

Kearney, Nebraska
April 25, 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 April 25, 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, Tami James Moore, and Jonathan Nikkila. Absent: Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Brenda Jensen, Assistant City Manager; Kayla James, Director of Finance; Tony Jelinek, Director of Utilities; Bryan Waugh, Chief of Police; Dennis Byrne, Police Lieutenant, Greg Benson, Police Sergeant; Nathan Dennis, Police Officer, Lacie Lindner, Police Officer, Tracy Suchsland, Police Officer; John Grimes, Water Production System Supervisor, and Dan Lillis, Engineering Assistant were also present.

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

Members of the Kearney Police Department Honor Guard including Lieutenant Dennis Byrne, Officers Nathan Dennis, Lacie Lindner, and Tracy Suchsland presented and posted the colors. 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.

RECOGNITION/ ORAL COMMUNICATIONS

OATH OF OFFICE TO POLICE OFFICERS DERRICK HOSICK AND MICAH SCHROEDER

Police Chief Bryan Waugh introduced Kearney Police Department Officers Derrick Hosick and Micah Schroeder. City Clerk, Peggy Eynetich, provided the Oath of Office to Police Officers Hosick and Schroeder.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

FINAL PLAT AND SUBDIVISION AGREEMENT AND ANNEXATION FOR ARBOR VIEW SECOND

Mayor Clouse opened public hearings 1 and 2. He stated that the applicant, on behalf of the developer, notified the City that they were withdrawing the applications submitted by Miller & Associates for Fox Creek Development, LLC, for the Final Plat and Subdivision Agreement and Annexation for Arbor View Second. Therefore, no action was taken.

IV. CONSENT AGENDA

Moved by Nikkila seconded by Moore that Subsections 1 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

1. Approve Minutes of Regular Meeting held April 11, 2023.
2. Approve the following Claims:

PS	Personnel Services
SMCS	Supplies, Materials & Contractual Services
ER	Equipment Rental
CO	Capital Outlay
DS	Debt Service

1000bulbs.com \$420.47 smcs; 4imprint \$438.00 smcs; Accucut \$97.38 smcs; Accuquilt \$103.50 smcs; Ace Irrigation \$897.20 smcs; Acushnet \$10,615.85 smcs; Adobe \$52.99 smcs; Advance Auto \$49.04 smcs; Adventure Enterprises \$150.00 smcs; Airbnb \$1,319.71 smcs; Alfred Benesch \$24,661.34 co; All Copy Products \$342.84 smcs; All Makes Auto \$7,888.91 smcs,co; All Partitions \$2,618.27 smcs; Allied Electronics \$15.42 smcs; Ally B Designs \$1,750.00 smcs; Amaze Awards \$2,575.00 smcs; Amazon \$16,088.70 smcs,co; American \$548.70 smcs,co; American Buildings \$4,141.01 smcs; American Song Writer \$110.63 smcs; Anything Truck \$232.50 smcs; Apple Market \$4.27 smcs; Apple.com \$1,017.32 smcs; Appliance Parts \$166.46 smcs; APWA \$2,235.00 smcs; Aramark Uniform \$292.39 smcs; Arnold Motor \$443.78 smcs; Arrow Seed \$680.00 smcs; ASFPM \$175.00 smcs; Ask Supply \$664.52 smcs; ATT \$1,121.12 smcs; Aurora Coop \$1,127.12 smcs; Aussie Hydraulics \$651.65 smcs; Authorize.net \$10.00 smcs; Auto Value \$135.44 co; Automation Direct \$224.70 smcs; AvFuel \$91,985.74 smcs; Axon Enterprises \$15,821.21 co; B&H Photo \$1,744.94 smcs; Babbitts Online \$120.80 smcs; Badge & Wallet \$576.00 smcs; Baird Holm \$108.00 smcs; Baker & Taylor \$4,104.43 smcs; Barth, D \$1,480.00 smcs; Bell Sports \$600.30 smcs; Belson Outdoors \$1,202.11 smcs; BestBuy \$160.45 co; Blackstone Library \$1,579.80 smcs; BlueCross BlueShield \$239,765.97 smcs; Bomgaars \$419.24 smcs,co; Bosselman \$12,028.05 smcs; Brackett

