

*Kearney, Nebraska  
January 24, 2017  
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 January 24, 2017 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Lauren Brandt, Deputy City Clerk; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Tony Jelinek, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Jason Whalen, Fire Administrator; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Mindy Oman from McDermott & Miller, Adrian Boykin from eFree Church, Mike Konz from Kearney Hub, NTV and FoxNebraska News representatives, Andy Mihm from KGFW Radio, and Marvion Reichert.

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**

Pastor Adrian Boykin from Kearney eFree Church provided the invocation.

### **PLEDGE OF ALLEGIANCE**

A Boy Scout 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 on the wall of the Council Chambers.

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **DEVELOPMENT OF HILLTOP MALL SECOND**

Mayor Clouse stated the Applications submitted by Miller & Associates for MFP Mid-America Shopping Centers, LLC to (1) vacate Lot 1, Hilltop Mall Subdivision, a subdivision in Buffalo County, Nebraska; and (2) the Final Plat for Hilltop Mall Second, an addition to the City of Kearney for a tract of land being Lot 1 (to be vacated), Hilltop Mall Subdivision, a subdivision located in the Southwest Quarter of the Northwest Quarter of Section 25, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (4915 2nd Avenue) were withdrawn by the developer. According to the City Code, any matter tabled by a motion of the Council must be acted upon prior to the adjournment of the third regular meeting following the meeting at which the matter was tabled. Therefore, no action was taken.

#### **DEVELOPMENT PLANS FOR NORTHEAST OF 2ND AVENUE AND 48TH STREET, WEST OF HERBERGERS**

Mayor Clouse stated the Application submitted by Miller & Associates for MFP Mid-America Shopping Centers, LLC for Planned District Development Plan Approval for the construction of a commercial building on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as a tract of land being proposed Lot 3, Hilltop Mall Second, an addition to the City of Kearney, Buffalo County, Nebraska (northeast of 2nd Avenue and 48th Street, west of Herbergers) were withdrawn by the developer. According to the City Code, any matter tabled by a motion of the Council must be acted upon prior to the adjournment of the third regular meeting following the meeting at which the matter was tabled. Therefore, no action was taken.

### **IV. CONSENT AGENDA**

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

1. Approve Minutes of Regular Meeting held January 10, 2017.
2. Approve the following Claims:
 

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

1000bulbs.com \$128.27 smcs; 4imprint \$498.35 smcs; Adobe \$32.09 smcs; Advance Auto Parts \$39.98 smcs; Adventure Enterprises \$199.00 smcs; Alertshirt \$2,055.72 smcs; ALG\*Air \$764.00 smcs; All Makes Auto \$6,413.58 smcs; Allied Electronics \$84.14 smcs; Amazon \$6,534.99 smcs,co; American \$308.10 smcs; Amer First Aid

