

*Kearney, Nebraska  
November 9, 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 November 9, 2021 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Peggy Eynetich, Deputy City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Tami James Moore and Jonathan Nikkila. Absent: Lauren Brandt, City Clerk. Michael Morgan, City Manager; Michael Tye, City Attorney; Eric Hellriegel, Assistant City Manager; Tony Jelinek, Director of Utilities; Andy Harter, Director of Public Works; Bryan Waugh, Chief of Police; and Brenda Jensen, Development Services Director were also present. Members of the media present included: Mike Konz from the Kearney Hub.

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

## **I. ROUTINE BUSINESS**

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

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

### **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, Brette Schutte and Nathan Dennis presented and posted the colors. One Boy Scout from Troop 158 and Miss Nebraska Preteen, Avery Autry, 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/RECOGNITION**

Recognition Ceremony for Promotion of Police Sergeant Doug McCarty. Chief Waugh welcomed Sergeant Doug McCarty and his family. Sergeant McCarty is a United States Army Veteran and has been with the Kearney Police Department (KPD) for 21 years; prior to that he was a member of the North Platte Police Department for two (2) years. He has served as a Detective in Investigations with KPD for 18 years and most recently as a

Technical Services Officer in KPD's lab.

**PROCLAMATION FOR NATIONAL HOMELESSNESS AND HUNGER AWARENESS WEEK**

Mayor Clouse read the Proclamation for National Homelessness and Hunger Awareness Week.

**II. UNFINISHED BUSINESS**

There was no Unfinished Business.

**III. PUBLIC HEARINGS**

**FINAL PLAT AND SUBDIVISION AGREEMENT FOR LAKE VILLA ESTATES FIFTH**

Moved by Nikkila seconded by Moore to remove Public Hearing 1 from the table. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

Mayor Clouse opened the public hearing on the application submitted by Trenton Snow for Tracy & Jolynn Cook for the Final Plat and Subdivision Agreement for Lake Villa Estates Fifth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land part of Government Lot 2 and part of Government Lot 3 in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of Emerald Drive and East of Tahoe Drive) and consider Resolution No. 2021-189.

Trenton Snow, Kearney Land Surveyor presented this matter to the Council. Mr. Snow introduced Tracy Cook, the Developer for this project, and stated no changes have been made to the proposed plat since it was presented at the October 26th City Council meeting. Mr. Snow stated he reached out to Attorney Barry Geweke, acting spokesperson at the October 26th Council Meeting for some Lake Villa Estates residents, to discuss the neighborhood's concerns brought up at the prior Council meeting. Mr. Snow stated Mr. Geweke responded with an email requesting Mr. and Mrs. Cook sign an acknowledgement agreeing that the Lake Villa Estates covenants would be abided by for their proposed Development. Mr. and Mrs. Cook were not agreeable to the acknowledgement and informed Mr. Geweke that they will be creating covenants for the proposed Lake Villa Estates Fifth Addition. Mr. Cook further stated he additionally extended an invitation for concerned neighbors to call him to discuss his proposed Development plans further. Mr. Snow and Mr. Cook do not feel that the proposed Addition will be a detraction from the surrounding area and will instead be a benefit to it.

Marv Dawes of Kearney noted the three (3) lots adjacent to the proposed Addition are already platted similarly to the rest of Lake Villa. Additionally, Mr. Dawes feels this property was not platted with the rest of Lake Villa because it was a sewage lagoon at the time and further feels if this land had originally been platted with the rest of Lake Villa, the intent would have been to keep it all the same. He requested that Council look at this area with that same intent and asked Council to do the right thing, not just what is required by Statute.

Craig Peister of Kearney referenced another plat that is forthcoming that will adjoin Lake Villa Estates and noted that the plat would be very similar to what is currently in Lake Villa Estates. Covenants for this upcoming plat will either be the same as the rest of Lake Villa Estates or very similar. He further stated if Council approves Mr. and Mrs. Cook's Development, the neighborhood does not have any recourse; however, if Council denies the Cook's Development, the Cook's still have the option to revise the plat to three (3) larger lots. Mr. Peister stated just because the proposed Addition meets R-1 minimum standards does not mean it is the right thing. He also noted that no assurance has been given to Lake Villa residents saying houses would not be moved in on the proposed lots.

Mark Dissmeyer of Kearney asked Council if any Council Members had driven through Millennial Estates and wondered how small those lots are? He has concerns that the proposed lots in Lake Villa Estates Fifth Addition will have the same proximity as the lots in Millennial Estates and believes the proposed smaller lots are not a good fit for the neighborhood. Mr. Dissmeyer noted the property backs up to the old sewage lagoon and were never intended to be platted. He feels Council has the responsibility to keep this neighborhood intact and would appreciate if Council would reconsider and vote no on this Development.

Darlene Mills of Kearney stated her house is the smallest house on the smallest lot in Lake Villa and questioned how the proposed Development can be called Lake Villa Estates when it has nothing to do with the original Lake Villa Estates? Ms. Mills also questioned what kind of a home could be built on a 75-foot-wide lot as her house barely fits on her small lot? She commented the homeowners for these lots would have to drive by her home to get to the smaller homes and therefore requested Council also consider the increased traffic through Lake Villa Estates. Ms. Mills does not feel the proposed Development will be up to par with her neighbors.

