

*Kearney, Nebraska
December 20, 2016
5:30 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on December 20, 2016 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: Randy Buschkoetter. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Lauren Brandt, Deputy City Clerk; Tony Jelinek, Director of Utilities; Dan Lynch, Chief of Police; Shawna Erbsen, Administrative Services Director; and Jason Whalen, Fire Administrator were also present. Some of the citizens present in the audience included: Gary Steele, Chris Miller, Mike Konz from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION/MOMENT OF SILENCE

With the absence of a minister, the Council held a moment of silence.

PLEDGE OF ALLEGIANCE

The Council members led the 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

REZONE LOT 1, FOUNTAIN HILLS SEVENTH; SOUTH OF 56TH STREET AND EAST OF 11TH AVENUE

Moved by Lammers seconded by Nikkila to remove Public Hearings 1 and 2 from the table. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. Motion carried.

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Grand West, LLC to rezone from District C-2, Community Commercial District to District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District property described as Lot 1, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 8113. Planning Commission recommended approval.

Gary Steele from Miller & Associates presented this matter to the Council. This is the Fountain Hills Seventh, our site location as previously indicated is just south of 56th Street at the intersection of 11th Avenue. It includes two lots and is approximately 13 acres in size. Lot 1 is the proposed development. Lot 2 is previously developed as an apartment complex. The existing zoning is C-2 and is being requested it be rezoned to R-3/PD to match the Lot 2 section of the site. The proposed development is in line with the original preliminary plat that was submitted. The development plan showed Phase 1 which is constructed and it also showed Phase 2 (Phase 2 being a fiber optics line). Phase 2 is not being pursued by the developer at this time. They will be asking that Phase 2 be released as part of this action. The land owner has submitted a letter to the City requesting a release for that Phase 2 portion.

A proposed phasing showing Phase 1, which is the constructive portion and Phase 2 being the Lot 1 of that development. They are asking the development plan for the effective Phase 2 be released or withdrawn and that the proposed Phase 2 development plan be amended to the existing Phase 1, so it would all be together. The proposed development plan which shows three 25-unit buildings, assorted garages with parking areas. All of the utilities (water, sewer, storm sewer) can be accessed from existing water and sewer mains on-site. There is a landscaped area that extends north to 56th Street and they have considered as part of this development plan, the widening of 56th Street. There is also an 8-foot wide walking path along the right-a-way of 56th Street which would be completed at the completion of this phase as well as the construction of the widening of 56th Street. The units and garages being constructed would be very similar to what was constructed and is there now. Overall, they are asking for rezoning from C-2 to R-3/PD.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing and introduced Ordinance No. 8113 rezoning from District C-2, Community Commercial District to District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District property described as Lot 1, Fountain Hills Seventh Addition, 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 close the hearing and suspend the rules for Ordinance No. 8113. 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, Nikkila, Lammers, Lear. Nay: None. Buschkoetter 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. 8113 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Lear. Nay: None. Buschkoetter absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Clouse that Ordinance No. 8113 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8113 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.

REVISED DEVELOPMENT PLANS FOR SOUTH OF 56TH STREET AND EAST OF 11TH AVENUE

Moved by Lammers seconded by Nikkila to remove Public Hearings 1 and 2 from the table. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. Motion carried.

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Grand West, LLC and TSK 14, LLC for Revised Planned District Development Plan Approval for the construction of an apartment complex on property to be zoned R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District and described as Lots 1 and 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska and consider Resolution No. 2016-188. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt Resolution No. 2016-188 approving the Application submitted by Miller & Associates for Grand West, LLC and TSK 14, LLC for Revised Planned District Development Plan Approval for the construction of an apartment complex on property to be zoned R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District and described as Lots 1 and 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye:

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

RESOLUTION NO. 2016-188

WHEREAS, Miller & Associates for Grand West, LLC and TSK 14, LLC have applied for Revised Planned District Development Plan Approval for the construction of an apartment complex on property zoned R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lots 1 and 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates for Grand West, LLC and TSK 14, LLC for Revised Planned District Development Plan Approval for the construction of an apartment complex on property zoned R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lots 1 and 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska be approved subject to the original Phase 2 layout approved on October 18, 2013 is formally withdrawn and the revised Phase 2 plan shown on Lot 1 of Fountain Hill Seventh Addition supersedes the original Phase 2.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

DEVELOPMENT OF HILLTOP MALL SECOND

Mayor Clouse stated at the last Council meeting the public hearing on the Applications submitted by Miller & Associates for MFP Mid-America Shopping Centers, LLC to (1) vacate Lot 1, Hilltop Mall Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska; and (2) the Final Plat for Hilltop Mall Second, an addition to the City of Kearney for a tract of land being Lot 1 (to be vacated), Hilltop Mall Subdivision, a subdivision to the City of Kearney in the Southwest Quarter of the Northwest Quarter of Section 25, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (4915 2nd Avenue) was postponed until January 10, 2017. Therefore, no action was necessary.