\$509.71 smcs; Amer Library Assn \$87.00 smcs; Americinn \$97.61 smcs; Anderson Bros \$4,944.00 smcs; Anderson,B \$151.00 smcs; Anderson,J \$50.00 smcs; Andres Tortillery \$959.93 smcs; ARC \$600.00 smcs; Arrowhead Scientific \$486.50 smcs; Ask Supply \$244.00 smcs; Aurora Coop \$26.00 smcs; Auto Value \$1,729.82 smcs; AWWA \$187.00 smcs; Baker & Taylor \$3,584.99 smcs; Balcom,P \$12.14 smcs; Bamford \$395.00 smcs; Battery Junction \$662.40 smcs; Bed Bath & Beyond \$37.44 smcs; Bennett,K \$15.61 smcs; Bestbuy.com \$802.49 smcs; Bill's Trailer \$7.00 smcs; Blackstone Audio Books \$255.00 smcs; BlueCross/BlueShield \$167,249.02 smcs; Blueglobes \$788.07 smcs; Bosselman \$6,882.62 smcs; Broadfoot's \$130.00 smcs; BSN Sport Supply \$85.90 smcs; Buffalo Outdoor Power \$20,068.96 smcs; Buggy Bath \$13.00 smcs; Buildasign.com \$22.99 smcs; Builders \$446.23 smcs; C&C Café \$426.53 smcs; Carquest \$1,800.71 smcs; Cash-Wa \$563.60 smcs; CDW Govt \$2,170.00 co; Cenex \$37.00 smcs; Central District Health \$3,341.00 smcs; Central Hydraulic \$122.27 smcs; Central NE Bobcat \$9,719.38 smcs,co; Central Power Systems \$197.90 smcs; CH Diagnostic \$490.00 smcs; Charter \$440.16 smcs; Chemsearch \$2,235.00 smcs; Chen,T \$66.00 smcs; Chesterman \$85.70 smcs; Chicken Coop \$50.00 smcs; Cintas \$241.86 smcs; City of Ky \$16,579.99 smcs,ps; Clark Enersen \$3,920.99 co; CNA Ins \$40.00 smcs; Coldspring \$478.80 smcs; Cole Parmer Instrument \$22.78 smcs; Compass Tools \$4,220.00 smcs; Conseco Life \$19.00 ps; Construction Rental \$256.48 smcs; Control Yours \$370.00 smcs; Copycat Printing \$223.08 smcs; Cryotech \$1,866.69 smcs; Culligan \$142.00 smcs; Cummins \$1,016.11 smcs; Daugherty,R \$100.00 smcs; Dawson PPD \$23,417.31 smcs; Delight Donuts \$104.00 smcs; Dell \$2,049.80 smcs,co; Demco \$1,940.27 smcs; Dish \$110.03 smcs; Ditch Witch \$136.01 smcs; Dmilaco \$1,544.00 smcs; Doering,D \$45.00 smcs; Dollar General \$52.45 smcs; Dreamstime.com \$39.00 smcs; Duanesvecadvertising.com \$432.53 smcs; Eakes \$2,085.48 smcs,co; Ecessa \$3,396.28 co; Enforcement Video \$714.00 co; Engineered Controls \$1,006.47 smcs; Enivick,K \$24.36 smcs; Ensley Electrical \$6,500.00 co; Enterprise \$1,244.52 smcs; Eustis Body Shop \$200.00 smcs; Facebook \$96.69 smcs; Fairbanks \$24.95 smcs; Fastenal \$1,174.40 smcs; Fireguard \$194.00 smcs; Frontier \$9,718.68 smcs; Fun Express \$51.47 smcs; Gale \$4,103.52 smcs; Gall's \$993.89 smcs; Gannon Travel \$280.00 smcs; Garrett Tires \$5,572.14 smcs; Global Industrial \$47.12 smcs; Graham Tire \$507.12 smcs; Grainger \$1,733.60 smcs; GI Physical \$120.00 ps; Happ,L \$100.00 smcs; HD Supply \$57,062.84 smcs,co; Hobby Lobby \$131.86 smcs; Holmes Plbg \$140.33 smcs; Hy Vee \$59.11 smcs; IBI Supply Works \$1,246.69 smcs; ICMA \$4,768.99 ps; IES Commercial \$3,920.58 co; Indelco Plastics \$66.78 smcs; Ingram,J \$1.81 smcs; Instawares \$231.76 smcs; Intl Assn Fire Chief \$234.00 smcs; IIMC \$100.00 smcs; Inventex \$82.32 smcs; Ipex Appraisal \$2,000.00 smcs; IRS \$154,481.54 ps; Jack Lederman \$892.11 smcs; Jack's Uniforms \$314.39 smcs; Johnson,K \$31.64 smcs; Jones Automotive \$213.75 smcs; Jones,K \$24.34 smcs; Kart-Man \$998.18 smcs; Ky Ace \$243.68 smcs; Ky Animal Shelter \$7,381.25 smcs; Ky Area Storytelling \$1,300.00 smcs; Ky Concrete \$143.63 smcs; Ky Glass \$417.48 smcs; Ky Hub \$1,044.85 smcs; Ky Noon Rotary \$125.00 smcs; Ky Towing \$200.00 smcs; Ky Warehouse \$258.08 smcs; Ky Winlectric \$54.20 smcs; Ky Winnelson \$416.42 smcs; Kelly Supply \$1,157.81 smcs; Kewanna Screen Printing \$300.64 smcs; Kitabatake,Y \$45.39 smcs; Knipping,D \$151.00 smcs; Koettters,J \$37.61 smcs; Koziski,A \$15.27 smcs; Landmark Implement \$747.44 smcs; Larue Distributing \$71.20 smcs; Laser Link Golf \$448.00 smcs; Lawson Products \$438.91 smcs; LED Lighting \$608.97 smcs; Lifeline Training \$139.00 smcs; Link,M \$150.00 smcs; Linkedin \$199.00 smcs; Lizardo,R \$39.92 smcs; Lockmobile \$7.00 smcs; Logan Contractors \$325.41 smcs; L-

