

*Kearney, Nebraska
December 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 December 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 and Tami James Moore. Absent: Jonathon Nikkila. 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; Shawna Erbsen, Administrative Services Director; Brenda Jensen, Development Services Director and Melissa Dougherty-O'Hara, City Planner were also present.

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 Nathan Dennis, Lacie Lindner, and Tracy Suchsland presented and posted the colors. Mayor Clouse and Council members led the audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS/ RECOGNITION

RECOGNITION CEREMONY FOR PROMOTION OF POLICE LIEUTENANT DEREK LUKE

Chief Bryan Waugh stated Lieutenant Derek Luke has been with the Kearney Police Department (KPD) for 23 years. Throughout Lt. Luke's career he has served as a Patrol

Officer, Training Officer, Patrol Sergeant and currently serves as Staff Services Sergeant. Additionally, Chief Waugh listed the various duties Lt. Luke has done over his career some of which include: expert Crash Investigator, Police Investigator and School Resource Officer. Lt. Luke is an inspirational person who leads for the betterment of others and the community.

OATH OF OFFICE TO POLICE OFFICERS LOUIS AREVALO AND ATALIA NAJERA

Chief Waugh introduced Officer Atalia Najera and Officer Louis Arevalo and stated they both were hired in March of 2021 and attended the Law Enforcement Training Center in August which they recently completed after 15 weeks.

Chief Waugh stated Officer Atalia Najera is from Nebraska and is a UNK graduate with a degree in Criminal Justice; she was also a KPD Intern in 2020. Chief Waugh explained interns with KPD complete a project and Officer Najera's project that KPD now uses is the Ring Neighbors Program. This Program allows community members to register their security cameras such as the Ring doorbell camera, if they would like to do so.

Chief Waugh introduced Officer Louis Arevalo, who is from California and graduated from UCLA with a degree in Psychology.

Chief Waugh stated both Officers will be entering into KPD's extensive Field Officer Training program (FTO) for further training.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONE PROPERTY LOCATED AT 3802 2ND AVENUE

Mayor Clouse opened the public hearing on the application submitted by Tanner Brandt for Essam Arram to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District C-2, Community Commercial District for property described as part of the North Half of the Northeast Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska being formerly known as the West 100.0 feet of the South 119.5 feet of Lot 2, Perkins and Harford's Second Addition to the City of Kearney, (now vacated as shown in Journal Entry recorded June 13, 1957 in Misc. Book 32, Page 403 in the office of the Buffalo County Register of Deeds), Buffalo County, Nebraska (3802 2nd Avenue) and consider Ordinance No. 8528.

Ben Conover and Matt Preister, representing the buyer, presented this matter to the Council. Mr. Preister described the location of the two (2) parcels and stated the owner is requesting the west parcel be rezoned to coincide with the rest of the property.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the application submitted by Tanner

Brandt for Essam Arram and introduced Ordinance No. 8528 rezoning from District R-1, Urban Residential Single-Family District (Low Density) to District C-2, Community Commercial District for property described as part of the North Half of the Northeast Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska being formerly known as the West 100.0 feet of the South 119.5 feet of Lot 2, Perkins and Harford's Second Addition to the City of Kearney, (now vacated as shown in Journal Entry recorded June 13, 1957 in Misc. Book 32, Page 403 in the office of the Buffalo County Register of Deeds), Buffalo County, Nebraska (3802 2nd Avenue) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 8528. 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, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8528 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8528 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8528 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.

DEVELOPMENT OF NORTHEAST PUBLIC SERVICE ADDITION

Mayor Clouse stated the City received notification from the Applicant and Developer requesting to withdraw the applications submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz, for Public Hearings 2, 3 and 4 pertaining to the development of Northeast Public Service Addition located Southeast corner of Avenue N and 48th Street.

Moved by Buschkoetter seconded by Clouse to withdraw the applications submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz for Public Hearings 2, 3 and 4 pertaining to the development of Northeast Public Service Addition located Southeast corner of Avenue N and 48th Street. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nay: None. Nikkila absent. Motion carried.

DEVELOPMENT OF FOUNTAIN HILLS FOURTEENTH ADDITION

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

Mayor Clouse opened the public hearing on applications submitted by Miller & Associates for Eagle Gate Partners, LLC, a Delaware Limited Liability Company, as Trustee of the EGC 1 Trust to 1) vacate all of 52nd Street lying East of the West line of said Fountain Hills Thirteenth Addition, also being the East right of way line of 11th Avenue to the East line of said Fountain Hills Thirteenth Addition, all in Buffalo County, Nebraska and consider Ordinance No. 8534; 2) vacate Lot 1 and Lot 2, Block One and Lot 1, Block Two, Fountain Hills Thirteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 8535; and 3) the Final Plat and Subdivision Agreement for Fountain Hills Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being a part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street) and consider Resolution No. 2021-232.

Craig Bennett, Miller & Associates presented this matter to the Council. Mr. Bennett noted this 23.83 acre parcel was previously rezoned to R-3/PD. Fountain Hills Thirteenth Addition (requested to be vacated) currently shows two (2) lots on the north side of 52nd Street and one (1) lot to the south of 52nd Street. The proposed plat for Fountain Hills Fourteenth would contain one (1) lot on the north side of 52nd Street and one (1) lot on the south side of 52nd Street. These changes are minor and have to do more with the density and the type of development that will go through because it is a Planned District (PD). Utilities mostly remain the same with a 12-inch water main to the west of the property that will be extended through 52nd Street and throughout; sanitary sewer is stubbed out to the northwest and to 52nd Street and would also be extended through the property. Existing stormwater detention is being collected on the west side of the property and will be stored in the detention cells that are common to this area. The Infrastructure Feasibility Plan has changed from nine (9) total apartment buildings on the north side of 52nd Street to eight (8) total apartment buildings and from four (4) total apartment buildings on the south side of the street to tri-plex's. The density ratio, which pertains to the amount of green space, will change from 1 to 2,820 square feet to the proposed density ratio of 1 to 3,504 square feet.

Phase I of the Development will include the construction of 52nd Street and five (5) apartment buildings (northwest corner) along with the clubhouse and pool/cabana area; Phase II would complete construction of the remaining three (3) apartments (northeast corner) and Phase III would be construction of the tri-plex's south of 52nd Street. The previous ingress/egress easement that was required across the top of the two (2) lots in Fountain Hills Thirteenth (requested to be vacated) will no longer be required. Mr. Bennett showed the routes available for a ladder type fire truck to navigate through the Development. The landscape plan was discussed as well as the apartment building renderings, which did not change from the previous proposed Development. There will be a mix of one (1), two (2) and three (3) bedroom apartment availability in the units. The tri-plex's will be similar in the contemporary architectural style as the apartments, but will each be different and not look like a tract of tri-plex's. Because construction costs came back high, the Developer determined it was more cost effective to change the density of the Development, which in turn will create more green space.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the applications submitted by Miller & Associates for Eagle Gate Partners, LLC, a Delaware Limited Liability Company, as Trustee of the EGC 1 Trust and introduced Ordinance No. 8534 vacating all of 52nd Street lying East of the West line of said Fountain Hills Thirteenth Addition, also being the East right of way line of 11th Avenue to the East line of said Fountain Hills Thirteenth Addition, all in Buffalo County, Nebraska and Ordinance No. 8535 vacating Lot 1 and Lot 2, Block One and Lot 1, Block Two, Fountain Hills Thirteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska 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 numbers of the ordinances on their first reading and then upon their final passage. Council member Moore seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8534 and 8535. 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, Buschkoetter, Lear, Moore. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8534 and 8535 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Moore. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Lear that Ordinance Nos. 8534 and 8535 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinances, Ordinance Nos. 8534 and 8535 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.

