrument holders as their interests may appear. If required and so specified, the property insurance coverage shall be held by the instrument holders or escrow agent until the lien is paid in full.

C. If required by the mortgage lender, BUYER agrees to purchase a flood insurance policy to insure the Property against flood damage.

16. [X] HOME WARRANTY PLAN (Section must be checked if applicable):

A. [X] BUYER [ ] SELLER [ ] BUYER and SELLER equally agree to purchase a home warranty plan, with the cost of the plan to be paid at closing, from **Home Warranty Inc (with Enhanced HVAC Plus)** (vendor) at a cost not to exceed $ **550.00** with a per claim deductible of no more than $ **75.00**.

B. A home warranty plan is a limited service contract covering the repair or restoration of the working components of the Property for a specified period of time from the Closing Date, subject to the terms and conditions of the individual plan. Home warranty plans may not cover pre-existing conditions and are not a substitute for inspections.

17. PAYMENT OF HOME OWNERS' ASSOCIATION CHARGES, SPECIAL ASSESSMENTS AND TAXES:

A. SELLER represents and warrants that all of the homeowners' association charges, special assessments, real estate taxes and any other contractual obligations of the SELLER to be assumed by the BUYER that are currently due and payable for years prior to the current calendar year shall be paid by the SELLER prior to closing.

B. BUYER and SELLER agree that all of the homeowners' association charges, special assessments, real estate taxes and any other contractual obligations of the SELLER to be assumed by the BUYER that become due and accrue during the calendar year in which the SELLER'S warranty deed is delivered shall be paid by [ ] BUYER [ ] SELLER [X] pro-rated between the BUYER and SELLER on the Closing Date.

C. If the amount of any homeowners' association charges, special assessments, real estate taxes and any other contractual obligations of the SELLER to be assumed by the BUYER cannot be ascertained from the public record for the calendar year in which the SELLER'S warranty deed is delivered, BUYER and SELLER agree that the amount of the item for the preceding year shall be used to calculate the current calendar year's amount.

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D. BUYER and SELLER agree that if the Property has been reappraised or reclassified within the preceding year and the actual real estate taxes based on the new value are not available, BUYER and SELLER will agree to a reasonable estimation of the current year's real estate taxes based on the information available on the Closing Date.

E. BUYER acknowledges that the assessed valuation, classification, mill levy and real estate taxes may change from year to year during the BUYER'S ownership of the Property and that any periodic reappraisal required by law may result in a change (and a potential increase) of the real estate taxes due on the Property.

F. SELLER warrants that the SELLER does not have any knowledge of any easements or sewer, street or other proposed special assessments except as accurately and completely disclosed on the Residential Property Disclosure Statement or the Special Assessment Disclosure Addendum. BUYER and SELLER agree to hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors, from and against any and all actions, claims, damages, demands, expenses, losses or suits (including reasonable attorneys' fees) resulting from the information the SELLER has given regarding any easements or sewer, street or other proposed special assessments on the Property.

18. HOMEOWNERS' ASSOCIATION OR COMMON INTEREST COMMUNITY:

A. SELLER agrees to disclose, to the best of his or her knowledge, whether the Property is subject to a homeowners' association or other common interest community and whether the Property is subject to any assessments, charges, dues or fees.

B. To the best of the SELLER'S knowledge:

[X] There is no active homeowners' association or common interest community in the area and the Property is not subject to any assessments, charges, dues or fees. SELLER has never been billed or paid any assessments, charges, dues or fees for the Property and, to the best of the SELLER'S knowledge, there are no such assessments, charges, dues or fees outstanding on the Property that might form the basis of a lien imposed upon the Property.

[ ] SELLER discloses and BUYER acknowledges that the Property is subject to a homeowners' association or other common interest community and that an assessment, charge, dues or fee shall be assessed against the Property in the amount of $ _____ per [ ] month [ ] quarter [ ] year and are subject to adjustment at the sole discretion of the homeowners' association or common interest community. SELLER agrees to provide a current copy of any bylaws, declarations, covenants and rules and regulations of the homeowners' association or common interest community to the BUYER prior to the Closing Date.

C. SELLER warrants that the SELLER has no knowledge of whether the Property is subject to a homeowners' association or other common interest community for which the Property shall be subject to any assessments, charges, dues or fees except as accurately and completely disclosed in this Contract or any addendums to this Contract. SELLER agrees to defend, indemnify and hold the BUYER harmless from and against any and all actions, claims, damages, demands, expenses, losses or suits (including reasonable attorneys' fees) resulting from an obligation for payment of any assessments, charges, dues or fees to any homeowners' association or common interest community that were due prior to the Closing Date.

