

*Kearney, Nebraska
January 11, 2022
5:30 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on January 11, 2022 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Lauren Brandt, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Tami James Moore and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Eric Hellriegel, Assistant City Manager; Tony Jelinek, Director of Utilities; Andrew 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. Members of the media present included: Mike Konz, 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.

PLEDGE OF ALLEGIANCE

Two (2) Boy Scouts from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There were no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

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

Mayor Clouse stated Public Hearings 1 through 3 pertaining to property located East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street were postponed until the January 25, 2022 City Council Meeting; therefore, no action is required.

REZONE PROPERTY LOCATED AT 75 SWEETWATER AVENUE

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

Mayor Clouse opened the public hearing on the application submitted by John Krotz for Larry Kinkade Jr. and Mike Kinkade to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land located in the Northwest Quarter of Section 15 and in the Southwest Quarter of Section 10, being part of Tax Lot 9 in said Section 15 and Tax Lot 7 in Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (75 Sweetwater Avenue) and Ordinance No. 8541.

John Krotz from Kearney presented this matter to the Council. Mr. Krotz stated he would like to develop this four (4) acre plot of land and has plans to run power and water to the property this year. Future plans for the property include the potential construction of a dry cabin.

Council Member Randy Buschkoetter questioned how the property could be used without a sewer hookup? Mr. Krotz stated he plans to initially park a camper on the property for weekend use and noted he has received approval for the installation of a well on the property. Mr. Krotz stated he is looking into various options to solve the sewer issue, including the possibility of putting a holding tank on the property that could be pumped out annually.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the application submitted by John Krotz for Larry Kinkade Jr. and Mike Kinkade and introduced Ordinance No. 8541 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land located in the Northwest Quarter of Section 15 and in the Southwest Quarter of Section 10, being part of Tax Lot 9 in said Section 15 and Tax Lot 7 in Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (75 Sweetwater 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 Moore seconded the motion to close the hearing and

suspend the rules for Ordinance No. 8541. 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, Nikkila, Moore, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8541 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 Moore seconded by Lear that Ordinance No. 8541 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. 8541 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 BUFFALO ISLAND SUBDIVISION

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

Mayor Clouse opened the public hearing on the application submitted by John Krotz for Larry Kinkade Jr. and Mike Kinkade for the Final Plat and Subdivision Agreement for Buffalo Island Subdivision, a subdivision being part of the Northwest Quarter of Section 15 and part of the Southwest Quarter of Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land located in the Northwest Quarter of Section 15 and in the Southwest Quarter of Section 10, being part of Tax Lot 9 in said Section 15 and Tax Lot 7 in Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (75 Sweetwater Avenue) and consider Resolution No. 2022-1.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2022-1 approving the Final Plat and Subdivision Agreement for Buffalo Island Subdivision, a subdivision being part of the Northwest Quarter of Section 15 and part of the Southwest Quarter of Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land located in the Northwest Quarter of Section 15 and in the Southwest Quarter of Section 10, being part of Tax Lot 9 in said Section 15 and Tax Lot 7 in Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (75 Sweetwater Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2022-1

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Buffalo Island Subdivision, a subdivision being part of the Northwest Quarter of Section 15 and part of the Southwest Quarter of Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land located in the Northwest Quarter of Section 15 and in the Southwest Quarter of Section 10, being part of Tax Lot 9 in said Section 15 and Tax Lot 7 in Section 10, all in Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, being more particularly described as follows: Commencing at the Northwest Corner of said Section 15; thence South 89°40'47" East (assumed bearing) on the North line of said Northwest Quarter of Section 15, a distance of 508.62 feet, thence South 00°19'13" West perpendicular to said North line a distance of 131.45 feet to the Point of Beginning; thence South 31°15'15" East a distance of 500.96 feet to the Boundary Line Agreement as recorded in Deed Instrument 2002-3509; thence along said Agreement Line the following; North 28°50'39" East a distance of 71.95 feet; thence North 05°32'14" East a distance of 117.70 feet; thence North 38°07'49" East a distance of 212.25 feet; thence North 60°10'04" East a distance of 239.99 feet; thence leaving said agreement line a North 29°49'56" West a distance of 217.58 feet; thence North 67°05'05" West a distance of 583.00 feet to the Point of Beginning, containing 4.00 acres more or less and is subject to any Easements or Right of Ways by record, all located 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 11TH DAY OF JANUARY, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

VACATE PROPERTY LOCATED SOUTH OF RICHARD YOUNG BEHAVIORAL HEALTH, BETWEEN 17TH AVENUE AND 19TH AVENUE AND FINAL PLAT AND SUBDIVISION AGREEMENT FOR GRACE FELLOWSHIP SECOND ADDITION

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

Mayor Clouse opened the public hearing on the applications submitted by Trenton Snow for Grace Fellowship / 1st Church of God for (1) the vacation of Lot 1, Grace Fellowship Addition, an addition to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 8542; and (2) the Final Plat and Subdivision Agreement for Grace

Fellowship Second, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as Lot 1 (to be vacated), Grace Fellowship Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and part of the Northeast Quarter of the Southeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (South of Richard Young Behavioral Health, between 17th Avenue and 19th Avenue) and consider Resolution No. 2022-2.

Trenton Snow, Nebraska Land Surveyor in Kearney, presented this matter to the Council. Mr. Snow described the location of Grace Fellowship Church and 1st Church of God on the proposed Grace Fellowship Second Addition plat. The property that Grace Fellowship Church is located on was previously platted; however, the property 1st Church of God is located on has not and is described as a rural legal description. The request to vacate Lot 1, Grace Fellowship Addition will allow for the proposed Grace Fellowship Second Addition to include both Church's on the plat. Mr. Snow explained the request for rezoning only pertains to the land contained in Lot 2, Grace Fellowship Second Addition, which needed to be platted before the land could be rezoned. He stated most of the easements shown on the proposed plat were already there; however a utility easement was added around the perimeter of the entire proposed Addition. Mr. Snow stated 40-foot of right-of-way will be dedicated to the City due to that portion of ground currently being in a rural legal description.

Nathan Leach, Kearney thanked Mayor Clouse and addressed members of the City Council and stated with regards to this agenda item he thinks it is extremely important that these comments be considered with regards to the zoning laws in our community and those who live in our community. Mr. Leach stated he is a long time resident of Kearney and noted he graduated from Kearney High in 2015 and although he has lived in several different places since graduating, including Phoenix, Lincoln and Sioux Falls, he feels Kearney, Nebraska outranks all of these places in one important category and that is that it is his home. Mr. Leach thanked Council for the opportunity to have public hearings on items like this and use this opportunity to address an item in a matter of the utmost concern. He would like to send a message this evening to every member of the City Council and to every reasonable citizen and every elected official in this community and across our State that our community values diversity and rejects the racially charged, partisan motivated and dishonest rhetoric being spewed by political leaders including our Governor and candidates in the State, who claim our schools are being taught so called critical race theory, or brainwashing our children in any way. This narrative is untrue and extremely wrong and extremely dangerous. Disinformation about Nebraska health, civics and social studies curriculums has led to increasingly radical calls to undermine educational standards and cause normally sensible Nebraskans to question basic democratic norms. This recent ludicrous call to get rid of our State Board of Education is just one recent example. Mr. Leach stated this is where he draws the line and further noted we live in a community that is nearly 90% white, nearly everybody in this room is white and questioned how we expect our young people, whether Republican, Democrat or Independent —

Mayor Clouse interjected and questioned how the information Mr. Leach is discussing, fits the topic currently in front of Council as discussion was supposed to be pertaining to this Agenda item?

Mr. Leach commented he was almost finished and stated it relates to it in that, when, living in this community, he feels it is important for us to also be aware of the different policy initiatives and curriculums that are in the community. Mr. Leach stated he promised Council it will be wrapped up very quickly.

Council Member Randy Buschkoetter questioned how Mr. Leach's comments relate to the topic at hand? Mr. Leach stated it depends on how strict Council wants to be with the question of germanous and asked Mayor Clouse if he could finish?

