

Kearney, Nebraska
October 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 October 11, 2022 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Peggy Eynetich, Interim City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Tami James Moore and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Kayla James, Director of Finance; Brenda Jensen, Assistant City Manager; Tony Jelinek, Director of Utilities; Andy Harter, Director of Public Works and Dennis Byrne, Police Lieutenant, were also present.

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

I. ROUTINE BUSINESS

INVOCATION/MOMENT OF SILENCE

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

PLEDGE OF ALLEGIANCE

One Boy Scout from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONING OF PROPERTY LOCATED AT 4140 30TH AVENUE

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. for Jared and Mona Axmann, husband and wife, to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land being part of the Southeast Quarter of Section 28, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (4140 30th Avenue). At the request of the Applicant and Developers, Buffalo Surveying Corp. for Jared and Mona Axmann, these items have been requested to be further postponed to the October 25, 2022 City Council meeting.

Moved by Nikkila seconded by Moore to further postpone Public Hearing 1 pertaining to the rezoning of property located at 4140 30th Avenue to the October 25, 2022 City Council meeting. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

DEVELOPMENT OF FREEDOM HILLS ESTATES LOCATED AT 4140 30TH AVENUE

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. for Jared and Mona Axmann, husband and wife, for the Final Plat and Subdivision Agreement for Freedom Hill Estates, a subdivision being part of the Southeast Quarter of Section 28, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 28, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (4140 30th Avenue). At the request of the Applicant and Developers, Buffalo Surveying Corp. for Jared and Mona Axmann, these items have been requested to be further postponed to the October 25, 2022 City Council meeting.

Moved by Nikkila seconded by Moore to further postpone Public Hearing 2 pertaining to the development of Freedom Hills Estates located at 4130 30th Avenue to the October 25, 2022 City Council meeting. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

DEVELOPMENT OF HILLTOP MALL SUBDIVISION

Mayor Clouse opened the public hearing on the Applications submitted by Olsson for DROP-HT,LLC, (Robert Furley, Manager) for (1) the vacation of a tract of land located in Lot 2, Hilltop Mall Subdivision (to be vacated), to the City of Kearney and located in part of the Southwest Quarter of the Northwest Quarter of Section 25, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8601; and (2) the Final Plat for Hilltop Mall Third Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in Lot 2, Hilltop Mall Subdivision, to the City of Kearney, Buffalo County, Nebraska (to be vacated) located in part of the Southwest Quarter of the Northwest Quarter of Section 25, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (5011 2nd Avenue) and consider Resolution No. 2022-213.

Doug Stevenson with Olsson presented this matter to the Council. Mr. Stevenson stated the Developer's intention is to create a more usable tract of ground, and noted since Planning Commission's approval, an additional easement was added to the final plat on the southeast corner of the development at the request of Nebraska Public Power District (NPPD).

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the Applications submitted by Olsson for DROP-HT,LLC, (Robert Furley, Manager) and introduced Ordinance No. 8601 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. 8601. 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. 8601 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 Lear seconded by Buschkoetter that Ordinance No. 8601 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. 8601 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 Buschkoetter seconded by Clouse to adopt Resolution No. 2022-213 approving the Final Plat for Hilltop Mall Third Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in Lot 2, Hilltop Mall Subdivision, to the City of Kearney, Buffalo County, Nebraska (to be vacated) located in part of the Southwest Quarter of the Northwest Quarter of Section 25, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (5011 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-213

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Hilltop Mall Subdivision, to the City of Kearney, Buffalo County, Nebraska for property described as A tract of land located in Lot 2, Hilltop Mall Subdivision (now vacated), to the City of Kearney, Buffalo County, Nebraska, and located in part of the Southwest Quarter of the Northwest Quarter of Section 25, Township

9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Beginning at the Northwest corner of Lot 1, Block 2 of Skiview Addition to the City of Kearney, Buffalo County, Nebraska; thence on an assumed bearing of S00°21'37"E, along the West line of said Lot 1, Block 2, Skiview Addition, a distance of 141.99 feet; thence S00°31'40"E, along the West line of Lot 1, Block 2 Imperial Village Seventh Addition, a distance of 600.09 feet; thence S44°38'56"W, along the Northwesterly line of Block 7, Imperial Village Addition, a distance of 120.82 feet; thence S89°41'20"W, along the North line of Lot 1 and Lot 2, Hilltop Mall Second, a distance of 963.32 feet to a point on the East right of way line of 2nd Avenue; thence N00°15'17"W, along said East right of way line of 2nd Avenue, a distance of 20.00 feet; thence N89°41'47"E a distance of 100.00 feet; thence N00°18'13"W a distance of 80.00 feet to a point on the South line of Lot 4, Hilltop Mall Subdivision; thence N89°30'08"E, along said South line of Lot 4, Hilltop Mall Subdivision, a distance of 50.00 feet to the Southeast corner of said Lot 4, Hilltop Mall Subdivision; thence N00°18'21"W, along the East line of said Lot 4, Hilltop Mall Subdivision, a distance of 159.85 feet to a point being the Northeast corner of said Lot 4, Hilltop Mall Subdivision; thence S89°41'26"W, along the North line of said Lot 4, Hilltop Mall Subdivision, a distance of 149.93 feet to a point being the Northwest corner of said Lot 4, Hilltop Mall Subdivision and also a point being on said East right of way line of 2nd Avenue; thence N00°19'55"W, along said East right of way line of 2nd Avenue, a distance of 195.01 feet; thence N89°43'12"E a distance of 184.14 feet; thence N00°16'20"W a distance of 166.45 feet; thence N47°55'35"W a distance of 74.10 feet to a point on the Southerly right of way line of East 52nd Street and also being a point of curvature; thence around a curve in a counter clockwise direction, along said Southerly right of way line of East 52nd Street, having a delta angle of 21°29'05", having a radius of 283.00 feet, and a chord bearing N55°01'58"E a chord distance of 105.50 feet; thence N44°19'10"E, along said Southerly right of way line of East 52nd Street, a distance of 40.18 feet to a point of curvature; thence around a curve in a clockwise direction, along said Southerly right of way line of East 52nd Street, having a delta 45°03'06", having a radius of 217.00 feet, and chord bearing N66°52'47"E a chord distance of 166.27 feet; thence N89°24'20"E, along said Southerly right of way line of East 52nd Street, a distance of 648.48 feet to the point of beginning. Said tract contains a calculated area of 754,332 square feet or 17.317 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.