D. BUYER and SELLER agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, losses or suits (including reasonable attorneys' fees) resulting from the information the SELLER has provided to the BUYER regarding homeowners' associations or other common interest communities.

19. SURVEY OF THE PROPERTY:

A. BUYER and SELLER agree that:

(1) [ ] A "staked" boundary survey of the Property shall be obtained at the [ ] BUYER'S expense [ ] SELLER'S expense [ ] divided equally between the BUYER'S and SELLER'S expense; or

(2) [X] No "staked" boundary survey will be performed as part of this Contract.

B. BUYER understands that the lender may order a survey called a "Mortgagee Title Inspection" on the Property, which does not include the staking of property corners. BUYER is also aware that title insurance may not cover survey-related issues, even if a recent survey has been completed. The title policy furnished to the BUYER under this Contract will contain a survey exception under Schedule B unless the BUYER provides a boundary survey to the title company at the BUYER'S expense.

C. BUYER and SELLER agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, losses or suits (including reasonable attorneys' fees) relating to any acreage matters, boundary line disputes, defects, encroachments, overlaps or other matters that would have been disclosed or discovered by a survey.

D. SELLER represents and warrants that there is ingress and egress to the Property.

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20. LIENS ON THE PROPERTY:

A. SELLER represents and warrants that there are no unpaid chattel mortgages, conditional sales contracts, financing statements or security agreements (whether recorded or not) affecting any fixture, portion of the Property or item of personal property included in the sale of the Property under this Contract.

B. BUYER and SELLER agree that any existing liens on the Property that the SELLER is required to remove under this Contract may be paid and discharged from the SELLER'S proceeds at closing.

C. SELLER shall indemnify and hold BUYER harmless from any obligation for payment of any amounts by reason of any liens on the Property that accrued prior to the closing of this Contract.

D. BUYER and SELLER agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, losses or suits (including reasonable attorneys' fees) resulting from any unpaid liens, chattel mortgages, conditional sales contracts, financing statement or security agreements on the Property or any personal property included in the sale of the Property under this Contract.

21. INSPECTIONS OF THE PROPERTY:

A. Subject to any inspections permitted by this Contract and the potential cancellation of the Contract due to the discovery of Unacceptable Conditions contained in this section, **BUYER AGREES TO PURCHASE AND ACCEPT THE PROPERTY AS IS IN ITS CURRENT CONDITION ONLY, WITHOUT GUARANTEES, REPRESENTATIONS OR WARRANTIES OF ANY KIND BY THE SELLER OR ANY REAL ESTATE LICENSEES INVOLVED IN THIS TRANSACTION CONCERNING THE CONDITION OR VALUE OF THE PROPERTY.** This shall not be deemed to be a waiver or modification of any implied warranties that may exist.

B. BUYER is STRONGLY ADVISED to seek expert advice and conduct or obtain inspections to determine if damages, defects or hazards exist in and on the Property. If inspections are not performed on all or part of the Property, BUYER shall be bound by whatever information an inspection would have revealed and waives any cause of action, claim, or right relating to or arising from any condition of the Property that would have been apparent had inspections been performed.

C. BUYER shall ☐ carefully inspect the Property ☒ waive the right to conduct due diligence and conduct or obtain inspections on the Property. BUYER agrees that the BUYER was given the right to conduct due diligence and conduct or obtain inspections on the Property and that any inspections not conducted or obtained were waived by the BUYER. BUYER and SELLER agree that all optional inspections below that are checked shall be included in the terms and conditions of this Contract and inspections that are not checked shall not be part of this Contract.

DS MJR _____ _____ (BUYER(S) MUST INITIAL THESE BLANKS)
BUYER'S INITIALS BUYER'S INITIALS

D. BUYER may conduct and obtain any inspections or re-inspections on the Property desired by the BUYER at BUYER'S sole expense. Unless otherwise specified in this Contract, a qualified professional shall complete all of the inspections desired by the BUYER within _____ calendar days (ten if left blank) after the Effective Date of this Contract.