Tron \$189.00 smcs; Mac Faucets \$220.20 smcs; Magic Cleaning \$2,600.00 smcs; Maintenance Engineering \$600.13 smcs; Marlatt Machine \$377.12 smcs; Masek Golf \$443.09 smcs; Matheson \$396.60 smcs; Menards \$4,343.20 smcs,co; Michael-Rush,P \$59.00 smcs; Micro Key Solutions \$100.00 co; Midway Chevrolet \$241.66 smcs; Midwest Connect \$133.88 smcs; Mieth,T \$151.00 smcs; Miller & Associates \$150.00 smcs; Miller Signs \$1,240.00 smcs; Minnesota Electrical \$523.50 smcs; Mirror Image \$165.00 smcs; Moonlight Embroidery \$1,411.50 smcs; Moreno,A \$38.79 smcs; Morgan,M \$23.00 smcs; Morris Press \$1,194.00 smcs; Municipal Supply \$10,050.11 smcs; Murphy Tractor \$183.88 smcs; Natl Tool Warehouse \$190.63 smcs; Naval Surface Warfare \$1,800.00 smcs; NE Assn Senior Centers \$40.00 smcs; NE Child Support \$2,188.20 ps; NE Environmental \$17,375.00 smcs; NE Furniture \$50.05 smcs; NE Golf & Turf \$16.84 smcs; NE Library Assn \$80.00 smcs; NE Library Comm \$1,060.00 smcs; NE Machinery \$2,929.43 smcs; NE Peterbilt \$572.86 smcs; NE Truck Center \$1,937.94 smcs; NE Turfgrass \$1,050.00 smcs; Network Fleet \$94.75 smcs; NNLA \$105.00 smcs; Northern Safety \$825.88 smcs; Northwestern \$13,192.47 smcs; Novus \$75.00 smcs; NRG Media \$154.00 smcs; NSHS Museum Store \$148.73 smcs; NTOA \$150.00 smcs; OCLC \$654.27 smcs; Office Depot \$86.14 smcs; Office Max \$1,319.51 smcs; Officenet \$103.49 smcs; Ollie the Trolley \$285.00 smcs; O'Reilly Auto \$1,068.70 smcs; Orscheln \$725.27 smcs; OTC Brands \$166.41 smcs; Palace \$151.20 smcs; Paramount \$217.55 smcs; Paypal\*Affodables \$10.78 co; Paypal\*Azalta \$479.98 co; Paypal\*CPO Outlets \$99.00 co; Paypal\*Kanppsring \$22.67 smcs; Paypal\*Mlcjramlc \$3.94 smcs; Paypal\*SJ Paypal \$7,449.85 co; Paypal\*Threephase \$32.00 smcs; Penguin Random House \$75.00 smcs; Penworthy \$94.43 smcs; Pep Co \$86.34 smcs; Platte Valley Auto \$686.75 smcs; Platte Valley Comm \$213.60 smcs; Pohlman,K \$151.00 smcs; Postage Refill \$975.00 smcs; Pot O'Gold \$155.00 smcs; Prestige Group \$338.00 smcs; Presto-X \$663.84 smcs; Printeron \$395.00 smcs; Provantage \$4,690.42 smcs; Qualified Hardware \$610.00 smcs; Quest Software \$1,130.62 smcs; Quill \$838.15 smcs; R&R Products \$140.07 smcs; Raising Canes \$64.30 smcs; Ramirez,K \$19.38 smcs; RCL Products \$244.00 smcs; RDO Truck Centers \$1,324.24 smcs; Ready Mixed Concrete \$104.25 co; Reams \$1,203.13 smcs; Recorded Books \$145.47 smcs; Red Cross Store \$55.49 smcs; Redman's Shoes \$402.00 smcs; Rheome Tree \$275.00 smcs; Rodehorst,R \$151.00 smcs; Roy,J \$151.00 smcs; Sahling Kenworth \$562.72 smcs; Sampson Construction \$434,969.00 co; Sanitation Products \$1,137.49 smcs; Sapp Brothers \$17,073.05 smcs; Sato America \$137.83 smcs; Saylor Screenprinting \$1,670.35 ps; Scales-Adams Co. Sheriff \$1,000.00 smcs; Scorr Marketing \$546.80 smcs; Sears \$154.97 smcs; Shoutbomb \$402.00 smcs; Silverstone Group \$4,580.00 smcs; Siteone Landscape \$194.75 smcs; Sklenar,J \$25.57 smcs; State Electrical Div \$153.00 smcs; Steinbrink Landscaping \$120.00 smcs; Stithem,T \$19.02 smcs; Storm,S \$23.97 smcs; Sub-Aquatics \$46.20 smcs; Suburban Fire \$905.00 smcs; Sunbelt Rentals \$114.35 smcs; Sunset Law Enforcement \$2,878.50 smcs; Sutphen \$732.23 smcs; Target \$173.40 smcs; Techsoup \$629.00 co; Texas Roadhouse \$423.83 smcs; Ticket Omaha \$106.00 smcs; Titan Machinery \$7,029.25 smcs; Tractor-Supply \$451.87 smcs; Trans Iowa Equipment \$490.00 smcs; TransUnion Risk \$1,320.00 smcs; TSI Store Supplies \$537.22 smcs; Uboxes \$117.80 smcs; Union Bank & Trust \$76,530.74 ps; UNK \$37.50 smcs; UNK Career Services \$200.00 smcs; UNL Agronomy \$60.00 smcs; UPS Store \$12.68 smcs; US Cellular \$50.00 smcs; USA Comm \$155.95 smcs; USPS \$178.94 smcs; USPS Kiosk \$6.45 smcs; Van Wall Equipment \$305.78 smcs; Varidesk \$500.00 smcs; Verizon \$79.62 smcs; Wal-Mart \$1,926.29 smcs,co; Wasteworks \$650.00 co; Waterlink \$668.73

