

Kearney, Nebraska
May 14, 2024
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 May 14, 2024 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. Brenda Jensen, City Manager; Michael Tye, City Attorney; Kayla James, Director of Finance; Andy Harter, Director of Public Works; Bryan Waugh, Chief of Police; Mike Young, Police Captain of Services; Sarah Sawin, Assistant Utilities Director; Melissa Dougherty-O'Hara, Assistant Development Services Director and Brad DeMers, Assistant to the City Manager, 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.

RECOGNITION/ORAL COMMUNICATIONS

There were no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT FOR A RESOURCE EXTRACTION OPERATION ON PROPERTY LOCATED AT 6880 30TH AVENUE

Mayor Clouse opened the public hearing on the application submitted by Charlie Isaac for BBB Rentals LLC/Charlie Isaac for a Conditional Use Permit for a resource extraction operation on property zoned District AG, Agricultural District, and described as all of the Northeast Quarter of the Northeast Quarter of Section 21, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; EXCEPT a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 21, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (6880 30th Avenue) and consider Ordinance No. 8671.

Charlie Isaac, BBB Rentals LLC/Charlie Isaac, presented this matter to the Council. Mr. Isaac stated the proposed Conditional Use Permit would allow for the extraction of existing clay and the eventual development of a Christmas tree farm. Mr. Isaac reviewed the buffer area to mitigate runoff, blowing dust, and noise in an effort to be good neighbors.

Council Member Randy Buschkoetter asked if Mr. Isaac was aware of and agreed with the 17 conditions contained in the Ordinance. Mr. Isaac confirmed that he is aware of them and is agreeable with the conditions.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Charlie Isaac for BBB Rentals LLC/Charlie Isaac and introduced Ordinance No. 8671 for a Conditional Use Permit for a resource extraction operation on property zoned District AG, Agricultural District, and described as all of the Northeast Quarter of the Northeast Quarter of Section 21, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; EXCEPT a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 21, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (6880 30th Avenue) 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 Moore seconded the motion to close the hearing and suspend the rules for Ordinance No. 8671. 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, Lear, Nikkila, Moore, Buschkoetter. 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. 8671 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Lear that Ordinance No. 8671 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. 8671 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 and the Kearney Public Library.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR CLINCHS TECH PARK SUBDIVISION

Mayor Clouse opened Public Hearing 2 on the application submitted by Jestin Clinch, Clinch Storage, LLC and Oak Creek Engineering for Clinch Storage, LLC (current owner: CRST, LLC, Dawn M. Chavanu, Manager (M.A.)) for the Final Plat and Subdivision Agreement for Clinchs Tech Park Subdivision.

Because no one was in attendance to present this matter to Council, Council postponed the item to the May 28, 2024 meeting.

Moved by Lear seconded by Buschkoetter to postpone Public Hearing 2 pertaining to the Final Plat and Subdivision Agreement for Clinchs Tech Park Subdivision to the May 28, 2024 Council meeting. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

PROPOSED AMENDMENTS TO THE CITY CODE

Mayor Clouse opened the public hearing on the proposed various amendments to the following Sections and Chapters of City Code: (a) Section 13-103 "Agricultural Use Types" and Section 13-105 "Civic Use Types" of Chapter 13 "Use Types"; (b) Section 12-104-A, of Chapter 12 "Definitions" and consider Ordinance No. 8672; (c) Section 46-102 "Supplemental Use Regulations: Agricultural Uses" of Chapter 46 "Supplemental Use Regulations" and consider Ordinance No. 8673; and (d) Table 14-1 Use Matrix: "Agricultural and Residential Types"; Table 14-1 Use Matrix: "Civic Use Types" of Chapter 14 "Zoning District Regulations" and consider Ordinance No. 8674.

Melissa-Dougherty-O'Hara, Assistant Development Services Director, presented this matter to the Council. Ms. Dougherty-O'Hara stated City Staff had been approached to explore possibilities for businesses classified under Agricultural and Civic Use Types of the Unified Land Development Ordinance (ULDO). Ms. Dougherty-O'Hara explained with the current definitions and limited zoning districts some use types for potential businesses currently have limited options for development within City limits. Ms. Dougherty-O'Hara reviewed the proposed changes, which included adding definitions and use types for Aquaculture and Community Gardens and Aquaponics Greenhouses, in addition to providing clarifying language for Agricultural Use Types, and amending where Urban Farming is permitted.

