

*Kearney, Nebraska  
September 25, 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 September 25, 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, Bruce Lear, and Bob Lammers. Absent: Don Kearney. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Shawna Erbsen, Director of Administrative Services; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Paul Brungardt, Jonathan Nikkila, Jay Spearman, Mitch Greenwall, Mary Jane Skala from Kearney Hub, Steve Altmaier from KGFW Radio, NTV Channel 13 News.

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

## **I. ROUTINE BUSINESS**

### **INVOCATION**

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

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **DEVELOPMENT PLANS FOR SOUTHWEST CORNER OF 56TH STREET AND 17TH AVENUE**

Moved by Lammers seconded by Lear to remove from the table Public Hearing 1 pertaining to property located at the southwest corner of 56th Street and 17th Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

Mayor Clouse opened the public hearing on the Application submitted by Paul Brungardt (Applicant) and Coal Chute Park, LLC (Owner) for Planned District Development Plan Approval for an apartment complex development on property zoned District C-1/PD, Limited Commercial/Planned Development Overlay District for property described as all of Lot 1 and part of Lot 2 of Block One, Northridge Retirement Subdivision, a subdivision being part of the East Half of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 17th Avenue) and consider Resolution No. 2012-148. Planning Commission recommended approval of the plans and the Development Agreement with the exception of the paragraph that addresses signalization cost.

The applicant for the proposed apartment project was before the Planning Commission in July and again in August seeking approval of Development Plans for an apartment complex located just north of the Northridge Retirement facility. In July the proposal was for 90-units in three apartment buildings on 4.5 acres with a 1.5 acre outlot reserved for future commercial development. Planning Commission expressed several concerns and was especially interested in access to and from the site.

In August, the applicant had reconsidered the development concept and brought forward revised plans depicting four apartment buildings on the 6-acre tract. The commercial outlot is no longer part of the development concept. The property is primarily zoned C-1/PD and comprises 6.0 acres. A minor subdivision was done in the past, so the majority of the lot is zoned C-1/PD, but a small portion on the west and south side of the lot is zoned R-3/PD. Multi-Family Apartments are allowed in both of these zoning districts so a rezoning is not required. There are now four 3-story buildings proposed with 24 units each in two buildings and 27 units each in the other two buildings for a total of 102 units. Each building will contain a mix of three-bedroom, two-bedroom and one-bedroom units and the parking is accounted for based on the number of units. There are 72 single-car garages in the middle between the apartment buildings and on the west end of the site. These garages are contained in buildings housing 14 garages or 8 garages.

In a different location, these apartment buildings may appear to be too large to fit the scale of the neighborhood. At this location, with the Northridge building to the south, the larger buildings are in harmony with the large retirement facility.

After review of this submittal package, staff offers the following comments for consideration:

- a) There are 216 parking spaces required by Code and 220 parking spaces provided based on the mix of bedrooms.
- b) Access points from the abutting arterial streets are limited to one access from 17th Avenue and a right-in/right-out access on 56th Street at the west edge of the development. The City Engineer has requested roadway profiles to show the sight distance and stopping time from the crest of the hill to the proposed driveway. The Planning Commission discussed access issues at length in both the July and August meetings. An apartment complex of this size will generate significant traffic volume and more than one access point is warranted. It was determined that the best plan of access to 56th Street as determined by the traffic study would be 19th Avenue further to the west. Unfortunately, the property on the south side of 56th Street that aligns with 19th Avenue is not owned by the applicant. Provisions have been made in the site layout for a future frontage road to be constructed along 56th Street connecting to 19th Avenue, and potentially closing the right-in/right-out access.
- c) On-site municipal water mains and sanitary sewer mains will be constructed by Developer Constructed Infrastructure Agreement.
- d) Utility easements along the west edge of the property are in disarray and will be vacated and rededicated in a more orderly fashion.
- e) The required 5-foot building façade offset has been achieved to provide better building articulation for these large buildings.
- f) Stormwater detention is required. Stormwater runoff will be collected at the north and east sides of the north buildings and the southeast corner of the site in detention cells. Final design and computations for the stormwater system will be due at the time of building permit application.
- g) A suitable Landscape Plan has been submitted. Additional landscaping has been added per the Planning Commission's directive along the south property line to buffer the retirement facility.
- h) Maximum impervious coverage allowed is 65 percent. The impervious coverage for this development is 55.5 percent.
- i) The current owner, or a group of future owners, shall be responsible for maintaining the stormwater detention cell and any other commonly held areas of the development site.
- j) Financing obligations for a proposed traffic signal at the intersection of 56th Street and 17th Avenue were discussed, but in the end the Planning Commission decided to make no recommendation, either for or against, the City's proposal that would obligate the developer to pay a portion of the cost. A signalization study of the 56th Street corridor has indicated that a traffic signal will be required in the future at this intersection. The proportionate share of the cost is based on the precedent set with the subdivision agreement that was approved for Spruce Hollow Fifth. In that agreement the intersection is a collector (11th Avenue) and an arterial (56th Street). The City Engineer estimates the cost of a typical traffic signal to be approximately \$200,000. The Spruce Hollow agreement requires the cost of the signal to be divided by fourths with each of the four properties at each corner of the intersection participating in one quarter of the cost. In the case of Spruce Hollow Fifth, the same developer owns both of the corners north of 56th

Street and therefore is obligated to pay 50 percent of the signalization cost, not to exceed \$100,000. In this case, the apartment complex is located at the intersection of two arterial streets. Because arterial streets are designed and expected to carry heavy traffic loads and they are used by a large cross section of motorists, the City will pay for one half of the cost of the intersection signalization as general obligation. In essence this means that the developer at each of the four corners of the arterial intersection will pay 1/8 of the cost of signalization and the City will pay 1/2 of the total cost of the intersection. In the current proposal at 56th Street and 17th Avenue, the developer only controls one corner and it is an intersection of two arterial streets, thus 12.5 percent, not to exceed \$25,000 applies here if the Council wishes to follow this logic. If this is the case, the existing Development Agreement will need to be revised.

- k) A Development Agreement that includes the requirements for Developer Constructed Infrastructure and addresses the issues listed above has been prepared. The agreement also addresses other items of concern such as future annexation, waiver of rights to protest future improvement districts, and refuse collection.
- l) The Director of Utilities has requested that the fire hydrant proposed near the 17th Avenue entrance be relocated to the east to make it more visible and accessible and it has been relocated on the plans.
- m) Location of the trash enclosures has been reviewed and approved by the Utilities Department.

Mayor Clouse stated that paragraph j of the Council memo has been deleted and is not a part of the Development Agreement.

Paul Brungardt, Brungardt Engineering, presented this matter to the Council. This is a future apartment in the southwest corner of 17th Avenue and 56th Street. This proposed development is located directly north of the Northridge Retirement/Assisted Living facility. This property is currently zoned C-1/PD and is a permitted use to have apartment complexes in such a development. The Northridge facility is zoned R-3 and the lot to the north has been developed as C-2. They propose to have four 3-story apartment complexes. Since this is a planned district, they can have up to 104 apartments on the site under the City Code. They have opted to go with 102 apartments. On the north end they will have two 24-unit apartments and on the south they will have two 27-unit apartments. They will provide adequate parking. The total number of required parking spaces is 216 and they can put in 220 parking stalls. The main entrance will be off 17th Avenue to the east with wrap around parking and driveway. In the northwest corner of the site, they have proposed a right-in and right-out only entrance onto 56th Street. Traffic counts on an arterial road were not at the crest of a hill but there are some criteria there that warrant needing a secondary entrance to provide adequate safety.

When the sanitary sewer line was installed along 56th Street, they put in an 8-inch sewer line underneath that they can tap into with a manhole so they could provide service to both the north units and along 17th Avenue. There is also another sanitary sewer line to put in an easement and run down the center of the parking lot to service the two south buildings. For water, they will tap into the 16-inch main on 17th Avenue and provide a continuous loop along the south edge and would loop back west and tie

in. That loop system will service the fire hydrants at the entry points as required by Utilities.

They are going to take off five to six feet of the fill on the southwest corner and level out the site. Currently, there is a fairly steep grade from west to east. They will provide adequate detention storage along 56th Street and 17th Avenue. The buildings will set approximately 70-80 feet back from 56th Street. They will provide adequate trees. They will have canopy trees along 56th Street. Planning Commission required evergreen trees (15 foot tall) barrier along the south edge as a buffer between the Northridge complexes.

A typical 24-unit complex since the building is over 100 feet long will have some brick facades and some 5-foot articulations to break up the long stretch of the building. The site will have some single car garages along the west edge. There will also be single car garages down the middle which will be stacked back to back.

The issue that was continued had some verbiage in the infrastructure agreement. Mr. Brungardt stated that he appreciated the City Manager and his staff working with the developers to come to a solution on that issue.

Council member Lammers asked if the entrance where it comes out on the north side on to 56th Street is going to be at the top of the hill. Mr. Brungardt stated they are going to cut the hill down by approximately five to six feet just on the property, not on 56th Street. The crest of the hill on the roadway is about 100 feet further to the west. They will have a raised median and sufficient visibility on 56th Street to see cars coming. It will be similar to the north entrance to the high school.

Council member Buschkoetter asked if the median would have a curb to deter people from making an illegal turn at that entrance like he has seen at high school. Director of Public Works Rod Wiederspan stated that at the high school where there is the "Y" shape, it has the guards pointing the right direction. This median could be made a little larger so it would not be as easy to "cheat". They are not anticipating putting a median in the middle of 56th Street because in order to do it, they would have to widen each side and taper it out because of the speed of the traffic. In the future, if there is a problem there, they can always come back and add one. Mr. Brungardt said the plan could incorporate widening the median to help prevent that turning back.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2012-148** approving the Application submitted by Paul Brungardt (Applicant) and Coal Chute Park, LLC (Owner) for Planned District Development Plan Approval for an apartment complex development on property zoned District C-1/PD, Limited Commercial/Planned Development Overlay District for property described as all of Lot 1 and part of Lot 2 of Block One, Northridge Retirement Subdivision, a subdivision being part of the East Half of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 17th Avenue) subject to compliance with the conditions of the Development Agreement which excludes paragraph j of the Council memo. Roll call resulted as follows: Aye:

Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2012-148**

WHEREAS, Paul Brungardt (Applicant) and Coal Chute Park, LLC (Owner) have applied for Planned District Development Plan Approval for an apartment complex development on property zoned District C-1/PD, Limited Commercial/Planned Development Overlay District and described as a tract of land being all of Lot 1 and part of Lot 2, Block One, Northridge Retirement Subdivision, a subdivision being part of the East Half of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, with that part of Lot 2 being more particularly described as follows: Referring to the southeast corner of Lot 1, Northridge Retirement Subdivision and assuming the east line of Lot 1 and Lot 2 of said Northridge Retirement Subdivision as bearing south and all bearings contained herein are relative thereto; thence south on the east line of said Lot 2 a distance of 25.00 feet; thence S89°33'08"W and parallel with the north line of said Lot 1 a distance of 568.99 feet; thence north on a line being 17.29 feet westerly of as measured at right angles from the west line of said Lot 1 a distance of 459.49 feet to a point on the North line of said Lot 2; thence N89°33'08"E and on the north line of said Lot 2 a distance of 17.29 feet to the northwest corner of said Lot 1; thence south on the west line of said Lot 1 a distance of 434.43 feet to the southwest corner of said Lot 1; thence N89°33'08"E and on the south line of said Lot 1 a distance of 551.61 feet to the place of beginning, all in Buffalo County, Nebraska (5911 2nd Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Paul Brungardt (Applicant) and Coal Chute Park, LLC (Owner) for Planned District Development Plan Approval for an apartment complex development on property zoned District C-1/PD, Limited Commercial/Planned Development Overlay District and described as a tract of land being all of Lot 1 and part of Lot 2, Block One, Northridge Retirement Subdivision, a subdivision being part of the East Half of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, with that part of Lot 2 being more particularly described as follows: Referring to the southeast corner of Lot 1, Northridge Retirement Subdivision and assuming the east line of Lot 1 and Lot 2 of said Northridge Retirement Subdivision as bearing south and all bearings contained herein are relative thereto; thence south on the east line of said Lot 2 a distance of 25.00 feet; thence S89°33'08"W and parallel with the north line of said Lot 1 a distance of 568.99 feet; thence north on a line being 17.29 feet westerly of as measured at right angles from the west line of said Lot 1 a distance of 459.49 feet to a point on the North line of said Lot 2; thence N89°33'08"E and on the north line of said Lot 2 a distance of 17.29 feet to the northwest corner of said Lot 1; thence south on the west line of said Lot 1 a distance of 434.43 feet to the southwest corner of said Lot 1; thence N89°33'08"E and on the south line of said Lot 1 a distance of 551.61 feet to the place of beginning, all in Buffalo County, Nebraska (southwest corner of 56th Street and 17th Avenue) be approved subject to compliance with the conditions set forth in the Development Agreement.

BE IT FURTHER RESOLVED that the Development Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Development

Agreement shall be filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**WATER AND SANITARY SEWER EASEMENT FOR 6112 4TH AVENUE**

Mayor Clouse opened the public hearing on the proposed acquisition of a Permanent Water and Sanitary Sewer Easement for Lot 1 of Block Two, Northacre Sixth Addition to the City of Kearney, Buffalo County, Nebraska (6112 4th Avenue) and consider Resolution No. 2012-161.

Director of Utilities Kirk Stocker presented this matter to the Council. At the September 14, 2010 City Council meeting the Council approved a Development Plan for Duplex Residential development located at 6112 4th Avenue and described as Lot 1, Block Two, Northacre Sixth Addition.

At the March 13, 2012 City Council meeting the Council approved a Developer Constructed Infrastructure Agreement with the owner of the property. The agreement required the owner to construct water and sanitary sewer mains on the property to serve two duplex dwelling units and two single family dwellings that he intended to build on the site. The agreement also required the developer to grant the City a water and sanitary sewer easement over the water and sanitary sewer mains that were constructed.

Since that time the owner has completed the construction of the water and sanitary sewer mains. The owner has granted the City a Permanent Water and Sanitary Sewer Easement for the water and sanitary sewer located on the property. The Utilities Department is requesting that the City Council accept the water and sanitary sewer mains under the Consent Agenda portion of this Council meeting.

Section 18-1775 of the Nebraska Revised Statute requires that a City of the first class acquiring an interest in real property shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and a public hearing.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2012-161** approving proposed acquisition of a Permanent Water and Sanitary Sewer Easement for Lot 1 of Block Two, Northacre Sixth Addition to the City of Kearney, Buffalo County, Nebraska (6112 4th Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

**RESOLUTION NO. 2012-161**

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

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Permanent Water and Sanitary Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Starostka Farms LLC, a Nebraska Limited Liability Company has granted to the City of Kearney, Nebraska a Permanent Water and Sanitary Sewer Easement as follows:

**PERMANENT SANITARY SEWER MAIN EASEMENT**

A tract of land being a part of Lot 1, Block 2, North Acre Sixth, an addition to the City of Kearney, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of Lot 1, Block 2, North Acre Sixth and assuming the South line of Lot 1, Block 2, North Acre Sixth as bearing S89°49'00"W and all bearings contained herein are relative thereto; thence S89°49'00"W on the South line of said Lot 1, Block 2 a distance of 25.12 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S89°49'00"W and on the South line of said Lot 1, Block 2 a distance of 69.28 feet; thence leaving the South line of said Lot 1, Block 2, NORTH a distance of 200.00 feet to a point on the North line of said Lot 1, Block 2; thence N89°49'E and on the North line of said Lot 1, Block 2 a distance of 20.00 feet; thence leaving the North line of said Lot 1, Block 2, SOUTH a distance of 188.14 feet; thence N80°06'15"E a distance of 76.38 feet to a point on the East line of said Lot 1, Block 2, said point also being on a 333.0 foot radius curve, concave Easterly; thence Southerly on the East line of said Lot 1, Block 2 and on said 333.0 foot radius curve, forming a central angle of 03°31'17" an arc distance of 20.47 feet, said point bears S02°19'06"W a chord distance of 20.47 feet from the previously described point; thence leaving the East line of said Lot 1, Block 2 and leaving said 333.0 foot radius curve, non-tangent, S80°06'15"W a distance of 25.52 feet to the place of beginning, Buffalo County, Nebraska.

**PERMANENT WATER MAIN EASEMENT**

A tract of land being a part of Lot 1, Block 2, North Acre Sixth, an addition to the City of Kearney, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of Lot 1, Block 2, North Acre Sixth and assuming the South line of Lot 1, Block 2, North Acre Sixth as bearing S89°49'00"W and all bearings contained herein are relative thereto; thence Northerly on the East line of said Lot 1, Block 2 and on a 333.0 foot radius curve, concave Easterly, forming a central angle of 11°54'53" an arc distance of 69.25 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning bears N05°46'26"E a chord distance of 69.12 feet from the Southeast Corner of said Lot 1, Block 2; thence continuing Northerly on the East line of said Lot 1, Block 2 and on said 333.0 foot radius curve forming a central angle of 03°26'31" an arc distance of 20.00 feet, said point bears N13°27'08"E a chord distance of 20.00 feet from the previously described point; thence leaving the East line of said Lot 1, Block 2, and leaving said 333.0 foot radius curve, non-tangent, N75°57'49" W a distance of 28.97 feet; thence WEST a distance of 71.91 feet; thence N 45°03'49" W a distance of 17.01 feet; thence WEST a distance of 10.78 feet; thence SOUTH a distance of 17.50 feet; thence S45°03'49"E a distance of 20.56 feet; thence EAST a distance of 77.72 feet;

thence S75°57'49"E a distance of 26.71 feet to the place of beginning, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Water and Sanitary Sewer Easement granted by Starostka Farms LLC, a Nebraska Limited Liability Company to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

#### **IV. CONSENT AGENDA**

Moved by Clouse seconded by Lammers that Subsections 1 through 21 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held September 11, 2012 and Special Meeting held September 18, 2012.

2. Approve the following Claims:

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

4Imprint \$687.45 smcs; AT&T \$160.81 smcs; Ace Hardware \$23.52 smcs; Ace Irrigation \$8,919.44 smcs; All Makes Auto Supply \$2,051.67 smcs; All Partitions \$59.54 smcs; Amazon \$446.81 smcs,co; American \$431.56 smcs; Amer First Aid \$110.89 smcs; Amer Library Assn \$545.00 smcs; Amer Red Cross \$1,041.00 smcs; Amsan \$1,172.34 smcs; Anderson Ford Lincoln \$77,129.00 co; Anderson,C \$27.72 smcs; Anderson,S \$77.04 smcs; Arphax Publishing \$57.51 smcs; Ask Supply \$1,102.00 smcs; Aurora Coop \$136.00 smcs; Baker & Taylor \$10,300.39 smcs; Bamford \$3,420.35 smcs; Battery Mart \$61.74 smcs; Baye,S \$18.16 smcs; Bean,J \$28.23 smcs; Bells Construction \$3,250.00 co; Bike Shed \$227.37 co; Blessing \$11,567.50 smcs; Bluecross Blueshield \$21,525.20 smcs; Bob's Super Store \$6.58 smcs; Boogaarts \$7.36 smcs; Book Page \$456.00 smcs; Bosselman \$22,591.22 smcs; Brabec,R \$7,180.00 smcs; Broadfoot's \$250.00 smcs; Brodart Supplies \$74.84 smcs; Brown Traffic Products \$22,380.00 smcs; Browns Shoe Fit \$169.99 smcs; Bubble Factory \$97.50 smcs; Buffalo Co Reg Deeds \$47.00 smcs; Buffalo Co Treasurer \$18,750.00 co; Buffalo Outdoor Power \$681.21 smcs,co; Builders \$11,441.69 smcs,co; Butler,B \$100.01 smcs; Cabela's \$109.88 smcs,co; Capital Business Systems \$1,149.38 smcs; Carquest \$3,092.25 smcs; Casey's \$1,156.86 smcs; Cash-Wa \$1,769.81 smcs; CDW Govt \$3,625.38 co; Center Point Large Print \$29.58 smcs; Central Fire & Safety \$324.07 smcs; Central Hydraulic Systems \$214.46 smcs; Central NE Bobcat \$1,036.29 smcs,co; Central States Wire \$4,053.90 smcs; Centurion Technologies \$191.80 smcs; Charter \$54.99 smcs; Chemsearch \$476.16 smcs; Chesterman \$460.10 smcs; Chicken

Coop \$40.00 smcs; City of Ky \$90,385.91 ps,smcs,co; CMC \$249.50 smcs; CNA Surety \$40.00 smcs; Comfort Inn \$99.44 smcs; Community Action Partner \$160.50 smcs; Compass \$2,000.00 smcs; Computer Hardware \$99.00 smcs; Consec Life Ins \$19.00 ps; Consolidated Plastics \$532.78 smcs; Construction Rental \$1,049.57 smcs,co; Copycat Printing \$441.89 smcs; Creative Teacher \$11.87 smcs; Credit Management Serv \$419.36 ps; Crossroads Ford \$206.18 smcs; Crouch Recreational \$524.00 co; Crucialcom \$44.93 co; Culligan \$112.50 smcs; Cummins Central Power \$33.83 smcs; CVI Kearney \$2,310.25 smcs; D&S Lighting \$805.35 smcs,co; DANKO Emergency \$306.99 smcs; Darnell,N \$48.68 smcs; Dawson PPD \$43,363.16 smcs; Dell \$21,471.13 smcs,co; Deterdings \$117.60 smcs; Diamond Shamrock \$40.00 smcs; Diamond Vogel Paint \$785.85 smcs; Digicert \$469.00 co; Dish \$133.06 smcs; Diversified Products \$139.00 smcs; Dog Poop Bags \$132.39 smcs; Dollar General \$12.84 smcs; Dominion Construction \$1,850.00 smcs; Doubletree Thornton \$609.60 smcs; DPC Industries \$12,823.67 smcs; Draeger Safety Canada \$7,381.57 smcs; Drew,C \$19.50 smcs; Dubois,N \$26.84 smcs; Dultmeier Sales \$708.48 smcs; Dutton-Lainson \$2,121.62 smcs; Eakes \$5,672.90 smcs; Earl May \$553.89 smcs; Ecolab \$37.04 smcs; Elliott Equipment \$658.12 smcs; EMC Ins \$34.00 smcs; Enterprises \$517.63 smcs; ERC Wiping Products \$119.28 smcs; Eustis Body Shop \$75.00 smcs; Expression Wear \$40.00 smcs; Fairbanks \$289.19 smcs; Fast Mart \$127.51 smcs; Fastenal \$538.35 smcs; Faz,A \$46.42 smcs; Fiddelke \$6,610.84 smcs,co; Fireguard \$6,816.31 smcs; Firewerks Fire Apparatus \$2,004.85 smcs; Fleetpride \$25.28 smcs; Florell,J \$54.61 smcs; Footjoy \$40.68 smcs; Freedom Pump \$750.00 smcs; Fremont Dinner Train \$140.20 smcs; Frontier \$9,315.74 smcs; G W Brown \$125.00 smcs; G.Neil \$846.20 smcs; Gale \$170.50 smcs; Galls \$333.84 co; Gangwish Turf \$100.80 co; Ganz Title & Escrow \$100.00 smcs; Garrett Tires \$10,356.79 smcs; General Traffic Controls \$820.51 smcs; Google Software \$14.99 smcs; Graham Tire \$1,321.72 smcs; Grainger \$3,219.65 smcs,co; Great Plains One Call \$470.87 smcs; Gregoski,C \$44.80 smcs; Hach \$113.36 smcs; HD Supply \$488.43 smcs; Heartland Cleaning \$391.78 smcs; Heiman Fire Equipment \$14,695.60 smcs,co; Hibberd,T \$32.77 smcs; Hilti \$626.42 co; HOA Solutions \$60,000.00 co; Hobby-Lobby \$58.85 smcs; Holmes Plumbing \$1,284.26 smcs,co; I-80 Eppley Express \$939.40 smcs; IAEI \$204.00 smcs; ICMA RC \$3,854.75 ps; IMLA \$625.00 smcs; IRS \$110,654.18 ps; Intl Code Council \$1,746.87 smcs; Interstate All Battery \$845.00 smcs; ISG Infrasys \$24,955.00 smcs; Jack Lederman \$749.03 smcs; Jameco Electronics \$29.74 smcs; Jerry's Sport Center \$387.12 smcs; John Deere Landscapes \$922.29 smcs,co; Johnson Controls \$1,779.25 smcs; Johnstone Supply \$230.35 smcs; Jones & Bartlett Learning \$3,865.67 smcs; K&K Parts \$1,413.51 smcs; Ky Catholic High \$354.44 smcs; Ky Concrete \$20,480.24 smcs,co; Ky Crete & Block \$10,145.09 smcs,co; Ky Glass \$2,622.88 smcs; Ky Hub \$6,508.05 smcs,co; Ky Humane Society \$6,825.00 smcs; Ky Implement \$1,438.79 smcs; Ky Towing \$75.00 smcs; Ky Warehouse \$889.70 smcs; Ky Winlectric \$1,423.63 smcs; Ky Yamaha \$219.75 smcs; Keen,C \$145.00 smcs; Kelly Supply \$323.10 smcs; Killion Motors \$587.91 smcs; Knot & Rope Supply \$294.96 smcs; Konica Minolta \$1,152.75 smcs; Kwik Stop \$23.44 smcs; Lawn Builders \$5,075.00 co; Ledsnsirenscom \$932.00 co; Leisinger,R \$2.20 smcs; Little Caesars \$60.00 smcs; Lockmobile \$955.00 smcs; Lowe,M \$94.00 smcs; Luke,D \$604.93 smcs; Magic Cleaning \$7,160.00 smcs; Mail Express \$1,406.10 smcs; Maize Corp \$25.30 smcs; Manufacturers News \$98.45 smcs; Markertek Video Supply \$43.86 smcs; Marlatt Machine Shop \$146.74 smcs; Masek Golf Cart \$202.72 smcs; Matheson Tri-Gas \$227.34 smcs; McCarty,D \$20.95 smcs; MDI Worldwide \$768.49 smcs; Menards \$5,644.65 smcs,co; Mid Amer Signal \$17,504.72

smcs,co; Mid-Plains Equipment \$105.60 smcs; Mid-State Units \$200.00 smcs; Midwest Striping \$14,640.00 smcs; Midwest Turf \$127.63 smcs; Miller & Associates \$10,671.56 smcs,co; Miller Signs \$160.00 smcs,co; Milliken,M \$100.00 smcs; Moonlight Embroidery \$1,270.25 smcs; Moore Roughouts \$41.80 smcs; Motorola \$6,643.00 co; Municipal Emergency \$4,073.50 smcs; Municipal Supply \$1,288.96 smcs; NALEFI \$20.00 smcs; Napa All Makes \$208.46 smcs; NCOA \$145.00 smcs; NCS Equipment \$55.90 smcs; NDEQ \$7,500.00 smcs; NE Arborists Assn \$75.00 smcs; NE Assn Law Enforcement \$1,040.00 smcs; NE Child Support \$2,471.59 ps; NE Dept of Revenue \$68,502.48 smcs; NE Profession Licensing \$150.85 smcs; NE Public Health \$1,813.00 smcs; NE Safety \$570.00 smcs; NE Sec of State \$30.00 smcs; NE Truck Center \$581.95 smcs; New World Systems \$23,480.00 co; Newegg \$567.68 co; Newman Signs \$479.52 smcs; Nivel Parts \$54.24 smcs; NMC \$119.30 smcs; Northwestern Energy \$586.38 smcs; Office Max \$665.55 smcs; O'Reilly Automotive \$1,397.58 smcs; Orscheln \$667.48 smcs; Out of Print \$80.00 smcs; Owl System \$306.50 smcs; Panowicz,K \$12.00 ps; Paramount \$137.86 smcs; Party America \$66.00 smcs; Pat's Plumbing \$2,070.00 smcs; Patterson,B \$105.67 smcs; Paypal \$679.92 smcs; PCS Mobile \$5,850.15 co; Peerless Machine \$5,918.65 smcs,co; Peterson's Digital Publish \$76.65 smcs; Phillip Chalmers \$338.00 smcs; Physio Control \$1,691.25 smcs; Pioneer Research \$999.00 smcs; Platte Valley Comm \$4,263.94 smcs; Platte Valley Labs \$505.00 smcs; Platte Valley State Bank \$60.00 smcs; Power & Telephone Supply \$813.38 co; Presto-X \$448.83 smcs; Protex Central \$372.44 smcs; Provantage \$4,070.97 smcs; PV Communications \$9.63 smcs; Qualifiedhardwarecom \$274.00 smcs; Quatred \$227.25 smcs; Quill \$532.77 smcs; RW Sorensen \$4,200.00 smcs; Radioshack \$3.41 smcs; Rareelectricalcom \$82.23 smcs; Ready Mixed Concrete \$24,676.02 smcs,co; Reams \$1,004.44 smcs; Recognition Unlimited \$274.45 smcs; Recorded Books \$157.90 smcs; Red Wing Software \$100.00 co; Redman's Shoes \$84.99 smcs; Resource Management \$1,481.28 smcs; Rheome Tree \$2,590.00 smcs; Riverside Mfg \$669.82 ps; Russell's Appliances \$105.93 smcs; Safelite Autoglass \$930.65 smcs; Sahling Kenworth \$64.69 smcs; Salter,J \$562.28 smcs; Sandhill Plastics \$128.39 smcs; Sanitation Products \$725.58 smcs; Sapp Bros \$31,530.82 smcs; Scholastic \$1,278.92 smcs; Schwans \$1,055.38 smcs; Select Sprayers \$21.33 smcs; Shell Oil \$68.71 smcs; Sherwin Williams \$31.76 smcs; Shopletcom \$392.76 smcs; Shoutbomb \$2,860.00 smcs; SHRM \$180.00 smcs; Siddons Martin Emergency \$3,152.33 smcs; Sign Center \$8,934.00 smcs,co; Signwarehousecom \$62.46 smcs; Smith,R \$22.00 smcs; Softchoice \$276.17 co; Sonetics Corp \$970.23 smcs; SOS Portable Toilets \$105.00 smcs; Stanley Works \$173.36 smcs; Steinbrink Landscaping \$2,774.98 smcs; Streakwave Wireless \$191.78 co; Suburban Fire Protection \$20,100.00 smcs; Sundog Eyewear \$1,320.00 smcs; Sunmart \$80.43 smcs; Sutphen \$749.32 smcs; SWANA \$189.00 smcs; Taillon,R \$182.79 smcs; Target \$108.54 smcs; Television Equipment \$5,319.00 smcs; Terry's Tickets \$500.00 smcs; Thompson,K \$592.28 smcs; Tielke's Sandwiches \$56.74 smcs; Tractor-Supply \$365.20 smcs; Trans Iowa Equipment \$165.40 smcs; Transit Works \$32.77 smcs; Tri City Outdoor Power \$780.52 smcs; Tri-County Glass \$175.00 smcs; TruGreen ChemLawn \$161.00 smcs; Tumblebooks \$598.00 smcs; Turfco Manufacturing \$175.54 smcs; Turner Body Shop \$179.00 smcs; Union Bank & Trust \$56,020.10 ps; UPPR \$100.00 smcs; Unique Management \$393.80 smcs; United Seeds \$2,642.50 smcs; UNK Board of Regents \$358.72 ps; UPS Store \$177.39 smcs; US Plastics \$26.63 smcs; USA Blue Book \$919.52 smcs; USPS \$71.91 smcs; Van Diest \$3,340.38 smcs; Van Wall Equipment \$265.48 smcs; Vessco \$6,135.30 smcs; Vulcan \$16,613.47 smcs; Waggoner Plbg

\$4,484.00 co; Wal-mart \$1,652.46 smcs,co; Walter,M \$35.48 smcs; Wellman,P \$20.30 smcs; When To Work \$100.00 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$398.72 smcs,co; Wilkins Hinrichs Stober \$1,168.83 co; Wright,V \$543.72 smcs; Yanda's Music \$215.75 co; Yant Equipment \$266.42 smcs; Yellow Van Cleaning \$149.94 smcs; York,T \$253.06 smcs; Zerr,T \$20.89 smcs; Zimmerman Printing \$88.00 smcs; Zumro \$25,288.08 co; Payroll Ending 9-8-2012 -- \$353,367.94. 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 October 9, 2012 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2012-162** accepting the water and sanitary sewer infrastructure for Lot 1 of Block Two, Northacre Sixth Addition to the City of Kearney, Buffalo County, Nebraska (6112 4th Avenue).

#### **RESOLUTION NO. 2012-162**

WHEREAS, on the 13th day of March, 2012 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2012-36 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and L & P Investments, LLC for the construction of water and sanitary sewer main improvements for Lot 1 of Block Two, Northacre Sixth Addition to the City of Kearney, Buffalo County, Nebraska (6112 4th Avenue); and

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

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

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

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the public improvements constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney for Lot 1 of Block Two, Northacre Sixth Addition to the City of Kearney, Buffalo County, Nebraska (6112 4th Avenue) and that the said public improvements be and are hereby accepted.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Adopt **Resolution No. 2012-163** approving the Developer Constructed Infrastructure Agreement between the City of Kearney and Starostka Group Unlimited

Inc., for the construction of water and sanitary sewer for Lot 1 of Block One and Lot 1 of Block Two, Starostka View Addition to the City of Kearney, Buffalo County, Nebraska (west of the intersection of Avenue L and 66th Street Place).

### **RESOLUTION NO. 2012-163**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Lot 1, Block One and Lot 1, Block Two, Starostka View Addition" between the City of Kearney and Starostka Group Unlimited Inc., a Nebraska Corporation, to construct water and sanitary sewer to serve the property described as Lot 1 of Block One and Lot 1 of Block Two, Starostka View Addition to the City of Kearney, Buffalo County, Nebraska (west of the intersection of Avenue L and 66th Street Place) be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Danny Starostka on behalf of and Starostka Group Unlimited Inc. to construct said water and sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**6.** Adopt **Resolution No. 2012-164** approving Change Order No. 1 showing a decrease in the amount of \$2,915.50, Application and Certificate for Payment No. 3-Final in the amount of \$41,259.28, and accept the Certificate of Substantial Completion submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2011 Part 6 Improvements – Bid A consisting of Water District No. 2011-562 and Sewer District No. 2011-502 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac.

### **RESOLUTION NO. 2012-164**

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2011 Part 6 Improvements – Bid A consisting of Water District No. 2011-562 and Sanitary Sewer District No. 2011-502 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease in the amount of \$2,915.50, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Midlands Contracting and Miller & Associates have filed with the City

Clerk Application and Certificate for Payment No. 3-Final in the amount of \$41,259.28, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

|  |                   |
|--|-------------------|
| Original Contract Sum                  | \$231,818.00      |
| Change Order No. 1 (9-25-2012)         | <u>- 2,915.50</u> |
| Contract Sum To Date                   | 228,902.50        |
| Gross Amount Due                       | 228,902.50        |
| Retainage                              | .00               |
| Amount Due to Date                     | 228,902.50        |
| Less Previous Certificates for Payment | <u>187,643.22</u> |
| Current Payment Due                    | \$ 41,259.28      |

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of August 31, 2012, 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. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 3-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 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**7.** Adopt **Resolution No. 2012-165** approving Application and Certificate for Payment No. 2 in the amount of \$148,038.09 submitted by Paulsen, Inc. and approved by Miller & Associates for the 2011 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2011-946 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac.

### **RESOLUTION NO. 2012-165**

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the 2011 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2011-946 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$148,038.09, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

|  |                  |
|--|------------------|
| Original Contract Sum                  | \$407,796.50     |
| Contract Sum To Date                   | 407,796.50       |
| Gross Amount Due                       | 235,192.00       |
| Retainage                              | 23,519.20        |
| Amount Due to Date                     | 211,672.80       |
| Less Previous Certificates for Payment | <u>63,634.71</u> |
| Current Payment Due                    | \$148,038.09     |

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

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**8.** Adopt **Resolution No. 2012-166** approving Change Order No. 1 showing an increase in the amount of \$6,018.38, Application and Certificate for Payment No. 1-Final in the amount of \$207,109.38, and accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2010 Part 4 Improvements; Yanney Park Parking Lot.

#### **RESOLUTION NO. 2012-166**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2010 Part 4 Improvements; Yanney Park Parking Lot, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$6,018.38, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$207,109.38, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

|  |                   |
|--|-------------------|
| Original Contract Sum                  | \$201,091.00      |
| Change Order No. 1 (9-25-2012)         | <u>+ 6,018.38</u> |
| Contract Sum To Date                   | 207,109.38        |
| Gross Amount Due                       | 207,109.38        |
| Retainage                              | .00               |
| Amount Due to Date                     | 207,109.38        |
| Less Previous Certificates for Payment | <u>.00</u>        |
| Current Payment Due                    | \$207,109.38      |

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of August 31, 2012, 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. 1, as shown

on Exhibit "A", Application and Certificate for Payment No. 1-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 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

9. Adopt **Resolution No. 2012-167** approving Application and Certificate for Payment No. 1 in the amount of \$28,446.75 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2012 Part 1 Improvements – Bid A consisting of Water District No. 2012-563 and Sanitary Sewer District No. 2012-503 for 13th Street Place from 17th Avenue to its terminus in a cul-de-sac; Water District No. 2012-564 and Sanitary Sewer District No. 2012-504 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac.

**RESOLUTION NO. 2012-167**

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2012 Part 1 Improvements – Bid A consisting of Water District No. 2012-563 and Sanitary Sewer District No. 2012-503 for 13th Street Place from 17th Avenue to its terminus in a cul-de-sac; Water District No. 2012-564 and Sanitary Sewer District No. 2012-504 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$28,446.75, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

|  |             |
|--|-------------|
| Original Contract Sum                  | \$84,827.64 |
| Contract Sum To Date                   | 84,827.64   |
| Gross Amount Due                       | 31,607.50   |
| Retainage                              | 3,160.75    |
| Amount Due to Date                     | 28,446.75   |
| Less Previous Certificates for Payment | <u>.00</u>  |
| Current Payment Due                    | \$28,446.75 |

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

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

10. Adopt **Resolution No. 2012-168** approving Change Order No. 1 showing a decrease in the amount of \$21,297.03, Application and Certificate for Payment No. 4-Final in the amount of \$153,014.69, and accept the Certificate of Substantial

Completion submitted by Blessing, LLC and approved by Miller & Associates 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.

### RESOLUTION NO. 2012-168

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with 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 the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease in the amount of \$21,297.03, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 4-Final in the amount of \$153,014.69, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

|  |                    |
|--|--------------------|
| Original Contract Sum                  | \$662,615.50       |
| Change Order No. 1 (9-25-2012)         | <u>- 21,297.03</u> |
| Contract Sum To Date                   | 641,318.47         |
| Gross Amount Due                       | 641,318.47         |
| Retainage                              | .00                |
| Amount Due to Date                     | 641,318.47         |
| Less Previous Certificates for Payment | <u>488,303.78</u>  |
| Current Payment Due                    | \$153,014.69       |

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of September 7, 2012, 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. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 4-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 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**11.** Adopt **Resolution No. 2012-169** approving Change Order No. 12 showing an increase in the amount of \$2,213.00 submitted by JLC, Inc. and approved by Wilkins Hinrichs Stober Architects in connection with the Kearney Public Library Addition &

Renovation Project.

### RESOLUTION NO. 2012-169

WHEREAS, JLC, Inc. of York, Nebraska has performed services in connection with the Kearney Public Library Addition & Renovation Project, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Change Order No. 12 showing an increase to the contract sum in the amount of \$2,213.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

|                                  |                   |
|----------------------------------|-------------------|
| Original Contract Sum            | \$4,548,220.00    |
| Change Order No. 1 (12-22-2009)  | - 75,500.00       |
| Change Order No. 2 (7-13-2010)   | + 2,128.00        |
| Change Order No. 3 (9-14-2010)   | + 6,565.00        |
| Change Order No. 4 (1-11-2011)   | + 15,556.00       |
| Change Order No. 5 (1-11-2011)   | + 76,099.00       |
| Change Order No. 6 (4-12-2011)   | + 14,494.00       |
| Change Order No. 7 (7-26-2011)   | + 11,545.00       |
| Change Order No. 8 (8-9-2011)    | + 43,513.00       |
| Change Order No. 9 (9-27-2011)   | + 17,146.00       |
| Change Order No. 10 (12-27-2011) | + 36,667.00       |
| Change Order No. 11 (6-12-2012)  | + 20,446.00       |
| Change Order No. 12 (9-25-2012)  | + <u>2,213.00</u> |
| Contract Sum to Date             | \$4,719,092.00    |

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. 12, as shown on Exhibits "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**12.** Adopt **Resolution No. 2012-170** approving the Tenant Use and Operations Agreement for Loading Dock at the Kearney Regional Airport between the City of Kearney and Buffalo Air Service.

### RESOLUTION NO. 2012-170

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Tenant Use and Operations Agreement for Loading Dock at the Kearney Regional Airport, on behalf of the City of Kearney, Nebraska with Aurora Coop Elevator, dba Buffalo Air Service, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Adopt **Resolution No. 2012-171** approving the Agreement and Permit for Aeronautical Services at the Kearney Regional Airport between the City of Kearney and Buffalo Air Service.

**RESOLUTION NO. 2012-171**

BE IT RESOLVED by the President and Council of the City of Kearney, that the President be and is hereby authorized and directed to execute the Agreement and Permit for Aeronautical Services on behalf of the City of Kearney, Nebraska, with Aurora Coop Elevator Company, dba Buffalo Air Service, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Adopt **Resolution No. 2012-172** approving the Developer Constructed Infrastructure Agreement between the City of Kearney and D & M Cowpoke Inc. for the construction of storm sewer and paving for Lot 1, Elken Subdivision, Buffalo County, Nebraska (7310 2nd Avenue).

**RESOLUTION NO. 2012-172**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Lot 1, Elken Subdivision, Buffalo County, Nebraska" between the City of Kearney and D & M Cowpoke Inc., a Nebraska Corporation, to construct storm sewer and paving to serve the property described as Lot 1, Elken Subdivision, Buffalo County, Nebraska (7310 2nd Avenue) be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with David Classen on behalf of and D & M Cowpoke Inc. to construct said storm sewer and paving as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**15.** Approve the Plans and Specifications for the 2012 Part 8 Improvements; Ted Baldwin Park Shelter and set the bid opening date for October 16, 2012 at 2:00 p.m.

16. Approve amending the time for Marketplace to temporarily close 24th Street from 1st Avenue to Avenue A, excluding intersections, on September 27, 2012 from 10:00 a.m. until 10:00 p.m.

17. Adopt **Resolution No. 2012-173** adopting the Central Platte Natural Resources District Multi-Jurisdiction Hazard Mitigation Plan.

**RESOLUTION NO. 2012-173**

WHEREAS, the City of Kearney recognizes the threat that natural disasters pose to people and property; and

WHEREAS, undertaking hazard mitigation actions before disasters occur will reduce the potential harm to people and property and save taxpayer dollars; and

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

WHEREAS, a Multi-Jurisdictional Hazard Mitigation Plan was prepared by the Central Platte Natural Resources District, with assistance from Kirkham Michael Engineering Consultants of Omaha, Nebraska for the benefit of local jurisdictions generally within a 4-county area consisting of the following counties: Buffalo, Dawson, Merrick and Polk; and

WHEREAS, the purpose of the mitigation plan is to lessen the affects of disasters by increasing the disaster resistance of the Central Platte Natural Resources District and participating jurisdictions located in the plan area by identifying the hazards that affect the area and prioritize mitigation strategies to reduce potential loss of life and property from those hazards; and

WHEREAS, Federal Emergency Management Administration (FEMA) regulations require documentation that the plan has been formally adopted by the governing body of the participating jurisdiction in the form of a resolution and further requesting approval of the plan at the Federal level.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA by the Mayor and City Council of the City of Kearney, Nebraska that the Central Platte Natural Resources District Multi-Jurisdictional Hazard Mitigation Plan be and is hereby adopted in its entirety. The Plan in its entirety (860 pages) and dated January 20, 2012 is on file at the City Clerk's Office.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

18. 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 October 13, 2012 from 3:00 p.m. until 12:00 a.m. for a reception.

**19.** 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 October 20, 2012 from 3:00 p.m. until 12:00 a.m. for a reception.

**20.** 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 October 27, 2012 from 3:00 p.m. until 12:00 a.m. for a reception.

**21.** Adopt **Resolution No. 2012-174** approving the Use and Operations Agreement for Hangar T-385 between the City of Kearney and Otis Air Service for commercial storage of aircraft at the Kearney Regional Airport.

#### **RESOLUTION NO. 2012-174**

BE IT RESOLVED by the President and Council of the City of Kearney, that the President be and is hereby authorized and directed to execute the Use and Operations Agreement on behalf of the City of Kearney, Nebraska, with Otis Air Service for Hangar T-385 at the Kearney Regional Airport, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF SEPTEMBER, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

#### **V. CONSENT AGENDA ORDINANCES**

None.

#### **VI. REGULAR AGENDA**

##### **ORDINANCE NO. 7742 ISSUE BOND ANTICIPATION NOTES**

On March 27, 2012, the City Council awarded a bid of \$662,615.50 to Blessing, LLC for the 2011 Part 9 Improvements (50th Street and 17th Avenue). This project needs to be financed by the issuance of Series 2012 Bond Anticipation Notes. The Notes will provide short-term financing for the project. After the project is completed, and special assessments are levied, the Notes will be redeemed at maturity with cash received from the issuance of Series 2014 Various Purpose General Obligation Bonds. The Bonds will provide long-term (twenty years) financing for the project.

The Series 2012 Bond Anticipation Notes will be dated October 30, 2012 and will mature on November 15, 2014. The interest rate for the Notes is 1.10 percent and the total principal amount of the Notes is \$555,000.00.

Jay Spearman from Ameritas Investment presented this matter to the Council. They are anticipating closing on the bonds on October 30, 2012. The final maturity is November 2014. The Bond Anticipation Notes will be callable any time after November 15, 2013. They are issuing \$555,000 for the interim financing at an interest rate of ½ percent. The numbers were a little higher, but the Bond Anticipation Notes were sold within the City limits of Kearney at ½ percent.

Council Member Lammers introduced Ordinance No. 7742, being Subsection 1 of Agenda Item VI authorizing the issuance and sale of Bond Anticipation Notes of the City of Kearney, Nebraska, in the principal amount of \$555,000 for the purpose of providing interim financing for the costs of constructing street improvements in Paving Improvement District Nos. 2011-949 and 2011-950 of said City pending the issuance of permanent General Obligation Various Purpose Bonds of the City; prescribing the form of said notes; agreeing to issue the City's General Obligation Various Purpose Bonds to pay the notes at maturity or to pay the notes from other available funds; entering into a contract on behalf of the City with the holders of said notes, 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, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7742 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7742 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7742 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 - \$144,329.01**

Moved by Buschkoetter seconded by Lammers that the Open Account Claim in the amount of \$144,329.01 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers. Nay: None. Clouse abstained and Kearney absent. Motion carried.

## **VII. REPORTS**

### **CLOSED SESSION**

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 7:18 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss real estate matters. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Buschkoetter seconded by Clouse that Council reconvene in regular session at 7:39 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

## **VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 7:39 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**MICHAELLE E. TREMBLY  
CITY CLERK**