DEVELOPMENT PLANS FOR NORTHEAST OF 2ND AVENUE AND 48TH STREET, WEST OF HERBERGERS

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse stated at the last Council meeting the public hearing on the Application submitted by Miller & Associates for MFP Mid-America Shopping Centers, LLC for Planned District Development Plan Approval for the construction of a commercial building on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as a tract of land being proposed Lot 3, Hilltop Mall Second, an addition to the City of Kearney, Buffalo County, Nebraska (northeast of 2nd Avenue and 48th Street, west of Herbergers) was postponed until January 10, 2017. Therefore, no action was necessary.

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. Nay: None. Buschkoetter absent. Motion carried.

1. Approve Minutes of Regular Meeting held December 13, 2016.
2. Approve the following Claims:

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

Agri Coop \$513.45 smcs; All Makes Auto \$4,481.72 smcs; Amer First Aid \$207.62 smcs; Anderson,S \$17.59 smcs; Aurora Coop \$77.98 smcs; Auto Value \$1,227.08 smcs; Baker & Taylor \$1,430.09 smcs; Bamford \$25,900.00 co; Blackstone Audio \$164.95 smcs; Blueglobes \$690.53 smcs; Boopsie \$4,495.00 smcs; Bosselman \$1,954.05 smcs; Brandt Construction \$0.42 smcs; Broadfoot's \$585.00 smcs; Bruha,S \$320.00 smcs; Builders \$204.77 smcs; Capital Business Systems \$169.93 smcs; Cash-Wa \$160.70 smcs; Central Hydraulic \$807.00 smcs; CH Diagnostic \$490.00 smcs; Charter \$7.37 smcs; Chesterman \$215.00 smcs; Chief Construction \$334.00 smcs; City of Ky \$3,014.15 smcs; Cornhusker Cleaning \$449.95 smcs; Corral,N \$10.08 smcs; Dawson Public Power \$23,236.75 smcs; Dock Ladders Depot \$1,968.95 co; Eakes \$881.08 smcs; Eickhoff,J \$100.00 smcs; Elliott Equipment \$6,033.37 smcs; Eustis Body Shop \$100.00 smcs; Faith United Methodist \$534.89 co; Fortune,J \$60.59 smcs; Gale Research \$3,102.97 smcs; Gall's \$106.40 smcs; Gannon Travel \$1,330.00 smcs; Garrett Tires \$1,131.35 smcs; Goodwin Tucker \$1,398.59 smcs; HD Supply \$4,215.80 smcs; Heggemeyer,L \$75.00 smcs; Hopkinson,W \$37.43 smcs; James,D \$280.00 smcs; Johnson Controls \$991.40 smcs; KCI \$11,125.00 co; Ky Clinic \$1,394.00 ps; Ky Concrete \$3,837.88 smcs,co; Ky Crete & Block \$200.02 co; Keough,J \$18.59 smcs; Landmark Implement \$1,419.30 smcs; Lockmobile \$105.00 smcs; Matheson \$147.70 smcs; McLaughlin,P \$237.00 smcs; Melgarejo,M \$135.00 smcs; Mid-State Engineering \$5,220.00 co; Midwest Connect \$131.00 smcs; Midwest Express \$48.05 smcs; Midwest Labs \$2,082.50 smcs; Municipal Supply \$2,512.32 smcs; Navigator Motorcoaches \$1,110.00 smcs; NE Dept of Environmental \$265,493.42 ds; NE Environmental Products \$1,118.31 smcs; NE Machinery \$29,841.01 smcs; NE State Fire Marshal \$120.00 smcs; Norm's Plbg \$240.65 smcs; Northwestern \$2,406.64 smcs; Ogdahl,A \$44.63 smcs; One Call Concepts \$335.01 smcs; O'Reilly Automotive \$839.22 smcs; Paramount \$135.84 smcs; Penguin Random House \$41.25 smcs; Platte Valley Auto \$92.35 smcs; Presto-X \$198.64 smcs; Ready Mixed Concrete \$1,259.26 co; Recorded Books \$156.60 smcs; Resource Mangament \$23,911.91 smcs; Roth,K \$61.51 smcs; Salter,J \$237.00 smcs; Sampson Construction \$1,093,223.00 co; Sapp Brothers \$13,438.77 smcs; Schultz,Z \$13.78 smcs; Shepardson,F \$13.01 smcs; Sonetics \$784.59 smcs; Steinbrink's \$180.00 smcs; Sungard \$36,638.62 co; Theis,G \$32.59 ps,smcs; Turner Body Shop \$400.00 smcs; Tyler Technologies \$102,507.00 smcs; USA Blue Book \$1,189.23 smcs; USA Communications \$155.95 smcs; Verizon \$20.04 smcs;

