

**Kearney, Nebraska**  
**March 14, 2023**  
**5:30 p.m.**

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on March 14, 2023 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Peggy Eynetich, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Tami James Moore and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Brenda Jensen, Assistant City Manager; Kayla James, Director of Finance; Bryan Waugh, Chief of Police; Tony Jelinek, Director of Utilities; Andy Harter, Director of Public Works; Luke Dutcher, Assistant Director of Public Works; Melissa Dougherty-O'Hara, City Planner; Dan Lillis, Engineering Assistant and Jennifer Rowling, Tye & Rowling, PC LLO were also present. Members of the media present included: Mike Konz, Kearney Hub.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the City Council and a copy of their acknowledgment or receipt of such notice is attached to these minutes. Availability of the Agenda was communicated in the advance notice and in the notice to the Mayor and City Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

## **I. ROUTINE BUSINESS**

### **INVOCATION/MOMENT OF SILENCE**

With the absence of a minister, the Council held a moment of silence.

### **PLEDGE OF ALLEGIANCE**

Council members led the audience in the Pledge of Allegiance.

### **ANNOUNCEMENT**

Mayor Clouse announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and is posted on the wall of the Council Chambers.

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **RELEASE OF PERMANENT RIGHT-OF-WAY AND UTILITY EASEMENT**

Public Hearings 1 through 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing to authorize the Mayor to execute the Release of a Permanent Right-of-Way and Utility Easement granted by Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company and recorded on October 17, 2022 at Document 2022-05962 pertaining to a tract of land 60.00 feet wide being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska .

Craig Bennett, Miller & Associates, presented this matter to the Council. Mr. Bennett described the proposed development for the 20.54-acre parcel along with the proposed plat, phasing plan and infrastructure feasibility plan. Mr. Bennett stated the Developer is requesting to rezone 8.26 acres from AG to R-1, and 12.28 acres from AG to R-2.

Mr. Bennett stated the Developer does not want a Planned Development overlay on any portion of the property and further noted the Developer has no objection to a traffic study to determine if there is a need for a traffic signal.

Council Member Tami Moore questioned how many additional housing units could be added if duplexes were built on the lots zoned R-2? Mr. Bennett stated the lots could accommodate 17 housing units. Council Member Moore questioned if a tri-plex could fit on these proposed lots? Mr. Bennett stated a tri-plex could fit.

Council Member Randy Buschkoetter questioned if R-2 zoning allows for four-plex's? Mr. Bennett stated four-plex's would be permitted, and further noted the lot size could also accommodate larger single-family homes.

Dan Lindstrom, Jacobsen Orr Law Firm representing several neighbors of the proposed development who expressed concerns regarding density and potential traffic issues due to the lack of additional means of ingress and egress.

Marsha Wilkerson, 1621 East 67th Street, stated several of her neighbors also have traffic-safety concerns due to the potential density of the proposed R-2 zoning. Ms. Wilkerson requested the Developer consider a Planned District that puts safety at the forefront.

Dale Madsen, 1421 East 67th Street, stated his concerns are with potential drainage issues.

Council Member Bruce Lear noted he understood the potential issue of excess traffic R-2 Zoning could create on the sole entrance/exit to the development. Mr. Bennett stated he felt 65th Street could handle the additional traffic and reiterated the Developer is agreeable to a traffic study if needed.

Mayor Clouse questioned if it is common to request zoning changes to the Preliminary

Plat? Mr. Bennett stated it is common; examples were given of other developments in the City where this had occurred.

Andy Harter, Director of Public Works, provided information regarding traffic studies and the benefits of traffic signals versus stop signs.

Dan Engels, 4800 Avenue L Place, voiced his concern regarding the potential for additional drainage issues.

Dale King, 1540 East 67th Street, expressed his concern with R-2 zoning in the proposed development as well as in future phases pertaining to the potential for increased traffic.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2023-40 authorizing the Mayor to execute the Release of a Permanent Right-of-Way and Utility Easement granted by Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company and recorded on October 17, 2022 at Document 2022-05962 pertaining to a tract of land 60.00 feet wide being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

