

Kearney, Nebraska
April 27, 2010
7:00 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on April 27, 2010, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, and Bob Lammers. Absent: Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant to the City Manager; Kirk Stocker, Director of Utilities; and Rod Wiederspan, Director of Public Works were also present. Some of the citizens present in the audience included: Greg Olson, Wayne Olson, Ethan Olson, Ken Tracy, Jim Tacha, Ken Tracy, Paul Brungardt, Candy Kuntz, Gary Roubicek, Jeremiah Quintin, Steve Atlmaier from KGFW Radio, Kevin Hervert from Kearney Hub, Jessica Phinney from NTV.

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

Rebecca Craig from First Lutheran Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Boy Scouts Ryan and Nick Brungardt from Troop 158 led the Council members and 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 towards the back of the Council Chambers.

RECOGNITION – ETHAN OLSON

Mayor Clouse and Council Members recognized Ethan Olson. Mayor Clouse read and presented him with a Resolution of Appreciation. He is being recognized for winning the state SkillsUSA firefighting competition in Columbus. By winning the competition qualified him for the national SkillsUSA Championships to be held in Kansas City, Missouri. Because of his dedication to his country, he will not be able to compete in the national championship for the reason he leaves for basic training with the U.S. Army on May 18, 2010.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

LIQUOR LICENSE FOR CASEY'S GENERAL STORE #2884, 115 EAST 25TH STREET

Mayor Clouse opened the public hearing on the application for a Class B liquor license submitted by CASEY'S RETAIL COMPANY, dba Casey's General Store #2884 located at 115 East 25th Street, consider the manager application for Tina Krings and to consider Resolution No. 2010-76.

Jim Tacha, Area Supervisor for Casey's General Stores, presented this matter to the Council. This is the Holiday Station that they purchased a week ago and will eventually remodel. They have a zero tolerance policy which results in immediate termination. They do an extensive in-house training with new employees regarding the laws and how to turn down a sale to a minor and how to handle an individual who appears to be intoxicated. Casey just implemented a policy that every three months, every employee is required to take a comprehensive test. Their managers and assistants are required to attend a week seminar on their policies and procedures which they can share with their employees. The new Casey's store will continue to employ the staff from the Holiday Station. All of those employees have had the training.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the application for a Class B liquor license submitted by CASEY'S RETAIL COMPANY, dba Casey's General Store #2884 located at 115 East 25th Street, consider the manager application for Tina Krings and approve **Resolution No. 2010-76**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2010-76

WHEREAS, CASEY'S RETAIL COMPANY, dba Casey's General Store #2884 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class B-86848 (Beer – Off Sale Only) Liquor License to do business at 115 East 25th Street, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, CASEY'S RETAIL COMPANY, dba Casey's General Store #2884 also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of

Kearney, Nebraska, an application for Corporate Manager of Tina Krings; and
WHEREAS, a hearing was held relating to said application on April 27, 2010.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class B-86848 (Beer – Off Sale Only) Liquor License to CASEY’S RETAIL COMPANY, dba Casey’s General Store #2884 located at 115 East 25th Street, Kearney, Nebraska, and to approve the application for Corporate Manager of Tina Krings.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

THE WORLD THEATRE CDBG GRANT

Mayor Clouse opened the public hearing concerning a tourism development application to the Department of Economic Development for Community Development Block Grant Funds for The World Theatre project and to consider Resolution No. 2010-77.

The Tourism Development program is a funding category within the Community Development Block Grant (CDBG) program funded and developed by the Nebraska Department of Economic Development. This program allows DED to award funds to tourism attractions (for profit or non-profit, public or private entities) at sites that are expected to draw 2,500 or more visitors from origins of at least 100 miles away. Tourism attractions are sites and facilities that draw visitors because of their scenic, historic, cultural, scientific and/or recreational attributes.

