

*Kearney, Nebraska
December 26, 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 December 26, 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, Bob Lammers. Absent: Jonathan Nikkila. John Rademacher, Acting City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/Development Services Director; and Kirk Stocker, Director of Utilities were also present. There were no citizens present.

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

I. ROUTINE BUSINESS

INVOCATION

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

PLEDGE OF ALLEGIANCE

The Council members cited 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

None.

IV. CONSENT AGENDA

Moved by Lammers seconded by Lear that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

1. Approve Minutes of Regular Meeting held December 11, 2012.

2. Approve the following Claims:

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

A&D \$300.00 smcs; AT&T \$138.82 smcs; Ace Eaton Metals \$160.00 smcs; Ace Hardware \$214.97 smcs,co; Advance Auto Parts \$26.74 smcs; Affordable Plumbing \$185.00 smcs; Alertshirt \$798.00 smcs; Alfred Benesch \$29,711.64 co; Allied Electronics \$205.08 smcs; Ally B Designs \$600.00 smcs; Amazon \$466.52 smcs,co; American \$92.39 smcs; Amer Electric \$4,226.50 smcs; Amer Fence \$28.57 smcs; Amer First Aid \$301.47 smcs; Amer Library Assn \$43.00 smcs; Amer Pavement \$95,521.07 co; Amer Red Cross \$410.00 smcs; Amer Sealants Marketing \$239.00 smcs; Amsan \$819.34 smcs; Analytical Services \$1,500.00 smcs; Anderson,B \$161.70 smcs; Applied Industrial Tech \$106.91 smcs; Ashbrook \$33.93 smcs; Ask Supply \$663.84 smcs; Audio Go \$80.00 smcs; Baird Holm \$1,556.25 smcs; Baker & Taylor Books \$3,968.26 smcs; Bamford \$1,125.00 smcs; Big Rack Shack \$2,319.95 smcs; Bluecross Blueshield \$109,463.30 smcs; Boardtronics \$281.90 smcs; Boogaarts \$29.70 smcs; Books Galore \$269.77 smcs; Boopsie \$3,596.00 smcs; Bosselman Energy \$33,228.13 smcs; Botach Tactical \$649.79 smcs; Broadfoot's \$167.50 smcs; Buffalo Co Economic Dev \$15,000.00 smcs; Buffalo Co Election \$1,213.23 smcs; Buffalo Co Reg Deeds \$602.50 co; Buffalo Co Treasurer \$2,229.62 smcs,co; Buggy Bath Car Wash \$9.75 smcs; Builders \$594.34 smcs,co; Cabela's \$536.13 smcs; Capital Business Systems \$96.28 smcs; Carquest Auto \$3,063.18 smcs; Casey's General Store \$38.00 smcs; Cash-Wa \$579.30 smcs; Catering Divas \$520.00 smcs; CDW Govt \$138.63 co; Center Point Large Print \$72.06 smcs; Central Auto Electric \$182.25 smcs; Central Contracting \$10,000.00 co; Central Hydraulic \$1,127.41 smcs; Central NE Bobcat \$690.44 smcs; Certified Power \$174.44 smcs; Charter \$31.41 smcs; Chemsearch \$824.56 smcs; Chicken Coop \$40.00 smcs; City Glass \$81.34 smcs; City of Ky \$18,227.67 smcs,ps; Clear Bags \$65.79 smcs; Community Action Partner \$1,168.83 smcs; Compusacom \$19.09 smcs; Computer Hardware \$19.95 co; Computer Pros \$13.99 co; Computer Warehouse \$29.99 co; Conesco Life Ins \$19.00 ps; Consolidated Plastics \$669.16 co; Construction Rental \$944.28 smcs; Copycat Printing \$478.12 smcs; Crossroads Ford \$467.27 smcs; Culligan \$2,837.02 smcs; D&S Lighting \$171.56 smcs; Dawson PPD \$22,723.65 smcs; Depository Trust \$134,610.00 ds; DHHS Online Licensing \$150.00 smcs; Diamond Vogel Paint \$225.64 smcs; Discount Two Way Radio \$90.00 smcs; Dish \$64.36 smcs; Dmilaco \$2,341.50 ps; DPC Industries \$19,899.68 smcs; Eakes \$1,531.41 smcs; Elliott Equipment \$646.68 smcs; EMC Ins \$5,360.90 smcs; Eustis Body Shop \$75.00 smcs; Experts Exchange \$80.00 smcs; Expression Wear \$607.17 smcs; Fairbanks Intl \$1,874.99 smcs; Farmers Union Coop \$175.00 smcs; Fastenal