#### **RESOLUTION NO. 2023-40**

WHEREAS, the City of Kearney, Nebraska was granted a Permanent Right-of-Way and Utility Easement, dedicated for the installation of infrastructure prior to the platting of Arbor View Second, from Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company, on the 11th day of October, 2022, and recorded at Document 2022-05962, in the office of the Register of Deeds of Buffalo County, Nebraska, on October 17, 2022 for property legally described as: a tract of land 60.00 feet wide being part of the South Half of the Northwest of Section 19, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska, dedicated for Permanent Right-of-Way & Utility Easement purposes. Said 60.00 feet wide Permanent Right-of-Way & Utility Easement to be 30.00 feet on each side of following described centerline: Commencing at the Southwest corner of the South Half of the Northwest Quarter of Section 19; thence N 00°14'22" E on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 976.72 feet to the centerline of 65th Street in Kearney, Buffalo County, Nebraska; thence S 89°42'02" E on said centerline a distance of 410.00 feet; thence S 00°14'22" W a distance of 30.00 feet to the South line of said 65th Street and the POINT OF BEGINNING; thence continuing S 00°14'22" W a distance of 23.40 feet; thence Southeasterly on a tangent curve to the Left having a central angle of 51°04'01", a radius of 200.00 feet, an arc length of 178.26 feet, and a chord bearing of S 25°17'38" E a distance of 172.42 feet; thence S 50°49'39" E a distance of 761.33 feet; thence Southeasterly on a tangent curve to the Left having a central angle of 38°54'27", a radius of 200.00 feet, an arc length of 135.81 feet, and a chord bearing of S 70°16'52" E a distance of 133.22 feet; thence S 89°44'06" E a distance of 147.86 feet to the Point of Termination. The side lines of said 60.00 feet wide Permanent Right-of-Way & Utility Easement to be lengthened or shortened to form a continuous strip. Said 60.00 feet wide Permanent Right-of-Way & Utility Easement contains 1.72 acres, more or less all in Buffalo County, Nebraska; and

WHEREAS, the installation of infrastructure has been completed; therefore Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company has requested the Permanent Right-of-Way and Utility Easement be released so the property can be platted as Arbor View Second.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way and Utility Easement recorded on October 17, 2022 at Document 2022-05962 be and is hereby released. The Release of Easement is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

### **RELEASE OF STORM WATER DETENTION CELL EASEMENT**

Public Hearings 1 through 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing to authorize the Mayor to execute the Release of a Storm Water Detention Cell Easement granted by Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company and recorded on October 17, 2022 at Document 2022-05963 pertaining to a tract of land being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2023-41 authorizing the Mayor to execute the Release of a Storm Water Detention Cell Easement granted by Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company and recorded on October 17, 2022 at Document 2022-05963 pertaining to a tract of land being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2023-41**

WHEREAS, the City of Kearney, Nebraska was granted a Storm Water Detention Cell Easement, by Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company, on the 11th day of October, 2022, and recorded at Document 2022-05963, in the office of the Register of Deeds of Buffalo County, Nebraska, on October 17, 2022 for property legally described as: a tract of land being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska, dedicated for Storm Water Detention Cell Easement purposes and more particularly described as follows: Commencing at the Southwest corner of the South Half of the Northwest Quarter of Section 19; thence S 89°44'06" E on the South line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1164.26 feet to the Southeast corner of Outlot B, Starostka Estates Addition, to the City of Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing S 89°44'06" E on said South line of the

Northwest Quarter a distance of 525.74 feet; thence N 00°14'22" E a distance of 75.00 feet; thence N 89°44'06" W parallel with said South line a distance of 355.83 feet; thence N 00°14'22" E a distance of 140.00 feet; thence N 89°44'06" W parallel with said South line a distance of 5.00 feet; thence S 00°14'22" W a distance of 140.00 feet; thence N 89°44'06" W parallel with said South line a distance of 172.42 feet; thence S 07°14'46" W a distance of 63.18 feet to the Northeasterly line of said Outlot B; thence S 50°50'00" E on said Northeasterly line of said Outlot B a distance of 19.56 feet to the Point of Beginning. Said Storm Water Detention Cell Easement contains 0.94 acres, more or less all located in Buffalo County, Nebraska; and

WHEREAS, Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company has requested the Storm Water Detention Cell Easement be released so the property can be platted as Arbor View Second.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Storm Water Detention Cell Easement recorded on October 17, 2022 at Document 2022-05963 be and is hereby released. The Release of Easement is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**REZONE PROPERTY LOCATED ON 64TH STREET LYING EAST OF AVENUE N**

Public Hearings 1 through 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Fox Creek Development, LLC, to rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) for property described as a tract of land being part of Government Lot 2 in Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N) and consider Ordinance No. 8623.

Moved by Lear to close the public hearing on the Application submitted by Miller & Associates for Fox Creek Development, LLC and introduced Ordinance No. 8623 rezoning from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) for property described as a tract of land being part of Government Lot 2 in Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 8623. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and

adopted. City Clerk read Ordinance No. 8623 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8623 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8623 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **REZONE PROPERTY LOCATED ON 64TH STREET LYING EAST OF AVENUE N**

Public Hearings 1 through 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Fox Creek Development, LLC, to rezone from District AG, Agricultural District to District R-2, Urban Residential Mixed-Density District for property described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N) and consider Ordinance No. 8624.