In order to be eligible for CDBG funds the project has to meet one of two national objectives:

1. At least 51% of the persons who would benefit from implementation of the project are low-to-moderate income persons. Any such activity for an area or a community composed of persons of whom are at least 51% low-and-moderate income persons shall be considered to meet this national objective. This project fits into the Limited Clientele National Objective (LMC) as it will remove architectural barriers and make the building handicapped accessible.
2. Activities that eliminate specific conditions addressing slums and blight will meet this national objective. This project will also meet this national objective, as it will be eliminating blighted conditions in a dilapidated structure in Redevelopment Area #4.

The total funds requested from CDBG for the project are \$300,000. Cash match and in-kind labor and material donations will also be a part of the project. The matching portion is \$100,000. The World Theatre Foundation is also contributing non-CDBG leveraged funds for the project in the amount of \$212,270. This brings the CDBG portion of the project to \$300,000 and the total project to \$612,270.

The funds will be used for making the building and restrooms handicapped accessible, replacing the seating, remodeling the stage, installing a fire sprinkler system, new sound equipment and a projector and other renovations to the interior and exterior of the building.

If funded, the project will have a 24-month completion schedule. The World Theatre Foundation is planning on completing the renovations by May 2011 which will be well within the grant agreement period. The City will not be contributing any money toward the project, as they will be the grantee for the funds and the World Theatre Foundation is the sub-recipient. The World Theatre Foundation will be responsible for all matching funds.

Grant Administrator Candy Kuntz from Miller & Associates presented this matter to the Council. They were notified prior to submitting the World Theatre application by DED that they were looking into changing the guidelines and the actual funding that they could be expended on one tourism project at a time. Miller & Associates revised that application and talked to Jon Bodenkamp with the World Theatre Foundation and decided rather than submitting the application that was presented to the Council on March 23rd with \$200,000 from CDBG and \$200,000 of local match, they would revise the application and amount to DED to \$300,000 maximum. This would leave the Foundation to come up with \$100,000. DED has revised that guideline and they are taking public comments during that time. The application cannot be submitted to DED until May 10th. At the present time, they are conducting a public hearing with the appropriate dollar amounts. There are no changes in the scope of the project. The \$100,000 can be paid in cash and/or in kind donations.

Mayor Clouse stated the total project is \$612,000. Ms. Kuntz stated that in the application there were other things that the World Theatre Foundation is doing to the building, other equipment purchase which is not an eligible CDBG activity or cost. That brings the total cost of the project up to the \$600,000; however, the eligible cost is \$400,000.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Buschkoetter to close the hearing concerning a tourism development application to the Department of Economic Development for Community Development Block Grant Funds for The World Theatre project and approve **Resolution No. 2010-77**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2010-77

WHEREAS, the City of Kearney, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as amended for Small Cities Community Development Block Grant Program; and

WHEREAS, the City of Kearney, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the

application which for an amount of \$300,000 for tourism development for the World Theatre project.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Council of the City of Kearney, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of Kearney and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ARCHWAY PAWNEE EARTHLODGE CDBG GRANT

Mayor Clouse opened the public hearing concerning a tourism development application to the Department of Economic Development for Community Development Block Grant Funds for the Archway Pawnee Earthlodge project and to consider Resolution No. 2010-78.

Grant Administrator Candy Kuntz from Miller & Associates requested this matter be postponed until May 11, 2010.

Moved by Buschkoetter seconded by Clouse to postpone until May 11, 2010 the hearing concerning a tourism development application to the Department of Economic Development for Community Development Block Grant Funds for the Archway Pawnee Earthlodge project. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lammers. Nay: None. Lear absent. Motion carried.