Aircraft \$1,547.40 co; Broadfoot's \$3,212.80 smcs; Browne, J \$600.00 smcs; BSN Sports \$236.53 smcs; Buffalo Co. Court \$268.76 ps; Buffalo Co. Sheriff \$300.00 smcs; Buffalo Co. Treasurer \$6,668.00 ds; Buffalo Outdoor \$506.20 smcs; Buffalo Wild Wings \$14.56 smcs; Builders \$3,633.70 smcs,co; Building Code College \$45.00 smcs; Business Solutions \$106.17 smcs; Cab Store \$6.41 smcs; Cal/Amp \$781.55 smcs; Candlewood Suites \$715.14 smcs; Canva \$238.80 smcs; Carquest \$86.79 smcs; Casey's \$52.42 smcs; Cash Wa \$26,240.74 smcs,co; CDW \$179.57 smcs; Cenex \$41.80 smcs; Central District Health \$3,189.00 smcs; Central NE Bobcat \$4,103.44 smcs; Chemsearch \$347.00 smcs; Chesterman \$2,576.00 smcs; Chicago Books \$24.77 smcs; Choice Marketing \$644.45 smcs; Choice Paint \$82.79 smcs; Choplin, B \$32.77 smcs; Christensen, K \$165.00 smcs; City of KY \$416,785.87 smcs,ps; City Plumbing \$1,093.53 smcs; CMH Distributing \$290.16 smcs; Collinson \$61.00 smcs; Comm. Action Partnership \$5,240.54 smcs; Commonwealth Electric \$1,479.80 smcs; Computer Hardware \$1,059.90 smcs; Conley's \$214.51 smcs; Construction Rental \$2,066.76 smcs,co; Control Yours \$110.00 smcs; Copycat Printing \$619.26 smcs; Cordova, T \$335.00 smcs; Core & Main \$883.65 smcs; Cornhuskers Square \$6.25 smcs; Country Partners \$98,012.38 smcs; Court Reserve \$142.80 smcs; Courtyard \$1,329.30 smcs; Cricut \$1.89 smcs; Criminal Addiction \$300.00 smcs; Crowd Control \$229.00 smcs; Crown Awards \$427.97 smcs; Culligan \$299.15 smcs; Cunningham's Journal \$38.84 smcs; Curly's Radiator \$78.00 smcs; Cutter & Buck \$1,466.31 smcs; D & K Products \$14,610.58 smcs; Dana Safety \$169.33 smcs; Dashlane \$2,930.21 smcs; Dawson Public Power \$25,681.96 smcs; Daylight Donuts \$92.87 smcs; Dell Marketing \$3,094.20 co; Delta Air \$343.80 smcs; Dennis, N \$144.44 smcs; Depository Trust \$75,241.25 ds; Digicert \$481.00 smcs; Dish \$271.56 smcs; Diskdrill 1 \$95.23 co; Ditch Witch \$365.60 smcs; Dmilaco \$77.96 smcs; Dog Armour \$154.78 smcs; Donkey