

*Kearney, Nebraska
September 14, 2021
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 September 14, 2021 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Lauren Brandt, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Tami James Moore and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Eric Hellriegel, Assistant City Manager; Tony Jelinek, Director of Utilities; Andrew Harter, Director of Public Works; Bryan Waugh, Chief of Police; Brenda Jensen, Development Services Director and many officers from the Kearney Police Department.

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.

PRESENTATION OF COLORS BY THE KEARNEY POLICE DEPARTMENT HONOR GUARD AND PLEDGE OF ALLEGIANCE

Members of Kearney Police Department Honor Guard including Lieutenant Dennis Byrne, Officers Alex Peyton, Tracy Suchsland and Nathan Dennis, presented and posted the colors. One Boy Scout from Troop 158 then 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.

RECOGNITION/ORAL COMMUNICATIONS

Recognition Ceremony for Promotion of Police Lieutenant Gabe Kowalek. Chief Waugh congratulated Lieutenant Kowalek and gave some history on Lieutenant Kowalek's background with the Kearney Police Department. City Clerk, Lauren Brandt delivered the Police Lieutenant Oath of Office to Lieutenant Kowalek followed by pinning of his badge by his wife, Janelle.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

VACATE AND REZONE PROPERTY LOCATED ADJACENT TO REAR YARD OF 5455 62ND STREET

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

Mayor Clouse opened the public hearing on the applications submitted by Buffalo Surveying Corp. for Joel and Kimberly Atchison and Merlin and Chere Wehling to 1) vacate Lot 1, O'Brien Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter or Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8511 and 2) rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land being part of the West Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to rear yard of 5455 62nd Street) and consider Ordinance No. 8512.

Mitch Humphrey with Buffalo Surveying Corp. presented this matter to the Council. Mr. Humphrey described the location of the property and also showed the location of the piece of land Mr. and Mrs. Atchison's are purchasing from Merlin and Chere Wehling, that the request for rezoning is pertaining to. Mr. and Mrs. Atchison are also requesting to vacate the current lot they own in order to replat the entire area into a one (1) lot subdivision.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the application submitted by Buffalo Surveying Corp. for Joel and Kimberly Atchison and Merlin and Chere Wehling and introduced Ordinance No. 8511 vacating Lot 1, O'Brien Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter or Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and Ordinance No. 8512 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land being part of the West Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to rear yard of 5455 62nd Street) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by numbers only, and then placed on final passage and that the City Clerk be permitted to call out the numbers of the ordinances on their first reading and then upon its final passage. Council Member Moore seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8511 and 8512. President of the Council asked for

discussion or if anyone in the audience was interested in the ordinances. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8511 and 8512 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried. Ordinances were read by number.

Moved by Moore seconded by Lear that Ordinance Nos. 8511 and 8512 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinances, Ordinance Nos. 8511 and 8512 are declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

FINAL PLAT FOR ATCHISON COUNTRY ESTATES

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. for Joel and Kimberly Atchison and Merlin and Chere Wehling for the Final Plat for Atchison Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land comprising of Lot 1, O'Brien Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and said tract being part of the West Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1, O'Brien Country Estates to be vacated, all in Buffalo County, Nebraska (5455 62nd Street) and consider Resolution No. 2021-160.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2021-160 approving the application submitted by Buffalo Surveying Corp. for Joel and Kimberly Atchison and Merlin and Chere Wehling for the Final Plat for Atchison Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land comprising of Lot 1, O'Brien Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and said tract being part of the West Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range

16 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1, O'Brien Country Estates to be vacated, all in Buffalo County, Nebraska (5455 62nd Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2021-160

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Atchison Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska for a tract of land comprising of Lot 1, O'Brien Country Estates, a subdivision being part of the West Half of the East Half of the Southwest Quarter and part of the East Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and said tract being part of the West Half of the East Half of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1, O'Brien Country Estates now vacated, and all being more particularly described as follows: Referring to the Northwest Corner of the West Half of the East Half of the Southwest Quarter of Section 20 and assuming the North line of the West Half of the East Half of the Southwest Quarter of Section 20 as bearing S 89°56'32" E and all bearings contained herein are relative thereto; thence on the North line of the West Half of the East Half of the Southwest Quarter of said Section 20 a distance of 665.08 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northwest Corner of the East Half of the East Half of the Southwest Quarter of said Section 20, and said point being the Northwest Corner of Lot 1, now vacated, O'Brien Country Estates; thence continuing on the North line of the East Half of the East Half of the Southwest Quarter of said Section 20 and on the North line of said Lot 1, O'Brien Country Estates S 89°56'32" E a distance of 382.34 feet to the Northwest Corner of Lot Five (5), Block Two (2) of Trail Ridge Country Estates, a subdivision in the West Half of the West Half of the Southeast Quarter (W1/2 W1/2 SE1/4) and the East Half of the East Half of the Southwest Quarter (E1/2 E1/2 SW1/4) of Section Twenty (20), Township Nine (9) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska, such point also being the Northeast Corner of said Lot 1, O'Brien Country Estates; thence leaving the North line of the East Half of the East Half of the Southwest Quarter of said Section 20, and the North line of said Lot 1, O'Brien Country Estates, and on the line common to the West line of said Lot 5, Block Two, Trail Ridge Country Estates and the East line of said Lot 1, O'Brien Country Estates, S 30°38'21" W a distance of 482.55 feet to the Southwest Corner of said Lot 5, Block Two, Trail Ridge Country Estates, such point also being the Southeast Corner of said Lot 1, O'Brien Country Estates, and such point being on the northerly line of 62nd Street, a street shown on the plat and dedication of said Trail Ridge Country Estates; thence northwesterly on the line common to the northerly line of said 62nd Street and the southerly line of said Lot 1, O'Brien Country Estates, and on a non-tangent 330.0 foot radius curve, concave southerly, forming a central angle of 25°03'39" an arc distance of 144.34 feet to a point being N 71°50'54" W a chord distance of 143.19 feet from the previously described point, such point also being on the East line of the West Half of the East Half of the Southwest Quarter of said Section 20; thence continuing on the line common to the northerly line of said 62nd Street and the southerly line of said Lot 1, O'Brien Country Estates, and on said non-tangent 330.0 foot radius curve, concave