smcs; Webstaurant Store \$179.79 smcs; Wellness Council America \$97.20 ps; Wilke's \$579.93 smcs; Wisc/Kmart \$90.56 smcs; Work Boots USA \$110.50 smcs; World Theatre \$500.00 smcs; WPCI \$239.00 smcs; WT Cox Subscriptions \$10,524.58 smcs; Yellow Van Cleaning \$50.00 smcs; Zapata,T \$100.00 smcs; Ziegenbein,A \$23.68 smcs; Zimmerman Printing \$269.70 smcs; Zoro Tools \$329.14 smcs; Payroll Ending 1/21/2017 -- \$429,229.51. 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 February 14, 2017 at 5:30 p.m. as date and time for hearing on those applications where applicable.

4. Accept the bids received for the 2016 Part 2 Improvements consisting of Paving Improvement District No. 2016-982 for Avenue A from the north lot line of Lot 27, thence south to the south lot line of Lot 558, all in Southwest Quarter School Section Addition; AND 31st Street from Avenue A to Avenue D and adopt Resolution No. 2017-7 awarding the bid to Blessing, LLC in the amount of \$1,009,972.80.

**RESOLUTION NO. 2017-7**

WHEREAS, Olsson Associates and the City of Kearney have reviewed the sealed bids which were opened on January 10, 2017 at 2:00 p.m. for the 2016 Part 2 Improvements consisting of Paving Improvement District No. 2016-982 for Avenue A from the north lot line of Lot 27, thence south to the south lot line of Lot 558, all in Southwest Quarter School Section Addition; AND 31st Street from Avenue A to Avenue D; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$1,150,299.55; and

WHEREAS, Olsson Associates and the City have recommended the bid offered by Blessing Construction of Kearney, Nebraska in the amount of \$1,009,972.80 be accepted as the lowest responsible bid for 2016 Part 2 Improvements.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted, that Blessing Construction be and is the lowest responsible bidder for the 2016 Part 2 Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing Construction in the amount of \$1,009,972.80 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$1,150,299.55 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 24TH DAY OF JANUARY, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class CG-121117 liquor license application and manager application for Chrystal Snider submitted by CJV Investments L.L.C., dba Platte Valley located at 14 East Railroad Street.

6. Adopt Resolution No. 2017-8 approving Change Order No. 1 showing a decrease in the amount of \$566.29, Application and Certificate for Payment No. 4-Final in the amount of \$9,767.94, and accept the Certificate of Substantial Completion submitted by IES Commercial, Inc. and approved by Olsson Associates for the 2016 Part 1 Improvements; Traffic Signal at 30th Avenue and 39th Street.

**RESOLUTION NO. 2017-8**

WHEREAS, IES Commercial of Holdrege, Nebraska has performed services in connection with the 2016 Part 1 Improvements; 39th Street and 30th Avenue Traffic Signals, and the City’s engineer, Olsson Associates, have filed with the City Clerk Change Order No. 1 showing a decrease to the contract sum in the amount of \$566.29 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, IES Commercial and Olsson Associates have filed with the City Clerk Application and Certificate for Payment No. 4-Final in the amount of \$9,767.94 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$89,583.00
Change Order No. 1 (1-24-2017)	- <u>566.29</u>
Contract Sum To Date	89,016.71
Gross Amount Due	89,016.71
Retainage (0%)	.00
Amount Due to Date	89,016.71
Less Previous Certificates for Payment	<u>79,248.77</u>
Current Payment Due	\$ <u>9,767.94</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 10, 2016, 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. 4-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 24TH DAY OF JANUARY, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Adopt Resolution No. 2017-9 approving the Technical and Professional Services Contract for Community Development Block Grant Program for Planning Project (Grant No. 16-CD-003) between the City of Kearney and Miller & Associates.

**RESOLUTION NO. 2017-9**

WHEREAS, the City of Kearney has been awarded Community Development Block Grant Program funds for 2017 Community Development Planning.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute, on behalf of the City of Kearney, the Technical and Professional Services Contract for Community Development Block Grant Program for Planning Project between the City of Kearney and Miller & Associates as Administrator for Grant 16-CD-003, as set forth in the Contract. The said Contract, marked Exhibit "A", is attached hereto and made a part hereof by reference.

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

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

8. Adopt Resolution No. 2017-10 approving Application and Certificate for Payment No. 2 in the amount of \$43,137.00 submitted by Prairie Land Construction, Inc. and approved by Miller & Associates for the Archway Trail; Phase III from Sweetwater Avenue to Fort Kearny Trailhead.

**RESOLUTION NO. 2017-10**

WHEREAS, Prairie Land Construction of Looms, Nebraska has performed services in connection with the Archway Trail; Phase III from Sweetwater Avenue to Fort Kearny Trailhead, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$43,137.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$289,923.78</u>
Contract Sum To Date	289,923.78
Gross Amount Due	218,483.20
Retainage (10%)	- 21,848.32
Amount Due to Date	196,634.88
Less Previous Certificates for Payment	<u>- 153,497.88</u>
Current Payment Due	\$ 43,137.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 2, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

9. Accept the Proposal submitted by T.L. Sund Constructor, Inc. in the amount of \$44,660.00 for the construction of sidewalks through East Brooke Park.

10. Accept the Proposal submitted by T.L. Sund Constructor, Inc. in the amount of \$38,477.50 for the construction of sidewalks and miscellaneous concrete work in City parks.

11. Accept the bids received for the construction of The Archway Hike-Bike Trail; Phase II project and adopt Resolution No. 2017-11 approving the bid submitted by Blessing Construction in the amount of \$298,792.50.

