

*Kearney, Nebraska
March 27, 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 March 27, 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. 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; Dan Lynch, Chief of Police; and Shawna Erbsen, Human Resources Director were also present. Some of the citizens present in the audience included: Tara Shaw, Jonathan Nikkila, Steve Altmaier from KGFW Radio, Mike Konz 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

Pastor Marvin Valdois from 56th Street Baptist Church provided the Invocation.

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

VACATE PORTION OF BEL AIR SECOND AND BEL AIR FOURTH AND AMEND LAND USE MAP FOR PROPERTY LOCATED WEST OF THE INTERSECTION OF AVENUE N AND 66TH STREET

Mayor Clouse stated the applicant had previously postponed until April 10, 2012 the Applications submitted by Buffalo Surveying Corp. (Applicant) for Starostka Group Unlimited, Inc. (Owner) as follows: (1) vacate Lots 1 through 5 of Block 3, all of Avenue L as it abuts Lot 5 of Block 3, all of that part of 66th Street Place as it abuts Lots 1 through 5 of Block 3, and all that part of 66th Street Place as it abuts part of Avenue L, all in Bel Air Second Addition, together with Lot 5 of Block 2 and all that part of 66th Street Place as it abuts said Lot 5 of Block 2, all in Bel Air Fourth Addition; and (2) an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Medium Density Residential for property described as Lots 1 through 5 inclusive of Block Three (to be vacated), Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska and part of 66th Street Place, a street in the City of Kearney, and part of Avenue L, a street in the City of Kearney (west of the intersection of Avenue N and 66th Street). Therefore, no action will be taken.

REZONING PROPERTY LOCATED WEST OF THE INTERSECTION OF AVENUE N AND 66TH STREET

Mayor Clouse stated the applicant had previously postponed until April 10, 2012 Application submitted by Buffalo Surveying Corp. (Applicant) for Starostka Group Unlimited, Inc. (Owner) to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as Lots 1 through 5 inclusive of Block 3 (to be vacated), Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska and part of 66th Street Place, a street in the City of Kearney, and part of Avenue L, a street in the City of Kearney (west of the intersection of Avenue N and 66th Street). Therefore, no action will be taken.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR STAROSTKA VIEW ADDITION

Mayor Clouse stated the applicant had previously postponed until April 10, 2012 Application submitted by Buffalo Surveying Corp. (Applicant) for Starostka Group Unlimited, Inc. (Owner) for the Final Plat and Subdivision Agreement for Starostka View Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lots 1 through 5 inclusive of Block 3, all of Avenue L, a street in the City of Kearney as it abuts said Lot 5 of Block 3 on the east, all that part of 66th Street Place, a street in the City of Kearney as it abuts said Lots 1 through 5 inclusive of Block 3, and all that part of 66th Street Place, a street in the City of Kearney as it abuts the aforescribed part of Avenue L on the north, all in Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; TOGETHER WITH Lot 5 of Block 2, and all that part of 66th Street Place, a street in the City of Kearney as it abuts said Lot 5 of Block 2 on the north, all in Bel Air Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (said lots and streets to be vacated) (west of the

intersection of Avenue N and 66th Street). Therefore, no action will be taken.

DEVELOPMENT PLANS FOR 66TH STREET PLACE AND AVENUE L

Mayor Clouse stated the applicant had previously postponed until April 10, 2012 Application submitted by Brungardt Engineering (Applicant) for Starostka Group Unlimited, Inc. (Owner) for Planned District Development Plan Approval for duplex development on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District for property described as proposed Lot 1 of Block 2, Starostka View Addition, an addition to the City of Kearney, Buffalo County, Nebraska (66th Street Place and Avenue L). Therefore, no action will be taken.

CHANGE OF LIQUOR LICENSE FOR QWEST FUEL, 414 2ND AVENUE SOUTH

Mayor Clouse opened the public hearing on the Application for a Class D-97771 liquor license submitted by KB & KS Investments, LLC, dba Qwest Fuel located at 414 2nd Avenue South, consider the manager application for Tara Shaw and to consider Resolution No. 2012-38.

KB & KS Investments, LLC, dba Qwest Fuel has made application for a license to sell beer, wine and distilled spirits located at its facility, 414 2nd Avenue South. As you may remember, Qwest Fuel applied for and received a liquor license to sell beer only back in March of 2011. The Police Department performed a background check on the applicants and the manager last year and as of to date, no violations have occurred. In summary, they are requesting to expand their liquor license in order to sell beer, wine and distilled spirits. Ms. Shaw and her employees have received training and the Certificates of Training have been filed.

Tara Shaw presented this matter to the Council. She stated that all of their employees have had TIPS training. They also have monthly employee meetings where they go over the Kearney liquor laws. They have new registers that help with ringing up liquor sales and signs posted in their store. The new registers require an ID before completing the sale.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and adopt **Resolution No. 2012-38** recommending approval to the Nebraska Liquor Control Commission the Application for a Class D-97771 liquor license submitted by KB & KS Investments, LLC, dba Qwest Fuel located at 414 2nd Avenue South, and approve the manager application for Tara Shaw. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2012-38

WHEREAS, KB & KS Investments, LLC, dba Qwest Fuel has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class D-97771 (Beer, Wine, Distilled Spirits, Off Sale Only) Liquor License to do business at 414 2nd Avenue South, Kearney, Nebraska, and has paid all

fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, KB & KS Investments, LLC, dba Qwest Fuel also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Tara Shaw; and

WHEREAS, a hearing was held relating to said application on March 27, 2012 and the cost of the published notice was \$11.29.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class D-97771 (Beer, Wine, Distilled Spirits, Off Sale Only) Liquor License to KB & KS Investments, LLC, dba Qwest Fuel located at 414 2nd Avenue South, Kearney, Nebraska, and to approve the application for Corporate Manager of Tara Shaw.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

TARGET STORE T-0857 AUTOMATIC LIQUOR LICENSE RENEWAL

Mayor Clouse opened the public hearing on the automatic renewal of the liquor license held by STL of Nebraska, Inc., dba Target Store T-0857 in connection with their Class DK-77550 liquor license located at 4800 3rd Avenue and consider Resolution No. 2012-39.