southerly, forming a central angle of $09^{\circ}44'37''$ an arc distance of 56.48 feet to a point of compound curvature, said point being $N 89^{\circ}20'30'' W$ a chord distance of 55.41 feet from the previously described point; thence continuing on the line common to the northerly line of said 62nd Street and the southerly line of said Lot 1, O'Brien Country Estates and on a 50.0 foot radius curve, concave southeasterly, forming a central angle of $46^{\circ}08'33''$ an arc distance of 40.27 feet to a point of non-tangency, such point being the Southwest Corner of said Lot 1, O'Brien Country Estates, and such point is on the East line of Lot 2, O'Brien Country Estates, thence leaving the line common to the northerly line of said 62nd Street and the southerly line of said Lot 1, O'Brien Country Estates, and on the line common to the East line of said Lot 2, O'Brien Country Estates and the West line of said Lot 1, O'Brien Country Estates, $N 50^{\circ}19'27'' W$ a distance of 35.00 feet; thence continuing on the line common to the East line of said Lot 2, O'Brien Country Estates and the West line of said Lot 1, O'Brien Country Estates; $N 09^{\circ}31'55'' W$ a distance of 202.40 feet to the Northeast Corner of said Lot 2, O'Brien Country Estates, such point also being the Northwesterly Corner of said Lot 1, O'Brien Country Estates; thence continuing on the line common to the East line of said Lot 2, O'Brien Country Estates and the West line of said Lot 1, O'Brien Country Estates if extended, $N 09^{\circ}31'55'' W$ a distance of 88.42 feet; thence $N 51^{\circ}41'24'' E$ a distance of 122.48 feet; thence $N 87^{\circ}14'31'' E$ a distance of 70.00 feet to the place of beginning, containing 3.55 acres, more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

**REZONE PROPERTY LOCATED EAST OF THE KEARNEY EAST EXPRESSWAY
AND SOUTH OF COAL CHUTE ROAD**

Public Hearings 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. for Midwest Elite Contracting, LLC to rezone from District AG, Agricultural District to District BP, Business Park District and District C-3/PD, General Commercial/Planned Development Overlay District for property described as a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5; AND a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, all in Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road) and

consider Ordinance No. 8513.

Mitch Humphrey with Buffalo Surveying Corp. presented this matter to the Council. Mr. Humphrey described the location of the property along the East Kearney Expressway and the zoning currently surrounding it. The Midwest Elite office will be located on the south side of the property with a storage unit complex on the north end. The storage complex will be geared towards campers, motorhomes, RV's and boats; outside storage will not be permitted. Access to the storage units from Cherry Avenue will be via an easement on the northeast corner of Lot Two of the proposed Midwest Elite Subdivision. He described the area where the Nebraska Department of Transportation owns the right-of-way for the bypass corridor, in addition to owning a relocated frontage road; the State also has controlled access along their right-of-way property.

This site will contain its own septic system and the storm water detention cells will be located on the east and west side of the property. The site will use a water line that is east of the property with two (2) water line taps for service to the proposed Subdivision. Mr. Humphrey stated the south lot contains 1.47 acres and the north lot contains 3.48 acres. Phase 1 will start on the south side of the property and includes a temporary cul-de-sac for the entrance and exiting of emergency vehicles. The Developer is requesting the allowance of a crushed gravel drive, instead of a concrete drive, down the middle of the storage units. The Developer has added 40% more trees to the landscape plan than what City Code requires for screening as a compromise for the allowance of the crushed gravel drive, if approved. The exterior of the storage units will include a brick or stone façade.

Council Member Randy Buschkoetter asked if all of the trees will be planted right away so they have to time grow and mature or planted as each phase is built? Austin Gardine, Developer and owner of Midwest Elite Contracting stated he is requesting direction from Council regarding this issue. Mr. Gardine prefers to plant trees as each phase is built, but will do what Council recommends. The main concern with planting all trees right away is if the use would change regarding a different building type for the north end of the property.

Mayor Clouse questioned how long it would be before Phase II of the project begins with regards to the plan being presented this evening? Mr. Gardine stated they are hopeful to start the second Phase in three (3) to five (5) years.

Council Member Tami Moore stated from a building perspective, planting all the trees right away could complicate the building process. Mr. Gardine agreed and stated that was another concern he had.

Mr. Humphrey stated there will be approximately 130 trees planted with regard to the current plan and noted the Developer is choosing to plant trees along the east side of the property even though he is not required to.

Council Member Jonathan Nikkila noted that the Developer is ultimately trying to work out a compromise; if he is allowed to install a gravel drive, additional trees would be installed. Mr. Humphrey agreed.

Mr. Humphrey reviewed aerial renderings of the site showing how mature trees could

potentially look along with how the site will look once all buildings are complete, including an opaque fence around the site. He noted the entire site will be open during normal business hours only.

Mayor Clouse questioned how tall the buildings will be since the plan is for storage units to hold campers and RV's. Mr. Gardine stated Phase I includes the first three (3) buildings with the first building being the biggest. The first building will measure 45-feet deep and 16-feet on its highest side and 14-feet on its lowest side; all other buildings will be 30-feet deep. Mr. Gardine stated their plan is to build Phase I and determine what the storage needs are. Going forward then, if needed, the proposed building size could be increased on the west side of the property and some of the buildings on the east side, then, would be eliminated. Because of how the north lot is shaped, there is not enough room to accommodate 45-feet deep units all the way north. Mr. Gardine noted the 30-feet deep buildings will measure 12-feet tall on the high side and 10-feet tall on the low side.

Mr. Humphrey showed what the office building will look like and stated that the office building and storage units overall look will be cohesive. He further stated there will be a turnaround at the end of the development called a hammerhead that the City's departments, including Fire, have reviewed and approved.

Council Member Bruce Lear, stated in his opinion, this project seems consistent with future projects that will develop in this area and also feels it is appropriate to allow trees to be phased in as construction progresses not only for long term cost savings but short term as well, in addition to the potential for future construction to change. He feels this design protects the visual look that is desired along the corridor.

Council Member Buschkoetter agreed with Council Member Lear and again noted the reason why this is in front of Council is due to the request for the crushed rock drive between the buildings, otherwise the project fits with all other requirements. Council Member Buschkoetter appreciates the added thought the Developer has taken, by adding additional trees, to accommodate the look of the site if his request for a crushed rock drive is allowed. Council Member Buschkoetter feels this project is a good use of a piece of property that is difficult to develop.

Council Member Nikkila noted that the zoning to the north of this property would allow a crushed gravel driveway so the compromise Mr. Gardine is offering by adding extra trees to accommodate for the request of a crushed gravel drive and make the development look better, is a great opportunity to work together on this project.

Mayor Clouse commented that even though there are positive changes in the landscaping plan and exterior building material changes he is still not completely in favor of having storage units in this area.

Mr. Morgan feels moving forward, environmentally, there may be more pressure to use crushed gravel instead of concrete and feels in this instance, what has been presented is a good compromise. He also acknowledged the Developers concerns along the corridor regarding how the State maintains their property pertaining to weeds and mowing. Mr. Gardine stated that was a concern he had as his property will have irrigated, seeded or sod grass and noted the State's property nearby property is not maintained at all; he

questioned if there was anything he could do to request the State maintain their property better? Mr. Morgan stated prior discussions and requests to the State has not allowed anyone on their property to do anything, including mowing, in the past.

Council Member Moore stated that Business Park is allowed in this area so she is agreeable with the project.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Application submitted by Buffalo Surveying Corp. for Midwest Elite Contracting, LLC and introduced Ordinance No. 8513 rezoning from District AG, Agricultural District to District BP, Business Park District and District C-3/PD, General Commercial/Planned Development Overlay District for property described as a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5; AND a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, all in Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road) 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 close the hearing and suspend the rules for Ordinance No. 8513. 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, Moore. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8513 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, Moore. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 8513 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8513 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.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR MIDWEST ELITE SUBDIVISION

Public Hearings 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Midwest Elite Contracting, LLC for the Final Plat and Subdivision Agreement for Midwest Elite Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, all in Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road) and consider Resolution No. 2021-161.

There was no one present in opposition to this hearing.

Moved by Nikkila to approved Resolution No. 2021-168, Moore corrected Nikkila's motion to approve Resolution No. 2021-161 and then seconded by Moore to close the hearing and adopt Resolution No. 2021-161 approving the Final Plat and Subdivision Agreement for Midwest Elite Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, all in Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road). Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2021-161

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Midwest Elite Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska [such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5], more particularly described as follows: Referring to the Northeast Corner of Fractional Section Five (5), such point also being the Northeast Corner of Government 8 located in Fractional Section 5, and assuming the East line of Government Lot 8 located in the Northeast Quarter of Fractional Section 5 as Bearing S 00°31'40" E and all bearings contained herein are relative thereto; thence on the East line of Government Lot 8 located in Fractional Section 5, S 00°31'40" E a distance of 1318.76 feet to the Southeast Corner of said Government Lot 8 located in Fractional Section 5, said point being the Southeast Corner of a tract of land deeded to the State of Nebraska Department of Roads as described on Warranty Deed filed as Instrument 2013-5717, recorded on July 22, 2013 in the office of the Buffalo County Register of Deeds; thence on the South line of said Government Lot 8 located in Fractional Section 5 and on the South line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, S 89°52'06" W a distance of 55.92 feet to the ACTUAL PLACE OF BEGINNING, said point also being the Southwest Corner of the tract of land described on said Warranty

Deed filed as Instrument 2013-5717; thence on the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, N 00°01'47" E a distance of 284.71 feet; thence continuing on the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, N 58°13'59" E a distance of 23.56 feet; thence continuing on the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, N 00°31'40" W a distance of 937.93 feet to a point on the southerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, such point also being on the South line of Coal Chute Road; thence on the line common to the southerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717 and the South line of Coal Chute Road, S 87°32'57" W a distance of 163.47 feet to a point on the easterly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, such point also being on the East line of the Kearney East Expressway (Nebraska State Highway No. 10); thence leaving the line common to the southerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717 and the South line of Coal Chute Road, and on the easterly line of the tract of described on said Warranty Deed filed as Instrument 2013-5717 and the East line of the Kearney East Expressway (Nebraska State Highway No. 10), S 00°53'50" W a distance of 1227.79 feet to a point on the South line of said Government Lot 8 located in Section 5; thence leaving the easterly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717 and the East line of the Kearney East Expressway (Nebraska State Highway No. 10), and on the South line of said Government Lot 8 located in said Section 5, N 89°52'06" E a distance of 171.00 feet to the place of beginning, containing 4.95 acres, more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PLANNED DISTRICT DEVELOPMENT PLAN FOR PROPERTY LOCATED EAST OF THE KEARNEY EAST EXPRESSWAY AND SOUTH OF COAL CHUTE ROAD

Public Hearings 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Midwest Elite Contracting, LLC for a Planned District Development Plan Approval for the proposed construction of a storage unit development on property to

be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Midwest Elite Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road) and consider Resolution No. 2021-162.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2021-162 approving the application submitted by Buffalo Surveying Corp. for Midwest Elite Contracting, LLC for a Planned District Development Plan Approval for the proposed construction of a storage unit development on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Midwest Elite Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2021-162

WHEREAS, Buffalo Surveying Corp. for Midwest Elite Contracting, LLC have applied for Planned District Development Plan Approval for the construction of a storage unit development on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Midwest Elite Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Buffalo Surveying Corp. for Midwest Elite Contracting, LLC for Planned District Development Plan Approval for the construction of a storage unit development on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Midwest Elite Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of the Kearney East Expressway and South of Coal Chute Road) be approved subject to the following deviation:

1. Crushed rock paving in place of concrete surface paving.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

REZONE PROPERTY LOCATED NORTH OF HIGHWAY 40, NORTHWEST OF 17TH AVENUE AND HIGHWAY 40

Public Hearings 6 and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Randys Classics, LLC to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) and District RR-2, Rural Residential District (Intermediate Standards) for property described as a tract of land located in the East Half of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land located in the East Half of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of Highway 40, Northwest of 17th Avenue and Highway 40) and consider Ordinance No. 8514.

Craig Bennett with Miller & Associates presented this matter to the Council. He described the location of the property and stated the area being developed is approximately 50 acres. Mr. Bennett noted there is similar zoning surrounding the property. Drainage is generally from west to east; there is a creek on the northside of the property that follows the boundary for the proposed Subdivision. He showed the location of the 100-year flood plain, or 1% chance of flood, on the property. The proposed subdivision has two (2) access points onto Highway 40. The lots abutting the flood plain do have buildable areas outside of it and noted the Developer is requesting the lots on the exterior of the proposed subdivision be zoned RR-1 with the interior lots being zoned RR-2; the difference in zoning is due to the size of the lots. There will be 125-feet of paved road into the proposed subdivision to meet County Road standards with one (1) of the entrances off of Highway 40 having a bump out to accommodate the placement of a mailbox cluster, which is also a County Road standard.

The plat also includes an easement for access for an existing home located nearby the Development. Mr. Bennett showed where the septic and leach fields would be located on the smaller interior lots. The final plat demonstrates the location of the drainage ditches for storm water which will be directed to the creek channel on the north side of the property.

Mr. Morgan asked how far off the roadway the mailbox cluster would be located as there has been past situations with stacking when residents are picking up their mail. Mr. Bennett stated there is 100-feet from the edge of Highway 40 to the mailbox cluster.

Mr. Morgan questioned if the road also widens for people to park? Mr. Bennett stated the road balloons out to 12 ½ feet wide at the mailbox cluster location, allowing the mail carrier the ability to pull in front of the mailbox cluster while still allowing two (2) lanes of traffic to flow into and out of the proposed Subdivision.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Miller & Associates for Randys Classics, LLC and introduced Ordinance No. 8514 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural

Standards) and District RR-2, Rural Residential District (Intermediate Standards) for property described as a tract of land located in the East Half of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land located in the East Half of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of Highway 40, Northwest of 17th Avenue and Highway 40) 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 close the hearing and suspend the rules for Ordinance No. 8514. 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, Moore. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8514 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, Moore. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8514 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8514 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.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR WOOD RIVER VALLEY ESTATES

Public Hearings 6 and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Randys Classics, LLC for the Final Plat and Subdivision Agreement for Wood River Valley Estates, a subdivision being part of the Southeast Quarter of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land located in the East Half of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of Highway 40, Northwest of 17th Avenue and Highway 40) and consider Resolution No. 2021-163.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2021-163 approving the application submitted by Miller & Associates for Randys Classics, LLC for the Final Plat and Subdivision Agreement for Wood River Valley Estates, a subdivision being part of the Southeast Quarter of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land located in the East Half of Section 10, Township 9 North, Range 16 West of the 6th

P.M., Buffalo County, Nebraska (North of Highway 40, Northwest of 17th Avenue and Highway 40). Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2021-163

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Wood River Valley Estates, a subdivision being part of the Southeast Quarter of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska for a tract of land located in the East Half of Section 10, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, being more particularly described as follows: Commencing at the Northeast corner of the Southeast 1/4 said Section 10; thence South 00°03'02" East (assumed bearing) on the East line of said Southeast 1/4 of Section 10 a distance of 1634.27 feet; thence South 89°55'51" West a distance of 378.15 feet to the POINT OF BEGINNING; thence North 01°18'12" East, a distance of 327.55 feet; thence North 26°59'12" West, a distance of 131.86 feet; thence South 57°12'38" West, a distance of 327.82 feet; thence North 37°57'03" West, a distance of 131.88 feet; thence North 39°54'40" East, a distance of 291.46 feet; thence North 15°14'59" West, a distance of 101.14 feet; thence South 75°22'42" West, a distance of 258.86 feet; thence North 85°46'26" West, a distance of 122.14 feet; thence North 16°17'01" East, a distance of 169.25 feet; thence North 56°12'41" West, a distance of 249.65 feet; thence North 24°13'31" West, a distance of 252.89 feet; thence South 86°53'36" West, a distance of 95.05 feet; thence South 22°45'54" West, a distance of 200.61 feet; thence South 89°12'02" West, a distance of 61.99 feet; thence North 27°45'51" West, a distance of 234.86 feet; thence North 88°11'35" West, a distance of 176.84 feet; thence South 31°21'21" West, a distance of 248.51 feet; thence South 11°44'55" West, a distance of 181.66 feet; thence South 82°50'06" West, a distance of 99.76 feet; thence North 15°40'33" West, a distance of 172.34 feet; thence North 82°51'48" West, a distance of 109.11 feet; thence North 50°34'26" West, a distance of 57.05 feet; thence South 64°10'26" West, a distance of 158.40 feet; thence South 44°23'04" East, a distance of 223.35 feet; thence North 86°58'14" East, a distance of 58.30 feet; thence South 66°07'35" East, a distance of 232.77 feet; thence South 33°38'31" West, a distance of 680.00 feet to the Northerly Right of Way line of Highway No. 40; thence South 59°19'03" East on said Northerly Right of Way line a distance of 520.25 feet; to the beginning of a curve concave Northeast having a radius of 5664.58 feet and a central angle of 7°21'23" and being subtended by a Chord which bears South 62°59'44" East 726.79 feet with an arc length of 727.29 feet; thence South 66°58'10" East continuing on said Northerly Right of Way, a distance of 764.19 feet; thence North 00°02'50" West, a distance of 776.36 feet; thence North 89°55'51" East, a distance of 164.00 feet to the Point of Beginning, containing 50.57 acres, more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021

ATTEST:
LAUREN BRANDT
CITY CLERK

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

ONE & SIX YEAR STREET IMPROVEMENT PLAN

Mayor Clouse opened the public hearing on the adoption of the One & Six Year Street Improvement Plan and consider Resolution No. 2021-164.

Andy Harter, Public Works Director presented this matter to the Council. Mr. Harter stated the One & Six Year Street Improvement Plan has not changed since he presented it at the August 24th City Council meeting, nor has he received any input from citizens regarding the Plan.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2021-164 approving the adoption of the One & Six Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2021-164

WHEREAS, the City of Kearney, Nebraska is required by Section 39-2119 of the Nebraska Revised Statutes to adopt a One and Six Year Street Improvement Program.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, at a Public Hearing held at approximately 5:30 p.m. on September 14, 2021 in the Kearney City Council Chambers that the One Year City Street Plan for fiscal year ending September 30, 2022 and the Six Year City Street Plan ending September 30, 2028, are hereby adopted as listed on the Summary of One Year Plan and the Summary of Six Year Plan, marked as Exhibit "A" attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Moore seconded by Lear that Subsections 1 through 26 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 24, 2021.
2. Approve the following Claims:

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

911 Custom \$54,978.84 co; Acushnet \$4,984.43 smcs; Agri Coop \$4,138.35 smcs; Alfred Benesch \$112,893.42 co; All Makes Office \$5,213.04 smcs; Amax Contracting \$57.60 smcs; Amazon \$1,810.10 smcs; Arrow Seed \$915.50 co; Artisans Photography \$390.00 ps; Ask Supply \$3,197.61 smcs; Aurora Coop \$30.40 smcs; Aussie Hydraulics \$238.46 smcs; Autodesk \$6,560.00 smcs; AvFuel \$68,873.22 smcs, er; Axon Enterprise \$166.46 smcs; Baker & Taylor \$11,534.03 smcs; Bamford \$250.00 smcs; Blackstone Publishing \$1,827.44 smcs; Blessing \$135,772.51 co; Bluecross Blueshield \$151,787.40 smcs; Bosselman \$27,488.67 smcs; Bridgett Lavene Consult. \$6,008.20 smcs; Brown Construction \$737,818.61 co; Brown,C \$33.70 smcs; Buffalo Co. Historical \$2,659.30 smcs; Buffalo Co. Register \$154.00 smcs; Builders \$425.58 smcs, co; Burnett,M \$31.00 smcs; Cal/Amp \$781.55 smcs; Cash Wa \$7,997.15 smcs; Center Point Large Print \$75.96 smcs; Chavez,K \$75.00 smcs; Chesterman \$1,570.70 smcs; Chramosta,R \$75.00 smcs; Christensen,J \$0.31 smcs; Cigna \$8,381.20 smcs; Cintas \$63.51 smcs; City of Ky \$457,791.76 smcs,; ps; Clear World \$10,220.00 co; Cold Spring \$751.35 smcs; Comfy Bowl \$60.00 smcs; Comm. Action Partnership \$8,360.00 smcs; Comm. Health Agencies \$48.00 ps; Comm. Service Fund NE \$42.00 ps; Commercial Recreation \$759.52 smcs; Compute North \$98,778.19 smcs; Construction Rental \$2,530.00 co; Coulter,M \$34.21 smcs; Country Partners \$22,000.35 smcs; Credit Mgmt. \$202.16 ps; Crystal Clean \$505.00 smcs; Cutting Edge Cleaning \$105.00 smcs; D & K Products \$6,871.17 smcs; Daily,S \$600.00 smcs; Dennis,N \$223.00 smcs; Dent Popper \$500.00 smcs; Deterding's Alternatives \$3,256.00 smcs; Dimas,E \$95.00 smcs; Dish \$109.12 smcs; Dostal,B \$75.00 smcs; Dowhy Towing \$200.00 smcs; DPC Industries \$7,564.48 smcs; Eagle Distributing \$3,082.25 smcs; Eakes \$7,111.89 smcs; EJ's Outdoor Sports \$744.00 smcs; Elliott Equipment \$41,274.69 co; Enforcement Video \$63,347.30 co; Eynetich,J \$125.00 smcs; Fairfield Inn \$116.95 smcs; Fedex \$87.90 smcs; Feusnerm,J \$21.40 smcs; Fountain Hills Prop. \$23,971.02 co; Gale \$166.49 smcs; Gannon Travel \$1,880.00 smcs; Garrett Tires \$10,424.22 smcs; General Traffic Controls \$4,425.00 smcs; Glowforge \$6,990.00 smcs; Goodwin Tucker \$318.50 smcs; Greater NE Cities \$1,000.00 smcs; Hall Weapon Systems \$5,625.00 co; HelpCare Clinic \$3,942.74 smcs; HM Life Insurance \$59,492.14 smcs; Holiday Inn \$424.32 smcs; Hometown Leasing \$1,247.96 smcs; Houser,L \$31.00 smcs; Hudson,L \$25.11 smcs; ICMA \$8,859.71 ps; Integrated Security \$2,622.00 smcs; IRS \$354,333.69 ps; Isolved \$72.50 smcs; Ita,R \$13.99 smcs; J&A Traffic \$840.00 smcs; Jack Lederman \$286.28 smcs; Jackson

Services \$290.46 smcs; JCB Delivery \$40.00 smcs; Jezebra,K \$20.23 smcs; Kamler,M \$31.00 smcs; Ky Animal Shelter \$571.20 smcs; Ky Arts Council \$2,500.00 smcs; Ky Comm. Found. \$100,000.00 co; Ky High - Echo \$50.00 smcs; Ky Hub \$483.74 smcs; Ky Vol. Fire Dept. \$750.00 ps; Ky Winlectric \$17,393.68 smcs,; co; Koetters,J \$712.72 smcs; Konica Minolta \$814.32 smcs; KRMC \$225.00 smcs; Landmark Implement \$171.73 smcs; Larue Tactical \$8,922.65 co; Levrack \$25,644.38 co; Logan Contractors \$550.00 co; Lowery,A \$38.53 smcs; Luke,D \$371.00 smcs; Macqueen Equipment \$2,581.87 smcs; Magic Cleaning \$7,050.00 smcs; Malleck,J \$66.87 smcs; Mallory Safety \$1,003.34 smcs; Mays,C \$425.00 smcs; Menards \$101.99 smcs; Midwest Connect \$8,175.10 smcs; Midwest Turf \$402.87 smcs; Milco Environmental \$3,292.75 smcs; Miler, Logan \$123.09 smcs; Miller & Associates \$40,629.42 co; Mission Square \$6,220.07 ps; Mitchell 1 \$1,728.00 smcs; Morales,R \$125.00 smcs; Morton Buildings \$346.00 smcs; Municipal Automation \$326.88 smcs; Municipal Supply \$10,435.86 smcs; Murphy Tractor \$2,113.12 smcs; Naval Surface Warfare \$2,100.00 smcs; NE Child Support \$3,034.24 ps; NE Dept. Environmental \$7,500.00 smcs; NE Dept. Labor \$104.82 ps; NE Dept. Revenue \$144,770.46 smcs,; ps; NE Machinery \$620.82 smcs; NE Planning & Zoning \$190.00 smcs; NE Public Health \$3,827.50 smcs; NE Safety & Fire \$490.50 smcs; NE Salt & Grain \$4,239.16 smcs; Nebraskaland Distrib. \$3,282.00 smcs; Newell,B \$75.00 smcs; NLETC \$1,710.00 smcs; Northwestern Energy \$2,780.07 smcs; Nova Fitness \$644.50 ps; Obradovich,CJ \$410.00 smcs; Olsson \$45,023.65 co; One Call Concepts \$520.54 smcs; O'Neill Wood \$74,200.00 smcs; O'Reilly Auto \$1,690.39 smcs; Orona,C \$43.83 smcs; Outdoor Recreation \$11,185.80 smcs, ps; Paramount \$31.26 smcs; Paulsen \$921,569.35 co; Payflex \$535.50 smcs, ps; Penworthy \$360.16 smcs; Pep Co \$200.00 smcs; Pfeiffer,D \$105.04 smcs; Pioneer Athletics \$1,464.25 smcs; Pioneer Industrial \$5,719.00 smcs; Pitney Bowes \$500.00 smcs; Platinum Awards \$130.85 ps; Presto-X \$394.00 smcs; Provantage \$3,726.40 smcs; R.W. Sorensen Const. \$6,180.33 co; Rasmussen Mechanical \$18,017.79 smcs, co; RDG Planning \$38,779.36 smcs, co; Rheome Tree \$2,000.00 smcs; RMV Construction \$233,618.40 co; Roberts,D \$22.37 smcs; Roth,K \$59.92 smcs; Runge,J \$100.00 smcs; Sapp Brothers \$21,095.80 smcs; Schwarz,G \$164.37 smcs; See Clear Cleaning \$3,000.00 smcs; Sherwin Williams \$9.40 smcs; Shoemaker,D \$81.55 smcs; Sign Center \$114.35 smcs; Silverstone Group \$6,405.91 smcs; SOS Portable Toilets \$295.00 smcs; Southern Glaziers Wine \$1,128.09 smcs; Stutsman \$3,294.00 smcs; Sunset Law Enforcement \$109.55 smcs; Super Seer \$1,026.80 smcs; Tech Masters \$726.30 smcs; Tidei,J \$800.00 smcs; Tielke's \$187.97 smcs; Traffic Control \$540.00 smcs; Tri Co Glass \$1,716.75 smcs; Tucker,R \$45.00 smcs; Tumbleweed Press \$3,393.50 smcs; Turner Bodyshop \$130.00 smcs; Twin City Hardware \$146.80 co; Tye & Rowling \$14,941.38 smcs; Union Bank \$181,537.36 smcs, ps; United Way \$2,763.84 ps; Verizon \$8,592.53 smcs; Village Uniform \$288.11 smcs; Walter's Electric \$1,630.12 smcs; Weldon,C \$125.00 smcs; Wilco Life \$10.00 ps; Wilkins Architecture \$540.00 co; Yanney Heritage Park \$4,000.00 co,; smcs; Young,J \$246.00 smcs; Young,M \$225.00 smcs; Payroll Ending 08/28/2021 -- \$530,084.46. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Approve the recommendation submitted by the Keno Committee on the allocation of non-departmental keno funds designed for outside agencies.
4. Adopt Resolution No. 2021-165 allowing the City of Kearney to increase its

“Budget Authority” by an additional one percent or \$158,896.18 which will be carried over to the 2022-2023 Budget as “Unused Budget Authority”.

RESOLUTION NO. 2021-165

WHEREAS, on April 2, 1998 the Nebraska Legislature passed and approved LB 989 which imposes a two and one half percent lid on certain restricted funds for local governments; and

WHEREAS, Section 13-519.03 of the Nebraska Revised Statutes, as amended, allows governmental units to exceed the two and one half percent limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that the City of Kearney exceed the limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by an additional one percent as allowed pursuant to Section 13-519.03 of the Nebraska Revised Statutes, as amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that the City of Kearney exceed the limit as provided in Section 13-519.03 of the Nebraska Revised Statutes, as amended, by an additional one percent.

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

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2021.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

5. Adopt Resolution No. 2021-166 repealing Resolution No. 2020-139 and adopt the 2021-2022 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2021-2022 year.

RESOLUTION NO. 2021-166

WHEREAS, the Mayor and City Council of the City of Kearney have established fees for items and services provided to its citizens; and

WHEREAS, the Comprehensive Fee Schedule setting forth the fees for such items and services to be provided during the 2020-2021 fiscal year was adopted by Resolution No. 2020-139 on September 8, 2020 by the City Council; and

WHEREAS, the Comprehensive Fee Schedule attached hereto as Exhibit "A" sets out the proposed fees for such items and services to be provided during the 2021-2022 fiscal year; and

WHEREAS, it is recommended that such Comprehensive Fee Schedule be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted with an effective date of October 1, 2021.

BE IT FURTHER RESOLVED that Resolution No. 2020-139 be and is hereby repealed in its entirety as of October 1, 2021.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

6. Adopt Resolution No. 2021-167 approving Application and Certificate for Payment No. 2 in the amount of \$100,400.13 submitted by Ensley Electrical Services and approved by Olsson for the Pedestrian Hybrid Beacons involving work associated with the construction of three (3) Pedestrian Hybrid Beacon's (PHB) at 4-lane trail crossings at 11th Street, 30th Avenue, & 17th Avenue.

RESOLUTION NO. 2021-167

WHEREAS, Ensley Electrical Services of Grand Island, Nebraska has performed services in connection with the 2020 Pedestrian Hybrid Beacons involving work associated with the construction of three (3) Pedestrian Hybrid Beacon's at 4-lane trail crossings at 11th Street, 30th Avenue, & 17th Avenue, and the City's engineer, Olsson, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$100,400.13 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 218,267.00</u>
Contract Sum To Date	218,267.00
Gross Amount Due	177,090.70
Retainage (10%)	<u>- 17,709.07</u>
Amount Due to Date	159,381.63
Less Previous Certificates for Payment	<u>- 58,981.50</u>
Current Payment Due	\$100,400.13

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 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

7. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class D-124460 liquor license application and manager application for Krystal Carter submitted by Casey's Retail Company, dba Casey's General Store #2717 located at 705 2nd Avenue.

8. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class D-124461 liquor license application and manager application for Krystal Carter submitted by Casey’s Retail Company dba Casey’s General Store #2884 located at 115 East 25th Street.

9. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class C-124431 liquor license application and manager application for Lonnie Lindner submitted by B & T Golf Guys LLC dba Birdies & Brews located at 5915 2nd Avenue, Suite 4.

10. Adopt Resolution No. 2021-168 authorizing the Mayor to sign the certification of the Municipal Annual Certification of Program Compliance Form 2021 to Nebraska Board of Public Roads Classifications and Standards as required by the Nebraska Department of Transportation.

RESOLUTION NO. 2021-168

WHEREAS, State of Nebraska Statutes, sections 39-2115, 39-2119, 39-2120, 39-2121, and 39-2520(2), requires an annual certification of program compliance to the Nebraska Board of Public Roads Classifications and Standards; and

WHEREAS, State of Nebraska Statute, section 39-2120 also requires that the annual certification of program compliance by each municipality shall be signed by the Mayor and shall include a copy of a resolution of the governing body of the municipality authorizing the signing of the certification form.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, the Mayor is hereby authorized to sign the attached Municipal Annual Certification of Program Compliance form.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

11. Adopt Resolution No. 2021-169 setting the 2021 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk.

RESOLUTION NO. 2021-169

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the City Council of the City of Kearney passes a majority vote a resolution or ordinance setting the 2021 property tax request; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request;

NOW, THEREFORE, the City Council of the City of Kearney, resolves that:

1. The 2021-2022 General Fund property tax request be set at \$4,022,211.84 and the 2021-2022 Bond Fund property tax request be set at \$360,182.16.
2. The total assessed value of property differs from last year’s total assessed value by 0.85%.

- 3. The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$.147622 per \$100 of assessed value.
- 4. The City of Kearney proposes to adopt a property tax request that will cause its tax rate to be \$.148870 per \$100 of assessed value.
- 5. Based on the proposed property tax request and changes in other revenue, the total operating budget of the City of Kearney will exceed last year's by 31.54%.
- 6. A copy of this resolution be certified and forwarded to the County Clerk on or before October 13, 2021.

Motioned by _____, seconded by _____
 to adopt Resolution No. 2021-169. Voting yes were _____.
 Voting no were _____.

Dated this 14th day of September 2021.

ATTEST:
 LAUREN BRANDT
 CITY CLERK

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

12. Approve the City of Kearney Offstreet Parking District No. 1 Budget for the 2021-2022 Fiscal Year and approve the budget statement as the Annual Appropriation Bill and adopt Resolution No. 2021-170.