IV. CONSENT AGENDA

Moved by Clouse seconded by Kearney that Subsections 1 through 18 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

1. Approve Minutes of Regular Meeting held April 13, 2010.

2. Approve the following Claims:

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

AT&T \$156.38 smcs; Alamar Uniforms \$217.11 smcs; All Makes Office Equipment \$6,757.14 co; Amer First Aid \$614.94 smcs; Anderson Brothers \$387.21 smcs; Ask Supply \$159.30 smcs; Asphalt & Concrete \$3,844.29 smcs; Baker & Taylor \$3,300.85 smcs; Beacon Athletics \$21,137.20 smcs,co; Beavers,B \$374.00 smcs; Blessing

Construction \$6,365.52 smcs; Bluecross Blueshield \$228,156.80 smcs; Bosselman \$1,040.60 smcs; Broadfoot Sand \$1,950.00 smcs; Casarino Christmand Shalk \$2,000.00 smcs; Cash-Wa \$1,035.30 smcs; Center Point Large Print \$139.37 smcs; Central Fire & Safety \$139.50 smcs; Charter \$109.99 smcs; Chesterman \$737.54 smcs; City of Ky \$43,960.26 smcs,ps,ds; College Savings Plan of NE \$190.00 ps; Come & Get It \$4,512.50 smcs; Conesco Life Ins \$24.00 ps; Copycat Printing \$28.50 smcs; Corey's Complete Detailing \$100.00 smcs; Crockett,R \$19.86 smcs; Crossroads Ford \$15.00 smcs; Cummins Central Power \$487.94 smcs; Dawson Co PPD \$20,619.80 smcs; Demco \$43.68 smcs; Dent Popper \$182.00 smcs; Dutton Lainson \$633.48 smcs; Eakes \$754.79 smcs; Eckhoff Construction \$6,093.17 co; Ecolab \$31.00 smcs; EMC Ins \$9,860.01 smcs; Eustis Body Shop \$270.00 smcs; Fairbanks \$36,200.00 smcs; Fedex \$26.45 smcs; Footjoy \$1,379.33 smcs; Frontier \$8,062.42 smcs; Gale \$320.96 smcs; Garrett Tires \$2,103.70 smcs; Gaylord Brothers \$110.26 smcs; Gillming,R \$55.00 smcs; Gough,P \$435.00 smcs; Greater NE Swim Team \$1,137.36 co; H&H Distributing \$818.35 smcs; HD Supply \$3,450.00 smcs; Holiday Credit \$12.55 smcs; Hotsy Equipment \$510.00 smcs; Husker Auto Group \$25,300.00 co; HWS Consulting Group \$26,851.00 co; ICMA RC \$4,580.22 ps; IRS \$102,187.17 ps; Int'l Code Council \$100.00 smcs; Jack Lederman \$406.23 smcs; John Deere Landscapes \$2,972.39 smcs; Johnson Service \$10,784.00 smcs; Jurgens,L \$40.00 smcs; Ky Clinic \$35.00 smcs; Ky Concrete \$6,659.88 smcs,co; Ky Crete & Block \$134.23 smcs,co; Ky Hub \$2,014.99 smcs; Ky United Way \$5.00 smcs; KGFV \$60.00 smcs; Kramer,J \$35.28 smcs; LCL Truck Equipment \$3,239.00 co; Linweld \$16.92 smcs; LVNV Funding \$235.74 ps; Mac Tools \$38.74 smcs; Magic Cleaning Services \$5,110.00 smcs; Marshall Cavendish \$161.73 smcs; Master's Leasing \$99.00 smcs; Metlife \$10.86 ps; Mid Amer Signal \$1,532.00 smcs; Mid-NE Garage Doors \$134.10 smcs; Miller & Associates \$11,592.70 smcs,co; Miller Signs \$1,068.00 smcs; Mossbarger,B \$351.23 smcs; Municipal Automation \$949.50 smcs; Municipal Supply \$1,829.70 smcs; NALEFI \$30.00 smcs; NASC \$20.00 smcs; NE Child Support \$2,881.20 ps; NE Dept of Aeronautics \$2,095.00 ds,er; NE Dept of Environmental \$12,065.28 smcs; NE Dept of Revenue \$66,763.30 smcs; NE Environmental Products \$92,700.00 co; NE Machinery \$2,595.08 smcs; NE Public Health \$871.00 smcs; NE Workforce Development \$5,542.58 ps; NEland Distributors \$339.78 smcs; Northwestern Energy \$5,555.78 smcs; NOVA Fitness \$189.00 smcs; Paramount Linen \$527.15 smcs; Peerless \$1,664.85 co; Peoplecube \$300.00 smcs; Pep Co \$51.10 smcs; Polk Govt \$322.00 smcs; Presto-X \$162.75 smcs; Quill \$32.78 smcs; Random House \$307.92 smcs; Ready Mixed Concrete \$1,806.00 co; Recorded Books \$273.91 smcs; Reinke's \$3,712.09 co; Research Technology \$74.95 smcs; Rheome Tree \$240.00 smcs; Riverside Mfg \$311.88 ps; RNDC-Eagle Division \$157.83 smcs; RNDC-Falcon Division \$72.10 smcs; Roper's Radiator \$55.00 smcs; Sapp Brothers \$48,262.41 smcs; Scheuffele,D \$64.20 smcs; Simmons Gun Specialties \$112.14 smcs; Skeen Construction \$41,190.00 smcs,co; Snap-On Tools \$2,585.00 smcs; Sorensen Group \$6,583.30 co; St. Lukes Good Samaritan \$70.00 smcs; Sterling Distributing \$419.68 smcs; Story,G \$201.30 smcs; Trembly,M \$59.52 smcs; Tri-Cities Group \$787.26 smcs; Turfwerks \$2,278.09 co; Turner Body Shop \$225.00 smcs; Unique Management \$295.35 smcs; UNK \$3,491.87 smcs; Upstart \$103.13 smcs; US Bank \$325,045.00 ds; Walsh,C \$231.00 smcs; Wellman,P \$58.84 smcs; Wells Fargo \$300.00 smcs; West Payment Center \$2,195.06 smcs; Whelen Engineering \$98.25 smcs; Wiegand Security \$80.00 smcs; Wilke Contracting \$121,848.75 co; Wilkins Hinrichs Stober \$7,123.84 co; Williams,M \$45.20 smcs; Wolfe's Lawn Service \$40.00 smcs; WPCI \$160.50 ps; Zimmerman Printers \$166.59 smcs; Payroll Ending 4-10-2010 -- \$314,595.26. The foregoing schedule of claims is

published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Receive recommendations of Planning Commission and set May 11, 2010 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Approve Change Order No. 17 showing an increase in the amount of \$929.00 submitted by Hausmann Construction and approved by Wilkins Hinrichs Stober Architects for the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park and approve **Resolution No. 2010-79**.

RESOLUTION NO. 2010-79

WHEREAS, Hausmann Construction of Lincoln, Nebraska has performed services in connection with the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Change Order No. 17 showing an increase to the contract sum in the amount of \$929.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$2,879,000.00
Change Order No. 1 (11-25-2008)	- 21,081.00
Change Order No. 2 (11-25-2008)	- 40,000.00
Change Order No. 3 (11-25-2008)	- 25,000.00
Change Order No. 4 (11-25-2008)	+ 4,900.00
Change Order No. 5 (2-24-2009)	- 1,959.00
Change Order No. 6 (3-10-2009)	- 7,226.00
Change Order No. 7 (4-14-2009)	+ 3,667.00
Change Order No. 8 (5-12-2009)	+ 3,072.00
Change Order Nos. 9 and 10 (9-8-2009)	+ 3,466.00
Change Order No. 11 (10-27-2009)	+ 10,220.00
Change Order No. 12 (11-10-2009)	+ 10,746.75
Change Order No. 13 (11-10-2009)	+ 1,660.00
Change Order No. 14 (12-22-2009)	+ 621.00
Change Order No. 15 (12-22-2009)	+ 1,711.00
Change Order No. 16 (3-9-2010)	+ 1,147.13
Change Order No. 17 (4-27-2010)	+ 929.00
Contract Sum to Date	<u>\$2,825,873.88</u>

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 17, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

- 5. Approve the Addendum to Building Agreement and Lease between the City of Kearney and the Loper Athletic Club for the new scoreboard located at Memorial Field and approve **Resolution No. 2010-80.**

RESOLUTION NO. 2010-80

WHEREAS, the City of Kearney and the University of Nebraska at Kearney Loper Athletic Club entered into an agreement for the construction of a building located at Memorial Field; and

WHEREAS, the City Council on February 12, 2008 adopted Resolution No. 2008-21 approving said Building Agreement and Lease; and

WHEREAS, the Loper Athletic Club has received funds for a new scoreboard at Memorial Field and the original Building Agreement and Lease needs to be amended to define and determine the responsibilities with reference to said scoreboard.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Addendum to Building Agreement and Lease between the City of Kearney and the University of Nebraska at Kearney Loper Athletic Club be and is hereby accepted and approved. A copy of said Addendum to Building Agreement and Lease, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that all the provisions as contained in said original agreement will remain in full force and effect and this agreement will not affect the provisions of such agreement.

BE IT FURTHER RESOLVED that the City Manager be and is hereby authorized and directed to execute said Addendum to Building Agreement and Lease on behalf of the City of Kearney.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 6. Approve the Elizabeth Stratton Memorial 5K Run/Walk scheduled for August 14, 2010 starting at 8:30 a.m. and beginning at the Archway Monument, west on 1st Street, north on Avenue M, and east on the hike-bike trail back to the Archway Monument.

- 7. Approve the Developer Constructed Infrastructure Agreement between the City of Kearney and Prince of Peace Catholic Church for the construction of paving, water, sanitary sewer and storm sewer on a tract of land being part of Lot 1, Bent Bar C Subdivision East (north side of 56th Street and west of Country Club Lane) and approve **Resolution No. 2010-81.**

RESOLUTION NO. 2010-81

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Prince of Peace Church" between the City of Kearney and Prince of Peace Catholic Church, a Nebraska Nonprofit Corporation to construct water, sanitary sewer, storm sewer and paving to serve the Church on property described as being part of Lot 1, Bent Bar C Subdivision East, a subdivision being part of the

Southwest Quarter of the Southeast Quarter and part of the Southeast Quarter of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter all located in Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Reverend William J. Dendinger, President of the Prince of Peace Catholic Church to construct said water, sanitary sewer, storm sewer and paving as stated above.

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 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Accept the Certificate of Substantial Completion submitted by Anderson Bros. and approved by Miller & Associates on the KVF D Generator Replacement and approve **Resolution No. 2010-82.**

RESOLUTION NO. 2010-82

WHEREAS, Anderson Bros. of Kearney, Nebraska has performed services in connection with the Kearney Volunteer Fire Department Generator Replacement, and the City's engineer, Miller & Associates, have filed with the City Clerk the Certificate of Substantial Completion as shown on Exhibit "A" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Certificate of Substantial Completion, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve Application and Certificate for Payment No. 1 in the amount of \$273,740.89 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2009 Part 12 Improvements consisting of Water Connection District No. 2009-4 and Sanitary Sewer Connection District No. 2009-2 in 11th Street from the existing main in 11th Street and Kea West Avenue to 30th Avenue, 30th Avenue between North Railroad Street and 11th Street, and 16th Street from 30th Avenue east to its terminus and approve **Resolution No. 2010-83.**

RESOLUTION NO. 2010-83

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 12 Improvements consisting of Water Connection District No. 2009-4 and Sanitary Sewer Connection District No. 2009-2 in

11th Street from the existing main in 11th Street and Kea West Avenue to 30th Avenue, 30th Avenue between North Railroad Street and 11th Street, and 16th Street from 30th Avenue east to its terminus, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$273,740.89, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$2,269,439.00</u>
Contract Sum To Date	2,268,439.00
Gross Amount Due	304,156.55
Retainage	30,415.65
Amount Due to Date	273,740.89
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 273,740.89

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

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

10. Accept the Certificate of Substantial Completion submitted by Sorensen Group, Inc. and approved by Miller & Associates for the Airport Signage and approve **Resolution No. 2010-84.**

RESOLUTION NO. 2010-84

WHEREAS, Sorensen Group Inc. of Kearney, Nebraska has performed services in connection with the Airport Signage, and the City's engineer, Miller & Associates, have filed with the City Clerk the Certificate of Substantial Completion as shown on Exhibit "A" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Certificate of Substantial Completion, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Approve Application and Certificate for Payment No. 1 in the amount of \$7,384.55 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2009 Part 14 Improvements – Bid A consisting of Water Connection District No. 2009-3 and Sewer Connection District No. 2009-1 for 17th Street from Avenue K to Avenue M, paving of 17th Street from Avenue K to Avenue M, and paving of Avenue K from 17th Street to 18th Street and approve **Resolution No. 2010-85.**

RESOLUTION NO. 2010-85

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 14 Improvements consisting of Water Connection District No. 2009-3 and Sewer Connection District No. 2009-1 for 17th Street from Avenue K to Avenue M, paving of 17th Street from Avenue K to Avenue M, and paving of Avenue K from 17th Street to 18th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$7,384.55, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$58,415.00</u>
Contract Sum To Date	58,415.00
Gross Amount Due	8,205.06
Retainage	820.51
Amount Due to Date	7,384.55
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 7,384.55

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

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

12. Approve Change Order No. 1 showing a deduct in the amount of \$9,085.00, Application and Certificate for Payment No. 5-Final in the amount of \$28,351.50, and Certificate of Substantial Completion submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet and approve **Resolution No. 2010-86.**

RESOLUTION NO. 2010-86

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease in the amount of \$9,085.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Midlands Contracting and the City's engineer, have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$28,351.50,

as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$341,655.00
Change Order No. 1 (4-27-2010)	- 9,085.00
Contract Sum To Date	332,570.00
Gross Amount Due	332,570.00
Retainage	.00
Amount Due to Date	332,570.00
Less Previous Certificates for Payment	304,218.50
Current Payment Due	<u>\$ 28,351.50</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 31, 2010, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 5-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

13. Approve the Temporary Early Retirement Incentive Program for budget year 2010-2011 and approve **Resolution No. 2010-87.**

RESOLUTION NO. 2010-87

WHEREAS, as part of the preparation of the upcoming 2010-2011 budget, City staff has developed a Temporary Early Retirement Incentive Program (TERIP); and

WHEREAS, the requirements for the Program are as follows:

- Eligibility criteria: Employees must be at least sixty-five (65) years of age on or before September 30, 2011; and have completed ten (10) consecutive years of qualified (full-time) service for the City of Kearney on or before September 30, 2010.
- Resignation: Effective date of voluntary retirement would be September 11, 2010 with no understanding of re-employment.
- Benefits: A one time lump sum incentive payment of three percent (3%) of their September 11, 2010 salary multiplied by the number of years of qualified full-time service not to exceed twenty-five (25) years.
- Timeline: Employees would be given until June 30, 2010 to consider the program with an application approval deadline of July 15, 2010.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Temporary Early Retirement Incentive Program (TERIP) as outlined above be and is hereby adopted and approved for the 2010-2011 budget year only.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the request submitted by Seth Van Horn on behalf of the Torch Run Committee to conduct the Nebraska Special Olympics Torch Run on May 14, 2010 beginning at 2:30 p.m. The route will begin at 2nd Avenue and 56th Street, south on 2nd Avenue to 25th Street, east on 25th Street to 1st Avenue, south on 1st Avenue to North Railroad Street, east on North Railroad Street to Central Avenue, north on Central Avenue to 24th Street, east on 24th Street to Avenue A, south on Avenue A and ending in the parking lot south of the Chicken Coop.

15. Approve T-Hangar B-1 Lease Agreement between the City of Kearney and John Goodbrake/Exec Direct LLC for storage at the Kearney Regional Airport and approve **Resolution No. 2010-88.**

RESOLUTION NO. 2010-88

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the T-Hangar B-1 Lease Agreement, on behalf of the City of Kearney, Nebraska, with John Goodbrake/Exec Direct LLC, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

16. Approve the bids received for the 2010 Part 2 Improvements consisting of Paving Improvement District No. 2010-938 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; Paving Improvement District No. 2010-939 for 16th Avenue from 8th Street to 11th Street; Paving Improvement District No. 2010-940 for 15th Avenue from 8th Street to 11th Street; Water District No. 2010-559 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street; and Sanitary Sewer District No. 2010-499 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street and approve **Resolution No. 2010-89** awarding the bid to Midlands Contracting in the amount of \$515,988.00 for Bid A (Water and Sanitary Sewer) and to Blessing LLC in the amount of \$698,752.00 for Bid B (Paving).

RESOLUTION NO. 2010-89

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 21, 2010 at 2:00 p.m. for the 2010 Part 2 Improvements consisting of Paving Improvement District No. 2010-938 for 8th Street

from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; Paving Improvement District No. 2010-939 for 16th Avenue from 8th Street to 11th Street; Paving Improvement District No. 2010-940 for 15th Avenue from 8th Street to 11th Street; Water District No. 2010-559 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street; and Sanitary Sewer District No. 2010-499 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$563,698.50 for Bid A (water and sanitary sewer) and \$989,586.00 for Bid B (paving); and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$515,988.00 be accepted as the lowest responsible bid for Bid A (water and sanitary sewer); and

WHEREAS, the said engineers have recommended the bid offered by Blessing LLC of Kearney, Nebraska in the sum of \$698,752.00 be accepted as the lowest responsible bid for Bid B (paving).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Midlands Contracting, Inc. of Kearney, Nebraska be and is the lowest responsible bidder for the 2010 Part 2 Improvements – Bid A consisting of Water District No. 2010-559 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street; and Sanitary Sewer District No. 2010-499 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$515,988.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the Engineers recommendation is hereby accepted and approved, that Blessing LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2010 Part 2 Improvements – Bid B consisting of Paving Improvement District No. 2010-938 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; Paving Improvement District No. 2010-939 for 16th Avenue from 8th Street to 11th Street; Paving Improvement District No. 2010-940 for 15th Avenue from 8th Street to 11th Street to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing LLC of Kearney, Nebraska in the sum of \$698,752.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$563,698.50 for Bid A (water and sanitary sewer) and \$989,586.00 for Bid B (paving) be and is hereby accepted.

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

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL

CITY CLERK

AND EX-OFFICIO MAYOR

17. Approve the Memorandum of Understanding between the City of Kearney and the World Theatre Foundation outlining the terms of the CDBG Tourism Development Grant and approve **Resolution No. 2010-90.**

RESOLUTION NO. 2010-90

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Memorandum of Understanding between the City of Kearney and the World Theatre Foundation outlining the terms and conditions of the CDBG Tourism Development Grant. A copy of the Memorandum of Understanding, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

18. Approve the Interlocal Cooperation Act Agreement; Compact for Apprehension of Narcotics Dealers and Offenders (C.A.N.D.O.) between the cities of Franklin, Grand Island, Hastings, Holdrege, Kearney, Minden and the Sheriffs Office of the counties of Adams, Buffalo, Franklin, Hall, Kearney, Phelps and approve **Resolution No. 2010-91.**

RESOLUTION NO. 2010-91

WHEREAS, the cities of Franklin, Grand Island, Hastings, Holdrege, Kearney, Minden and the Sheriffs Office of the counties of Adams, Buffalo, Franklin, Hall, Kearney, Phelps are desirous in entering into an agreement for the purpose of identifying, investigating, apprehending and facilitating the prosecution of narcotics dealers and offenders within the aforementioned participating agencies; and

WHEREAS, the Interlocal Cooperation Act Agreement; Compact for Apprehension of Narcotics Dealers and Offenders defines and responsibilities of the participating agencies. A copy of the said Agreement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Interlocal Cooperation Act Agreement; Compact for Apprehension of Narcotics Dealers and Offenders defines and responsibilities of the participating agencies be and is hereby approved.

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

PASSED AND APPROVED THIS 27TH DAY OF APRIL, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7589 – ANNEXATION OF STEINBRINK LANDSCAPING, 1930 AND 2010 30TH AVENUE

Council Member Kearney moved that Ordinance No. 7589 annexing the following tract of land to be included within the corporate limits: part of the East Half of the Northeast Quarter and part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska described as: bound by a line beginning at a point on the east line of Section 4, which is 1320 feet south of the northeast corner of said Section 4, running thence west parallel with the north line of said Section a distance of 660 feet; thence south parallel with the east line of said Section to the north line of the right-of-way of the Union Pacific Railroad Company; thence in an easterly direction along the north line of said right-of-way to the intersection with the east line of said Section 4; thence north along said east line to the place of beginning. Subject to public road right-of-way as recorded in the Road Record Books as filed in the Buffalo County Surveyor's Office, except a tract of land deeded to the City of Kearney by Warranty Deed recorded June 23, 1999 as Inst. 1999-5083 (1930 and 2010 30th Avenue) be placed on second reading. Council Member Lammers seconded the motion to place on second reading. 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, Lammers, Kearney. Nay: None. Lear absent. Motion carried. City Clerk read Ordinance No. 7589 by title on second reading.

ORDINANCE NO. 7593 SERIES 2010 HIGHWAY ALLOCATION FUND PLEDGE BONDS

On February 9, 2010, an Interlocal Agreement between Buffalo County and the City of Kearney was approved by both governing bodies setting forth the specifics regarding the construction and financing of the following two projects:

56th Street, from the end of the existing 48 foot wide concrete pavement east of Avenue Q to 500 feet west of the existing Cherry Avenue – Buffalo County is responsible for the costs attributable to the construction of a 24-foot wide concrete road for the portion of the project that is located outside the Kearney City limits and the City of Kearney is responsible for the costs attributable to the construction of a 48-foot wide concrete road, storm sewer, curbs, and gutters for the portion of the project that is located inside the Kearney City limits.

11th Street, from Kea West Avenue to 30th Avenue – Buffalo County is responsible for the costs attributable to the construction of a 24-foot wide concrete road the entire length of the project and the City of Kearney is responsible for the costs attributable to adding two additional 12-foot lanes of concrete pavement, storm sewer, curbs, and gutters the entire length of the project.

Bruce Lefler from Ameritas Investments presented this matter to the Council. The \$1,750,000 is to fund two projects: 11th Street and 56th Street. They want to put those bonds in a permanent financing. He reported that over the 20-year term, the City's cost of borrowing those funds was just shy of 4.1% which is good from a borrowing standpoint.

Council Member Lammers introduced Ordinance No. 7593, being Subsection 2 of Agenda Item VI authorizing the issuance of Highway Allocation Fund Pledge Bonds of the City of Kearney, Nebraska in the principal amount of \$1,750,000 for the purpose of paying the costs of constructing street improvements for the City; prescribing the form of said bonds; pledging funds to be received by the City from the State of Nebraska Highway Allocation Fund for the payment of said bonds; providing for the levy and collection of taxes to pay the same if necessary; authorizing the delivery of the bonds to the purchaser; providing for the disposition of bond proceeds; and ordering the ordinance published in pamphlet form, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. 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, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7593 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7593 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7593 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

OPEN ACCOUNT CLAIMS: NPPD - \$58,172.91, PLATTE VALLEY STATE BANK - \$47,924.95

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$47,924.95 payable to Platte Valley State Bank, and in the amount of \$58,172.91 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse abstained and Lear absent. Motion carried.

VII. REPORTS

CLOSED SESSION

Moved by Clouse seconded by Kearney that Council adjourn into closed session at 7:18 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

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

Moved by Buschkoetter seconded by Clouse that Council reconvene in regular session at 7:52 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:52 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers, Kearney. Nay: None. Lear absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**