Moved by Clouse to close the public hearing on the Application submitted by Miller & Associates for Fox Creek Development, LLC and introduced Ordinance No. 8624 rezoning from District AG, Agricultural District to District R-2, Urban Residential Mixed-Density District for property described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 8624. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Nikkila. Nay: Clouse, Lear, Moore, Buschkoetter. Motion failed.

### **FINAL PLAT AND SUBDIVISION AGREEMENT FOR ARBOR VIEW SECOND**

Public Hearings 1 through 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Fox Creek Development, LLC, for the Final Plat and Subdivision Agreement for Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 2 and

part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N).

Moved by Nikkila seconded by Moore to close the public hearing and table Resolution No. 2023-42 on the application submitted by Miller & Associates for Fox Creek Development, LLC for the Final Plat and Subdivision Agreement for Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2023-42**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a 5/8" rebar at the Southeast Corner of the Southeast Quarter of the Northwest Quarter of Section 19; thence N 00°21'32" E on the East line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 617.14 feet to a 5/8" rebar w/cap; thence N 89°42'02" W a distance of 395.30 feet to a 5/8" rebar w/cap; thence S 00°14'22" W a distance of 342.38 feet to a 5/8" rebar w/cap; thence N 89°44'06" W parallel with the South line of said Northwest Quarter a distance of 1017.85 feet to a 5/8" rebar w/cap; thence on a tangent curve to the Right having a central angle of 07°29'11", a radius of 170.00 feet, an arc length of 22.21 feet, and a chord bearing of N 85°59'31" W a distance of 22.20 feet to a 5/8" rebar w/cap; thence N 00°14'22" E a distance of 188.53 feet to a 5/8" rebar w/cap at the Southeast corner of Outlot A, Block 3, Arbor View First, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°59'58" W on the South line of said Block 3 a distance of 50.00 feet to a 5/8" rebar w/cap at the Southwest corner of said Outlot A and the Southeast corner of Lot 3, Block 3 in said Arbor View First; thence N 50°49'39" W on the Westerly line of said Block 3 a distance of 766.88 feet to a 5/8" rebar w/cap at the Northwest corner of Lot 1, Block 3 in said Arbor View First and on the South line of 65th Street as platted in said Arbor View First; thence N 89°42'02" W on said South line of 65th Street a distance of 153.46 feet to a 5/8" rebar w/cap at the Northeast corner of Lot 1, Block 4 in said Arbor View First; thence S 39°10'21" W on the Easterly line of said Block 4 a distance of 243.69 feet to a 5/8" rebar w/cap at the Southeast corner of said Lot 1, Block 4, and on the Northeasterly line of Starostka Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 50°49'39" E on said Northeasterly line of Starostka Estates Addition a distance of 1205.07 feet to a 5/8" rebar on the North line of Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska and on said South line of the Northwest Quarter; thence S 89°44'06" E on said South line of the Northwest Quarter a distance of 1449.75 feet to the Point of Beginning. Containing 20.54 acres more or less all located in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943

(as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

### **ANNEXATION OF ARBOR VIEW SECOND**

Public Hearings 1 through 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Fox Creek Development, LLC for the annexation of Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N).

Moved by Moore seconded by Lear to close the public hearing and table Resolution No. 2023-43 on the application submitted by Miller & Associates for Fox Creek Development, LLC for the annexation of Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska (64th Street, lying east of Avenue N). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

### **RESOLUTION NO. 2023-43**

WHEREAS, an Application has been submitted by Miller & Associates for Fox Creek Development, LLC for the inclusion of Arbor View Second, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a 5/8" rebar at the Southeast Corner of the Southeast Quarter of the Northwest Quarter of Section 19; thence N 00°21'32" E on the East line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 617.14 feet to a 5/8" rebar w/cap; thence N 89°42'02" W a distance of 395.30 feet to a 5/8" rebar w/cap; thence S 00°14'22" W a distance of 342.38 feet to a 5/8" rebar w/cap; thence N 89°44'06" W parallel