**RESOLUTION NO. 2017-11**

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on January 17, 2017 at 2:00 p.m. for the Archway Hike-Bike Trail; Phase II from Cherry Avenue to Sweetwater Avenue; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the Archway Hike-Bike Trail; Phase II from Cherry Avenue to Sweetwater Avenue was \$518,240.00; and

WHEREAS, the said engineers have recommended the bid offered by Blessing Construction of Kearney, Nebraska in the amount of \$298,792.50 be accepted as the lowest responsible bid for the Archway Hike-Bike Trail; Phase II.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted and approved, that Blessing Construction be and is the lowest responsible bidder for the Archway Hike-Bike Trail; Phase II to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing Construction in the amount of \$298,792.50 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$518,240.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

12. Accept the bids received for the purchase of a 2018 10-cubic yard dump truck, snow plow and snow plow hitch to be used by the Public Works Department and award the bid to Wick's Trucks, Inc. in the amount of \$149,104.00.

## **V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **ANNUAL FINANCIAL REPORT**

Mayor Clouse opened for discussion the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller.

Mindy Oman from McDermott & Miller presented this matter to the Council. They audited the financial statements for the year ending September 30, 2016 that were prepared by Director of Finance, Wendell Wessels and the Finance Department. It is McDermott and Miller's job to express an opinion on the financial statements and those statements do present fairly the position of the City, which is a clean opinion.

She presented a few highlights of the statements: The City's net position increased by \$12.5 million over the prior year. Net position is assets minus the liabilities and that is \$229 million for the City. Of that \$229 million, \$33 million is unrestricted meaning that it can be used to meet the ongoing obligations of the City. During the year, the City's debt went up \$8.6 million. The new debt was for providing financing for the construction of Patriot Park, financing costs of improving the streets and intersections, and paying for costs of the radio read meter project.

The City did many capital asset projects during that year that included improvements to paving, sewer and water around the city, the Airport Fire Station, Hike/Bike Trail improvements and the Household Hazardous Waste Building, equaling around \$12 million when added all together.

Overall, the City is in good financial shape. The Finance Department is great and does a wonderful job on reviewing things and keeping everything in line. Council Member Lammers asked if there were any areas where the City could do a little better. Ms. Oman responded by reminding Council that it is their job to look at the invoices and ask questions as Council sees things more regularly to ensure they know what is going on.

Moved by Nikkila seconded by Lear to accept the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **OPTION AGREEMENT FOR GROUND LEASE FOR SOLAR ENERGY SYSTEM**

Because of a conflict of interest, Mayor Clouse vacated his chair and abstained from discussion and voting on this matter.

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Vice-President Buschkoetter opened for discussion the Option Agreement for Ground Lease for Solar Energy System between SoCore 2016 Project Co 2 LLC and the City of

Kearney for the construction of a solar energy facility and to consider Resolution No. 2017-12.

City Attorney Michael Tye presented this matter to the Council. This matter deals with the proposed solar generation project on the 53 acres adjacent to the Tech Park. Essentially there are two agreements as a part of that project. The first agreement is an option to lease the 53 acres from the City of Kearney which involves SoCore (or their Nebraska entity) the right to go on to the property and do their due diligence and evaluate it for a solar generation project. SoCore is paying \$3,000 for the opportunity to go on the property and evaluate it for that purpose. If SoCore chooses to move forward on the project, then the lease (which is incorporated into the option agreement) would kick in. They pay \$300/per acre for the 53 acres for that 25-year term, once that lease is exercised. The \$300/per acre will increase annually at 1.5% during the term of that lease, which is a 25-year lease term. There are various other provisions included in the lease. One of the requirements is that SoCore must enter into a Power Purchase Agreement with either NPPD or another electrical power distributor. It is his understanding that SoCore has entered into a Power Purchase Agreement with NPPD. That is a requirement of the lease so if for any reason it does not exist, that is a default provision in the lease. There is a provision in the lease to protect for potential clean up of the site. It does require SoCore to deposit an irrevocable letter of credit, a certain number of years into the lease; so that the City is protected should they not clean up the site at the end of the 25-year term.

The second agreement is a Community Solar Project Agreement between the City of Kearney and NPPD. It is essentially a make whole agreement requiring the City to pick up the differential between the typical or base energy rate and the rate that is charged as part of the solar project. At the present time there is a differential. Over time it is anticipated that the differential will disappear but at this point, the City would be obligated for that differential amount, which is what that agreement covers.