\$619.35 smcs; Fedex \$186.61 smcs; Fireguard \$283.45 smcs; Frontier \$9,347.09 smcs; Gale \$1,687.57 smcs; Galls \$14.40 smcs; Garrett Tires \$4,508.23 smcs; GE Money Bank \$2,101.37 smcs; Global Solution \$340.00 co; Glock Professional \$390.00 smcs; Gopher \$6,586.90 co; Graczyk Properties \$150.00 smcs; Graham Tire \$1,376.80 smcs; Grainger \$2,092.48 smcs; Hach \$3,448.83 smcs; Hardwarecom \$600.00 co; HD Supply \$4,775.42 smcs; Hilti \$629.75 smcs; Hinrichs,S \$161.70 smcs; Hobby-Lobby \$152.43 smcs,co; Holmes Plumbing \$402.46 smcs; Hometown Leasing \$237.20 co; Hookers Bros \$431.30 smcs; ICMA RC \$3,813.04 ps; Inland Truck Pats \$352.08 smcs; Interactive Study Systems \$999.95 smcs; IRS \$130,513.57 ps; Intl Association \$70.00 smcs; Intoximeters \$173.45 smcs; IPMA \$905.75 smcs; Itunes \$128.05 smcs; Jack Lederman \$3,021.01 smcs; John Deere Financial \$322.63 smcs; John Deere Landscapes \$330.56 smcs; Johnson Controls \$2,626.56 smcs; Johnson Service \$2,119.70 smcs; Johnson,T \$10.00 smcs; Johnstone Supply \$29.88 smcs; Jones Automotive \$1,636.90 co; Jotto Desk \$660.67 smcs; K&K Parts \$102.27 smcs; Ky Catholic High \$1,625.05 smcs; Ky Chamber \$60.00 smcs; Ky Clinic \$400.00 ps; Ky Concrete \$9,394.85 smcs,co; Ky Crete & Block \$641.88 smcs,co; Ky Glass \$256.40 smcs; Ky Hub \$2,233.30 smcs; Ky Humane Society \$6,825.00 smcs; Ky Implement \$658.72 smcs; Ky Noon Rotary \$220.00 smcs; Ky Powersports \$1,039.97 smcs; Ky Winlectric \$176.10 smcs; Ky Winnelson \$52.06 smcs; Kelley Supply \$47.40 smcs; Killion Motors \$692.69 smcs; Kiplinger Tax Letter \$67.00 smcs; Kirkham Michael \$40,404.67 co; Konica Minolta \$1,152.75 smcs; Kriz-Davis \$87.00 smcs; Lands End \$427.99 smcs; Lawson Products \$185.12 smcs; Layne Christensen \$1,025.00 smcs; League of NE Municipalities \$150.00 smcs; Logan Contractors \$169.49 smcs; Magic Cleaning \$10,050.00 smcs; Mail Express \$857.61 smcs; Marlatt Machine Shop \$197.36 smcs; Marlo Johnson \$4,870.00 smcs; Matheson \$327.90 smcs; Mayo's Electric \$82.50 smcs; McCombs \$139.08 smcs; Medtech Forensics \$130.00 smcs; Mellen & Associates \$1,029.92 smcs; Menards \$3,202.96 smcs; Midlands Contracting \$585,574.01 co; Mid-NE Garage Doors \$1,550.00 smcs; Midwest Labs \$17.10 smcs; Miller & Associates \$38,517.29 co; Miller Signs \$4,060.00 smcs,co; Miracle Recreation \$32.80 co; Monoprice \$69.99 co; Moonlight Embroidery \$4,817.50 smcs; Mor Electric Heating \$40.98 smcs; Morgan,M \$186.10 smcs; Mostek Electric \$230.60 smcs; Municipal Supply \$2,206.69 smcs; Murphy Tractor Equipment \$1,696.58 smcs; Napa All Makes \$331.43 smcs; Natl League of Cities \$3,258.00 smcs; NE Assn of Airport \$250.00 smcs; NE Child Support \$2,504.35 ps; NE Rural Water Assn \$50.00 smcs; NE Safety & Fire \$548.00 smcs; NE State Fire Marshal \$480.00 smcs; NE Truck Center \$659.52 smcs; NE Turfgrass \$260.00 smcs; NeFSMA \$35.00 smcs; Nellson Tile \$1,651.60 smcs; NeRPA \$240.00 smcs; New World Systems \$600.00 co; Northwestern Energy \$10,175.14 smcs; NOVA Fitness Equipment \$464.50 ps; NRG Media \$91.00 smcs; O'Brien Straatmann \$971.78 smcs; OCLC \$609.32 smcs; Office Depot \$912.62 smcs; Office Max \$120.55 smcs; Office of Elevator Safety \$100.00 smcs; One Call Concepts \$277.00 smcs; O'Reilly Automotive \$850.11 smcs; Oriental Trading \$192.49 smcs; Orscheln \$465.62 smcs; Oshkosh \$116.90 smcs; Paradigm \$2,500.00 smcs; Paramount \$112.40 smcs; Party America \$87.55 smcs; Patterson,B \$175.03 smcs; Paypal \$53.16 smcs; PCS Mobile \$649.70 co; Platte Valley Comm \$2,722.17 smcs,co; Platte Valley State Bank \$60.00 smcs; Power & Telephone Supply \$734.71 smcs; Presto-X \$235.16 smcs; Progressive Power \$63.83 smcs; Prometric \$130.00 smcs; Quarter Master \$90.93 smcs; Random House \$60.00 smcs; Ready Mixed Concrete \$9,801.50 smcs,co; Reams \$231.85 smcs; Recognition Unlimited \$234.15 ps; Recorded Books \$602.17 smcs; Recovery Systems \$534.66 smcs; Redman's Shoes

