

*Kearney, Nebraska  
January 22, 2013  
7:00 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on January 22, 2013, 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 and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Kirk Stocker, Director of Utilities; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Ben Rowe, Beth Bacon, Jerry Fox, Steve Altmaier from KGFW Radio, Mary Jane Skala from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

### **INVOCATION**

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

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

Jerry Fox addressed the Council on Sister Cities. The Sister City program is a nonprofit citizen diplomacy network that creates and strengthens partnerships between the United States and international communities. It strives to build global cooperation at the local level, promote cultural understanding and stimulate economic development. Sister City includes cultural, educational, municipal and business exchange projects. Although this program has existed for over 80 years, it really did not have any prominence until Eisenhower had his first diplomacy meeting. Kearney lags other cities in Nebraska on

these kinds of programs to help strengthen international relationships. Sister City exists in Omaha, Lincoln, Scottsbluff, Hastings and Arapahoe. This program is a great way for citizens, students and businessmen to collaborate with organizations in the U.S. and other countries which share similar goals.

The Sister City Kearney Advisory Board has contacted two cities for information. When they chose these cities, they were looking for cities similar to Kearney in makeup. One is Opava (population 60,000) located in northeast Czech Republic. Opava is home to the Silesian University. They produce pharmaceuticals, paints and equipment for mining, agriculture, construction and utility vehicle bodies. They are expanding to industrial electro technology, electronics and a wide variety of technology and software. The other one is Dourados, Brazil (population 200,000) located approximately 900 miles west of Rio de Janeiro. Its economy is based mainly in arable agriculture (particularly soy bean, corn and sugar cane) and in cattle ranching.

Mr. Fox serving as the Advisory Committee Chair encouraged citizens to get involved in Sister City Kearney. To get involved, contact any of the committee members: Vice Chair Mayor Stan Clouse, Secretary/Treasurer Curt Carlson (UNK), Nicole Darnell with the Economic Development Council and the Chamber of Commerce.

Mr. Fox recommended that Kearney got involved with just one City to start with. The University of Nebraska at Kearney is also involved with the program, as well as Chief Industries and Baldwin Manufacturing.

Mayor Clouse stated that the goal, because of the importance of the University, is to try to build a relationship with Opava. He stated that some people from here have gone to that region and checked things out. We would be dealing with their City of Opava departments and have also sent them some information. Mr. Fox and the Mayor met with some people from Brazil last spring. He believed that Brazil would be the next target because of the Ag sector. People from our industrial sector have already been to that region. It will be a boost to Kearney if we can recruit students, businesses and other economic development. He has discussed the importance of funding an application with the City Manager because it is their duty to obtain this kind of information.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

There were no public hearings.