Mayor Clouse asked Mr. Leach if he was close to finishing up his comments? Mr. Leach stated he would wrap it up and stated he thinks it is very important for us as Republicans, Democrats or Independents to have; for us to have any awareness of differing cultures, religions, ideologies, languages, creeds, attitudes, and beliefs, that we know how to show respect to those that who are different from us. If we do not intentionally expose ourselves to these ideas in a fair, nonpartisan, and truthful way, how can we learn? Mr. Leach further stated we should know how to find resources in this community to strengthen cultural understanding and ask questions without feeling intimidated, judged, or insensitive. He strongly believes that we have a moral imperative today to call this out and to be extremely clear that this kind of partisan and racially charged dishonesty has no place in this community, and that we must respond decisively and clearly in rejecting it outright. Mr. Leach thanked Council for their time and patience and allowing him to extend what normally wouldn't be quite germane and stated he would be happy to answer any questions.

Council Member Bruce Lear stated Council welcomes all points of view and recommended that in the future when Mr. Leach has a topic that he feels is important for Council to hear, Mr. Leach can request to be added to the meeting Agenda for open comments at the beginning of a Council meeting. Council Member Lear further stated he receives Mr. Leach's comments very respectfully and feels they are well motivated.

Mr. Leach thanked Council Member Lear and stated he will be very intentional in the future to use the appropriate Agenda item time. Mr. Leach stated he just wanted to stress that to him it is something important enough that perhaps a slightly more extended view on germanous would, in his mind, have permitted it; however, in the future he will be more intentional. Mayor Clouse thanked Mr. Leach for his comments.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the applications submitted by Trenton Snow for Grace Fellowship / 1st Church of God and introduced Ordinance No. 8542 vacating Lot 1, Grace Fellowship 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 number of the ordinance on its first reading and then upon its final passage. Council member Clouse seconded the motion to close the hearing and suspend the rules for Ordinance No. 8542. 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, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8542 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, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 8542 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8542 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.

Moved by Nikkila seconded by Moore to adopt Resolution No. 2022-2 approving the Final Plat and Subdivision Agreement for Grace Fellowship Second, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as Lot 1 (to be vacated), Grace Fellowship Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and part of the Northeast Quarter of the Southeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (South of Richard Young Behavioral Health, between 17th Avenue and 19th Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-2

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Grace Fellowship Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lot 1, (now vacated), Grace Fellowship Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and part of the Northeast Quarter of the Southeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Northeast 1/4 of the Southeast 1/4 of said Section 27 and assuming the East line of said Northeast 1/4 of the Southeast 1/4 as bearing N 00°19'15" E and all bearings contained herein are relative thereto; thence N 00°19'15" E on the aforesaid East line a distance of 290.00 feet to the ACTUAL PLACE OF BEGINNING, said point being the northeast corner of Colonial Estates Place, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing N 00°19'15" E on the afore described course a distance of 463.34 feet to the southeast corner of Prairie View Gardens, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°43'22" W on the south line of said Prairie View Gardens a distance of 1,315.37 feet to the southwest corner of said Prairie View Gardens, said point being on the east line of 19th Avenue, a street in the City of Kearney, Buffalo County, Nebraska; thence S 00°29'16" W on the aforesaid east line a distance of 267.70 feet to the point of curvature; thence continuing on the aforesaid east line on a 240.0 foot radius curve to the left a distance of 297.83 feet to a point, said point being S 35°06'48" E a chord distance of 278.67 feet from the previously described point; thence S 70°37'26" E a distance of 137.10 feet to the point of curvature; thence on a 280.0 foot radius curve to the right a distance of 270.65 feet to a point, said point being S 42°57'11" E a chord

distance of 260.06 feet from the previously described point; thence S 16°12'54" E a distance of 21.03 feet to the northwest corner of Lot One (1), Block Two (2), Colonial Estates 2nd Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the aforesaid east line and on the north line of said Colonial Estates 2nd Addition N 89°41'56" E a distance of 263.01 feet to the southwest corner of Lot Seven (7) in said Colonial Estates Place; thence N 00°18'28" E on the west line of said Colonial Estates Place a distance of 330.08 feet to the northwest corner of Lot Six (6) in said Colonial Estates Place; thence N 89°40'52" E on the north line of said Colonial Estates Place a distance of 298.00 feet to the northeast corner of Lot Four (4) in said Colonial Estates Place; thence S 00°21'39" W on the east line of said Lot 4 a distance of 40.0 feet to the northwest corner of Lot Three (3) in said Colonial Estates Place; thence N 89°40'39" E on the north line of said Colonial Estates Place a distance of 279.86 feet to the place of beginning, all located 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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

REZONE PROPERTY LOCATED SOUTH OF RICHARD YOUNG BEHAVIORAL HEALTH, BETWEEN 17TH AVENUE AND 19TH AVENUE

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

Mayor Clouse opened the public hearing on the application submitted by Trenton Snow for Grace Fellowship / 1st Church of God to rezone from District R-1, Urban Residential Single-Family District (Low Density) and District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District to District R-1, Urban Residential Single-Family District (Low Density) for property described as Lot 2, Grace Fellowship Second, an addition to the City of Kearney, Buffalo County, Nebraska, TOGETHER WITH the west 40.0 feet of 17th Avenue abutting said lot on the east, all in Buffalo County, Nebraska. (South of Richard Young Behavioral Health, between 17th Avenue and 19th Avenue) and consider Ordinance No. 8543.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the application submitted by Application submitted by Trenton Snow for Grace Fellowship / 1st Church of God and introduced Ordinance No. 8543 rezoning from District R-1, Urban Residential Single-Family District (Low Density) and District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District to District R-1, Urban Residential Single-Family District (Low Density) for property described as Lot 2, Grace Fellowship Second, an addition to the City of Kearney, Buffalo County, Nebraska, TOGETHER WITH the west 40.0 feet of 17th Avenue abutting said lot on the east, all in Buffalo County, Nebraska. (South of Richard Young Behavioral Health, between 17th Avenue and 19th 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. 8543. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Moore, Lear, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8543 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Lear, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8543 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8543 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.

AMENDMENTS TO CHAPTER 14 “ZONING DISTRICT REGULATIONS” AND CHAPTER 46 “SUPPLEMENTAL USE REGULATIONS”

Mayor Clouse opened the public hearing on the proposed amendments to the following chapters/sections of the City Code as follows: (a) Table 14-1 “Use Matrix” of Chapter 14 “Zoning District Regulations” to: add the permitted use of Permitted by right or by right subject to supplemental regulations to Commercial Rec (Outdoor) (AG District) under Commercial Use Types; and to add Section 46-105, M to the Supplemental Regulations for Commercial Rec (Outdoor) under Commercial Use Types; and (b) Section 46-105 “Supplemental Use Regulations: Commercial Uses” of Chapter 46 “Supplemental Use Regulations” to add new regulations for Commercial Recreation (Outdoor) and consider Ordinance No. 8544.

Brenda Jensen, Development Services Director presented this matter to the Council. Ms. Jensen stated the first proposed amendment to Code would add the definition of Commercial Recreation (Outdoor) as a permitted use type in AG, Agricultural District;

some use types included in this definition include archery courses and paintball courses. The minimum lot size in AG zoning is 20 acres and would therefore protect adjacent properties from potential issues with this use types. Ms. Jensen stated City Staff is also proposing the addition of Supplemental Regulations for Commercial Recreation (Outdoor) uses since there currently are none for AG, Agricultural District.

Mayor Clouse noted in the past, some of the listed uses were addressed with a Conditional Use Permit.

Chairman Lear questioned how the proposed changes could affect Ag Deferments?

Ms. Jensen stated City staff looks at whether the property is tied to City water and sewer, if the property already has an Ag Deferral in place and if a Developer/property owner are applying for building permits; if a Developer/property owner is actually developing the property, it would eliminate the Ag Deferral.

Council Member Lear noted that if there is development on the property and creating a greater demand on City infrastructure, the property may need to be rezoned out of an AG District. Ms. Jensen agreed.

Council Member Nikkila questioned whether the City is obligated to grant Ag Deferments? Michael Tye, City Attorney stated the City is obligated if the property is zoned Agricultural and has an agricultural use.

Council Member Lear stated a paintball course would be consistent with a deferred use. Council Member Randy Buschkoetter noted a go-cart track may be different if the Developer is paving it. Mr. Morgan agreed with Council Members Lear and Buschkoetter and added it would depend if there were plans to connect to water and sewer.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the proposed amendments to the following chapters/sections of the City Code as follows: (a) Table 14-1 "Use Matrix" of Chapter 14 "Zoning District Regulations" to: add the permitted use of Permitted by right or by right subject to supplemental regulations to Commercial Rec (Outdoor) (AG District) under Commercial Use Types; and to add Section 46-105, M to the Supplemental Regulations for Commercial Rec (Outdoor) under Commercial Use Types; and (b) Section 46-105 "Supplemental Use Regulations: Commercial Uses" of Chapter 46 "Supplemental Use Regulations" to add new regulations for Commercial Recreation (Outdoor) and introduced Ordinance No. 8544 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 Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 8544. 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, Moore, Buschkoetter, Nikkila, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said

motion was declared passed and adopted. City Clerk read Ordinance No. 8544 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, Nikkila, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Moore that Ordinance No. 8544 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. 8544 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.

PROPOSED ACQUISITION OF PROPERTY FOR A 10.00-FOOT WIDE DRAINAGE EASEMENT GRANTED BY TALMADGE JAM, L.L.C.

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 7 and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes and consider Resolution No. 2022-3.

Tony Jelinek, Utilities Director presented this matter to the Council. Mr. Jelinek stated the easements are for right-of-way and infrastructure occurring and being placed along Talmadge Street; approval is needed to accept the land.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-3 approving the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 7 and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-3

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 a Drainage Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Drainage Easement as follows:

10.00-FOOT WIDE DRAINAGE EASEMENT

A tract of land being part of Government Lot 7 and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes. Said Drainage Easement to be 5.00 feet on each side of the following described centerline: Commencing at the Southeast corner of Government Lot 7 of Section 11; thence N 00°25'12" E on the East line of said Government Lot 7, and all bearings contained herein are relative thereto, a distance of 1065.11 feet; thence N 87°41'41" W a distance of 182.07 feet; thence Southwesterly on a tangent curve to the Left having a central angle of 17°28'35", a radius of 397.20 feet, an arc length of 121.15 feet and a chord bearing of S 72°46'50" W a distance of 120.68 feet; thence S 64°02'33" W a distance of 260.18 feet; thence Southwesterly on a tangent curve to the Right having a central angle of 2°19'44", a radius of 560.00 feet, an arc length of 22.76 feet, and a chord bearing of S 65°12'25" W a distance of 22.76 feet to the POINT OF BEGINNING; thence N 05°32'51" W a distance of 489.00 feet to the POINT OF TERMINATION. The side lines of said 10.00 feet wide Drainage Easement to be lengthened or shortened to form a continuous strip, said Drainage Easement contains 0.11 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A 10.00-FOOT WIDE DRAINAGE EASEMENT GRANTED BY TALMADGE JAM, L.L.C.

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 7 and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes and consider Resolution No. 2022-4.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-4 approving the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 7 and accretions in Section 11, Township 8 North, Range 16 West

of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-4

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 a Drainage Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Drainage Easement as follows:

10.00-FOOT WIDE DRAINAGE EASEMENT

A tract of land being part of Government Lot 7 and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes. Said Drainage Easement to be 5.00 feet on each side of the following described centerline: Commencing at the Southeast corner of Government Lot 7 of Section 11; thence N 00°25'12" E on the East line of said Government Lot 7, and all bearings contained herein are relative thereto, a distance of 1065.11 feet; thence N 87°41'41" W a distance of 182.07 feet; thence Southwesterly on a tangent curve to the Left having a central angle of 17°28'35", a radius of 397.20 feet, an arc length of 121.15 feet, and a chord bearing of S 72°46'50" W a distance of 120.68 feet; thence S 64°02'33" W a distance of 260.18 feet; thence Southwesterly on a tangent curve to the Right having a central angle of 22°12'18", a radius of 560.00 feet, an arc length of 217.03 feet, and a chord bearing of S 75°08'42" W a distance of 215.67 feet; thence S 86°14'51" W a distance of 198.44 feet to the POINT OF BEGINNING; thence N 03°16'28" W a distance of 479.73 feet to the POINT OF TERMINATION. The side lines of said 10.00 foot wide Drainage Easement to be lengthened or shortened to form a continuous strip, said Drainage Easement contains 0.11 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A 10.00-FOOT WIDE DRAINAGE EASEMENT GRANTED BY TALMADGE JAM, L.L.C. AND YB INVESTMENTS, L.L.C.

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company and YB Investments, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 8, Government Lot 9, and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, dedicated for Drainage Easement purposes and consider Resolution No. 2022-5.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-5 approving the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company and YB Investments, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 8, Government Lot 9, and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, dedicated for Drainage Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-5

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 a Drainage Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Talmadge Jam, L.L.C., a Nebraska Limited Liability Company and YB Investments, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Drainage Easement as follows:

10.00-FOOT WIDE DRAINAGE EASEMENT

A tract of land being part of Government Lot 8, Government Lot 9, and accretions in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes. Said Drainage Easement to be 5.00 feet on each side of the following described centerline: Commencing at the Southeast corner of Government Lot 7 of Section 11; thence N 00°25'12" E on the East line of said Government Lot 7, and all bearings contained herein are relative thereto, a distance of 1065.11 feet; thence N 87°41'41" W a distance of 182.07 feet; thence Southwesterly on a tangent curve to the Left having a central angle of 17°28'35", a radius of 397.20 feet, an arc length of 121.15 feet, and a chord bearing of S 72°46'50" W a distance of 120.68 feet; thence S 64°02'33" W a distance of 260.18 feet; thence Southwesterly on a tangent curve to the Right having a central angle of 22°12'18", a radius of 560.00 feet, an arc length of 217.03 feet, and a chord bearing of S 75°08'42" W a distance of 215.67 feet; thence S 86°14'51" W a distance of 998.60 feet to the POINT OF BEGINNING; thence N

03°45'09" W a distance of 352.24 feet to the POINT OF TERMINATION. The side lines of said 10.00 feet wide Drainage Easement to be lengthened or shortened to form a continuous strip, said Drainage Easement contains 0.08 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Drainage Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company and YB Investments, L.L.C., a Nebraska Limited Liability Company, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A 10.00-FOOT WIDE DRAINAGE EASEMENT GRANTED BY TURKEY CREEK PROPERTIES, L.L.C.

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 5 and accretions in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes and consider Resolution No. 2022-6.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-6 approving the proposed acquisition for a 10.00-foot Wide Drainage Easement granted by Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 5 and accretions in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-6

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 a Drainage Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Drainage Easement as follows:

10.00-FOOT WIDE DRAINAGE EASEMENT

A tract of land being part of Government Lot 5 and accretions in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Drainage Easement purposes. Said Drainage Easement to be 5.00 feet on each side of the following described centerline: Commencing at the Southeast corner of Government Lot 5 of Section 10; thence N 00°29'58" E on the East line of said Government Lot 5, and all bearings contained herein are relative thereto, a distance of 903.10 feet; thence N 81°43'16" W a distance of 337.70 feet to the POINT OF BEGINNING; thence N 01°06'02" W a distance of 434.20 feet to the POINT OF TERMINATION. The side lines of said 10.00 foot wide Drainage Easement to be lengthened or shortened to form a continuous strip, said Drainage Easement contains 0.10 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Drainage Easement granted by Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A PERMANENT RIGHT OF WAY AND UTILITY EASEMENT GRANTED BY PAUL J. YOUNES AND LINDA M. YOUNES, HUSBAND AND WIFE

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent Right of Way and Utility Easement granted by Paul J. Younes and Linda M. Younes, Husband and Wife for a tract of land being part of Government Lot 7, Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes and consider Resolution No. 2022-7.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-7 approving the proposed acquisition for a Permanent Right of Way and Utility Easement granted by Paul J. Younes and Linda M. Younes, Husband and Wife for a tract of land being part of Government Lot 7, Section 11, Township 8 North, Range 16 West of the 6th

P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-7

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 a Permanent Right-of-Way and Utility Easement voted in favor to proceed with the acquisition; and

WHEREAS, Paul J. Younes and Linda M. Younes, Husband and Wife, have granted to the City of Kearney, Nebraska a Permanent Right-of-Way and Utility Easement as follows:

PERMANENT RIGHT-OF-WAY & UTILITY EASEMENT

A tract of land being part of Government Lot 7, Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes. Commencing at the Southeast corner of Government Lot 7 of Section 11; thence N 00°25'12" E on the East line of said Government Lot 7, and all bearings contained herein are relative thereto, a distance of 1065.11 feet to the North line of Talmadge Street, as platted in the City of Kearney, Buffalo County, Nebraska; thence N 87°41'41" W on the North line of said Talmadge Street a distance of 36.00 feet to the Southeast corner of a tract of land described in Document #2018-04033 and recorded in the Buffalo County Register of Deeds Office and the POINT OF BEGINNING; thence continuing N 87°41'41" W on the South line of said tract a distance of 146.07 feet; thence Easterly on a non-tangent curve to the Right having a central angle of 10°47'11", a radius of 397.20 feet, an arc length of 74.78 feet, and a chord bearing of N 86°54'43" E a distance of 74.67 feet; thence S 87°41'41" E a distance of 71.33 feet to the East line of said tract; thence S 01°02'41" E on said East line a distance of 7.03 feet to the Point of Beginning, containing 0.02 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way and Utility Easement granted by Paul J. Younes and Linda M. Younes, Husband and Wife, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A PERMANENT RIGHT OF WAY AND UTILITY EASEMENT GRANTED BY YB INVESTMENTS, L.L.C.

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent Right of Way and Utility Easement granted by YB Investments, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 7, Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes and consider Resolution No. 2022-8.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-8 approving the proposed acquisition for a Permanent Right of Way and Utility Easement granted by YB Investments, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 7, Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-8

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 a Permanent Right-of-Way and Utility Easement voted in favor to proceed with the acquisition; and

WHEREAS, YB Investments L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Permanent Right-of-Way and Utility Easement as follows:

PERMANENT RIGHT-OF-WAY & UTILITY EASEMENT

A tract of land being part of Government Lot 7, Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes. Commencing at the Southeast corner of Government Lot 7 of Section 11; thence N 00°25'12" E on the East line of said Government Lot 7, and all bearings contained herein are relative thereto, a distance of 1065.11 feet to the North line of Talmadge Street, as platted in the City of Kearney, Buffalo County, Nebraska; thence N 87°41'41" W on the North line of said Talmadge Street a distance of 33.02 feet to the West line of a Permanent Right-of-Way as described in Document #2019-02478 and recorded in the Buffalo County Register of Deeds Office and the POINT OF BEGINNING; thence continuing N 87°41'41" W on the North line of said Talmadge Street a distance of 2.98 feet to the Southeast corner of a tract of land described in Document #2018-04033 and recorded in the Buffalo County Register of Deeds Office; thence N 01°02'41" W on the East line of said tract of land a distance of 7.03 feet; thence S 87°41'41" E a distance

of 3.16 feet to the West line of said Permanent Right of Way; thence S 00°25'12" W on said West Right of Way a distance of 7.02 feet to the Point of Beginning, containing 21.56 square feet, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way and Utility Easement granted by YB Investments L.L.C., a Nebraska Limited Liability Company, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A PERMANENT RIGHT OF WAY AND UTILITY EASEMENT GRANTED BY TURKEY CREEK PROPERTIES, L.L.C.

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent Right of Way and Utility Easement granted by Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 5 in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes and consider Resolution No. 2022-9.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-9 approving the proposed acquisition for a Permanent Right of Way and Utility Easement granted by Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lot 5 in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-9

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 a Permanent Right-of-Way and Utility Easement voted in favor to proceed with the acquisition; and

WHEREAS, Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Permanent Right-of-Way and Utility Easement as follows:

PERMANENT RIGHT-OF-WAY & UTILITY EASEMENT

A tract of land being part of Government Lot 5 in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes. Commencing at the Southeast corner of Government Lot 5 of Section 10; thence N 00°29'58" E on the East line of said Government Lot 5, and all bearings contained herein are relative thereto, a distance of 822.36 feet to the POINT OF BEGINNING; thence continuing N 00°29'58" E on the East line of said Government Lot 5 a distance of 80.74 feet; thence N 81°43'16" W a distance of 433.37 feet; thence Northwesterly on a tangent curve to the Right having a central angle of 26°25'27", a radius of 960.00 feet, an arc length of 442.74 feet, and a chord bearing of N 68°30'33" W a distance of 438.83 feet; thence N 55°17'49" W a distance of 189.20 feet; thence Northwesterly on a tangent curve to the Left having a central angle of 34°18'27", a radius of 340.00 feet, an arc length of 203.59 feet, and a chord bearing of N 72°27'03" W a distance of 200.56 feet; thence N 89°36'17" W a distance of 100.94 feet to the East Right of Way line of Yanney Avenue; thence S 00°23'44" W on the East line of said Yanney Avenue a distance of 80.00 feet; thence S 89°36'17" E a distance of 100.94 feet; thence Southeasterly on a tangent curve to the Right having a central angle of 34°18'27", a radius of 260.00 feet, an arc length of 155.68 feet, and a chord bearing of S 72°27'03" E a distance of 153.37 feet; thence S 55°17'49" E a distance of 189.20 feet; thence Southeasterly on a tangent curve to the Left having a central angle of 26°25'27", a radius of 1040.00 feet, an arc length of 479.64 feet, and a chord bearing of S 68°30'33" E a distance of 475.40 feet; thence S 81°43'16" E a distance of 444.30 feet to the Point of Beginning, containing 2.51 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way and Utility Easement granted by Turkey Creek Properties, L.L.C., a Nebraska Limited Liability Company, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A PERMANENT RIGHT OF WAY AND UTILITY EASEMENT GRANTED BY TALMADGE JAM, L.L.C.

Public Hearings 9 through 16 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent Right of Way and Utility Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited

Liability Company for a tract of land being part of Government Lots 7 and 8 in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes and consider Resolution No. 2022-10.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-10 approving the proposed acquisition for a Permanent Right of Way and Utility Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company for a tract of land being part of Government Lots 7 and 8 in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-10

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 a Permanent Right-of-Way and Utility Easement voted in favor to proceed with the acquisition; and

WHEREAS, Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Permanent Right-of-Way and Utility Easement as follows:

PERMANENT RIGHT-OF-WAY & UTILITY EASEMENT

A tract of land being part of Government Lots 7 and 8 in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, dedicated for Permanent Right of Way and Utility Easement purposes, and more particularly described as follows: Commencing at the Southeast corner of Government Lot 7 of Section 11; thence N 00°25'12" E on the East line of said Government Lot 7, and all bearings contained herein are relative thereto, a distance of 1032.11 feet to the centerline of Talmadge Street, as platted in the City of Kearney, Buffalo County, Nebraska; thence N 87°41'41" W on said centerline a distance of 71.00 feet to the POINT OF BEGINNING; thence N 00°25'12" E a distance of 33.00 feet to the South line of a tract of land described in Document #2018-04033 and recorded in the Buffalo County Register of Deeds Office; thence N 87°41'41" W on the South line of said tract of land a distance of 111.07 feet; thence Southwesterly on a non-tangent curve to the Left having a central angle of 17°28'35", a radius of 397.20 feet, an arc length of 121.15 feet, and a chord bearing of S 72°46'50" W a distance of 120.68 feet; thence S 64°02'33" W a distance of 260.18 feet; thence Southwesterly on a tangent curve to the Right having a central angle of 22°12'18", a radius of 560.00 feet, an arc length of 217.03 feet, and a chord bearing of S 75°08'42" W a distance of 215.67 feet; thence S 86°14'51" W a distance of 1253.45 feet; thence Westerly on a tangent curve to the Right having a central angle of 12°01'53", a radius of 1960.00 feet, an arc length of 411.57 feet, and a chord bearing of N 87°44'13" W a distance of 410.82 feet; thence N 81°43'16" W a distance of 245.78 feet to the West line of said Government Lot 8; thence

S 00°29'58" W on said West line a distance of 80.74 feet to a point being N 00°29'58" E a distance of 822.36 feet from the Southwest corner of said Government Lot 8; thence S 81°43'16" E a distance of 234.85 feet; thence Easterly on a tangent curve to the Left having a central angle of 12°01'53", a radius of 2040.00 feet, an arc length of 428.37 feet, and a chord bearing of S 87°44'13" E a distance of 427.59 feet; thence N 86°14'51" E a distance of 775.76 feet; thence S 00°24'32" W a distance of 9.71 feet; thence S 89°35'28" E a distance of 60.00 feet; thence N 00°24'32" E a distance of 14.07 feet; thence N 86°14'51" E a distance of 417.54 feet; thence Northeasterly on a tangent curve to the Left having a central angle of 22°12'18", a radius of 640.00 feet, an arc length of 248.03 feet, and a chord bearing of N 75°08'42" E a distance of 246.48 feet; thence N 64°02'33" E a distance of 120.58 feet; thence S 41°48'26" E a distance of 39.18 feet; thence S 89°35'28" E a distance of 60.00 feet; thence N 00°24'32" E a distance of 71.81 feet; thence N 64°02'33" E a distance of 43.25 feet; thence Easterly on a tangent curve to the Right having a central angle of 28°15'46", a radius of 317.20 feet, an arc length of 156.47 feet, and a chord bearing of N 78°10'26" E a distance of 154.88 feet; thence S 87°41'41" E a distance of 77.14 feet to the West line of a Permanent Roadway, Sewer and Water Main Easement and recorded in the Buffalo County Register of Deeds Office; thence N 00°25'12" E on said West line a distance of 7.02 feet; thence N 87°41'41" W continuing on said West line a distance of 38.00 feet; thence N 00°25'12" E continuing on said West line a distance of 33.00 feet to the Point of Beginning, containing 4.91 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way and Utility Easement granted by Talmadge Jam, L.L.C., a Nebraska Limited Liability Company, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

VACATE 48TH STREET AND 47TH STREET PLACE LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF AVENUE "N" AND LOT 2, YOUNES ADDITION AND LOTS 1 THROUGH 12, INCLUSIVE, SUNRISE ESTATES AND REZONE PROPERTY LOCATED AT THE SOUTHEAST CORNER OF AVENUE N AND 48TH STREET

Public Hearings 17, 18 and 19 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the applications submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz to 1) vacate all of 48th Street lying east of the east right-of-way line of Avenue "N" in the City of Kearney, Buffalo County, Nebraska, as dedicated in Younes Addition, a subdivision being part of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County Nebraska, as recorded in Microfilm Roll 87, pages 4753 thru 4757,

filed in the Buffalo County Register of Deeds Office, EXCEPT the West 10.00 feet thereof, all in Buffalo County, Nebraska and consider Ordinance No. 8545; 2) vacate all of 47th Street Place lying east of the east right-of-way line of Avenue "N" in the City of Kearney, Buffalo County, Nebraska as dedicated in SunRise Estates, an addition to the City of Kearney, Buffalo County Nebraska as recorded on Inst. 2014-1193, filed in the Buffalo County Register of Deeds Office and consider Ordinance No. 8546; 3) vacate Lot 2, Younes Addition, a subdivision being part of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8547; 4) vacate Lots 1 through 12, inclusive, SunRise Estates, an addition to the City of Kearney, Buffalo County Nebraska and consider Ordinance No. 8548; and 5) rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) for property described as part of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southeast corner of Avenue N and 48th Street) and consider Ordinance No. 8549.

Craig Bennett, Miller and Associates presented this matter to the Council. Mr. Bennett showed where the property is located and stated it contains approximately 13.61 acres. The request for rezoning from AG to R-1 is consistent with the current Future Land Use Map and with the zoning to the south. Mr. Bennett demonstrated where the portions of 48th Street, Lot 2 of Younes Addition and 47th Street Place along with Lots 1 through 12, inclusive, of SunRise Estates are located, which are being vacated as well as the location of the portion of land that pertains to the request for annexation. He also discussed the property's infrastructure feasibility regarding the water main, sanitary sewer and storm water. Mr. Bennett demonstrated where the location of the future water tower and fire station would be located, the circulation on the property and how 48th Street would be extended easterly, in line with where it is currently located on the west side of Avenue N. He stated the proposed Northeast Public Service Addition includes two (2) lots and the new location of 48th Street.

Mr. Morgan noted that the property owners to the north, who previously expressed concerns with this project will not be required to connect to City infrastructure but will have access to it if they need it in the future. Following the property owners comments, City staff worked with the property owners and were able to find a nice solution for the project.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the applications submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz and introduced Ordinance No. 8545 vacating all of 48th Street lying east of the east right-of-way line of Avenue "N" in the City of Kearney, Buffalo County, Nebraska, as dedicated in Younes Addition, a subdivision being part of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County Nebraska, as recorded in Microfilm Roll 87, pages 4753 thru 4757, filed in the Buffalo County Register of Deeds Office, EXCEPT the West 10.00 feet thereof, all in Buffalo County, Nebraska; Ordinance No. 8546 vacating all of 47th Street Place lying east of the east right-of-way line of Avenue "N" in the City of Kearney, Buffalo County, Nebraska as dedicated in SunRise Estates, an addition to the City of Kearney, Buffalo County Nebraska as recorded on Inst. 2014-1193, filed in the Buffalo County Register of Deeds Office; Ordinance No. 8547 vacating

Lot 2, Younes Addition, a subdivision being part of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; Ordinance No. 8548 vacating Lots 1 through 12, inclusive, SunRise Estates, an addition to the City of Kearney, Buffalo County Nebraska and Ordinance No. 8549 rezoning from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) for property described as part of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southeast corner of Avenue N and 48th Street) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number 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. 8545, 8546, 8547, 8548 and 8549. 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, Nikkila, Lear, Moore, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8545, 8546, 8547, 8548 and 8549 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Clouse, Nikkila, Lear, Moore, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance Nos. 8545, 8546, 8547, 8548 and 8549 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinances, Ordinance Nos. 8545, 8546, 8547, 8548 and 8549 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 NORTHEAST PUBLIC SERVICE ADDITION

Public Hearings 17, 18 and 19 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz for the Final Plat and Subdivision Agreement for Northeast Public Service Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, said tract of land being all of SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated) and Lot 2, Younes Addition, a subdivision being part of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska (to be vacated) (Southeast corner of Avenue N and 48th Street) and consider Resolution No. 2022-11.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2022-11 approving the application submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz for the Final Plat and Subdivision Agreement for Northeast Public Service Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, said tract of land being all of SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated) and Lot 2, Younes Addition, a subdivision being part of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska (to be vacated) (Southeast corner of Avenue N and 48th Street). Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2022-11

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Northeast Public Service Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, said tract of land being all of SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska (now vacated) and Lot 2, Younes Addition, a subdivision being part of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (now vacated), and more particularly described as follows: COMMENCING at a 5/8" rebar at the Southwest Corner of the Northwest Quarter of Section 30; thence N 00°23'14" E on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 500.00 feet to the Westerly Extension of the South line of said SunRise Estates (now vacated); thence S 89°44'49" E on said Westerly extension a distance of 50.00 feet to a 5/8" rebar w/cap at the POINT OF BEGINNING; thence continuing S 89°44'49" E on said South line a distance of 239.40 feet to an iron pipe; thence S 89°51'01" E continuing on said South line a distance of 410.40 feet to the Southeast corner of said SunRise Estates (now vacated), also being the Southwest Corner of Lot 2, Younes Addition (now vacated); thence S 89°53'15" E on the South line of said Lot 2 (now vacated) a distance of 182.18 feet to a 5/8" rod at the Southeast Corner of said Lot 2 (now vacated); thence N 00°23'39" E on the East line of said Lot 2 (now vacated) and its Northerly extension a distance of 710.94 feet to a 5/8" rebar w/cap; thence N 89°37'35" W a distance of 832.06 feet to a 5/8" rebar w/cap on the East line of Avenue "N" in the City of Kearney; thence S 00°23'14" W on the East line of said Avenue "N" a distance of 713.88 feet to the Point of Beginning, containing 13.61 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 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, EXCEPTING HOWEVER Lot 2, Northeast Public Service Addition, and that part of 48th Street abutting said Lot 2 on the north.

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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

ANNEXATION OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF AVENUE N AND 48TH STREET

Public Hearings 17, 18 and 19 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz for the annexation of property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southeast corner of Avenue N and 48th Street) and consider Resolution No. 2022-12.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2022-12 approving the application submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz for the annexation of property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Southeast corner of Avenue N and 48th Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2022-12

WHEREAS, an Application has been submitted by Miller & Associates for the City of Kearney and M.J. and Janis Shultz for the inclusion of a part of Northeast Public Service Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a 5/8" rebar at the Southwest Corner of the Northwest Quarter of Section 30; thence N 00°23'14" E on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1147.63 feet to the POINT OF BEGINNING; thence continuing N

00°23'14" E a distance of 66.00 feet; thence S 89°37'35" E a distance of 700.27 feet; thence S 00°25'02" W a distance of 66.00 feet; thence N 89°37'35" W a distance of 700.23 feet to the Point of Beginning, containing 1.06 acres more or less, all in Buffalo County, Nebraska (inclusion excludes Lot 2, Northeast Public Service Addition, and that part of 48th Street abutting said Lot 2 on the north); and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on November 19, 2021 on the inclusion of a part of Northeast Public Service Addition within the corporate limits for property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a 5/8" rebar at the Southwest Corner of the Northwest Quarter of Section 30; thence N 00°23'14" E on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1147.63 feet to the POINT OF BEGINNING; thence continuing N 00°23'14" E a distance of 66.00 feet; thence S 89°37'35" E a distance of 700.27 feet; thence S 00°25'02" W a distance of 66.00 feet; thence N 89°37'35" W a distance of 700.23 feet to the Point of Beginning, containing 1.06 acres more or less, all in Buffalo County, Nebraska (inclusion excludes Lot 2, Northeast Public Service Addition, and that part of 48th Street abutting said Lot 2 on the north) and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as part of Northeast Public Service Addition, an addition to the City of Kearney, Buffalo County, Nebraska (inclusion excludes Lot 2, Northeast Public Service Addition, and that part of 48th Street abutting said Lot 2 on the north); and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on January 11, 2022 who deemed the said property being part of Northeast Public Service Addition within the corporate limits described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a 5/8" rebar at the Southwest Corner of the Northwest Quarter of Section 30; thence N 00°23'14" E on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1147.63 feet to the POINT OF BEGINNING; thence continuing N 00°23'14" E a distance of 66.00 feet; thence S 89°37'35" E a distance of 700.27 feet; thence S 00°25'02" W a distance of 66.00 feet; thence N 89°37'35" W a distance of 700.23 feet to the Point of Beginning, containing 1.06 acres more or less, all in Buffalo County, Nebraska (inclusion excludes Lot 2, Northeast Public Service Addition, and that part of 48th Street abutting said Lot 2 on the north) be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as part of Northeast Public Service Addition (excluding Lot 2, Northeast Public Service Addition, and that part of 48th Street abutting said Lot 2 on the north) shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of a part of Northeast Public Service Addition (excluding Lot 2, Northeast Public Service Addition, and that part of 48th Street

abutting said Lot 2 on the north) within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meetings held December 14 and December 21, 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 \$1,347.10 smcs; Advanced Property \$3,800.00 smcs; Agri Coop \$260.59 smcs; Alfred Benesch \$102,114.07 co; All City Garage Door \$150.00 smcs; Amazon \$2,773.65 smcs; American Fence \$26,162.14 smcs,co; Anderson Ford \$28,040.00 co; Artisans Photography \$40.00 smcs; Ask Supply \$1,263.53 smcs; Atchison,J \$30.00 smcs; Aurora Coop \$6,026.48 smcs; AvFuel \$77,724.68 er, smcs; Baker & Taylor Books \$6,666.02 smcs; Baye,S \$75.00 co; Beisheim,J \$249.75 smcs; Beisheim,S \$594.00 smcs; Black Stone \$228.69 smcs; Blessing \$478,139.77 co; BlueCross BlueShield \$313,052.26 smcs; Bosselman Energy \$42,736.60 smcs; Broadfoot's \$60.00 smcs; Bryan Health \$183.93 smcs; Buffalo Co Register \$34.00 smcs; Buffalo Co Sheriff \$207,199.25 smcs; Builders \$41.14 smcs; Cal/Amp \$781.55 smcs; Camera Doctor \$75.00 smcs; Carolina Software \$650.00 co; Cash-Wa \$706.70 smcs; Center Point Large Print \$77.91 smcs; Central States Wire Prod \$6,283.55 smcs; Chesterman \$49.00 smcs; Christensen,K \$65.00 smcs; Cigna \$8,830.74 smcs; City of Ky \$52,860.90 smcs,co; City of Ky \$396,586.82 ps; Clear World \$8,720.00 co; Community Health Agency \$38.00 ps; Community Service Fund \$42.00 ps; Compute North \$131,777.17 smcs; Construction Rental \$34.10 smcs; Cordova,T \$112.00 smcs; Cottonmill Enterprises \$1,300.00 co; Co Line Striping \$1,200.00 smcs; Cutting Edge Cleaning \$105.00 smcs; D & M Security \$70.50 smcs; Dawson Public Power \$19,110.23 smcs; Depository Trust Company \$34,661.25 ds, co; Dish \$114.42 smcs; Dmilaco Sports \$359.60 smcs; DPC Industries \$7,857.84 smcs; Eakes \$676.56 smcs; Electronic Systems \$160.00 smcs; Elliott Equipment \$5,751.58 smcs; Family Practice \$2,493.00 ps; Farmers Union \$1,560.00 smcs; Frontier \$225.84 smcs; Gale \$4,708.07 smcs; Gametime \$2,680.95 co; Gaston,R \$235.00 smcs; GD Concrete \$13,856.78 co; GH Construction \$4,800.00 smcs; Grand West \$16,056.86 co; Greater NE Cities \$1,000.00 smcs; Grey House Publishing \$2,085.00 smcs; Hall Co. Airport Authority \$14,934.24 co; Hawthorne Jewelry \$2,150.00 ps; Highland Park \$5,328.84 smcs; HM Life Insurance \$42,336.66 smcs; Hometown

Leasing \$159.08 smcs; Hotsy Equipment \$108.00 smcs; Integrated Security \$480.00 smcs; IRS \$176,254.72 ps; Jack's Uniforms \$112.89 smcs; JB Concrete Pros \$10,625.00 smcs; Johnson Service \$2,887.50 smcs; Journey,B \$24.60 smcs; Ky Area Storytelling \$350.00 smcs; Ky Chamber Comm. \$250.00 smcs; Ky Concrete \$507.38 co; Ky Cultural Partners \$300.00 smcs; Ky Noon Rotary \$140.00 smcs; Ky Winlectric \$4,777.78 smcs; Konica Minolta \$1,037.15 smcs; Laughlin,K \$70.00 ps; Law Enf. Seminars \$1,155.00 smcs; Loomis, T \$198.00 smcs; Macqueen Equipment \$29,117.08 smcs,co; Magic Cleaning \$6,950.00 smcs; Marlatt Machine Shop \$61.64 smcs; Menards \$208.44 smcs,co; Messenger \$400.07 smcs; Mid-American Signal \$426.60 smcs; Midlands Contracting \$245,350.68 co; Mid-State Engineering \$2,187.50 co; Midwest Connect \$7,795.74 smcs; Midwest Petroleum \$3,767.51 smcs; Milco Environmental \$600.00 smcs; Miller & Associates \$76,687.25 co; Mission Square Retirement \$8,822.19 ps; Murphy Tractor \$1,425.91 smcs; NE Child Support \$1,764.50 ps; NE Dept of Revenue \$95,684.18 smcs,ps; NE Machinery \$798.70 smcs; Ne Public Health \$1,974.00 smcs; NE State Fire Marshal \$240.00 smcs; Netmotion Wireless \$7,350.77 smcs; New Deal Deicing \$9,360.00 smcs; Northwestern Energy \$5,969.61 smcs; OCLC \$779.76 smcs; Olsson \$3,344.75 co; One Call Concepts \$354.89 smcs; Otto Environmental \$9.00 smcs; Outdoor Recreation \$15,848.94 co; Paulsen \$366,394.13 co; Payflex Systems \$527.00 smcs,ps; Pep Co. \$287.34 smcs; Platinum Awards \$748.79 ps; Presto-X \$213.00 smcs; RDG Planning \$9,604.04 co; Resource Mgmt. \$2,684.40 smcs; Rinder Printing \$860.05 smcs; S&B Fencing \$220.00 smcs; Sawin,S \$169.99 smcs; School District 7 \$3,710.00 smcs; Schroer,J \$135.00 smcs; Schumacher Brothers \$570.00 smcs; See Clear Cleaning \$2,650.00 smcs; Shoutbomb \$402.00 smcs; Smoker Friendly \$913.00 smcs; Sonksen,A \$120.07 smcs; SOS Portable Toilets \$220.00 smcs; Staab,J \$336.00 smcs; State of NE \$57.96 smcs; Steinbrink's \$4,700.00 smcs; Stutsman \$7,041.00 smcs; Sumuri \$450.00 smcs; Superior \$12,500.00 smcs; Tour Edge \$866.00 smcs; Traffic Control \$800.00 smcs; Tri City Concrete \$55,628.90 co; Tri Co Equipment \$457.76 smcs; Tri Co Glass \$81.25 smcs; Union Bank & Trust \$97,475.30 smcs, ps; United Way \$268.76 ps; US Cellular \$150.00 smcs; Verizon \$7,180.66 co, smcs; Village Uniform \$177.38 smcs; W.T. Cox Subscriptions \$12,289.53 smcs; Waggoner Plumbing \$539.36 smcs; Wellmaster \$3,245.00 co; Wilkins Architecture \$53,465.60 co; Payroll Ending 01/01/2022 -- \$598,563.61. 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. Appointment of Jonathan Nikkila to serve on the Kearney Visitors Bureau, the appointment of Stanley Clouse and Bruce Lear to serve on the Buffalo County Economic Development Council, and the appointment of Jonathan Nikkila, Tami James Moore and Chuck Ogle to serve on the Joint Airport Zoning Board.

4. Adopt Resolution No. 2022-13 appointing City employee Brandon Shafto (License No. S-1572, Class A) to serve as the City Street Superintendent during January 1 thru December 31, 2022, with regard to requirements and duties with the Nebraska Department of Transportation as he has served in this capacity since November 6, 2015 and for the purpose of the 2022 calendar year Highway Incentive Payment, to be issued to the City of Kearney by the Nebraska Department of Transportation, in February 2023.

RESOLUTION NO. 2022-13

WHEREAS, City employee Brandon Shafto (License No. S-1572, Class A) will serve as the City Street Superintendent during January 1 thru December 31, 2022, with regard to requirements and duties with the Nebraska Department of Transportation, as he has served in this capacity since November 6, 2015; and

WHEREAS, City employee Brandon Shafto (License No. S-1572, Class A) will continue to serve as the City Street Superintendent for the purpose of the 2022 calendar year Highway Incentive Payment, to be issued to the City of Kearney by the Nebraska Department of Transportation, in February 2023.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, authorizes and approves City employee Brandon Shafto (License No. S-1572, Class A) to serve as the City Street Superintendent during January 1 thru December 31, 2022, with regard to requirements and duties with the Nebraska Department of Transportation, as he has served in this capacity since November 6, 2015; and for the purpose of the 2022 calendar year Highway Incentive Payment, to be issued to the City of Kearney by the Nebraska Department of Transportation, in February 2023.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

5. Adopt Resolution No. 2022-14 approving the Land Lease Agreement for between the City of Kearney and Air Methods Corporation authorizing the placement of a modular building for crew quarters on property located at 4851 Airport Road.

RESOLUTION NO. 2022-14

BE IT RESOLVED by the President and Council of the City of Kearney, that the President be and is hereby authorized and directed to execute the Land Lease Agreement between the City of Kearney, Nebraska and Air Methods Corporation authorizing the placement of a modular building for crew quarters on property located at 4851 Airport Road at the Kearney Regional Airport, a copy of the Agreement, marked as Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

6. Adopt Resolution No. 2022-15 approving Change Order No. 3 showing an increase in the amount of \$30,863.00, Application and Certificate for Payment No. 3-Final in the amount of \$109,818.47 and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete and approved by Olsson for the 2020 Part 2 Improvements; 31st Street from D Avenue to G Avenue.

RESOLUTION NO. 2022-15

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with 2020 Part 2 Improvements; 31st Street from D Avenue to G Avenue, and the City’s engineer, Olsson, have filed with the City Clerk Change Order No. 3 showing an increase to the contract sum in the amount of \$30,863.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Olsson have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$109,818.47 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 948,280.50
Change Order No. 1 (5/25/2021)	+ 18,440.00
Contract Sum To Date	966,720.50
Gross Amount Due	997,583.50
Retainage (0%)	- 0.00
Amount Due to Date	997,583.50
Less Previous Certificates for Payment	- 887,765.03
Current Payment Due	\$ 109,818.47

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of September 2, 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. 3, as shown on Exhibit “A”, Application and Certificate for Payment No. 3-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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

7. Accept the Bids received for the purchase of a new Armored Rescue/Tactical Vehicle used by the Kearney/Buffalo County Emergency Services Unit and award the Bid submitted by Lenco Industries, Inc. in the amount of \$331,190.

8. Adopt Resolution No. 2022-16 approving Application and Certificate for Payment No. 3 in the amount of \$29,790.50 submitted by Ensley Electrical Services and approved by Olsson for the Pedestrian Hybrid Beacons involving work associated with the construction of three (3) Pedestrian Hybrid Beacon’s (PHB) at 4-lane trail crossings at 11th Street, 30th Avenue, & 17th Avenue.

RESOLUTION NO. 2022-16

WHEREAS, Ensley Electrical Services of Grand Island, Nebraska has performed services in connection with the 2020 Pedestrian Hybrid Beacons involving work associated with the construction of three (3) Pedestrian Hybrid Beacon’s at 4-lane trail

crossings at 11th Street, 30th Avenue, & 17th Avenue, and the City’s engineer, Olsson, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$29,790.50 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 218,267.00</u>
Contract Sum To Date	218,267.00
Gross Amount Due	210,191.25
Retainage (10%)	<u>- 21,019.13</u>
Amount Due to Date	189,172.13
Less Previous Certificates for Payment	<u>- 159,381.63</u>
Current Payment Due	<u>\$ 29,790.50</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 is hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

9. Adopt Resolution No. 2022-17 approving Change Order No. 2 showing an increase in the amount of \$15,314.25, Application and Certificate for Payment No. 2-Final in the amount of \$170,867.75 and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete and approved by Olsson for 2021 Part 2 Improvements; Pony Express Road.

RESOLUTION NO. 2022-17

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with 2021 Part 2 Improvements; Pony Express Road, and the City’s engineer, Olsson, have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$15,314.25 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Olsson have filed with the City Clerk Application and Certificate for Payment No. 2-Final in the amount of \$170,867.75 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 294,626.00</u>
Contract Sum To Date	294,626.00
Gross Amount Due	309,940.25
Retainage (0%)	<u>- 0.00</u>
Amount Due to Date	309,940.25
Less Previous Certificates for Payment	<u>- 139,072.50</u>
Current Payment Due	<u>\$ 170,867.75</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 26, 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. 2, as shown on Exhibit "A", Application and Certificate for Payment No. 2-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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

10. Adopt Resolution No. 2022-18 approving Application and Certificate for Payment No. 1 in the amount of \$60,396.97 submitted by Dan Roeder Concrete and approved by Miller & Associates for 2022 Part 1 Improvements; 48th Street.

RESOLUTION NO. 2022-18

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with 2022 Part 1 Improvements; 48th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$60,396.97 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 796,683.00</u>
Contract Sum To Date	796,683.00
Gross Amount Due	67,107.74
Retainage (10%)	- 6,710.77
Amount Due to Date	60,396.97
Less Previous Certificates for Payment	<u>0.00</u>
Current Payment Due	\$ 60,396.97

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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

11. Adopt Resolution No. 2022-19 approving Change Order No. 2 showing a decrease in the amount of \$2,970.75, Application and Certificate for Payment No. 6-Final in the amount of \$30,444.07 and accept the Certificate of Substantial Completion submitted by Blessing Construction and approved by Miller & Associates for the 2020 Part 7 Improvements; Downtown Asphalt project.

RESOLUTION NO. 2022-19

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 Change Order No. 2 showing a decrease in the amount of \$2,970.75 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Blessing Construction and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 6-Final in the amount of \$30,444.07 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 447,590.00</u>
Change Order No. 1 (2/23/2021)	+ 305,834.25
Change Order No. 2 (1/11/2022)	<u>- 2,970.75</u>
Contract Sum To Date	750,453.50
Gross Amount Due	750,453.50
Retainage (0%)	<u>- 0.00</u>
Amount Due to Date	750,453.50
Less Previous Certificates for Payment	<u>- 720,009.43</u>
Current Payment Due	\$ 30,444.07

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of December 31, 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. 2, as shown on Exhibit “A”, Application and Certificate for Payment No. 6-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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

12. Adopt Resolution No. 2022-20 approving Application and Certificate for Payment Nos. 6 and 7 in the amounts of \$141,892.95 and \$380,108.30 submitted by RMV Construction and approved by Miller & Associates for the Wastewater Treatment Plant Phase II; Vehicle Storage Building.

RESOLUTION NO. 2022-20

WHEREAS, RMV Construction of Kearney, Nebraska has performed services in connection with the Wastewater Treatment Plant Phase II; Vehicle Storage Building, and the City’s engineer, Miller & Associates, have filed with the City Clerk Application and

Certificate for Payment No. 6 in the amount of \$141,892.95 and Application and Certificate for Payment No. 7 in the amount of \$380,108.30 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 1,516,900.00
Change Order No. 1 (10/26/2021)	- <u>2,724.00</u>
Contract Sum To Date	1,514,176.00
Gross Amount Due	1,359,135.00
Retainage (7.7%)	- <u>105,879.25</u>
Amount Due to Date	1,253,255.75
Less Previous Certificates for Payment	- <u>873,147.45</u>
Current Payment Due	\$ 380,108.30

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 Nos. 6 and 7, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

13. Adopt Resolution No. 2022-21 approving Application and Certificate for Payment No. 4 in the amount of \$220,747.55 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. 2022-21

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. 4 in the amount of \$220,747.55 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	893,470.89
Retainage (10%)	- <u>89,347.09</u>
Amount Due to Date	804,123.80
Less Previous Certificates for Payment	- <u>583,376.25</u>
Current Payment Due	\$ 220,747.55

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

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

14. Adopt Resolution No. 2022-22 approving Change Order No. 1 showing a decrease in the amount of \$1,761.00 and accept the Certificate of Substantial Completion submitted by Tri-City Concrete, LLC and approved by Miller & Associates for the Landfill Bypass Road Improvements.

RESOLUTION NO. 2022-22

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 Change Order No. 1 showing a decrease in the amount of \$1,761.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 31, 2021, as shown by Exhibit “B” 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” and the Certificate of Substantial Completion as shown on Exhibit “B” be and are hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

15. Adopt Resolution No. 2022-23 approving Change Order No. 2 showing a decrease in the amount of \$1,498.00, Application and Certificate for Payment No. 1-Final in the amount of \$139,062.00 and accept the Certificate of Substantial Completion submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2021 Cemetery North Addition; Phase I (Bid B, Storm Sewer).

RESOLUTION NO. 2022-23

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2021 Cemetery North Addition; Phase I (Bid B, Storm Sewer), and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing a decrease in the amount of \$1,498.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Midlands Contracting, Inc. and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$139,062.00 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 168,860.00
Change Order No. 1 (10/12/2021)	- 28,300.00

Change Order No. 2 (01/11/2022)	- <u>1,498.00</u>
Contract Sum To Date	\$ 139,062.00
Gross Amount Due	139,062.00
Retainage (0%)	<u>0.00</u>
Amount Due to Date	139,062.00
Less Previous Certificates for Payment	- <u>0.00</u>
Current Payment Due	\$ 139,062.00

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of December 20, 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. 2, 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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

16. Adopt Resolution No. 2022-24 approving Change Order No. 5 showing an increase in the amount of \$62,196.09 and Application and Certificate for Payment No. 13 in the amount of \$527,589.12 submitted by Brown Construction and approved by RDG Planning & Design for the construction of the Community Tennis Facility.

RESOLUTION NO. 2022-24

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 Change Order No. 5 showing an increase in the amount of \$62,196.09 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Brown Construction and RDG Planning & Design, have filed with the City Clerk Application and Certificate for Payment No. 13 in the amount of \$527,589.12 as shown on Exhibit "B" 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)	+ 23,028.06
Change Order No. 5 (01/11/2022)	<u>+ 62,196.09</u>
Contract Sum To Date	7,342,830.37
Gross Amount Due	6,172,192.22
Retainage (5%)	- <u>308,609.61</u>
Amount Due to Date	5,863,582.61

Less Previous Certificates for Payment	- 5,335,993.49
Current Payment Due	\$ 527,589.12

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. 5, as shown on Exhibit "A" and Application and Certificate for Payment No. 13, as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

17. Adopt Resolution No. 2022-25 approving the Agreement to Purchase Building between Gary and Mary McGee, husband and wife, and the City of Kearney for the purchase of a building located at 4595 Airport Road as building is currently leased on City owned property.

RESOLUTION NO. 2022-25

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the "Agreement to Purchase Building" between Gary T. McGee and Mary J. McGee, husband and wife, and the City of Kearney, a Nebraska Municipal Corporation for the City of Kearney's purchase of a building (previously held under a land lease) located on City of Kearney owned property at the Kearney Regional Airport located at 4595 Airport Road, more specifically described as building T-929, be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

18. Adopt Resolution No. 2022-26 approving the Standard Form of Agreement between Owner and Architect with RDG Planning & Design Inc. for design and construction engineering of the City of Kearney Indoor Sports Complex.

RESOLUTION NO. 2022-26

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 RDG Planning & Design Inc. for the purpose of providing architect design services and construction engineering of City of Kearney Indoor Sports Complex, 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 11TH DAY OF JANUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8550 AMENDING SECTION 8-919 "PARKING LIMITED FOR NONMOTORIZED VEHICLE" OF ARTICLE 9 "STOPPING, STANDING AND PARKING" OF CHAPTER 8 "POLICE"

Council Member Lear introduced Ordinance No. 8550 amending Section 8-919 "Parking Limited for Nonmotorized Vehicle" of Article 9 "Stopping, Standing and Parking" of Chapter 8 "Police" of the City Code to add definitions for a nonmotorized vehicle and a recreational vehicle and to add recreational vehicles under subsection B as a vehicle that is prohibited from parking on a public street for a period in excess of twenty-four (24) hours or for any other period of time in excess of permitted or authorized parking as specified by a posted sign and only for the purposes of loading and unloading, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8550. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8550 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8550 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8550 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 8551 AMENDING CHAPTER 1 "ADMINISTRATION" BY ADDING A NEW SECTION ENTITLED SECTION 1-1520 "POLITICAL SUBDIVISION CONSTRUCTION ALTERNATIVES ACT" TO ARTICLE 15 "PURCHASING"

Council Member Lear introduced Ordinance No. 8551 amending the Code of the City of Kearney adding a new section entitled Section 1-1520 "Political Subdivision Construction Alternatives Act" to Article 15 "Purchasing" of Chapter 1 "Administration", and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8551. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8551 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8551 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8551 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

STAFF PRESENTATION OF 2022 PROJECTS

Mayor Clouse opened Regular Agenda Item 5 for Council to receive the presentation from City staff on the 2021-2022 Project Overview. This presentation was for informational purposes only.

Michael Morgan, City Manager presented this item to Council. Mr. Morgan stated the Kearney Regional Airport reached 25,238 enplanements which is an all-time record by nearly 4,000 passengers. The Airport has went beyond rebounding from Covid to surpass where it was previously and where other cities were as well. He noted the City's Central Air Service contract is valid through August 31, 2023.

OPEN ACCOUNT CLAIM

Moved by Buschkoetter seconded by Nikkila that the Open Account Claim in the amount of \$8,560.99 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

CLOSED SESSION

Moved by Clouse seconded by Nikkila that Council adjourn into closed session at 6:11 p.m. for the protection of the public interest to discuss personnel matters. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

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

Moved by Buschkoetter seconded by Clouse that Council reconvene in regular session at 7:18 p.m. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Lear that Council adjourn at 7:18 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lear, Moore. Nay: None. Motion carried.

ATTEST:

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

**LAUREN BRANDT
CITY CLERK**