Towing \$125.00 smcs; Dorn, H \$1,185.50 smcs; DTS Technology \$195.24 smcs; Duncan, J \$145.00 smcs; Dunkin Donuts \$11.99 smcs; Dutton-Lainson \$898.35 co; E0800MP7KR \$1,138.78 smcs; Eagle Distributing \$1,690.35 smcs; Eakes \$26,564.70 smcs,co; EB 2023 Nebraska \$300.00 smcs; EC Home Improvement \$330.00 smcs; Ecolab \$126.21 smcs; Eileen's Cookies \$25.50 smcs; Elliott Equipment \$365.04 smcs; Engineered Controls \$886.73 smcs; Enterprise \$3,000.00 smcs; Eugene T. Mahoney \$155.50 smcs; Excal Visual \$321.75 smcs; Expression Wear \$1,294.70 smcs; Facebook \$336.02 smcs; Fairfield Inn \$926.16 smcs; Family Advocacy \$2,000.00 smcs; Family Fresh \$59.99 smcs; Family Hardware \$12.78 co; Family Practice \$277.00 ps; Farmers Union \$1,155.00 smcs; Faro Technologies \$942.73 smcs; Farritor Auto Parts \$1,001.52 smcs; Fastenal \$425.36 smcs; Fiddelke Heating \$75.00 smcs; Flaherty, T \$96.00 smcs; Friesen Chevrolet \$468.99 smcs; Frontier \$338.80 smcs; Fun Express \$929.80 smcs; Gale/Cengage \$341.47 smcs; Galetton \$954.59 smcs; Garrett Tires \$2,006.35 smcs; Gierhan, J \$42.91 smcs; Gisch, A \$7.75 smcs; Glendale Parade \$128.75 smcs; Good Evans \$140.02 smcs; Google \$12.83 smcs; Gopher Sport \$218.47 smcs; Graczyk Lawn \$1,136.40 smcs; Graham Tire \$1,427.40 smcs; Grainger \$3,220.33 smcs; Great Plains \$914.93 smcs; Green Parts Store \$32.50 smcs; H to O Supply \$160.26 smcs; Hall, T \$23.36 smcs; Harbor Freight \$699.73 smcs; Hastings Tribune \$358.90 smcs; HD Supply \$603.36 smcs; Hobby-Lobby \$428.21 smcs; Holmes Plumbing \$614.09 smcs; Hometown Leasing \$580.62 smcs; Horticultural \$366.97 smcs; HTS AG \$2,847.37 smcs; Hy-Vee \$710.04 smcs; IACP \$500.00 smcs; Institute of Engineering \$325.00 smcs; Integrated Security \$226.72 smcs; Int'l Code Council \$150.00 smcs; Invoicehome.com \$5.00 smcs; IRS \$203,661.32 ps; ISA \$335.00 smcs; Jack Lederman \$3,242.93 smcs,co; Jacobi's Carpet One \$1,922.11 smcs; JCB Delivery \$221.00 smcs; JD Industrial \$83.91 smcs; Johnson Brothers \$1,589.52

smcs; Johnstone Supply \$1,272.52 smcs; Jones Automotive \$63.76 smcs; Jones Polygraph Service \$1,563.56 smcs; Kanopy \$1,675.00 smcs; Kar-Man \$1,449.97 smcs; KY Ace \$1,615.06 smcs; KY Chamber \$1,250.00 smcs; KY Concrete \$2,177.07 smcs,co; KY Crete & Block \$1,867.16 co; KY Hub \$464.55 smcs; KY Power \$26.90 smcs; KY Towing \$535.00 smcs; KY Winlectric \$7,627.93 smcs,co; Kelly Supply \$2,109.10 smcs,co; Kimball Midwest \$1,153.00 smcs; Koetters, Jason \$209.59 smcs; Konica Minolta \$302.72 smcs; KVFD \$1,500.00 ps; Lambert, C \$27.59 smcs; Landmark Implement \$4,705.08 smcs; Large Documents \$285.00 smcs; Larussa, S \$36.41 smcs; Law Enforcement \$425.00 smcs; Lawson Products \$462.23 smcs; Lee Advertising \$1,498.51 smcs; Lerner Publishing Group \$2,899.02 smcs; Librarica \$907.35 smcs; Lincoln National Life \$660.91 smcs; LLRMI \$425.00 smcs; LMC Truck \$1,565.71 smcs; Lockmobile \$20.80 smcs; Longleaf Services \$134.62 smcs; L-Tron \$452.51 smcs; Macqueen Equipment \$5,794.09 smcs; Magee, K \$17.27 smcs; Maize KY \$74.00 smcs; Mallory Safety \$302.50 smcs; Marlatt Precision \$132.12 smcs; Marlow White \$1,228.20 smcs; Marriott \$256.82 smcs; Martinez, M \$650.00 smcs; Masek Golf \$52.00 smcs; Masters True Value \$329.59 smcs,co; Matheson \$1,650.24 smcs; McCartney, Erin Chpt. 13 \$157.00 ps; Menards \$12,349.02 smcs,co; Merrill Company \$737.80 smcs; Merrymakers \$2,500.00 smcs; MF Athletic \$217.80 smcs; Microfilm Imaging \$410.82 smcs; Midwest Connect \$279.34 smcs; Milco Environmental \$126.00 smcs; Miller & Associates \$26,999.35 smcs,co; Miller Signs \$1,680.00 smcs; Mirror Image \$523.31 smcs; Mission Square \$9,335.62 ps; Moonlight Embroidery \$60.00 smcs; Motorola Solutions \$376.53 smcs; Munguia, X \$12.85 smcs; Municipal Emergency \$892.41 ps; Municipal Supply \$43,237.61 smcs; Murphy Express \$47.95 smcs; Murphy Tractor \$165.76 smcs; NAP Industrial \$65.21 smcs; National Association \$500.00 smcs; National Law \$1,250.00 smcs; Nature Watch \$164.20 smcs; NE Child Support \$1,986.51 ps; NE Dept. Environmental \$15,148.11 smcs; NE Dept. of Revenue \$83,893.14 smcs; NE Floodplain \$35.00 smcs; NE Machinery \$457.91 smcs; NE Peterbilt \$797.41 smcs; NE Truck \$2,516.82 smcs; Nebraskaland Distributors \$2,013.65 smcs; Nelson, M \$4.38 smcs; Network Solutions \$411.85 smcs; Newage Products \$1,091.92 smcs; NI DOL Contract \$28.00 smcs; NLETC \$474.00 smcs; Northwestern Energy \$30,494.54 smcs,co; NRPA \$900.00 smcs; NW3C National \$100.00 smcs; OCLC \$816.57 smcs; Office Depot \$32.71 smcs; Office Max \$1,283.37 smcs,co; Omaha Track \$609.90 smcs; Omnify \$183.75 co; One Call Concepts \$13.14 smcs; Optics Planet \$110.38 smcs; O'Reilly Auto \$1,168.78 smcs; Output Services \$130.66 smcs; Panera Bread \$97.20 smcs; Papa John's \$89.22 smcs; Patriotic Brands \$1,429.27 smcs; Paypal*eglide \$1,167.89 smcs; Paypal*Finishinli \$35.96 smcs; Paypal*Intuitpymt \$55.69 smcs; Paypal*Sayersscreen \$88.00 smcs; PDQ.com \$561.76 smcs; Penworthy \$305.44 smcs; Pep Co. \$654.50 co; Petsmart \$171.98 smcs; Phillips 66 \$95.70 smcs; Pickleball Central \$813.16 smcs; Ping \$4,550.71 smcs; Pitney Bowes \$517.50 smcs; Platinum Awards \$102.88 smcs; Platte Valley Auto \$2,067.43 smcs; Platte Valley Comm. \$213.64 smcs; POS Supply \$119.46 smcs; Positive Concepts \$230.00 smcs; Postermymwall \$29.95 smcs; Prestige Flag \$116.03 smcs; Presto-X \$537.39 smcs; PRI Management \$49.00 smcs; Printz, K \$5,000.00 co; Proflo Industries \$630.28 co; Protex Central Protex \$8.79 smcs; Provantage \$195.81 smcs; Psychological Resources \$900.00 smcs; Publication Printers \$7,456.48 smcs; Quad Lock \$337.92 smcs; Quill \$657.44 smcs; Reams \$454.11 smcs; Redbox \$6.69 smcs; Redman's Shoes \$150.00 smcs; Referee Store \$56.25 smcs; Rentokil \$67.80 smcs; Resource Mgmt. \$2,766.75 smcs; Rev Fire Parts \$2,500.00 co; Reverse Osmosis \$117.69 smcs; Riley, R \$11.25 smcs; RMV Construction \$377,156.24 co; Safety Products \$52.86 smcs; Sam's Club \$382.71 smcs; Sandry Fire \$360.95 smcs;

