

**Kearney, Nebraska**  
**August 13, 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 August 13, 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; Bryan Waugh, Chief of Police; Sarah Sawin, Director of Utilities; Melissa Dougherty-O'Hara, City Planner and Dan Lillis, Engineering Assistant II, were also present. Members of the media present included: Michael Shively, News Channel Nebraska.

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

## **I. ROUTINE BUSINESS**

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

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

### **PLEDGE OF ALLEGIANCE**

Council members led the audience in the Pledge of Allegiance.

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There were no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **PROPOSED ACQUISITION OF PERMANENT RIGHT OF WAY & UTILITY EASEMENT**

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 66-Foot Permanent Right of Way & Utility Easement granted by Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a strip of land 66.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, Buffalo County, Nebraska, dedicated for Permanent Right of Way & Utility Easement purposes and consider Resolution No. 2024-103.

Sarah Sawin, Director of Utilities presented this matter to the Council. Ms. Sawin described the location of the proposed Permanent Right of Way and Utility Easements to be used to connect 3rd Street between Yanney Avenue and 16th Avenue.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2024-103 approving the acquisition for a 66-Foot Permanent Right of Way & Utility Easement granted by Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a strip of land 66.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, Buffalo County, Nebraska, dedicated for Permanent Right of Way & Utility Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

#### **RESOLUTION NO. 2024-103**

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 66-Foot Permanent Right of Way & Utility Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a 66-Foot Permanent Right of Way & Utility Easement as follows:

66-FEET PERMANENT RIGHT OF WAY & UTILITY EASEMENT

A strip of land 66.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, 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 the following described centerline: Commencing at the Southwest corner of Government Lot 5 of Section 10; thence N 00°23'44" E on the West line of said Government Lot 5 and its Northerly Extension, and all bearings contained herein are relative thereto, a distance of 1882.02 feet; thence S 89°36'16" E on said Westerly extension a distance of 33.00 feet to the East Right of Way line of Yanney Avenue as recorded in Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing S 89°36'16" E a distance of 344.06 feet; thence Southeasterly on a tangent curve to the Right having a central angle of 14°50'25", a radius of 2000.00 feet, an arc length of 518.02 feet, and a chord bearing of S 82°11'04" E a distance of 516.58 feet; thence S 74°45'51" E a distance of 172.99 feet; thence Southeasterly on a tangent curve to the Left having a central angle of 15°56'25", a radius of 2000.00 feet, an arc length of 556.42 feet, and a chord bearing of S 82°44'04" E a distance of 554.63 feet; thence N 89°17'44" E a distance of 282.73 feet to the West line of 16th Avenue, as platted in Younes Center Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska and the Point of Termination. The sidelines of said 66.00 feet wide Permanent Right of Way & Utility Easement to be lengthened or shortened to form a continuous strip. Containing 2.84 acres, more or less.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the 66-Foot Permanent Right of Way & Utility Easement granted by Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, 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 13TH DAY OF AUGUST, 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 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 10.00 feet Utility Easement granted by Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a strip of

land 10.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, Buffalo County, Nebraska, dedicated for Utility Easement purposes and consider Resolution No. 2024-104.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2024-104 approving the acquisition for a 10.00 feet Utility Easement granted by Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a strip of land 10.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, 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. 2024-104**

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 10.00-Foot Utility Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a 10.00-Foot Utility Easement as follows:

#### **10.00-FEET UTILITY EASEMENT**

A strip of land 10.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, Buffalo County, Nebraska, dedicated for Utility Easement purposes. Said 10.00 feet wide Utility Easement to be 5.00 feet on each side of the following described centerline: Commencing at the Southwest corner of Government Lot 5 of Section 10; thence N 00°23'44" E on the West line of said Government Lot 5 and its Northerly Extension, and all bearings contained herein are relative thereto, a distance of 1920.02 feet; thence S 89°36'16" E a distance of 33.00 feet to the East Right of Way line of Yanney Avenue and the POINT OF BEGINNING; thence continuing S 89°36'16" E a distance of 344.06 feet; thence Southeasterly on a tangent curve to the Right having a central angle of 14°50'25", a radius of 2038.00 feet, an arc length of 527.86 feet, and a chord bearing of S 82°11'04" E a distance of 526.39 feet; thence S 74°45'51" E a distance of 172.99 feet; thence Southeasterly on a tangent curve to the Left having a central angle of 15°56'25", a radius of 1962.00 feet, an arc length of 545.85 feet, and a chord bearing of S 82°44'04" E a distance of 544.09 feet; thence N 89°17'44" E a distance of 282.73 feet to the West line of 16th Avenue, as platted in Younes Center Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska and the Point of Termination.