Council Member Jonathan Nikkila asked what an aquaculture site entails and if there would be issues with smell. Ms. Dougherty-O'Hara explained that any aquaponics site would have to adhere to all zoning setback and building code requirements. Brenda Jensen, City Manager, added that if done on a commercial scale, an aquaculture farm

would be contained mostly indoors for climate control purposes, which would mitigate most of the potential smell and noise issues.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing and introduced Ordinance No. 8672 amending the following Sections and Chapters of City Code: (a) Section 13-103 "Agricultural Use Types" and Section 13-105 "Civic Use Types" of Chapter 13 "Use Types"; (b) Section 12-104-A, of Chapter 12 "Definitions"; Ordinance No. 8673 amending the following Sections and Chapters of City Code: (c) Section 46-102 "Supplemental Use Regulations: Agricultural Uses" of Chapter 46 "Supplemental Use Regulations"; and Ordinance No. 8674 amending the following Sections and Chapters of City Code: (d) Table 14-1 Use Matrix: "Agricultural and Residential Types"; Table 14-1 Use Matrix: "Civic Use Types" of Chapter 14 "Zoning District Regulations" 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 ordinances on its first reading and then upon its final passage. Council Member Clouse seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8672, 8673, and 8674. President of the Council asked for discussion or if anyone in the audience was interested in the ordinances. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. 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 Nos. 8672, 8673, and 8674 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried. Ordinances were read by number.

Moved by Clouse seconded by Nikkila that Ordinance Nos. 8672, 8673, and 8674 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance Nos. 8672, 8673, and 8674 are 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 and the Kearney Public Library.

PROPOSED ACQUISITION OF A UTILITY EASEMENT

Public Hearings 4 through 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition of a Utility Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Utility Easement purposes and consider Resolution No. 2024-59.

Sarah Sawin, Assistant Utilities Director, presented this matter to the Council. Ms. Sawin stated the purpose of the proposed Easements is to capture infrastructure built outside of platted land in the area.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2024-59 approving the acquisition of a Utility Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Utility Easement purposes. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2024-59

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Utility Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, have granted to the City of Kearney, Nebraska a Utility Easement as follows:

UTILITY EASEMENT

A tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Utility Easement purposes and more particularly described as follows: Commencing at the Northwest Corner of the Northwest Quarter of Section 26; thence S 00°19'13" W on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1039.90 feet to the Westerly extension of the South line of A Permanent 66-Foot Right of Way and Utility easement Recorded as Document # 2022-05058 in the Buffalo County Register of Deeds Office; thence S 89°40'44" E on said Westerly extension of the South line and on said South line a distance of 186.55 feet to the POINT OF BEGINNING; thence continuing S 89°40'44" E on said South line a distance of 60.00 feet; thence S 00°19'13" W parallel with said West line of the Northwest Quarter a distance of 50.00 feet; thence N 89°40'44" W parallel with said South line a distance of 60.00 feet; thence N 00°19'13" E parallel with said West line a distance of 50.00 feet to the Point of Beginning. Said Utility Easement contains 3000 square feet, more or less, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Utility Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a

Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

PROPOSED ACQUISITION OF A UTILITY EASEMENT

Public Hearings 4 through 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition of a Utility Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Utility Easement and consider Resolution No. 2024-60.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2024-60 approving the acquisition of a Utility Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Utility Easement. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2024-60

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Utility Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, have granted to the City of Kearney, Nebraska a Utility Easement as follows:

UTILITY EASEMENT

A tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Utility Easement purposes and more particularly described as follows: Commencing at the Northwest Corner of the Northwest Quarter of Section 26; thence S 00°19'13" W on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1039.90 feet to the Westerly extension of the South line of A Permanent 66-Foot Right of Way and Utility easement Recorded as Document # 2022-05058 in the Buffalo County Register of Deeds Office; thence S 89°40'44" E on said Westerly extension of the South line and on said South line a distance of 546.55 feet to the POINT OF BEGINNING; thence continuing S 89°40'44" E on said South line a distance of 60.00 feet; thence S 00°19'13" W parallel with said West line of the Northwest Quarter a distance of 20.00 feet; thence N 89°40'44" W parallel with the South line a distance of 60.00 feet; thence N 00°19'13" E parallel with said West line a distance of 20.00 feet to the Point of Beginning. Said Utility Easement contains 1200 square feet, more or less, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Utility Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

PROPOSED ACQUISITION OF A STORM WATER EASEMENT

Public Hearings 4 through 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition of a Storm Water Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Storm Water Easement and consider Resolution No. 2024-61.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2024-61 approving the acquisition of a Storm Water Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Storm Water Easement. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2024-61

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Storm Water Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, have granted to the City of Kearney, Nebraska a Storm Water Easement as follows:

STORM WATER EASEMENT

A tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Storm Water Easement purposes and more particularly described as follows: Commencing at the Northwest Corner of the Northwest Quarter of Section 26; thence S 00°19'13" W on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1039.90 feet to the Westerly extension of the South line of A Permanent 66-Foot Right of Way and Utility easement Recorded as Document # 2022-05058 in the Buffalo County Register of Deeds Office; thence S 89°40'44" E on said Westerly extension of the South line and on said South line a distance of 766.55 feet to the POINT OF BEGINNING; thence continuing S 89°40'44" E on said South line a distance of 25.00 feet; thence S 00°19'13" W parallel with said West line of the Northwest Quarter a distance of 25.00 feet; thence N 89°40'44" W parallel with said South line a distance of 25.00 feet; thence N 00°19'13" E parallel with said West line a distance of 25.00 feet to the Point of Beginning. Said Storm Water Easement contains 625 square feet, more or less, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Storm Water Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems

reasonable or necessary.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

PROPOSED ACQUISITION OF A STORM WATER EASEMENT

Public Hearings 4 through 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition of a Storm Water Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of Outlot "A", Fountain Hills Twelfth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Storm Water Easement purposes and consider Resolution No. 2024-62.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2024-62 approving the acquisition of a Storm Water Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for a tract of land being part of Outlot "A", Fountain Hills Twelfth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Storm Water Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2024-62

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Storm Water Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, have granted to the City of Kearney, Nebraska a Storm Water Easement as follows:

STORM WATER EASEMENT

A tract of land being part of Outlot "A", Fountain Hills Twelfth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Storm Water Easement purposes and more particularly described as follows: Commencing at the Southwest Corner of said Outlot "A" and assuming the West line of said Outlot "A" as bearing N

00°00'00" E, and all bearings contained herein are relative thereto; thence in a Southeasterly direction on a non-tangent curve to the Right having a central angle of 31°53'30", a radius of 533.00 feet, an arc length of 296.68 feet, and a chord bearing of S 60°08'48" E a distance of 292.86 feet to the POINT OF BEGINNING; thence Southeasterly continuing on the South line of said Outlot "A" on a tangent curve to the Right having a central angle of 1°39'29", a radius of 533.00 feet, an arc length of 15.42 feet, and a chord bearing of S 43°22'18" E a distance of 15.42 feet; thence N 33°09'46" E a distance of 50.00 feet; thence N 56°50'14" W a distance of 15.00 feet; thence S 33°09'46" W a distance of 46.41 feet to the Point of Beginning. Said Storm Water Easement contains 722 square feet, more or less, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Storm Water Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

PROPOSED ACQUISITION OF A SANITARY SEWER EASEMENT

Public Hearings 4 through 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition of a Sanitary Sewer Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for A tract of land being part of Outlot "A", Fountain Hills Twelfth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Sanitary Sewer Easement purposes and consider Resolution No. 2024-63.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2024-63 approving the acquisition of a Sanitary Sewer Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for A tract of land being part of Outlot "A", Fountain Hills Twelfth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Sanitary Sewer Easement purposes. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2024-63

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Sanitary Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, have granted to the City of Kearney, Nebraska a Sanitary Sewer Easement as follows:

SANITARY SEWER EASEMENT

A tract of land being part of Outlot "A", Fountain Hills Twelfth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Sanitary Sewer Easement purposes and more particularly described as follows: Commencing at the Southwest Corner of said Outlot "A" and assuming the West line of said Outlot "A" as bearing N 00°00'00" E, and all bearings contained herein are relative thereto; thence in a Southeasterly direction on a non-tangent curve to the Right having a central angle of 34°01'33", a radius of 533.00 feet, an arc length of 316.53 feet, and a chord bearing of S 59°04'47" E a distance of 311.90; thence S 42°04'00" E continuing on said South line of Outlot "A" a distance of 58.83 feet to the POINT OF BEGINNING; thence continuing S 42°04'00" E on said South line a distance of 17.07 feet; thence N76°25'07" E a distance of 27.39 feet to the West line of a Permanent Sanitary Sewer Easement Recorded as Instrument 2013-3978 in the Buffalo County Register of Deeds Office; thence N 01°41'39" W on said West line a distance of 8.41 feet; thence N 22°09'14" W continuing on said West line a distance of 6.84 feet; thence S 76°25'07" W a distance of 36.24 feet to the Point of Beginning. Said Sanitary Sewer Easement contains 487 square feet, more or less, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Sanitary Sewer Easement granted by Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of GRAND WEST, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held April 23, 2024.

2. Approve the following Claims:

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

All Copy \$240.97 smcs; Amax Contracting \$13.44 co; Arrow Seed \$1,449.50 smcs; ASCAP \$438.08 smcs; Ask Supply \$171.83 smcs; Aurora Coop \$1,637.40 smcs; Automatic Systems \$775.00 smcs; AvFuel \$109,048.68 smcs; Baird Holm \$10,000.00 smcs; Baker & Taylor \$4,682.03 smcs; Barco Municipal \$149.00 smcs; Baye, K \$17.12 smcs; Beehive Industries \$6,614.00 smcs; Berke, N \$81.00 smcs; Big Red Auto Glass \$468.63 smcs; BlueCross BlueShield \$214,349.45 smcs; Bosselman \$9,708.69 smcs; Bossfuels \$23,040.16 smcs; Broadfoot's \$1,555.20 smcs; Browne, J \$600.00 smcs; Builders \$225.62 smcs,co; Burr, J \$44.50 smcs; Cal/Amp \$781.55 smcs; Cash Wa \$6,124.97 smcs; Center Point \$79.86 smcs; Central NE Bobcat \$3,135.06 smcs; Chesterman \$4,500.50 smcs; CHS/Agri Coop \$18.66 smcs; City of KY \$1,335,113.78 smcs, ps; Clement, B \$31.00 smcs; CMH Interiors \$599.36 smcs; Cold Spring \$1,118.25 smcs; Comm. Action Partnership \$2,577.50 smcs; Control Yours \$3,906.25 smcs; Country Partners \$159,169.83 smcs; Creative Services \$508.95 smcs; Critical Hire \$100.00 smcs; Crowne Plaza \$7,756.03 smcs; Cutter & Buck \$89.52 smcs; Cutting Edge Cleaning \$85.00 smcs; D & K Products \$9,752.26 smcs; Danburg, K \$50.00 smcs; Dan's Plumbing \$1,469.31 smcs; Data Axle \$415.00 smcs; Donkey Towing \$285.00 smcs; Downey Drilling \$9,797.13 smcs; Dunlop \$868.80 smcs; Eagle Distributing \$522.24 smcs; Eakes \$253.02 smcs; Elliott Equipment \$15,605.97 smcs; Epoxy Proz \$750.00 smcs; Ewalt, P \$300.00 smcs; Family Practice \$703.00 smcs,ps; Fangmeyer, L \$720.00 co; Fedex \$65.17 smcs; Fehringer, S \$282.00 smcs; Fisher Roofing \$500.00 smcs; Flaherty, T \$75.00 smcs; Gale \$1,336.62 smcs; Gametime \$84,993.50 co; Gardner, R \$5.58 smcs; Garrett Tires \$3,414.58 smcs; Gear for Sports \$9,676.35 smcs; Give Nebraska \$6.00 ps; Glatter, D \$50.00 smcs; Graczyk Lawn \$3,789.00 smcs; Granicus \$6,956.68 smcs; Greater NE Cities \$1,000.00 smcs; Heinzen, D \$39.23 smcs; High, J \$21.49 smcs; Hinrichsen, J \$87.50 smcs; HireRight \$10.45 smcs; HM Life Insurance \$80,304.74 smcs; Hobelman, M \$37.64 smcs; Houtz, J \$103.00 smcs; Hub Int'l \$6,999.92 smcs; Hurlbert, K \$7.95 smcs; Hydronic Energy \$151.96 smcs; IRS \$196,663.42 ps; Jack Lederman \$875.63 smcs,co; Jack's Uniforms \$2,005.67 smcs; Java Junction \$360.00 smcs; JB Concrete \$3,388.00 co; JCB Delivery \$81.00 smcs; John T. Jones Const. \$366,438.57 co; Kart-man \$1,468.41 smcs; KY Crete & Block \$3,240.04 smcs,co; KY E-Free Church \$50.00 smcs; KY Hub \$1,001.57 smcs; Keim, N \$2,500.00 smcs; Kleidosty, N \$81.00 smcs; Korgel, K \$231.82 smcs; Larsen, R \$107.00 smcs; Lathrop, C \$77.54 smcs; LCL Truck Equipment \$16,185.00 co; Lewis, C \$7.95 smcs; Lincoln Nat'l Life \$11,056.66

smcs,ps; Lindner, L \$245.00 smcs; Logan Contractors \$292.00 smcs; Luke, D \$281.00 smcs; Magic Cleaning \$8,850.00 smcs; Martinez, M \$1,100.00 smcs; Marv Crouch Counseling \$400.00 smcs; Matt Friend Truck \$1,126.00 smcs; May, K \$50.00 smcs; Mayhew Signs \$6,292.00 smcs; McCartney, Erin Chpt. 13 \$157.00 ps; McEntee, S \$31.00 smcs; MCL Construction \$2,125,186.54 co; Menards \$170.01 smcs,co; Midlands Contracting \$3,000.00 co; Mid-State Engineering \$2,523.50 smcs,co; Midwest Connect \$10,411.38 smcs; Miller & Associates \$95,344.55 smcs,co; Miller, D \$50.00 smcs; Miller, L \$159.00 smcs; Milliman \$2,200.00 smcs; Mission Square \$6,270.66 ps; Moffet, E \$7.95 smcs; Mohler, W \$425.00 smcs; Molina, F \$148.46 smcs; Most Dependable Fount. \$1,590.00 smcs; Mostek Electric \$3,449.55 smcs; Municipal Emergency \$356.12 ps; Municipal Supply \$26,172.81 smcs; Najera, A \$107.00 smcs; NDEE \$150.00 smcs; NE Child Support \$1,419.72 ps; NE Dept. Revenue \$64,065.41 ps; NE Generator Service \$563.14 smcs; NE Library Commission \$1,372.79 smcs; NE Machinery \$6,390.52 smcs; NE Public Health \$232.00 smcs; NE Safety & Fire \$700.00 smcs; Nebraskaland Distrib. \$1,280.82 smcs; NELETC \$62.45 smcs; Newell, B \$204.00 smcs; Northwestern Energy \$3,955.00 smcs; NRG Media \$143.00 smcs; Olsson Associates \$1,935.00 co; One Call Concepts \$48.30 smcs; O'Reilly Auto \$452.22 smcs; Overhead Door \$140.97 smcs; Pep Co. \$537.31 smcs; Peterson, D \$1,225.00 smcs; Pioneer Industrial \$7,909.16 smcs; Platinum Awards \$449.60 smcs; Presto-X \$474.56 smcs; Prime Secured \$1,994.50 smcs; Pritchard, L \$23.33 smcs; Rapid Fire \$6,000.00 smcs; Rasmussen Mechanical \$2,758.19 smcs; Ready Mixed Concrete \$6,816.03 smcs,co; Reinke's \$434.48 smcs; Rheome Tree \$9,950.00 smcs; Road Builders \$152.75 smcs; Rock It Event Pros \$1,471.36 smcs; Sampson Construction \$306,806.36 co; School District #7 \$6,385.00 smcs; Schroer, J \$803.50 smcs; See Clear Cleaning \$425.00 smcs; Select Sprayers \$6,700.00 smcs; Sherwin Williams \$25,883.54 smcs; Sklenar, D \$46.12 smcs; Smith, T \$22.53 smcs; SOS Portable Toilets \$309.40 smcs; Spath, B \$39.54 smcs; Springer Roofing \$550.00 smcs; State Fire Marshal \$300.00 smcs; State of NE/DAS \$22.68 smcs; Stitch 3 \$190.00 smcs; Stones, Z \$31.00 smcs; Stutsman \$4,392.00 smcs; Superior-Central Square \$169,653.54 smcs; Sweet, Z \$47.00 smcs; Talbott Brothers \$3,500.00 smcs; Taylor, R \$1,225.00 smcs; Transportation Control \$28,592.00 smcs,co; Traveler's \$1,053.00 smcs; Trojan Technologies \$20,496.13 smcs; Truck Center \$202,378.00 co; Turner Body Shop \$250.00 smcs; Twin City Hardware \$1,742.91 smcs; Tye & Rowling \$16,042.40 smcs; UL \$9,256.68 smcs; Union Bank & Trust \$106,934.65 ps; United Way \$54.00 ps; Vanco \$95.79 smcs; Vasquez, L \$150.00 smcs; Verizon \$13,188.60 smcs; Village Uniform \$162.08 smcs; Volaire \$2,000.00 smcs; Waller, M \$29.89 smcs; Walsh, C \$154.10 smcs; Walters Electric \$600.00 smcs; Waugh, B \$161.00 smcs; Wausau Tile \$407.00 co; Wessels, W \$300.00 smcs; Western NRG \$4,993.80 smcs; White, M \$37.48 smcs; Wilkins Hinrichs Stober \$3,144.90 smcs; Window World \$992.50 smcs; Windy Prairie Systems \$500.00 smcs; Yanda's Music \$21,290.07 smcs,co; Young, J \$81.00 smcs; Young, M \$174.00 smcs; Payroll Ending 04/20/2024 -- \$632,529.82 and 05/04/2024 -- \$653,186.21. 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. Approve the City of Kearney and RYDE Vehicle Gasoline Purchase Agreement and approve Resolution No. 2024-64.

RESOLUTION NO. 2024-64

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the City of Kearney, and RYDE Vehicle Gasoline Purchase Agreement, a copy of the Agreement, marked Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

4. Adopt Resolution No. 2024-65 approving Change Order No. 1 showing an increase in the amount of \$18,500.00 submitted by Mayhew Signs, Inc. and approved by City staff for the Kearney SportsPlex Exterior Facility Signage project.

RESOLUTION NO. 2024-65

WHEREAS, Mayhew Signs, Inc has performed services in connection with the Kearney SportsPlex Exterior Facility Signage Project, and City staff, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$18,500.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 128,158.00
Change Order No. 1 (05/14/2024)	<u>+ 18,500.00</u>
New Contract Sum To Date	\$ 146,685.00

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 MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

5. Adopt Resolution No. 2024-66 approving the Developer Constructed Infrastructure Agreement for Younes Center Tenth Addition between the City of Kearney and Paul Younes, authorized member of Talmadge JAM, LLC, a Nebraska Limited Liability Company, for the construction of water, sanitary sewer, paving, and storm sewer infrastructure to serve Younes Center Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2024-66

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Younes Center Tenth Addition, an addition to the City of

Kearney, Buffalo County, Nebraska” between the City of Kearney and Paul Younes, authorized member of Talmadge JAM, LLC, a Nebraska Limited Liability Company, for the construction of public improvements: water, sanitary sewer, paving and storm sewer infrastructure for Younes Center Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit A is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

6. Adopt Resolution No. 2024-67 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement with Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of Grand West, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for Fountain Hills – 54th Street and 15th Avenue.

RESOLUTION NO. 2024-67

WHEREAS, on the 23rd day of August, 2022 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2022-166 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Scott Kummer, Vice President and Manager of Morrison Enterprises, LLC, Sole Member of Grand West, LLC, a Nebraska Limited Liability Company, and Anna L. Stehlik, Trustee, for the construction of water, sanitary sewer, paving and storm sewer infrastructure to serve:

15th Avenue: A strip of land 66.00 feet wide being part of the North Half of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way & Utility Easement purposes. Said 66.00 feet wide Permanent Right of Way & Utility Easement to be 33.00 feet on each side of following described centerline: Commencing at the Northwest Corner of the Northwest Quarter of Section 26; thence S 00°19'13" W on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1006.90 feet; thence S 89°40'44" E a distance of 778.97 feet; thence N 00°21'43" E a distance of 33.00 feet to the POINT OF BEGINNING; thence continuing N 00°21'43" E a distance of 371.42 feet to the Point of Termination on the centerline of 15th Avenue as dedicated in Fountain Hills Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska. The side lines of said 66.00 feet wide Permanent Right of Way & Utility Easement to be lengthened or shortened to form a continuous strip. Said 66.00 feet wide Permanent Right of Way & Utility Easement contains 0.51 acres, more or less.

54th Street: A strip of land 66.00 feet wide being part of the North Half of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of

Way & Utility Easement purposes. Said 66.00 feet wide Permanent Right of Way & Utility Easement to be 33.00 feet on each side of following described centerline: Commencing at the Northwest Corner of the Northwest Quarter of Section 26; thence S 00°19'13" W on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1006.90 feet; thence S 89°40'44" E a distance of 33.00 feet to the POINT OF BEGINNING on the East line of 17th Avenue. thence continuing S 89°40'44" E a distance of 922.66 feet; thence Southeasterly on a tangent curve to the Right having a central angle of 43°24'27", a radius of 500.00 feet, an arc length of 378.80 feet, and a chord bearing of S 67°58'31" E a distance of 369.81 feet to the Point of Termination on the centerline of 52nd Street as dedicated in Fountain Hills Fifteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Said 66.00 feet wide Permanent Right of Way & Utility Easement contains 1.97 acres, more or less; 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 the construction of water, sanitary sewer, paving and storm sewer infrastructure to serve the property described as:

15th Avenue: A strip of land 66.00 feet wide being part of the North Half of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way & Utility Easement purposes. Said 66.00 feet wide Permanent Right of Way & Utility Easement to be 33.00 feet on each side of following described centerline: Commencing at the Northwest Corner of the Northwest Quarter of Section 26; thence S 00°19'13" W on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1006.90 feet; thence S 89°40'44" E a distance of 778.97 feet; thence N 00°21'43" E a distance of 33.00 feet to the POINT OF BEGINNING; thence continuing N 00°21'43" E a distance of 371.42 feet to the Point of Termination on the centerline of 15th Avenue as dedicated in Fountain Hills Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska. The side lines of said 66.00 feet wide Permanent Right of Way & Utility Easement to be lengthened or shortened to form a continuous strip. Said 66.00 feet wide Permanent Right of Way & Utility Easement contains 0.51 acres, more or less.

54th Street: A strip of land 66.00 feet wide being part of the North Half of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way & Utility Easement purposes. Said 66.00 feet wide Permanent Right of Way & Utility Easement to be 33.00 feet on each side of following described centerline: Commencing at the Northwest Corner of the Northwest Quarter

of Section 26; thence S 00°19'13" W on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1006.90 feet; thence S 89°40'44" E a distance of 33.00 feet to the POINT OF BEGINNING on the East line of 17th Avenue. thence continuing S 89°40'44" E a distance of 922.66 feet; thence Southeasterly on a tangent curve to the Right having a central angle of 43°24'27", a radius of 500.00 feet, an arc length of 378.80 feet, and a chord bearing of S 67°58'31" E a distance of 369.81 feet to the Point of Termination on the centerline of 52nd Street as dedicated in Fountain Hills Fifteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Said 66.00 feet wide Permanent Right of Way & Utility Easement contains 1.97 acres, more or less 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 14TH DAY OF MAY, 2024.

ATTEST:
 PEGGY EYNETICH
 CITY CLERK

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

7. Approve the request from the Utilities Department to sell three (3) pieces of equipment by the method deemed most advantageous to the City of Kearney, including sale by auction, sealed bid, or private or public sale.

8. Adopt Resolution No. 2024-68 approving the Interlocal Agreement the Board of Regents of the University of Nebraska, a public body corporate and governing body of the University of Nebraska at Kearney, and the City of Kearney, Nebraska, a political subdivision pertaining to a roundabout, located at the intersection of University Drive (connecting from the south) and Highway 30.

RESOLUTION NO. 2024-68

WHEREAS, Neb. Rev. Stat. §13-807 authorizes public agencies to contract to perform any governmental service, activity, or undertaking which at least one of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, an Interlocal Agreement has been drafted between the Board of Regents of the University of Nebraska, a public body corporate and governing body of the University of Nebraska at Kearney, and the City of Kearney, Nebraska, a political subdivision with the purpose and objective of said Interlocal Agreement being to set forth the responsibilities of the University and the City with respect to a roundabout to be constructed by the City at the intersection of University Drive (connecting from the south) and Highway 30, in Kearney, Nebraska; and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Interlocal Agreement for the purpose and objective setting forth the responsibilities of the University and the City with respect to a roundabout to be constructed by the City at the intersection of University Drive (connecting from the south) and Highway 30, in Kearney, Nebraska be and is hereby accepted and approved. The Agreement, marked Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