Mr. Cook stated throughout this entire process, no one from the neighborhood has contacted him regarding their concerns or asked how he would be developing the property. He has no intention of moving houses onto the lots, and instead plans to make it a nice neighborhood with nice houses that will have covenants that will be created. Mr. Cook stated when he started the process of developing this area, proper channels were followed to exceed the minimum standards for R-1 zoning. He wished residents would contact him so he could ease their mind about what he plans to build.

Ken Frasier of Kearney stated he lives south of the proposed Development and has concerns that cars will be parked on the street, unlike the rest of the neighborhood. He stated the neighborhood prides itself with cleanliness and feels with low income housing there will be a lot of people who will be parking all over.

Council Member Jonathan Nikkila stated he felt that he made most of his feelings known at the October 26th Council Meeting and further noted that although no one probably means this, he lives in a house that is on a 75-foot lot that is in a nice neighborhood. He appreciates when citizens talk about "our neighborhood" in relation to the rest of the City as well as the standards set by the City, but has concerns if Council tells builders and investors the rules but then at the last minute changes them. That is not how development works and feels it does not set a good precedent to pick and choose the rules for each neighborhood.

Council Member Tami Moore stated that she has spent most of her building career building on lots that are 75-foot-wide and one of those properties recently sold for over \$600,000. She feels the concerns that small lots and small houses are the problem may not really be the issue, but instead are more about the quality of the homes being built; however, Building Codes are set up and come in to play to maintain quality when plans are submitted to the City. She feels the right thing to do is the fair thing to do and rules cannot be changed in the middle of a development while still making it fair for everyone involved.

Council Member Randy Buschkoetter stated market value will also play a role in this issue as people would not buy an expensive lot and then place poor quality construction on it. He agreed with Council Member Nikkila regarding building a nice home on the size of lot proposed as he lives on that size of lot as well. Council Member Buschkoetter further noted one set of covenants does not apply to another owner's land; the boundaries for covenants end and this property is on the other side of that boundary.

Council Member Bruce Lear stated he agrees with what has already been stated by other Council Members and understands the concerns when people wonder what is going in next to their property or in their neighborhood, as everyone does when new development occurs. In this case, the proposed Development meets the City's minimum standards and therefore Council should proceed in that direction.

There was additional discussion between Mr. Tye and Council regarding Council's discretion for overriding minimum standards and what some of those factors have been in the past.

Council Member Nikkila stated Millennial Estates lots are narrower than the lots in the proposed Lake Villa Estates Fifth Addition by approximately 20-feet. He noted the Millennial Estates Development was allowed deviations from City standards because it was not located next to an existing neighborhood. Council Member Moore noted there are no deviations being requested regarding the proposed Lake Villa Estates Fifth Addition.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2021-189 approving the application submitted by Trenton Snow for Tracy & Jolynn Cook for the Final Plat and Subdivision Agreement for Lake Villa Estates Fifth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land part of Government Lot 2 and part of Government Lot 3 in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of Emerald Drive and East of Tahoe Drive). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lear, Moore. Nay: None. Motion carried.

### **RESOLUTION NO. 2021-189**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Lake Villa Estates Fifth, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land part of Government Lot 2 and part of Government Lot 3 in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the

Southwest corner of Government Lot Six (6) in Section Twelve (12), Township Eight (8) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska, and assuming west line of Government Lot 3 in said Section 13 as bearing S 01°47'12" E and all bearings contained herein are relative thereto; thence S 01°47'12" E on the west line of Government Lot 2 and Government Lot 3 in said Section 13 (if extended) a distance of 1340.17 feet to a point on the north line of Lot 13, Block 1, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 79°06'55" E on the north line of said Lot 13 a distance of 4.11 feet to the northeast corner of said lot; thence S 50°04'43" E on the east line of said lot a distance of 42.68 feet to the southeast corner thereof, said point being on the northwesterly line of Tahoe Drive, a street in the City of Kearney, Buffalo County, Nebraska; thence N 39°08'55" E on the aforesaid northwesterly line a distance of 248.34 feet to the ACTUAL PLACE OF BEGINNING, said point being on the northeasterly line of Emerald Drive, a street in the City of Kearney, Buffalo County, Nebraska; thence S 50°51'32" E on the aforesaid northeasterly line a distance of 425.85 feet to the point of curvature; thence on the aforesaid northeasterly line on a 310.00 foot radius curve to the left forming a central angle of 10°13'47" a distance of 55.41 feet to the southwest corner of Lot One (1), Block Five (5) in said Lake Villa Estates; thence non-tangent N 28°40'15" E on the west line of said Lot 1 a distance of 130.58 feet to the northwest corner of said lot; thence N 50°51'32" W a distance of 457.26 feet to a point on the northwesterly line of said Tahoe Drive (if extended); thence S 39°08'55" W on the aforesaid northwesterly line (if extended) a distance of 133.60 feet to the place of beginning, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

**VACATE AND REZONE PROPERTY LOCATED APPROXIMATELY 1,930-FEET WEST OF IMPERIAL AVENUE AND NORTH OF EAST HIGHWAY 30**

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the applications submitted by Buffalo Surveying Corp. for Advent Group, LLC to 1) vacate Lot 1 and Lot 2, Master's Business Park, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8522; 2) vacate Lot 1 Master's Business Park Second, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8523; and 3) the application by Buffalo Surveying Corp. for Advent Group, LLC and Blessing Premier Property, LLC to rezone from District AG, Agricultural District to District M-1, Limited Industrial District for property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of Government Lot 2 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (approximately 1,930-feet West of Imperial Avenue and North of East Highway 30) and consider Ordinance No. 8524.