with the South line of said Northwest Quarter a distance of 1017.85 feet to a 5/8" rebar w/cap; thence on a tangent curve to the Right having a central angle of 07°29'11", a radius of 170.00 feet, an arc length of 22.21 feet, and a chord bearing of N 85°59'31" W a distance of 22.20 feet to a 5/8" rebar w/cap; thence N 00°14'22" E a distance of 188.53 feet to a 5/8" rebar w/cap at the Southeast corner of Outlot A, Block 3, Arbor View First, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°59'58" W on the South line of said Block 3 a distance of 50.00 feet to a 5/8" rebar w/cap at the Southwest corner of said Outlot A and the Southeast corner of Lot 3, Block 3 in said Arbor View First; thence N 50°49'39" W on the Westerly line of said Block 3 a distance of 766.88 feet to a 5/8" rebar w/cap at the Northwest corner of Lot 1, Block 3 in said Arbor View First and on the South line of 65th Street as platted in said Arbor View First; thence N 89°42'02" W on said South line of 65th Street a distance of 153.46 feet to a 5/8" rebar w/cap at the Northeast corner of Lot 1, Block 4 in said Arbor View First; thence S 39°10'21" W on the Easterly line of said Block 4 a distance of 243.69 feet to a 5/8" rebar w/cap at the Southeast corner of said Lot 1, Block 4, and on the Northeasterly line of Starostka Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 50°49'39" E on said Northeasterly line of Starostka Estates Addition a distance of 1205.07 feet to a 5/8" rebar on the North line of Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska and on said South line of the Northwest Quarter; thence S 89°44'06" E on said South line of the Northwest Quarter a distance of 1449.75 feet to the Point of Beginning. Containing 20.54 acres more or less all located in Buffalo County, Nebraska (now known as Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska); and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on February 17, 2023 on the inclusion Arbor View Second within the corporate limits for property described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a 5/8" rebar at the Southeast Corner of the Southeast Quarter of the Northwest Quarter of Section 19; thence N 00°21'32" E on the East line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 617.14 feet to a 5/8" rebar w/cap; thence N 89°42'02" W a distance of 395.30 feet to a 5/8" rebar w/cap; thence S 00°14'22" W a distance of 342.38 feet to a 5/8" rebar w/cap; thence N 89°44'06" W parallel with the South line of said Northwest Quarter a distance of 1017.85 feet to a 5/8" rebar w/cap; thence on a tangent curve to the Right having a central angle of 07°29'11", a radius of 170.00 feet, an arc length of 22.21 feet, and a chord bearing of N 85°59'31" W a distance of 22.20 feet to a 5/8" rebar w/cap; thence N 00°14'22" E a distance of 188.53 feet to a 5/8" rebar w/cap at the Southeast corner of Outlot A, Block 3, Arbor View First, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°59'58" W on the South line of said Block 3 a distance of 50.00 feet to a 5/8" rebar w/cap at the Southwest corner of said Outlot A and the Southeast corner of Lot 3, Block 3 in said Arbor View First; thence N 50°49'39" W on the Westerly line of said Block 3 a distance of 766.88 feet to a 5/8" rebar w/cap at the Northwest corner of Lot 1, Block 3 in said Arbor View First and on the South line of 65th Street as platted in said Arbor View First; thence N 89°42'02" W on said South line of 65th Street a distance of 153.46 feet to a 5/8" rebar w/cap at the Northeast corner of Lot 1, Block 4 in said Arbor View First; thence S 39°10'21" W on the Easterly line of said Block 4 a distance of 243.69 feet to a 5/8" rebar w/cap at the Southeast corner of said Lot 1, Block 4, and on the Northeasterly line of Starostka Estates Addition, an addition to the City of Kearney,

Buffalo County, Nebraska; thence S 50°49'39" E on said Northeasterly line of Starostka Estates Addition a distance of 1205.07 feet to a 5/8" rebar on the North line of Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska and on said South line of the Northwest Quarter; thence S 89°44'06" E on said South line of the Northwest Quarter a distance of 1449.75 feet to the Point of Beginning. Containing 20.54 acres more or less all located in Buffalo County, Nebraska (now known as Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska) and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on March 14, 2023 who deemed the said property being Arbor View Second within the corporate limits described as a tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a 5/8" rebar at the Southeast Corner of the Southeast Quarter of the Northwest Quarter of Section 19; thence N 00°21'32" E on the East line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 617.14 feet to a 5/8" rebar w/cap; thence N 89°42'02" W a distance of 395.30 feet to a 5/8" rebar w/cap; thence S 00°14'22" W a distance of 342.38 feet to a 5/8" rebar w/cap; thence N 89°44'06" W parallel with the South line of said Northwest Quarter a distance of 1017.85 feet to a 5/8" rebar w/cap; thence on a tangent curve to the Right having a central angle of 07°29'11", a radius of 170.00 feet, an arc length of 22.21 feet, and a chord bearing of N 85°59'31" W a distance of 22.20 feet to a 5/8" rebar w/cap; thence N 00°14'22" E a distance of 188.53 feet to a 5/8" rebar w/cap at the Southeast corner of Outlot A, Block 3, Arbor View First, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°59'58" W on the South line of said Block 3 a distance of 50.00 feet to a 5/8" rebar w/cap at the Southwest corner of said Outlot A and the Southeast corner of Lot 3, Block 3 in said Arbor View First; thence N 50°49'39" W on the Westerly line of said Block 3 a distance of 766.88 feet to a 5/8" rebar w/cap at the Northwest corner of Lot 1, Block 3 in said Arbor View First and on the South line of 65th Street as platted in said Arbor View First; thence N 89°42'02" W on said South line of 65th Street a distance of 153.46 feet to a 5/8" rebar w/cap at the Northeast corner of Lot 1, Block 4 in said Arbor View First; thence S 39°10'21" W on the Easterly line of said Block 4 a distance of 243.69 feet to a 5/8" rebar w/cap at the Southeast corner of said Lot 1, Block 4, and on the Northeasterly line of Starostka Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 50°49'39" E on said Northeasterly line of Starostka Estates Addition a distance of 1205.07 feet to a 5/8" rebar on the North line of Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska and on said South line of the Northwest Quarter; thence S 89°44'06" E on said South line of the Northwest Quarter a distance of 1449.75 feet to the Point of Beginning. Containing 20.54 acres more or less all located in Buffalo County, Nebraska (now known as Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska) be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Arbor View Second shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the

inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Arbor View Second within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
 PEGGY EYNETICH  
 CITY CLERK

STANLEY A. CLOUSE  
 PRESIDENT OF THE COUNCIL  
 AND EX-OFFICIO MAYOR

**IV. CONSENT AGENDA**

Moved by Lear seconded by Buschkoetter that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held February 28, 2023.
2. Approve the following Claims:
  - PS Personnel Services
  - SMCS Supplies, Materials & Contractual Services
  - ER Equipment Rental
  - CO Capital Outlay
  - DS Debt Service

Ace Irrigation \$238.50 smcs; Adventure Enterprises \$9,539.00 smcs; Agri Coop \$301.51 smcs; All Copy \$601.46 smcs; All Makes Auto \$2,272.86 smcs; American Fence \$1,123.40 smcs; Artisans \$957.50 co; Aurora Coop \$63.37 smcs; AvFuel \$32,059.19 smcs; Baker & Taylor \$4,220.08 smcs; BlueCross BlueShield \$87,503.53 smcs; Bosselman \$25,290.58 smcs; Bossfuels \$23,136.40 smcs; Bowman, M \$210.00 smcs; Buffalo Co. Court \$268.76 ps; Buffalo Co. Sheriff \$637.50 smcs; Builders \$182.08 smcs; Cal/Amp \$781.55 smcs; Cash-Wa \$2,188.65 smcs; CDW Govt. \$8,165.79 smcs; Central States Wire \$8,378.41 smcs; Certified Power \$1,797.34 smcs; CFA Software \$2,995.00 smcs; Chesterman \$525.00 smcs; Christensen, K \$154.00 smcs; Ciox Health \$20.00 smcs; City of Kearney \$55,200.66 smcs,ps; CMH Interiors \$2,800.00 smcs; Cold Spring \$337.05 smcs; CopyCat \$45.00 smcs; Core & Main \$6,174.42 smcs; Cornhusker Cleaning \$140.66 smcs; Cunningham's \$9,214.16 smcs; Dan Roeder Concrete \$491,554.77 co; Danko Emergency \$13,671.33 smcs,co; Deen, R \$45.00 smcs; Donkey Towing \$125.00 smcs; Dowhy Towing \$96.00 smcs; DPC Industries \$12,860.20 smcs; Duncan Theis \$31,914.00 co; Eakes \$1,421.62 smcs; Eggen, M \$280.00 co; Ehlers, J \$678.59 smcs; Family Practice \$91.00 ps; Farmers Union \$667.00 smcs; First National Bank \$58.20 smcs; Flaherty, T \$130.00 smcs; Frontier \$15,287.07 co; Fry & Associates \$1,578.25 co; Gale \$1,026.37 smcs; Golf & Sport Solutions \$2,423.02 smcs; Graczyk Lawn \$3,620.40 smcs; Greater NE Cities \$1,000.00 smcs; Happ, L \$150.00 smcs; Hazmat 101 Consultants \$2,975.00 smcs; HM Life Insurance \$52,346.18 smcs; Hub International \$6,796.00 smcs; IPMA-HR \$884.20 smcs; IRS \$195,628.99 ps; Jack Lederman \$96.04 smcs; Jensen, B \$171.61