The City Council directed City staff to develop a City Council Policy dealing with the consideration of liquor licenses given concerns that City Council has with reference to underage drinking and other liquor license violations within the City of Kearney. On March 22, 2011 the City Council adopted a nonbinding resolution that established general guidelines as to when the Council would consider not recommending approval of a liquor license application or denial of a special designated license.

On March 23, 2011 a letter was sent to all liquor license holders, with a copy of the resolution setting forth the Council's Policy, emphasizing the requirement of training and submitting Certificates of Training of their employees. With the renewal process of Non-C Class liquor licenses, on October 31 a second notice was sent to all Non-C Class license holders reminding them to submit copies of their employees Certificates of Training to the City no later than January 31. Finally, the City Attorney sent a final notice on February 6 giving them until March 2 to submit the Certificates.

Target has held a liquor license since 1991. In reviewing the Nebraska Liquor Control Commission's web site, there have been no liquor violations. Even though Target has their own in-house training program, their program has not been approved by the Nebraska Liquor Control Commission. According to the City Council Policy, completed training is specifically certified and approved by the Liquor Commission.

The City of Kearney has 90 liquor license holders. Out of those 90, two establishments have not complied with the City Council's Liquor License Policy. The larger establishments, such as Walmart with approximately 120 employees and the Viaero Event Center with approximately 50 employees, have taken the training and Certificates of Training have been submitted. The letters explain they have the option to take the training via the internet by going through the Liquor Commission's web site or by setting up an appointment through the Buffalo County Community Partners.

In accordance with Section 53-134(6) of the Nebraska Revised Statutes, the local governing body of any city with respect to licenses within its corporate limits shall have the power with respect to retail licenses: to cancel or revoke on its own motion any license if, upon the same notice and hearing, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rules or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor.

Bev Larsen, Team Leader for Kearney Target Store, presented this matter to the Council. She has been at the Kearney Target Store as a Team Leader for six years. They do have a POS system that requires that IDs be scanned into the system as they move through the check-out lanes. They do require specific training for their employees that is done online at the store. All team members must score 90 percent or higher on the quiz in order to be certified. They do this within the employee's first week of training as they bring people on for cashier or backup cashier. In addition, all team members must take the City approved online training by April 20, 2012. She has copies of team member names and dates for the training on file and what they currently have done for their training. If the clerk checking out is not of age to sell alcohol, the register will give them a prompt saying "need a supervisor approval". The supervisor will then come to the check out and approve the sale. The system will not let them ring up that sale without a supervisor's approval. They do not allow employees to cashier until they have taken the training. They will actually put the register in training mode without actually ringing out a guest until they have had all their training.

Council member Kearney asked since Target had received ample notification, why did they not respond. Ms. Larsen stated that Target headquarters did respond with some action through the State and were waiting for some approval. When that did not come through, they instructed the Kearney store to do this training and for her to come and speak before the Kearney City Council.

City Attorney Michael Tye stated that he had some conversations with the Target home office and said they had received the notices. Since Target has an in-house training program, they wanted the State to certify their training, but the State declined. In order to be consistent with other national retailers, the State wanted them to do the authorized training which to his understanding, Target had not done to date. That is why Target had to come before Council. Other national retailers have completed the State training such as Walgreens, Wal-Mart, etc. The City Council passed a policy approximately a year ago, requiring this training of all liquor license holders. To his knowledge, everyone is in compliance except for Target and maybe one other.

City Attorney advised the Council that they had a few options to base their decision on to approve or deny. One of the Council's options is to recommend against approval of Target's license. Another option is to table this for another meeting to give them the opportunity to get that training completed. Ms. Larsen stated their plan is to have all employees trained by April 20, 2012. She has already completed the online EDU training. Council member Kearney pointed out that the next Council meeting is April 10.

City Clerk stated that the meeting following April 10 is April 24 and Target's liquor license expires on April 30 which probably would not give them enough time to renew. She stated that Ogallala and Kearney are the only two cities in the state which have this kind of a policy. Council member Lear stated that he worked for the better part of a year to develop this procedure with Buffalo County Health Partners. With all due difference, he stated he appreciated the fact they are moving forward with compliance and did not believe there was not an intent of not complying. However, in his opinion they did not meet the letter of the law after the policy was set out and were given plenty of notice. In his mind, he could not do anything but recommend revoking it until a date after the training is completed. He believed that by approving it in advance of completion, it is opening Pandora's Box to make exceptions every time somebody does not meet the deadline. Council member Kearney was in agreement and believed the Council must be consistent.

Council member Lammers agreed but stated they would be able to get some of their employees trained by the next meeting, so he proposed tabling until April 10 with the possibility of getting everyone trained by that date. City Manager stated he believed the challenge was the unwillingness to proceed was not at the local level and the local store has done everything they could. This store is waiting on a national chain that has different rules in many different states. It makes sense they were trying to use an in-house training that would fit all and get it approved.

City Clerk stated the first notification was sent in March of 2011, a reminder in October 2011 and again in January 2012. City Manager stated taking into consideration the April 30th expiration of their license, the Council could hold a special meeting before that date. City Clerk stated if they could complete their training by the April 24th Council meeting, Target could renew their license online instead of sending it through the mail. They could possibly get it issued in time by renewing on line and driving to Lincoln to pick it up from the Liquor Commission in order to get it before May 1. City Manager recommended putting the burden back on the local store by postponing it until the April 24th meeting. He wanted to make sure that they understand what they need to do. If they accomplish all their training by April 20, the Council is being consistent. If they have it completed by April 10 they can notify the City Clerk and will be placed on that agenda.

City Attorney stated that the requirement for all employees who handle alcohol to have the state approved training before approving/renewing of a liquor license is unique to Kearney and Ogallala. In other cities in Nebraska, this is not a requirement. He knows there has been discussion of making this a statewide obligation which may happen. He also stated that anyone that has a computer can go on line and get their training through the Nebraska Liquor Control Commission, but there is a fee. City Clerk added the testing can be taken at any time, there is no set testing schedule. An employee can

take the training at any time as long as their store allows them to do it and it takes about half an hour.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to postpone until April 24, 2012 any action on the hearing on the automatic renewal of the liquor license held by STL of Nebraska, Inc., dba Target Store T-0857 in connection with their Class DK-77550 liquor license located at 4800 3rd Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

PUBLIC UTILITY EASEMENT IN INGALLS CROSSING FIFTH ADDITION

Mayor Clouse opened the public hearing on the proposed acquisition for a public utility easement of a tract of land described as being the east ten feet of Lot 1, Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska and to consider Resolution No. 2012-40.

City Attorney Michael Tye presented this matter to the Council. Property was recently platted at Parklane Drive and 56th Street for the new location for the State Bank of Riverdale. The property owner wishes to grant the City of Kearney a utility easement for the building at this location and the utility easement has been prepared for this purpose.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2012-40** approving the proposed acquisition for a public utility easement of a tract of land described as being the east ten feet of Lot 1, Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2012-40

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a public utility easement and voted in favor to proceed with the acquisition; and

WHEREAS, State Bank of Riverdale has granted to the City of Kearney, Nebraska a public utility easement for a tract of land being the east ten feet of Lot 1, Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the public utility easement granted by State Bank of Riverdale to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:

STANLEY A. CLOUSE

MICHAELLE E. TREMBLY
CITY CLERK

PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

ORDINANCE NO. 7709 AMENDING THE 2011-2012 BUDGET

Mayor Clouse opened the public hearing for the purpose of revising the City of Kearney Budget for the 2011-2012 Fiscal Year and to consider Ordinance No. 7709.

Director of Finance Wendell Wessels presented this matter to the Council. By law, the City may not expend more than the total budget of expenditures unless the provisions of State Statute 13-511, R.R.S. 1943 are met. Due to unforeseen circumstances, actual expenditures for the current fiscal year will exceed budgeted expenditures unless the current fiscal year budget is supplemented. Under these circumstances, state law requires that a public hearing be conducted to supplement the previously adopted budget and an ordinance be passed authorizing the expenditure of the additional requirements.

An explanation of the budget adjustments for the two funds are as follows:

General: The budgeted expenditures in the General Fund need to be increased from \$18,941,005.56 to \$20,641,005.56, or by \$1,700,000.00. The increase is required to provide funding for the purchase of a short-term promissory note issued by the City. The proceeds from the purchase of the note by the General Fund will be placed in the Economic Development Grant Fund. Funding to purchase the note by the General Fund will come from the existing fund balance within the General Fund and will be repaid by the Special Sales Tax Fund over the next five years.

Economic Development: The budgeted expenditures in the Economic Development Fund need to be increased from \$2,245,382.76 to \$3,945,382.76, or by \$1,700,000.00. The increase is required to provide funding for the purchase of additional land for the Tech Park, to pay for the costs associated with moving the NRD channel to the south end of the property, and to pay for the costs of constructing a carrier hotel.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing revising the City of Kearney Budget for the 2011-2012 Fiscal Year and introduced Ordinance No. 7709 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. 7709. 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, Buschkoetter, Lear, Lammers, Kearney. 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. 7709 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse,

Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7709 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7709 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.

ADDITIONAL LAND ACQUISITION FOR DATA PARK

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land described as being part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska to expand the Tech oNE Crossing Data Park and to consider Resolution No. 2012-41.

City Attorney Michael Tye presented this matter to the Council. The City of Kearney has recently negotiated an option to purchase an additional 53 acres adjacent to the Tech Park property that the City owns at the corner of 56th Street and Antelope Avenue. In order to expand the amount of property available for potential development, City staff would recommend exercising the option and providing authorization to proceed to purchase and close on the acquisition of the additional 53 acres parcel of property. This property will be purchased from Two Sisters, Inc. with a closing of the sale to occur on April 1, 2012 or at a time that is mutually acceptable to the parties.

With the purchase of this 53-acre parcel, the City would then own approximately 165 acres which would be available for future development. The purchase price for this property is \$1,200,150.00.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and adopt **Resolution No. 2012-41** approving the proposed acquisition of a tract of land described as being part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska to expand the Tech oNE Crossing Data Park. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2012-41

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisitions by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition of an additional 53 acres for future expansion of a technology park and voted

in favor to proceed with the acquisition; and

WHEREAS, the City Council of the City of Kearney, Nebraska has determined the necessity of acquiring fee simple title for future expansion of a technology park, including any mortgage and leasehold interests on the following tract of property: a tract of land located in part of the South Half of the Northwest Quarter, and part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southwest Corner of said Northwest Quarter and assuming the South line of said Northwest Quarter as bearing N 89°50'18" E with all other bearings shown hereon relative thereto; thence N 89°50'18" E on said South line a distance of 2639.28 feet to the Southeast Corner of said Northwest Quarter; thence N 89°50'18" E on the South line of said Northeast Quarter a distance of 140.00 feet; thence N 00°37'00" W leaving said South line and being parallel to the West line of said Northeast Quarter a distance of 485.22 feet to the beginning of a tangent curve to the right having a central angle of 51°47'39", a radius of 500.0 feet and an arc length of 451.99 feet; thence N 51°10'39" E tangent to said curve a distance of 350.10 feet to the beginning of a tangent curve to the right having a central angle of 38°39'39", a radius of 447.00 feet and an arc length of 301.62 feet; thence N 00°09'42" W perpendicular to the tangent of said curve a distance of 104.00 feet to the North line of a Drainage Easement granted to Central Platte Natural Resources District (CPNDR), recorded as Inst. 2002-8421 in the Office of the Register of Deeds, Buffalo County, Nebraska; thence S 89°50'18" W on said North line a distance of 544.28 feet to a point on the West line of said Northeast Quarter; thence S 00°37'00" E on said West line a distance of 18.00 feet to the South line of a tract of land deeded to the City Of Kearney, recorded as Inst. 2011-964 in the Office of the Register of Deeds, Buffalo County, Nebraska; thence S 89°35'04" W on said South line a distance of 43.17 feet; thence S 00°24'56" E on said South line perpendicular to the previous course a distance of 2.00 feet; thence S 89°35'04" W on said South line perpendicular to the previous course a distance of 15.10 feet to the beginning of a tangent curve to the left having a central angle of 38°39'39", a radius of 552.0 feet and an arc length of 372.47 feet; thence S 50°55'25" W on said South line tangent to said curve a distance of 47.51 feet; thence S 39°04'35" E on said South Line perpendicular to the previous course a distance of 6.00 feet; thence S 50°55'25" W on said South line perpendicular to the previous course a distance of 790.12 feet to the beginning of a tangent curve to the right having a central angle of 18°36'23", a radius of 454.00 feet and an arc length of 147.43 feet; thence N 20°28'12" W on said South line radially to said previous curve a distance of 1.00 feet to the beginning of a curve to the right being concentric with the previously described curve extended, having a central angle of 20°03'16", a radius of 453.00 feet, and an arc length of 158.56 feet; thence S 89°35'04" W on said South line tangent to said curve a distance of 224.87 feet; thence S 00°24'56" E on said South line perpendicular to the previous course a distance of 7.00 feet; thence S 89°35'04" W on said South line perpendicular to the previous course a distance of 1074.33 feet to the West line of said Northwest Quarter; thence S 00°34'56" E on said West line a distance of 514.20 feet to the point of beginning, containing 53.34 acres, more or less, of which 0.39 acres are currently in use as County Road Right-of-Way along the West side, all in Buffalo County, Nebraska; and

WHEREAS, the City Council finds and determines that it is necessary for the public health, safety and general interest and welfare of the citizens of Kearney that possession of the property interest as described above be acquired as soon as possible for future expansion of a technology park.

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

1. The City Attorney and City Manager be, and hereby are, authorized on behalf of the City to complete negotiations for possession of and fee simple title to the property set forth above, together with the temporary construction easements; and

2. If the acquisition and possession of such property is not possible through negotiations, the City Attorney be, and hereby is, directed to commence eminent domain proceedings on behalf of the City of Kearney to obtain title, acquisition, and possession of said property interest as soon as legally possible.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held March 13, 2012.

2. Approve the following Claims:

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

AT&T \$281.49 smcs; ABC Drug \$14.77 smcs; Ace Hardware \$21.96 smcs; Advance Auto Parts \$55.97 smcs; Agent Fee \$40.00 smcs; Alfred Benesch \$3,343.01 co; All Amer Sewer \$1,455.00 smcs; Allied Electronics \$411.62 smcs; Alphabet Signs \$781.08 co; Amazon \$554.12 smcs,co; American \$246.13 smcs; Amer Fence \$2,986.00 co; Amer First Aid \$574.96 smcs; Amsan \$2,521.40 smcs; Analytical Services \$1,875.00 smcs; Andersen Wrecking \$200.00 smcs; Anderson Brothers \$117.75 smcs; Andy's General Store \$42.70 smcs; APA Membership Online \$130.00 smcs; Apex Superstores \$63.20 co; Apple Online \$5,976.00 smcs; Archer,C \$23.98 smcs; Arctic Refrigeration \$439.55 smcs; Ask Supply \$423.33 smcs; Aurora Coop \$370.88 smcs; Baker & Taylor \$2,990.24 smcs; Bamford \$868.78 smcs; Bauer,A \$30.00 smcs; Big Rack Shack \$342.00 smcs,co; Blessing \$68,453.43 co; Bluecross Blueshield \$225,411.97 smcs; Boogaarts \$9.50 smcs; Bosselman Energy \$30,892.77 smcs; Broadfoot's \$972.00 smcs; Buckle \$765.00 smcs; Buffalo Outdoor Power \$837.12 smcs; Builders Warehouse \$1,662.44 smcs,co; Carquest \$343.08 smcs; Cash-Wa \$1,483.52 smcs; CBA Lighting \$629.80 smcs; Center Point Large Print \$71.41 smcs; Central Hydraulic Systems \$1,528.99 smcs; Central NE Bobcat \$3,694.91 smcs,co; Central Hydraulic \$5,287.30 smcs; Century MMA \$128.99 smcs; Charter \$196.98 smcs; Chesterman \$648.35 smcs; City of Ky \$10,696.63 smcs,ps; CO Chapter of INL \$400.00 smcs; Community Action Partner \$12,000.00 co; Conseco Life Ins \$19.00 ps; Construction

Rental \$273.00 smcs,co; Copycat Printing \$562.47 smcs; Country Inn & Suites \$498.40 smcs; Crop Production \$126.30 smcs; Crossroads Ford \$164.23 smcs; Culligan \$266.35 smcs; Cummins Central Power \$90.02 smcs; D&S Lighting \$195.84 smcs; Dawson PPD \$22,665.23 smcs; Dell \$373.86 co; Delta Air \$1,701.60 smcs; Demco \$931.70 smcs; Diamond Vogel Paint \$157.07 smcs; Dierberger,T \$35.01 smcs; Dietz,C \$50.00 smcs; Digicert \$787.00 co; Dish Network \$64.36 smcs; Dmilaco \$160.25 smcs; Dollar General \$24.08 smcs; Dowhy Towing \$150.00 smcs; Dultmeier Sales \$555.02 smcs; Dutton-Lainson \$227.44 smcs; Eakes \$1,773.67 smcs,co; Eckhoff,N \$138.60 smcs; Ecolab \$36.00 smcs; Eddy's \$49.92 smcs; E-filliate \$211.34 co; Eileen's Cookies \$14.80 smcs; Elliott Equipment \$147.73 smcs; EMC Ins \$807.39 smcs; Eustis Body Shop \$621.00 smcs; Expedia \$250.14 smcs; Express Distributing \$156.00 smcs; Expression Wear \$299.00 smcs; Eynetich,P \$138.60 smcs; Fairbanks \$635.09 smcs; Fastenal \$1,543.61 smcs,co; Fearnley,M \$48.15 smcs; Firecom \$340.00 smcs; Fireguard \$52.01 smcs; Footjoy \$727.47 smcs; Frontier \$277.50 co; Full Tilt Management \$1,500.00 smcs; Galls \$120.95 smcs; Gant,L \$2.83 smcs; Garcia Chicoine \$3,553.30 co; Garrett Tires \$2,366.37 smcs; GE Money Bank \$1,962.12 smcs; Gear for Sports \$427.75 smcs; Gempler \$504.41 smcs; GIS Workshop \$295.00 co; Graham Tire \$427.68 smcs; Grainger \$633.13 smcs; Great Lakes \$551.00 smcs; Great Plains One Call \$108.77 smcs; H&H Auto Parts \$260.00 smcs; H&H Distributing \$301.24 smcs; Hach \$979.52 smcs; HD Supply \$1,597.85 smcs; Heartland Motor \$47.80 smcs; Heiman Fire Equipment \$379.90 smcs; Hilton Garden Inn \$399.84 smcs; Hitech \$540.00 smcs; Hobby-Lobby \$6.97 smcs; Holmes Plumbing \$747.97 smcs; Hometown Leasing \$682.11 smcs,co; Hoover Fence \$784.20 smcs; HTM Sales \$888.40 smcs; Hydrite Chemical \$12,510.31 smcs; Hydro Tech \$315.00 smcs; ICMA Retirement Trust \$3,757.69 ps; Inland Truck Parts \$380.23 smcs; IRS \$104,538.17 ps; Intl Association \$508.00 smcs; Intl Code Council \$700.00 smcs; Intl Society \$107.19 smcs; Investment Property \$1,500.00 co; J&R Sound \$17.87 smcs; Jack Lederman \$3,633.70 smcs; Jacobs,J \$13.20 smcs; John Deere Financial \$333.70 smcs; Johnson,S \$30.00 smcs; Johnstone Supply \$1,047.01 smcs; Just Blinds \$848.05 co; K&K Parts \$34.07 smcs; Karre,E \$39.61 smcs; Ky Clinic \$1,479.00 ps; Ky Comm Foundation \$90,029.00 smcs; Ky Concrete \$1,761.00 co; Ky Crete \$719.62 smcs,co; Ky Glass \$435.20 co; Ky Hub \$2,129.86 smcs; Ky Humane Society \$6,825.00 smcs; Ky Implement \$2,103.00 smcs; Ky Towing \$150.00 smcs; Ky Warehouse \$1,457.40 smcs; Ky Winlectric \$343.23 smcs,co; Ky Winnelson \$90.74 smcs; Ky Yamaha \$309.80 smcs; Kimball Midwest \$371.90 smcs; Kindle \$20.98 smcs; Konica Minolta \$2,574.66 smcs; Krueger,L \$649.00 smcs; Larue Distributing \$180.72 smcs; Lawson Products \$170.50 smcs; LECC \$300.00 smcs; Linda's Upholstery \$18.35 smcs; Linweld \$379.38 smcs; Little Caesars \$123.00 smcs; Lockmobile \$14.00 smcs; Magic Cleaning \$6,860.00 smcs; Mail Express \$1,065.45 smcs; Marlatt Machine \$962.42 smcs; Marsh Contracting \$9,670.00 smcs; Masek Golf Cart \$339.83 smcs; Matt Friend Equipment \$17,435.00 co; McBride,M \$16.83 smcs; McMaster-Carr \$312.19 co; Menards \$3,910.17 smcs; Metlife \$6.04 ps; Microfilm Imaging \$780.00 smcs; Mid-NE Aggregate \$165.36 smcs; Mid-NE Lubricants \$27,502.50 smcs; Mid-Plains Equipment \$225.00 smcs; Midway Chrysler \$90.35 smcs; Midwest Mailing \$410.00 smcs; Midwest Storage \$6,170.91 co; Miller & Associates \$667.50 smcs,co; Miller Signs \$840.00 smcs; Miracle Recreation \$648.00 co; Moonlight Embroidery \$410.50 smcs; Mostek Electric \$2,614.18 smcs; MPH Industries \$640.00 co; Municipal Supply \$3,898.31 smcs; Napa All Makes \$142.53 smcs; Naps Dealer Supplies \$40.85 smcs; Natl Alliance for You \$200.00 smcs; Natl Tactical Officers \$40.00 smcs; NE Arborists \$75.00 smcs; NE Child Support \$2,195.60

ps; NE Dept of Revenue \$29,482.04 smcs; NE DOL/Boiler Inspection \$180.00 smcs; NE Environmental Products \$1,822.67 smcs; NE Golf Assn \$200.00 smcs; NE IAI \$30.00 smcs; NE Licensed Beverage \$200.00 smcs; NE Machinery \$5,104.46 smcs; NE Online \$500.00 smcs; NE Rural Water Assn \$250.00 smcs; NE Truck & Equipment \$1,124.60 smcs; NE Truck Center \$934.62 smcs; NEland Distributors \$467.16 smcs; NeRPA \$130.00 smcs; New World Systems \$52,830.00 co; Newegg \$289.93 co; NMC Exchange \$1,264.58 smcs; Northern Safety \$228.00 smcs; Northwest Electric \$271.77 smcs; Northwestern Energy \$3,483.47 smcs; OCLC \$625.06 smcs; Office Max \$1,466.88 smcs,co; Officenet \$5,256.63 smcs,co; O'Reilly Auto \$26.36 smcs; Orscheln \$516.25 smcs; Outdoor Recreation \$1,788.00 co; Overhead Door \$65.00 smcs; Owl System \$306.50 smcs; Paramount \$169.61 smcs; Parks,M \$23.67 smcs; Party America \$125.98 smcs; Pat's Plumbing \$175.00 smcs; Pcdictatecom \$49.99 smcs; Pep Co \$53.66 smcs; Perkins \$163.09 smcs; Peterson,N \$50.00 smcs; Ping \$3,412.13 smcs; Pioneer Revere \$988.75 smcs; Platte Valley Comm \$2,172.47 smcs; Potter,B \$31.00 smcs; Power Systems \$546.29 smcs; Presto-X \$322.02 smcs; Protex Central \$252.00 smcs; Provantage \$3,120.90 co; Pump & Pantry \$52.09 smcs; QC Supply \$436.22 smcs; QT \$39.50 smcs; Quatred \$1,099.00 smcs; Quill \$1,027.86 smcs; Random House \$72.00 smcs; Reams \$415.16 smcs; Recorded Books \$288.16 smcs; Research Technology \$159.95 smcs; Resource Management \$1,068.48 smcs; Rivershore Reading Store \$592.00 smcs; Roper's Radiator \$65.00 smcs; Rothenberger,J \$3.25 smcs; Safelite Auto Glass \$703.74 smcs; Sahling Kenworth \$301.92 smcs; Salter,J \$6.73 smcs; Sandhill Plastics \$417.27 smcs; Sapp Brothers \$7,458.00 smcs; Schmidt,A \$31.00 smcs; Sears \$518.74 smcs; Sherwin Williams \$57.37 co; Sign Center \$467.15 smcs,co; Skype \$10.00 smcs; Sport Supply Group \$1,870.30 smcs; Springer Roofing \$5,225.00 co; Start Stop \$75.00 smcs; State Fire Marshal Training \$100.00 smcs; Staywell-Krames \$138.77 smcs; Super Circuits \$1,421.67 smcs; Super Shine Auto \$8.50 smcs; Target \$627.49 smcs; Teel,C \$87.93 smcs; TG Technical Services \$2,943.19 co; Thome,B \$65.73 smcs; Thompson Co \$28.10 smcs; Tielke's Sandwiches \$48.91 smcs; Titleist \$309.00 smcs; Tractor-Supply \$298.81 smcs; Trans Iowa Equipment \$1,573.45 smcs; Tri City Outdoor Power \$874.13 smcs; Tucker,G \$304.35 smcs; Turfwerks \$3,253.75 smcs; Turner Body Shop \$500.00 smcs; Underground Construction \$1,048.10 smcs; Union Bank & Trust \$53,463.34 ps; Unique Management \$384.85 smcs; UPS Store \$61.12 smcs; Upstart \$90.80 smcs; USA Blue Book \$147.47 smcs; USPS \$147.21 smcs; U-Stuff 'em \$95.00 co; Van Wall Equipment \$316.00 er; Walgreens \$56.67 smcs; Walmart \$1,737.21 smcs; Watchguard Video \$148.00 co; Wegner,T \$112.50 ps; Wilke's True Value \$230.54 smcs,co; Winter Equipment \$831.52 smcs; Wolf Promo Products \$5,563.00 co; WPCI \$157.00 ps; Zimmerman Printers \$680.70 smcs; Payroll Ending 3-10-2012 -- \$336,247.68. 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 April 10, 2012 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the request submitted by the Kearney Police Department/Buffalo County Sheriff's Office to temporarily block off Avenue B from North Railroad Street to 21st Street for the vehicle auction to be held on April 28, 2012 from 7:00 a.m. until 3:00 p.m.
5. Adopt **Resolution No. 2012-42** approving Change Order No. 3 showing an

increase in the amount of \$12,884.50 submitted by Blessing LLC and approved by Alfred Benesch & Company for the Kearney Regional Airport Terminal Parking Rehabilitation Project (AIP Project No. 3-31-0045-23).

RESOLUTION NO. 2012-42

WHEREAS, Blessing LLC of Kearney, Nebraska has performed services in connection with the Kearney Regional Airport Terminal Parking Rehabilitation Project (AIP Project No. 3-31-0045-23), and the City's engineer, Alfred Benesch & Company, have filed with the City Clerk Change Order No. 3 showing an increase to the contract sum in the amount of \$12,884.50, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$696,717.50
Change Order No. 1 (9-13-2011)	+ 4,332.91
Change Order No. 2 (12-13-2011)	- 7,290.00
Change Order No. 3 (3-27-2012)	+ 12,884.50
Contract Sum to Date	<u>\$706,644.50</u>

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 3, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

6. Accept the bids received for the 2010 Part 4 Improvements; Yanney Park Parking Lot and adopt **Resolution No. 2012-43** awarding the bid to Blessing, LLC in the amount of \$201,091.00.

RESOLUTION NO. 2012-43

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on March 20, 2012 at 2:00 p.m. for the 2010 Part 4 Improvements for Yanney Park Parking Lot; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$240,176.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Blessing LLC of Kearney, Nebraska in the sum of \$201,091.00 be accepted as the lowest responsible bid for 2010 Part 4 Improvements for Yanney Park Parking Lot.

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 Blessing LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2010 Part 4 Improvements for Yanney Park Parking Lot to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing LLC of Kearney, Nebraska in the sum of \$201,091.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$240,176.00 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 27TH DAY OF MARCH, 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 2011 Part 14 Improvements; Avenue H Viaduct Repairs and adopt **Resolution No. 2012-44** awarding the bid to Wilke Contracting in the amount of \$53,620.00.

RESOLUTION NO. 2012-44

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on March 20, 2012 at 2:00 p.m. for the 2011 Part 14 Improvements for Avenue H Viaduct Repairs; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$119,450.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Wilke Contracting of Kearney, Nebraska in the sum of \$53,620.00 be accepted as the lowest responsible bid for 2011 Part 14 Improvements for Avenue H Viaduct Repairs.

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 Wilke Contracting of Kearney, Nebraska be and is the lowest responsible bidder for the 2011 Part 14 Improvements for Avenue H Viaduct Repairs to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Wilke Contracting of Kearney, Nebraska in the sum of \$53,620.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$119,450.00 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 27TH DAY OF MARCH, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Accept the bids received for the 2011 Part 9 Improvements consisting of Paving Improvement District No. 2011-949 for 50th Street from 17th Avenue west to the west line of Hoehner Estates Third Addition, Paving Improvement District No. 2011-950 for 17th Avenue from 49th Street Place north 522.66± feet, Water Connection District No.

2011-1 and Sanitary Sewer Connection District No. 2011-1 in 50th Street from the east line of 17th Avenue west 627.11± feet and adopt **Resolution No. 2012-45** awarding the bid to Blessing, LLC in the amount of \$662,615.50.

RESOLUTION NO. 2012-45

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on March 20, 2012 at 2:00 p.m. for the 2011 Part 9 Improvements consisting of Paving Improvement District No. 2011-949 for 50th Street from 17th Avenue west to the west line of Hoehner Estates Third Addition, Paving Improvement District No. 2011-950 for 17th Avenue from 49th Street Place north 522.66± feet, Water Connection District No. 2011-1 and Sanitary Sewer Connection District No. 2011-1 in 50th Street from the east line of 17th Avenue west 627.11± feet; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$734,123.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Blessing LLC of Kearney, Nebraska in the sum of \$662,615.50 be accepted as the lowest responsible bid for 2011 Part 9 Improvements.

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 Blessing LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2011 Part 9 Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing LLC of Kearney, Nebraska in the sum of \$662,615.50 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$734,123.00 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 27TH DAY OF MARCH, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2012-46** allowing the City to expend funds on the 2011 Part 9 Improvements for the 50th Street and 17th Avenue paving and storm sewer project from the proceeds of the Series 2012 Bond Anticipation Notes.

RESOLUTION NO. 2012-46

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska (the "City"), as follows:

Section 1. The President and Council of the City hereby find and determine that it is necessary and appropriate to declare their official intent to issue tax-exempt bonds on behalf of the City and in addition, the City's reasonable expectations to reimburse

certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed project as described below.

Section 2. This resolution shall stand as a statement of the City's official intent under Regulation Section 1.150-2 of the regulations of the United States Treasury and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond proceeds provided is as follows:

2011 Part 9 Improvements – Paving/Stormwater	\$600,000.00
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2. The maximum principal amount of debt expected to be issued for such project is \$600,000.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

10. Adopt **Resolution No. 2012-47** approving Change Order No. 2 showing an increase in the amount of \$6,311.00 submitted by Midlands Contracting Inc. and approved by Miller & Associates for the 2011 Part 5 Improvements; Truck Washout Facility.

RESOLUTION NO. 2012-47

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2011 Part 5 Improvements; Truck Washout Facility, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$6,311.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

Original Contract Sum	\$150,967.35
Change Order No. 1 (11-22-2011)	- 13,239.00
Change Order No. 2 (3-27-2012)	<u>+ 6,311.00</u>
Contract Sum To Date	\$144,039.35

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Adopt **Resolution No. 2012-48** approving Change Order No. 2 showing a decrease in the amount of \$87,959.20, Application and Certificate for Payment No. 9-Final in the amount of \$34,939.03, and accept the Certificate of Substantial Completion 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. 2012-48

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 Change Order No. 2 showing an decrease in the amount of \$87,959.20, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, the contractor and the City's engineer have filed with the City Clerk Application and Certificate for Payment No. 9-Final in the amount of \$34,939.03, as shown on Exhibit "B" 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)	+ 200,213.01
Change Order No. 2 (3-27-2012)	- <u>87,959.20</u>
Contract Sum To Date	1,746,951.31
Gross Amount Due	1,746,951.31
Retainage	.00
Amount Due to Date	1,746,951.31
Less Previous Certificates for Payment	<u>1,712,012.28</u>
Current Payment Due	\$ 34,939.03

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of December 15, 2011, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit "A", Application and Certificate for Payment No. 9-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

12. Adopt **Resolution No. 2012-49** approving Amendment No. 1 to the Consultant

Agreement between the City of Kearney and Alfred Benesch & Company to include re-design, re-bid, construction observation and material testing for AIP Project No. 3-31-0045-27; Terminal Apron Sealcoat, Runway 13/31 Repairs and Airfield Marking at the Kearney Regional Airport.

RESOLUTION NO. 2012-49

WHEREAS, on January 25, 2011, the City Council passed Resolution No. 2011-4 authorizing the Mayor to execute the Consultant's Agreement with Alfred Benesch and Company for architect/engineering services for the design and bidding phases of AIP Project No. 3-31-0045-24; the Terminal Ramp Sealcoat, Runway 13/31, and Surface Painted Holding Position Signs (SPHPS) Marking at the Kearney Regional Airport; and

WHEREAS, additional re-design and re-bidding services are required following the bid openings conducted on June 29, 2011 and August 3, 2011; and

WHEREAS, it is mutually agreed between the parties to amend the Consultant Agreement for Services to include re-design, re-bidding, construction observation, and material testing services.

WHEREAS, it is mutually agreed between the parties to amend the Consultant Agreement for Services to include construction observation and material testing services.

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 & Company for include re-design, re-bidding, construction observation and material testing services for the Terminal Apron Sealcoat, Runway 13/31 Repairs and Airfield Marking at the Kearney Regional Airport being funded under the FAA Airport Improvement Program AIP 3-31-0045-27 (formerly AIP-3-31-0045-24). A copy of Amendment No. 1, marked as Exhibit A, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 27TH DAY OF MARCH, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

13. Approve the request to temporarily close on May 19, 2012 from 7:00 a.m. until 7:00 p.m. the east and west sides of Central Avenue from 24th Street to 25th Street, the north side of 24th Street from Central Avenue to Avenue A, and the "City Hall Parking Lot located southwest of 23rd Street and Avenue A.

14. Approve the application for a Special Designated License submitted by Kearney Investment Corp., dba Holiday Inn in connection with their Class CK-17964 catering liquor license to dispense beer, wine and distilled spirits inside a tent in the parking lot located north of the Museum of Nebraska Art and inside the Museum of Nebraska Art, 2401 Central Avenue on April 14, 2012 from 4:00 p.m. until 12:00 a.m. for a fund raiser.

15. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Exhibit

Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on April 14, 2012 from 4:00 p.m. until 12:00 a.m. for a boxing event.

16. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on 21, 2012 from 4:00 p.m. until 12:00 a.m. for a reception.

17. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on April 28, 2012 from 4:00 p.m. until 12:00 a.m. for a reception.

18. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropic in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 5, 2012 from 6:00 p.m. until 1:00 a.m. for a dance.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7710 TO ISSUE PROMISSORY NOTE FOR DATA CENTER

On February 14, 2012, the City Council approved Resolution No. 2012-25 authorizing the City Manager to execute an Option to Purchase Agreement on behalf of the City of Kearney for the purchase of 53.34 acres from Two Sisters Farms, Inc. for the purpose of expanding the Tech Park. In order to prepare the property for future data centers, improvements to the Tech Park such as moving the NRD channel to the south end of the property and the construction of a hotel carrier are also needed at this time. The total cost of purchasing the additional land and the estimated cost of constructing the improvements total \$1,700,150 and are detailed as follows:

Land (53.34 acres)	\$1,200,150
NRD channel relocation	\$ 300,000
Hotel carrier	\$ 200,000

Funding for this project is not included in the current budget, therefore, administration is recommending that a short-term promissory note in the amount of \$1,700,000 be issued by the City and purchased by the City's General Fund to fund the project. The proceeds of the note will be placed in the City's Economic Development Fund to provide funding for the project costs. This transaction will be in the form of a formal promissory note as allowed pursuant to State Statute 18-1750. By law the term of the note cannot exceed two years, however, since the intention is to repay the note over a five-year period, the note will be renewable every two years. The interest rate will be 0.50%; therefore, the annual payment will be \$345,116.96. Funding will be included in the Special Sales Tax Fund to repay the note over the next five years.

Council Member Lear introduced Ordinance No. 7710, being Subsection 1 of Agenda Item V providing for the issuance of a promissory note in the amount of \$1,700,000 for the payment of claims against the City relating to capital expenditures for purchasing/improving data center real property; agreeing to pay the notes and accrued interest from funds collected or to be collected upon current or subsequent tax levy, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. 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, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7710 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7710 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7710 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. 7711 CREATING PAVING DISTRICT NO. 2012-951

Consent Agenda Ordinance Items 2, 3, and 4 pertain to the same property.

A letter was received from Ron Grapes, President of Sun Development, Inc. requesting paving, water and sanitary sewer districts be created for 13th Street Place from 17th Avenue to its terminus in a cul-de-sac. The City notified Mr. Grapes on the estimate for the project and wants the City to proceed with the creation of the districts. Section 57-102 of the Kearney City Code requires the developer to deposit fifty percent of the total estimated costs of the districts. The remaining unpaid costs of the improvements shall be assessed against the property in said districts on a basis of special benefit to the property, if any, as provided by law.

Council Member Lear introduced Ordinance No. 7711, being Subsection 2 of Agenda Item V creating Paving Improvement District No. 2012-951 for 13th Street Place from 17th Avenue to its terminus in a cul-de-sac, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. 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, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7711 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7711 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7711 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. 7712 CREATING WATER DISTRICT NO. 2012-563

Council Member Lear introduced Ordinance No. 7712, being Subsection 3 of Agenda Item V creating Water District No. 2012-563 in 13th Street Place from 17th Avenue to its terminus in a cul-de-sac, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. 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, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7712 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7712 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7712 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. 7713 CREATE SANITARY SEWER DISTRICT NO. 2012-503

Council Member Lear introduced Ordinance No. 7713, being Subsection 4 of Agenda

Item V creating Sanitary Sewer District No. 2012-503 in 13th Street Place from 17th Avenue to its terminus in a cul-de-sac, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. 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, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7713 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7713 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7713 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

REDEVELOPMENT PROJECT IN AREA 5; LOPER SUITES, 2114 14TH AVENUE

Mayor Clouse stated the developer has withdrawn the redevelopment project for Redevelopment Area #5 for an area located at 2214 14th Avenue.

OPEN ACCOUNT CLAIMS: NPPD - \$77,740.83, STANLEY CLOUSE - \$162.18

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$77,740.83 payable to Nebraska Public Power District and in the amount of \$162.18 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

UPDATE ON 2ND AVENUE

Public Works Director Rod Wiederspan stated although the bid date for 2nd Avenue still shows as April on the State website, it has actually been moved to May. He stated it takes at least 4-6 weeks before the project actually begins to get all the contracts in order after they open the bids.

UPDATE ON 5TH AVENUE

Public Works Director Rod Wiederspan stated the 5th Avenue project has been started and have removed most of the surfacing from Railroad Street to about 23rd Street. The 22nd Street intersection is still open and will continue to be open. The anticipated completion date will be around the end of fall. The sub-base was not in bad shape, but the total removal and replacement is still the way to go on it.

UPDATE ON YANNEY PARK PARKING LOT

City Manager Michael Morgan stated the Yanney Park Parking Lot project will not occur until after the splash ground is done later in the fall.

UPDATE ON 50TH STREET AND 17TH AVENUE PROJECT

City Manager Michael Morgan stated they have received bids on this project and will be starting soon. Public Works Director stated they are going to get together with the contractor to see what his schedule is. The completion date is scheduled for the first week in September. 17th Avenue and 50th Street will be completely closed down for a period of time. They will concentrate on 17th Avenue and get it opened up first and then give more time for the 50th Street connection.

PROPERTY TAX LEVY

City Manager Michael Morgan stated that the City of Norfolk annually conducts a survey of the 30 cities of the first class and Lincoln and Omaha. He was pleased to report that Kearney's municipal tax levy in the state of Nebraska for first class cities and Lincoln and Omaha is still the second lowest. Kearney could literally double its property tax and still be the fourth lowest in the state. He noted that many of these cities have a separate airport levy and Kearney's airport levy is included in its municipal levy. Kearney would be lower than York if we took out our Airport levy. The report will be on the City website and a press release is being sent out.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:28 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK