

*Kearney, Nebraska
January 24, 2012
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 January 24, 2012, 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. Wendell Wessels, Director of Finance; Michael Tye, City Attorney; Suzanne Brodine, Assistant City Manager; Kirk Stocker, Director of Utilities; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Mary Kalb, Mindy Oman, Jessica Frerichs, Jonathan Nikkila, 3 UNK students, Steve Altmaier from KGFV 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

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

ANNOUNCEMENT

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

There were no public hearings.

IV. CONSENT AGENDA

Moved by Kearney seconded by Lammers that Subsections 1 through 14 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held January 10, 2012.
2. Approve the following Claims:

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

4imprint \$287.50 smcs; AT&T \$257.68 smcs; Ace Hardware \$48.00 smcs; Alamar Uniforms \$206.72 ps; Alertshirt \$1,753.83 smcs; Al-Jon Mfg \$318.72 smcs; Allied Electronics \$57.75 smcs; Amax Contracting \$103.64 smcs; Amazon \$771.54 smcs,co; American \$416.40 smcs; Amer First Aid \$565.18 smcs; Amer Legion Emblem \$422.75 smcs; Amsan \$965.97 smcs; Apple \$105.93 smcs; Ask Supply \$147.50 smcs; Aurora Coop \$445.60 smcs; B&H Photo \$270.30 co; Baker & Taylor \$2,449.84 smcs; Barth,J \$4.52 smcs; Baye,S \$106.75 smcs; Beacon Athletics \$633.00 smcs; Beideck,J \$60.75 smcs; Big Rack Shack \$232.95 smcs; Blackstone Audiobooks \$84.00 smcs; Bluecross Blueshield \$72,067.17 smcs; Bob Derr Construction \$5,803.00 co; Bobs Super Store \$3.99 smcs; Bombeck,M \$50.00 smcs; Boopsie \$3,931.00 smcs; Bosselman \$7,567.61 smcs; Buffalo Outdoor Power \$371.64 smcs; Buggy Bath Car Wash \$9.75 smcs; Builders Warehouse \$2,915.35 smcs,co; C&D Publishing \$150.00 smcs; Candy,T \$1,480.90 smcs; Capstone Press \$455.78 smcs; Carquest \$3,596.33 smcs; Cash Wa \$963.45 smcs; CDW Govt \$9,416.07 co; Center Point Large Print \$71.41 smcs; Central Contracting \$656.00 smcs; Central Fire & Safety \$148.00 smcs; Central Hydraulic Systems \$1,188.99 smcs; Central NE Bobcat \$1,606.77 smcs; CH Diagnostic \$565.00 smcs; Charter \$249.98 smcs; Chetsy Photography \$72.92 smcs; CHS Agri Service Center \$936.74 smcs; City of Ky \$58,539.60 smcs,ps; College of Southern Idaho \$40.00 smcs; Community Action Partner \$15,465.46 smcs; Consecro Life Ins \$19.00 ps; Construction Rental \$411.41 smcs,co; Copycat Printing \$378.98 smcs; Crossroad Ford \$196.92 smcs; Crucialcom \$40.65 co; Cryotech \$5,949.98 smcs; Culligan \$829.20 smcs; Cummins \$1,180.17 smcs; D&S Lighting \$581.36 smcs,co; Danko Emergency \$456.28 smcs; Dave Waggoner Plumbing \$193.93 smcs; Dawson Co PPD \$21,823.80 smcs; Deaton,R \$37.83 smcs; Dell \$918.46 smcs,co; Depository Trust \$78,845.00 co; DHHS Licensing \$115.00 smcs; Diamond Vogel Paint \$141.52 smcs; Dmilaco Sports Fashion \$417.25 ps; Dominion Construction \$2,331.61 co; DRI-Nuance \$179.99 smcs; Dutton-Lainson \$1,201.94 smcs,co; Eakes \$2,260.77 smcs; Eileens Cookies \$15.80 smcs; Eirich, Terry \$50.00 smcs; EMC Ins \$8,564.70 smcs; Enterprise \$711.40 smcs; Expression Wear \$1,596.30 smcs,ps; Fairbanks \$2,821.02 smcs; Farmers Union Coop \$28.50 smcs; Fastenal \$945.85 smcs; Fearnley,M \$111.25 smcs; Fiddelke Heating

\$382.86 smcs; Fire Dept Training \$240.00 smcs; Fire Engineering \$51.00 smcs; Fireguard \$1,148.33 smcs; Fort Vancouver Library \$61.75 smcs; Frontier \$8,511.91 smcs; Frontier Creations \$50.00 smcs; Garrett Tires \$7,450.87 smcs; Google \$14.99 co; Gotomeetingcom \$468.00 smcs; Graham Tire \$65.00 smcs; Grainger \$2,830.47 smcs,co; Granite City Tool \$456.18 co; Gray Automotive \$133.61 smcs; Great Plains One Call \$169.29 smcs; Great Plains Safety \$195.00 smcs; H&H Distributing \$329.10 smcs; HaackS \$139.86 smcs; Historical Society Museum \$198.23 smcs; H-Mac Systems \$165.00 smcs; Holmes Plumbing \$820.93 smcs,co; Hometown Leasing \$207.71 smcs; Howe,C \$74.90 smcs; Huerta's Upholstery \$231.90 smcs; I-80 Eppley Express \$175.00 smcs; ICMA RC \$35,421.91 ps; Industrial Supplies \$592.00 smcs; Inkjet Super Store \$133.15 smcs; IRS \$110,545.97 ps; J&P Park Seed \$83.51 smcs; Jack Lederman \$1,514.13 smcs,co; JCB Enterprises \$85.00 smcs; Jelinek,T \$196.44 smcs; Johnson Controls \$2,074.63 smcs; Jones & Bartlett Learning \$850.89 smcs; Jones Automotive \$144.21 smcs; Just Blinds \$434.00 smcs; K&K Parts \$830.45 smcs; Kaup,B \$41.47 smcs; Ky Centre Vac \$20.00 smcs; Ky Clinic \$435.00 smcs,ps; Ky Concrete \$2,520.32 smcs,co; Ky Crete & Block \$53.99 co; Ky Hub \$6,815.92 smcs; Ky Implement \$9,227.57 smcs,co; Ky Visitors Bureau \$30,862.70 smcs; Ky Warehouse \$317.43 smcs; Ky Winlectric \$127.25 smcs,co; Ky Winnelson \$1,775.46 smcs,co; Keirns,A \$7.77 smcs; Keiser,J \$60.02 smcs; Killion Motors \$395.42 smcs; Kindle \$20.98 smcs; Kirby Built Products \$481.13 smcs; Konica Minolta \$389.91 smcs; Krueger,L \$88.00 smcs; Lakeside Moulding \$349.10 smcs; Landell-Thelen \$342.00 smcs; Lawson Products \$46.89 smcs; LCL Truck Equipment \$493.37 smcs; Leach,C \$106.75 smcs; Lerner Publishing \$1,158.61 smcs; Linweld \$97.27 smcs; Logan Contractors \$400.00 co; Lunarpages Webhost \$166.80 co; Lyons,L \$54.96 smcs; Magic Cleaning \$4,800.00 smcs; Mail Express \$987.21 smcs; Malleck,J \$30.45 smcs; Marketlab \$35.76 smcs; Marlatt Machine Shop \$121.36 smcs; Marriott \$209.34 smcs; Matheson Tri-Gas \$19.23 smcs; Matt Friend Truck Equip \$9,120.00 co; Menards \$4,219.40 smcs,co; Metlife \$9.50 smcs; MGIA-Nebraska \$50.00 smcs; Mid Amer Signal \$213.33 smcs; Mid-NE Garage Doors \$100.00 smcs; Midplains Heating \$225.99 smcs; Mid-State Engineering \$2,258.00 co; Midwest Turf \$414.24 smcs; Milco Environmental \$6,710.00 smcs; Miller & Associates \$7,816.00 smcs; Miller Signs \$235.00 smcs; Minnick,S \$17.57 smcs; Moonlight Embroidery \$2,664.00 smcs; Mostek Electric \$3,785.13 co; Napa All Makes \$2,551.09 smcs; NCL of Wisconsin \$877.90 smcs; NCS Equipment \$315.00 smcs; NDEQ-Fiscal Services \$12,383.80 smcs; NE Aviation Council \$160.00 smcs; NE Child Support \$2,195.60 ps; NE Dept. of Revenue \$59,493.29 smcs; NE DOL/Office of Safety \$100.00 smcs; NE Green Expo \$470.00 smcs; NE Humanities Council \$75.00 smcs; NE Professional Licensing \$90.00 smcs; NE Public Health \$1,639.00 smcs; NE Truck & Equipment \$822.84 smcs; NE Truck Center \$876.39 smcs; NE Turfgrass \$300.00 smcs; NE Well Drillers \$245.00 smcs; NE Workforce Development \$1,915.21 ps; NEland Distributors \$284.81 smcs; Nelson,R \$36.66 smcs; New World Systems \$600.00 co; Newegg \$514.66 smcs,co; NMC \$262.24 smcs; Northern Safety \$225.57 smcs; Northgate Veterinary \$155.00 smcs; Northwest Electric \$295.45 smcs; Northwestern Energy \$10,410.58 smcs; Nova Fitness \$195.20 smcs; NSI Solutions \$140.00 smcs; Obermiller Seamless \$414.00 smcs; OCLC \$604.82 smcs; Office Max \$583.33 smcs; Officenet \$227.94 smcs; Olive Software \$4,766.02 smcs; Olsson Associates \$1,160.00 smcs; O'Reilly Auto \$1,063.03 smcs,co; Oriental Trading \$101.75 smcs; Orscheln \$835.99 smcs; Ourdesignscom \$14.99 ps; Overhead Door \$60.84 smcs; Paramount \$124.61 smcs; Paypal \$1,478.25 smcs,co; Pep Co \$155.86 smcs; Perkins \$121.46 smcs; Pettit,R \$10.72 smcs; Pizza

Hut \$38.98 smcs; Platte Valley Comm \$313.74 smcs,co; Presto-X \$147.00 smcs; Professional Collection \$315.63 ps; Provantage \$347.79 smcs,co; Pulliam,R \$40.00 smcs; Quigley,C \$35.01 smcs; Quill \$196.75 smcs; Radioshack \$11.16 smcs; Random House \$199.95 smcs; Rasmussen Mechanical \$243.88 smcs; Reading Group Choices \$30.08 smcs; Ready Mixed Concrete \$738.00 smcs,co; Recognition Unltd \$585.32 smcs,ps; Resource Management \$635.52 smcs; Robbins,M \$5.92 smcs; Rodehorst,R \$60.75 smcs; Rossbach,D \$4.00 smcs; Russell's Appliance \$898.00 smcs; RW Sorensen Construction \$1,400.00 smcs; S&B Heating \$145.00 smcs; Safelite Fulfillment \$292.90 smcs; Sage,P \$21.34 smcs; Sahling Kenworth \$682.09 smcs; Sandry Fire Supply \$10.76 smcs; Sanitation Products \$622.74 smcs; Sapp Brothers \$25,500.23 smcs; Sears \$30.88 smcs; Sherwin Williams \$688.63 smcs; Signature Homestyles \$139.00 smcs; SMH SSI \$1,591.90 smcs; Smith Signs \$45.00 smcs; Smith,J \$46.97 smcs; Snap-On Tools \$23.50 smcs; Snow,T \$50.00 smcs; Sohars All Season Mower \$16.13 smcs; Sport Supply Group \$604.34 smcs; Springer Roofing \$150.00 smcs; Staples Print Solutions \$307.25 smcs; St of NE/Office Elevator \$100.00 smcs; Steinbrink Landscaping \$27.75 smcs; Strategic Materials \$360.33 smcs; Sunmart \$31.10 smcs; Sutphen \$138.90 smcs; Swanson,S \$1.46 smcs; SYX Global \$9,947.00 co; Target \$273.74 smcs; Taylormade \$7.91 smcs; Tiburon Financial \$256.80 ps; Titleist \$1,776.41 smcs; Toners \$4,750.00 co; Tool Doctor \$33.00 smcs; Tractor Supply \$851.51 smcs; Tracy,K \$53.50 smcs; Training ABC \$313.00 smcs; Tri City Outdoor Power \$71.88 smcs; Tri-City BMX \$181.74 smcs; Tuff Rhino \$40.77 smcs; Tye & Rademacher \$10,758.22 smcs; Uline \$267.79 smcs; Underground Construction \$655.18 smcs; Union Bank & Trust \$54,541.88 ps; Unique Management \$402.75 smcs; UNK \$80.00 smcs; UNL Lied Center \$99.00 smcs; UPS \$372.23 smcs; USPS \$163.61 smcs; Van Diest \$7,437.52 smcs; Vanderbilts \$134.99 smcs; Verizon Wireless \$44.97 smcs; Vermont Systems \$1,081.00 smcs; Video Kingdom \$306.94 smcs; Village Uniform \$381.71 smcs; Vinderslev,C \$4.82 smcs; Vinyl Guard \$791.17 smcs; Walgreens \$27.17 smcs; Walline,B \$229.17 smcs; Walmart \$878.46 smcs; Walters Electric \$1,219.35 smcs; Weis Fire & Safety \$125.00 smcs; Wellman,P \$106.75 smcs; Wellness Council America \$97.20 smcs; Wicks Sterling Trucks \$187.88 smcs; Wiegand Security \$85.00 smcs; Wilke Donovans \$356.18 smcs; Wilkins Hinrichs Stober \$6,628.65 smcs; World Theatre Foundation \$13,500.00 smcs; WPCI \$157.00 smcs; Payroll Ending 01-14-2012 -- \$337,575.73. 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 February 14, 2012 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the applications for a Special Designated License submitted by Kearney Steak Company, dba Whiskey Creek in connection with their Class IK-35628 catering liquor license to dispense beer, wine, and distilled spirits in the Exposition Building and the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on February 20, 21, 22, 23, 24, 25, 2012 from 8:00 a.m. until 1:00 a.m. for the Cattlemen's Classic.
5. Reappointment of Randy Buschkoetter to serve on the Kearney Visitors Bureau, and the reappointment of Bruce Lear to serve on the Buffalo County Economic Development Council.

6. Adopt **Resolution No. 2012-4** approving Change Order No. 2 showing an increase in the amount of \$11,468.00 submitted by the World Theatre Restoration.

RESOLUTION NO. 2012-4

WHEREAS, Central Contracting, Inc. of Kearney, Nebraska has performed services in connection with the World Theatre Restoration Project, and the engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$11,468.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$451,900.00
Change Order No. 1 (12-27-2011)	+ 39,347.00
Change Order No. 2 (1-24-2012)	+ <u>11,468.00</u>
Contract Sum to Date	\$502,715.00

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 Exhibits "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Accept the bids received for the 10-Cubic Yard Dump Truck, Snow Plow, and Snow Plow Hitch for the Public Works Department and award the bid to Nebraska Truck Center in the amount of \$113,981.00.

8. Accept the bids received for the Six Wheel Broom Street Sweeper with Belt Conveyor for the Public Works Department and award the bid to Nebraska Environmental Products in the amount of \$235,933.00.

9. Adopt **Resolution No. 2012-5** approving Supplemental Agreement No. 1 between the City of Kearney and the Nebraska Department of Roads for Project No. STP-URB-10-2(119) for 2nd Avenue from 25th Street to 31st Street.

RESOLUTION NO. 2012-5

WHEREAS, on May 10, 2011 the City of Kearney, Nebraska and Nebraska Department of Roads (NDOR) entered into an Agreement for State Project No. STP-URB-10-2(119) for the improvement on 2nd Avenue from 25th Street to 31st Street; and

WHEREAS, it is necessary to amend the original agreement to provide an update of the City's estimated cost share of the project costs and to revise how the final City cost share will be funded.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that Stanley A. Clouse, Mayor of the City of Kearney, Nebraska is hereby authorized and directed to execute the attached Supplemental Agreement No. 1

between City of Kearney, Nebraska and the NDOR for Project No. STP-URB-10-2(119) for the improvement on 2nd Avenue from 25th Street to 31st Street.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

10. Adopt **Resolution No. 2012-6** approving Change Order No. 1 increasing the contract time by 29 days, Change Order No. 2 showing a decrease in the amount of \$25,200, Change Order No. 3 showing a decrease in the amount of \$63,898.60, Application and Certificate for Payment No. 8-Final in the amount of \$282,545.25, and accept the Certificate of Substantial Completion 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.

RESOLUTION NO. 2012-6

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 Change Order No. 1 increasing the contract time by 29 days, as shown on Exhibit "A", Change Order No. 2 showing a decrease in the amount of \$25,200.00, as shown on Exhibit "B", and Change Order No. 3 showing a decrease in the amount of \$63,898.60, as shown on Exhibit "C" all attached hereto and made a part hereof by reference; and

WHEREAS, General Excavating and the City's engineer, have filed with the City Clerk Application and Certificate for Payment No. 8-Final in the amount of \$282,545.25, as shown on Exhibit "D" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,816,395.00
Change Order No. 1	.00
Change Order No. 2	+ 25,200.00
Change Order No. 3 (1-24-2012)	+ <u>63,898.60</u>
Contract Sum To Date	1,727,296.40
Gross Amount Due	1,727,296.40

Retainage	.00
Amount Due to Date	1,727,296.40
Less Previous Certificates for Payment	<u>1,444,751.14</u>
Current Payment Due	\$ 282,545.25

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of December 31, 2011, as shown by Exhibit "E" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order Nos. 1, 2 and 3, as shown on Exhibits "A", "B", "C", Application and Certificate for Payment No. 8-Final, as shown on Exhibit "D", and the Certificate of Substantial Completion as shown on Exhibit "E" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Adopt **Resolution No. 2012-7** approving Application and Certificate for Payment No. 8 in the amount of \$69,328.51 submitted by Paulsen, Inc. and approved by Miller & Associates for the 2010 Part 5 Improvements – Bid B consisting of Paving Improvement District No. 2010-944 commencing at a point 250 feet east of 11th Avenue and from a point 250 feet west of 11th Avenue in and including all of 56th Street, and 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.

RESOLUTION NO. 2012-7

WHEREAS, Paulsen Inc. of Cozad, Nebraska has performed services in connection with the 2010 Part 5 Improvements – Bid B consisting of Paving Improvement District No. 2010-944 commencing at a point 250 feet east of 11th Avenue and from a point 250 feet west of 11th Avenue in and including all of 56th Street, and 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. 8 in the amount of \$69,328.51, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,634,697.50
Change Order No. 1 (12-27-2011)	+ <u>200,213.01</u>
Contract Sum To Date	2,016,608.01
Gross Amount Due	1,746,951.31
Retainage	34,939.03
Amount Due to Date	1,712,012.28
Less Previous Certificates for Payment	<u>1,642,683.77</u>
Current Payment Due	\$ 69,328.51

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

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Adopt **Resolution No. 2012-8** approving Application and Certificate for Payment No. 4 in the amount of \$18,275.81 submitted by Blessing LLC and approved by Miller & Associates for the 2010 Part 6 Improvements; Central Avenue from 18th Street to South Railroad Street.

RESOLUTION NO. 2012-8

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2010 Part 6 Improvements; Central Avenue from 18th Street to South Railroad Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$18,275.81, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$886,999.00
Change Order No. 1 (10-25-2011)	+ <u>30,861.75</u>
Contract Sum To Date	917,860.75
Gross Amount Due	876,419.25
Retainage	17,468.39
Less Potential LD's	90,000.00
Amount Due to Date	765,950.87
Less Previous Certificates for Payment	<u>747,675.05</u>
Current Payment Due	\$ 18,275.81

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 is hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt **Resolution No. 2012-9** approving the Interlocal Cooperation Agreement between the City of Kearney and Buffalo County for digital geographic data sharing.

RESOLUTION NO. 2012-9

WHEREAS, the City of Kearney, Nebraska, and the County of Buffalo, Nebraska desire to enter into an Interlocal Agreement for digital geographic data sharing.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to execute the Interlocal Cooperation Agreement for Digital Geographic Data Sharing between the City of Kearney, Nebraska, and the County of Buffalo, Nebraska. A copy of the said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Adopt **Resolution No. 2012-10** approving the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Timothy Nickerson, Robin Haase and Trevor Kirchner.

RESOLUTION NO. 2012-10

WHEREAS, Terry Eirich, Chief of the Kearney Volunteer Fire Department, has forwarded several names of individuals desiring to serve as volunteers in the Kearney Volunteer Fire Department; and

WHEREAS, based on the recommendation of Chief Eirich, the City Council of the City of Kearney, Nebraska hereby finds and determines that said persons listed are fully capable and qualified to serve a membership in the Kearney Volunteer Fire Department; and

WHEREAS, in order to be qualified for benefits in accordance with Sections 48-115, et seq. of the Nebraska Revised Statutes, said volunteer firefighters acting outside the corporate limits of the City must be officially directed to do so in order to be eligible.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska, that those persons recommended by the Chief of the Kearney Volunteer Fire Department for membership in the Kearney Volunteer Fire Department as set forth on the attached letter of recommendation, marked Exhibit "A," attached hereto and made a part hereof by reference, are hereby confirmed as members of the Kearney Volunteer Fire Department for the purposes of and in accordance with Section 48-115 of the Nebraska Revised Statutes, and that said members are fully entitled to benefits under the Workers' Compensation Act.

BE IT FURTHER RESOLVED that all of said volunteer firefighters named on Exhibit "A" are hereby specifically authorized and directed to serve outside the corporate limits of the municipality under the direction, orders and authority of the Chief of the Kearney Volunteer Fire Department in accordance with Section 4-204 of the Kearney City Code.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7623B AMENDING ORDINANCE NO. 7623A CORRECTING THE LEGAL DESCRIPTION

This item is a housekeeping matter that is required by the title insurance company for the purchaser of property as part of the tech park transaction. The City purchased property from Donaly Farms for the tech park site and as a part of that transaction the City deeded agricultural property near the airport as a part of the consideration. The earlier ordinance indicated that we are transferring property to Donaly Farms and technically we transferred the property to the two principle owners of Donaly Farms, Lynda Colette Jones and Janeen Vokoun. Even though the transaction has been completed, the title insurance company has found an error in the legal description which he would like corrected.

Council Member Lammers introduced Ordinance No. 7623B, being Subsection 1 of Agenda Item V amending the legal description in Ordinance No. 7623A selling a tract of land described as part of the Southwest Quarter of Section 15, part of the Southeast Quarter of Section 16, and part of the North Half of the Northeast Quarter of Section 21, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member 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. 7623B 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. 7623B 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. 7623B is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7642A AMENDING ORDINANCE NO. 7642 CORRECTING THE LEGAL DESCRIPTION

This item is also a housekeeping matter that is required by the title insurance company for the purchaser of property known as Lot 6 of Block 1, Lake Villa Estates.

The City of Kearney acquired an interest in certain property in that area which was part of a well house and lagoon which served that development prior to City services being provided. City services have now been connected to that neighborhood and there was no longer a need for the City to maintain ownership of this parcel. The City of Kearney owns approximately 83 percent of the front footage of this lot and the remaining percent is owned by Elizabeth and Pat Merrifield and the James L. Connell Trust.

Brandon Jameson purchased this property from the City in April of 2011. The earlier ordinance indicated the lot being located in Lake Villa Estates 2nd Addition when technically it should be Lake Villa Estates. Even though the transaction has been completed, the title insurance company needs the ordinance to be amended to indicate the City selling Lot 6 of Block 1 in Lake Villa Estates.

Council Member Lammers introduced Ordinance No. 7642A, being Subsection 2 of Agenda Item V amending the legal description in Ordinance No. 7642 selling Lot 6 of Block 1, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member 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. 7642A 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. 7642A 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. 7642A 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

ANNUAL FINANCIAL REPORT

Mayor Clouse opened for discussion the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller.

Mary Kalb from McDermott & Miller presented this matter to the Council. On behalf of Mindy Oman, the manager in charge of the audit and Jessica Frerichs, one of the CPAs who worked on the report, Mary thanked the Council and Administration for allowing

them to present the audit. She does not go over the report any longer and only pulls a few numbers forward that are of interest to everyone who lives in Kearney. The first year this reporting was started the net assets were \$94 million and this last year they were \$174 million. She did an average over the time frame and the increase has been 9.5 percent a year. This means that the City continues to consistently grow at that level. The revenues have been greater than the expenditures which is a very positive thing. The first year this accrual was done the property taxes were \$1.2 million and this last year they were \$2.4 million. Although this is a pretty significant increase, it is not due so much to raising the property taxes as the assessed value has gone up due to the growth of the City.

Nine years ago, the City's total revenues were \$33 million and this last year they were \$52 million. Nine years ago the City's expenditures were \$27 million, this last year \$44 million. These numbers are a little over seven percent increase for that time period in revenues and expenditures. The first year started out with revenues greater than expenditures and has been that way every year so results in the City's net assets is growing. The first year the sales tax revenues were \$7 million and last year were \$12.7 million which is also a very positive thing for the City. The Federal funds for this last year were \$4.2 million which has not been a very consistent number over the years. Last year of that \$4.2 million, \$2.7 of that was the City's money which was the recovery and reinvestment money which was ending. Ms. Kalb stated that with the overpass project, the City may get some additional money that would offset that loss. She stated that overall these numbers are positive.

Moved by Buschkoetter seconded by Clouse to accept the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

CHIEF INDUSTRIES PURCHASE AGREEMENT

This item and the next item were discussed together but voted on separately.

Mayor Clouse opened for discussion the Purchase Agreement between the City of Kearney and Chief Industries to sell to Chief Industries Lots 4 and 5 of Block 1, Piper Subdivision located in part of the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter, part of Government Lot 1 and part of Government Lot 4 located in Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and to consider Resolution No. 2012-11.

City Attorney Michael Tye presented this matter to the Council. The City of Kearney has been involved in discussions with Chief Industries regarding the potential sale of a certain property that the City owns near the Kearney Regional Airport. The property consists of two metal buildings which are adjacent to property that the City recently sold to Ace Irrigation. These parcels are located in the Piper Subdivision. One of the buildings on the property is owned by Chief and was constructed by them and placed on the land and the other building is owned by the City and in need of repair.

The City and Chief Industries have negotiated a purchase price for this property of

\$100,000 which would be due and payable at closing. Also, as a part of this agreement Chief Industries has agreed to be annexed into the City of Kearney when this is legally possible and to waive any objection into annexation with reference to the property which it is purchasing and also with reference to its property located at 4400 East 39th Street and 4280 Airport Road.

Moved by Clouse seconded by Kearney to adopt **Resolution No. 2012-11** approving the Purchase Agreement between the City of Kearney and Chief Industries to sell to Chief Industries Lots 4 and 5 of Block 1, Piper Subdivision located in part of the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter, part of Government Lot 1 and part of Government Lot 4 located in Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2012-11

WHEREAS, the City of Kearney is the owner of Lots 4 and 5 of Block 1, Piper Subdivision located in part of the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter, part of Government Lot and part of Government Lot 4 located in Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; and

WHEREAS, there has been an offer to purchase these lots for \$100,000; and

WHEREAS, it has been proposed that the City agree to the sale of the lots, as shown on the Purchase Agreement between the City of Kearney and Chief Industries, Inc.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Purchase Agreement on behalf of the City of Kearney, as shown on Exhibit "A", attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 24TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ORDINANCE NO. 7700 SELLING LAND TO CHIEF INDUSTRIES

Council Member Kearney introduced Ordinance No. 7700, being Subsection 3 of Agenda Item VI selling to Chief Industries Lots 4 and 5 of Block 1, Piper Subdivision located in part of the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter, part of Government Lot 1 and part of Government Lot 4 located in Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers 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. 7700 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 Lammers seconded by Lear that Ordinance No. 7700 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. 7700 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.

OPEN ACCOUNT CLAIMS: NPPD - \$71,622.91, SCHOOL DISTRICT #7 - \$4,094.91

Moved by Lear seconded by Buschkoetter that the Open Account Claim in the amount of \$71,622.91 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Lammers, Kearney, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

Moved by Clouse seconded by Kearney that the Open Account Claim in the amount of \$4,094.91 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:16 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**