smcs; John T Jones Const. \$1,208,219.37 co; Johnson, N \$3,392.50 smcs; Kamler, M \$122.00 smcs; Kart-Man \$1,439.71 smcs; Kearney Animal Shelter \$14,775.66 smcs; Kearney Visitors Bureau \$175,852.70 smcs; Kelly Supply \$63.98 smcs; King, S \$996.40 smcs; Kirkham Michael \$6,525.00 smcs; Konica Minolta \$804.94 smcs; LCL Truck Equipment \$6,644.72 smcs; Lincoln Natl Life \$8,861.54 smcs; M & E Plastic Repair \$1,850.00 co; Macqueen Equipment \$25.12 smcs; Magic Cleaning \$7,350.00 smcs; McCartney, Erin Chpt. 13 \$157.00 ps; Melson, K \$131.09 smcs; Menards \$139.34 co; Messenger \$428.76 smcs; Michael Todd \$5,777.06 smcs; Mid-American Signal \$725.00 smcs; Midlands Contracting \$159,443.93 co; Mid-NE Garage Doors \$347.00 smcs; Midwest Connect \$9,581.01 smcs; Miller & Associates \$38,671.10 co; Mission Square \$12,664.84 ps; Municipal Supply \$5,129.26 smcs; NDEE \$495.00 smcs; NE Child Support \$1,986.51 ps; NE Firefighters Museum \$35,000.00 co; NE Public Health \$255.00 smcs; NE Safety & Fire \$165.00 smcs; NELETC \$30.00 smcs; Netmotion Wireless \$9,804.00 smcs; Northwestern Energy \$12,421.03 smcs; Office Max \$6,825.00 co; One Call Concepts \$210.16 smcs; Otto Environmental \$32,533.40 smcs; Penworthy \$155.64 smcs; Pep Co. \$315.00 smcs; Platte Valley Comm. \$1,091.09 smcs; Platte Valley Medical \$235.00 smcs; Presto-X \$685.38 smcs; Proquest \$5,960.04 smcs; RDG Planning \$123,900.00 co; Ready Mixed Concrete \$480.45 co; Resource Management \$3,001.25 smcs; Rheome Tree \$1,000.00 smcs; RMV Construction \$97,887.05 co; Rodgers, T \$133.34 smcs; Roth, N \$41.17 co; Sandry Fire Supply \$2,170.50 smcs; Sapp Brothers \$4,429.20 smcs; School District #7 \$4,412.50 smcs; Schroer, J \$297.00 smcs; See Clear Cleaning \$3,047.50 smcs; Siteone Landscape \$19,232.38 smcs; Solid Waste Equipment \$180.85 smcs; Stutsman \$3,843.00 smcs; Sunset Law Enforcement \$109.00 smcs; Titan Machinery \$1,961.80 smcs; Traveler's \$3,082.00 smcs; Tri County Glass \$6,492.00 co; Trugreen \$1,586.50 smcs; Turner Body Shop \$3,125.00 smcs; Tye & Rowling \$15,801.70 smcs; Tyler Technologies \$3,790.64 co; Union Bank & Trust \$411,236.54 smcs,ps; Vanco \$87.44 smcs; Verizon \$13,642.15 smcs; Vertive Services \$7,117.05 smcs; Village Uniform \$220.27 smcs; Volaire Aviation \$4,000.00 smcs; Wheeler, J \$31.00 smcs; Wilcac Life \$10.00 ps; Wilke Contracting \$47,956.42 smcs; Wilkins ADP \$730.72 co; Wolfe Comm. \$5,953.50 co; Zabel, A \$150.00 smcs; Payroll Ending 02/25/2023 -- \$607,826.82. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

**3.** Accept the bids received for Snow Removal Equipment (SRE) Carrier Vehicle and Snow Broom Attachment with Airblast System (AIP 3-31-0045-038) to be used at the Kearney Regional Airport and adopt Resolution No. 2023-44 awarding the bid submitted by M-B Companies, Inc. in the amount of \$733,705.00.

### **RESOLUTION NO. 2023-44**

WHEREAS, Alfred Benesch and Company and the City of Kearney have reviewed the sealed bids which were opened on February 23, 2023 at 2:00 p.m. for the Snow Removal Equipment (SRE) Carrier Vehicle with Snow Broom (with Airblast System) Attachment (AIP 3-31-0045-038); and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$595,000.00; and

WHEREAS, Alfred Benesch and Company and the City have recommended the bid offered by M-B Companies, Inc. of New Holstein, Wisconsin in the amount of \$733,705.00 be accepted as the lowest responsible bid for Snow Removal Equipment (SRE) Carrier Vehicle with Snow Broom Attachment with Airblast System (AIP 3-31-0045-038); and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted, that M-B Companies, Inc. be and is the lowest responsible bidder for the Snow Removal Equipment (SRE) Carrier Vehicle with Snow Broom Attachment with Airblast System (AIP 3-31-0045-038) and that the bid of M-B Companies, Inc. in the amount of \$733,705.00, be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Cost in the amount of \$595,000.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such equipment in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

4. Accept the bids received for Snow Removal Equipment (SRE) Carrier Vehicle/Liquid Spreader with Snowplow Attachment (AIP 3-31-0045-038) to be used at the Kearney Regional Airport and adopt Resolution No. 2023-45 awarding the bid submitted by M-B Companies, Inc. in the amount of \$645,036.00.