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 OCTOBER, 2022.

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

DEVELOPMENT OF BROWN TRANSFER ADDITION

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for Dwayne Brown and Gaylene Aden for (1) the vacation of a tract of land located in Lot 1, Brown Transfer Addition, an addition to the City of Kearney, Buffalo County, Nebraska, being part of the Northeast Quarter of the Northeast Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8602; and (2) the Final Plat and Subdivision Agreement for Brown Transfer Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as Lot 1, Brown Transfer Addition, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated) (southwest corner of 11th Street and Avenue M) and consider Resolution No. 2022-214.

Craig Bennet with Miller & Associates presented this matter to the Council. Mr. Bennett stated the Developers are requesting to divide the current lot into three separate lots; zoning will remain the same. Two of the proposed lots will be used for future development with the third lot providing stormwater detention to the existing development in the area.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Applications submitted by Miller & Associates for Dwayne Brown and Gaylene Aden and introduced Ordinance No. 8602 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. 8602. 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. 8602 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 Nikkila seconded by Moore that Ordinance No. 8602 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. 8602 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 Moore seconded by Lear to adopt Resolution No. 2022-214 approving the Final Plat and Subdivision Agreement for Brown Transfer Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as Lot 1, Brown Transfer Addition, an addition to the City of Kearney, Buffalo County, Nebraska (to be

vacated) (southwest corner of 11th Street and Avenue M). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2022-214

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Brown Transfer Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land located in Lot One (1), Brown Transfer Addition, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), and more particularly as follows: Commencing at a 5/8" rebar w/aluminum cap [at the Northeast corner of the Northeast Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence N 88°53'34" W on the North line of said Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 40.01 feet to the Northerly extension of the West line of Avenue M as dedicated in Brown Transfer Addition; thence S 00°06'35" E on said Northerly extension a distance of 66.01 feet to a 5/8" rebar w/cap on the South line of 11th Street and the POINT OF BEGINNING; thence continuing S 00°06'35" E on said West line of Avenue M a distance of 470.11 feet to a 5/8" rebar w/cap at the Southeast corner of Lot 1 (to be vacated) and the South line of said Brown Transfer Addition; thence N 88°53'36" W on said South line a distance of 293.05 feet to a 5/8" rebar at the Southeast corner of Lot 2 of said Brown Transfer Addition; thence N 00°06'06" W on the East line of said Lot 2 a distance of 470.11 feet to a mag nail & ID washer at the Northeast corner of said Lot 2 and said South line of 11th Street; thence S 88°53'34" E on said South line of 11th Street a distance of 293.00 feet to the Point of Beginning. Containing 3.16 acres, more or less, 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 OCTOBER, 2022.

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A 60.00-FOOT PERMANENT RIGHT-OF-WAY & UTILITY EASEMENT GRANTED BY FOX CREEK DEVELOPMENT, LLC

Public Hearings 5 through 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 60.00-Foot

Permanent Right of Way and Utility Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company for a tract of land 60.00 feet wide being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (dedicated for Permanent Right of Way & Utility Easement purposes).

Anton Jelinek, Director of Utilities presented this matter to the Council. Mr. Jelinek stated the permanent easements for Arbor View Second Development include, water, sanitary sewer and right-of-way easements. He explained there is also a Developer Constructed Infrastructure Agreement on the Consent Agenda related to the easements.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2022-215 approving the proposed acquisition for a 60.00-Foot Permanent Right of Way and Utility Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company for a tract of land 60.00 feet wide being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (dedicated for Permanent Right of Way & Utility Easement purposes). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-215

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, Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company, has granted to the City of Kearney, Nebraska a Permanent Right-of-Way and Utility Easement as follows:

60.00-FOOT PERMANENT RIGHT-OF-WAY & UTILITY EASEMENT

A tract of land 60.00 feet wide being part of the South Half of the Northwest of Section 19, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska, dedicated for Permanent Right-of-Way & Utility Easement purposes. Said 60.00 feet wide Permanent Right-of-Way & Utility Easement to be 30.00 feet on each side of following described centerline: Commencing at the Southwest corner of the South Half of the Northwest Quarter of Section 19; thence N 00°14'22" E on the West line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 976.72 feet to the centerline of 65th Street in Kearney, Buffalo County, Nebraska; thence S 89°42'02" E on said centerline a distance of 410.00 feet; thence S 00°14'22" W a distance of 30.00 feet to the South line of said 65th Street and the POINT OF BEGINNING; thence continuing S 00°14'22" W a distance of 23.40 feet; thence Southeasterly on a tangent curve to the Left having a central angle of 51°04'01", a radius of 200.00 feet, an arc length of 178.26 feet, and a chord bearing of S 25°17'38" E a distance of 172.42 feet; thence S 50°49'39" E a distance of 761.33 feet; thence Southeasterly on a tangent curve to the

Left having a central angle of 38°54'27", a radius of 200.00 feet, an arc length of 135.81 feet, and a chord bearing of S 70°16'52" E a distance of 133.22 feet; thence S 89°44'06" E a distance of 147.86 feet to the Point of Termination. The side lines of said 60.00 feet wide Permanent Right-of-Way & Utility Easement to be lengthened or shortened to form a continuous strip. Said 60.00 feet wide Permanent Right-of-Way & Utility Easement contains 1.72 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 Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, 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 OCTOBER, 2022.

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A STORM WATER DETENTION CELL EASEMENT GRANTED BY FOX CREEK DEVELOPMENT, LLC

Public Hearings 5 through 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a Storm Water Detention Cell Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company for a tract of land being part of the South Half of the Northwest Quarter of Section 19 Township 9 North, Range 15 West of the 6th P.M. Buffalo County, Nebraska, (dedicated for Storm Water Detention Cell Easement purposes).

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2022-216 approving the proposed acquisition for a Storm Water Detention Cell Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company for a tract of land being part of the South Half of the Northwest Quarter of Section 19 Township 9 North, Range 15 West of the 6th P.M. Buffalo County, Nebraska, (dedicated for Storm Water Detention Cell Easement purposes). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-216

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 Storm Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company, has granted to the City of Kearney, Nebraska a Permanent Storm Sewer Easement as follows:

STORM WATER DETENTION CELL EASEMENT

A tract of land being part of the South Half of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska, dedicated for Storm Water Detention Cell Easement purposes and more particularly described as follows: Commencing at the Southwest corner of the South Half of the Northwest Quarter of Section 19; thence S 89°44'06" E on the South line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 1164.26 feet to the Southeast corner of Outlot B, Starostka Estates Addition, to the City of Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing S 89°44'06" E on said South line of the Northwest Quarter a distance of 525.74 feet; thence N 00°14'22" E a distance of 75.00 feet; thence N 89°44'06" W parallel with said South line a distance of 355.83 feet; thence N 00°14'22" E a distance of 140.00 feet; thence N 89°44'06" W parallel with said South line a distance of 5.00 feet; thence S 00°14'22" W a distance of 140.00 feet; thence N 89°44'06" W parallel with said South line a distance of 172.42 feet; thence S 07°14'46" W a distance of 63.18 feet to the Northeasterly line of said Outlot B; thence S 50°50'00" E on said Northeasterly line of said Outlot B a distance of 19.56 feet to the Point of Beginning. Said Storm Water Detention Cell Easement contains 0.94 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 Storm Water Detention Cell Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, 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 of the Council are hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor of the Council deems reasonable or necessary.

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A 30.00 FOOT WATER, SANITARY AND STORM EASEMENT GRANTED BY FOX CREEK DEVELOPMENT, LLC

Public Hearings 5 through 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 30.00-Foot Water, Sanitary and Storm Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company for a strip of land 30.00 feet wide being part of Government Lot 2 of Section 19, Township 9 North, Range 15

West of the 6th P.M., Buffalo County, Nebraska (dedicated for Water, Sanitary Sewer and Storm Sewer Easement purposes).

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2022-217 approving the proposed acquisition for a 30.00-Foot Water, Sanitary and Storm Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company for a strip of land 30.00 feet wide being part of Government Lot 2 of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (dedicated for Water, Sanitary Sewer and Storm Sewer Easement purposes). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-217

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 Storm Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company, has granted to the City of Kearney, Nebraska a Permanent Storm Sewer Easement as follows:

30.00 FOOT WATER, SANITARY AND STORM EASEMENT

A strip of land 30.00 feet wide being part of Government Lot 2 of Section 19, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska, dedicated for Water, Sanitary & Storm Easement purposes. Said 30.00 feet wide Water, Sanitary & Storm Easement to be 15.00 feet on each side of following described centerline: Commencing at the Southwest corner of Government Lot 2 of Section 19; thence S 89°44'06" E on the South line of said Government Lot 2, and all bearings contained herein are relative thereto, a distance of 1144.04 feet; thence N 07°08'01" E a distance of 14.98 feet to the Northeasterly line of Outlot B, Starostka Estates Addition, to the City of Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing N 07°08'01" E a distance of 203.81 feet to the Point of Termination. The side lines of said 30.00 feet wide Water, Sanitary & Storm Easement to be lengthened or shortened to form a continuous strip. Said 30.00 feet wide Water, Sanitary & Storm Easement contains 0.14 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 30.00 Foot Water, Sanitary and Storm Easement granted by Timothy J. Norwood Sr., Member of Fox Creek Development, LLC, 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 of the Council are hereby authorized to make such minor changes, additions or deletions to the legal description as

the Mayor of the Council deems reasonable or necessary.

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A 20.00 FOOT WATER LINE EASEMENT GRANTED BY EASTBROOKE HOMEOWNERS ASSOCIATION

Public Hearings 5 through 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 20.00-foot Wide Water Line Easement granted by Brent Kreutzer, HOA President of Eastbrooke Homeowners' Association, a Nebraska Nonprofit Corporation for a tract of land 20.00 feet wide being part of Outlot B, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska, (dedicated for Water Line Easement purposes).

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2022-218 approving the proposed acquisition for a 20.00-foot Wide Water Line Easement granted by Brent Kreutzer, HOA President of Eastbrooke Homeowners' Association, a Nebraska Nonprofit Corporation for a tract of land 20.00 feet wide being part of Outlot B, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska, (dedicated for Water Line Easement purposes). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-218

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 Storm Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Brent Kreutzer, HOA President of Eastbrooke Homeowners' Association, a Nebraska Nonprofit Corporation, has granted to the City of Kearney, Nebraska a Permanent Storm Sewer Easement as follows:

20.00 FOOT WATER LINE EASEMENT

A tract of land 20.00 feet wide being part of Outlot B, Block 2, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Water Line Easement purposes. Said 20.00 feet wide Water Line Easement to be 10.00 feet on each side of following described centerline: Commencing at the Northwest corner of the North Half of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; thence S 89°44'06" E on the North line of said Southwest Quarter, and all bearings contained herein are relative thereto, a distance of 1130.43 feet to the POINT OF BEGINNING; thence S 07°15'16" W a distance of 152.83 feet; thence

S 20°51'56" E a distance of 82.76 feet; thence S 69°28'16" W a distance of 9.14 feet to the Northeasterly line of Lot 5, Eastbrooke Seventh, an addition to the City of Kearney, Buffalo County, Nebraska and the Point of Termination. The side lines of said 20.00 feet wide Water Line Easement to be lengthened or shortened to form a continuous strip. Said 20.00 feet wide Water Line 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 20.00 Foot Water Line Easement granted by Brent Kreutzer, HOA President of Eastbrooke Homeowners' Association, a Nebraska Nonprofit Corporation, 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 of the Council are hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor of the Council deems reasonable or necessary.

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

PROPOSED ACQUISITION OF PROPERTY FOR A SANITARY, WATER & STORM EASEMENT GRANTED BY STAROSTKA GROUP UNLIMITED, INC.

Public Hearings 5 through 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for Sanitary, Water and Storm Easement granted by Danny Starostka Owner/President of Starostka Group Unlimited, Inc., a Nebraska Corporation for a tract of land being part of Outlot B, in Starostka Estates Addition, to the City of Kearney, Buffalo County, Nebraska (dedicated for Sanitary, Water and Storm Easement purposes).

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2022-219 approving the proposed acquisition for Sanitary, Water and Storm Easement granted by Danny Starostka Owner/President of Starostka Group Unlimited, Inc., a Nebraska Corporation for a tract of land being part of Outlot B, in Starostka Estates Addition, to the City of Kearney, Buffalo County, Nebraska (dedicated for Sanitary, Water and Storm Easement purposes). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-219

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 Storm Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Danny Starostka Owner/President of Starostka Group Unlimited, Inc., a Nebraska Corporation, has granted to the City of Kearney, Nebraska a Permanent Storm Sewer Easement as follows:

SANITARY, WATER & STORM EASEMENT

A tract of land being part of Outlot B, in Starostka Estates Addition, to the City of Kearney, Buffalo County, Nebraska, dedicated for Sanitary, Water & Storm Easement purposes and more particularly described as follows: Commencing at the Southwest corner of Government Lot 2 of Section 19, Township Nine (9) North, Range Fifteen (15) West of the 6th Principal Meridian, Buffalo County Nebraska; thence S 89°44'06" E on the South line of said Northwest Quarter and on the South line of said Starostka Estates Addition, and all bearings contained herein are relative thereto, a distance of 1054.85 feet to the Southwest corner of said Outlot B and the POINT OF BEGINNING; thence continuing S 89°44'06" E on the South line of Outlot B a distance of 109.41 feet to the Southeast corner of said Outlot B; thence N 50°50'00" W on the Northeasterly line of said Outlot B a distance of 47.54 feet; thence S 77°17'28" W a distance of 86.62 feet to the Southwesterly line of said Outlot B; thence S 48°47'39" E on said Southwesterly line a distance of 15.89 feet to the Point of Beginning. Said Sanitary, Water & Storm Easement contains 0.05 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 Sanitary, Water & Storm Easement granted by Danny Starostka Owner/President of Starostka Group Unlimited, Inc., a Nebraska Corporation, 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 of the Council are hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor of the Council deems reasonable or necessary.

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held September 27, 2022.
2. Approve the following Claims:
 - PS Personnel Services
 - SMCS Supplies, Materials & Contractual Services
 - ER Equipment Rental

CO	Capital Outlay
DS	Debt Service

Acme Rentals \$15.00 smcs; Alfred Benesch \$21,172.38 co; Aramark \$92.69 smcs; Ask Supply \$387.39 smcs; Aurora Coop \$32.00 smcs; AvFuel \$167,473.74 smcs,er; Ayers, D \$15.23 smcs; Baker & Taylor \$3,567.65 smcs; Bamford \$269.31 smcs; Bartling, N \$9.82 smcs; Beard, C \$20.00 smcs; Behn, A \$100.00 smcs; Beyer, T \$36.75 smcs; Bibler, M \$101.30 smcs; Boehler, C \$60.00 smcs; Borges, T \$14.12 smcs; Buffalo Co. Register \$126.00 smcs; Builders \$773.82 smcs,co; Cabela's \$17,027.29 smcs; Cal/Amp \$781.55 smcs; Carolina Software \$650.00 smcs; Cash-Wa \$4,150.63 smcs; Central Comm. College \$300.00 smcs; Certified Power \$1,797.63 smcs; Chesterman \$605.00 smcs; Churchich Recreation \$264.00 co; Ciox \$20.00 smcs; Citizenserve \$23,400.00 smcs; City of KY \$612,393.00 smcs,ps; Civic Plus \$15,061.30 smcs; Comcate \$2,510.54 smcs; Comm Act Part of Mid NE \$1,697.00 smcs; Comm Serv Fund of NE \$9.00 ps; Comm. Health Agencies \$54.00 ps; Compute North \$274,701.58 smcs; Copycat Printing \$292.64 smcs; Country Partners \$27,241.20 smcs; Cummins \$1,842.73 smcs; Daniel, T \$3.35 smcs; Danko Emergency \$530.91 smcs; Davidson Plumbing \$23.28 smcs; Dawson Public Power \$3,833.76 smcs; Delazco, D \$49.24 smcs; Delehant, K \$62.40 smcs; Dell \$3,070.45 co; Depository Trust \$80,521.25 ds; DPC Industries \$11,551.57 smcs; Eagle Distributing \$656.45 smcs; Eakes \$360.09 smcs; Economic Development \$186,250.00 smcs; Ed M. Feld Equipment \$3,905.97 smcs; Engineered Controls \$399.10 smcs; Family Practice \$312.00 ps; Fiddelke Heating & A/C \$10,429.00 smcs; Flint Hills Fire \$968.60 smcs; Fountain Hills Property \$22.26 smcs; Fox Creek Development \$15,354.11 co; Frontier \$222.45 smcs; Gale \$609.22 smcs; General Traffic Controls \$1,960.00 smcs; Gesinski, A \$1,200.00 smcs; Goos, M \$41.92 smcs; Gorman, L \$71.52 smcs; Graczyk Lawn \$1,532.04 smcs; Greater NE Cities \$1,000.00 smcs; Grimes, V \$38.33 smcs; Hamling, S \$21.34 smcs; Handy Andy Rentals \$99.36 smcs; Hill, L \$194.13 smcs; HM Life Insurance Co. \$44,213.48 smcs; HOA Solutions \$352.20 smcs; Ingersoll Rand \$2,649.00 smcs; IRS \$185,277.24 ps; Jack's Uniforms \$211.99 smcs; Jarzynka, M \$43.36 smcs; John T. Jones Construction \$243,000.00 co; Johnson, D \$44.40 smcs; Johnson, J \$19.23 smcs; Jurado, M \$46.87 smcs; Kalb, E \$63.03 smcs; KY Noon Rotary \$140.00 smcs; KY Winlectric \$4,341.59 smcs; Keller, J \$49.70 smcs; Kirkham M \$7,500.00 smcs; Konica Minolta \$801.78 smcs; Kounovsky-Shafer, K \$400.00 smcs; Kritzer, J \$44.17 smcs; Kucera Painting \$2,200.00 smcs; Ladd, A \$150.00 smcs; Lincoln National Life Ins. \$10,084.26 smcs; Lindner, L \$189.00 smcs; Loeffelholz, J \$45.00 smcs; Luther, A \$30.00 smcs; Magic Cleaning \$6,950.00 smcs; Martinez, E \$31.61 smcs; McCartney, E Chpt 13 \$227.00 ps; McDowell, J \$150.00 smcs; Menards \$332.05 smcs; Meridian A. \$40.33 smcs; Microfilm Imaging Systems \$1,040.00 smcs; Midwest Connect \$8,865.63 smcs; Midwest Petroleum \$1,070.63 smcs; Miller & Associates \$95,005.98 smcs,co; Miner, L \$76.10 smcs; Mission Square \$7,600.43 ps; Molina, J \$45.06 smcs; Monie, Grant & Sandy \$10.62 smcs; Morgan, Michael \$775.93 smcs; Mostek Electric \$913.18 smcs; Motorola \$27,819.00 smcs,co; Municipal Supply \$16,282.13 smcs; NE Child Support \$2,063.12 ps; NE Dept of Revenue \$94,521.02 ps; NE Dept. Environment \$150.00 smcs; NE Dept. of Veterans' \$70,000.00 smcs; NE Safety & Fire Equip \$165.00 smcs; Nebraskaland Distributors \$1,460.53 smcs; Niba, S \$47.37 smcs; Nichols, L \$50.85 smcs; Nielsen Kids U-Pick Pumpkins \$150.00 smcs; Northwest Electric \$2,400.00 smcs; Northwestern Energy \$4,573.43 smcs; Oak Creek Engineering \$9,925.00 co; Old West Gun Shop \$118.23 smcs; Olsson \$33,835.85 co; One Call Concepts \$807.72 smcs;

Onyx Blasting & Coating \$127,326.50 co; Overhead Door \$186.28 smcs; Peerless Machine & Mfg \$13,646.57 smcs; Pep Co. \$250.00 smcs; Peterson, L \$59.46 smcs; Pinnacle Bank \$66.04 smcs; Plinkett, R \$50.00 smcs; Presto-X \$140.10 smcs; Rasmussen Mechanical \$2,386.11 smcs; Rasmussen, R \$41.45 smcs; Reicheneker, S \$36.55 smcs; Reising, L \$52.20 smcs; RMV Construction \$524,180.80 co; Rock It \$631.30 smcs; Ronnberg, P \$48.55 smcs; Rudenick, J \$4.00 smcs; Safelite Auto Glass \$484.98 smcs; Schmidt, J \$34.55 smcs; School District #7 \$3,560.00 smcs; See Clear Cleaning \$6,447.50 smcs; SG Leasing \$49.70 smcs; Shredding Solutions \$62.63 smcs; Sickler, J \$75.49 smcs; Sierra Wireless \$432.76 co; Sign Center \$2,890.00 smcs; Sirsi Corporation \$38,632.48 smcs; Smith, Ryan & Megan \$65.00 smcs; Solus UK LTD \$4,485.00 smcs; Sorenson, D \$50.27 smcs; SOS Portable Toilets \$358.00 smcs; Spies, H \$34.08 smcs; Stevens, R \$40.36 smcs; Stitch 3 \$118.00 smcs; Stumbough, S \$7.18 smcs; Stutsman \$1,098.00 smcs; Tennant Company \$562.90 smcs; Thompson, A \$24.04 smcs; TK Elevator \$496.60 smcs; Tourney, S \$84.98 smcs; Trade Well Pallet \$2,070.00 smcs; Tri Co Glass \$1,442.50 smcs; Twin City Hardware \$628.56 smcs,co; Tye & Rowling \$15,069.70 smcs; Underground Const. \$2,451.32 smcs; Union Bank & Trust \$97,981.70 ps; United Way of KY \$303.00 ps; Victor Outdoor Advertising \$16,800.00 smcs; Village Uniform \$213.40 smcs; Volquartsen, J \$50.27 smcs; Voshell, M \$45.77 smcs; Walsh, Jason & Christy \$42.48 smcs; Warren-T Plumbing \$720.00 smcs; Willis, H \$21.34 smcs; Wisch, C \$8.74 smcs; Yendra, M \$50.73 smcs; Young, J \$10.00 smcs; The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

- 3. Adopt Resolution No. 2022-220 approving the update to the City of Kearney City Council Agenda Submission Deadline Policy.

RESOLUTION NO. 2022-220

WHEREAS, it has been determined that a City of Kearney policy, established in December 2019 that set deadlines for the submission of items to be placed on the City Council Agenda to be received by the City Clerk’s Office, needed to be updated.

WHEREAS, the City Council have reviewed the updated policy and determined it to be appropriate.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the “City of Kearney City Council Agenda Submission Deadline Policy” be and is hereby updated. A copy of the updated Policy, marked as Exhibit “A”, is attached hereto and made a part hereof.

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

ATTEST:
 PEGGY EYNETICH
 INTERIM CITY CLERK

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

- 4. Adopt Resolution No. 2022-221 approving Change Order No. 3 showing an increase in the amount of \$395.00 and Application and Certificate for Payment No. 4 in the amount of \$514,180.80 submitted by RMV Construction and approved by Wilkins ADP for the Yanney Heritage Park Pavilion and Parking Lot.

RESOLUTION NO. 2022-221

WHEREAS RMV Construction, LLC of Kearney, Nebraska has performed services in connection with Yanney Heritage Park Pavilion and Parking Lot, and the City's architect, Wilkins ADP, have filed with the City Clerk Change Order No. 3 showing an increase in the amount of \$395.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, RMV Construction, LLC and Wilkins ADP have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$514,180.80 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 3,653,600.00
Change Order No. 1 (7-26-2022)	+ 23,433.00
Change Order No. 2 (9-13-2022)	+ 7,883.00
Change Order No. 3 (10-11-2022)	+ <u>395.00</u>
Contract Sum To Date	3,695,311.00
Gross Amount Due	962,780.00
Retainage (10%)	- <u>96,278.00</u>
Amount Due to Date	866,502.00
Less Previous Certificates for Payment	- <u>352,321.20</u>
Current Payment Due	\$ 514,180.80

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" and Application and Certificate for Payment No. 4, as shown on Exhibit "B" be and are hereby accepted and approved.

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

ATTEST:
 PEGGY EYNETICH
 INTERIM CITY CLERK

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

5. Adopt Resolution No. 2022-222 approving Change Order No. 4 showing an increase in the amount of \$13,796.00 and Change Order No. 5 showing an increase in the amount of \$5,197.00 and Application and Certificate for Payment No. 4 in the amount of \$205,347.60 submitted by RMV Construction and approved by Wilkins ADP for the Harmon Park Sonatorium Restoration.

RESOLUTION NO. 2022-222

WHEREAS RMV Construction, LLC of Kearney, Nebraska has performed services in connection with Harmon Park Sonatorium Restoration, and the City's architect, Wilkins ADP, have filed with the City Clerk Change Order No. 4 showing an increase in the amount of \$13,796.00 as shown on Exhibit "A" and Change Order No. 5 showing an increase in the amount of \$5,197.00 as shown on Exhibit "B" attached hereto and made a part hereof by reference; and

WHEREAS, RMV Construction, LLC and Wilkins ADP have filed with the City

Clerk Application and Certificate for Payment No. 4 in the amount of \$205,347.60 as shown on Exhibit “C” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 1,301,400.00</u>
Change Order No. 1 (12-21-2021)	- 97,325.00
Change Order No. 2 (7-26-2022)	+ 3,566.00
Change Order No. 3 (09-13-2022)	+ 12,401.00
Change Order No. 4 (10-11-2022)	+ 13,796.00
Change Order No. 5 (10-11-2022)	<u>+ 5,197.00</u>
Contract Sum To Date	1,239,035.00
Gross Amount Due	576,643.00
Retainage (10%)	<u>57,664.30</u>
Amount Due to Date	518,978.70
Less Previous Certificates for Payment	- 313,631.10
Current Payment Due	<u>\$ 205,347.60</u>

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. 4, as shown on Exhibit “A” and Change Order No. 5 as shown on Exhibit “B” and Application and Certificate for Payment No. 4, as shown on Exhibit “C” be and are hereby accepted and approved.

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

ATTEST:
 PEGGY EYNETICH
 INTERIM CITY CLERK

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

6. Approve the Plans and Specifications for Harmon Pool Bathhouse Modifications and set the bid opening date for November 1, 2022 at 2:00 p.m.
7. Adopt Resolution No. 2022-223 adopting the Central Platte Natural Resources District Multi-Jurisdiction Hazard Mitigation Plan Update.

RESOLUTION NO. 2022-223

WHEREAS, the Federal Disaster Mitigation Act of 2000 was signed in to law on October 30, 2000, placing new emphasis on state and local mitigation planning for natural hazards and requiring communities to adopt a hazard mitigation action plan to be eligible for pre-disaster and post-disaster federal funding for mitigation purposes; and

WHEREAS, a Multi-Jurisdictional Hazard Mitigation Plan was prepared by the Central Platte Natural Resources District (NRD), with assistance from JEO Consulting Group, Inc.; and

WHEREAS, the purpose of the mitigation plan was to lessen the effects of disasters by increasing the disaster resistance of the counties and participating jurisdictions located within the planning boundary by identifying the hazards that affect the City of Kearney and prioritize mitigation strategies to reduce potential loss of life and property damage from those hazards, and

WHEREAS, FEMA regulations require documentation that the plan has been formally adopted by the governing body of the City of Kearney in the form of a resolution and further requesting approval of the plan at the Federal Level.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, does herewith adopt the most recent and FEMA approved version of the Central Platte NRD Multi-Jurisdictional Hazard Mitigation Plan Update in its entirety.

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

8. Adopt Resolution No. 2022-224 authorizing the City Manager and Director(s) of Finance to sign checks, drafts or other withdrawal orders issued against the funds of the City on deposit with designated depositories.

RESOLUTION NO. 2022-224

WHEREAS, the President and City Council have determined that it is appropriate and proper to designate various banks as depositories for funds of the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the following banks be and are hereby designated as city depository banks:

- Wells Fargo Bank Nebraska, N.A.
- 1st National Bank
- Farmers & Merchants Bank
- US Bank
- Exchange Bank
- Great Western Bank
- Five Points Bank
- Heartland Bank
- Bank of the West
- FirstTier Bank
- NebraskaLand National Bank
- Pinnacle Bank
- Bruning Bank

However, such designation as a City depository shall not be exclusive and shall not be determined in any way to constitute a franchise to the exclusion of other designated depositories.

BE IT FURTHER RESOLVED by the President and City Council of the City of Kearney, Nebraska that checks, drafts or other withdrawal orders issued against the funds of the City on deposit with said depositories be signed by any one of the following who now hold offices or positions with the City:

Michael W. Morgan, City Manager
Wendell R. Wessels, Director of Finance

Kayla D. James, Director of Finance

BE IT FURTHER RESOLVED that all resolutions and parts of resolutions in conflict herewith are hereby repealed and that Resolution No. 2022-79 is hereby specifically rescinded and repealed.

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

9. Adopt Resolution No. 2022-225 approving the Agency Agreement between the City of Kearney and the Nebraska Department of Transportation (NDOT), Aeronautics Division for Project No. 3-31-0045-036-2022 (in connection with the Terminal Expansion project at the Kearney Regional Airport) allowing the NDOT, Aeronautics Division to act as the City’s agent for the project.

RESOLUTION NO. 2022-225

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH NEBRASKA DEPARTMENT OF TRANSPORTATION, AERONAUTICS DIVISION FOR PROJECT NO. 3-31-0045-036-2022 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT.

BE IT RESOLVED by the President and members of the Council of the City of Kearney, Nebraska, that:

1. The City of Kearney shall enter into an Agency Agreement with the Department of Transportation, Aeronautics Division for Project No. 3-31-0045-036-2022 for the purpose of obtaining Federal assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.

2. The President of the Council, of the City of Kearney is hereby authorized and directed to execute said Agency Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest said execution.

3. The said Agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit “O”.

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

10. Accept the bids received for the purchase of a Front Load Refuse Compactor Truck to be used in the Sanitation Division of the Utilities Department and award the bid to Elliott Sanitation Equipment Co. in the amount of \$303,226.52.

11. Adopt Resolution No. 2022-226 approving Application and Certificate for Payment No. 4 in the amount of \$117,208.17 submitted by Wilke Contracting Corp. and approved by Oak Creek Engineering for the 2020 Part 3 Improvements; 2nd Avenue Overpass Extension Joint Repair.

RESOLUTION NO. 2022-226

WHEREAS, Wilke Contracting Corp. of Kearney, Nebraska has performed services in connection with the 2020 Part 3 Improvements; 2nd Avenue Overpass Extension Joint Repair, and the City’s engineer, Oak Creek Engineering, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$117,208.17 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 915,169.05
Change Order No. 1 (9/13/22)	<u>+ 121,193.00</u>
Contract Sum To Date	1,036,362.05
Gross Amount Due	637,460.84
Retainage (10%)	<u>- 63,746.08</u>
Amount Due to Date	573,714.76
Less Previous Certificates for Payment	<u>- 456,506.59</u>
Current Payment Due	\$ 117,208.17

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 OCTOBER, 2022.

ATTEST:
 PEGGY EYNETICH
 INTERIM CITY CLERK

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

12. Adopt Resolution No. 2022-227 approving the Developer Constructed Infrastructure Agreement for Arbor View Second; 63rd Street between the City of Kearney and Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company for the construction of water, sanitary sewer, paving and storm sewer to serve Arbor View Second; 63rd Street.

RESOLUTION NO. 2022-227

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled “Developer Constructed Infrastructure Agreement for “Arbor View Second; 63rd Street” between the City of Kearney and Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company, for the construction of water, sanitary sewer, paving and storm sewer to serve Arbor View Second; 63rd Street 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 OCTOBER, 2022.

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

13. Accept the bids received for the 2022 Cemetery North Addition; Phase 2 and adopt Resolution No. 2022-228 awarding the bid to The Diamond Engineering Company in the amount of \$164,253.40.

RESOLUTION NO. 2022-228

WHEREAS, Millers & Associates and the City of Kearney have reviewed the sealed bids which were opened on September 27, 2022 at 2:00 p.m. for the 2022 Cemetery North Addition; Phase 2; and

WHEREAS, the Engineer’s Opinion of Probable Construction Cost for the project was \$176,990.00; and

WHEREAS, Millers & Associates and the City have recommended the bid offered by The Diamond Engineering Co. in the amount of \$164,253.40 be accepted as the lowest responsible bid for 2022 Cemetery North Addition; Phase 2

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer’s recommendation is hereby accepted, that The Diamond Engineering Co. be and is the lowest responsible bidder for the 2022 Cemetery North Addition; Phase 2 to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of The Diamond Engineering Co. in the amount of \$164,253.40 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer’s Opinion of Probable Construction Cost for the bid in the amount of \$176,990.00 be and is hereby accepted.

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

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

14. Adopt Resolution No. 2022-229 approving the Consultant Agreement between Alfred Benesch and Company and the City of Kearney for a Box Hangar for the Kearney Regional Airport.

RESOLUTION NO. 2022-229

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute the Consultant Agreement with Alfred Benesch and Company in connection with the Box Hangar project at the Kearney Regional Airport which is being completed with the Corona Aid, Relief, and Economic Security (CARES) Act funds the City of Kearney received from the Federal Aviation Administration (FAA). The Consultant Agreement is contingent upon FAA concurrence. The Consultant Agreement, marked as Exhibit “A”, is attached hereto

and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2022

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

15. Adopt Resolution No. 2022-230 approving Application and Certificate for Payment No. 1 in the amount of \$60,571.12 submitted by Precision Foundations, Inc. and approved by Miller & Associates for the 2022 City of Kearney Trail Projects; Lighthouse Point Trail, 19th Avenue Trail and Hillside Estates Trail.

RESOLUTION NO. 2022-230

WHEREAS, Precision Foundations, Inc. has performed services in connection with the 2022 City of Kearney Trail Projects; Lighthouse Point Trail, 19th Avenue Trail and Hillside Estates Trail, and the City’s engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$60,571.12 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 175,675.74</u>
Contract Sum To Date	175,675.74
Gross Amount Due	67,301.24
Retainage (10%)	- <u>6,730.12</u>
Amount Due to Date	<u>60,571.12</u>
Current Payment Due	\$ 60,571.12

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 OCTOBER, 2022.

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

16. Adopt Resolution No. 2022-231 approving Change Order No. 1 showing a decrease in the amount of \$10,991.50 and Application and Certificate for Payment No. 5 in the amount of \$318,163.50 submitted by Caldwell Tank and approved by Miller & Associates for the 2MG Elevated Water Tower.

RESOLUTION NO. 2022-231

WHEREAS, Caldwell Tank of Louisville, Kentucky has performed services in connection with the 2MG Elevated Water Tower, and the City’s engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease to the contract sum in the amount of \$10,991.50 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Caldwell Tank of Louisville, Kentucky and Miller & Associates have

filed with the City Clerk Application and Certificate for Payment No. 5 in the amount of \$318,163.50 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 4,973,000.00</u>
Change Order (10-11-2022)	- <u>10,991.50</u>
Contract Sum To Date	4,962,008.50
Gross Amount Due	1,737,478.50
Retainage (10%)	- <u>173,747.85</u>
Amount Due to Date	1,563,730.65
Less Previous Certificates for Payment	- <u>1,245,567.15</u>
Current Payment Due	\$ 318,163.50

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

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

ATTEST:
 PEGGY EYNETICH
 INTERIM CITY CLERK

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

17. Adopt Resolution No. 2022-232 approving Change Order No. 2 in the amount of \$863,585.55 submitted by Blessing, LLC and approved by Miller & Associates for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B, Paving and Storm Sewer).

RESOLUTION NO. 2022-232

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with 2021 Part 5 Improvements; Extension of Talmadge Street (Bid B includes Paving and Storm Sewer), and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$863,585.55 and an extension of the Contract Time to reflect a substantial completion date of November 26, 2022 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows;

Original Contract Sum	<u>\$ 1,616,081.00</u>
Change Order No. 1 (4-12-2022)	+ 3,114.82
Change Order No. 2 (10-11-2022)	+ <u>863,585.55</u>
Total New Revised Contract Amount	\$ 2,482,781.37

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

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

ATTEST:
PEGGY EYNETICH
INTERIM CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8603 AGREEMENT BETWEEN CITY OF KEARNEY AND ARVEST EQUIPMENT FINANCE

Mayor Clouse introduced Ordinance No. 8603 authorizing the City of Kearney to enter into a Municipal Lease-Purchase Agreement with ARVEST Equipment Finance which will provide financing for a 2022 Caterpillar D6 for the Public Utilities Department, 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 suspend the rules for Ordinance No. 8603. 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, Lear, 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. 8603 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Moore that Ordinance No. 8603 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. 8603 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIM

Moved by Moore seconded by Lear that the Open Account Claims in the amount of \$14,755.26 payable to Nebraska Public Power District and \$264.50 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Nikkila, Moore, Lear, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

City Manager Michael Morgan discussed flight opportunities from Kearney with Denver Air Connection (DAC) beginning November 1st and challenges encountered with United

Airlines codesharing.

Council Member Jonathan Nikkila questioned the number in attendance at the Open House and Ribbon Cutting event on October 5th; Mr. Morgan stated over 250 people attended the event. Council Member Nikkila stated he believes once citizens are able to experience DAC services, they will be satisfied.

Mr. Morgan stated street projects are progressing as projected, and noted future City street projects are being affected by concrete shortages.

VIII. ADJOURN

Moved by Nikkila seconded by Clouse that Council adjourn at 5:58 p.m. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

ATTEST:

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

**PEGGY EYNETICH
INTERIM CITY CLERK**