Will Gwin with Buffalo Surveying Corp. presented this matter to the Council. Mr. Gwin described where the proposed Master's Business Park Third Subdivision will be located and its correlation to the recently platted Prairie View Business Park. All of Master's Business Park and Master's Business Park Second pertaining to the vacation request will become Master's Business Park Third; the new Subdivision includes the two (2) small tracts that are included in the rezoning request to M-1 to make the entire area M-1 zoning. He noted there are existing businesses currently located on proposed Lots 2 and 3; proposed Lot 1 is vacant. The driveway for the two (2) existing businesses, pending State approval, will be relocated east of where it currently is; proposed Lot 1 will have access off of Hitchcock Avenue.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the applications submitted by Buffalo Surveying Corp. for Advent Group, LLC and introduced Ordinance No. 8522 vacating Lot 1 and Lot 2, Master's Business Park, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; Ordinance No. 8523 vacating Lot 1 Master's Business Park Second, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and Ordinance No. 8524 rezoning from District AG, Agricultural District to District M-1, Limited Industrial District for property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of Government Lot 2 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (approximately 1,930-feet West of Imperial Avenue and North of East Highway 30) 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 Deputy City Clerk be permitted to call out the numbers of the ordinances on their first reading and then upon their final passage.

Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8522, 8523, 8524. President of the Council asked for discussion or if anyone in the audience was interested in the ordinances. No one responded. Deputy City 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. Deputy City Clerk read Ordinance Nos. 8522, 8523, 8524 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried. Ordinances were read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance Nos. 8522, 8523, 8524 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 ordinances, Ordinance Nos. 8522, 8523, 8524 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 AND SUBDIVISION AGREEMENT FOR MASTER'S BUSINESS PARK THIRD**

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Advent Group, LLC and Blessing Premier Property, LLC for the Final Plat and Subdivision Agreement for Master's Business Park Third, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 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 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said tract of land being inclusive of Lot 1 and Lot 2, Master's Business Park, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1 and Lot 2, Master's Business Park to be vacated, and said tract of land being inclusive of Lot 1, Master's Business Park Second, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1, Master's Business Park Second to be vacated (approximately 1,930-feet West of Imperial Avenue and North of East Highway 30) and consider Resolution No. 2021-210.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2021-210 approving the Final Plat and Subdivision Agreement for Master's Business Park Third, a subdivision being part of Government Lot 2 and part of Government Lot 3 located

in the Southeast Quarter of Fractional Section 27, Township 9 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 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said tract of land being inclusive of Lot 1 and Lot 2, Master's Business Park, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1 and Lot 2, Master's Business Park to be vacated, and said tract of land being inclusive of Lot 1, Master's Business Park Second, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1, Master's Business Park Second to be vacated (approximately 1,930-feet West of Imperial Avenue and North of East Highway 30). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

### **RESOLUTION NO. 2021-210**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Master's Business Park Third, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said tract of land being inclusive of Lot 1 and Lot 2, Master's Business Park, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1 and Lot 2, Master's Business Park now vacated, and said tract of land being inclusive of Lot 1, Master's Business Park Second, a subdivision being part of Government Lot 2 and part of Government Lot 3 located in the Southeast Quarter of Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1, Master's Business Park Second now vacated, all more particularly described as follows: Referring to the Northeast Corner of the Southeast Quarter of Section 27 and assuming the Northerly right-of-way line of the Union Pacific Railroad as bearing S 73°08'00" W and all bearings contained herein are relative thereto [such right-of way line being the Northerly line of a strip of land deeded to The State of Nebraska, Department of Roads as described on Quitclaim Deed filed as Instrument 2008-07658, recorded October 20, 2008 in the office of the Register of Deeds of Buffalo County, Nebraska, with said line hereinafter referred to as "the Northerly right-of-way line of the Union Pacific Railroad"]; thence on the East line of the Southeast Quarter of said Section 27, S 00°05'55" E a distance of 1657.0 feet to the point of intersection with the Northerly right-of-way line of the Union Pacific Railroad; thence leaving the East line of the Southeast Quarter of said Section 27 and on the Northerly right-of-way line of the Union Pacific Railroad, S 73°08'00" W a distance of 1444.43 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southeast Corner Lot One (1), now vacated, Master's Business Park Second; thence continuing on the Northerly right-of-way line of the Union Pacific Railroad and on the Southerly line of said Lot 1, Master's Business Park Second S 73°08'00" W a distance of 323.25 feet to the Southwest Corner of said Lot 1, Master's Business Park