Walters Electric \$64.99 co; Weller,B \$257.00 smcs; World Book \$999.00 smcs; Zoucha,K \$48.46 smcs; Payroll Ending 12/10/2016 -- \$405,803.43. 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 10, 2017 at 5:30 p.m. as date and time for hearing on those applications where applicable.

4. Adopt Resolution No. 2016-210 setting the interest rate, providing equal annual installments, providing the interest rate for delinquent installments for special assessments for 2017 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. 2016-210

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 5.0 per centum per annum from the date the Board of Equalization convened until the same become delinquent. This interest rate is effective for the 2017 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 2017 calendar year. Developers will not be reimbursed for infrastructure items not included on the attached schedule of unit price bids.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER, 2016.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

5. Adopt Resolution No. 2016-211 approving the Standard Contract for Engineering Services for the City of Kearney, Nebraska.

RESOLUTION NO. 2016-211

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, after review of the Standard Contract for Engineering Services it has been determined that the "Percentage Fee for Basic Services" included in Section 2(a) of Exhibit A, and the "Maximum Fee Amount" for Optional Services pertaining to Part III, Section B.1 in Section 3(b) of Exhibit A will be reduced by one percent.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Standard Contract for Engineering Services, be and is hereby adopted with the fees being adjusted accordingly. The Standard Contract for

Engineering Services for the City of Kearney, marked as Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Accept the bids received for the purchase of a side load refuse compactor truck used in the Utilities Department and award the bid to Elliott Equipment in the amount of \$237,957.00.

7. Adopt Resolution No. 2016-212 approving Change Order No. 5 for an increase in the amount of \$4,134.00 submitted by Sampson Construction and approved by Clark Enersen Partners for the construction of a new sports complex at Patriot Park.

RESOLUTION NO. 2016-212

WHEREAS, Sampson Construction Co. from Lincoln, Nebraska has performed services in connection with for the construction of a new sports complex at Patriot Park, and the City's engineer, The Clark Enersen Partners, have filed with the City Clerk Change Order No. 5 showing an increase to the contract sum in the amount of \$4,134.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$8,078,000.00
Change Order No. 1 (1-26-2016)	- 138,425.00
Change Order No. 2 (5-24-2016)	+ 35,563.00
Change Order No. 3 (7-26-2016)	+ 4,898.00
Change Order No. 4 (7-26-2016)	+ 20,839.00
Change Order No. 5 (12-20-2016)	+ <u>4,134.00</u>
Contract Sum To Date	\$8,005,009.00

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

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt Resolution No. 2016-213 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Fountain Hills Seventh Addition.

RESOLUTION NO. 2016-213

WHEREAS, on the 10th day of June, 2014 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2014-108 authorizing the

President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Grand West, LLC. to construct water, sanitary sewer and paving improvements to serve Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska; 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 for water, sanitary sewer and paving to serve the property described as Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt Resolution No. 2016-214 approving Change Order No. 1 showing a decrease of \$4,199.00, Application and Certificate for Payment No. 2-Final in the amount of \$23,342.76 and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2015 Part 10 Improvements consisting of Paving Improvement District No. 2015-980, Water District No. 2015-582, and Sanitary Sewer District No. 2015-519 for 46th Street Place from Avenue R to its terminus in a cul-de-sac.