RESOLUTION NO. 2021-170

A RESOLUTION TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that after complying with all procedures required by law, the budget for the City of Kearney Offstreet Parking District No. 1 presented and set forth in the budget statement (Annual Operating Budget and Program of Services for the Fiscal Year beginning October 1, 2021 through September 30, 2022) is hereby approved as the Annual Appropriation Bill. All sums of money contained in the budget statement are hereby appropriated for the necessary expenses and liabilities of the City of Kearney Offstreet Parking District No. 1. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Buffalo County, Nebraska, for use by the levying authority.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
 LAUREN BRANDT
 CITY CLERK

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

13. Adopt Resolution No. 2021-171 approving the Kearney Area Solid Waste Agency Budget for the 2021-2022 Fiscal Year.

RESOLUTION NO. 2021-171

A RESOLUTION TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL FOR THE KEARNEY AREA SOLID WASTE AGENCY; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES FOR THE KEARNEY AREA SOLID WASTE AGENCY.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that after complying with all procedures required by law, the budget for the Kearney Area Solid Waste Agency presented and set forth in the budget statement (Annual Operating Budget and Program of Services for the Fiscal Year beginning October 1, 2021 through September 30, 2022) is hereby approved as the Annual Appropriation Bill. All sums of money contained in the budget statement are hereby appropriated for the necessary expenses and liabilities of the Kearney Area Solid Waste Agency. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Buffalo County, Nebraska, for use by the levying authority.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

14. Adopt Resolution No. 2021-172 continuing the Agreement between the City of Kearney and the Tye & Rowling, PC, LLO for legal services as City Attorney.

RESOLUTION NO. 2021-172

WHEREAS, the City of Kearney entered into an Agreement for Legal Services and the Tye & Rowling, PC, LLO (formerly The Tye Law Firm) on September 13, 2015 to provide legal services to the City of Kearney; and

WHEREAS, said Agreement was continued for an additional three years on August 25, 2009 and again on October 9, 2012, October 13, 2015, and again on September 25, 2018; and

WHEREAS, in accordance with the terms of the Agreement, City staff is recommending continuing the Agreement with Tye & Rowling, PC, LLO for an additional three years and effective October 1, 2021 the annual sum will increase to One Hundred Seventy-Nine Thousand One Hundred Seven Dollars and Seventy-Seven Cents (\$179,107.77), and will increase three percent (3%) on October 1, 2022 and three percent (3%) on October 1, 2023.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for Legal Services dated October 1, 2021 between the City of Kearney, Nebraska and Tye & Rowling, PC, LLC for services as outlined in said Agreement.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

15. Adopt Resolution No. 2021-173 approving a Cable Franchise Agreement to Great Plains Communications, LLC, a Nebraska Limited Liability Company to construct, install, operate, maintain a cable system in public ways and easements within the City of Kearney.

RESOLUTION NO. 2021-173

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 Cable Franchise Agreement between the City of Kearney, Nebraska and Great Plains Communications, LLC, a Nebraska Limited Liability Company, authorizing Great Plains Communications, LLC, to construct, operate and maintain a Cable System within the City pursuant to the Cable Ordinances, to include the use of Public Ways and Easements within the City of Kearney. A copy of the Agreement, marked as Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

16. Adopt Resolution No. 2021-174 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Jackson Riverside Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2021-174

WHEREAS, on the 13th day of June, 2017 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2017-100 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Paul S. Jackson and Tamara V. Jackson, to construct sanitary sewer improvements to serve Jackson Riverside Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

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

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

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

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for a sanitary sewer main to serve the property described as Jackson Riverside Addition, an addition to the City of Kearney,

Buffalo County, Nebraska constructed under, and in accordance with, Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

17. Approve the Plans and Specifications for the 2022 Part 1 Improvements; 48th Street and set the bid opening date for October 19, 2021 at 2:00 p.m.

18. Adopt Resolution No. 2021-175 approving Change Order No. 1 showing an extension of 30 days to the dates of Substantial and Final Completion submitted by Dan Roeder Concrete and approved by Olsson for 2021 Part 2 Improvements; Pony Express Road.

RESOLUTION NO. 2021-175

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has agreed to perform services in connection with the 2021 Part 2 Improvements; Pony Express Road, and Olsson, have filed with the City Clerk Change Order No. 1 extending the original substantial completion date from September 17, 2021 to October 17, 2021 and extending the final completion date from October 1, 2021 to November 1, 2021, 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 Change Order No. 1, as shown on Exhibit “A”, be and is hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

19. Adopt Resolution No. 2021-176 approving Change Order No. 2 showing an extension of 30 days to the dates of Substantial and Final Completion submitted by Dan Roeder Concrete and approved by Olsson for 2020 Part 2 Improvements; 31st Street from D Avenue to G Avenue.

RESOLUTION NO. 2021-176

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has agreed to perform services in connection with the 2020 Part 2 Improvements; 31st Street from D Avenue to G Avenue, and Olsson, have filed with the City Clerk Change Order No. 2 extending the original substantial completion date from August 1, 2021 to August 31, 2021 and extending the final completion date from August 15, 2021 to September 14, 2021, 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 Change Order No. 2, as shown

on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

20. Adopt Resolution No. 2021-177 approving the Joint Agreement on Aerial Photography and GIS between Buffalo County, Nebraska and the City of Kearney to contract with Pictometry International Corporation to provide aerial photography and other services related to the City and County GIS Systems.

RESOLUTION NO. 2021-177

WHEREAS, the City of Kearney, Nebraska, and the County of Buffalo of the State of Nebraska, desire to enter into an Joint Agreement for aerial photography and GIS.

WHEREAS, both the City of Kearney, Nebraska and the County of Buffalo of the State of Nebraska desire to provide services related to aerial photography needed for a GIS system and both parties have contracted for and received aerial photography from Pictometry International Corporation through joint agreements in 2013, 2016 and 2018 and desire to contract again with Pictometry International Corporation to provide aerial photography and other services related to GIS systems.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to execute the Joint Agreement on Aerial Photography and GIS between the City of Kearney, Nebraska, and the County of Buffalo of the State of Nebraska. A copy of the said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

21. Adopt Resolution No. 2021-178 approving Application and Certificate for Payment No. 9 in the amount of \$737,818.61 submitted by Brown Construction and approved by RDG Planning & Design for the construction of the Community Tennis Facility.

RESOLUTION NO. 2021-178

WHEREAS, Brown Construction of Kearney, Nebraska has performed services in connection with the construction of the Community Tennis Facility, and the City's engineer, RDG Planning & Design, have filed with the City Clerk Application and Certificate for Payment No. 9 in the amount of \$737,818.61 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 7,250,100.00
Change Order Nos. 1 & 2 (4/27/2021)	+ <u>7,506.22</u>
Contract Sum To Date	7,257,606.22

Gross Amount Due	3,966,827.96
Retainage (5%)	- 198,341.40
Amount Due to Date	3,768,486.56
Less Previous Certificates for Payment	- 3,030,667.95
Current Payment Due	\$ 737,818.61

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. 9, as shown on Exhibit "A" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

22. Approve the Plans and Specifications for the 1.5 MG & 2 MG Elevated Water Storage Facility Paint Restoration and set the bid opening date for October 19, 2021 at 2:00 p.m.