## **IV. CONSENT AGENDA**

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

1. Approve Minutes of Regular Meeting held January 8, 2013.

2. Approve the following Claims:

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

3M \$4,516.00 smcs; 4imprint \$716.69 smcs; AT&T \$151.43 smcs; Ace Canopy \$91.53 smcs; Ace Hardware \$83.44 smcs,co; Acklie,K \$8.75 smcs; Action Training \$299.00 smcs; Aermotor Co \$78.77 smcs; Alamar Uniforms \$149.47 smcs; All Makes Auto Supply \$1,424.81 smcs; All Partitions \$41.04 smcs; Allied Electronics \$90.67 smcs; Amax Contracting \$525.43 co; Amazon \$1,071.57 smcs,co; American \$358.12 smcs; Amer Fence \$193.89 smcs; Amer First Aid \$353.18 smcs; Amsan \$1,569.81 smcs; Analytical Services \$1,500.00 smcs; Apex Superstores \$200.41 smcs; Ask Supply \$426.04 smcs; Aunt Jo's Home Appliance \$535.00 co; Aurora Cooperative \$136.00 smcs; Baker & Taylor Books \$3,014.45 smcs; Bamford \$699.79 smcs; Barnes & Noble \$276.06 smcs; Bauer Underground \$1,886.80 co; Baugh,A \$21.34 smcs; Best Western Hotel \$99.88 smcs; Big Rack Shack \$706.00 smcs; Blessing \$30,000.00 smcs,co; Bluecross Blueshield \$25,487.15 smcs; Bosselman \$76,776.39 smcs; Botach Tactical \$105.99 smcs; Boxwood Tech \$199.00 smcs; Brigham Lofts \$289,737.00 smcs; Broadfoot's \$2,192.00 smcs; Bruce Furniture \$1,075.00 smcs; Bruha,S \$150.00 smcs; Buffalo County \$76.50 smcs,co; Buffalo Outdoor Power \$114.93 smcs; Builders \$4,902.05 smcs,co; Cabela's \$213.99 smcs; Capital Business Systems \$181.82 smcs; Carquest Auto \$4,469.40 smcs; Cash-Wa \$273.25 smcs; CDW Government \$2,719.23 smcs,co; Center Point Large Print \$71.41 smcs; Central Hydraulic \$699.88 smcs; Central NE Bobcat \$4,858.46 smcs,co; Central States Wire \$7,378.63 smcs; CH Diagnostic \$1,215.00 smcs; Charter \$420.16 smcs; Chemsearch \$2,029.07 smcs; Chesterman \$740.30 smcs; Chicken Coop \$40.00 smcs; CHR FOTF/CBDcom \$71.98 smcs; City Glass \$395.94 smcs; City of Ky \$56,798.23 smcs,ps; Cold Spring Granite \$800.00 smcs; Comm Action Partnership \$4,416.46 co; Compasscom \$50.00 smcs; Complete Music \$350.00 smcs; Computer Pros \$2,156.00 co; Conners,D \$110.10 smcs; Conseco Life Ins \$19.00 ps; Consolidated Plastics \$165.10 smcs; Construction Rental \$406.19 smcs; Copycat Printing \$564.24 smcs; Crossroads Ford \$407.09 smcs; Culligan \$190.00 smcs; Cummins Central Power \$1,131.77 smcs; D&S Lighting \$23.70 smcs; Dawson PPD \$22,653.73 smcs; Daylight Donuts \$57.15 smcs; Dell \$689.86 smcs; Depository Trust \$76,235.00 ds; Diamond Vogel Paint \$57.49 smcs; Discount Snowstake \$152.44 smcs; Diesel Power Equipment \$428.90 smcs; Dish \$133.06 smcs; Dmilaco \$513.00 smcs; Dogpoopbagscom \$133.54 smcs; Dowhy Towing \$100.00 smcs; DPC Industries \$6,769.00 smcs; DT Development \$350.00 smcs; Eakes \$2,523.71 smcs; Earl May Seed \$22.99 smcs; Ecolab \$37.04 smcs; Elliott Equipment \$738.16 smcs; EMC Ins \$3,969.68 smcs; Engineered Systems \$1,490.42 smcs; ESRI \$6,900.00 smcs; Expression Wear \$102.72 smcs; Factory Outlet Store \$112.95 smcs; Fairbanks \$365.97 smcs; Farmers Union Coop \$712.50 smcs; Fastenal \$934.91 smcs; Fearnley,M \$110.10 smcs; Fedex \$59.98 smcs; Fiddelke \$248.50 smcs; Fire Department Training \$240.00 smcs; Fireguard \$1,354.85 smcs; Flag Co \$51.46 smcs; Footjoy \$394.57 smcs; Fort Bend Services \$3,306.00 smcs; Frederick,A \$27.00 smcs; Frontier \$9,343.11 smcs; Gale \$790.93 smcs; Galeton Gloves \$558.00 smcs; Gangwish Turf \$35.00 smcs; Garrett Tires \$4,718.58 smcs; GE Money Bank \$2,737.75 smcs;

Glock \$7.00 smcs; Goodwin Tucker Group \$1,248.86 smcs; Grainger \$1,513.46 smcs; Hansen,R \$66.72 smcs; Harland Technology \$1,457.00 smcs; Hayes,T \$8.45 smcs; HD Supply \$10,960.55 smcs; Heiman Fire Equipment \$97.35 smcs; Helms,G \$40.00 smcs; HGTV Magazine \$34.00 smcs; Highland Park \$1,755.30 smcs; Hobby-Lobby \$186.21 smcs; Holmes Plumbing \$450.25 smcs; Home Depot \$43.24 smcs; Hometown Leasing \$1,034.96 smcs,co; Hotsy \$1,122.35 smcs; Houchen Bindery \$283.65 smcs; Howe,C \$162.26 smcs; IAEI \$15.00 smcs; ICMA RC \$3,869.10 ps; IRS \$128,378.69 ps; International Association \$254.00 smcs; Int'l Code Council \$160.00 smcs; Int'l Institute \$185.00 smcs; J J Keller & Associates \$132.30 smcs; Jack Lederman \$1,198.63 smcs,co; Jack's Small Engines \$35.20 smcs; Jelinek,A \$72.00 smcs; John Deere Financial \$487.20 smcs; Johnson Controls \$7,048.10 smcs; Johnson,G \$41.55 smcs; Johnston Supply \$61.83 smcs; Jones,A \$26.00 smcs; Joudrey,M \$9.48 smcs; Just Blinds \$164.20 co; K&F Associates \$1,322.14 smcs; K&K Parts \$1,723.21 smcs; Ky Chamber Comm \$270.00 smcs; Ky Clinic \$457.00 ps; Ky Concrete \$2,589.10 ps; Ky Crete & Block \$533.50 smcs,co; Ky Glass \$78.20 smcs; Ky Hub \$11,276.88 smcs; Ky Humane Society \$6,825.00 smcs; Ky Implement \$561.70 smcs; Ky Powersports \$19.80 smcs; Ky Public Schools \$2,494.56 smcs; Ky Towing \$250.00 smcs; Ky Warehouse \$166.43 smcs; Ky Winlectric \$76.00 smcs; Ky Winnelson \$151.44 smcs; Kehl Tree Service \$550.00 smcs; Kelly Supply \$440.07 smcs; Kimball Midwest \$266.02 smcs; Kmart \$19.25 smcs; Konica Minolta \$231.91 smcs; Kowalek,G \$15.25 smcs; Kreikemeier,A \$22.11 smcs; Krueger,L \$80.00 smcs; K-Town Cakes \$70.00 smcs; Kucera Painting \$600.00 smcs; Kwiatkowski,L \$31.00 smcs; Lawn Builders \$661.43 smcs; Lawson Products \$295.53 smcs; Levanders Body Shop \$250.00 smcs; Lockmobile \$90.00 smcs; Magic Cleaning \$7,510.00 smcs; Mail Express \$554.94 smcs; Marlatt Machine Shop \$114.08 smcs; Matheson Tri-Gas \$267.31 smcs; McCarty,D \$19.50 smcs; McManus,A \$35.00 smcs; Menards \$6,514.85 smcs,co; Microsoft Technet \$249.00 smcs; Middleton Electric \$280.43 smcs; Mid-Iowa Solid Waste \$373.00 smcs; Midwest Labs \$2,312.50 smcs; Midwest Mailing \$285.00 smcs; Midwest Radar \$1,080.00 co; Midwest Turf \$1,633.70 smcs; Milco Environmental \$3,717.56 smcs; Miller & Associates \$38,585.25 smcs,co; Miller Signs \$90.00 smcs; MOCIC \$250.00 smcs; Moonlight Embroidery \$1,874.50 smcs; MPH Industries \$118.80 co; Municipal Supply \$5,211.34 smcs; Myseniorcentercom \$515.00 smcs; Napa All Makes Auto \$320.54 smcs; NCL of Wisconsin \$531.23 smcs; NE Child Support \$2,504.35 ps; NE Dept of Environmental \$13,148.69 smcs; NE Dept of Revenue \$28,845.00 smcs; NE League of Municipalities \$35.00 smcs; NE Library Assn \$383.75 smcs; NE Library Comm \$1,500.00 smcs; NE Machinery \$206.33 smcs; NE Public Health \$2,135.00 smcs; NE Safety & Fire \$150.00 smcs; NE St Library \$126.26 smcs; NE Truck Center \$463.32 smcs; NE Turf Grass \$830.00 smcs; Neopost \$6,000.00 smcs; Newegg \$367.12 co; Nichols,B \$14.00 smcs; Nielsen,B \$60.96 smcs; Northern Tool \$183.35 smcs; Northwest Electric \$413.39 smcs; Northwestern Energy \$15,722.46 smcs; Northern Safety \$377.69 smcs; Novus \$40.00 smcs; NRG Media \$26.00 smcs; NRPA \$113.00 smcs; OCLC \$622.03 smcs; Office Max \$567.70 smcs,co; Officenet \$3,558.12 smcs,co; Omaha World Herald \$301.14 smcs; One Call Concepts \$150.20 smcs; O'Reilly Automotive \$465.31 smcs; Orscheln \$835.02 smcs; Osentowski,R \$44.01 smcs; Otto Environmental \$6,161.60 smcs; Overhead Door \$65.00 smcs; Pandorf,M \$75.00 smcs; Paramount Linen \$173.25 smcs; Party America \$83.58 smcs,co; Paypal \$170.00 smcs; PC Mall Gov \$2,266.98 co; PDR Network \$77.90 smcs; Perkins Restaurant \$147.18 smcs; Pitney Bowes \$749.62 smcs; Pizza Hut \$70.00 smcs; Platte Valley Comm \$4,944.80 smcs,co; Platte Valley State Bank \$60.00 smcs; Posguyscom

\$122.00 smcs; Powerplan \$3,378.51 smcs; Prestige Flag \$245.86 smcs; Presto-X \$702.59 smcs; Provantage \$549.07 smcs; Quill \$712.61 smcs; Random House \$629.92 smcs; Rapp,K \$2,938.79 smcs; RCOM \$24.32 smcs; Ready Mixed Concrete \$4,718.51 co; Reams \$1,137.31 smcs; Recrooms \$40.19 smcs; Redman's Shoes \$200.00 smcs; Restaurant Equippers \$488.88 smcs; Ringenberg,G \$16.01 smcs; Rodehorst,R \$110.10 smcs; Rodriguez,T \$25.43 smcs; Rogue Fitness \$260.00 ps; Rough Around the Edges \$300.00 smcs; RR Donnelley \$481.66 smcs; Run-N-Iron \$35.00 smcs; Safelite Autoglass \$217.32 smcs; Sahling Kenworth \$240.75 smcs; Saltzgaber,S \$161.70 smcs; Sanitation Products \$512.62 smcs; Service Express \$238.49 smcs; Sheldon,S \$161.70 smcs; Sherwin Williams \$253.79 smcs,co; Shopletcom \$325.20 smcs; Show Me Cables \$100.28 co; Sign Center \$42.00 smcs; Simp's Handyman Service \$2,598.00 smcs; Sirsi Dynix \$3,000.00 smcs; Snap-On Tools \$52.95 smcs; Sonystore Direct \$142.99 smcs; Stan's Auto Sales \$19.16 smcs; State Electrical Division \$455.00 smcs; St of NE Dept of Labor \$3,607.88 ps; Steinbrink Landscaping \$160.00 smcs; Stone Castle Resort \$234.00 smcs; Sun Life Financial \$61,787.64 smcs; Supercircuits \$417.44 smcs; Target \$71.65 smcs,ps; Teeter-Tvcom \$299.85 co; Terry's Tickets \$55.00 smcs; Thome,B \$41.96 smcs; Thompson,B \$32.64 smcs; Thompson,K \$25.30 smcs; TM Sporting Goods \$59.98 smcs; Tool Doctor \$42.50 smcs; Tractor-Supply \$990.00 smcs,co; Trenton Snow \$75.00 smcs; Tri City Outdoor Power \$3.95 smcs; Tri-Cities Group \$341.94 smcs; Turner Body Shop \$1,161.98 smcs; Tye & Rademacher \$11,211.45 smcs; Union Bank & Trust \$212,199.23 ps; Unique Management \$322.20 smcs; UNL CARI Registration \$180.00 smcs; UNL Marketplace \$119.92 smcs; UNL NE Maps & More \$45.00 smcs; UPS Store \$66.40 smcs; USA Blue Book \$773.13 smcs; USPS \$122.17 smcs; Van Wall Equipment \$275.49 smcs; Verizon Wireless \$2,682.06 smcs; Veterans Memorial Museum \$260.00 smcs; Video Service of America \$2,295.90 smcs; Village Uniform \$160.20 smcs; Voss Lighting \$543.32 smcs; Walgreens \$9.00 smcs; Walker Display \$686.01 smcs; Walmart \$1,110.35 smcs,co; Warrington,D \$505.00 smcs; Wastewater Services \$175.00 smcs; Watchguard Video \$203.00 co; Weaver,M \$45.68 smcs; Wellness Works \$250.00 ps; West Central Research \$525.00 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$298.58 smcs,co; WPCI \$267.50 ps; Zimmerman Printers \$880.50 smcs; Zinghoppers Group \$325.00 smcs; Payroll Ending 1-12-2013 -- \$346,771.20. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Receive recommendations of Planning Commission and set February 12, 2013 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2013-3** approving Change Order No. 1 showing a decrease in the amount of \$2,150.00 submitted by Sutphen Corporation in connection with the purchase of a custom fire aerial apparatus to be used by the Kearney Volunteer Fire Department.