RESOLUTION NO. 2016-214

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2015 Part 10 Improvements consisting of Paving Improvement District No. 2015-980, Water District No. 2015-582, and Sanitary Sewer District No. 2015-519 for 46th Street Place from Avenue R 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 to the contract sum in the amount of \$4,199.00, 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. 2-Final in the amount of \$23,342.76 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$229,643.00
Change Order No. 1 (12-20-2016)	- 4,199.00
Contract Sum To Date	225,444.00
Gross Amount Due	225,444.00
Retainage	0.00
Amount Due to Date	225,444.00
Less Previous Certificates for Payment	<u>202,101.24</u>
Current Payment Due	\$ 23,342.76

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 1, 2016, 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. 2-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 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Adopt Resolution No. 2016-215 approving Change Order No. 4 showing a decrease of \$134,411.74, Application and Certificate for Payment No. 8 in the amount of \$260,020.89 and accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2015 Part 5 Improvements consisting of Paving Improvement District No. 2015-981 for Central Avenue from 12th Street to 18th Street.

RESOLUTION NO. 2016-215

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2015 Part 5 Improvements consisting of Paving Improvement District No. 2015-981 for Central Avenue from 12th Street to 18th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 4 showing a decrease to the contract sum in the amount of \$134,411.74, as shown on Exhibit "A", attached hereto and made a part hereof by reference; and;

WHEREAS, Blessing Construction and Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 8-Final in the amount of \$260,020.89 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$3,018,299.85
Change Order No. 1 (3-22-2016)	+ 20,741.68
Change Order No. 2 (5-24-2016)	+ 12,341.33
Change Order No. 3 (10-25-2016)	+ 2,423.34
Change Order No. 3 (12-20-2016)	- <u>134,411.74</u>

Contract Sum To Date	2,919,394.46
Gross Amount Due	2,919,394.46
Retainage	0.00
Amount Due to Date	2,919,394.46
Less Previous Certificates for Payment	<u>2,659,373.57</u>
Current Payment Due	\$ 260,020.89

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 11, 2016, 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. 4, as shown on Exhibit "A", Application and Certificate for Payment No. 8-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 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Adopt Resolution No. 2016-216 approving the Developer Constructed Infrastructure Agreement for paving, storm water, water and sanitary sewer improvements between the City of Kearney and Grand West for Lot 1, Fountain Hills Seventh Addition.

RESOLUTION NO. 2016-216

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, Fountain Hills Seventh Addition" (Phase II) between the City of Kearney and Grand West and Fountain Hills Outlot Maintenance Association to construct the public improvements consisting of water mains, sanitary sewer mains and hike/bike trails be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

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 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Adopt Resolution No. 2016-217 reserving 8 acres of land for future expansion of the Kearney Volunteer Fire Department Training Center located at the Kearney Regional Airport.

RESOLUTION NO. 2016-217

WHEREAS, the City owns eight acres of land adjacent to the Fire Training Center located at the Kearney Regional Airport; and

WHEREAS, the Kearney Volunteer Fire Department is requesting this tract of land be designated for future expansion of the Fire Training Center should there be a need to expand beyond its current boundaries.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the approximate eight acres of land adjacent to the Fire Training Center located at the Kearney Regional Airport be designated for future expansion of the Fire Training Center should there be a need to expand beyond its current boundaries. A drawing of the proposed tract of land, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt Resolution No. 2016-218 approving the recommendation submitted by the Fire Chief to include Whitney Ashburn and Bill Schaffnitt as members of the Kearney Volunteer Fire Department.

RESOLUTION NO. 2016-218

WHEREAS, Jim Tacha, Chief of the Kearney Volunteer Fire Department, has forwarded a name of an individual desiring to serve as a volunteer in the Kearney Volunteer Fire Department; and

WHEREAS, based on the recommendation of Chief Tacha, 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 the person 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 a member 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 20TH DAY OF DECEMBER, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the recommendation from the Utilities Department on awarding the bid for the construction of the Eastbrooke Park Irrigation Well.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

None.

VII. REPORTS

CLOSED SESSION

Moved by Nikkila seconded by Lear that Council adjourn into closed session at 5:39 p.m. for the protection of the public interest to discuss possible litigation. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss 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.

Mayor Clouse left the meeting at 5:39 p.m.

Moved by Lear seconded by Lammers that Council reconvene in regular session at 6:16 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. Motion carried.

VIII. ADJOURN

Moved by Lear seconded by Lammers that Council adjourn at 6:16 p.m. Roll call resulted as follows: Aye: Lammers, Lear, Nikkila. Nay: None. Clouse and Buschkoetter absent. Motion carried.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK