

*Kearney, Nebraska
February 14, 2023
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 February 14, 2023 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Peggy Eynetich, City Clerk; Council Members Randy Buschkoetter, Bruce Lear and Tami James Moore. Absent: Jonathan Nikkila. Michael Morgan, City Manager; Michael Tye, City Attorney; Brenda Jensen, Assistant City Manager; Kayla James, Director of Finance; Andy Harter, Director of Public Works; Scott Hayden, Director of Recreational Services; Eric Hellriegel, Director of Parks 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

Council members led the audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There were no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

VACATE A 20 FOOT STORM SEWER AND DRAINAGE EASEMENT IN STONERIDGE 10TH ADDITION

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp., for NP Land Development, Inc., c/o Timothy J. Norwood Sr., and Jaimee M. Norwood to vacate a 20 foot Storm Sewer and Drainage Easement described as the South 10.0 feet of Lot 1 as measured at right angles from the South line of said Lot 1, and the North 10.0 feet of Lot 2 as measured at right angles from the North line of said Lot 2, all in Block Two, Stoneridge Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (6216 Avenue K and 6302 Avenue K and West of the intersection of Avenue K and 63rd Street) and consider Ordinance No. 8620.

Mitch Humphrey, Buffalo Surveying Corporation presented this matter to the Council. Mr. Humphrey stated the vacation pertains to a Storm Sewer and Drainage Easement that was platted in Stoneridge Tenth Addition along the common lot line of Lot 1 and Lot 2; the easement will not being utilized and is no longer needed.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the application submitted by Buffalo Surveying Corp., for NP Land Development, Inc., c/o Timothy J. Norwood Sr., and Jaimee M. Norwood and introduced Ordinance No. 8620 vacating a 20-foot Storm Sewer and Drainage Easement described as the South 10.0 feet of Lot 1 as measured at right angles from the South line of said Lot 1, and the North 10.0 feet of Lot 2 as measured at right angles from the North line of said Lot 2, all in Block Two, Stoneridge Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (6216 Avenue K and 6302 Avenue K and West of the intersection of Avenue K and 63rd 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 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. 8620. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8620 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8620 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8620 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.

REZONE PROPERTY LOCATED EAST OF 30TH AVENUE AND NORTH OF 60TH STREET

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

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation, 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 Northwest Quarter of the Southwest Quarter, Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 60th Street) and consider Ordinance No. 8621.

Craig Bennett, Miller & Associates presented this matter to the Council. Mr. Bennett stated the area is part of a larger Preliminary plat; the current land use is Ag and is surrounded by Ag. The Final proposed Plat will be a 5-acre, 1 lot subdivision.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation and introduced Ordinance No. 8621 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter, Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 60th 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 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. 8621. 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. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8621 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. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Moore that Ordinance No. 8621 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Moore. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8621 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 SPRUCE HOLLOW WEST

Public Hearings 2 & 3 were discussed together but voted on separately

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation, for the Final Plat and Subdivision Agreement for Spruce Hollow West, a subdivision being part of the Northwest Quarter of the Southwest Quarter, Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 60th Street) and consider Resolution No. 2023-22.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2023-22 approving the application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation, for the Final Plat and Subdivision Agreement for Spruce Hollow West, a subdivision being part of the Northwest Quarter of the Southwest Quarter, Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 60th Street). Roll call resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

RESOLUTION NO. 2023-22

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Spruce Hollow West, a subdivision being part of the Northwest Quarter of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P. M., Buffalo County, Nebraska for a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P. M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a survey marker spike w/washer at the Northwest Corner of the Northwest Quarter of the Southwest Quarter of Section 22; thence N 89°57'43" E on the North line of said Southwest Quarter and all bearings contained herein are relative thereto, a distance of 643.84 feet to a 5/8" rebar w/cap; thence S 00°08'08" W parallel to the West line of said Southwest Quarter a distance of 395.90 feet to a 5/8" rebar w/cap; thence S 89°57'43" W parallel to said North line of the Southwest Quarter a distance of 643.84 feet to the West line of said Southwest Quarter; thence N 00°08'08" E on said West line a distance of 395.90 feet to the Point of Beginning. Containing 5.85 acres, more or less 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 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Lear seconded by Buschkoetter that Subsections 1 through 13 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

1. Approve Minutes of Regular Meeting held January 24, 2023.
2. Approve the following Claims:

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

Acushnet \$11,297.00 smcs; Agri Coop \$131.47 smcs; Ahrens, J \$57.78 smcs; Alfred Benesch \$25,216.50 co; All City Garage Door \$587.00 smcs; All Copy \$193.09 smcs; All Makes Auto \$2,942.55 smcs; Amax Contracting \$940.00 co; American Fence \$2,047.05 smcs; Anderson Ford \$29,128.00 co; Ask Supply \$832.13 smcs; Aurora Coop \$674.30 smcs; Auto Value \$2,163.66 smcs; AvFuel \$158,426.01 smcs; Baker & Taylor \$4,414.30 smcs; Barney Insurance \$100.00 smcs; Baye, S \$229.00 smcs; Beacon Observer \$26.00 smcs; Bendix, P \$19.96 smcs; Birdwell, R \$120.00 smcs; Blackstrap \$12,965.56 smcs; Bosselman \$57,327.70 smcs; Bossfuels \$24,441.21 smcs; Boyd's Electrical \$2,100.00 smcs; Brill, K \$31.00 smcs; Buffalo Co. Register \$46.00 smcs; Buffalo Co. Sheriff \$162.50 smcs; Buffalo Outdoor Power \$17,268.00 co; Butler, R \$122.00 smcs; Cash-Wa \$572.62 smcs; Cellebrite \$2,495.00 smcs; Center Point \$79.86 smcs; Chesterman \$714.00 smcs; Christensen, K \$148.50 smcs; City of KY \$46,077.13 co, smcs; City of KY \$389,477.94 ps; City Plumbing \$2,256.38 co; CivicPlus \$829.58 smcs; Cold Spring \$1,011.15 smcs; Collison, Gaynor \$878.00 smcs; Comm. Action Partnership \$58,993.74 smcs; Community Health \$10.00 ps; Copycat Printing \$34.20 smcs; Core & Main \$10,102.38 smcs; Danburg, K \$50.00 smcs; Danko Emergency \$139.06 ps; Davis, B \$120.00 smcs; Dawson Public Power \$20,040.58 smcs; Double J Plumbing \$419.36 smcs; Eakes \$5,198.51 smcs,co; Elder, E \$81.00 smcs; Electronic Systems \$217.00 smcs; EMC Insurance \$27.66 smcs; Family Practice \$524.00 ps; Fangmeyer, L \$320.00 smcs; Farmers Union \$672.00 smcs; Fedex \$11.31 smcs; Feusner, J \$22.89 smcs; Fiala, L \$74.00 smcs; Fiddelke Heating \$799.84 smcs; Fireplace Stone \$9,712.23 co; Flaherty, T \$90.00 smcs; Flock Safety \$750.00 smcs; Fountain Hills \$192.86 smcs; Frontier \$6,306.11 smcs; Gale \$349.30 smcs; GameTime \$283.82 co; Garcia, R \$56.82 smcs; Garrett Tires \$6,747.64 smcs; Give Nebraska \$10.00 ps; Glatter, D \$50.00 smcs; Global

Water \$21,740.00 smcs; Graczyk Lawn \$1,699.20 smcs; Greater NE Cities \$1,000.00 smcs; Grimes, A \$31.00 smcs; Gya Properties \$58.07 smcs; Hageman, M \$19.02 smcs; Hansen, L \$126.46 smcs; Happ, L \$31.00 smcs; HM Life Insurance \$52,346.18 smcs; HOA Solutions \$1,560.67 smcs; Hub Int'l \$6,796.00 smcs; Husker Automotive \$39,494.00 co; Hutsell, M \$28.23 smcs; IRS \$395,061.87 ps; J&A Traffic \$1,995.00 smcs; Jack Lederman \$99.82 smcs; Jack's Uniforms \$477.57 smcs; Jamr Properties \$62.36 smcs; JCI Industries \$10,485.00 smcs; Jelinek, T \$107.00 smcs; John T. Jones Const. \$1,166,212.42 co; Johnson Service \$30,400.00 smcs,co; Kamler, M \$107.00 smcs; Karg, D \$2.39 smcs; Kart-Man \$1,442.76 smcs; KY Animal Shelter \$14,775.66 smcs; KY Crete & Block \$215.60 smcs; KY Rental Pros \$35.66 smcs; KY Towing \$550.00 smcs; Kissel, C \$50.00 smcs; Konica Minolta \$1,193.56 smcs; Krueger, G \$38.72 smcs; Kwiatkowski, L \$31.00 smcs; League NE Municipalities \$423.00 smcs; Lee Enterprises \$4,010.88 smcs; LexisNexis \$2,520.00 smcs; Lincoln City Library \$17.00 smcs; Lincoln Nat'l Life \$8,899.94 smcs; Mac Tools \$33.13 smcs; Macqueen Equipment \$56,869.63 smcs; Magic Cleaning \$7,350.00 smcs; Maloley, T \$160.00 smcs; Mansfield, K \$122.00 smcs; McCartney, Erin Chpt. 13 \$384.00 ps; Menards \$69.99 smcs; Merryman \$196.56 smcs; Mid-NE Garage Doors \$400.00 smcs; Midwest Connect \$9,371.81 smcs; Midwest Petroleum \$4,663.84 smcs; Midwest Turf \$983.67 smcs; Mighty Ducts \$425.00 smcs; Miller & Associates \$20,813.75 co; Mirror Image \$169.26 smcs; Mission Square \$80,493.01 ps; Mostek Electric \$1,613.54 smcs; Motorola \$2,796.72 smcs; Moxley, J \$89.99 smcs; Murphy Tractor \$1,300.77 smcs; NE Child Support \$3,973.02 ps; NE Dept. Environment \$750.00 smcs; NE Dept. of Revenue \$67,686.12 ps; NE Machinery \$1,273.65 smcs; NE Municipal Clerks' \$150.00 smcs; NE Public Health \$259.00 smcs; NE Safety & Fire \$360.00 smcs; NE Secretary of State \$30.00 smcs; NELETC \$216.00 smcs; Nelson's Furniture \$6.44 smcs; Nichols, S \$135.00 smcs; Noetzelman, J \$150.00 smcs; Nordhues, B \$76.16 smcs; North American Gear \$150.68 smcs; Northwestern Energy \$58,848.68 smcs; Nuttleman, M \$26.18 smcs; OCLC \$3,800.39 smcs; Olsson Associates \$8,102.50 co; On Point Construction \$24.40 smcs; One Call Concepts \$208.04 smcs; O'Reilly Auto \$1,010.38 smcs; P/W Rentals \$4,500.00 co; Pep Co. \$249.21 smcs; Perkins, D \$300.17 smcs; Plexer \$1,654.14 smcs; Polydyne \$29,708.64 smcs; Precision Foundation \$5,267.37 co; Presto-X \$221.74 smcs; PRI Management \$9,500.00 co; Prime Secured \$27,022.19 co; Pro-Tint \$600.00 smcs; Rasmussen Mechanical \$450.25 smcs; Raynor Garage Doors \$138.98 co; RDG Planning \$83,202.63 co; Reed, G \$46.23 smcs; RMV Construction \$322,360.25 co; RockIt \$1,246.36 smcs; S&B Heating \$505.95 smcs; Sapp Brothers \$4,733.10 smcs; Sawin, S \$107.00 smcs; School District 7 \$780.00 smcs; Schroer, J \$275.00 smcs; Scorr Marketing \$1,968.75 smcs; See Clear Cleaning \$2,050.00 smcs; Senior Excursions \$200.00 smcs; Shiers, I \$37.00 smcs; Shinn, K \$121.13 smcs; Shultz, K \$120.00 smcs; Smith, C \$107.00 smcs; Staab, J \$432.00 smcs; State Fire Marshal \$550.00 smcs; State of NE/DAS \$13.86 smcs; Steele Investments \$53.93 smcs; Steinbrink's \$250.00 smcs; Stutsman \$5,991.00 smcs; Sumuri \$450.00 smcs; Sunset Law Enforcement \$2,411.23 smcs; Telephone Service \$141.99 smcs; TK Elevator \$496.60 smcs; Trade Well Pallet \$2,070.00 smcs; Tri Co Glass \$724.08 co; Turner Body Shop \$375.00 smcs; Twin City Hardware \$651.54 smcs; Tye & Rowling \$15,807.14 smcs; Union Bank & Trust \$210,969.13 ps; United Way of KY \$110.00 ps; Valley Forklift \$989.24 smcs; Van Diest \$262.00 smcs; Vanco \$94.96 smcs; Verizon \$9,205.36 smcs; Village Uniform \$285.45 smcs; Walter's Electric \$43,014.00 co; Waples, M \$75.00 smcs; Wilcac Life \$10.00 ps; Wilkins Architecture \$476.72 co; Wolfe Comm. \$41,895.00 co; Young, M \$81.00 smcs; Payroll Ending 01/28/2023 -- \$611,803.31. The foregoing schedule of claims is published in accordance with Section

19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

- 3. Approve the Agreement between the City of Kearney and Central Nebraska Auto Club on behalf of Cruise Nite 2023 which describes parking on these public properties that are prohibited on July 15, 2023 beginning at 2:00 a.m. and adopt Resolution No. 2023-23.

RESOLUTION NO. 2023-23

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agreement, on behalf of the City of Kearney, Nebraska, with the Central Nebraska Auto Club, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

- 4. Approve setting February 28, 2023 at 5:30 p.m. as the time and date to meet as the Board of Equalization to assess costs in connection with Paving Improvement District Nos. 2020-002, 2020-003; Water District Nos. 2020-592, 2020-593; and Sanitary Sewer District No. 2020-528.

- 5. Accept the bids received for the Box Hangar located at the Kearney Regional Airport (AIP Project No: 3-31-0045-035) and adopt Resolution No. 2023-24 awarding the bid submitted by Sampson Construction Co., Inc. in the amount of \$ 6,000,756.00.

RESOLUTION NO. 2023-24

WHEREAS, Alfred Benesch and Company and the City of Kearney have reviewed the sealed bids which were opened on January 26, 2023 at 2:00 p.m. for the Box Hangar project at the Kearney Regional Airport (Airport Improvement Program/CARES Act Project No: 3-31-0045-035); and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$5,753,127.50; and

WHEREAS, Alfred Benesch and Company and the City have recommended the bid offered by Sampson Construction Co., Inc in the amount of \$6,000,756.00 be accepted as the lowest responsible bid for the Box Hangar project at the Kearney Regional Airport (Airport Improvement Program/CARES Act Project No: 3-31-0045-035), contingent upon Sampson Construction Co., Inc submitting an FAA's approval of the Buy American Waiver Request and DBE percentage acceptance and FAA concurrence; and

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 Sampson Construction Co., Inc be and is the lowest responsible bidder for the Box Hangar project at the Kearney Regional Airport (Airport Improvement Program/CARES Act Project No: 3-31-0045-035) to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Sampson Construction Co.,

Inc in the amount of \$6,000,756.00, contingent upon Sampson Construction Co., Inc submitting an FAA’s approval of the Buy American Waiver Request and DBE percentage acceptance and FAA concurrence, be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer’s Opinion of Probable Construction Cost in the amount of \$5,753,127.50 be and is hereby accepted.

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

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

6. Appointment of Tami James Moore to fulfill Council Member Bruce Lear’s term on the Buffalo County Economic Development Council.

7. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class I-125471 liquor license application for Todd Fedorchik dba Fordors Billiards & Darts located at 6111 4th Avenue #4.

8. Adopt Resolution No. 2023-25 approving Amendment No. 1 to the Consultant Agreement between Alfred Benesch and Company and the City of Kearney for Airport Improvement Program/CARES Act in connection with the Box Hangar project at the Kearney Regional Airport (AIP 3-31-0045-035) by adding construction, closeout and material testing services to this project, contingent upon FAA concurrence.

RESOLUTION NO. 2023-25

WHEREAS, on October 11, 2022 the City Council adopted Resolution No. 2022-229 approving the Consultant Agreement between Alfred Benesch and Company and the City of Kearney for Airport Improvement Program/CARES Act Project (AIP 3-31-0045-035) in connection with the Box Hangar project at the Kearney Regional Airport; and

WHEREAS, Amendment No. 1, marked as Exhibit “A” attached hereto and made a part hereof by reference, is to supplement Benesch’s existing contract by adding construction, closeout and material testing services; and

WHEREAS, approval is contingent upon Federal Aviation Administration (FAA) concurrence of Amendment No. 1.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute Amendment No. 1 to the Consultant Agreement with Alfred Benesch and Company, contingent upon Federal Aviation Administration (FAA) concurrence. Amendment No. 1, marked as Exhibit “A” is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL

CITY CLERK

AND EX-OFFICIO MAYOR

9. Adopt Resolution No. 2023-26 approving Application and Certificate for Payment No. 9 in the amount of \$1,216,972.98 submitted by Caldwell Tank and approved by Miller & Associates for the 2.0 MG Elevated Water Tower.

RESOLUTION NO. 2023-26

WHEREAS, Caldwell Tank of Louisville, Kentucky and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 9 in the amount of \$1,216,972.98 as shown on Exhibit "A" 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	3,615,378.10
Retainage (10%)	<u>- 361,537.81</u>
Amount Due to Date	3,253,840.29
Less Previous Certificates for Payment	<u>- 2,036,867.31</u>
Current Payment Due	\$ 1,216,972.98

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Application and Certificate for Payment No. 9, as shown on Exhibit "A" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

10. Approve the Option to Purchase Agreement between the City of Kearney and Delux MFG., Co., a Nebraska Corporation, for the purchase of a building and approximately 1.3 acres located at 4580 Airport Road and approve Resolution No. 2023-27.

RESOLUTION NO. 2023-27

WHEREAS, the City of Kearney owns a building and approximately 2.6 acres located at 4580 Airport Road; and

WHEREAS, the adjacent property owner, Delux MFG., Co., desires to enter into an Option to Purchase Agreement with the City of Kearney for approximately 1.3 acres and a building located at 4580 Airport Road; and

WHEREAS, the Option to Purchase Agreement between the City of Kearney and Delux MFG., Co. would grant Delux MFG., Co. a 90-day option in exchange for a payment of \$2,500.00, with the option to purchase the building and surrounding property totaling approximately 1.3 acres in the amount of \$300,000.00; and

WHEREAS, the Option to Purchase Agreement would additionally grant Delux MFG., Co. the option to purchase the remaining approximate 1.3 acres of the City owned

property within a five-year period for an additional \$75,000.00, with said amount increasing annually during the five-year option period at a rate of 5% per annum.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager is hereby authorized and directed to execute the Option to Purchase Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

11. Adopt Resolution No. 2023-28 approving Change Order No. 8 showing an increase in the amount of \$6,022.72 submitted by Brown Construction and approved by RDG Planning & Design for the construction of the Community Tennis Facility.

RESOLUTION NO. 2023-28

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. 8 showing an increase in the amount of \$6,022.72 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$	7,250,100.00
Change Order Nos. 1 & 2 (4/27/2021)	+	7,506.22
Change Order Nos. 3 & 4 (10/12/2021)	+	23,028.06
Change Order No. 5 (1/11/2022)	+	62,196.09
Change Order No. 6 (3/22/2022)	+	57,533.82
Change Order No. 7 (7/12/2022)	+	13,436.47
Change Order No. 8 (2/14/2023)	+	<u>6,022.72</u>
Contract Sum To Date	\$	7,419,823.38

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

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

12. Approve the purchase of a T66 T4 Bobcat Compact Track Loader, snow blower, 72" root grapple, and an 84" angle broom in the amount of \$82,014.00 submitted by Central Nebraska Bobcat under the Sourcewell Cooperative Purchasing Contract program to be used at the Waste Water Treatment Plant by the Utilities Department.

13. Adopt Resolution No. 2023-29 appointing Jeffery Baker to fulfill the term vacated by Jeremy Feusner on the Planning Commission.

RESOLUTION NO. 2023-29

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

WHEREAS, two (2) vacancies currently exist on certain Boards/Commissions.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following persons, as proposed by the Mayor of the City of Kearney, Nebraska, are hereby appointed to the designated Boards/Commissions for the terms indicated:

PLANNING COMMISSION

Jeffery Baker appointed to fulfill term of Jeremy Feusner to July 31, 2024

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

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8622 AMENDING ARTICLE 15 "PURCHASING" OF CHAPTER 1 "ADMINISTRATION" OF THE CITY CODE

Council Member Buschkoetter introduced Ordinance No. 8622 amending Article 15 "Purchasing" of Chapter 1 "Administration" of the City Code as follows: Section 1-1505 "Formal Contract Procedure", to increase the minimum bidding amount requirements to \$50,000.00 and clarifying language; Section 1-1506 "Informal Purchasing" and Section 1-1507 "Professional Services" to increase the minimum bidding amount requirements to \$50,000.00, clarify language and increase the open market purchase amount to greater than \$3,000.00; Section 1-1510 "Miscellaneous Expenditures" to clarify language; Section 1-1512 "Requisitions and Estimates" increasing purchases not involving supply needs that can be ordered in bulk to \$3,000.00 and Section 1-1518 "Inventory" to increase current inventory of all real and personal City property value to \$10,000 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 suspend the rules for Ordinance No. 8622. 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. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8622 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. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Moore that Ordinance No. 8622 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Moore. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8622 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

AMENDMENT NO. 1 TO THE STANDARD FORM OF AGREEMENT FOR THE INDOOR SPORTS COMPLEX

Mayor Clouse opened Regular Agenda Item 1 for the consideration of Resolution No. 2023-30 approving Amendment No. 1 to the Standard Form of Agreement between Owner and Construction Manager as Constructor and the General Conditions of the Contract for Construction with MCL Construction to perform Construction Manager at Risk services and the City of Kearney for the Indoor Sports Complex by amending the Guaranteed Maximum Price.

Scott Hayden, Director of Recreational Services and Eric Hellriegel, Director of Parks presented this matter to the Council. Mr. Hayden gave a brief overview of the indoor sports complex and noted the overall scope of the project remains the same as his prior presentation.

Michael Morgan, City Manager inquired on the number of parking stalls. Mr. Hellriegel stated approximately 580 parking stalls are planned.

Mr. Hayden explained Guaranteed Maximum Price (GMP) provides an upper limit for the project's costs. Mr. Hayden stated the GMP total is \$42,849,725.00 but noted this amount could be lower as contingencies were built in to the GMP amount.

Mayor Clouse expressed his appreciation for the hard work on the project.

Moved by Buschkoetter seconded by Clouse to approve Resolution No. 2023-30 approving Amendment No. 1 to the Standard Form of Agreement between Owner and Construction Manager as Constructor and the General Conditions of the Contract for Construction with MCL Construction to perform Construction Manager at Risk services and the City of Kearney for the Indoor Sports Complex by amending the Guaranteed Maximum Price. Roll call resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

RESOLUTION NO. 2023-30

WHEREAS, On July 12, 2022 the City Council adopted Resolution No. 2022-139

approving the Standard Form of Agreement between Owner and Construction Manager as Constructor and the General Conditions of the Contract for Construction with MCL Construction to perform Construction Manager at Risk services for the City of Kearney Indoor Sports Complex; and

WHEREAS, Amendment No. 1, marked as Exhibit "A" attached hereto and made a part hereof by reference, is to amend the Guaranteed Maximum Price (GMP) in the amount of \$42,849,725.00; and

WHEREAS, the GMP is an amount that the contract sum shall not exceed, and any reductions to the project will be returned to the City of Kearney; and

WHEREAS, the contract sum includes the construction manager's fee plus the cost of work.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute Amendment No. 1 to the Standard Form of Agreement between Owner and Construction Manager as Constructor and the General Conditions of the Contract for Construction with MCL Construction to perform Construction Manager at Risk services. Amendment No. 1, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

OPEN ACCOUNT CLAIM

Moved by Moore seconded by Lear that the Open Account Claim in the amount of \$7,820.04 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Moore, Buschkoetter, Lear. Nay: None. Clouse abstained. Nikkila absent. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Clouse seconded by Lear that Council adjourn at 5:47 p.m. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

ATTEST:

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

PEGGY EYNETICH
CITY CLERK