9. Adopt Resolution No. 2024-69 approving the Real Estate Purchase Agreement between Robert R. Rutt and Jane M. Rutt, husband and wife, and the City of Kearney for the purchase of a tract of land described as Lots 2 and 13, and that part of a vacated 30.00-foot alley abutting Lots 2 and 13, and tract of land being part of Lots 3 and 12, all in Block 1, Patriot Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2024-69

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the "Purchase Agreement between Robert R. Rutt and Jane M. Rutt, husband and wife, and the City of Kearney" for the purchase of real property which is legally described as:

Lots 2 and 13, and that part of a vacated 30.00-foot alley abutting Lots 2 and 13, and tract of land being part of Lots 3 and 12, all in Block 1, Patriot Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska, and more particularly described as follows: A tract of land, containing 2.06 acres, more or less, being part of Lot 3, part of Lot 12, and that part of vacated 30.00-foot alley abutting part of Lot 3, and part of Lot 12 all in Block 1, Patriot Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a 5/8" rebar w/cap at the Northwest corner of said Lot 3; thence S 89°46'58" E on the North line of said Lot 3, and all bearings contained herein are relative thereto, a distance of 177.50 feet to a 5/8" rebar w/cap; thence S 00°13'02" W a distance of 503.92 feet to a 5/8" rebar w/cap on the South line of said Lot 12; thence S 89°54'55" W on said South line a distance of 177.50 feet to a 5/8" rebar w/cap at the Southwest corner of said Lot 12; thence N 00°13'02" E on the West line of said Lot 12 and the West line of said Lot 3 a distance of 504.85 feet to the Point of Beginning.

be and is hereby accepted and approved. The Agreement, marked as Exhibit A is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

10. Adopt Resolution No. 2024-70 approving the Application and Certificate for Payment No. 11 in the amount of \$32,587.92 and Application and Certificate for Payment

No. 12 in the amount of \$133,786.97 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the Booster Pump Stations, Renovations and Associated Improvements.

RESOLUTION NO. 2024-70

WHEREAS, Midlands Contracting, Inc of Kearney, Nebraska has performed services in connection with Booster Pump Stations, Renovations and Associated Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 11 in the amount of \$32,587.92 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 2,185,960.00</u>
Change Order No. 1 (09/13/2022)	<u>- 345,373.00</u>
Contract Sum To Date	1,840,587.00
Gross Amount Due	1,522,100.62
Retainage (10%)	<u>- 152,210.06</u>
Amount Due to Date	1,369,890.55
Less Previous Certificates for Payment	<u>1,337,302.63</u>
Current Payment Due	<u>\$ 32,587.92</u>

WHEREAS, Midlands Contracting, Inc of Kearney, Nebraska has performed services in connection with Booster Pump Stations, Renovations and Associated Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 12 in the amount of \$133,786.97 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 2,185,960.00</u>
Change Order No. 1 (09/13/2022)	<u>- 345,373.00</u>
Contract Sum To Date	1,840,587.00
Gross Amount Due	1,670,752.80
Retainage (10%)	<u>- 167,075.28</u>
Amount Due to Date	1,503,677.52
Less Previous Certificates for Payment	<u>1,369,890.55</u>
Current Payment Due	<u>\$ 133,786.97</u>

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 Nos. 11 and 12, as shown on Exhibit "A" and Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

11. Adopt Resolution No. 2024-71 approving the Consultant Agreement between Alfred Benesch and Company and the City of Kearney for the Airport Apron Reconstruction Project at the Kearney Regional Airport.

RESOLUTION NO. 2024-71

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute the Consultant Agreement with Alfred Benesch and Company for the Airport Apron Reconstruction Project at the Kearney Regional Airport which is being completed with banked-up Bipartisan Infrastructure Law (BIL) funds the City has received from the Federal Aviation Administration (FAA). The Consultant Agreement is subject to FAA concurrence. The Consultant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

12. Approve the application submitted by Broadfoot Sand & Gravel to extend Conditional Use Permit No. 2000-07 to operate a clay extraction operation at 70th Street and 30th Avenue for a period of two years.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIM

Moved by Moore seconded by Lear that the Open Account Claim in the amount of \$3,326.00 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Moore. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

Ms. Jensen stated Essential Air Service (EAS) proposals should be available within the next two weeks.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 5:46 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

ATTEST:

**PEGGY EYNETICH
CITY CLERK**

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