Sanitation Products \$293.06 smcs; Sayler \$325.00 smcs; Schrock, D \$422.94 smcs; Schroer, J \$357.50 smcs; Schuessler, F \$40.38 smcs; Schumacher Fencing \$328.57 smcs; Scott's Property Rescue \$57.71 smcs; Seat Covers Unlimited \$923.20 smcs,co; See Clear Cleaning \$2,050.00 smcs; Sequel Bookshop \$305.30 smcs; Setcom \$466.20 smcs; Seton Identification \$35.58 smcs; Sherwin Williams \$3,005.22 smcs; Shredding Solutions \$188.28 smcs; Sign Center \$797.00 smcs; Signit \$39.00 smcs; Sirchie Acquisition \$147.21 smcs; Siteone Landscape \$6,609.48 smcs; SLA Corp. \$182.80 smcs; Smith, N \$5.16 smcs; Snap-On Tools \$117.50 smcs; Spectrum \$794.72 smcs; Springer Roofing \$4,830.00 smcs; Sprinkler Warehouse \$680.11 smcs; Starbucks \$45.28 smcs; Stark, C \$987.00 smcs; Stryker Sales \$1,259.94 smcs; Stutsman \$1,098.00 smcs; Superior Signals \$1,114.00 smcs; Suwannee Thai Cuisine \$16.15 smcs; Target \$869.04 smcs; TCH Central \$453.62 co; Tire & Tire Chain Sales \$684.59 smcs; Titan Machinery \$583.41 smcs; TK Elevator \$496.60 smcs; Tractor-Supply \$951.79 smcs; Traffix Devices \$373.07 smcs; Transunion \$124.40 smcs; Trielectro \$202.00 smcs; Tufcon, K \$15.08 smcs; TXZ Traffic Safety \$1,051.35 smcs; UA Com \$317.79 smcs; Union Bank \$103,199.99 ps; Unique Management \$326.20 smcs; United Way \$10,000.00 smcs; UNK Emarket \$240.00 smcs; UNL Athletic Ticket \$408.00 smcs; UPS \$61.72 smcs; USPS \$741.77 smcs; UW Interlibrary \$20.00 smcs; Van Diest Supply \$2,684.33 smcs; Video Kingdom \$1,001.48 co; Vistaprint \$150.45 smcs; VVS \$95.60 smcs; Wal-Mart \$2,119.76 smcs,co; Waterlink \$709.41 smcs; Weathertech \$152.95 smcs; Whentowork \$216.00 smcs; Wilcac Life \$10.00 ps; Wilson Signal \$1,979.99 smcs; WL Construction \$423.08 smcs; World Herald \$335.88 smcs; WPCI \$681.55 ps; Wright, S \$1,200.00 smcs; Yellow Van Cleaning \$1,139.88 smcs; Young, M \$339.00 smcs; YouTube \$355.20 smcs; Zimmerman Printing \$316.00 smcs; Zoro Tools \$419.32 smcs; Payroll Ending 04/08/2023 -- \$618,606.20. 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. Receive recommendations of Planning Commission and set May 9, 2023, at 5:30 p.m. as the date and time for hearings on those applications where applicable.
4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class C-125600 liquor license application and manager application for Angela Mortensen submitted by Cellar Crew, LLC dba Cellar Sports Bar and Grill located at 3901 2nd Avenue, Suite C.
5. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Mark Treadway submitted by World Theatre Foundation dba World Theatre located at 2318 Central Avenue in connection with their Class I-100700 liquor license.
6. Adopt Resolution No. 2023-57 approving the Grant Agreement between the City of Kearney and the Federal Aviation Administration in connection with AIP/CARES Act Project No. 3-31-0045-035-2023 for the Box Hangar project at the Kearney Regional Airport.