E. SELLER agrees to provide BUYER and any qualified professionals engaged by the BUYER with reasonable access to the Property to conduct inspections, re-inspections, inspections of any corrective measures completed by the SELLER and final walk-throughs prior to closing. BUYER shall be responsible for and pay for any damage to the Property resulting from any inspections conducted or obtained by the BUYER.

F. If an inspection conducted or obtained by the BUYER reveals Unacceptable Conditions, the BUYER shall provide a copy of the written inspection report to the SELLER and the real estate licensee assisting the SELLER within _____ (ten if left blank) calendar days after the Effective Date of this Contract. An "Unacceptable Condition" means any condition identified in a written inspection report prepared by an independent qualified professional that is unacceptable to the BUYER. BUYER and SELLER agree to provide all written inspection reports to all real estate licensees involved in this transaction.

G. Upon the receipt of the written inspection report identifying the Unacceptable Conditions, SELLER agrees to complete or pay for the remediation or repair of any Unacceptable Conditions identified by the BUYER, provided that the total cost for all remediation or repairs resulting from the Unacceptable Conditions does not exceed $ _____ (zero if left blank).

H. If the costs of the remediation or repair for Unacceptable Conditions exceed the amount specified above, BUYER and SELLER shall agree in writing whether the BUYER, SELLER or both parties shall pay and in what amounts for the excess costs for remediation or repair of the Unacceptable Conditions. If the BUYER and SELLER cannot agree on the payment of the excess costs to remediate or repair the Unacceptable Conditions identified by the BUYER, this Contract shall be cancelled and any Earnest Money shall be returned to the BUYER subject to the provisions of this Contract.

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I. BUYER agrees and acknowledges that no important representations of the SELLER nor any real estate licensees involved in this transaction concerning the condition of the Property are being relied upon by the BUYER except as disclosed as follows:

_____

_____

_____

_____

J. BUYER and SELLER agree that any real estate licensees involved in this transaction are not experts regarding whether any unacceptable property conditions exist in and on the Property. BUYER and SELLER agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, liabilities, losses or suits (including reasonable attorneys' fees) arising out of the discovery of property defects or unacceptable property conditions in the Property, unless the real estate licensees had actual knowledge of the conditions prior to the closing of this Contract and failed to disclose this information to the parties.

K. BUYER and SELLER jointly and severally agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, liabilities, losses or suits (including reasonable attorneys' fees and professional fees) incurred in connection with any preventative, remedial or other cleanup action necessary to comply with all applicable federal, state and local environmental laws, rules, regulations and ordinances. SELLER warrants that to the best of SELLER'S knowledge and belief after due inquiry, the Property complies with and that SELLER is not in violation of and has not violated any applicable federal, state and local environmental laws, rules, regulations or ordinances.

L. ☐ **LEAD-BASED PAINT INSPECTIONS:** (Section must be checked if applicable)

(1) BUYER and SELLER agree that this Contract is contingent upon a risk assessment or inspection of the Property for the presence of lead-based paint hazards at the BUYER'S expense until 9:00 PM on the _____ calendar day after the Effective Date of this Contract. This contingency shall terminate at the above time unless the BUYER or the real estate licensee assisting the BUYER delivers a written contract addendum listing the specific existing deficiencies and corrections needed on the Property along with a copy of the inspection or risk assessment report to the SELLER or the real estate licensee assisting the SELLER. BUYER and SELLER acknowledge and agree that, as required by federal law for all properties constructed prior to 1978, the separate Lead-Based Paint Disclosure Form has been completed and signed by all the parties to this Contract.

(2) Within _____ calendar days (seven if left blank) after the receipt of the addendum, the SELLER may elect in writing whether to correct the conditions identified in the addendum. If the SELLER agrees to correct the conditions identified in the addendum, SELLER shall furnish the BUYER with a certification from a risk assessor or inspector demonstrating that the conditions have been remedied prior to the Closing Date. If the SELLER elects to not agree to repair all of the conditions identified in the BUYER'S addendum, BUYER shall have _____ calendar days (seven if left blank) to respond to this counter-offer by removing the contingency and taking possession of the Property in an "AS IS" condition with no correction of the conditions identified in the addendum.

(3) Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including hearing disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspection in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. Intact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet "Protect Your Family from Lead in Your Home" for more information.