Moved by Lear seconded by Buschkoetter to adopt Resolution No. 2021-232 approving the Final Plat and Subdivision Agreement for Fountain Hills Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being a part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

RESOLUTION NO. 2021-232

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Fountain Hills Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being a part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at

the Northeast corner of the Northwest Quarter of Section 26; thence S 00°21'33" W on the East line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 664.76 feet to the Southeast corner of Lot 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing S 00°21'33" W on said East line of the Northwest Quarter a distance of 1275.06 feet to the Northeast corner of Block One (1), Outlot B, Fountain Hills Eighth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 71°56'06" W on the Northerly line of said Outlot B a distance of 390.63 feet; thence N 87°42'12" W continuing on said Northerly line of Outlot B a distance of 222.08 feet; thence S 67°29'49" W continuing on said Northerly line of Outlot B a distance of 101.35 feet to the Northwest corner of said Outlot B and the East line of 11th Avenue as shown and dedicated on Fountain Hills Second Addition, Fountain Hills Tenth Addition, Fountain Hills Twelfth Addition and Fountain Hills Thirteenth Addition, all additions to the City of Kearney, Buffalo County, Nebraska; thence N 25°29'29" W on said East line of 11th Avenue a distance of 294.24 feet; thence Northwesterly on a tangent curve to the Right having a central angle of 18°00'18", a radius of 267.00 feet, an arc length of 83.90 feet, and a chord bearing of N 16°29'20" W a distance of 83.56 feet; thence N 07°29'11" W on said East line a distance of 698.55 feet; thence N 07°27'02" W on said East line of 11th Avenue a distance of 184.23 feet to the Southwest corner of said Lot 2, Fountain Hills Seventh Addition; thence S 87°46'48" E on the South line of said Lot 2 a distance of 960.84 feet to the Point of Beginning, containing 23.83 acres, more or less, 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 14TH DAY OF DECEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

REVISED PLANNED DEVELOPMENT FOR PROPERTY LOCATED EAST OF 11TH AVENUE BETWEEN 50TH STREET AND 55TH STREET

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

Mayor Clouse opened the public hearing on the application submitted by Miller &

Associates for Eagle Gate Partners, LLC, a Delaware Limited Liability Company, as Trustee of the EGC 1 Trust, for a Revised Planned District Development Plan Approval for the proposed construction of an apartment and townhome development on property zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lot 1, Block One and Lot 1, Block Two, all in Fountain Hills Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street) and consider Resolution No. 2021-233.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2021-233 approving the application submitted by Miller & Associates for Eagle Gate Partners, LLC, a Delaware Limited Liability Company, as Trustee of the EGC 1 Trust, for a Revised Planned District Development Plan Approval for the proposed construction of an apartment and townhome development on property zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lot 1, Block One and Lot 1, Block Two, all in Fountain Hills Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

RESOLUTION NO. 2021-233

WHEREAS, Miller & Associates for Eagle Gate Partners, LLC, a Delaware Limited Liability Company, as Trustee of the EGC 1 Trust has applied for Revised Planned District Development Plan Approval for the proposed construction of an apartment and townhome development on property zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lot 1, Block One and Lot 1, Block Two, all in Fountain Hills Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates for Eagle Gate Partners, LLC, a Delaware Limited Liability Company, as Trustee of the EGC 1 Trust for Revised Planned District Development Plan Approval for the proposed construction of an apartment and townhome development on property zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lot 1, Block One and Lot 1, Block Two, all in Fountain Hills Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street) be approved.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

VACATE AND REZONE PROPERTY LOCATED 1,100 FEET SOUTH OF 92ND STREET ON THE EAST SIDE OF ANTELOPE AVENUE

Public Hearings 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the applications submitted by Buffalo Surveying Corp. for David and Denise Hainault, David Nienaber and Derald Nienaber to 1) vacate a tract of land being part of Lots numbered 1 and 2 of Wood River Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter, of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8536; and 2) rezone from District RR-1, Rural Residential District (Rural Standards) to District RR-2, Rural Residential District (Intermediate Standards) for property described as a tract of land being part of Lots 1 and 2, Wood River Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1,100 feet South of 92nd Street on the East side of Antelope Avenue) and consider Ordinance No. 8537.

Mitch Humphrey, Buffalo Surveying Corporation presented this matter to the Council. Mr. Humphrey stated the parcel contain 6.1 acres. The property owners are requesting to rezone the property from RR-1 to RR-2 to allow for smaller lot sizes. The proposed plat will contain three (3) lots that will range in size from 1.82 acres to 1.87 acres which is in excess of the proposed RR-2 zoning classification minimum requirements. Access for Lot 1 will be off of Antelope Avenue; Lots 2 and 3 will have access from a dedicated 40-foot easement that is currently recorded as a 30-foot wide ingress/egress easement; however, because City Code requires the road be 40-foot it will be constructed at that width and is shown that way on the proposed plat. This easement will also continue to grant access to Lot 3, Wood River Subdivision and Wood River Estates Subdivision. Mr. Humphry stated because the lots are less than three (3) acres, the property owners have demonstrated to the Department of Environment and Energy, that the well and septic systems will not overlap on the lots; additionally, none of the three (3) proposed lots will be located in the floodway/floodplain.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the applications submitted by Buffalo Surveying Corp. for David and Denise Hainault, David Nienaber and Derald Nienaber and introduced Ordinance No. 8536 vacating a tract of land being part of Lots numbered 1 and 2 of Wood River Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter, of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and Ordinance No. 8537 rezoning from District RR-1, Rural Residential District (Rural Standards) to District RR-2, Rural Residential District (Intermediate Standards) for property described as a tract of land being part of Lots 1 and 2, Wood River Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1,100 feet South of 92nd Street on the East side of Antelope Avenue) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the

City Clerk be permitted to call out the numbers of the ordinances on their first reading and then upon their final passage. Council Member Moore seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8536 and 8537. 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, Buschkoetter, Lear, Moore. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8536 and 8537 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, Moore. Nay: None. Nikkila absent. Motion carried. Ordinances were read by number.

Moved by Moore seconded by Lear that Ordinance Nos. 8536 and 8537 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinances, Ordinance Nos. 8536 and 8537 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 NIENABER SUBDIVISION

Public Hearings 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for David and Denise Hainault, David Nienaber and Derald Nienaber, for the Final Plat for Nienaber Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter of Section 8, 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 Northwest Quarter of the Southwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County Nebraska, with said tract of land being inclusive of part of Lots 1 and 2 (to be vacated), Wood River Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter, of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with that part of Lots 1 and 2 (to be vacated), Wood River Subdivision, all in Buffalo County, Nebraska (1,100 feet South of 92nd Street on the East side of Antelope Avenue) and consider Resolution No. 2021-234.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2021-234 approving the application submitted by Buffalo Surveying Corp. for David and Denise Hainault, David Nienaber and Derald Nienaber, for the Final Plat for Nienaber Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter of Section 8, 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 Northwest Quarter of the Southwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County Nebraska, with said tract of land being inclusive of part of Lots 1 and 2 (to be vacated), Wood River Subdivision, a subdivision being part of the Northwest Quarter

of the Southwest Quarter, of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with that part of Lots 1 and 2 (to be vacated), Wood River Subdivision, all in Buffalo County, Nebraska (1,100 feet South of 92nd Street on the East side of Antelope Avenue). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

RESOLUTION NO. 2021-234

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Nienaber Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County Nebraska, with said tract of land being inclusive of part of Lots numbered 1 and 2, now vacated, Wood River Subdivision, a subdivision being part of the Northwest Quarter of the Southwest Quarter, of Section 8, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with that part of Lots 1 and 2 of said Wood River Subdivision now vacated, all more particularly described as follows: Beginning at the Southwest Corner of the Northwest Quarter of the Southwest Quarter of Section 8, said point being the Southwest Corner of Lot 2, Wood River Subdivision, and with such point also being the Southwest Corner of a tract of land described on Quitclaim Deed filed as Document No. 2011-06650, recorded on October 11, 2011 in the office of the Register of Deeds of Buffalo County, Nebraska and assuming the West line of the Northwest Quarter of the Southwest Quarter of Section 8 as bearing NORTH and all bearings contained herein are relative thereto; thence on the West line of said Northwest Quarter of the Southwest Quarter and on the West line of Lot 2 and Lot 1 of said Wood River Subdivision, NORTH a distance of 487.95 feet to the Northwest Corner of said tract of land described on Quitclaim Deed filed as Document No. 2011-06650, with said point being a distance of 57.65 feet northerly from the Southwest Corner of Lot 1, Wood River Subdivision; thence leaving the West line of said Northwest Quarter of the Southwest Quarter of Section 8 and the West line of said Lot 1, Wood River Subdivision and on the North line of said tract of land describe on Quitclaim Deed filed as Document No. 2011-06650, N 85°52' E a distance of 524.74 feet to the Northeast Corner of said tract of land described on Quitclaim Deed filed as Document No. 2011-06650, said point being on the East line of said Lot 2, Wood River Subdivision; thence on the East line of said tract of land described on Quitclaim Deed filed as Document No. 2011-06650, and on the East line of said Lot 2, Wood River Subdivision, SOUTH a distance of 527.2 feet to a point on the South line of said Northwest Quarter of the Southwest Quarter of Section 8, said point being the Southeast Corner of said tract of land described on Quitclaim Deed filed as Document No. 2011-06650, and said point being the Southeast Corner of Lot 2, Wood River Subdivision; thence on the South line of the Northwest Quarter of the Southwest Quarter of Section 8 and on the South line of said Lot 2, Wood River Subdivision, N 89°51' W a distance of 523.3 feet to the place of beginning, containing 6.10 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 DECEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

AMENDMENT TO THE LAND USE MAP FOR PROPERTY LOCATED EAST OF ONTARIO ROAD AND TAHOE DRIVE, SOUTHWEST OF AVENUE M AND EAST 1ST STREET

Public Hearings 9, 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Rural Estates and Agriculture to Low Density Residential for property described a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) and consider Resolution No. 2021-235.

Mitch Humphrey, Buffalo Surveying Corporation presented this matter to the Council. Mr. Humphrey reviewed the history of ownership of the property and how Darla and Bart Langenberg (Kdiver LLC) came to own the property. During discussions regarding development of the property the Langenberg's realized they did not have the ability to develop the property as they had initially intended due to not having an alternate exit for traffic circulation and emergency access in and out of Lake Villa Estates; therefore, Mr. and Mrs. Langenberg purchased additional property to the north of their initial parcel thereby giving the parcel access to East 1st Street by way of the Avenue M overpass. Consideration has also been taken for future traffic circulation in and through the entire Lake Villa Estates area.

Mr. Humphrey explained the rezoning request is due to the Langenberg's wanting to develop ponds where the requested Conditional Use Permit (CUP) will be located; there is also a request to change the future Land Use Map (LUM) to Low Density Residential, which safeguards against commercial lot development in the area, matching what is currently in the area and allowing for the planning of future single-family residential homes on the property. He stated the property is a total 85.5 acres and the Langenberg's are proposing to develop four (4) ponds that range in size from 3.93 acres to approximately 8 acres which matches the size of the smaller ponds with houses around them already in Lake Villa Estates. The ponds will not be deep, but will allow for fishing in a clean pond. Mr. Humphrey noted stockpiles will be located toward the center of the project so as to minimally impact the neighborhood; landscaping berms will be installed on mainly the

east side of the property with some also being located on the south and west side of the property as well.

Mr. Humphrey reviewed the conditions that the Langenbergs agreed to meet according to the CUP including, but not limited to: hours of operation; maintaining haul roads going in and out of the site and build and upgrade the haul roads to County standards. He stated approximately 70 letters were sent to neighbors inviting them to a meeting to learn about the project and discuss any concerns they might have before the Planning Commission meeting. Mr. Humphrey also noted that none of the equipment used for this project or employees working at the site, will ever use Lake Villa Estates roads to gain access to this property. The access point to this property will be via the Avenue M overpass which could eventually be a potential secondary access for Lake Villa Estates as well. Access in and out of the property has been a concern and is something the Developers have tried to ensure is acceptable not only to the City, but to the Nebraska Department of Transportation and Buffalo County. The area south of the overpass is all Interstate right-of-way and was developed for access to various properties several years ago. The Developers have obtained a letter from Buffalo County and from the Nebraska Department of Transportation acknowledging the use of the area for access to this property. The Developers and Mr. Humphrey have also extensively studied the turn radius on the south side of the Avenue M overpass and additionally had Brungardt Engineering look at the area, who confirmed the turn radius' and access points are satisfactory. Mr. Humphrey stated the proposed Conditional Use Permit is for four (4) years; however, the Developers are hoping to have this project completed sooner.

Mayor Clouse noted the request in front of Council is not to plat the ground and only pertains to an extraction project with a CUP that contains conditions set forth in the CUP that will also be available to the neighbors of this project.

Council Member Tami Moore stated she appreciated that letters were sent to neighbors informing them of the plans for the property.

Council Member Bruce Lear clarified that if Council did not approve the rezoning request, Kdiver, LLC could not go forward with this project; current zoning would not allow for an extraction operation to operate at this location and that is why Kdiver, LLC is requesting the property be rezoned to Ag. Mr. Humphrey agreed and stated after the Interstate Corridor Mixed Use zoning went away, the owners at that time requested R-1 zoning in anticipation of a single-family residential development expansion into the area around Lake Villa Estates. Mr. Humphrey suggested that owners back then did not realize property would need to be zoned Ag to create more ponds that are like those already in Lake Villa Estates.

Council Member Randy Buschkoetter stated he drove out to the Avenue M overpass and felt if the overpass is not a one (1) lane road, it is pretty close. Mr. Humphrey agreed that it is close to a one (1) lane road and that the design standards the State had when it was built are different than what they are now. He has passed a gravel truck on the overpass and feels it can handle two (2) way traffic; however, it is tight but not sure what the solution is for that.

Carol Swanson, Kearney, noted that she believes two (2) of the ponds in Lake Villa Estates were excavated, not extracted; excavation could be an option to help solve some of the issues with the extraction project. Ms. Swanson stated she appreciates that Engineer's have looked at the area but stated she is there everyday and sees the daily traffic travelling through the area and noted there are a lot of blind spots making it very dangerous. Additionally, Ms. Swanson stated no one has ever maintained the road and feels that needs to be addressed especially if the road will eventually become an emergency exit used by police, fire and emergency vehicles.

Michael Morgan, City Manager stated if the road were to become an approved emergency exit, it would have to first meet design standards. He shares Ms. Swanson's same concerns for the same reasons and noted this property and entire area has not developed because of this challenge and feels a traffic impact study should have been done, but there is not one.

Ms. Swanson stated that the projected loads from this proposed extraction project given at the Planning Commission meeting were five (5) to 10 loads a day; however, this evening, that number has changed to up to 25 loads per day.

Mayor Clouse questioned who would be required to have a traffic study completed? Mr. Morgan stated it would be the Developers responsibility and asked if there is a different way for connection to the property? Mr. Humphrey stated they have looked at putting a "Y" on the south side of the overpass but the contour and slope of the land makes that difficult. Additionally, he thinks there are most likely Federal and/or State regulations pertaining to access to the overpass. Mr. Humphrey agreed that most people thought the road was a private drive but it is in fact Interstate right-of-way and noted before this evening, a traffic impact study had not been discussed.

Mr. Morgan clarified that this overpass would never meet City requirements due to its width and questioned if the State of Nebraska has approved 2-way traffic on the bridge or if the State is aware of what kind of traffic this development would create? Mr. Humphrey stated there is a letter in the Council packet from the State addressing the issue and stated he thought the bridge is approximately 21-feet wide.

Council Member Buschkoetter read a portion from the letter Mr. Humphrey referred to, from the State which stated "the Nebraska Department of Transportation has no objection to an Avenue M connection with the stipulation that the City of Kearney and Buffalo County concur with any requirements they have, are met". Council Member Buschkoetter stated the State is passing the issue on to the City and County and does not feel the letter is an approval from the State.

Michael Tye, City Attorney stated the roadway is clearly not a City street but instead, a County road that would have to be brought up to County standards. Mr. Tye noted the conditions, as set forth in the proposed CUP, state that the road has to be brought up to County standards and maintained at County standards.

Mr. Humphrey stated that the road is in State right-of way and is similar to other frontage roads along the Interstate, and therefore assumed those roads are maintained by their respective County's. He stated no one maintains this road currently as everyone thought

the road was a private drive.

Mr. Morgan and Council Member Lear questioned if the road coming off the overpass could go straight down onto the Kdiver LLC property instead of curving to the east, which would divert traffic from the current turning radius and in front of the houses? Mr. Humphrey stated the Developers would have to work with the State on that and further commented that the slope coming across that area is somewhat severe. He did not think the road issue would cause an impediment to this project because of the ongoing operation on East 1st Street that has been moving gravel material out of the site, that was originally used for material excavated for the Archway, since before the Archway was built. Mr. Humphrey stated trucks are going across there now for that project, but is unsure how many trucks use it daily. Furthermore, he believes most of the traffic that comes out of any future Lake Villa Estates development will exit to the west and through the current Lake Villa Estates where there are wider streets.

Council Member Lear questioned if the property could be developed without creating the lakes? Mr. Humphrey stated the property could be developed without creating lakes but noted the demand for houses of similar size and scope that are presently located in the neighborhood. But even without the lakes, there is still the issue of the secondary access.

Mr. Morgan stated this area has come before the City for a number of years and the secondary access issue has always been the issue.

Dan Lindstrom, Jacobsen, Orr, Lindstrom and Holbrook PC, LLO Law Firm presented photographs (Exhibit A) to Council Members and stated this issue is all about safety. Mr. Lindstrom reviewed the photographs of a gravel truck coming over the overpass and a picture of his own truck parked on the south side entrance to the overpass on the apron to demonstrate (not to scale) the width of the bridge deck and the vehicles that meet each other on it. He noted that trucks that meet at the 180 degree turn won't be able to pass each other without some major redesign of that roadway. Mr. Lindstrom feels the blind spots are a big issue and thinks a road study should be completed to receive safety recommendations and added as additional conditions for the development. He suggested the Developer excavate the area to potentially eliminate the need to remove material which would eliminate the additional truck traffic. Mr. Lindstrom further referred to the State letter and noted no one wants to take responsibility for the road when no one really knows what the road is, especially south M Avenue. He is requesting these issues be tabled, get a study and bring back a plan with better safety factors brought in to play.

Linda Henderson, Kearney, stated her property is located directly east of this proposed development and is ok with the development but is concerned with the safety issues. Ms. Henderson stated they were not aware that south M Avenue was located in State right-of-way and noted since 1974, when they purchased their property, her husband has maintained the road. The Henderson's have also hired Broadfoot Sand and Gravel to bring sand in for the road as well as had them remove snow when needed. She stated even though the project has been in the works, neighbors were not aware of it until they received a letter from Mr. Humphrey and met with him two (2) days prior to the Planning Commission meeting.

Ms. Henderson thanked Council Members who drove out to the area and stated there are

blind areas regarding the overpass coming from either direction. When she meets gravel trucks at the overpass she has to back down so they can pass, which is even more difficult in the winter time as the area on both sides of the overpass are slick and icy. Ms. Henderson feels it is not a matter of if an accident will happen, but when and questioned who would be responsible. She requested Council consider the safety issues for the people who live in this area and the people who come to visit them. The number of gravel trucks that currently use the road varies, some days there are not any, some days there are two (2) or three (3) and some days there are more than that. Ms. Henderson commented that drivers usually have to give when driving through the area as most of the truck drivers will not back down the road to allow vehicles to pass.

Mayor Clouse feels the items should to be tabled until ownership of the road is determined, what standard the road needs to be built to and who will maintain it. Additionally, he would like to see a traffic impact study completed.

Council Member Lear stated part of the reason there are CUP's are because activities regulated by them are high impact activities and has concerns with rezoning a piece of property to satisfy requirements for a CUP. He is pro development but this property is a difficult property in general and feels by allowing the rezoning to go through, Council is telling surrounding property owners their current expectations for this parcel are being removed and would be replaced with a very high impact activity. Council Member Lear commended the Developers for trying to create a second access to the area which would benefit future development.

Council Member Buschkoetter feels long term, this will be a great project but wants to make sure in the interim the project is safe, which right now, he feels, it is not. He is agreeable with rezoning the parcel to Agriculture for dredging purposes, and then returning back to residential property in four (4) years; no one is opposed to the plan, it is just how to get there safely.

Mr. Humphrey stated he understands the safety concerns as it has been important to the Developers throughout the planning process and even though the traffic study issue has never been brought up, he does not have a problem with that. He noted the Developers are changing the Future Land Use Map from rural estate lots that are 3 or 4 acres to low density, single family residential for future development; however, the property would have to be rezoned to Agriculture due to Code requirements so the Developer can create the ponds and haul the extra material off of the property.

Council Member Lear stated the property could remain R-1 but a gravel operation just would not be allowed. In his mind there is a subtle distinction between saying development is being prohibited, versus saying development is being prohibited because it is not the way the Developer wants to do it, although he does see why the Developer would want to develop the property in the manner that is being proposed.

Mr. Tye noted the reason for Conditional Use Permits is to outline conditions for the Developer during a project; because it is a permit, the City has recourse to ultimately revoke the CUP. However, most of the time the City works with the Developer to come back in to compliance. Council also has the option to not extend the CUP if there were issues and conditions are not met.

There was discussion as to whether the Public Hearings should be postponed or denied in order to allow time for the Developer and the City to discuss options for this second exit and the issues surrounding it.

Ms. Henderson noted that any traffic study completed this time of year would not be an accurate study due to the time of year it is being done.

Mr. Morgan stated the term traffic study is broad and explained it will also include geographical studies, roadway studies, access and visibility and is not solely dependent upon traffic.

Moved by Buschkoetter seconded by Clouse to postpone until the January 25, 2022 City Council Meeting the applications submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Rural Estates and Agriculture to Low Density Residential for property described a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

REZONE PROPERTY LOCATED EAST OF ONTARIO ROAD AND TAHOE DRIVE, SOUTHWEST OF AVENUE M AND EAST 1ST STREET

Moved by Buschkoetter seconded by Clouse to postpone until the January 25, 2022 City Council Meeting the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company rezoning from District R-1, Urban Residential Single-Family District (Low Density) to District AG, Agricultural District for property described as a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

CONDITIONAL USE PERMIT FOR PROPERTY LOCATED EAST OF ONTARIO ROAD AND TAHOE DRIVE, SOUTHWEST OF AVENUE M AND EAST 1ST STREET

Moved by Buschkoetter seconded by Clouse to postpone until the January 25, 2022 City Council Meeting the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability for a Conditional Use Permit for a resource extraction operation on property to be zoned District AG, Agricultural District and described as a tract of land

being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

IV. CONSENT AGENDA

Moved by Clouse seconded by Moore that Subsections 1 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Moore. Nay: None. Nikkila absent. Motion carried.

1. Approve Minutes of Regular Meeting held November 23, 2021.

2. Approve the following Claims:

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

5G Store \$10,656.22 co; AED Authority \$2,167.00 co; Alfred Benesch \$126,262.78 co; All Copy Products \$796.77 smcs; American Fence \$5,355.00 smcs; Arch, the \$75,000.00 smcs; Ask Supply \$2,040.09 smcs; Aurora Coop \$128.00 smcs; AvFuel Corporation \$79,344.58 smcs; Baker & Taylor \$4,046.11 smcs; Baker Tilly US \$8,250.00 smcs; Bartling,A \$98.00 smcs; Baxter,M \$100.00 smcs; Beehive Industries \$11,546.00 smcs; Berry,L \$25.45 smcs; Beyond Trust \$5,031.19 smcs; Bezet,J \$5.99 smcs; Bibliotheca \$9,495.00 smcs; Blessing \$650,482.72 smcs,co; Blue 26 Security \$224.99 smcs; BlueCross BlueShield \$186,713.56 smcs; Bosselman \$41,058.09 smcs; Brown Construction \$444,880.23 co; Brown, Connor \$92.48 smcs; Bruene,S \$379.17 smcs; Buffalo Co. Redi-Mix \$1,380.00 co; Buffalo Co. Sheriff \$602.50 smcs; Buffalo Outdoor \$118.02 smcs; Builders \$51.95 smcs; Cash Wa \$388.55 smcs; Center Point Publishing \$77.91 smcs; Century 21 \$950.00 co; Charter \$50.00 smcs; Chesterman \$49.00 smcs; Christensen,K \$335.00 smcs; Cigna \$8,718.91 smcs; Cintas \$69.28 smcs; Ciox Health \$20.00 smcs; City of Ky \$447,882.90 smcs, ps; City of Ky CRA \$164,373.45 smcs; Civicplus \$8,270.95 smcs; CMH Interiors \$2,692.75 smcs; Coldwell Banker \$400.00 smcs; Comm Act Part of Mid-NE \$931.50 smcs; Comm Serv Fund of NE \$42.00 ps; Community Health Agency \$38.00 ps; Compute North \$130,297.93 smcs; Core & Main \$16,717.54 smcs; Cornhusker Cleaning \$663.01 smcs; Country Partners \$21,489.24 smcs; Crane River Theater \$5,000.00 smcs; CRH Old Castle \$5,115.31 smcs; Cutting Edge Cleaning \$215.00 smcs; Danburg,K \$50.00 smcs; Dance Works \$168.37 smcs; Depository Trust \$22,336.25 ds; Dowhy Towing \$100.00 smcs; Dutton Lainson \$190.80 smcs; Eakes \$3,094.38 smcs; Eggen,M \$186.00 smcs; Elliott Equipment \$5,547.61 smcs; ESRI \$2,250.00 co, smcs; Expression Wear \$262.00 smcs; Family Practice \$1,988.00 ps; Flaherty,T \$144.00 smcs; Gale \$1,699.23 smcs; Gangwish Turf \$1,702.13

smcs; Geisert,J \$29.55 smcs; Glatter,D \$50.00 smcs; Govt. Finance Officers \$65.00 smcs; Greater NE Cities \$1,000.00 smcs; Hach \$10,370.95 smcs; Hearing Access \$4,165.00 smcs; HM Life Insurance \$60,418.72 smcs; HOA Solutions \$8,984.00 smcs; Hockemeier,J \$32.59 smcs; Hometown Leasing \$1,266.10 smcs; Hort,K \$100.00 smcs; Infogroup \$2,968.00 smcs; Integra Aviation \$38.54 smcs; IRS \$188,867.70 ps; Jack Lederman \$368.78 smcs; Jack's Uniforms \$345.38 smcs; Jackson Services \$309.27 smcs; John Deere \$2,736.28 smcs; Jorgensen,C \$48.67 smcs; Kathleen Laughlin, Trustee \$70.00 ps; Ky Animal Shelter \$42,436.00 smcs; Ky Concrete \$1,153.94 co; Ky Towing \$325.00 smcs; Ky Winlectric \$6,252.68 co; Konica Minolta \$474.74 smcs; Law Enforcement Tech. \$4,995.00 smcs; LCL Truck \$2,899.51 smcs; Logan Contractors \$143.70 smcs; Macqueen Equipment \$2,998.09 smcs; Magic Cleaning \$6,950.00 smcs; Maline Seed & Fence \$450.84 co; McLaughlin,P \$134.50 smcs; Medicap \$9,520.00 ps; Menards \$112.81 smcs; Metro Chiefs Assoc. \$75.00 smcs; Midlands Contracting \$206,975.61 co; Mid-NE Garage Doors \$100.00 smcs; Midwest Connect \$8,885.41 smcs; Miller Signs \$684.00 smcs; Mission Square \$9,136.80 ps; Mostek Electric \$2,524.59 smcs; Municipal Supply \$20,743.01 smcs; Murr,T \$39.08 smcs; NDEE \$441,632.58 ds,smcs; NE Child Support Pmt \$1,764.50 ps; NE Dept. of Revenue \$60,073.29 ps; NE Machinery \$325,395.00 co; NE Public Health \$205.00 smcs; NE Safety & Fire \$787.50 smcs; NE Title Company \$250,968.50 co; Newman Traffic Signs \$82.52 smcs; Noetzelman,J \$20.30 smcs; Northwestern Energy \$2,981.51 smcs; OCLC \$779.76 smcs; Oh,P \$32.15 smcs; Ohri,R \$2,664.00 smcs; Olsson \$13,202.29 co; One Call Concepts \$526.34 smcs; Outdoor Rec Products \$141.98 co; Paramount \$93.78 smcs; Payflex Systems \$527.00 smcs,ps; Payne,B \$71.23 smcs; Penny,C \$110.30 smcs; Pep Co \$50.00 smcs; Perez,B \$44.60 smcs; Pitney Bowes \$32.58 smcs; Pix4D \$2,495.00 smcs; Platte Valley Auto \$4,301.10 smcs; Platte Valley Comm. \$169.65 smcs; Pohlman,K \$43.00 smcs; Pratt, Charley \$45.26 smcs; Presto-X \$559.00 smcs; Probasco,A \$11.71 smcs; Rasmussen Mechanical \$6,663.00 smcs; Resource Mgmt. \$2,799.92 smcs; Roesler,A \$20.95 smcs; Roy,J \$53.48 smcs; S & B Fencing \$220.00 co; S & B Heating \$85.00 smcs; School District 7 \$3,940.50 smcs; Schroer,J \$135.00 smcs; Schumacher Brothers \$9,384.00 smcs,co; Schutte,B \$225.00 smcs; Secretary of State \$30.00 smcs; See Clear Cleaning \$3,000.00 smcs; Seiler Instrument \$18,642.60 co; Sheldon,S \$32.09 smcs; Sherwin Williams \$4,320.16 smcs; Silverstone Group \$6,405.91 smcs; Staab,J \$21.40 smcs; State of NE \$12.60 smcs; Steinbrink's Landscaping \$400.00 smcs; Stutsman \$6,492.00 smcs; Superior \$1,123.13 smcs; Thompson,K \$75.00 smcs; Tour Edge \$849.00 smcs; Trade Well Pallet \$3,400.00 smcs; Transcend Robotics \$2,600.00 smcs; Truck Center \$136,020.00 co; Twin City Hardware \$1,260.59 smcs; Tye & Rowling \$14,970.75 smcs; Union Bank & Trust \$92,960.85 ps; United Way of Ky \$268.76 ps; USPS \$188.00 smcs; Verizon \$7,308.32 smcs; Waggoner Plumbing \$8,173.83 smcs; Waugh,B \$75.00 smcs; Young,M \$225.00 smcs; Longevity Pay for 2021 -- \$61,918.22; Payroll Ending 12/04/2021 -- \$534,443.20. 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. 2021-236 approving the following Agricultural Leases at the Kearney Regional Airport from January 1, 2022 until December 31, 2022: B & B Bendfeldt Farms and Brenda Bendfeldt (176.6 irrigated acres, 30.6 dry land soybean/corn acres, 21 gravity irrigated acres, 27.5 dry land acres); B & B Bendfeldt Farms and Brett Bendfeldt (159.12 acres of gravity irrigated cropland and 60 acres of center pivot irrigated cropland); Don Hendrickson (193.5 irrigated acres and 57 gravity irrigated acres); Ron Hendrickson

(75 acres of other hayland), Lee Potter (62 irrigated acres), and David Fleming (364.36 non-irrigated acres).

RESOLUTION NO. 2021-236

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed on behalf of the City of Kearney, Nebraska to execute the following Agriculture Lease Agreements on property located at the Kearney Regional Airport from January 1, 2022 until December 31, 2022:

- B & B Bendfeldt Farms and Brenda Bendfeldt (176.6 irrigated acres) – annual cash rent is \$40,675;
- B & B Bendfeldt Farms and Brenda Bendfeldt (30.6 dry land soybean or corn acres and 21 gravity irrigated cropland acres) – annual cash rent is \$7,269;
- B & B Bendfeldt Farms and Brenda Bendfeldt (27.5 dry land cropland acres) – annual cash rent is \$2,695;
- B & B Bendfeldt Farms and Brett Bendfeldt (159.12 acres of gravity irrigated cropland and 60 acres of center pivot irrigated cropland) – annual cash rent is \$48,310.80;
- David R. Fleming (364.36 non-irrigated acres) – annual cash rent is \$35,707.28;
- Don Hendrickson, dba Agrident, Inc. (193.5 irrigated acres) – annual cash rent is \$41,602.50;
- Don Hendrickson, dba Agrident, Inc. (57 gravity irrigated acres) – annual cash rent is \$12,255;
- Lee Potter (62 irrigated acres) – annual cash rent is \$13,330; and
- Ron Hendrickson, dba Agrident, Inc. (75 dry land hay acres) – annual cash rent is \$4,425.

A copy of the Agreements, marked Exhibits “1”, “2”, “3”, “4”, “5”, “6”, “7”, “8” and “9” are attached hereto and made a part hereof by reference.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Paul Klein submitted by Sodexo America, LLC dba Nebraska Student Center located at 1013 West 27th Street in connection with their IK-123719 liquor license.

5. Adopt Resolution No. 2021-237 establishing a retirement health saving plan for City of Kearney Fire Engineers, the Fire Administrator and the Fire Inspector.

RESOLUTION NO. 2021-237

**RESOLUTION FOR ADOPTION OF THE VANTAGECARE
RETIREMENT HEALTH SAVINGS (RHS) PROGRAM**

PLAN NUMBER: 800296

NAME OF EMPLOYER: CITY OF KEARNEY, NEBRASKA

WHEREAS, the City of Kearney has employees (Fire Engineers, Fire Administrator and Fire Inspector) rendering valuable services; and

WHEREAS, the establishment of a retiree health savings plan for such Fire Engineers, Fire Administrator and Fire Inspector serves the interests of the City of Kearney by enabling it to provide reasonable security regarding such employees' (Fire Engineers, Fire Administrator and Fire Inspector) health needs during retirement, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the City of Kearney has determined that the establishment of the retiree health savings plan (the "Program") serves the above objectives.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney adopts the ICMA Retirement Corporation's VantageCare Retirement Health Savings (the "Program") through the City of Kearney's integral part trust ("Trust") and the City of Kearney's welfare benefits plan ("Plan").

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust, with the City of Kearney, Nebraska serving as trustee for the exclusive benefit of Plan participants and their survivors, and the assets of the Plan shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the Plan. The City of Kearney has executed the Declaration of Trust of the City of Kearney Integral Part Trust in the form of the sample trust made available by the ICMA Retirement Corporation.

BE IT FURTHER RESOLVED that the Director of Finance shall be the coordinator and contact for the Program and shall receive necessary reports, notices, etc.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

6. Adopt Resolution No. 2021-238 appointing the fulfillment of the term vacated by Linda Muhlbach on the Downtown Improvement Board.

RESOLUTION NO. 2021-238

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, a vacancy currently exists on a Citizen Board/Commission.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following person, as proposed by the Mayor of the City of Kearney, Nebraska, is hereby appointed to the designated Board/Commission for the term indicated:

DOWNTOWN IMPROVEMENT BOARD

Megan Goeke appointed to fulfill term of Linda Muhlback to July 31, 2022

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

7. Adopt Resolution No. 2021-239 setting the interest rate, providing equal annual installments, providing the interest rate for delinquent installments for special assessments for 2022 with regard to the creation of paving, water and sanitary sewer districts; and to establish a policy on reimbursing developers for infrastructure costs for Developer Constructed Infrastructure Agreements.

RESOLUTION NO. 2021-239

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. Streets that have been improved by paving, curbing and guttering and incidental work, and/or the installation of water mains, and/or the installation of sanitary sewer mains shall be assessed to lots and parcels of ground where specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. All special assessments provided for by the laws of the state shall become due fifty (50) days after the date of levy and may be paid within that time without interest, but if not so paid, each installment, except the first, shall draw interest at the rate of 4.0 per centum per annum from the date the Board of Equalization convened until the same become delinquent. This interest rate is effective for the 2022 calendar year.

Section 3. Such assessments shall become delinquent in equal annual installments as follows:

Paving	Water	Sanitary Sewer
1/10th fifty days after date of Board of Equalization	1/5th fifty days after date of Board of Equalization	1/5th fifty days after date of Board of Equalization
1/10th one year after date of Board of Equalization	1/5th one year after date of Board of Equalization	1/5th one year after date of Board of Equalization
1/10th two year after date of Board of Equalization	1/5th two year after date of Board of Equalization	1/5th two year after date of Board of Equalization
1/10th three year after date of Board of Equalization	1/5th three year after date of Board of Equalization	1/5th three year after date of Board of Equalization
1/10th four year after date of Board of Equalization	1/5th four year after date of Board of Equalization	1/5th four year after date of Board of Equalization
1/10th five year after date of Board of Equalization		

1/10th six year after date of Board of Equalization		
1/10th seven year after date of Board of Equalization		
1/10th eight year after date of Board of Equalization		
1/10th nine year after date of Board of Equalization		

Such assessments shall become delinquent in equal annual installments over such period of years as set forth above. Delinquent installments shall bear interest at the rate specified in Section 45-104.01 of the Nebraska Revised Statutes, which is currently set at fourteen percent, and such rate may from time to time be adjusted by the Legislature, until paid and shall be collected in the usual manner for the collection of general taxes and shall be subject to the same penalties.

Section 4. Pursuant to Section 9-1310 of the Kearney City Code, the City will reimburse Developers for infrastructure costs considered the responsibility of the City as outlined in paragraphs 1, 2, 3, and 4 of Section 57-103(B) of the Kearney City Code based on the most recent unit price bids received by the City, and approved by the City Council, for similar projects. The attached schedule of unit price bids is hereby approved by the City Council and shall be used by the City Engineer to calculate infrastructure reimbursements to Developers for qualified Developer Constructed Infrastructure Agreements approved by the City Council during the 2022 calendar year. Developers will not be reimbursed for infrastructure items not included on the attached schedule of unit price bids.

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

ATTEST:
 LAUREN BRANDT
 CITY CLERK

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

8. Adopt Resolution No. 2021-240 approving Amendment Nos. 2 and 3 to the Consultant Agreement between Alfred Benesch and Company and the City of Kearney for Airport Improvement Program in connection with the Terminal Building Expansion project at the Kearney Regional Airport (AIP/CARES Act Project No. 3-31-0045-036) by adding additional final design for Reimbursable Agreement NAVAIDs Relocation Design and Loose Furniture, Fixtures, & Equipment (FFE) Program.

RESOLUTION NO. 2021-240

WHEREAS, on January 26, 2021 the City Council adopted Resolution No. 2021-14 approving the Consultant Agreement between Alfred Benesch and Company and the City of Kearney for Airport Improvement Program/CARES Act Project (AIP No. 3-31-0045-036) in connection with the Terminal Building Expansion project at the Kearney Regional Airport; and

WHEREAS, on August 10, 2021, City Council approved Amendment No. 1, amending Benesch’s existing contract by adding Final Design and Bidding Phase Services; and

WHEREAS, Amendment No. 2, marked as Exhibit “A” attached hereto and made a part hereof by reference, is to supplement Benesch’s existing contract by adding additional final design for Reimbursable Agreement NAVAIDs Relocation Design; and

WHEREAS, Amendment No. 3, marked as Exhibit "B" attached hereto and made a part hereof by reference, is to supplement Benesch's existing contract by adding Loose Furniture, Fixtures, & Equipment (FFE) Program; and

WHEREAS, approval is contingent upon Federal Aviation Administration (FAA) concurrence of Amendment Nos. 2 and 3;

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute Amendment Nos. 2 and 3 to the Consultant Agreement with Alfred Benesch and Company, contingent upon Federal Aviation Administration (FAA) concurrence. Amendment No. 2, marked as Exhibit "A" is attached hereto and made a part hereof by reference. Amendment No. 3, marked as Exhibit "B" is attached hereto and made a part hereof by reference.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

9. Adopt Resolution No. 2021-241 approving the Standard Form of Agreement between Owner and Architect with Wilkins Architecture Design Planning LLC for design, construction documents/administration for the development of an indoor pavilion and associated parking lot at Yanney Park.

RESOLUTION NO. 2021-241

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Standard Form of Agreement Between Owner and Architect entered into by the City of Kearney and Wilkins Architecture Design Planning LLC for the purpose of providing design, construction documents/administration for the development of an indoor pavilion and associated parking lot at Yanney Park be and is hereby approved. The Agreement, marked as Exhibit 'A', is hereby attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Standard Form of Agreement Between Owner and Architect on behalf of the City of Kearney.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

10. Adopt Resolution No. 2021-242 approving the Agreement for the Provision of Limited Professional Services between the City of Kearney and Miller & Associates for development of construction documents for drainage, hardscapes, and lighting for Phase II of The Gardens at Yanney Park.

RESOLUTION NO. 2021-242

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for the Provision of Limited Professional Services entered into by the City of Kearney and Miller and Associates Consulting Engineers, P.C. for the development of construction documents for drainage, hardscapes, and lighting for Phase II of The Gardens at Yanney Park be and is hereby approved. The Agreement, marked as Exhibit 'A', is hereby attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement for the Provision of Limited Professional Services on behalf of the City of Kearney.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

11. Adopt Resolution No. 2021-243 approving Application and Certificate for Payment No. 12 in the amount of \$444,880.23 submitted by Brown Construction and approved by RDG Planning & Design for the construction of the Community Tennis Facility.

RESOLUTION NO. 2021-243

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. 12 in the amount of \$444,880.23 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)	+	7,506.22
Change Order Nos. 3 & 4 (10/12/2021)	+	<u>23,028.06</u>
Contract Sum To Date		7,280,634.28
Gross Amount Due		5,616,835.25
Retainage (5%)	-	<u>280,841.76</u>
Amount Due to Date		5,335,993.49
Less Previous Certificates for Payment	-	<u>4,891,113.26</u>
Current Payment Due	\$	444,880.23

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

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

12. Accept the bids received for the Patriot Boulevard Water Main Extension and adopt Resolution No. 2021-244 awarding the bid to Midlands Contracting Inc. in the amount of \$176,035.

RESOLUTION NO. 2021-244

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on December 7, 2021 at 2:00 p.m. for the Patriot Boulevard Water Main Extension; and

WHEREAS, the Engineer’s Opinion of Probable Construction Cost for the project was \$215,065.00; and

WHEREAS, Miller & Associates and the City have recommended the bid offered by Midlands Contracting, Inc. of Kearney, Nebraska in the amount of \$176,035.00 be accepted as the lowest responsible bid for Patriot Boulevard Water Main Extension.

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 Midlands Contracting, Inc. be and is the lowest responsible bidder for the Patriot Boulevard Water Main Extension to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting, Inc. in the amount of \$176,035.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer’s Opinion of Probable Construction Cost in the amount of \$215,065.00 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 14TH DAY OF DECEMBER, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

13. Approve the purchase of a 2023 Western Star 47X with a 10-Yard Dump Body, Henke Snow Plow and Plow Hitch in the amount of \$214,519.00 submitted by Truck Center Companies under the Nebraska State Bid program to be used in the Public Works Department.

14. Adopt Resolution No. 2021-245 approving Application and Certificate for Payment No. 2 in the amount of \$37,322.90 submitted by Tri-City Concrete, LLC and approved by Miller & Associates for the Landfill Bypass Road Improvements.

RESOLUTION NO. 2021-245

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. 2 in the amount of \$37,322.90 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 82,625.00</u>
Contract Sum To Date	82,625.00
Gross Amount Due	80,864.00
Retainage (0%)	<u>- 00.00</u>
Amount Due to Date	80,864.00
Less Previous Certificates for Payment	<u>- 43,541.10</u>
Current Payment Due	<u>\$ 37,322.90</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. 2, as shown on Exhibit "A" be and is hereby accepted and approved.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

15. Adopt Resolution No. 2021-246 approving Application and Certificate for Payment No. 3 in the amount of \$245,350.68 submitted by Midlands Contracting Inc. and approved by Miller & Associates for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid A, Sanitary Sewer and Water).

RESOLUTION NO. 2021-246

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with 2021 Part 5 Improvements; Extension of Talmadge Street (Bid A, Sanitary Sewer and Water), and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$245,350.68 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 2,343,960.00</u>
Contract Sum To Date	2,343,960.00
Gross Amount Due	648,195.84
Retainage (10%)	<u>- 64,819.58</u>
Amount Due to Date	583,376.25
Less Previous Certificates for Payment	<u>338,025.57</u>
Current Payment Due	<u>\$ 245,350.68</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. 3, as shown on Exhibit "A" be and are hereby accepted and approved.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

16. Adopt Resolution No. 2021-247 approving Application and Certificate for Payment No. 1 in the amount of \$25,389 submitted by Blessing, LLC and approved by Miller & Associates for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B, Paving and Storm Sewer).

RESOLUTION NO. 2021-247

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B includes Paving and Storm Sewer), and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$25,389.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 1,616,081.00
Contract Sum To Date	1,616,081.00
Gross Amount Due	28,210.00
Retainage (10%)	- 2,821.00
Amount Due to Date	25,389.00
Less Previous Certificates for Payment	0.00
Current Payment Due	\$ 25,389.00

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. 1, as shown on Exhibit "A" be and are hereby accepted and approved.

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

ATTEST:
LAUREN BRANDT
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

None.

VII. REPORTS

Mr. Morgan stated that the unofficial ballot results as of 5:00p.m. show approximately 74% approval for the Fieldhouse Project.

Council Member Buschkoetter thanked the voters of Kearney for the great turnout regarding the Fieldhouse Project.

VIII. ADJOURN

Moved by Clouse seconded by Moore that Council adjourn at 7:45 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Moore. Nay: None. Nikkila absent. Motion carried.

ATTEST:

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

**LAUREN BRANDT
CITY CLERK**







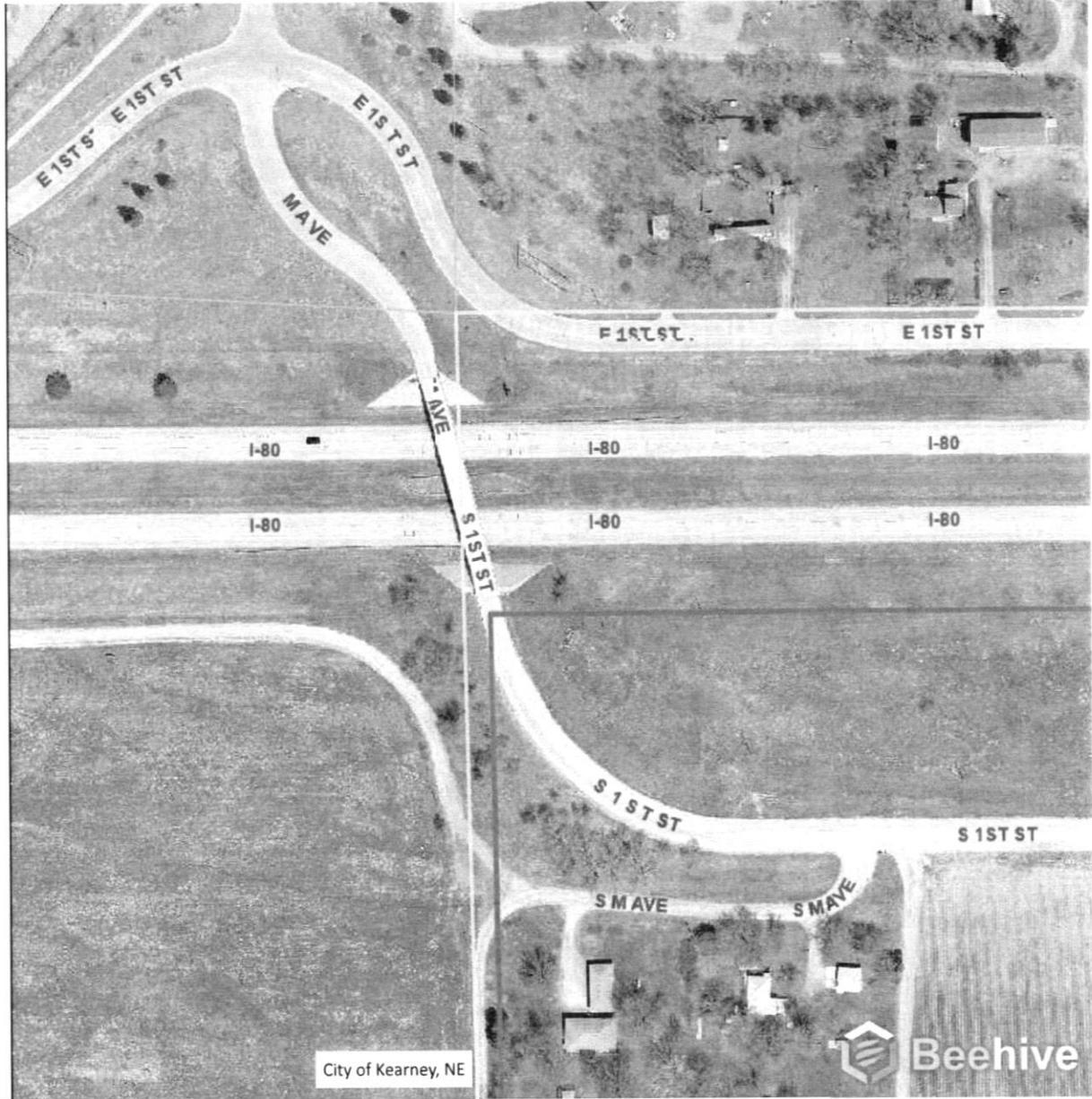












City of Kearney, NE