RESOLUTION NO. 2023-57

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A GRANT AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR AIRPORT

IMPROVEMENT PROGRAM/CARES ACT PROJECT NO. 3-31-0045-035-2023 TO PROVIDE FOR THE BOX HANGAR PROJECT AT THE KEARNEY REGIONAL AIRPORT.

WHEREAS, the City of Kearney, Nebraska has submitted a project application to the Federal Aviation Administration for Airport Improvement Program/CARES Act Project No. 3-31-0045-035-2023 to provide for the Box Hangar project at the Kearney Regional Airport; and

WHEREAS, the Federal Aviation Administration has approved the project for the Kearney Regional Airport.

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

1. The City of Kearney shall enter into a Grant Agreement with the Federal Aviation Administration for Airport Improvement Program/CARES Act Project No. 3-31-0045-035-2023 to provide for the Box Hangar project at the Kearney Regional Airport. The Grant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

2. The Mayor or President of the Council of the City of Kearney are hereby authorized and directed to execute said Grant Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest to said execution.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

7. Adopt Resolution No. 2023-58 approving the request by Kearney Gaming, LLC to provide a keno-type lottery operation at The Cellar Sports Bar and Grill located at 3901 2nd Avenue.

RESOLUTION NO. 2023-58

WHEREAS, the City of Kearney entered into a Lottery Operator Agreement on August 14, 2001, with Kearney Gaming, LLC to operate a keno-type lottery on behalf of the City; and

WHEREAS, Section 4.A. LOTTERY FACILITIES of the Lottery Operator Agreement requires Kearney Gaming, LLC to receive approval from the City Council prior to operating a keno-type lottery from any location within the City of Kearney; and

WHEREAS, Kearney Gaming, LLC has requested that 3901 2nd Avenue, Kearney Nebraska (The Cellar Sports Bar and Grill) be approved as a location to operate a keno-type lottery on behalf of the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that 3901 2nd Avenue, Kearney Nebraska (The Cellar Sports Bar and Grill) is hereby approved as a location for Kearney Gaming, LLC to operate a keno-type lottery on behalf of the City of Kearney.

BE IT FURTHER RESOLVED that all resolutions and parts of resolutions in conflict herewith are hereby repealed.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

8. Adopt Resolution No. 2023-59 approving Application and Certificate for Payment No. 8 in the amount of \$2,366,066.67 submitted by John T. Jones Construction Co. and approved by Miller & Associates for the WWTP Phase II Improvements; Water Resource Recovery Facility.

RESOLUTION NO. 2023-59

WHEREAS, John T. Jones Construction Co. has performed services in connection with WWTP Phase II Improvements; Water Resource Recovery Facility, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 8 in the amount of \$2,366,066.67 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 35,218,367.00</u>
Contract Sum To Date	35,218,367.00
Gross Amount Due	12,979,126.16
Retainage	<u>- 1,292,118.72</u>
Amount Due to Date	11,687,007.44
Less Previous Certificates for Payment	<u>9,320,940.77</u>
Current Payment Due	\$ 2,366,066.67
Balance to finish, including retainage	\$ 23,531,359.56

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 8, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

9. Adopt Resolution No. 2023-60 approving Application and Certificate for Payment No. 1-Final in the amount of \$164,253.40 and the Certificate of Substantial Completion submitted by The Diamond Engineering Company and approved by Miller & Associates for the Cemetery Paving – Phase 2 Project.

RESOLUTION NO. 2023-60

WHEREAS, The Diamond Engineering Company has performed services in connection with the 2022 Cemetery North – Phase II, and the City's engineer, Miller and Associates, have filed with the City Clerk Application and Certificate for Payment 1 – Final in the amount of \$164,253.40 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 164,253.40</u>
Contract Sum To Date	164,253.40
Amount Due To Date	164,253.40
Retainage (0%)	0.00
Less Previous Certificates for Payment	- 0.00
Current Payment Due	<u>\$ 164,253.40</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of April 17, 2023, as shown by Exhibit “B” attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment 1 – Final, as shown on Exhibit “A” and the Certificate of Substantial Completion as shown on Exhibit “B” be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
 PEGGY EYNETICH
 CITY CLERK

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

10. Approve the Plans and Specifications for 2023 Part 1 Improvements, Younes Drive Water/Sewer/Paving, and set the Bid opening date for May 16, 2023, at 2:00 p.m.

11. Accept the bids received for 2023 Part 2 Improvements Mill and Asphalt Overlay and adopt Resolution No. 2023-61 awarding the bid to Gary Smith Construction Company, Inc., in the amount of \$457,235.00.

RESOLUTION NO. 2023-61

WHEREAS, the City of Kearney has reviewed the sealed bids which were opened on April 18, 2023, at 2:00 p.m. for the 2023 Part 2 Improvements; Mill and Asphalt Overlay; and

WHEREAS, the City Engineer’s Opinion of Probable Construction Cost for the project was \$441,300.00; and

WHEREAS, the City Engineer has recommended the bid offered by Gary Smith Construction Company Inc., Grand Island, NE in the amount of \$457,235.00 be accepted as the lowest responsible bid for the 2023 Part 2 Improvements; Mill and Asphalt Overlay.

