

Kearney, Nebraska
April 26, 2011
7:00 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on April 26, 2011 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Phil Jossi, Steve Altmaier from KGFW Radio, Kevin Hervert from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION

With the absence of a representative from the Kearney Ministerial Association, the Council held a moment of silent prayer.

PLEDGE OF ALLEGIANCE

Boy Scout Hunter Cutter 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 towards the back of the Council Chambers.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

None.

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held April 26, 2011.
2. Approve the following Claims:

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

AT&T \$281.59 smcs; Ace Eaton Metals \$524.51 smcs; Ace Hardware \$211.22 smcs; Advanced Auto Parts \$59.94 smcs; Aervoe \$498.96 smcs; Airgas North Central \$218.53 smcs; Alfred Benesch & Co \$24,635.63 co; All Makes Auto Supply \$3,146.29 smcs; Allied Electronics \$95.60 smcs; Ally B Designs \$3,161.32 smcs; Alpha Products Unlimited \$375.00 smcs; Amazon \$41.94 smcs,co; American \$593.78 smcs; Amer Backflow \$70.00 smcs; Amer Cemetery \$85.00 smcs; Amer First Aid \$137.82 smcs; Amer Red Cross \$105.00 smcs; Amsan \$774.35 smcs; Apple Markets \$7.74 smcs; Applied Technical Systems \$522.08 smcs; Ask Supply \$2,907.38 smcs,co; Aurora Coop \$54.40 smcs; Ayers Distributing \$272.00 smcs; B2 Environmental \$600.00 co; Bacon,L \$47.28 smcs; Baird Holm \$53.80 smcs; Baker & Taylor Books \$2,395.76 smcs; Baltic Networks \$212.35 co; Baye,S \$9.99 smcs; Bennett,T \$1,112.25 smcs; Bluecross Blueshield \$215,471.79 smcs; Bob's Super Store \$1.00 smcs; Bond,K \$22.71 smcs; Bosselman \$31,960.15 smcs; Brabec,R \$1,600.00 smcs; Broadfoot's \$1,457.50 smcs; Bubble Factory \$46.95 smcs; Buffalo Co Comm Partners \$25.00 smcs; Buffalo County \$561.00 smcs; Buffalo Outdoor Power \$860.97 smcs,co; Builders \$1,260.44 smcs,co; Cabela's \$622.59 smcs; Campbell Hausfeld \$30.84 smcs; Carquest \$1,988.77 smcs; Cash-Wa \$1,492.74 smcs; CDW Govt \$995.98 smcs; Center Point Large Print \$30.34 smcs; Central Dist Health Dept \$2,508.50 smcs; Central Hydraulic Systems \$1,149.93 smcs; Central NE Bobcat \$66.20 smcs; Charter \$339.22 smcs; Chemsearch \$675.68 smcs; Chesterman \$903.47 smcs; City Glass \$1,100.00 smcs; City of Ky \$48,910.20 smcs,ps,ds; CNA Surety \$80.00 smcs; Cold Spring Granite \$347.00 smcs; Consec Life Insurance \$19.00 ps; Construction Rental \$1,231.19 smcs; Containment Contracting \$1,963.92 smcs; Copycat Printing \$747.53 smcs; Crime Reports \$1,188.00 smcs; Crossroads Ford \$650.97 smcs; CRVS Store \$60.07 smcs; Culligan \$83.50 smcs; Cunningham,S \$79.00 smcs; Cutratebatteriescom \$98.40 smcs; D&M Security \$64.50 smcs; D&S Lighting \$138.92 smcs; Danko Emergency \$95.44 smcs; Dawson Co PPD \$20,770.65 smcs; Dell \$1,005.30 co; Diamond Vogel \$28.77 smcs; Dish Network \$66.47 smcs; Dmilaco Sports \$42.00 smcs; Dowhy Towing \$75.00 smcs; DPC Industries \$5,942.33 smcs; Dutton-Lainson \$651.30 smcs; Eakes \$7,171.50 smcs,co; Earl May \$14.97 smcs; Eastwood Co \$24.94 smcs; Eccentric Pumps \$8,277.80 co; Ecolab \$36.00 smcs; Elliott Equipment \$5,454.53 smcs; Ellis,J \$7.04 smcs; EMC

Insurance \$12,196.64 smcs; Engineered Controls \$324.72 smcs; Enterprise \$56.59 smcs; ESU #10 \$9.16 smcs; Express Distributing \$28.50 smcs; Express Parcs \$15.00 smcs; Fairbanks \$759.86 smcs; Family Practice \$20.00 co; Farmers State Bank \$59.63 smcs; Farmers Union Coop \$478.50 smcs; Fastenal \$565.44 smcs; Fedex \$126.38 smcs; Fiddelke Heating \$696.00 co; FIMCO \$267.75 smcs; Fireguard \$2,293.76 smcs; Firehouse Cygnus \$76.95 smcs; First Financial Investment \$195.26 ps; Fisher,S \$90.00 smcs; Footjoy \$81.59 smcs; Fore Better Golf \$999.00 smcs; Fort Bend Services \$10,394.06 smcs; Frontier \$9,142.48 smcs; Full Tilt Management \$1,500.00 smcs; Gale \$349.23 smcs; Garret Tires & Treads \$3,295.37 smcs; Gempler \$349.53 smcs; General Traffic Controls \$612.55 smcs; Goodwill Industries \$9.75 smcs; Gough,P \$150.00 smcs; Graham Tire \$735.52 smcs; Grainger \$1,072.98 smcs; GI Independent \$193.31 smcs; Great Plains Safety \$300.00 smcs; Grisantis \$31.00 smcs; H&H Distributing \$559.65 smcs; H2O Distributors \$394.00 smcs; Hach Co \$7,568.80 smcs,co; Hastings \$90.00 smcs; Haussermann,E \$34.40 smcs; HD Supply \$8,743.70 smcs; Hill,M \$339.00 smcs; Hille,S \$25.60 smcs; Hobby-Lobby \$91.20 smcs; Holmes Plumbing \$190.39 smcs; Honeywell \$297.32 smcs; Hooper,B \$6.08 smcs; Hornungs Pro Golf \$819.40 smcs; HP Home Store \$164.70 smcs; Hydrite Chemical \$1,833.31 smcs; I-80 Eppley Express \$1,147.00 smcs; ICMA RC \$4,802.76 ps; Icom America \$817.55 smcs; Independent Appraisal \$500.00 smcs; Interactive Study Systems \$1,475.00 smcs; IRS \$107,609.74 ps; Intl Code Council \$190.18 smcs; Investment Property \$500.00 smcs; Jack Lederman \$163.98 smcs; JLC \$369,023.00 co; John Deere Landscapes \$3,120.00 smcs; Johnstone Supply \$92.34 smcs; Jones,J \$28.81 smcs; Jones,M \$7.57 smcs; K&K Parts \$556.26 smcs; Ky Centre Vac \$154.95 smcs; Ky Clinic \$456.00 smcs,ps; Ky Concrete \$79.00 co; Ky Glass \$127.12 smcs; Ky Hub \$2,231.54 smcs; Ky Implement \$508.36 smcs; Ky Winlectric \$990.29 smcs; Ky Winnelson \$8.00 smcs; KHAS-TV \$2,220.00 smcs; KHGI/KWNB \$6,780.00 smcs; Killion Motors \$150.18 smcs; Kindle \$20.98 smcs; King,K \$1.94 smcs; Kmart \$7.48 smcs; Knapp,D \$45.00 smcs; Konica Minolta \$217.91 smcs; Krause,S \$55.66 smcs; Lands End Clothing \$142.81 smcs; Lawn Builders \$56.65 smcs; Lawson Products \$170.34 smcs; LECC Conference \$300.00 smcs; Lincoln Winwater Works \$3,506.80 co; Lindner,S \$74.54 smcs; Linweld \$479.41 smcs; Lockmobile \$130.95 smcs; Logan Contractors \$144.72 smcs; Lowe,L \$29.14 smcs; Mac Faucets \$527.72 smcs; Magic Cleaning \$5,110.00 smcs; Mail Express \$314.82 smcs; Marlatt Machine Shop \$3,052.67 smcs; Marriott \$1,415.67 smcs; Matheson Tri-Gas \$21.22 smcs; McCarty,D \$16.43 smcs; Menards \$8,937.34 smcs,co; Metlife \$24.24 ps; Mid Amer Signal \$149.00 smcs; Mid-Nebraska Garage Door \$175.00 smcs; Midway Chrysler \$66.47 smcs; Midwest Mailing \$530.00 smcs; Midwest Turf \$1,091.12 smcs; Miller & Associates \$3,875.35 co; Miller Signs \$175.00 smcs; Moonlight Embroidery \$686.25 smcs; Mosbarger,B \$14.98 smcs; Mostek Electric \$641.20 smcs; Municipal Emergency \$1,135.00 smcs; Municipal Supply \$1,252.79 co; Murphy Tractor \$1,040.11 smcs; Napa All Makes \$527.41 smcs; Native Lumber & Sawmill \$386.75 smcs; NCS Equipment \$105.00 smcs; NE Child Support \$2,861.15 ps; NE Dept of Aeronautics \$1,470.00 ds,er; NE Dept of Revenue \$28,281.00 smcs; NE DOL/Office of Safety \$300.00 smcs; NE GIS/LIS Assn \$230.00 smcs; NE Library Commission \$2,169.00 smcs; NE Machinery \$666.65 smcs; NE Planning & Zoning \$335.00 smcs; NE Professional Licensing \$360.00 smcs; NE Public Health \$1,651.00 smcs; NE Rural Water Assn \$170.00 smcs; NE Sec of State \$60.00 smcs; NE Truck Center \$785.85 smcs; NE Workforce Dev \$2,515.98 ps; NEland Distributors \$240.68 smcs; Neofunds by Neopost \$2,000.00 smcs; Network Solutions \$329.90 co; Nevco \$1,975.35 smcs; Newegg \$102.87 co; Newman Signs \$216.39 smcs; Nichols,M \$2.59

smcs; North Platte Telegraph \$156.87 smcs; Northwestern Energy \$4,409.25 smcs; Nova Health Equipment \$1,299.00 ps; NRG Media \$18.00 smcs; NWTC \$525.00 smcs; OCLC \$486.54 smcs; Office Max \$730.06 smcs; Officenet \$77.50 smcs; O'Neill Wood Resources \$4,817.50 smcs; O'Reilly Automotive \$636.99 smcs; Oriental Trading \$186.82 smcs; Orscheln \$411.42 smcs; Oshkosh \$602.52 smcs; Owl System \$306.50 smcs; Paper Direct \$42.94 smcs; Paramount Linen \$287.84 smcs; Party America \$46.95 smcs; Pat's Plumbing \$2,190.00 smcs; Paypal \$613.47 smcs,co; PBD Ala-graph Editions \$50.00 smcs; Peerless Machine \$4,700.27 co; Pep Co \$204.40 smcs; Pettit,B \$110.00 smcs; Pioneer Revere \$111.85 smcs; Platte Valley Comm \$1,224.89 smcs,co; Pool Tables 4 U \$2,400.00 co; Presto-X \$271.00 smcs; Pro Labs \$30.00 smcs; QA Balance Services \$125.00 smcs; Qualifiedhardwarecom \$963.00 smcs; Rack Solutions \$2,087.06 co; Random House \$186.00 smcs; Ray Brown Association \$39.53 smcs; Ready Mixed Concrete \$2,891.87 smcs,co; Reams \$691.50 smcs; Recognition Unlimited \$58.00 smcs; Recorded Books \$644.74 smcs; Replacement Battery \$65.56 co; Resource Management \$1,731.30 smcs; Rookstool,D \$37.37 smcs; RT Corp \$453.10 smcs; Ruff,A \$5.46 smcs; Safelite Autoglass \$559.90 smcs; Safe-T-Rack Systems \$171.77 smcs; Sahling Kenworth \$1,963.34 smcs; Sapp Brothers \$7,458.00 smcs; Schools In \$366.78 smcs; Sears \$12.99 smcs; Seton Name Plate \$832.07 smcs; Sherwin-Williams \$518.85 smcs; Sign Center \$478.50 smcs; Skype Communication \$28.00 smcs; Smart Sign \$121.01 smcs; Snow,T \$531.80 smcs; Solid Rock \$64.85 smcs; SOS Portable Toilets \$100.00 smcs; Stanley Security Solutions \$718.24 smcs; Star Tran \$456.00 smcs; Steinbrinks Landscaping \$52.50 smcs; Storm Hockey \$37.38 smcs; Strategic Materials \$364.56 smcs; Sunmart \$9.87 smcs; Superior Trademark \$199.04 smcs; Swanson Seamless Gutters \$325.00 smcs; Tacha,J \$531.80 smcs; Target \$11.16 smcs; Taylor Made \$1,820.24 smcs; Team Effort \$1,052.79 smcs; Test Q&A \$19.95 smcs; Titleist \$7,155.79 smcs; Tractor-Supply \$977.45 smcs; Tracy,K \$231.80 smcs; Trans Iowa Equipment \$36.02 smcs; Tri City Outdoor Power \$1,372.79 smcs,co; Unique Management \$304.30 smcs; United Air \$296.30 smcs; United Farm & Ranch \$500.00 smcs; United Seeds \$2,225.00 smcs; UNK-Human Resources \$208.88 ps; UNL Athletic Office \$573.00 smcs; UNL Educational Media \$120.00 smcs; UPS Store \$22.88 smcs; US Bank \$328,792.50 ds; USA Blue Book \$1,017.00 smcs; USPS \$300.15 smcs; Van Diest Supply \$2,654.58 smcs; Vasa,T \$33.01 smcs; Voss Lighting \$284.00 smcs; Walling Water Mgmt \$709.90 smcs; Wal-Mart \$888.57 smcs; Weis Equipment \$1,500.00 smcs; Wellman,D \$50.00 smcs; Wellness Works \$250.00 ps; Wells Fargo Bank \$300.00 smcs; Wells Fargo Equipment \$66,937.77 ds; West Payment Center \$2,404.47 smcs; When to Work \$180.00 smcs; Wiederspan,R \$151.40 smcs; Wiegand Security Service \$85.00 smcs; Wilke Contracting \$12,544.00 co; Wilke Donovans \$653.66 smcs; Wilkins Hinrichs Stober \$4,505.76 co; Winvale \$2,955.46 smcs; Wolfe,K \$19.50 smcs; World Herald Advertising \$185.28 smcs; WPCI \$296.00 ps; Yanda's Music \$2,662.56 co; Young,M \$720.00 smcs; Zimmerman Printers \$277.97 smcs; Payroll Ending 4-9-2011 -- \$339,417.59. 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. Receive recommendations of Planning Commission and set May 10, 2011 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the Water Monitoring Site Lease between the City of Kearney and Robert Cook and adopt **Resolution No. 2011-36**.

RESOLUTION NO. 2011-36

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 Water Monitoring Site Lease on behalf of the City of Kearney, Nebraska with Robert G. Cook, a copy of said Lease is marked as Exhibit "A", attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the Technical and Professional Services Contract, Community Development Block Grant between the City of Kearney and Miller & Associates as the Administrator for management and supervision services of NSP3 project pertaining to the rehabilitation of a downtown building into a 14-unit apartment complex for households at or below 120 percent of the area median income and adopt **Resolution No. 2011-37.**

RESOLUTION NO. 2011-37

WHEREAS, the City of Kearney has applied for a CDBG Economic Development Grant for Neighborhood Stabilization from the Nebraska Department of Economic Development (DED) in the amount of \$977,000 for construction of affordable housing in the downtown district in the City of Kearney; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for a Project Administrator for management and supervision services under the Community Development Block Grant program; and

WHEREAS, City staff received one proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide management and supervision services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute, on behalf of the City of Kearney, the Technical and Professional Services Contract between the City of Kearney and Miller & Associates as Project Administrator for management and supervision services under the Community Development Block Grant program for neighborhood stabilization funding from the Nebraska Department of Economic Development, as set forth in the Contract. The said Contract, marked Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve the Technical and Professional Services Contract, Community Development Block Grant between the City of Kearney and Miller & Associates as the Administrator for management and supervision services for planning downtown

revitalization activities and adopt **Resolution No. 2011-38.**

RESOLUTION NO. 2011-38

WHEREAS, the City of Kearney has applied for a Community Development Block Grant (CDBG) for planning Downtown Revitalization activities; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for a Project Administrator for management and supervision services under a Community Development Block Grant program; and

WHEREAS, City staff received one proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide management and supervision services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute, on behalf of the City of Kearney, the Technical and Professional Services Contract between the City of Kearney and Miller & Associates as Project Administrator for management and supervision services under a Community Development Block Grant program for downtown revitalization – planning, as set forth in the Contract. The said Contract, marked Exhibit “A”, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Accept the public improvements constructed under, and in accordance with, the terms of the Developer Constructed Infrastructure Agreements for Lots 1 and 2 of Block 1, Cash-Wa Second Addition; Lots 1, 2, 3, 4 of Block 1, and Lots 1 through 11 of Block 2, Eastbrooke Eighth Addition; Lots 1 and 2 of Block 2, and Outlot A, Spruce Hollow Estates Third Addition; Lot 3 of Block 4, Meadowlark Estates Addition; and Ess of Kay Addition, all in the City of Kearney, Buffalo County, Nebraska and adopt **Resolution No. 2011-39.**

RESOLUTION NO. 2011-39

WHEREAS, on the 10th day of December, 2009 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2009-215 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Cash-Wa Distributing Company of Kearney, Inc. to construct paving, storm sewer, water and sewer improvements for Lots 1 and 2 of Block 1, Cash-Wa Second Addition, Buffalo County, Nebraska; and

WHEREAS, on the 10th day of March, 2009 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2009-28 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and PB & G Development, LLC to construct water, storm sewer and paving to serve Lots 1, 2, 3, 4 of Block 1, and Lots 1 through 11 of Block 2, all in Eastbrooke Eighth Addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, on the 10th day of February, 2009 the President and Council of the City

of Kearney, Nebraska passed and approved Resolution No. 2009-14 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and DT Development, Inc. to provide paving, water and sanitary sewer to serve Lots 1 and 2 of Block 2, and Outlot A, Spruce Hollow Estates Third Addition, a subdivision of Buffalo County, Nebraska; and

WHEREAS, on the 14th day of August, 2007 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2007-156 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and F. Lean Brandt of the F. Lean Brandt Revocable Trust for the construction of a water main and street paving to serve Lot 3 of Block 4, Meadowlark Estates Addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, on the 24th day of April, 2007 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2007-77 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Ess of Kay, Inc. to construct public improvements which include the installation of two fire hydrants, paving and storm sewer in 3rd Avenue in Ess of Kay Addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the Developers have constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the Developer has, by and through its attorney, certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the public improvements constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney for Lots 1 and 2 of Block 1, Cash-Wa Second Addition; Lots 1, 2, 3, 4 of Block 1, and Lots 1 through 11 of Block 2, Eastbrooke Eighth Addition; Lots 1 and 2 of Block 2, and Outlot A, Spruce Hollow Estates Third Addition; Lot 3 of Block 4, Meadowlark Estates Addition; and Ess of Kay Addition, all in the City of Kearney, Buffalo County, Nebraska and that the said public improvements be and are hereby accepted.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the request submitted by Good Samaritan Health Systems and Kearney Park & Recreation to conduct the Good Samaritan Olympiad 5K on June 26, 2010 beginning at 7:30 a.m. The route will begin at Good Samaritan Hospital, south on Avenue A to 27th Street, east on 27th Street to Avenue I, north on Avenue I to Tabor Street, west on Tabor Street to Avenue K, south on Avenue K to 34th Street, west on

34th Street to Avenue G, south on Avenue G to 33rd Street, east on 33rd Street to Avenue H, south on Avenue H to 27th Street, west on 27th Street to Avenue A, north on Avenue A to Good Samaritan Hospital.

9. Approve Application and Certificate for Payment No. 3 in the amount of \$146,366.28 submitted by General Excavating and approved by Miller & Associates for the 2010 Part 5 Improvements – Bid A consisting of Water District No. 2010-561 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard; and Sanitary Sewer District No. 2010-501 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard and adopt **Resolution No. 2011-40.**

RESOLUTION NO. 2011-40

WHEREAS, General Excavating of Lincoln, Nebraska has performed services in connection with the 2010 Part 5 Improvements – Bid A consisting of Water District No. 2010-561 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard; and Sanitary Sewer District No. 2010-501 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$146,366.28, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,816,395.00
Contract Sum To Date	1,816,395.00
Gross Amount Due	762,839.10
Retainage	76,283.91
Amount Due to Date	686,555.19
Less Previous Certificates for Payment	<u>540,188.91</u>
Current Payment Due	\$ 146,366.28

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 3, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Accept the bids received for the 2010 Part 7 Improvements consisting of Paving Improvement District No. 2010-945 for Central Avenue from the south right-of-way line

of 1st Street, thence south to its terminus in a cul-de-sac and adopt **Resolution No. 2011-41** awarding the bid to Dan Roeder Concrete in the amount of \$93,782.00.

RESOLUTION NO. 2011-41

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 19, 2011 at 2:00 p.m. for the 2010 Part 7 Improvements consisting of Paving Improvement District No. 2010-945 for Central Avenue from the south right-of-way line of 1st Street, thence south to its terminus in a cul-de-sac; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$119,955.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$93,782.00 be accepted as the lowest responsible bid for Paving Improvement District No. 2010-945 for Central Avenue from the south right-of-way line of 1st Street, thence south to its terminus in a cul-de-sac.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Dan Roeder Concrete of Kearney, Nebraska be and is the lowest responsible bidder for the 2010 Part 7 Improvements consisting of Paving Improvement District No. 2010-945 for Central Avenue from the south right-of-way line of 1st Street, thence south to its terminus in a cul-de-sac to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete of Kearney, Nebraska in the sum of \$93,782.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$119,955.00 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 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the Amendment to the Mortgage allowing the State of Nebraska to purchase an easement to certain properties on the east edge of the Archway property for the construction of a new interstate interchange and adopt **Resolution No. 2011-42.**

RESOLUTION NO. 2011-42

WHEREAS, the City of Kearney, Nebraska entered into and executed the Indenture of Trust (the "Indenture"), dated March 1, 1998 and executed between it (the "Issuer") and The Great Platte River Road Memorial Foundation (the "Archway"); and

WHEREAS, the State of Nebraska (the "State") wishes to purchase fee simple title and an easement to certain properties on the east edge of the Archway property for the construction of a new interstate interchange, as more specifically set forth on the

attachment hereto marked Exhibit "A" and made a part hereof by this reference with payment by the State to the Archway of \$425,000; and

WHEREAS, Section 10 of the Agreement requires a resolution of the Issuer approving partial release of said Mortgage, a copy of which is attached hereto marked Exhibit "B" and made a part hereof by this reference, and

WHEREAS, the Archway is not in default under any of the provisions of the Indenture or the Mortgage and Security Agreement (the "Mortgage"), dated March 1, 1998 and executed between the Archway and the Wells Fargo Bank Minnesota, National Association (the "Trustee"), and

WHEREAS, the Issuer wishes to ratify the proposed fee sale and easement by the Archway to the State.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney being the Issuer hereby approves the partial release of Mortgage attached hereto marked Exhibit "B" authorizing the release of the lands described in Exhibit "A" to the State.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Approve the Plans and Specification for the 2011 Part 2 Improvements consisting of Paving Improvement District No. 2010-942 for 18th Street from 8th Avenue to 9th Avenue; and Paving Improvement District No. 2010-943 for 7th Avenue from 18th Street to 19th Street and set the bid opening date for May 17, 2011 at 2:00 p.m.

13. Approve the Use and Operations Agreement between the City of Kearney and Great Lakes Aviation for rental of space in the Airport Terminal to provide scheduled air service at the Kearney Regional Airport and adopt **Resolution No. 2011-43.**

RESOLUTION NO. 2011-43

BE IT RESOLVED by the President and Council of the City of Kearney, that the President be and is hereby authorized and directed to execute the Use and Operations Agreement on behalf of the City of Kearney, Nebraska, with Great Lakes Aviation for rental of space in the Airport Terminal at the Kearney Regional Airport, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the Use and Operations Agreement between the City of Kearney and with Buck Enterprises, Inc. dba Thrifty Car Rental for Building for rental of space in the Airport Terminal to provide automobile rental services at the Kearney Regional Airport and adopt **Resolution No. 2011-44.**

RESOLUTION NO. 2011-44

BE IT RESOLVED by the President and Council of the City of Kearney, that the President be and is hereby authorized and directed to execute the Use and Operations Agreement on behalf of the City of Kearney, Nebraska, with Buck Enterprises, Inc. dba Thrifty Car Rental for rental of space in the Airport Terminal to conduct automobile rental services at the Kearney Regional Airport, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

15. Approve the extension of the grant contract for CDBG #09-CR-104 to December 30, 2011 to complete the improvements to the 1800 and 1900 blocks of South Central Avenue.

16. Approve the request submitted by the Downtown Improvement Board to temporarily block off the sidewalks on Central Avenue from Railroad Street to 25th Street and to temporarily block off Central Avenue from Railroad Street to 24th Street, excluding intersections, on July 21, 2011 from 7:00 a.m. until 8:00 p.m., on July 22 and 23, 2011 from 7:00 a.m. until 7:00 p.m. for Sidewalks Sales.

17. Approve the recommendation submitted by the Downtown Improvement Board to temporarily block off the parking stalls from 6:00 a.m. until 12:00 p.m. on Saturdays beginning June 4 through September 24, 2011 for produce stands at the corner of 22nd Street and Central Avenue on a rotating basis.

18. Approve the Fixed Base Operator Use and Operations Agreement between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation and adopt **Resolution No. 2011-45**.

RESOLUTION NO. 2011-45

BE IT RESOLVED by the President and Council of the City of Kearney, that the President be and is hereby authorized and directed to execute the Use and Operations Agreement on behalf of the City of Kearney, Nebraska, with Premier Aviation Training and Management, LLC, dba Kearney Aviation Center for rental of space in the Airport Terminal at the Kearney Regional Airport, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7642 – SELL LOT IN LAKE VILLA ESTATES 2ND ADDITION

Council Member Lammers introduced Ordinance No. 7642, being Subsection 1 of Agenda Item V selling Lot 6 of Block 1, Lake Villa Estates 2nd Addition to the City of Kearney, Buffalo County, Nebraska to Brandon Jameson, 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 suspend the rules. 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, Kearney, Buschkoetter, Lear, Lammers. 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. 7642 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7642 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7642 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 CLAIMS: NPPD - \$71,944.49, PLATTE VALLEY STATE BANK - \$49,605.67, SCHOOL DISTRICT #7 - \$3,826.30**

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$49,605.67 payable to Platte Valley State Bank, and in the amount of \$71,944.49 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Clouse seconded by Kearney that Open Account Claims in the amount of \$3,826.30 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Kearney. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:05 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**