Second, said point being 9.30 feet northeasterly from the Southeast Corner of Lot One (1), now vacated, Master's Business Park,; thence continuing on the Northerly right-of-way line of the Union Pacific Railroad, S 73°08'00" W a distance of 9.30 feet to the Southeast Corner of said Lot 1, Master's Business Park; thence continuing on the Northerly right-of-way of the Union Pacific Railroad and on the Southerly line of Lot 1 and Lot 2, now vacated, of said Master's Business Park, S 73°08'00" W a distance of 659.98 feet to the Southwest Corner of said Lot 2, Master's Business Park; thence leaving the Northerly right-of-way line of the Union Pacific Railroad and the Southerly line of said Master's Business Park, N 02°48'22" E and on the West line of said Lot 2, Master's Business Park, if extended, a distance of 652.36 feet; thence N 89°57'10" E a distance of 448.33 feet to a point on the West line of said Lot 1, Master's Business Park Second, said point being 28.00 feet southerly from the Northwest Corner of said Lot 1, Master's Business Park Second, thence on the West line of said Lot 1, Master's Business Park Second, N 00°02'50" W a distance of 28.00 feet to the Northwest Corner of said Master's Business Park Second; thence on the North line of said Lot 1, Master's Business Park Second, N 89°57'10" E a distance of 469.00 feet to the Northeast Corner of said Lot 1, Master's Business Park Second, said point also being the Northwest Corner of Hitchcock Avenue, a street as shown on the plat and dedication of said Master's Business Park Second, thence on the line common to the East line of said Lot 1, Master's Business Park Second and the West line of said Hitchcock Avenue, S 00°02'50" E a distance of 392.59 feet to the place of beginning, containing 11.14 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 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

**AMEND LAND USE MAP FOR PROPERTY LOCATED SOUTHWEST OF 78TH STREET AND CHERRY AVENUE, ALONG THE KEARNEY EAST EXPRESSWAY**

Public Hearings 4, 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Farm Life, LLC for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Urban Reserve to Business Park for property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County,

Nebraska (Southwest of 78th Street and Cherry Avenue, along the Kearney East Expressway) and consider Resolution No. 2021-211.

Craig Bennett with Miller and Associates presented this matter to the Council. Mr. Bennett stated the proposed one (1) lot Subdivision is approximately 11.74 acres. The Future Land Use Map currently shows UR; the request for change to BP will align with the Developer's request to rezone the location to Business Park District. Drainage for the property travels from the northeast to southwest with drainage structures in place due to the property being intercepted by the Kearney East Expressway. Future expansion of the Kearney East Expressway will be accommodated by the right of way that has previously been allocated for the additional lane. The proposed lot will be served by well and septic; however, the Subdivision Agreement requires connection to City services if they become available. Onsite storm water detention would also be required for the proposed Subdivision. Cherry Avenue will be retained for possible circulation onto this property as well as for potential future development to the east; there is no access to the Kearney East Expressway from the lot. Because currently, Cherry Avenue does not meet Buffalo County's arterial street standards, an additional 7-feet was incorporated into the proposed Plat.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2021-211 approving the application submitted by Miller & Associates for Farm Life, LLC for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Urban Reserve to Business Park for property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southwest of 78th Street and Cherry Avenue, along the Kearney East Expressway). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

### **RESOLUTION NO. 2021-211**

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a BLM copper rod (no cap) at the Northeast Corner of the Southeast Quarter of Section 17; thence S 00°12'30" W on the East line of said Southeast Quarter, and all bearings contained herein are relative thereto, a distance of 702.66 feet; thence S 87°14'29" W a distance of 33.04 feet to a 5/8" rebar w/cap; thence S 57°43'28" W a distance of 231.27 feet to a NDOR cap on the East Right of Way line of Kearney East Expressway; thence N 33°19'28" W on the East Right of Way line of said Kearney East Expressway a distance of 477.93 feet to a 5/8" rebar w/cap; thence N 61°06'36" W continuing on said East Right of Way line a distance of 907.12 feet to the North line of said Southeast Quarter; thence S 89°33'43" E on the North line of said Southeast Quarter a distance of 1287.94 feet to the Point of Beginning, containing 11.74 acres more or less, all in Buffalo County, Nebraska from Urban Reserve to Business Park, and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has

been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Urban Reserve to Business Park the use classification for a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a BLM copper rod (no cap) at the Northeast Corner of the Southeast Quarter of Section 17; thence S 00°12'30" W on the East line of said Southeast Quarter, and all bearings contained herein are relative thereto, a distance of 702.66 feet; thence S 87°14'29" W a distance of 33.04 feet to a 5/8" rebar w/cap; thence S 57°43'28" W a distance of 231.27 feet to a NDOR cap on the East Right of Way line of Kearney East Expressway; thence N 33°19'28" W on the East Right of Way line of said Kearney East Expressway a distance of 477.93 feet to a 5/8" rebar w/cap; thence N 61°06'36" W continuing on said East Right of Way line a distance of 907.12 feet to the North line of said Southeast Quarter; thence S 89°33'43" E on the North line of said Southeast Quarter a distance of 1287.94 feet to the Point of Beginning, containing 11.74 acres more or less, all in Buffalo County, Nebraska.

PASSED AND APPROVED THIS 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

**REZONE PROPERTY LOCATED SOUTHWEST OF 78TH STREET AND CHERRY AVENUE, ALONG THE KEARNEY EAST EXPRESSWAY**

Public Hearings 4, 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Farm Life, LLC to rezone from District AG, Agricultural District to District BP, Business Park District for property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southwest of 78th Street and Cherry Avenue, along the Kearney East Expressway) and consider Ordinance No. 8525.

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 Farm Life, LLC and introduced Ordinance No. 8525 rezoning from District AG, Agricultural District to District BP, Business Park District for property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southwest of 78th Street and Cherry Avenue, along the Kearney East Expressway) 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 Deputy 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. 8525. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Deputy City 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. Deputy City Clerk read Ordinance No. 8525 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8525 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8525 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 DOWNEY SUBDIVISION**

Public Hearings 4, 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Farm Life, LLC for the Final Plat and Subdivision Agreement for Downey Subdivision, a subdivision being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southwest of 78th Street and Cherry Avenue, along the Kearney East Expressway) and consider Resolution No. 2021-212.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2021-212 approving the application submitted by Miller & Associates for Farm Life, LLC for the Final Plat and Subdivision Agreement for Downey Subdivision, a subdivision being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southwest of 78th Street and Cherry Avenue, along the Kearney East Expressway). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

**RESOLUTION NO. 2021-212**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Downey Subdivision, a subdivision being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a BLM copper rod (no cap) at the Northeast Corner of the Southeast Quarter of Section 17; thence S 00°12'30" W on the East line of said Southeast Quarter, and all bearings contained herein are relative thereto, a distance of 702.66 feet; thence S 87°14'29" W a distance of 33.04 feet to a 5/8" rebar w/cap; thence S 57°43'28" W a distance of 231.27 feet to a NDOR cap on the East Right of Way line of Kearney East Expressway; thence N 33°19'28" W on the East Right of Way line of said Kearney East Expressway a distance of 477.93 feet to a 5/8" rebar w/cap; thence N 61°06'36" W continuing on said East Right of Way line a distance of 907.12 feet to the North line of said Southeast Quarter; thence S 89°33'43" E on the North line of said Southeast Quarter a distance of 1287.94 feet to the Point of Beginning, containing 11.74 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 SuAbdivision 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 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

**PROPOSED ACQUISITION OF REAL PROPERTY BEING LOTS 529 AND 530,  
ORIGINAL TOWN OF KEARNEY JUNCTION, NOW THE CITY OF KEARNEY**

Mayor Clouse opened the public hearing on the proposed acquisition of an interest in real property by purchase of a tract of land described as Lots 529 and 530, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska and consider Resolution No. 2021-213.

Michael Tye, City Attorney presented this matter to the Council. Mr. Tye stated the Purchase Agreement for this property was previously approved by Council. The purchase price of the Buffalo Outdoor Power building will be \$250,000, which is the appraised value of the property. This property is located adjacent to the Police Department's parking lot (former impound lot) and Law Enforcement Center so there are numerous possibilities for

the property's use. He stated State law requires a public hearing anytime the City acquires property.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2021-213 approving the proposed acquisition of an interest in real property by purchase of a tract of land described as Lots 529 and 530, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

**RESOLUTION NO. 2021-213**

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

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

WHEREAS, Buffalo Outdoor Power, LLC, a Nebraska Limited Liability Company has granted to the City of Kearney, Nebraska a Warranty Deed for public purposes for Lots 529 and 530, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Warranty Deed granted by Buffalo Outdoor Power, LLC, a Nebraska Limited Liability Company with the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY 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 10 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held October 26, 2021.