### **RESOLUTION NO. 2013-3**

WHEREAS, Sutphen Corporation of Dublin, Ohio has been selected to build a custom fire aerial apparatus to be used by the Kearney Volunteer Fire Department and they have filed with the City Clerk Change Order No. 1 showing a decrease to the

contract sum in the amount of \$2,150.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$980,452.00
Change Order No. 1 (1-22-2013)	+ 2,150.00
Contract Sum to Date	\$978,302.00

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

PASSED AND APPROVED THIS 22ND DAY OF JANUARY, 2013.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**5.** Adopt **Resolution No. 2012-4** approving the Towing Agreements between the City and Dowhy Towing and Recovery, Eustis Body Shop, Kearney Towing and Repair Center, Levander's Body Shop, and Turner Body Shop and Towing.

**RESOLUTION NO. 2013-4**

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the City Manager was authorized and directed to execute the Towing Agreements on behalf of the City of Kearney, Nebraska with Dowhy Towing and Recovery, Eustis Body Shop, Kearney Towing and Repair Center, Levander's Body Shop, and Turner Body Shop and Towing for towing services within the City of Kearney. The Towing Agreements, marked as Exhibits "1", "2", "3", "4" and "5", are attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF JANUARY, 2013.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**6.** Adopt **Resolution No. 2012-5** allowing the City of Kearney to expend funds on the 2012 Part 6 Improvements (Paving Improvement District No. 2012-954) and to reimburse itself from the proceeds of the debt issued at a later date.

**RESOLUTION NO. 2013-5**

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

Section 1. The President and Council of the City hereby find and determine that it is necessary and appropriate to declare their official intent to issue tax-exempt bonds on behalf of the City and in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed project as described below.

Section 2. This resolution shall stand as a statement of the City's official intent under Regulation Section 1.150-2 of the regulations of the United States Treasury and

for such purpose the following information is hereby given:

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

2012 Part 6 Improvements – Paving/Stormwater (Paving Improvement District 2012-954)	\$180,000.00
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2. The maximum principal amount of debt expected to be issued for such project is \$180,000.

PASSED AND APPROVED THIS 22ND DAY OF JANUARY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Adopt **Resolution No. 2013-6** approving Application and Certificate for Payment No. 2 in the amount of \$79,644.61 submitted by Midlands Contracting and approved by Miller & Associates for the 2012 Part 2 Improvements consisting of Water Extension District No. 2012-1 for 56th Street from the existing water main located ½ mile east of Antelope Avenue eastward approximately 5,446 feet to connect to the existing water main.

**RESOLUTION NO. 2013-6**

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2012 Part 2 Improvements consisting of Water Extension District No. 2012-1 for 56th Street from the existing water main located ½ mile east of Antelope Avenue eastward approximately 5,446 feet to connect to the existing water main, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$79,644.61, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$682,026.50</u>
Contract Sum To Date	682,026.50
Gross Amount Due	671,938.00
Retainage	6,719.38
Amount Due to Date	665,218.62
Less Previous Certificates for Payment	<u>585,574.01</u>
Current Payment Due	\$ 79,644.61

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 22ND DAY OF JANUARY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**8.** Adopt **Resolution No. 2013-7** approving Change Order No. 1 for an increase in the amount of \$7,146.41 submitted by Ardent Lighting Group and approved by Miller & Associates for the 2012 Part 4 Improvements; Harmon Park Tennis Court Lighting.

**RESOLUTION NO. 2013-7**

WHEREAS, Ardent Lighting Group, LLC of Knoxville, Iowa has performed services in connection with the 2012 Part 4; Harmon Park Tennis Court Lighting, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$7,146.41, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$117,749.00
Change Order No. 1 (1-22-2013)	<u>+ 7,146.41</u>
Contract Sum to Date	\$124,895.41

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

PASSED AND APPROVED THIS 22ND DAY OF JANUARY, 2013.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**9.** Adopt **Resolution No. 2013-8** approving the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Delbert Bickford, Zeus Blair, Anthony Hill, Nick Looney, Daniel Tenorio, and Eric VanHorn.

**RESOLUTION NO. 2013-8**

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

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

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

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

Nebraska Revised Statutes, and that said members are fully entitled to benefits under the Workers' Compensation Act.

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

PASSED AND APPROVED THIS 22ND DAY OF JANUARY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**10.** Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropicico in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on March 23, 2013 from 6:00 p.m. until 1:00 a.m. for a dance.

**11.** Approve the application for a Special Designated License submitted by Gary Wach, dba Three Brothers Vineyard & Winery in connection with their Class Y-79473 liquor license to dispense wine in the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on February 20, 2013 from 4:00 p.m. until 11:00 p.m. for a sampling/tasting event.

**12.** Adopt **Resolution No. 2013-9** amending the Procurement Procedures and Code of Conduct with regard to Community Development Block Grant programs.

**RESOLUTION NO. 2013-9**

WHEREAS, on December 14, 2004 the City Council approved Resolution No. 2004-230 adopting the "Procurement Procedures and Code of Conduct" to comply with Federal and State guidelines for Community Development Block Grant Programs; and

WHEREAS, on January 2, 2013 the State of Nebraska Department of Economic Development completed monitoring the CDBG Downtown Revitalization Planning Grant and determined that additional language should be added to the City's Procurement Procedures.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to amend the "Procurement Procedures and Code of Conduct" by replacing paragraph B as follows:

B. The contract amount will not be based on cost plus, a percentage of cost, or percentage of construction cost".

A copy of the document, marked as Exhibit "A", is attached hereby and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF JANUARY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Adopt **Resolution No. 2013-10** approving the Joint City of Kearney/Buffalo County Agreement for the 2013 aerial photography and Geographic Information System (GIS).

### **RESOLUTION NO. 2013-10**

WHEREAS, the City of Kearney, Nebraska, and the County of Buffalo, Nebraska desire to enter into an Interlocal Agreement for aerial photography and Geographic Information System (GIS) sharing.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to execute the Joint City of Kearney/Buffalo County Agreement on Aerial Photography and (GIS) sharing between the City of Kearney, Nebraska, and the County of Buffalo, Nebraska. A copy of the said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF JANUARY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Approve the application for a Special Designated License submitted by Terry Puls, dba Speak Easy in connection with their Class IBK-07688 liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 1400 East 34th Street, on March 2, 2013 from 4:00 p.m. until 1:00 a.m. for a fund raiser.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7781 CREATING WATER DISTRICT NO. 2013-569**

At the November 27, 2012 Council meeting the Council approved an agreement with East 20th Street and O Storage L.L.P. East 20th Street and O Storage L.L.P. would like to develop storage units on property that they own located northwest of the intersection of 20th Street and Avenue Q. However, the 2006 Fire Code requires a fire hydrant within 400 feet of all buildings that do not have fire sprinkler systems. The agreement states that the City will create a water improvement district to provide fire protection and that East 20th Street will not protest the district or future water, sanitary sewer and paving districts in the future. The agreement was important so that the City can get water; sanitary sewer and paving past the property in the future yet provide fire protection to the property at this time.

Council Member Nikkila introduced Ordinance No. 7781, being Subsection 1 of Agenda Item V creating Water District No. 2013-569 in 20th Street from Avenue O east to the east line of Lot 8 of Block 13, Whiteaker's Grove Addition, 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, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7781 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, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7781 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7781 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. 7782 AMEND SECTION -915 OF CITY CODE**

During the recent snow storm event while City staff was preparing the news release to prohibit parking on a number of downtown streets for its snow removal operations, it was realized that Section 8-915 of the City Code did not reflect the practices being performing during the downtown emergency snow removal operations. Staff recommends amending Section 8-915 "Prohibited Between 2:00 a.m. and 6:00 a.m. During Snow Emergency" of Article 9 "Stopping, Standing and Parking" of Chapter 8 "Police" to prohibit parking between the hours of 2:00 a.m. and 6:00 a.m. on certain streets; to include prohibiting parking during this time on 16th Street from Central Avenue to 1st Avenue, 19th Street from 1st Avenue to Avenue A and 1st Avenue from 15th Street to 17th Street, 23rd Street from the Alley West of 2nd Avenue to Avenue B, 22nd Street and 24th Streets extended to Avenue B. These changes to the City Code will allow the Public Works and Police Departments to work together to continue providing the high level of snow removal services that the downtown businesses expect.

Council Member Nikkila introduced Ordinance No. 7782, being Subsection 2 of Agenda Item V amending Section 8-915 "Prohibited Between 2:00 a.m. and 6:00 a.m. During Snow Emergency" of Article 9 "Stopping, Standing and Parking" of Chapter 8 "Police" to prohibit parking between the hours of 2:00 a.m. and 6:00 a.m. on certain streets; to include prohibiting parking during this time on 16th Street from Central Avenue to 1st Avenue, 19th Street from 1st Avenue to Avenue A and 1st Avenue from 15th Street to 17th Street, 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, Nikkila. Nay: None.

Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7782 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, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7782 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7782 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. 7783 CREATING PAVING DISTRICT NO. 2013-961**

The City received a letter from Dan Roeder requesting the creation of a paving district for 57th Street east of Avenue Q.

Council Member Nikkila introduced Ordinance No. 7783, being Subsection 3 of Agenda Item V creating Paving Improvement District No. 2013-961 for 57th Street from Avenue Q east to the east lot line of Lot 4 of Block One, Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7783 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, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7783 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7783 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**

### **TEMPORARY CLOSURE OF PARKING LOT NORTH OF MONA FOR WEDDING RECEPTION**

Mayor Clouse stated that Regular Agenda Items 1 and 2 can be discussed together but voted on separately.

Mayor Clouse opened for discussion to temporarily close the south side of the parking lot located north of the Museum of Nebraska Art from 6:00 a.m. on July 12, 2013 until 5:00 p.m. on July 15, 2013 and also the north side of the parking lot on July 13, 2012 from 5:00 p.m. until 1:00 a.m. for a wedding reception.

Ben Rowe with the World Theatre Foundation presented this matter to the Council. He stated they are starting to offer wedding packages at the World Theatre along with receptions. He is also getting married this summer, so he is using his wedding as a trial run to see how it works out. He is asking to close the south half of the MONA parking lot for the weekend of July 12-15. The reason they are requesting so many days is that the tent would be set up on July 12 and taken down on July 15. They are requesting that the entire parking lot be closed on the day of the reception, July 13 from 5:00 p.m. to 1:00 a.m. They are expecting 300-400 guests and the reception will be in an enclosed tent with only one entrance. According to MONA's schedule, they have minimal events that weekend and being able to utilize part of the parking lot would be sufficient for those events. MONA had no objection to waiting to take the tent down until July 15. Cunningham's will be handling the alcohol, checking IDs, providing wristbands and security. They are also hiring two off-duty police officers for additional security. They have an insurance policy in place for general liability which has been filed with the City Clerk's office. They will not be using MONA's facilities for power or restroom facilities. They will be using generators and renting restrooms for that purpose.

Council member Nikkila asked if they have had a lot of requests for these services. Mr. Rowe stated they have just opened up for rentals and there is one other wedding scheduled for the summer. They will only schedule two weddings a year so this will not be a regular thing that will be requested from City.

Moved by Buschkoetter seconded by Clouse to approve the Agreement between the City of Kearney and Ben Rowe to temporarily close the south side of the parking lot located north of the Museum of Nebraska Art from 6:00 a.m. on July 12, 2013 until 5:00 p.m. on July 15, 2013 and also the north side of the parking lot on July 13, 2012 from 5:00 p.m. until 1:00 a.m. for a wedding reception. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **CUNNINGHAM'S JOURNAL SPECIAL DESIGNATED LICENSE FOR JULY 13, 2013**

Mayor Clouse stated that Regular Agenda Items 1 and 2 can be discussed together but voted on separately.

Mayor Clouse opened for discussion 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 an enclosed 105' x'60' tent area located on the south side of the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue, on July 13, 2013 from 3:00 p.m. until 1:00 a.m. in connection with a wedding reception subject to the City receiving a current Certificate of Insurance prior to this event.

Moved by Clouse seconded by Lammers to 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 an enclosed 105' x'60' tent area located on the south side of the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue, on July 13, 2013 from 3:00 p.m. until 1:00 a.m. in connection with a wedding reception subject to the City receiving a current Certificate of Insurance prior to this event. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

#### **OPEN ACCOUNT CLAIM TO NPPD - \$74,964.35**

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$74,964.35 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

### **VII. REPORTS**

#### **CLOSED SESSION**

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 7:17 p.m. for the protection of the public interest to discuss personnel matters and possible litigation. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest personnel matters and possible litigation. 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 8:21 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 8:21 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**ATTEST:**

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

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**MICHAELLE E. TREMBLY  
CITY CLERK**