23. Approve the Plans and Specifications for the Yanney Park Maintenance Building and set the bid opening date for October 5, 2021 at 2:00 p.m.

24. Accept the bids received for the 2021 Part 5 Improvements; Extension of Talmadge Street and adopt Resolution No. 2021-179 awarding Bid A (Sanitary Sewer and Water) to Midlands Contracting in the amount of \$2,343,960.00 and awarding Bid B-Alternate (Paving and Storm Sewer) to Blessing, LLC in the amount of \$1,616,081.00.

RESOLUTION NO. 2021-179

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on September 8, 2021 at 3:00 p.m. for the 2021 Part 5 Improvements; Extension of Talmadge Street (Bid A includes Sanitary Sewer and Water and Bid B includes Paving and Storm Sewer, Bid B also includes an alternate bid option); and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$4,361,450 for the total Base Bid and \$4,534,250 for the total Alternate Bid; and

WHEREAS, Miller & Associates and the City have recommended the bid offered by Midlands Contracting of Kearney, Nebraska in the amount of \$2,343,960.00 be accepted as the lowest responsible bid for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid A, Sanitary Sewer and Water); and

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

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted, that Midlands Contracting (Bid A, Sanitary Sewer and Water) and Blessing, LLC (Bid B-Alternate, Paving and Storm Sewer) be and are the lowest responsible bidders for the

2021 Part 5 Improvements; Extension of Talmadge Street (Bid A includes Sanitary Sewer and Water and Bid B includes Paving and Storm Sewer, Bid B also includes an alternate bid option) to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bids of Midlands Contracting (Bid A, Sanitary Sewer and Water) in the amount of \$2,343,960.00 and Blessing, LLC (Bid B-Alternate, Paving and Storm Sewer) in the amount of \$1,616,081.00 be and are hereby accepted.

BE IT FURTHER RESOLVED the Engineer’s Opinion of Probable Construction Cost for \$4,361,450 for the total Base Bid and \$4,534,250 for the total Alternate Bid be and are 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 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

25. Adopt Resolution No. 2021-180 approving Application for Payment No. 3 in the amount of \$647,762.00 submitted by Blessing Construction and approved by Miller & Associates for the 2020 Part 1 Improvements for the removal and replacement of N Avenue from 28th Street to 39th Street in connection with Paving Improvement District No. 2020-004.

RESOLUTION NO. 2021-180

WHEREAS, Blessing Construction, LLC of Kearney, Nebraska has performed services in connection with 2020 Part 1 Improvements for the removal and replacement of N Avenue from 28th Street to 39th Street in connection with Paving Improvement District No. 2020-004, and the City’s engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$647,762.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 2,666,533.00</u>
Contract Sum To Date	2,666,533.00
Gross Amount Due	939,659.74
Retainage (10%)	- 93,965.97
Amount Due to Date	<u>845,693.77</u>
Less Previous Certificates for Payment	<u>197,931.77</u>
Current Payment Due	\$ 647,762.00

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. 3, as shown on Exhibit “A” be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

26. Adopt Resolution No. 2021-181 approving Change Order No. 1 showing an increase in the amount of \$6,340.00, Application and Certificate for Payment No. 5-Final in the amount of \$11,635.17 and accept the Certificate of Substantial Completion submitted by Nielsen Contracting and approved by Miller & Associates for 2020 Part 6 Improvements for 22nd Avenue and 6th Street in connection with Paving Improvement District Nos. 2020-002 and 2020-003 (Bid B, Paving).

RESOLUTION NO. 2021-181

WHEREAS, Nielsen Contracting of Kearney, Nebraska has performed services in connection with 2020 Part 6 Improvements for 22nd Avenue and 6th Street in connection with Paving Improvement District Nos. 2020-002 and 2020-003 (Bid B, Paving), and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$6,340.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Nielsen Contracting and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$11,635.17 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 379,418.50
Change Order No. 1 (9/14/21)	+ 6,340.00
Contract Sum To Date	385,758.50
Gross Amount Due	385,758.50
Retainage (0%)	- 0.00
Amount Due to Date	385,758.50
Less Previous Certificates for Payment	374,123.33
Current Payment Due	\$ 11,635.17

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of July 1, 2021, 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 14TH DAY OF SEPTEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8515 ADOPTING THE CITY OF KEARNEY BUDGET FOR THE 2021-2022 FISCAL YEAR

Council Member Lear introduced Ordinance No. 8515 adopting the City of Kearney Budget for the 2021-2022 Fiscal Year and approving the budget statement as the Annual Appropriation Bill, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8515. 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, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8515 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8515 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8515 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 8516 GRANTING A NON-EXCLUSIVE FRANCHISE ORDINANCE TO GREAT PLAINS COMMUNICATIONS, LLC

Council Member Lear introduced Ordinance No. 8516 granting a non-exclusive franchise ordinance to Great Plains Communications, LLC, a Nebraska Limited Liability Company to construct, install, operate, maintain a cable system in public ways and easements within the City of Kearney, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8516. 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, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8516 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8516 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8516 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 8517 REPEALING ORDINANCE NO. 8481 AND ADOPTING THE ANNUAL SALARY ORDINANCE

Council Member Lear introduced Ordinance No. 8517 repealing Ordinance No. 8481 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of health and dental benefits for active full-time employees; to provide for payment of health benefits for early retiree employees pursuant to Resolution No. 2019-68A, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8517. 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, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8517 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8517 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8517 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIM

Moved by Buschkoetter seconded by Nikkila that the Open Account Claim in the amount of \$369.63 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Moore. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

Mr. Morgan presented an overhead photo of Phase I of Yanney Gardens and noted it is essentially complete; some replanting still needs to be done. A picture of the newly placed Pedestrian Bridge connecting 8th Avenue to Yanney Park was shown; abutment work and Hike/Bike Trail connectivity will be completed over the next couple of weeks. Mr. Morgan thanked NPPD for granting the City an easement allowing the City to place the bridge here.

Mayor Clouse noted the number of items on the Consent Agenda and the amount of business being conducted and further thanked City staff on the work they did on the Budget as well as the One and Six Street Improvement Plan.

Mr. Morgan stated Buffalo County Commissioners approved the Interlocal Agreement for the installation of Talmadge Street; the Interlocal Agreement will be on the September 28th Council Agenda.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 6:31 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

**LAUREN BRANDT
CITY CLERK**