The sidelines of said 10.00 feet wide Utility Easement to be lengthened or shortened to form a continuous strip. Containing 0.43 acres, more or less.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the 10.00-Foot Utility Easement granted by Paul Younes, Authorized Member of Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company and Paul Younes, Authorized Member of Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, 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 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

**IV. CONSENT AGENDA**

Moved by Lear seconded by Buschkoetter that Subsections 1 through 11 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 July 23, 2024.

2. Approve the following Claims:

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

911 Custom \$1,512.65 co; Adventure Enterprises \$17,189.00 smcs; Airport Property NE One \$70.22 smcs; Alfred Benesch \$54,971.61 co; All City Garage \$4,538.00 smcs ; All Copy \$130.37 smcs ; American Auto Exchange \$49.88 smcs; Anderson Bros. \$7,740.74 smcs; Arens, J \$203.99 smcs; Arrow Seed \$6,814.50 co; Ask Supply \$3,926.30 smcs; Aurora Coop \$503.60 smcs ; Automatic Systems \$33,128.83 smcs ; AvFuel \$161,975.15 smcs; Baker & Taylor \$10,131.82 smcs; Barco Municipal \$309.57 smcs ; Bear Frame \$1,275.74 smcs ; Bertrand, L \$57.36 smcs; Berumen, P \$48.22 smcs; Blackstrap \$5,158.75 smcs ; Blue to Gold \$6,250.00 smcs; BlueCross BlueShield \$321,406.38 smcs; Bosselman \$8,157.40 smcs ; Bossfuels \$21,400.07 smcs ; Bowman, R \$53.49 smcs; Brandt, J \$26.65 smcs; Broadfoot's \$1,084.00 smcs ; Buffalo Co. Redi-Mix \$34,963.73 co; Builders \$1,536.74 smcs,co; Cal/Amp \$781.55 smcs ; California Wing \$275.00 smcs; Cardone, M \$42.75 smcs; Cash Wa \$11,248.00 smcs; Central District Health \$5,416.00 smcs ; Central NE Bobcat \$60.48 smcs ; Central NE Rehab \$165.00 ps; Chesterman

\$4,350.50 smcs; City of KY \$56,253.06 smcs,co; City of KY \$433,157.25 ps; City Plumbing \$891.97 smcs ; CKC \$87.96 smcs; Clement, B \$770.00 smcs; Clements, C \$42.45 smcs; Coldspring \$372.75 smcs; Community Action Mid NE \$12,483.70 smcs; Computer Hardware \$4,379.40 co; Country Partners \$20,501.72 smcs ; Crane River \$3,120.00 smcs; Cummins \$18,085.41 smcs ; Cutting Edge Cleaning \$175.00 smcs; D & M Underground \$134.86 smcs; Dandee Construction \$23,373.94 smcs ; Dan's Plumbing \$97.50 smcs; David Lano Auxway \$91.46 smcs; Deterding's \$9,271.29 smcs; Dickson, A \$54.00 smcs; Dostal, K \$672.00 smcs; Double J Plumbing \$1,350.00 smcs ; Downey Drilling \$73,776.91 smcs ; Dowse, E \$32.98 smcs; Dytrych, T \$21.58 smcs; Eagle Distributing \$6,047.70 smcs; Eakes \$46,870.98 smcs,co; Eastbrooke Gardens \$86.73 smcs; Ebsco Publishing \$4,784.00 smcs; Eichholz, T \$20.00 smcs; Elliott Equipment \$306,226.52 co; Emily Davidson Photo. \$350.00 smcs ; Eurofins \$605.00 smcs ; Family Practice \$846.00 smcs,ps; Flint Hills Fire & Rescue \$151.20 smcs; Flynn, Brian \$163.00 smcs ; Fountain Hills \$156.82 smcs; Full Circle Bakery \$417.57 smcs; Gale \$1,336.71 smcs; Garrett Tires \$9,630.87 smcs ; GBF Holdings \$112.24 smcs; Gear for Sports \$526.76 smcs; Gerdes, L \$60.62 smcs; Give Nebraska \$6.00 ps; Gmstek \$776.94 smcs ; Goodwin Tucker \$575.00 smcs ; Goss & Associates \$15,000.00 smcs ; Greater NE Cities \$1,000.00 smcs ; Greater NE Swim Team \$510.00 smcs; Grossman, T \$56.02 smcs; Harms, M \$42.03 smcs; Hazen, B \$56.59 smcs; HD Arms \$172.79 smcs; Hesseltine, C \$18.78 smcs; HM Life \$82,303.32 smcs; Hometown Leasing \$836.77 smcs; Hotsy \$251.50 smcs ; Huels Service \$3,873.23 smcs ; Hughes, M \$17.23 smcs; Ihouse \$55.97 smcs; Integrated Security \$426.00 smcs ; IRS \$439,728.51 ps; J & A Traffic \$1,292.50 co; James, D \$31.00 smcs ; JCB Delivery \$103.00 smcs; John T. Jones Const. \$265,523.79 co; Johnson Bros. \$815.97 smcs; Jones Polygraph \$350.00 smcs; Kadow, A \$65.76 smcs; Kart-Man \$1,477.67 smcs ; KY Animal Shelter \$15,218.93 smcs ; KY Concrete \$9,788.75 co; KY Crete & Block \$315.20 co; KY Winlectric \$2,995.00 co; Kelly Supply \$10.96 co; Kenner, A \$22.23 smcs; KGFW \$200.00 smcs ; Kitt's Coffee \$40.00 smcs ; Kongs, T \$8.66 smcs; Konica Minolta \$257.92 smcs; Kumke, J \$10.17 smcs; Language Line \$165.00 smcs ; Larsen, R \$122.00 smcs ; Laser Technology \$145.00 smcs; Lawn Builders \$850.00 co; League NE Municipalities \$60,842.00 smcs ; Legate, T \$40.35 smcs; Lerner \$18.99 smcs; Lincoln National Life \$9,886.89 smcs; Lockmobile \$110.00 smcs ; Loper Athletics \$2,621.50 smcs; Lund, D \$53.67 smcs; Mac Tools \$45.00 smcs ; MacQueen \$2,842.67 smcs; Magic Cleaning \$9,090.00 smcs; Mangus, P \$26.53 smcs; Manzano, E \$20.53 smcs; Marlatt Precision \$374.49 smcs; Martin, T \$42.97 smcs; Mauslein Welding \$1,840.00 smcs ; May, K \$50.00 smcs; Mayhew Signs \$6,612.00 smcs ; McFadden, P \$139.34 smcs; McLeod, K \$19.83 smcs; Menards \$27.98 smcs ; Meyer, B \$44.00 smcs; Mid-Atlantic Receptive \$68,662.00 smcs; Midlands Contracting \$297,984.78 co; Mid-NE Digging \$6,675.00 smcs ; Mid-NE Garage Door \$150.00 smcs ; Midwest Connect \$10,058.71 smcs ; Midwest Storage Solutions \$288.89 smcs; Miller & Associates \$96,892.50 smcs,co; Miller Signs \$142.76 smcs; Miller, D \$50.00 smcs; Miller, G \$52.32 smcs; Mission Square \$15,123.09 ps; Mueller Sprinklers \$119,756.00 co; Municipal Supply \$21,895.69 smcs ; NE Child Support \$3,377.62 ps; NE Dept of Revenue \$160,387.27 smcs,ps; NE Generator \$15,856.99 smcs ; NE Machinery \$13,154.35 smcs ; NE Public Health \$296.00 smcs ; Nebraskaland Dist. \$4,074.20 smcs; Nelson, D \$149.06 smcs; NELTC \$160.00 smcs; Newsbank \$13,200.00 smcs; Nickel, C \$66.30 smcs; Nielsen Contracting \$75,614.90 co; Noel, K \$21.59 smcs; Northwestern Energy \$4,201.43 smcs; Novus Glass \$110.00 smcs ; Nutt, Winston \$2.61 smcs; OCLC \$10,636.46 smcs; Olsson Associates \$37,450.00 co; One Call Concepts \$781.66 smcs ; Otto, S \$58.32 smcs; Ourada, Flora Lee \$54.00 smcs; Pallas, M \$91.47 smcs; Peerless

Machine \$19,800.00 smcs ; Penworthy \$214.60 smcs; Pep Co. \$537.31 smcs; Plastic Fulfillment \$1,420.50 smcs; Plastix Plus \$6,067.38 co; Platte Valley Auto \$54,887.10 co; Polydyne \$16,758.72 smcs ; Presto-X \$474.56 smcs; ProQuest \$514.35 smcs; Pro-Tint \$250.00 smcs ; PVS DX \$26,084.42 smcs ; Rapid Fire \$275.00 smcs ; Rasmussen Mechanical \$5,969.25 smcs ; RDG Planning & Design \$55,310.05 co; Ready Mixed Concrete \$15,424.21 smcs,co; Regional Development \$82.97 smcs; Reinke's Heating \$696.95 smcs ; Resource Mgmt. \$3,288.00 smcs ; Rheome Tree \$3,700.00 smcs; Richter, C \$13.20 smcs; Riekes Equipment \$38.77 smcs ; Rivershore \$160.00 smcs; Robb Jeffrey Range \$400.00 smcs; Roeder, Donna \$51.14 smcs; Roesler, A \$1,125.00 smcs; RollNRack \$122.00 smcs; Rowe, L \$437.50 smcs; S&J Construction \$24,573.92 co; S&P Global \$22,250.00 smcs ; Schaepler, B \$83.24 smcs; Schmit, A \$59.70 smcs; School District #7 \$565.00 smcs ; See Clear Cleaning \$2,520.00 smcs; SG Leasing \$48.65 smcs; Sheen, David \$64.49 smcs; Sign Center \$12,056.80 smcs ; Sign Solutions \$313.84 smcs ; Slagle, Connor \$36.67 smcs; SOS Portable Toilets \$461.00 smcs; Southern Glazier \$2,331.00 smcs; Speicher, L \$70.63 smcs; Star Homes \$49.16 smcs; State of NE/DAS \$38.43 smcs ; Steinbrink Landscaping \$374,581.12 co; Steinbrook, S \$437.50 smcs; Stryker Sales \$1,575.77 smcs ; Stutsman \$3,294.00 smcs ; Sunset Law Enforcement \$305.30 smcs; Thompson, K \$122.00 smcs ; Tilly, B \$66.67 smcs; Title Swim Club \$160.00 smcs; TK Elevator \$1,480.94 smcs ; Trade Well Pallet \$1,250.00 smcs; Traffic Control \$17,790.00 co; Tri-Cities Roofing \$1,060.67 smcs ; Tumbleweed Press \$3,393.50 smcs; Turner Body Shop \$125.00 smcs; Twin City Hardware \$1,384.10 smcs ; Tye & Rowling \$16,000.80 smcs ; Underground Construction \$715.22 co; Underwood, Amber \$42.83 smcs; Union Bank & Trust \$218,672.76 ps; Union Pacific Railroad \$3,115.93 er; United Way \$54.00 ps; Van Diest Supply \$431.00 co; Verizon \$13,416.59 smcs; Vermeer \$2,966.70 smcs ; Village Uniform \$162.08 smcs ; Volaire Aviation \$2,000.00 smcs ; Warren-T Plumbing \$332.50 smcs; Weller, B \$336.00 smcs ; Wessels, W \$80.00 smcs ; White, C \$36.32 smcs; Whitmire, M \$31.00 smcs ; Wilcac Life \$5.00 ps; Wilkins Architecture \$12,156.59 co; Wilson, C \$55.47 smcs; Woolley Farms \$50.50 smcs; World Book \$2,313.05 smcs; Xello \$839.00 smcs; Yanda's \$80.00 smcs; Young, M \$297.00 smcs; Payroll Ending 07/27/2024 -- \$740,320.81. 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.** Adopt Resolution No. 2024-105 approving the Developer Constructed Infrastructure Agreement for Oak Park Center Fourth between the City of Kearney and Rodney K. Wiederspan, Co-Manager of Sorensen Acres, LLC, a Nebraska Limited Liability Company for the construction of water, paving and storm sewer infrastructure to serve Oak Park Center Fourth, an addition to the City of Kearney, Buffalo County, Nebraska and a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.

### **RESOLUTION NO. 2024-105**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Oak Park Center Fourth" between the City of Kearney and Rodney K. Wiederspan, Co-Manager of Sorensen Acres, LLC, a Nebraska Limited Liability Company for the construction of water, paving and storm sewer infrastructure for

Oak Park Center Fourth, an addition to the City of Kearney, Buffalo County, Nebraska and a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a corner box at the Northeast Corner of the Northeast Quarter of Section 26; thence S 00°22'13" W on the East line of said Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 470.92 feet to the Easterly extension of the North line of Lot 1, Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 89°37'47" W on said Easterly extension a distance of 74.52 feet to a 5/8" rebar w/cap on the West Right-of-Way line of 2nd Avenue and the Northeast corner of said Lot 1, Oak Park Center Second; thence continuing N 89°37'47" W on the North line of said Lot 1, Oak Park Center Second a distance of 292.77 feet to a 5/8" rebar w/cap at the Northwest corner of said Lot 1, Oak Park Center Second also being the POINT OF BEGINNING; thence continuing N 89°37'47" W on the Westerly extension of the North line of said Lot 1, Oak Park Second a distance of 20.00 feet; thence N 00°22'13" E a distance of 15.38 feet; thence Northwesterly on a tangent curve to the Left having a central angle of 90°01'20", a radius of 130.00 feet, an arc length of 204.25 feet; and a chord bearing of N 44°38'27" W a distance of 183.88 feet; thence N 89°39'07" W a distance of 216.84 feet; thence Westerly on a tangent curve to the Left having a central angle of 23°09'01", a radius of 130.00 feet, an arc length of 52.52 feet, and a chord bearing of S 78°46'22" W a distance of 52.17 feet; thence S 67°11'53" W a distance of 13.10 feet to the Southeast corner of a 66 foot Permanent Roadway and Utility Easement as recorded on Inst. 2012-9264 and filed in the Buffalo County Register of Deeds Office; thence N 22°48'07" W on the East line of said Permanent Roadway and Utility Easement a distance of 40.00 feet; thence N 67°11'53" E a distance of 13.10 feet; thence Easterly on a tangent curve to the Right having a central angle of 23°09'01", a radius of 170.00 feet, an arc length of 68.69 feet, and a chord bearing of N 78°46'22" E a distance of 68.22 feet; thence S 89°39'07" E a distance of 216.84 feet; thence Southeasterly on a tangent curve to the Right having a central angle of 38°08'06", a radius of 170.00 feet, an arc length of 113.15 feet, and a chord bearing of S 70°35'04" E a distance of 111.07 feet; thence N 45°14'21" E a distance of 12.30 feet; thence Northerly on a tangent curve to the Left having a central angle of 44°52'09", a radius of 130.00 feet, an arc length of 101.80 feet, and a chord bearing of N 22°48'17" E a distance of 99.22 feet; thence N 00°22'12" E a distance of 160.98 feet to the South right-of-way line of 56th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence S 87°54'15" E on said South right-of-way line a distance of 20.01 feet; thence S 00°22'12" W a distance of 160.38 feet; thence Southerly on a tangent curve to the Right having a central angle of 44°52'09", a radius of 150.00 feet, an arc length of 117.47 feet, and a chord bearing of S 22°48'17" W a distance of 114.49 feet; thence S 45°14'21" W a distance of 31.12 feet; thence Southerly on a non-tangent curve to the Right having a central angle of 45°07'51", a radius of 150.00 feet, an arc length of 118.15 feet, and a chord bearing of S 22°11'43" E a distance of 115.12 feet; thence S 00°22'13" W a distance of 15.38 feet to the Point of Beginning. Containing 0.56 acres, more or less be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 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 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

4. Adopt Resolution No. 2024-106 approving the Developer Constructed Infrastructure Agreement for Younes Center; 3rd Street, 16th Avenue to Yanney Avenue between the City of Kearney and Paul Younes, Authorized Member of Turkey Creek Properties, LLC, a Nebraska Limited Liability Company, 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 a strip of land 66.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, Buffalo County, Nebraska.

**RESOLUTION NO. 2024-106**

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; 3rd Street, 16th Avenue to Yanney Avenue" between the City of Kearney and Paul Younes, Authorized Member of Turkey Creek Properties, LLC, a Nebraska Limited Liability Company, 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 for a strip of land 66.00 feet wide being part of Government Lot 9 in Section 10 and part of Government Lot 9 in Section 11, all in Township 8 North, Range 16 West of the 6th Principal Meridian, 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 the following described centerline: Commencing at the Southwest corner of Government Lot 5 of Section 10; thence N 00°23'44" E on the West line of said Government Lot 5 and its Northerly Extension, and all bearings contained herein are relative thereto, a distance of 1882.02 feet; thence S 89°36'16" E on said Westerly extension a distance of 33.00 feet to the East Right of Way line of Yanney Avenue as recorded in Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing S 89°36'16" E a distance of 344.06 feet; thence Southeasterly on a tangent curve to the Right having a central angle of 14°50'25", a radius of 2000.00 feet, an arc length of 518.02 feet, and a chord bearing of S 82°11'04" E a distance of 516.58 feet; thence S 74°45'51" E a distance of 172.99 feet; thence Southeasterly on a tangent curve to the Left having a central angle of 15°56'25", a radius of 2000.00 feet, an arc length of 556.42 feet, and a chord bearing of S 82°44'04" E a distance of 554.63 feet; thence N 89°17'44" E a distance of 282.73 feet to the West line of 16th Avenue, as platted in Younes Center Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska and the Point of Termination. The sidelines of said 66.00 feet wide Permanent Right of Way & Utility Easement to be lengthened or shortened to form a continuous strip. Containing 2.84 acres, more or less be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 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 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

- 5. Approve the recommendation from the Development Services Division to grant an extension of 30 days for the current manufactured home court license for East Lawn Mobile Homes Estates, 2900 and 3010 Grand Avenue, to correct remaining deficiencies.
- 6. Adopt Resolution No. 2024-107 authorizing the City Manager to send a letter of non-renewal to the current KENO operator, informing them that the City of Kearney plans to go out for Request for Proposals.

**RESOLUTION NO. 2024-107**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the City Manager be and is hereby authorized and directed to send a letter of non-renewal to the current KENO operator, informing them that the City of Kearney plans to go out for Request for Proposals.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

- 7. Approve the Utilities Department’s request to sell two (2) 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. 2024-108 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Butler Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

**RESOLUTION NO. 2024-108**

WHEREAS, on the 22nd day of June, 2021 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2021-107 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Chris Gay, CFO of Butler Machinery Company, Inc. a North Dakota Corporation, to construct paving, water main, sanitary sewer main and storm sewer main improvements to serve Butler Addition, an addition to the City of Kearney, Buffalo County, Nebraska and a proposed 66.00 foot wide Permanent Right of Way & Utility Easement described as a tract of land being part of the East Half of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., 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 storm sewer main improvements to serve the property described as Butler Addition, an addition to the City of Kearney, Buffalo County, Nebraska and a proposed 66.00 foot wide Permanent Right of Way & Utility Easement described as a tract of land being part of the East Half of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., 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 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

9. Adopt Resolution No. 2024-109 approving the Amendment to the Original Agreement for Services between the City of Kearney and the Community Redevelopment Authority to increase the fees and to extend the Agreement an additional five years.

**RESOLUTION NO. 2024-109**

WHEREAS, on September 9, 2008, the City Council passed Resolution No. 2008-159 entering into an Agreement for Services with the Community Redevelopment Authority; and

WHEREAS, on May 25, 2010 the City Council adopted Resolution No. 2010-106, on June 25, 2013 the City Council adopted Resolution No. 2013-120, amending the Agreement for Services, on July 23, 2019 City Council adopted Resolution 2019-117 amending the Agreement for Services; and

WHEREAS, it is mutually agreed between the parties to amend the Agreement for Services to increase the fee to \$70,974 beginning October 1, 2024 and providing for annual three (3) percent increases thereafter; and

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for Services between the City of Kearney and the Community Redevelopment be approved, and that a copy of the Agreement for Services, marked as 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 for Services on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

10. Adopt Resolution No. 2024-110 approving the Application and Certificate for Payment No. 24 and Change Order No. 3 showing an increase in the amount of

\$156,336.00 submitted by John T. Jones Construction Co. and approved by Miller & Associates for the WWTP Phase II Improvements; Water Resource Recovery Facility.

**RESOLUTION NO. 2024-110**

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 Change Order No. 3 showing an increase in the amount of \$156,336.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 35,858,000.00
Change Order No. 1 (07-12-2022)	- 639,633.00
Change Order No. 2 (08-22-2023)	+ 21,141.00
Change Order No. 3 (08-13-2024)	<u>+ 156,336.00</u>
Contract Sum To Date	\$ 35,395,844.00

WHEREAS, John T. Jones Construction Co. and Miller & Associates have filed with the City Clerk, Application and Certificate for Payment No. 24 in the amount of \$305,151.57 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 35,858,000.00
Change Order No. 1 (07-12-2022)	- 639,633.00
Change Order No. 2 (08-22-2023)	<u>+ 21,141.00</u>
Contract Sum To Date	35,239,508.00
Gross Amount Due	33,312,940.65
Retainage	<u>- 1,663,647.04</u>
Amount Due to Date	31,649,293.61
Less Previous Certificates for Payment	<u>- 31,344,142.04</u>
Current Payment Due	\$ 305,151.57
Balance to finish, including retainage	\$ 3,590,214.39

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. 3, as shown on Exhibit "A" and Application and Certificate for Payment No. 24, as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

11. Adopt Resolution No. 2024-111 approving the Developer Constructed Infrastructure Agreement for Butler Addition, Phase 2 (Chase Avenue Extension) between the City of Kearney and Travis Solberg, CFO of Butler Machinery Company, Inc., a North Dakota Corporation for the construction of paving and storm sewer infrastructure to serve 66.00 Foot Permanent Right of Way & Utility Easement as Recorded on Inst. 2021-06406 in the Buffalo County Register of Deeds Office.

**RESOLUTION NO. 2024-111**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled “Developer Constructed Infrastructure Agreement for Butler Addition, Phase 2 (Chase Avenue Extension)” between the City of Kearney and Travis Solberg, CFO of Butler Machinery Company, Inc., a North Dakota Corporation for the construction of paving and storm sewer infrastructure to serve 66.00 Foot Permanent Right of Way & Utility Easement as Recorded on Inst. 2021-06406 in the Buffalo County Register of Deeds Office be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 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 13TH DAY OF AUGUST, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

**V. CONSENT AGENDA ORDINANCES**

**ORDINANCE NO. 8691 AUTHORIZING THE DEED OF SALE FOR LOT 2, BLOCK 1, VILLAGE PLAZA SECOND ADDITION**

Council Member Buschkoetter introduced Ordinance No. 8691 authorizing the deed of sale for Lot 2, Block 1, Village Plaza Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska to Kearney Community Sustainable Housing, a Nebraska Non-Profit Corporation, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules for Ordinance No. 8691. 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, Buschkoetter, Lear, Nikkila. Nay: None. Moore abstained. 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. 8691 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Moore abstained. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 8691 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Moore abstained. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8691 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.

**ORDINANCE NO. 8692 RENAMING AND REDESIGNATING A PORTION OF 2ND STREET TO YOUNES DRIVE**

Council Member Buschkoetter introduced Ordinance No. 8692, renaming and redesignating 2nd Street from the west line of 11th Avenue, west a distance of approximately 300 feet (+/-) to Younes Drive, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules for Ordinance No. 8692. 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, Buschkoetter, Lear, Nikkila. Nay: None. Moore abstained. 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. 8692 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Moore abstained. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 8692 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Moore abstained. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8692 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.

**ORDINANCE NO. 8693 RENAMING AND REDESIGNATING A PORTION OF 15TH AVENUE TO 16TH AVENUE**

Council Member Buschkoetter introduced Ordinance No. 8693, renaming and redesignating 15th Avenue from the south line of Talmadge Street, south a distance of approximately 479 feet (+/-) to 16th 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 Clouse seconded the motion to suspend the rules for Ordinance No. 8693. 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, Buschkoetter, Lear, Nikkila. Nay: None. Moore abstained. 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. 8693 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Moore abstained. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 8693 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Moore abstained. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8693 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.

## **VI. REGULAR AGENDA**

None.

## **VII. REPORTS**

Brenda Jensen, City Manager, stated that the City has received the final selection order from the Department of Transportation for SkyWest to provide Essential Air Services at the Kearney Regional Airport. The 3-year contract will begin on November 1st.

## **VIII. ADJOURN**

Moved by Clouse seconded by Nikkila that Council adjourn at 5:36 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**PEGGY EYNETICH  
CITY CLERK**