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 Gary Smith Construction Company Inc. be and is the lowest responsible bidder for the 2023 Part 2 Improvements; Mill and Asphalt Overlay to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Gary Smith Construction Company Inc. in the amount of \$457,235.00, be and is hereby accepted.

BE IT FURTHER RESOLVED the City Engineer’s Opinion of Probable Construction Cost in the amount of \$441,300.00 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 improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

12. Adopt Resolution No. 2023-62 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement with Danny Starostka, President of Starostka Group Unlimited, Inc., a Nebraska Corporation for Millennial Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2023-62

WHEREAS, on the 22nd day of June, 2021 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2021-102 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Danny Starostka, President of Starostka Group Unlimited, Inc., a Nebraska Corporation, to construct paving, water main, sanitary sewer main and a storm sewer main to serve Millennial Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 “Acceptance of Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City’s Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for paving, water main, sanitary sewer main, and a storm sewer main to serve the property described as Millennial Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

13. Approve the Lease Agreement between the City of Kearney and the Department of Administrative Services, State Building Division on behalf of the Nebraska Department of Transportation, Division of Aeronautics, State of Nebraska, to lease Hangar T-190 located at 5065 Airport Road and adopt Resolution No. 2023-63.

RESOLUTION NO. 2023-63

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute Lease Agreement

for Hangar T-931 located at 5065 Airport Road, on behalf of the City of Kearney, Nebraska, with Department of Administrative Services, State Building Division on behalf of the Nebraska Department of Transportation, Division of Aeronautics, State of Nebraska. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
 PEGGY EYNETICH
 CITY CLERK

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

14. Adopt Resolution No. 2023-64 approving Application and Certificate for Payment No. 8 in the amount of \$0.00 approved by Miller & Associates, finalizing any obligations to Blessing, LLC and the Agreement to Assign Contract from Blessing, LLC, a Nebraska Limited Liability Company to Nielsen Contracting, LLC, a Nebraska Limited Liability Company for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B, Paving and Storm Sewer).

RESOLUTION NO. 2023-64

WHEREAS, on September 14, 2021, Miller & Associates and the City recommended the bid offered by Blessing, LLC of Kearney, Nebraska in the amount of \$1,616,081.00 be accepted as the lowest responsible bid for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B-Alternate, Paving and Storm Sewer); and

WHEREAS, the City of Kearney has received a request from Blessing, LLC to assign the contract to a new contractor to complete any remaining work in connection with 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B-Alternate, Paving and Storm Sewer) due to the death of the Principal owner of Blessing, LLC; and

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B includes Paving and Storm Sewer), and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 8 in the amount of \$0.00, finalizing any obligations to Blessing, LLC as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 1,616,081.00
Change Order No. 1 (4/12/22)	+ \$3,114.82
Change Order No. 2 (10/11/2022)	+ <u>863,585.55</u>
Contract Sum To Date	2,482,781.37
Gross Amount Due	856,225.15
Retainage (10%)	- <u>85,622.52</u>
Amount Due to Date	770,602.64
Less Previous Certificates for Payment	<u>770,602.64</u>
Current Payment Due	\$ 0.00

WHEREAS, the City has agreed to the request from Blessing, LLC to assign the contract for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B-Alternate, Paving and Storm Sewer) from Blessing, LLC to Nielsen Contracting, LLC; and

WHEREAS, the City of Kearney has prepared an Agreement to Assign Contract

between the City, Blessing, LLC and Nielsen Contracting, LLC outlining Nielsen Contracting, LLC responsibilities regarding the remaining work to be completed within the terms of the original contract at no additional cost to the City in connection with 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B includes Paving and Storm Sewer) and granting Nielsen Contracting, LLC request to modify and extend the completion date for the project, as shown in Exhibit "B" attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the President of the Council of the City of Kearney, Nebraska, hereby find and determine that the Application and Certificate for Payment No. 8, finalizing any obligations to Blessing, LLC as shown on Exhibit "A" and the Agreement to Assign Contract as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

15. Adopt Resolution No. 2023-65 approving Application and Certificate for Payment No. 1-Final in the amount of \$60,800.00 submitted by Prairie View Roofing, LLC involving work associated with the Kearney Public Library Roof Replacement.

RESOLUTION NO. 2023-65

WHEREAS, Prairie View Roofing, LLC of Kearney, Nebraska has performed services in connection with the Kearney Public Library North Roof Replacement has filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$60,800.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 60,800.00</u>
Contract Sum To Date	60,800.00
Gross Amount Due	60,800.00
Retainage (10%)	<u>- 0.00</u>
Amount Due to Date	60,800.00
Less Previous Certificates for Payment	<u>- 0.00</u>
Current Payment Due	\$ 60,800.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1-Final, as shown on Exhibit "A" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

16. Adopt Resolution No. 2023-66 appointing Chelsie Bebensee to fulfill the term vacated by Kevin Hervert on the Downtown Improvement Board.

RESOLUTION NO. 2023-66

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, one (1) vacancy currently exists on the Downtown Improvement Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following persons, as proposed by the Mayor of the City of Kearney, Nebraska, are hereby appointed to the designated Boards/Commissions for the terms indicated:

DOWNTOWN IMPROVEMENT BOARD

Chelsie Bebensee appointed to fulfill term of Kevin Hervert to July 31, 2024

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8589A AMENDING ORDINANCE 8589

Council Member Moore introduced Ordinance No. 8589A amending Ordinance No. 8589 and correcting the legal description for rezoning from District M-1, Limited Industrial District to District BP, Business Park District for property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter, part of the Southeast Quarter of the Northwest Quarter and Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; all of Lots 1 through 5, inclusive, Lots 10 through 14, inclusive, Block 1, and Lot 1, Block 2, located in Patriot Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska; parts of Cherry Avenue, Avenue B (aka Piper Avenue), Patriot Boulevard, and part of the vacated alley, all located in Patriot Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska (East of Cherry Avenue, West of Airport Road, North of 45th Street, and approximately 1,200 feet South of East 56th Street), 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 suspend the rules for Ordinance No. 8589A. 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, Nikkila. Nay: None. Lear, absent. 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. 8589A 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, Nikkila. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8589A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8589A 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.

ORDINANCE NO. 8627 AMENDING THE SALARY ORDINANCE

Council Member Moore introduced Ordinance No. 8627 repealing Ordinance No. 8625 and amending the Salary Ordinance reflecting pay plan adjustments, 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 suspend the rules for Ordinance No. 8627. 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, Nikkila. Nay: None. Lear absent. 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. 8627 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, Nikkila. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8627 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8627 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 BY TWO RIVERS PUBLIC HEALTH DEPARTMENT

Mayor Clouse opened Regular Agenda Item 1 for Council to receive an informational presentation from the Two Rivers Public Health Department (TRPHD). Jeremy Eschilman, Health Director of TRPHD, presented this item to Council. Mr. Eschilman introduced Aravind Menon, Ph.D., Epidemiologist for TRPHD, and thanked Council Members for their partnership with TRPHD.

Mr. Eschilman and Dr. Menon highlighted studies and programs TRPHD is involved in, including local health data, legal epidemiology, environmental health regulations, and home visitation and dental programs.

Council Members thanked Mr. Eschilman and Dr. Menon for their presentation.

OPEN ACCOUNT CLAIM

Moved by Nikkila seconded by Moore that the Open Account Claim in the amount of \$105,975.09 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Nikkila, Moore, Buschkoetter. Nay: None. Clouse abstained. Lear absent. Motion carried.

VII. REPORTS

PRESENTATION OF PROCLAMATION HONORING JOHN GRIMES 52 YEARS OF EMPLOYMENT WITH THE CITY OF KEARNEY

Mayor Clouse read the Proclamation honoring John Grimes for his 52 years of employment with the City of Kearney. Council presented the Proclamation to Mr. Grimes and thanked him for his years of service to the City of Kearney and the citizens of Kearney.

CLOSED SESSION

Moved by Clouse seconded by Nikkila that Council adjourn into closed session at 6:02 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss real estate matters. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Clouse seconded by Nikkila that Council reconvene into regular session at 6:47 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 6:47 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried.

ATTEST:

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

**PEGGY EYNETICH
CITY CLERK**