**RESOLUTION NO. 2023-45**

WHEREAS, Alfred Benesch and Company and the City of Kearney have reviewed the sealed bids which were opened on February 23, 2023 at 2:00 p.m. for the Snow Removal Equipment (SRE) Carrier Vehicle with Chassis Mounted Liquid Material Spreader System with Snowplow Attachment (AIP 3-31-0045-038); and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$590,000.00; and

WHEREAS, Alfred Benesch and Company and the City have recommended the bid offered by M-B Companies, Inc. of New Holstein, Wisconsin in the amount of \$645,036.00 be accepted as the lowest responsible bid for Snow Removal Equipment (SRE) Carrier Vehicle with Chassis Mounted Liquid Material Spreader System with Snowplow Attachment (AIP 3-31-0045-038); and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted, that M-B Companies, Inc. be and is the lowest responsible bidder for the Snow Removal Equipment (SRE) Carrier Vehicle with Chassis Mounted Liquid Material Spreader System with Snowplow Attachment (AIP 3-31-0045-038) and that the bid of M-B Companies, Inc. in the amount of \$645,036.00, be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Cost in the amount of \$590,000.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney,

Nebraska, be and is hereby authorized and directed to execute contracts for such equipment in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

5. Adopt Resolution No. 2023-46 approving the City of Kearney enter into and become Participants of the Declaration of Trust and Interlocal Agreement of the Nebraska Cooperative Liquid Assets Securities System Trust (Nebraska CLASS Trust).

**RESOLUTION NO. 2023-46**

WHEREAS, NEB. Const. art. XV, § 18(1) authorizes local government entities to exercise their powers and functions, including financing, jointly or in cooperation with other governmental entities and Nebraska law express allows public agencies to invest surplus or excess funds;

WHEREAS, NEB. REV. STAT. § 13-804 authorizes public agencies to enter into interlocal agreements in order for such agencies to take joint or cooperative action;

WHEREAS, the Nebraska Cooperative Liquid Assets Securities System Trust (“Nebraska CLASS Trust”) has been formed pursuant to the provisions of the Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801 to 13-827;

WHEREAS, the Declaration of Trust and Interlocal Agreement and an Information Statement relating to the Nebraska CLASS Trust have been presented to this Governing Body;

WHEREAS, the Declaration of Trust authorizes public agencies to adopt and enter into the Declaration of Trust and become Participants of such trust;

WHEREAS, this Governing Body deems it advisable for this Public Agency to adopt and enter into the Declaration of Trust and become a participant of the Nebraska CLASS Trust for the purpose of the joint investment of this Public Agency’s money with those other public agencies so as to enhance the investment earnings accruing to each such public agency,

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. This Public Agency shall and does hereby join with other Nebraska public agencies in accordance with the provisions of Nebraska law and in accordance with the Interlocal Cooperative Act, as applicable, by becoming a Participant of the Nebraska CLASS Trust, and the Declaration of Trust and Interlocal Agreement, as amended from time to time, is hereby adopted by this reference with the same effect as if it had been set out verbatim in this Resolution. A copy of the Declaration of Trust is attached hereto and incorporated herein by this

reference and shall be filed with the minutes of the meeting at which this Resolution was adopted.

2. The Trustees of the Nebraska CLASS Trust are hereby designated as having official custody of this Public Agency's monies which are invested in accordance with the Declaration of Trust.
3. Authorization is hereby given for members of this Governing Body and officials of this Public Agency to serve as Trustees of the Nebraska CLASS Trust from time to time if elected as such pursuant to the Declaration of Trust.
4. The Key Contact and Authorized Signatories are those persons listed on the Trust Registration Form attached hereto and incorporated herein. The Authorized Signatories are authorized by the Participant to direct the investment of such Participants' investment funds and to take all such actions deemed necessary or desirable to carry out the activities otherwise authorized by this Resolution, subject to the Authorized Signatories' obligation to take such actions only in the name of and for the benefit of this Participant.
5. The Key Contact and Authorized Signatories may be changed from time to time by written notice to Nebraska CLASS.
6. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution being the same are hereby rescinded.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
 PEGGY EYNETICH  
 CITY CLERK

STANLEY A. CLOUSE  
 PRESIDENT OF THE COUNCIL  
 AND EX-OFFICIO MAYOR

6. Adopt Resolution No. 2023-47 approving Change Order No. 7 showing an increase in the amount of \$1,348.00 submitted by RMV Construction and approved by Wilkins ADP for the Yanney Heritage Park Pavilion and Parking Lot.

**RESOLUTION NO. 2023-47**

WHEREAS RMV Construction, LLC of Kearney, Nebraska has performed services in connection with Yanney Heritage Park Pavilion and Parking Lot, and the City's architect, Wilkins ADP, have filed with the City Clerk Change Order No. 7 showing an increase in the amount of \$1,348.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 3,653,600.00</u>
Change Order No. 1 (7-26-2022)	+ 23,433.00
Change Order No. 2 (9-13-2022)	- 7,883.00
Change Order No. 3 (10-11-2022)	+ 395.00
Change Order No. 4 (01-10-2023)	- 7,195.00
Change Order No. 5 (01-10-2023)	+ 3,947.00
Change Order No. 6 (01-10-2023)	+ 9,676.00
Change Order No. 7 (03-14-2023)	<u>+ 1,348.00</u>
Contract Sum to Date	<u>\$3,703,087.00</u>

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 7, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

7. Adopt Resolution No. 2023-48 approving Change Order No. 1 showing an increase in the amount of \$60,280.00 submitted by Dan Roeder Concrete, and approved by Olsson for the 2022 Part 4 Improvements; 31st Street from G Avenue to N Avenue.

**RESOLUTION NO. 2023-48**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with 2022 Part 4 Improvements; 31st Street from G Avenue to N Avenue, and the City's engineer, Olsson, have filed with the City Clerk Change Order No. 1 in the amount of \$60,280.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 1,781,753.00</u>
Change Order No. 1 (03-14-2023)	<u>+ \$60,280.00</u>
Contract Sum to Date	1,842,033.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

8. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Christopher Sieck submitted by Casey's Retail Company dba Casey's General Store for their store locations and in connection with their liquor licenses as follows:

- Casey's Store #1735 located at 1308 East 39th Street (D-122342);
- Casey's Store #2711 located at 607 West 39th Street (D-122826);
- Casey's Store #2038 located at 2710 West 24th Street (D-124250);
- Casey's Store #2884 located at 115 East 25th Street (D-124461);
- Casey's Store #3298 located at 112 Talmadge Street (D-106697); and
- Casey's Store #3997 located at 1107 2nd Avenue (D-124269).

9. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class CKG-125523 liquor license application and manager application for Robert Yendra submitted by Nebraska Ale Works, LLC dba Nebraska Ale Works located at 115 East 2nd Avenue.

10. Accept the proposals received for the Kearney Cemetery Road Replacement and award the proposal submitted by S & J Construction in the amount of \$49,299.25.

11. Approve the purchase of a S605 T4 Bobcat Skid Steer Loader and 74-inch Industrial Bucket Grapple in the amount of \$54,201.02 submitted by Central Nebraska Bobcat under the Sourcewell Cooperative Purchasing program (NJPA) to be used by the Sanitation Department.

12. Adopt Resolution No. 2023-49 approving the Agency Agreement between the City of Kearney and Nebraska Department of Transportation (NDOT), Aeronautics Division for Project No. 3-31-0045-039-2023 allowing the NDOT, Aeronautics Division to act as the City’s agent for the project.

**RESOLUTION NO. 2023-49**

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH NEBRASKA DEPARTMENT OF TRANSPORTATION, AERONAUTICS DIVISION FOR PROJECT NO. 3-31-0045-039-2023 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT.

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that:

1. The City of Kearney shall enter into an Agency Agreement with the Department of Transportation, Aeronautics Division for Project No. 3-31-0045-039-2023 for the purpose of obtaining federal assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.

2. The Mayor of the City of Kearney is hereby authorized and directed to execute said Agency Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest said execution.

3. The said Agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit “A”.

PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**V. CONSENT AGENDA ORDINANCES**

**ORDINANCE NO. 8625 REPEALING ORDINANCE NO. 8619 AND AMEND THE SALARY ORDINANCE**

Council Member Buschkoetter introduced Ordinance No. 8625 repealing Ordinance No. 8619 and amending the Salary Ordinance reflecting changes of certain positions, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its

final passage. Council Member Clouse seconded the motion to suspend the rules for Ordinance No. 8625. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8625 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 8625 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8625 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

## **VI. REGULAR AGENDA**

### **PRESENTATION OF THE 30TH AVENUE FEASIBILITY STUDY BY KIRKHAM MICHAEL**

Mayor Clouse opened Regular Agenda Item 1 for Council to receive a presentation on the 30th Avenue Feasibility Study by Kirkham Michael. This presentation was for informational purposes only.

Andy Harter stated the City has contracted with Kirkham Michael to look in to a future 30th Avenue exit.

Dan Sitorius and Mike Olson, Kirkham Michael presented their Feasibility Study to Council and discussed if the exit is possible and how to proceed in the upcoming years to secure access.

### **OPEN ACCOUNT CLAIM**

Moved by Nikkila seconded by Moore that the Open Account Claim in the amount of \$7,590.10 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Moore, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

## **VII. REPORTS**

None.

## **VIII. ADJOURN**

Moved by Clouse seconded by Nikkila that Council adjourn at 7:03 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

**ATTEST:**

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**STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR**

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**PEGGY EYNETICH  
CITY CLERK**