Vice-President Buschkoetter asked for an explanation as to what the City's level of exposure would be. City Attorney stated that the City's exposure is if SoCore would default on the lease terms, then the City of Kearney would take the land back if the obligations were not fulfilled. In the Community Solar Agreement, it is his understanding that differential is approximately \$60,000 that would be reduced by the rental amount of approximately \$15,000 plus. That is the differential at this point so annually that is what the exposure would be. Over time, it is believed that this will disappear as that base energy rate increases. The energy rate with the solar project is locked in for the 25-year period and established through that entire term so it does not change. So as that other rate goes up, those two numbers will come together.

Council Member Lear stated that the City's risk would be that the base energy rate does not increase for some reason, which could always happen. The City's benefit would be if the base energy rate increases above the cost of power being generated, the City would recognize the benefit. City Manager Michael Morgan stated that if the company were to fail, there is no additional exposure with the make whole agreement, as the power would not be produced. Also over time, the amount of energy will reduce to some degree with degradation of the facility so the risk goes down over the 25 year period. The other issue is the ability that that is the maximum exposure and when you take into

consideration the ability and the interest we have in others purchasing shares of the power, that is going to reduce that exposure as well. City Attorney stated that if there are businesses, customers or entities that want to purchase the green power, those purchases would narrow the exposure to the City of Kearney. Also, if there was a tenant in the Tech Park that was interested in green energy, that may consume a large quantity of what's produced.

Council Member Lammers stated a number of the major companies in the US have expressed an importance in green energy and was one of the primary reasons at that time why the Facebook project was not selected in Kearney. Vice President Buschkoetter believes it is going to go a long way in getting a large Tech Park tenant since they will be able to see the green energy that is up and ready which will help immensely. City Attorney expressed there will be a partnership with NPPD to market the power and will be provided to NPPD customers within the City of Kearney. There may be some larger entities that use power that also participate in that process. It is his understanding that at some point, individual customers will be able to purchase green power if they choose to do and that will be something that the City works with NPPD to get that information out to citizens so they can participate if they choose.

City Manager stated that the City went through a process to identify and determine what was an appropriate rate through negotiations and NPPD assisted us. It was very important to the City that SoCore has done this across the country, they have over 100 major installations and this would be a very large installation in Kearney. \$11 million worth of development in the community that will also create jobs. The other thing is the Comprehensive Plan that was recently reviewed and there is a provision that refers to this as a priority and goal of the community, that was discussed by many. This is a very solid, initial effort with minimal risk to pursue something that will become more important in the future. The panels are very strong and resilient to hail and wind. In some areas of the county that have more sun, there are other environmental issues that affect the panels including dirt and pollen so that was very important that we evaluated the environmental issues. The City has been through this process for over a year and are very comfortable with SoCore and what they have to offer to us and are looking forward to working with them.

Council Member Nikkila asked about the maintenance and if it is the responsibility of the City to fix. City Manager stated that there is very minimal maintenance but there will be some, not requiring an office or staff assigned to the project. The life of these panels are intended to be consistent to the lease term and maybe even longer. There would be some maintenance with respect to the surface (ground areas) and the City may even contract with SoCore to provide that service. SoCore has environmental experts that can address lower maintenance crops which is their responsibility.

Council Member Nikkila stated that he had a chance to talk to someone from another state who is involved with solar power and they said that the rate that we hope to get and offer to consumers in the Kearney area is very good. He asked the City Manager to address the whole sale rates and the assumption that whole sale rates will become higher and the exposure will reduce over time. City Manager stated that the City is not assuming rates will increase but assumed that this is the rate for 25 years. After talking to NPPD, the reality is there are several environmental factors that NPPD and power

companies deal with and some of the costs to produce energy will influence that cost. The cost to produce anything over time is likely to increase; the resources that are used are not unlimited so it is correct that we do not know for sure. He also mentioned that at the Tech Park, the community has significant financial investment.