M. ☒ **WOOD INFESTATION INSPECTIONS:** (Section must be checked if applicable)

(1) ☒ BUYER may at BUYER'S expense ☐ SELLER may at SELLER'S expense arrange for a certified pest control professional to inspect the Property (unless the SELLER is required to pay for the inspection pursuant to Department of Veterans Affairs regulations) to determine the potential presence of wood destroying insects in all improvements on the Property.

(2) If the written inspection report of the certified pest control professional reveals evidence of active infestation or if the certified pest control professional determines that the treatment of inactive infestation or removal of debris is necessary, ☐ BUYER ☒ SELLER agrees to pay for all treatment of the Property by a certified pest control professional provided that the total cost of all treatment does not exceed $ **all treatment** (zero if left blank).

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(3) If the costs of the treatment exceed the amount specified above, BUYER and SELLER shall agree in writing whether the BUYER, SELLER or both parties shall pay and in what amounts for the excess costs. If the BUYER and SELLER cannot agree on the payment of the excess costs, this Contract shall be cancelled and any Earnest Money shall be returned to the BUYER subject to the provisions of this Contract.

(4) If treatment is required and conducted for BUYER at the SELLER'S expense, SELLER agrees to provide the BUYER with a certificate and BUYER agrees to accept the certificate verifying that treatment was completed by a certified pest control professional of ☐ BUYER'S ☒ SELLER'S choice.

(5) Any inspection and treatment under this subsection shall be completed no earlier than _____ calendar days (30 if left blank) prior to the Closing Date. BUYER and SELLER agrees that any damages or repairs related to wood destroying insect infestations are Unacceptable Conditions and shall be subject to the provisions pertaining to the remediation and repair of Unacceptable Conditions.

N. ☐ **SEPTIC INSPECTIONS:** (Section must be checked if applicable)

(1) ☐ BUYER may at BUYER'S expense ☐ SELLER may at SELLER'S expense arrange for an inspection of the private wastewater disposal, lagoon or septic system on the Property. If the written inspection report shows that the private wastewater disposal, lagoon or septic system has deficiencies, ☐ BUYER ☐ SELLER shall pay for all remediation and repairs necessary to correct the deficiencies identified in the written inspection report provided that the total cost for all remediation and repairs does not exceed $ _____ (zero if left blank).

(2) If the costs of the remediation and repairs exceed the amount specified above, BUYER and SELLER shall agree in writing whether the BUYER, SELLER or both parties shall pay and in what amounts for the excess costs. If the BUYER and SELLER cannot agree on the payment of the excess costs, this Contract shall be cancelled and any Earnest Money shall be returned to the BUYER subject to the provisions of this Contract.

22. POTENTIAL PROXIMITY OF REGISTERED OFFENDERS TO PROPERTY:

A. Kansas state law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If you as the BUYER desire information regarding those registrants, you may find information on the homepage of the Kansas Bureau of Investigation (KBI) at http://www.kansas.gov/kbi or by contacting the local sheriff's office.

B. BUYER and SELLER agree that any real estate licensees involved in this transaction owe no duty or obligation to the BUYER to conduct an independent investigation as to the potential proximity of registered offenders to the Property. BUYER and SELLER agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, liabilities, losses or suits (including reasonable attorneys' fees) arising out of the discovery of registered offenders residing within relative proximity to the Property.

23. RADON GAS NOTICE:

A. Every BUYER of residential real property is notified that the Property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen, is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires SELLERS to disclose any information known to the SELLER that shows elevated concentrations of radon gas in residential real property. The Kansas Department of Health and Environment (KDHE) recommends that all home buyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can easily be reduced by a radon mitigation technician. For additional information, go to http://www.kansasradonprogram.org/ .

B. BUYER understands that neither the SELLER nor any real estate licensees involved in this transaction have made any investigation to determine whether there is or will be radon gas in the Property. Neither the SELLER nor any real estate licensees involved in this transaction make any representations or warranties as to the presence or lack of radon gas in the Property or as to the effect of radon gas or any such condition on the Property on the occupants of the Property. BUYER may, at BUYER'S sole expense, conduct an inspection to determine whether radon gas is present in the Property.

C. BUYER and SELLER agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, liabilities, losses or suits (including reasonable attorneys' fees) arising out of any radon gas in the Property.

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24. POTENTIAL PRESENCE OF PROPERTY IN FLOOD PLAIN:

A. On a regular basis, the Federal Emergency Management Agency (FEMA) and the United States Corps of Engineers publish updates to flood maps and levee protection systems. As part of these updates, properties that have historically not been included in any special flood hazard areas may, due to changes in mapping or flood protection, become subject to federal flood insurance requirements. If you as the BUYER desire more information on whether the Property is included in a special flood hazard area or an area of flood risk, you may find and review information on this issue at http://msc.fema.gov/, http://www.floodsmart.gov/ and other information may be available through local government planning and zoning offices.

B. BUYER and SELLER agree that any real estate licensees involved in this transaction owe no duty or obligation to the BUYER to conduct an independent investigation as to the flood hazard status of the Property. BUYER and SELLER agree to defend, indemnify and hold harmless any real estate licensees involved in this transaction and their agents, sub-agents, employees and independent contractors from and against any and all actions, claims, damages, demands, expenses, liabilities, losses or suits (including reasonable attorneys' fees) arising out of the flood hazard status of the Property.

25. DELIVERY OF THE DEED:

A. On or before the Closing Date, SELLER shall execute and deliver a warranty deed and all other documents and funds reasonably necessary to complete the closing of this Contract. The warranty deed shall convey a marketable fee simple title to the Property free and clear of all liens and encumbrances to the BUYER, except as provided otherwise in this Contract.

B. BUYER agrees and acknowledges that the purchase of the Property is subject to any building setback requirements, covenants, declarations, easements, restrictions, rights-of-way, special assessments, taxes and assessments and zoning laws and any other items contained in this Contract or that are discoverable in a search of public records.

C. On or before the Closing Date, BUYER and SELLER agree to deliver to the closing agent a cashier's check or other certified funds sufficient to satisfy their respective obligations under this Contract. SELLER acknowledges that the disbursement of the proceeds may be made after the warranty deed, instrument of conveyance, mortgage or deed of trust has been recorded.

26. TITLE EVIDENCE:

A. At least three calendar days prior to the Closing Date, SELLER shall cause to be furnished to the BUYER a title insurance company's written commitment "title binder" to issue after closing a title insurance policy in an amount equal to the full Purchase Price naming the BUYER as the insured. A copy of the title binder shall be furnished to the mortgage lender and the BUYER'S attorney (if any) as promptly as possible. BUYER agrees and acknowledges that the SELLER may receive a BUILDER'S discount on the title insurance policy.

B. The title binder shall show marketable title vested in the SELLER, subject to the following:

(1) Easements, mineral rights and reservations of record, encroachments that would be disclosed by a survey, rights-of-way of record, trees, plantings and fences on the Property;
(2) Restrictions and protective covenants of record, provided that no forfeiture provisions are contained therein;
(3) Un-matured special assessments, zoning laws, ordinances and regulations;
(4) Rights of tenants in possession;
(5) Liens (if any) described herein; and
(6) Those exceptions that are standard in the title company's Form B as specified therein.

C. [X] BUYER [ ] SELLER [ ] BUYER and SELLER equally shall pay for any lender's/mortgagee's/instrument holder's title insurance coverage. SELLER shall be responsible to use due diligence to resolve any title defects at the SELLER'S expense subject to the foregoing exceptions.

D. [ ] BUYER [ ] SELLER [X] BUYER and SELLER equally shall pay for any owner's title insurance coverage. SELLER shall be responsible to use due diligence to resolve any title defects at the SELLER'S expense subject to the foregoing exceptions.

E. In the event that the SELLER is unable to furnish marketable title subject to the foregoing exceptions and this Contract is cancelled due to this inability to furnish marketable title, the Earnest Money shall be refunded promptly to the BUYER subject to the provisions of this Contract and the SELLER shall reimburse to the BUYER the cost of the BUYER'S accrued loan costs, attorneys' fees for examining title and title insurance cancellation fees and all parties shall be released from any further liability under this Contract.

27. NOTICES:

A. Any notice required under the terms and conditions of this Contract shall be delivered by electronic mail, facsimile, in-person, private delivery service or the United States Postal Service.

B. The mailing address for the delivery of any notices under this Contract to any party shall be the mailing address referenced in this Contract, unless the party specifically requests in writing that a different mailing address be used to deliver notices under this Contract.

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C. The notice shall be deemed to be delivered upon the date of receipt. Delivery to a real estate licensee working with the party shall be treated as the same as delivery to the party.

28. DEFAULT AND REMEDIES:

A. A party (either the BUYER or SELLER) to this Contract shall be in default under this Contract when the party fails to comply with any material condition, term or obligation of the Contract in the time period required by the Contract. Upon default, the parties shall have the remedies set forth below:

(1) Upon default by the SELLER, BUYER may seek to: (1) have the Contract specifically enforced and recover any damages caused by the SELLER'S delay in performing the Contract; or (2) terminate the Contract and, if the BUYER chooses, pursue any damages the BUYER incurred as a result of the SELLER'S breach of the Contract. If the contract is terminated, the Earnest Money will be distributed under the provisions of this Contract.

(2) Upon default by the BUYER, SELLER may seek to: (1) have the Contract specifically enforced and recover any damages caused by the BUYER'S delay in performing the Contract; or (2) terminate the Contract and, if the SELLER chooses, pursue any damages the SELLER incurred as a result of the BUYER'S breach of the Contract. If the contract is terminated, the Earnest Money will be distributed under the provisions of this Contract.

B. If upon default either the BUYER or SELLER determines to pursue the BUYER'S or SELLER'S remedies and the non-defaulting party is successful in enforcing his or her remedy, unless otherwise provided by law, the defaulting party on the Contract will pay the non-defaulting party's attorneys' fees, costs and any other expenses incurred in enforcing the non-defaulting party's remedy against the defaulting party.

29. CONTRACT BINDING ON ASSIGNS AND HEIRS: This Contract shall be fully binding upon the parties and their administrators, assigns, executors, heirs and successors except as limited by this Contract.

30. AGREEMENT TO USE ELECTRONIC SIGNATURES AND AGREEMENTS: BUYER, SELLER and any real estate licensees involved in this transaction agree that this transaction may be conducted through electronic means according to the Kansas Uniform Electronic Transactions Act. However, any real estate licensees involved in this transaction have no authority to enter into electronic agreements with other parties on behalf of the BUYER or SELLER unless authorized to do so by a duly executed power of attorney.

31. BROKERAGE RELATIONSHIP DISCLOSURE:

A. BUYER and SELLER acknowledge that the real estate licensees involved in this transaction may be functioning as agents of the BUYER, agents of the SELLER or transaction brokers.

B. Real estate licensees functioning as an agent of the BUYER have a duty to represent the BUYER'S interests and will not be an agent of the SELLER. Information given by the SELLER to an agent for the BUYER will be disclosed to the BUYER.

C. Real estate licensees functioning as an agent of the SELLER have a duty to represent the SELLER'S interests and will not be an agent of the BUYER. Information given by the BUYER to an agent for the SELLER will be disclosed to the SELLER.

D. Real estate licensees functioning in the capacity of a transaction broker are not agents for either party and do not advocate for the interests of either party.

E. BUYER and SELLER acknowledge that the Real Estate Brokerage Relationships Brochure has been furnished to them.

F. Listing Licensee is functioning as a: (Check the applicable function)

- [ ] Seller's Agent;
- [ ] Designated Seller's Agent (Supervising Broker acts as a Transaction Broker);
- [ ] Transaction Broker; or
- [x] SELLER is unrepresented.

G. Selling Licensee is functioning as a: (Check the applicable function)

- [ ] Seller's Agent;
- [ ] Buyer's Agent;
- [ ] Designated Seller's Agent (Supervising Broker acts as a Transaction Broker);
- [ ] Designated Buyer's Agent (Supervising Broker acts as a Transaction Broker);
- [x] Transaction Broker; or
- [ ] BUYER is unrepresented.

Lori Shaw	
Name of Real Estate Licensee Assisting BUYER	Name of Real Estate Licensee Assisting SELLER
Bill White Real Estate	
Name of Brokerage Firm Assisting BUYER	Name of Brokerage Firm Assisting SELLER

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32. SEVERABILITY: If any provision of this Contract, or any portion thereof, is rendered invalid by court order, judgment or operation of law, the remaining provisions or portions thereof shall remain valid and enforceable and be construed to remain in force.

33. GOVERNING PROVISIONS: The laws of Kansas shall govern this Contract and its validity, construction and performance.

34. ENTIRE AGREEMENT OF THE PARTIES: This Contract constitutes the entire agreement between the parties and supersedes any previous agreements, contracts and representations, whether oral or written, to buy or sell the Property. Any prior agreements, contracts or representations, whether oral or written, have been merged into this Contract. There shall be no modification of any terms of this Contract unless such modifications have been agreed to in writing and signed by both parties. Neither this Contract nor any interest herein shall be assigned or transferred by any party without the prior written consent of both parties. No assignment shall serve to release or relieve the party assigning the Contract from any obligations or responsibilities under this Contract.

35. ☐ **MEDIATION REQUIRED** (Section must be checked if applicable): BUYER and SELLER agree that any claim or dispute arising out of or relating to this Contract or the services provided by any real estate licensees involved in this transaction shall be submitted to mediation by completing and signing the Mediation Addendum and attaching it to this Contract. The Mediation Addendum must be completed, signed and attached to this Contract if the "agree" box is checked in this section.

36. ACKNOWLEDGEMENT OF RECEIPT OF THE CONTRACT: BUYER and SELLER acknowledge and certify that they have received, read and understood a copy of this Contract.

37. ACKNOWLEDGEMENT OF RECEIPT OF EXPENSE ITEMIZATIONS: BUYER and SELLER acknowledge the receipt of separate expense itemizations estimating the approximate costs to be incurred in buying or selling the Property.

38. FORM AGREEMENT AND RECOMMENDATIONS FOR INDEPENDENT LEGAL ADVICE: This Contract has been approved as a form contract by the legal counsel of the Kansas Association of REALTORS® for exclusive use by its REALTOR® members. This is a legally binding contract when the BUYER and SELLER sign the Contract. If not understood, the Kansas Association of REALTORS® and any real estate licensees involved in this transaction recommend that either party should seek the advice of an attorney before signing the completed agreement.

39. ☐ **ACCEPTANCE OF THE CONTRACT:** (Section Must be Checked if Applicable): This Contract must be executed by all parties before _____ (☐ AM ☐ PM) on _____ (the "Offer Expiration Date") or it shall be null and void and any Earnest Money shall be returned to the BUYER.

40. DISCLOSURE OF LOAN ESTIMATES AND CLOSING DISCLOSURES TO REAL ESTATE LICENSEES: BUYER and SELLER agree that any mortgage lenders and settlement providers involved in this transaction are authorized to provide copies of any Loan Estimates or Closing Disclosures to any real estate licensees involved in this transaction.

41. SPECIAL CONDITIONS, PROVISIONS OR TERMS:

Contingent upon appraisal

BUYER'S INITALS DS _____ _____
SELLER'S INITALS _____ _____

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CAREFULLY READ THE TERMS OF THIS AGREEMENT BEFORE SIGNING. WHEN SIGNED BY ALL PARTIES, THIS DOCUMENT BECOMES PART OF A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY BEFORE SIGNING.

DocuSigned by:
9/16/2020

BUYER'S SIGNATURE DATE **Micheal Joseph Powell**	SELLER'S SIGNATURE DATE **City of Independence, KS**
BUYER'S SIGNATURE DATE	SELLER'S SIGNATURE DATE
BUYER'S MAILING ADDRESS	SELLER'S MAILING ADDRESS
BUYER'S CITY, STATE AND ZIP CODE	SELLER'S CITY, STATE AND ZIP CODE
BUYER'S CONTACT TELEPHONE NUMBER	SELLER'S CONTACT TELEPHONE NUMBER
BUYER'S EMAIL ADDRESS	SELLER'S EMAIL ADDRESS

For identification purposes only: (Please print or type)

KREC File #: _____

Agent Name: **Lori Shaw**	Agent Name: _____
Agent License #: **00241325**	Agent License #: _____
Firm Name: **Bill White Real Estate**	Firm Name: _____
Broker License #: **BR00008819**	Broker License #: _____

FORM CERTIFICATION: *(to be completed by the agent preparing this Contract)*

The undersigned agent assisted in completing the blanks in the foregoing form and confirms, to the best of his or her knowledge, that the printed form contains the language approved by the legal counsel for the Kansas Association of REALTORS®. The undersigned agent further confirms that no additions or deletions to the approved language have been made, except such changes as may appear in this form made by hand or typewriter and signed or initialed by the party submitting this offer. Agent's signature below is not an opinion as to the legal validity or meaning of any provisions contained in this form, but merely confirms that, to the best of the agent's knowledge, no changes have been made to the approved form.

DocuSigned by:
Lori Shaw (Initial the applicable box) _____ Listing agent DS LS Selling agent
Signature of the real estate licensee preparing this form
Lori Shaw

BUYER'S INITALS DS MJP _____
SELLER'S INITALS _____ _____

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