\$500.00 smcs; Reinke's Heating \$682.22 smcs; Research Technology Int'l \$129.95 smcs; Reserve Account \$750.00 smcs; Roth,K \$69.55 smcs; RR Donnelley \$400.88 smcs; S&B Heating \$458.40 smcs; Safe Flames Candles \$76.80 smcs; Safelite Autoglass \$1,023.88 smcs; Sahling Kenworth \$633.65 smcs; Salient Stills \$2,400.00 smcs; Sanitation Products \$1,296.44 smcs; Sapp Brothers \$7,238.00 smcs; Sauer-Danfoss \$262.19 smcs; Schriener,D \$94.80 smcs; Sears \$79.88 smcs; Shea,S \$52.80 smcs; Sheraton Hotels \$420.08 smcs; Sherwin William \$424.70 smcs,co; Snap-on Tools \$12.20 smcs; Sport Supply Group \$256.24 smcs; Sports Imports \$376.05 smcs; Stardock Systems \$19.98 co; St of NE Financial \$307.00 smcs; Steinbrink Landscaping \$464.99 smcs; Super Shine Auto Care \$110.50 smcs; Super Shuttle \$54.28 smcs; Swalter Packaging \$183.19 smcs; Target \$366.25 smcs; Terry's Tickets \$441.04 smcs; The Vault \$540.00 smcs; Thompson,K \$52.79 smcs; Tokay Software \$790.00 smcs; Toolpartdirectcom \$49.51 smcs; Tractor-Supply \$1,414.44 smcs; Tri City Outdoor Power \$182.30 smcs; TS Auto Glass \$826.00 smcs; Turfwerks \$724.81 co; Turner Body Shop \$1,408.53 smcs; US Postal Service \$86.00 smcs; Uldrich,M \$91.50 smcs; Ultimate Office Solution \$63.53 smcs; Union Bank & Trust \$60,886.72 ps; United \$25.00 smcs; UNK-Board of Regents \$467.04 ps; Unique Management \$268.50 smcs; UPS Store \$29.25 smcs; USPS \$449.44 smcs; Verizon \$59.98 co; Vermont Systems \$1,104.00 smcs; Walmart \$838.79 smcs; Warren-T Plumbing \$166.50 smcs; Watchguard Video \$556.25 co; Wegner,T \$287.25 ps; West Payment Center \$221.04 smcs; Wicks Sterling \$414.11 smcs; Wiegand Security \$90.00 smcs; Wilke Contracting \$56,140.00 co; Wilke's True Value \$89.96 smcs; Wilkins Hinrichs Stober \$594.00 smcs; Wireless OEM \$26.94 smcs; WPCI \$160.50 ps; Yant Equipment \$237.50 smcs; Zimmerman Printing \$242.20 smcs; Longevity Pay based on years of service on 11-30-2012 -- \$61,820.24. Payroll Ending 12-15-2012 -- \$360,822.80. 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 January 8, 2013 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Accept the report from the City Clerk on the insufficiency of objection/protest filed in connection with Ordinance No. 7770 creating Paving Improvement District No. 2012-960 for Tahoe Drive beginning at the south line of Emerald Drive and terminating at a point 241 feet southwesterly.
5. Approve the Agreement between the City of Kearney and the Kearney Area Community Foundation to temporarily close the parking lot located north of the Museum of Nebraska Art from 6:00 a.m. on May 15, 2013 until 12:00 p.m. on May 21, 2013 for the 6th Annual Nebraska Wine and Jazz Festival.
6. Adopt **Resolution No. 2012-228** accepting the paving, storm sewer, water, sanitary sewer infrastructure for Western Nebraska Property Development Addition (southwest corner of Kea West Avenue and 11th Street).