2. Approve the following Claims:

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

Ace Irrigation \$2,407.00 smcs; Alfred Benesch \$74,832.35 co; All City Garage Door \$250.00 smcs; All Copy Products \$1,042.50 smcs; Amax \$180.00 smcs; Amazon \$1,890.59 smcs; American Water Works \$2,055.00 smcs; Anderson Brothers \$1,943.38 smcs; Appliance Pros \$209.00 smcs; Aurora Coop \$64.00 smcs; Avfuel \$56,369.51 smcs,er; Baker & Taylor \$104.46 smcs; Barco Municipal \$3,388.07 smcs,co; Blackstone Publishing \$349.97 smcs; Blessing \$1,342.66 smcs; BlueCross BlueShield \$168,836.92 smcs; Bosselman \$86,512.83 smcs; Bourg,T \$525.00 co; Bridgett Lavene Consult. \$2,000.00 smcs; Broadfoot's \$171.36 co; Buffalo Co Treasurer \$29,026.00 smcs; Buffalo Co. Register \$92.00 smcs; Buffalo Co CASA \$165.00 smcs; Buffalo Co Sheriff \$354.50 smcs; Buffalo Outdoor Power \$16,655.00 co; Builders \$47.39 smcs; Cal/Amp \$781.55 smcs; Capstone Press \$5,322.36 smcs; Cash-Wa \$273.05 smcs; CDW Government \$9,262.77 smcs; Chargepoint \$374.50 smcs; Chesterman \$158.25 smcs; Cigna \$10,574.24 smcs; Ciox Health \$20.00 smcs; Citizenserve \$19,500.00 smcs; City of Ky \$632,384.10 smcs,ps; Comm. Action Partnership \$664.50 smcs; Comm. Service Fund \$63.00 ps; Comm. Health Agencies \$67.00 ps; Compute North \$119,203.62 smcs; Construction Rental \$194.40 smcs, co; Core & Main \$2,863.32 smcs; Crouch Recreation \$6,387.16 co, smcs; Cummins \$10,977.32 smcs; Curb-It \$1,480.00 smcs; Cutting Edge \$105.00 smcs; Dan Roeder Concrete \$450,410.93 co; Dish \$109.12 smcs; DLT Solutions \$3,828.34 smcs; DPC Industries \$8,499.89 smcs; Dutton Lainson \$370.77 smcs; Eakes \$1,180.72 smcs; Elastec \$4,590.00 co; Engineered Controls \$2,045.00 smcs; Frontier \$6,937.31 smcs; Gale \$509.61 smcs; Goodner,D \$172.78 co; Graham,J \$50.00 smcs; Great Plains Asbestos \$11,900.00 co; Greater NE Cities \$1,000.00 smcs; HM Life Insurance \$59,844.80 smcs; Hometown Leasing \$159.08 smcs; Internal Revenue Service \$172,516.11 ps; Jack's Uniforms \$176.89 smcs; Jackson Services \$648.71 smcs; Jansky,R \$200.00 smcs; Johnson Controls \$255.52 smcs; KAAPA Ethanol Holdings \$15,301.96 co; Ky Community Fnd. \$190.00 smcs; Kelly Supply \$5.86 smcs; Konica Minolta \$619.77 smcs; Lawn Builders \$800.00 smcs; Lerner Publications \$2,518.86 smcs; Lux,A \$300.00 co; Magic Cleaning \$6,950.00 smcs; Marlatt Machine \$150.38 smcs; Masters True Value \$25.64 smcs; Mead Lumber \$159.96 co; Menards \$763.51 smcs,co; Midlands Contracting \$131,049.96 co; Mid-NE Garage Doors \$150.00 smcs; Midwest Concrete \$1,950.00 co; Midwest Connect \$8,408.19 smcs; Milco Environmental \$3,298.10 smcs; Miller & Associates \$16,747.45 smcs,co; Mission Square Retirement \$8,802.63 ps; Municode \$399.00 smcs; Murphy Tractor \$2,362.39 smcs; NCMA \$888.00 smcs; NE Child Support \$1,764.50 ps; NE Code Officials Assoc. \$250.00 smcs; NE Department of Revenue \$40,077.00 smcs; NE Dept of Revenue \$93,928.94 ps; NE Public Health \$157.00 smcs; NE Safety & Fire \$324.00 smcs; Nebraskaland Distributors \$339.20 smcs; NLETC \$200.00 smcs; Noetzelman's Produce \$130.00 smcs; Northwestern Energy \$756.15 smcs; Olsson \$3,821.52 co; One Call \$564.52 smcs; Paramount \$31.26 smcs; Payflex \$527.00 smcs,ps; Pep Co. \$200.00 smcs; Harley-Davidson \$598.52 smcs; Presto-X \$213.00 smcs; RDG Planning \$17,790.26 smcs,co; Ready Mixed Concrete \$3,591.00 co; Resource Mgmt. \$2,275.64 smcs; Rheome Tree \$1,200.00 smcs; RMV Construction \$98,478.90 co; Roesler,A \$18.37 smcs; Russell's Appliance \$878.00 co; School District #7 \$5,965.00 smcs; See Clear Cleaning \$950.00 smcs; Snap-on Tools \$1,498.02 smcs; Staab,J \$384.00 smcs; State of NE/DAS \$5.67 smcs; Stutsman \$1,098.00 smcs; Sunset Law Enforcement \$16,085.60 smcs; Superior-Central Square \$8,167.32 smcs; Tielke's Sandwiches \$90.48 smcs; Traffic Control \$360.00 smcs; Transportation Control \$25,680.00 smcs; Traveler's CL Remittance \$988,486.00 smcs; Tri City Concrete \$768.00 smcs; Tri Co Glass \$81.25 smcs; Trugreen \$263.00 smcs; Tye & Rowling \$15,352.69 smcs; Union Bank & Trust \$90,516.23 ps;

United Way of Ky \$403.14 ps; Van Diest \$38,080.00 smcs; Verizon \$8,075.19 smcs,co; Victor Outdoor Adv. \$9,900.00 smcs; Village Uniform \$379.76 smcs; Walsh, Christine \$146.72 smcs; We Care Tree Care \$600.00 co; Wilke,L \$95.00 smcs; Payroll Ending 10/23/2021 -- \$528,987.62. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Adopt Resolution No. 2021-214 approving the updated Standard Contract for Engineering Services for the City of Kearney, Nebraska.

**RESOLUTION NO. 2021-214**

WHEREAS, in 1996 the City Administration recommended to the Council that a uniform, consistent policy with regard to the employment of professional services for the procurement of routine civil, structural, mechanical, and electrical engineering services, be adopted by the City of Kearney; and

WHEREAS, the City has developed a standard uniform engineering services contract that will give fair and equal treatment to all professionals, firms or companies seeking to provide professional engineering services to the City; and

WHEREAS, on December 20, 2016, Resolution No. 2016-211 approved amendments to the Standard Contract for Engineering Services for the "Percentage Fee for Basic Services" included in Section 2(a) of Exhibit A, and the "Maximum Fee Amount" for Optional Services pertaining to Part III, Section B.1 in Section 3(b) of Exhibit A were reduced by one percent.

WHEREAS, after further review of the Standard Contract for Engineering Services it has been determined that the "Maximum Fee Amount" for Optional Services in Section 3 pertaining to Part III, Section B.1 of Exhibit A will be increased by a half of a percent, and the "Employee Classification and Rate" for Additional Services in Section 4 of Exhibit A will be adjusted accordingly based on a recent evaluation of current rate schedule for services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Standard Contract for Engineering Services, be and is hereby adopted with the fees being adjusted accordingly. The Standard Contract for Engineering Services for the City of Kearney, marked as Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

4. Approve the Plans and Specifications for the Patriot Boulevard Water Main Extension and set the bid opening date for December 7, 2021 at 2:00 p.m.

5. Accept the bids received for the 1.5 MG & 2 MG Elevated Water Storage Facility Paint Restoration and adopt Resolution No. 2021-215 awarding the bid to Onyx Blasting and Coating, LLC in the amount of \$386,420.

**RESOLUTION NO. 2021-215**

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on October 19, 2021 at 2:00 p.m. for the 1.5 MG & 2 MG Elevated Water Storage Facility Paint Restoration; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$732,000.00; and

WHEREAS, Miller & Associates and the City have recommended the bid offered by Onyx Blasting & Coating, LLC of Delray Beach, Florida in the amount of \$386,420.00 be accepted as the lowest responsible bid for 1.5 MG & 2 MG Elevated Water Storage Facility Paint Restoration.

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 Onyx Blasting & Coating, LLC be and is the lowest responsible bidder for the 1.5 MG & 2 MG Elevated Water Storage Facility Paint Restoration to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Onyx Blasting & Coating, LLC in the amount of \$386,420.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$732,000.00 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 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

6. Adopt Resolution No. 2021-216 approving Application and Certificate for Payment No. 4 in the amount of \$269,643.33 submitted by Blessing Construction and approved by Miller & Associates for the 2020 Part 7 Improvements; Downtown Asphalt project.

**RESOLUTION NO. 2021-216**

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2020 Part 7 Improvements for the resurfacing construction of 24th Street from 2nd Avenue to Central Avenue, 23rd Street from 2nd Avenue to 1st Avenue, 22nd Street from 2nd Avenue to Central Avenue, 21st Street from 2nd Avenue to 1st Avenue, North Railroad Street from 5th Avenue to Central Avenue, 1st Avenue from 25th Street to 21st Street, and E Avenue from 25th Street to 23rd Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$269,643.33 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 447,590.00
Change Order No. 1 (2/23/2021)	+ <u>305,834.25</u>
Contract Sum To Date	753,424.25
Gross Amount Due	731,858.50

Retainage (2%)	- 14,637.17
Amount Due to Date	<u>717,221.33</u>
Less Previous Certificates for Payment	- 447,578.00
Current Payment Due	<u>\$ 269,643.33</u>

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 4, as shown on Exhibit "A" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

7. Approve the purchase of a Caterpillar D6 Crawler Dozer with the Waste Handling Package in the amount of \$348,080.00 submitted by Nebraska Machinery Company under the Sourcewell Cooperative Purchasing Contract program to be used at the Kearney Area Solid Waste Agency Landfill by the Utilities Department.

8. Adopt Resolution No. 2021-217 approving Change Order No. 1 showing an increase in the amount of \$4,102.98, Application and Certificate for Payment No. 1-Final in the amount of \$236,702.98 and accept the Certificate of Substantial Completion submitted by Simon Contractors and approved by Miller & Associates for the Yanney Park – 8th Street Pedestrian Bridge.

### RESOLUTION NO. 2021-217

WHEREAS, Simon Contractors of North Platte, Nebraska has performed services in connection with Yanney Park – 8th Street Pedestrian Bridge, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$4,102.98 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Simon Contractors and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$236,702.98 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 232,600.00
Change Order No. 1 (11/9/2021)	<u>±</u> <u>4,102.98</u>
Contract Sum To Date	\$ 236,702.98
Gross Amount Due	236,702.98
Retainage (0%)	<u>0.00</u>
Amount Due to Date	236,702.98
Less Previous Certificates for Payment	- 0.00
Current Payment Due	<u>\$ 236,702.98</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 12, 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. 1-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 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

9. Adopt Resolution No. 2021-218 repealing Resolution No. 2021-195 and approving the Amendment No. AJW-FN-CSA-21-CE-004733 to the Non-Federal Reimbursable Agreement between the City of Kearney and the Federal Aviation Administration for FAA NAVAIDS Engineering to perform site visit, preliminary design, engineering, review, and construction/installation activities for the Terminal Expansion project impacting FAA NAS facilities including Automated Weather Observing System, Radio Communications Outlet, Instrument Landing Systems Remote Monitoring System, FAA Telecommunications Infrastructure circuits, FAA cabling and infrastructure and includes corrected costs/fee at the Kearney Regional Airport.

#### **RESOLUTION NO. 2021-218**

WHEREAS, on October 12, 2021 City Council adopted Resolution No. 2021-195 approving the Non-Federal Reimbursable Agreement No. AJW-FN-CSA-21-CE-004733 between the Federal Aviation Administration (FAA) and the City of Kearney to provide engineering and environmental review, and construction/installation oversight of the terminal expansion project at Kearney Regional Airport the Buffalo County; and

WHEREAS, following approval it has been determined that the FAA had a mathematical error on their original Reimbursable Agreement; therefore, necessitating the need to repeal Resolution No. 2021-195 and requiring the approval of a corrected Non-Federal Reimbursable Agreement No. AJW-FN-CSA-21-CE-004733 between the Federal Aviation Administration (FAA) and the City of Kearney to provide engineering and environmental review, and construction/installation oversight of the terminal expansion project at Kearney Regional Airport the Buffalo County.

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Non-Federal Reimbursable Agreement No. AJW-FN-CSA-21-CE-004733 between the Federal Aviation Administration (FAA) and the City of Kearney to provide engineering and environmental review, and construction/installation oversight of the terminal expansion project at Kearney Regional Airport be and is hereby approved. A copy of the agreement marked as Exhibit "A" is attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that Resolution No. 2021-195 passed and approved on the 12th day of October, 2021 be and is hereby repealed.

PASSED AND APPROVED THIS 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL

DEPUTY CITY CLERK

AND EX-OFFICIO MAYOR

10. Adopt Resolution No. 2021-219 approving Application and Certificate for Payment No. 1 in the amount of \$43,541.10 submitted by Tri-City Concrete, LLC and approved by Miller & Associates for the Landfill Bypass Road Improvements.

### RESOLUTION NO. 2021-219

WHEREAS, Tri City Concrete LLC of Kearney, Nebraska has performed services in connection with the Landfill Bypass Road Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$43,541.10 as shown oAn Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 82,625.00
Contract Sum To Date	82,625.00
Gross Amount Due	48,379.00
Retainage (0%)	<u>- 4,837.90.00</u>
Amount Due to Date	43,541.10
Less Previous Certificates for Payment	<u>- 0.00</u>
Current Payment Due	\$ 43,541.10

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

PASSED AND APPROVED THIS 9TH DAY OF NOVEMBER, 2021.

ATTEST:  
PEGGY EYNETICH  
DEPUTY CITY CLERK

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

### **V. CONSENT AGENDA ORDINANCES**

#### **ORDINANCE NO. 8526 AUTHORIZING AND DIRECTING THE TRANSFER AND CONVEYANCE OF A TRACT OF LAND TO THE MUSEUM OF NEBRASKA ART, INC.**

Council Member Lear introduced Ordinance No. 8526 authorizing and directing the transfer and conveyance for a tract of land being Lots 68, 69, 70, 71 and 72, Southwest Quarter of School Section Addition, an addition to the City of Kearney, Buffalo County, Nebraska to the Museum of Nebraska Art, Inc., a Nebraska Non-Profit Corporation, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the Deputy 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. 8526. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Deputy City 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. Deputy City Clerk read Ordinance No. 8526 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8526 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8526 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 Nikkila seconded by Moore that the Open Account Claim in the amount of \$8,537.83 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Moore, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

## **VII. REPORTS**

Council Member Moore stated because of her special interest in housing, she is requesting the City Manager and City staff consider addressing the issue regarding the housing deficit in the community. She suggested the City explore public/private partnerships and utilize best practices from other Nebraska communities with similar problems that have found recent success. From the Housing Study completed in 2017 the City learned Kearney has pockets of house burdened citizens who are spending more than 30% of their income on rent/mortgage and utilities and although multi-family housing has grown tremendously over the last decade, the new units are priced at or above the cost of housing units in the same 2017 Housing Study. In addition, single family home prices have escalated far above the 2017 Study as well. Council Member Moore hopes that Mr. Morgan and City staff can look into the housing issue and create a solid, sustainable plan of action to address the housing deficit Kearney is facing. She feels with proper groundwork in place the next chapter for public efforts to meet workforce housing and transitional housing needs in Kearney has a chance to move forward.

Mr. Morgan stated there was a record 2,617 enplanements in October and also noted the taxiway should be completed this week. The Fieldhouse Committee has been holding meetings and will be sending out information in the upcoming weeks. He further noted additional stimulus money will likely be coming in the upcoming weeks; the City has several large shovel ready projects that this money will go towards. Council Member Nikkila questioned what some of the larger shovel ready projects are? Mr. Morgan stated the 2nd Avenue overpass project along with other bigger projects like it are will start moving forward.

Mr. Morgan stated the Snow Plow Tracker that was previously discussed at a Council Meeting has been added to the City of Kearney's website and now available for upcoming snow events. Additionally, due to a citizen's concern, City staff has begun evaluating the use of stop signs at 35th Street and 17th Avenue and is also evaluating some Downtown traffic signals for potential changes to four-way stops.

Council Member Nikkila stated he appreciates the way City staff has a group that gets together and discusses citizens' concerns regarding traffic so that he is able to respond to citizens requests knowing their requests receive due consideration by the City.

Mayor Clouse commented there was a great Veteran's Parade this past Saturday and stated the Veteran's Memorial dedication will be this Thursday.

### **VIII. ADJOURN**

Moved by Clouse seconded by Nikkila that Council adjourn at 6:26 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lear, Moore. Nay: None. Motion carried.

**ATTEST:**

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

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