The City is fortunate that the majority of that investment was provided at no cost by the State of Nebraska. The starting up of a project at Tech Park will allow the City to meet the requirements of the grant and provide a significant amount of resources at no cost through that process. We think this is a good payoff for the future to attract and recruit. Additionally, in discussing with the community leader businesses, they are all interested in renewable energy and are questioning the cost. This will allow them to at least identify some portion of their energy portfolio to be renewable energy. Also, it is a marketing tool for communities. This is approximately 5.7/5.8 megawatts, the largest installation in Nebraska and will be a good selling point. The community is about 100-110 megawatts so that is a significant amount. The City had some large companies considering construction of new facilities and after looking at Leads certification which is renewable energy, and compared to the cost of new construction, is significantly cheaper so the City believes there will be some interest in that area.

Council Member Nikkila asked how much power the City facilities use. City Manager stated street lights are the largest consumer of energy. Then however, the City would likely look at uses of this energy for water and wastewater or a portion of street lights. As the City advances through this process, it will develop and work with NPPD and SoCore on the marketing and promotion of materials to identify the typical retail consumer who would like to purchase. Through NPPD and the account manager, the City will look toward larger users in the community and will then have to determine what that number is to reserve for Tech One Crossing as the City is unsure as what that would be at this point.

Council Member Lear stated that the key is engaging in a project that the City knows is not without risk, but has some tools in place to manage that risk. It seems like a reasonable project because if you are the type of person who really believes in renewable energy, this will be a great chance to get onboard and have a part of your home powered by renewable energy.

Council Member Nikkila stated that this is great deal for Kearney with one exception and that is that the City is taking on the risk that normally utility and solar companies take on. When you look at how the City has been able to quantify the risk and how it can reduce the risk over time and the economic development value, could be much greater than what the risk will end up being.

Vice President Buschkoetter included that this project does give Kearney an opportunity to make it much easier to find tenants at the Tech Park. Also, the City is not using Tech Park land. Instead it is the adjacent land being used, resulting in the City not losing Tech Park land. City Manager stated that there are over 100-acres available at Tech One Crossing and the additional 53-acres. Now the likelihood of needing more than 100-acres for a similar project in the future is unlikely but this leaves significant land available.

Moved by Lear seconded by Buschkoetter to adopt Resolution No. 2017-12 approving the Option Agreement for Ground Lease for Solar Energy System between SoCore 2016 Project Co 2 LLC and the City of Kearney for the construction of a solar energy facility. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lammers, Lear. Nay: None. Clouse abstained. Motion carried.

**RESOLUTION NO. 2017-12**

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the Option Agreement for Ground Lease for Solar Energy System between SoCore 2016 Project Co 2 LLC and the City of Kearney for the construction of a solar energy facility be and is hereby approved. The Agreement, marked Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska that the Vice-President be and is hereby authorized and directed to execute the Option Agreement for Ground Lease for Solar Energy System on behalf of the City of Kearney.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**COMMUNITY SOLAR PROJECT AGREEMENT**

Because of a conflict of interest, Mayor Clouse vacated his chair and abstained from discussion and voting on this matter.

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Vice-President Buschkoetter opened for discussion the Community Solar Project Agreement between the City of Kearney and Nebraska Public Power District for solar power purchase and to consider Resolution No. 2017-13.

Moved by Buschkoetter seconded by Lammers to adopt Resolution No. 2017-13 approving the Community Solar Project Agreement between the City of Kearney and Nebraska Public Power District for solar power purchase. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

**RESOLUTION NO. 2017-13**

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the Community Solar Project Agreement between the City of Kearney and Nebraska Public Power District for solar power purchase be and is hereby approved. The Agreement, marked Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska that the Vice-President be and is hereby authorized and directed to execute the Community Solar Project Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIMS**

Moved by Lammers seconded by Nikkila that the Open Account Claims in the amount of \$2,391.12 payable to Goodwill and in the amount of \$88,643.15 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Lammers. Nay: None. Clouse and Buschkoetter abstained. Motion carried.

**VII. REPORTS**

None.

**VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 6:02 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

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

\_\_\_\_\_  
MICHAELLE E. TREMBLY  
CITY CLERK