RESOLUTION NO. 2012-228

WHEREAS, on the 13th day of April, 2010 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2010-74 authorizing the

President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and WNH, LLC for the construction of paving, storm sewer, water, sanitary sewer improvements for Western Nebraska Property Development Addition (southwest corner of Kea West Avenue and 11th Street); 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 Western Nebraska Property Development Addition (southwest corner of Kea West Avenue and 11th Street) and that the said public improvements be and are hereby accepted.

PASSED AND APPROVED THIS 26TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Adopt **Resolution No. 2012-229** setting the interest rate, providing equal annual installments, providing the interest rate for delinquent installments for special assessments for 2013 with regard to the creation of paving, water and sanitary sewer districts; and to establish a policy on reimbursing developers for infrastructure costs for Developer Constructed Infrastructure Agreements.

RESOLUTION NO. 2012-229

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. Streets that have been improved by paving, curbing and guttering and incidental work, and/or the installation of water mains, and/or the installation of sanitary sewer mains shall be assessed to lots and parcels of ground where specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. All special assessments provided for by the laws of the state shall become due fifty (50) days after the date of levy and may be paid within that time without interest, but if not so paid, each installment, except the first, shall draw interest at the rate of 4.8 per centum per annum from the date the Board of Equalization convened until the same become delinquent. This interest rate is effective for the 2013 calendar year.

Section 3. Such assessments shall become delinquent in equal annual installments as follows:

Paving	Water	Sanitary Sewer
1/10th fifty days after date of Board of Equalization	1/5th fifty days after date of Board of Equalization	1/5th fifty days after date of Board of Equalization
1/10th one year after date of Board of Equalization	1/5th one year after date of Board of Equalization	1/5th one year after date of Board of Equalization
1/10th two year after date of Board of Equalization	1/5th two year after date of Board of Equalization	1/5th two year after date of Board of Equalization
1/10th three year after date of Board of Equalization	1/5th three year after date of Board of Equalization	1/5th three year after date of Board of Equalization
1/10th four year after date of Board of Equalization	1/5th four year after date of Board of Equalization	1/5th four year after date of Board of Equalization
1/10th five year after date of Board of Equalization		
1/10th six year after date of Board of Equalization		
1/10th seven year after date of Board of Equalization		
1/10th eight year after date of Board of Equalization		
1/10th nine year after date of Board of Equalization		

Such assessments shall become delinquent in equal annual installments over such period of years as set forth above. Delinquent installments shall bear interest at the rate specified in Section 45-104.01 of the Nebraska Revised Statutes, which is currently set at fourteen percent, and such rate may from time to time be adjusted by the Legislature, until paid and shall be collected in the usual manner for the collection of general taxes and shall be subject to the same penalties.

Section 4. Pursuant to Section 9-1310 of the Kearney City Code, the City will reimburse Developers for infrastructure costs considered the responsibility of the City as outlined in paragraphs 1, 2, 3, and 4 of Section 57-103(B) of the Kearney City Code based on the most recent unit price bids received by the City, and approved by the City Council, for similar projects. The attached schedule of unit price bids is hereby approved by the City Council and shall be used by the City Engineer to calculate infrastructure reimbursements to Developers for qualified Developer Constructed Infrastructure Agreements approved by the City Council during the 2013 calendar year. Developers will not be reimbursed for infrastructure items not included on the attached schedule of unit price bids.

PASSED AND APPROVED THIS 26TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt **Resolution No. 2012-230** approving T-Hangar A-3 between the City of Kearney and Bradley Howard for storage purposes at the Kearney Regional Airport.

RESOLUTION NO. 2012-230

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the T-Hangar A-3 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Bradley Howard, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2012-231** accepting the bids received for the 2012 Part 6 Improvements consisting of Paving Improvement District No. 2012-954 and Water District No. 2012-565 for 52nd Street from 3rd Avenue and terminating 761 feet west; Paving Improvement District No. 2012-955A for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue; Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue; Water District No. 2012-566 in a Road and Utility Easement in Lot 4, Oak Park Center lying between 2nd Avenue and 3rd Avenue; Water District No. 2012-567 in a 66-foot Road and Utility Easement from the south line of the intersection of 56th Street and 4th Avenue and terminating at a point 325 feet southeasterly; Sanitary Sewer District No. 2012-505A in a Roadway and Utility Easement beginning at a point 136 feet west of 2nd Avenue on the south line of 56th Street and southerly terminating at the south line of Lot 4, Oak Park Center; and Sanitary Sewer District No. 2012-506 in a Roadway and Utility Easement beginning at the south line of the intersection of 56th Street and 4th Avenue and terminating at a point 325 feet southeasterly and award the bid to Midlands Contracting in the amount of \$233,378.00 for Bid A and to Blessing Construction in the amount of \$492,366.19 for Bid B.

RESOLUTION NO. 2012-231

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on December 17, 2012 at 2:00 p.m. for the 2012 Part 6 Improvements consisting of Paving Improvement District No. 2012-954 and Water District No. 2012-565 for 52nd Street from 3rd Avenue and terminating 761 feet west; Paving Improvement District No. 2012-955A for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue; Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th

Avenue; Water District No. 2012-566 in a Road and Utility Easement in Lot 4, Oak Park Center lying between 2nd Avenue and 3rd Avenue; Water District No. 2012-567 in a 66-foot Road and Utility Easement from the south line of the intersection of 56th Street and 4th Avenue and terminating at a point 325 feet southeasterly; Sanitary Sewer District No. 2012-505A in a Roadway and Utility Easement beginning at a point 136 feet west of 2nd Avenue on the south line of 56th Street and southerly terminating at the south line of Lot 4, Oak Park Center; and Sanitary Sewer District No. 2012-506 in a Roadway and Utility Easement beginning at the south line of the intersection of 56th Street and 4th Avenue and terminating at a point 325 feet southeasterly; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$246,323.00 for Bid A (water and sanitary sewer) and \$620,537.00 for Bid B (paving); and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting of Kearney, Nebraska in the sum of \$233,378.00 be accepted as the lowest responsible bid for Bid A (water and sanitary sewer); and

WHEREAS, the said engineers have recommended the bid offered by Blessing Construction of Kearney, Nebraska in the sum of \$492,366.19 be accepted as the lowest responsible bid for Bid B (paving).

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 Midlands Contracting be and is the lowest responsible bidder for the 2012 Part 6 Improvements – Bid A consisting of Water District No. 2012-565 for 52nd Street from 3rd Avenue and terminating 761 feet west, Water District No. 2012-566 in a Road and Utility Easement in Lot 4, Oak Park Center lying between 2nd Avenue and 3rd Avenue; Water District No. 2012-567 in a 66-foot Road and Utility Easement from the south line of the intersection of 56th Street and 4th Avenue and terminating at a point 325 feet southeasterly; Sanitary Sewer District No. 2012-505A in a Roadway and Utility Easement beginning at a point 136 feet west of 2nd Avenue on the south line of 56th Street and southerly terminating at the south line of Lot 4, Oak Park Center, and Sanitary Sewer District No. 2012-506 in a Roadway and Utility Easement beginning at the south line of the intersection of 56th Street and 4th Avenue and terminating at a point 325 feet southeasterly to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting in the sum of \$233,378.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the Engineers recommendation is hereby accepted and approved, that Blessing, LLC be and is the lowest responsible bidder for the 2012 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2012-954 for 52nd Street from 3rd Avenue and terminating 761 feet west; Paving Improvement District No. 2012-955A for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue; Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing Construction in the sum of \$492,366.19 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$246,323.00 for Bid A (water and sanitary sewer) and \$620,537.00 for Bid B (paving) be and is hereby accepted.

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

stipulations pertaining thereto.

PASSED AND APPROVED THIS 26TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Adopt **Resolution No. 2012-232** approving the Standard Contract for Engineering Services for the City of Kearney, Nebraska.

RESOLUTION NO. 2012-232

WHEREAS, in 1996 the City Administration recommended to the Council that a uniform, consistent policy with regard to the employment of professional services for the procurement of routine civil, structural, mechanical, and electrical engineering services, be adopted by the City of Kearney; and

WHEREAS, the City has developed a standard uniform engineering services contract that will give fair and equal treatment to all professionals, firms or companies seeking to provide professional engineering services to the City; and

WHEREAS, on July 14, 2009 the City Council increased the fees set forth in Exhibit "A", a part of the standard uniform engineering services contract; and

WHEREAS, it has been determined that the fees needs to be adjusted accordingly.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Contract for Engineer Services, marked as Exhibit "1", attached hereto and made a part hereof by reference, be and is hereby adopted as the standard Contract for Engineer Services for the City of Kearney with the fees being adjusted accordingly as set forth in Exhibit "A".

PASSED AND APPROVED THIS 26TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Adopt **Resolution No. 2012-233** approving the Planning Project Program Agreement between the City of Kearney and the Nebraska Department of Roads to update the Comprehensive Transportation Plan.

RESOLUTION NO. 2012-233

WHEREAS, the City of Kearney is proposing a transportation project for which it would like to obtain Federal funds; and

WHEREAS, the City of Kearney understands that it must strictly follow all Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project; and

WHEREAS, the City of Kearney and Nebraska Department of Roads (NDOR) wish to enter into a Project Program Agreement setting out the various duties and funding responsibilities for the Federal-aid project.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor is hereby authorized to sign the attached Project

Program Agreement between the City of Kearney and the NDOR. The City of Kearney is committed to providing local funds for the project as required by the Project Program Agreement.

NDOR Project Number SPR-PL-1(50)
NDOR Control Number 00880
Kearney Comprehensive Transportation Plan

PASSED AND APPROVED THIS 26TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Approve the request submitted by Blessing Construction for the temporary closing of the alley from Central Avenue and 1st Avenue lying between 24th Street and 25th Street, the sidewalk and parking stalls in front of Midwest Audio located at 2416 Central Avenue in connection with the demolition of the building from January 14 through January 21, 2013.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7759A AMEND LEGAL DESCRIPTION FOR PAVING DISTRICT NO. 2012-955A

On November 13, 2012 the City Council approved Ordinance No. 7759 creating Paving Improvement District No. 2012-955 for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue. When the City filed the ordinance with the Register of Deeds, it was determined that the legal description was in correct. Therefore, Ordinance No. 7759A corrects the legal description for Paving Improvement District No. 2012-955.

Council Member Lear introduced Ordinance No. 7759A, being Subsection 1 of Agenda Item V amending the legal description of Ordinance No. 7759 creating Paving Improvement District No. 2012-955 for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue, 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, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7759A 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. Nikkila absent. Motion

carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7759A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7759A 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. 7779 – AMEND SECTION 9-1310 OF CITY CODE

This ordinance changes the current policy regarding reimbursement to developers that choose to use Developer Constructed Infrastructure Agreements. Currently, developers who chose to use a Developer Constructed Infrastructure Agreement to install paving, sanitary sewer, or water improvements are not reimbursed by the City for any general obligation costs that would normally be picked up by the City of Kearney under the improvement district process. This ordinance establishes a method to determine which improvement costs would be reimbursed to developers and how the reimbursement amount is calculated.

With the approval of this ordinance, developers will be reimbursed for infrastructure costs considered the responsibility of the City as outlined in paragraphs 1, 2, 3, and 4 of Section 57-103(B) of the Kearney City Code based on the most recent unit price bids received by the City, and approved by the City Council, for similar projects. The resolution (Item 7 of Consent Agenda) establishes the unit prices that will be used by the City Engineer to calculate the reimbursement, if any, to the developer. The ordinance also includes language that would require the developer to use the improvement district process, if it is determined by the City, that general obligation bonds or revenue bonds must be issued to fund costs considered the responsibility of the City.

Council Member Lear introduced Ordinance No. 7779, being Subsection 2 of Agenda Item V amending Section 9-1310 “Construction Costs” of Division II Technical Provisions” of Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney to establish a policy to reimburse the developer for infrastructure costs considered the responsibility of the City, to provide when reimbursement will be made to the developer, to provide the reimbursement will be calculated by the City Engineer based on the most recent unit price bids received by the City and approved by the City Council for similar projects, and to provide the City will not participate in reimbursement because of budgetary constraints, 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, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7779 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. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7779 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7779 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

ORDINANCE NO. 7775 ANNEXING 1300 EAST 11TH STREET

Mayor Clouse stated Ordinance No. 7775 annexing into the City limits property located at 1300 East 11th Street will be placed on third and final reading and passage.

Moved by Clouse seconded by Lammers that Ordinance No. 7775 annexing a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M. Buffalo County, Nebraska (1300 East 11th Street) be placed on third and final reading by title only. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

City Clerk read Ordinance No. 7775 by title.

Moved by Lammers seconded by Lear that Ordinance No. 7775 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the third reading and final passage of the ordinance, Ordinance No. 7775 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

There were no Open Account Claims.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 7:04 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**