

Kearney, Nebraska
October 19, 2009
6:30 p.m.

A special meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 6:30 p.m. on October 19, 2009 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear. Absent: Bob Lammers. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Suzanne Brodine, Assistant to the City Manager; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Mitch Humphrey, Paul Brungardt, Steve Altmaier from KGFW Radio, Kevin Hervert 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.

ANNOUNCEMENT

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

REZONING SOUTH OF TALMADGE STREET AND 650 FEET WEST OF 3RD AVENUE

Items 3 through 7 can be discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) to rezone from District M-1, Limited Industrial District to District C-2/PD, Community Commercial/ Planned Development District for property described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11 and part of the North Half of the Northeast Quarter of Section 14, all located in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue). Planning Commission recommended approval.

The applicant is requesting approval to develop a 54,670 square foot exposition building on 10.03 acres. The property is located south of Talmadge Street approximately 650 feet west of 3rd Avenue. This is the area historically known as "The DX Sandpits." The property is currently zoned M-1. This project requires rezoning, subdivision platting, annexation, and approval of Development Plans.

Rezoning – The current land use designation for this property on the Future Land Use Map of the City of Kearney Comprehensive Development Plan is “Mixed Use 2”. The property is currently zoned M-1, Limited Industrial, while the abutting property to the east that contains several motels is zoned C-2. Because the proposed exposition center will interact closely with the existing motels and will be under common ownership and management, and resources such as parking will be shared, staff recommended that the entire area be viewed as a “campus” setting. Therefore, the proposed rezoning is to C-2/PD, Community Commercial District/Planned Development District. Additional area to the west of the proposed project is included in this rezoning application. The entire area for rezoning encompasses 49.01 acres while the exposition project occupies 10.03 acres of the 49 acre tract. This rezoning action sets the stage for future projects to the west in this campus setting.

Subdivision Plats – The Preliminary and Final Plat consist of a one-lot subdivision containing 8.99 acres to be known as Interstate Fifth Addition. The preliminary Plat was approved by Planning Commission on October 16, 2009. The single lot will be combined with part of existing Lot B (1.04 acres) under common ownership for the building permit for the exposition building on a total of 10.03 acres. A Public Works Plan has been provided. Talmadge Street is not included in the Final Plat because it was dedicated as a public right-of-way to Buffalo County in 1931. Talmadge Street will be extended west approximately 403 feet to serve the exposition building. Anticipated funding for these public street improvements is dependent upon potential Tax Increment Financing (TIF) monies requested from the Kearney Area Community Redevelopment Authority (CRA). There is additional frontage of Lot 1 along Talmadge Street, but the additional frontage will not be improved at this time. A Subdivision Agreement has been prepared that specifies no protest rights for future water, sanitary sewer, and paving districts in Talmadge Street for future development of the remainder of Lot 1 or any development further west that would require westward extension of public improvements. Drainage will go to the existing sandpit lakes.

The Planning Commission expressed concern about the limited access to the campus development. Talmadge Street is the sole access point for multiple buildings containing a lot of people. If an emergency were to occur, emergency vehicles will have a difficult time accessing the property effectively. The Planning Commission asked Staff to look into hiring an engineering firm to do a traffic study of the area. This is a priority of the Planning Commission if further development is going to continue in this area. Public Works Director Rod Wiederspan was not present at the Planning Commission meeting, but the City Planner contacted him by phone. He said that the City has hired engineers in the past and the studies showed 9th Avenue extended south over Turkey Creek as the best long term solution. However, the bridge structure would be very expensive and there is not sufficient development in the area to warrant the cost of such a structure. In the interim, extension of Talmadge Street to the west to tie into Kea West Road is a more affordable alternative. Right-of-way would need to be acquired. Staff will continue to investigate this issue.

Annexation – The proposed subdivision is contiguous to the city limits and the 8.99 acres contained in Lot 1 are proposed for annexation. The property can be served with public infrastructure and there is adequate capacity to serve the proposed development. The property must be part of the City to be eligible for TIF funding.

Development Plans – A 200-foot Radius Map has been provided. The site plan depicts a 54,670 square foot single story building known as Heartland Hospitality which will provide meeting space and display space for exhibitors and attendees in a large auditorium and several smaller banquet rooms. The main lobby, a large kitchen and storage space round out the floor plan. Architectural elevations of the proposed building façade are provided. The Landscape Plan shows the site to be well landscaped along Talmadge Street. A more detailed Landscape Plan addressing the site interior will be submitted with the building permit application. If required, drainage calculations will be submitted at the time of the building permit application.

In the spirit of a campus setting the existing parking and new parking will be shared between the exposition building and the motels. A parking demand table is included on the site plan. The new parking will be built in phases, but all phases will be complete before a Certificate of Occupancy is issued. The Planning Commission was concerned that there are not enough parking stalls existing on the site and proposed with these plans to meet the “stand alone” demand of all the buildings. Staff and the applicant had discussed the parking demand and concluded that the shared use of buildings on the campus would also make sense for shared parking. Planning Commission was concerned that the amount of parking that is proposed would be insufficient, especially for special events like the Chamber of Commerce Banquet. Planning Commission requested 200 additional parking spaces be shown on the Development Plan for future use if needed. The area occupied by this parking must be reserved for parking. No buildings or other uses are allowed unless Revised Development Plans are approved by Planning Commission and City Council in the future.

Mitch Humphrey presented this matter to the Council. He briefly described the development. The development plan has indicated the additional 200 parking spaces to the south of the lake as future parking as requested by the Planning Commission.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lear to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) to rezone from District M-1, Limited Industrial District to District C-2/PD, Community Commercial/ Planned Development District for property described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11 and part of the North Half of the Northeast Quarter of Section 14, all located in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Kearney, Buschkoetter. Nay: None. Lammers absent. Motion carried.

ORDINANCE NO. 7554 – REZONING SOUTH OF TALMADGE STREET AND 650 FEET WEST OF 3RD AVENUE

Council Member Lear introduced Ordinance No. 7554, being Item No. 4 of Agenda to rezone from District M-1, Limited Industrial District to District C-2/PD, Community Commercial/Planned Development District for property described as a tract of land

being part of Government Lot 5 and part of Government Lot 6 of Section 11 and part of the North Half of the Northeast Quarter of Section 14, all located in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd 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, Kearney, Buschkoetter, Lear. Nay: None. Lammers 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. 7554 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7554 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7554 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.

FINAL PLAT FOR INTERSTATE FIFTH ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) for the Final Plat and Subdivision Agreement for Interstate Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue) and to consider Resolution No. 2009-174. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) for the Final Plat and Subdivision Agreement for Interstate Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue) and approve **Resolution No. 2009-174**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Kearney. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2009-174

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Interstate Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 5 and part of Government Lot 6 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the Southeast Corner of Government Lot 5 located in Section 11 and assuming the South line of Government Lot 5 and Government Lot 6 located in Section 11 as bearing S88°07'45"W and all bearings contained herein are relative thereto; thence S88°07'45"W and on the South line of said Government Lot 5 a distance of 1135.49 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of Lot 1, Interstate Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S88°07'45"W and continuing on the South line of said Government Lot 5 and said Government Lot 6 located in Section 11 a distance of 367.28 feet; thence leaving the South line of said Government Lot 6 located in Section 11, N02°11'25"E a distance of 916.60 feet to a point on the South line of Talmadge Street; thence S87°48'42"E and on the South line of said Talmadge Street a distance of 372.00 feet to a point on the West line of a tract of land described on Warranty Deed filed on Microfilm Roll 86, Page 729, Recorded February 4, 1986, in the office of the Buffalo County Register of Deeds, said point being identified by 5/8" rod as shown on a survey dated February 12, 1987, by Wayne A. Humphrey, Nebraska Registered Land Surveyor No. 224, appearing of record in the Survey Record Repository of the State of Nebraska at Index No. 125-756 and received by such repository on September 25, 1987 (said Wayne A Humphrey survey being herein after referred to as "the W.A. Humphrey survey"); thence continuing S87°48'42"E and on the South line of said Talmadge Street a distance of 299.98 feet to a point on the East line of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" rod shown on the W.A. Humphrey survey; thence leaving the South line of said Talmadge Street, S00°18'59"W and on the East line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 56.66 feet to the Southeast Corner of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" R. Rod with I.D. cap stamped "Humphrey L.S. 492 as shown on a survey dated February 23, 2005, by Mitchell W. Humphrey, Nebraska, Registered Land Surveyor No. 492, filed of record in the office of the Buffalo County Surveyor, thence S88°05'19"W and on the South line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 204.87 feet to a point on the West line of Lot B, Interstate Subdivision to the City of Kearney, Buffalo County, Nebraska; thence leaving the South line of said tract of land described on Microfilm Roll 86, Page 729, S00°08'21"W and on the West line of said Lot B, Interstate Subdivision a distance of 210.83 feet to the Southwest Corner of said Lot B, Interstate Subdivision, said point also being on the North line of Lot I, Block 1, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N89°59'18"W and on the North line of said Lot 1, Block 1, Interstate Third Addition a distance of 50.0 feet to the Northwest Corner of said Lot 1, Block 1, Interstate Third Addition; thence S00°09'32"W and on the West line of said Lot 1, Block 1, Interstate Third Addition, a distance of 294.24 feet to a point on the North line of said Lot 1, Interstate Fourth Addition; thence S89°48'38"W and on the North line of said Lot I, Interstate Fourth Addition a distance of 83.00 feet to the Northwest Corner of said Lot

1, Interstate Fourth Addition; thence S00°04'21"W and on the West line of said Lot 1, Interstate Fourth Addition a distance of 309.39 feet to the place of beginning, containing 8.99 acres, more or less, all in Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF INTERSTATE FIFTH ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) for the annexation of Interstate Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue) and to consider Resolution No. 2009-175. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lear to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) for the annexation of Interstate Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue) and approve **Resolution No. 2009-175**. Roll call resulted as follows: Aye: Clouse, Lear, Kearney, Buschkoetter. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2009-175

WHEREAS, an Application has been submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) for the inclusion of Interstate Fifth Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of Government Lot 5 and part of Government Lot 6 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the Southeast Corner of Government Lot 5 located in Section 11 and assuming the South line of Government Lot 5 and Government Lot 6 located in Section 11 as bearing S88°07'45"W and all bearings contained herein are relative thereto; thence S88°07'45"W and on the South line of said Government Lot 5 a distance of 1135.49 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of Lot 1, Interstate Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S88°07'45"W and continuing on the South line of said Government Lot 5 and said Government Lot 6 located in Section 11 a distance of 367.28 feet; thence leaving the South line of said Government Lot 6 located in Section 11, N02°11'25"E a distance of 916.60 feet to a point on the South line of Talmadge Street; thence S87°48'42"E and on the South line of said Talmadge Street a distance of 372.00 feet to a point on the West line of a tract of land described on Warranty Deed filed on Microfilm Roll 86, Page 729, Recorded February 4, 1986, in the office of the Buffalo County Register of Deeds, said point being identified by 5/8" rod as shown on a survey dated February 12, 1987, by Wayne A. Humphrey, Nebraska Registered Land Surveyor No. 224, appearing of record in the Survey Record Repository of the State of Nebraska at Index No. 125-756 and received by such repository on September 25, 1987 (said Wayne A Humphrey survey being herein after referred to as "the W.A. Humphrey survey"); thence continuing S87°48'42"E and on the South line of said Talmadge Street a distance of 299.98 feet to a point on the East line of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" rod shown on the W.A. Humphrey survey; thence leaving the South line of said Talmadge Street, S00°18'59"W and on the East line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 56.66 feet to the Southeast Corner of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" R. Rod with I.D. cap stamped "Humphrey L.S. 492 as shown on a survey dated February 23, 2005, by Mitchell W. Humphrey, Nebraska, Registered Land Surveyor No. 492, filed of record in the office of the Buffalo County Surveyor, thence S88°05'19"W and on the South line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 204.87 feet to a point on the West line of Lot B, Interstate Subdivision to the City of Kearney, Buffalo County, Nebraska; thence leaving the South line of said tract of land described on Microfilm Roll 86, Page 729, S00°08'21"W and on the West line of said Lot B, Interstate Subdivision a distance of 210.83 feet to the Southwest Corner of said Lot B, Interstate Subdivision, said point also being on the North line of Lot I, Block 1, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N89°59'18"W and on the North line of said Lot 1, Block 1, Interstate Third Addition a distance of 50.0 feet to the Northwest Corner of said Lot 1, Block 1, Interstate Third Addition; thence S00°09'32"W and on the West line of said Lot 1, Block 1, Interstate Third Addition, a distance of 294.24 feet to a point on the North line of said Lot 1, Interstate Fourth Addition; thence S89°48'38"W and on the North line of said Lot I, Interstate Fourth Addition a distance of 83.00 feet to the Northwest Corner of said Lot 1, Interstate Fourth Addition; thence S00°04'21"W and on the West line of said Lot 1,

Interstate Fourth Addition a distance of 309.39 feet to the place of beginning, containing 8.99 acres, more or less, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 16, 2009 on the inclusion of Interstate Fifth Addition within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Interstate Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska;

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on October 19, 2009 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Interstate Fifth Addition shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Interstate Fifth Addition within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

DEVELOPMENT PLANS FOR EXPOSITION CENTER FOR MJ DEVELOPMENTS

Mayor Clouse opened the public hearing on the Application submitted by Paul Brungardt from Brungardt Engineering (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) for Planned District Development Plan Approval for the construction of an exposition center on property to be zoned District C-2/PD, Community Commercial/ Planned Development District and described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue) and to consider Resolution No. 2009-176. Planning Commission recommended approval subject to the reserved area for 200 future parking stalls being added to the plans prior to the City Council meeting.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Paul Brungardt from Brungardt Engineering (Applicant) for Paul Younes and MJ Developments L.L.C. (Owner) for Planned District Development Plan Approval for the construction of an exposition center on property to be zoned District C-2/PD, Community Commercial/ Planned Development District and described as a tract of land being part of Government Lot 5 and part of Government Lot 6 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County,

Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue) and approve **Resolution No. 2009-176**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2009-176

WHEREAS, MJ Developments L.L.C. has applied for Planned District Development Plan Approval for the construction of an exposition center on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as a tract of land being part of Government Lot 5 and part of Government Lot 6 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the Southeast Corner of Government Lot 5 located in Section 11 and assuming the South line of Government Lot 5 and Government Lot 6 located in Section 11 as bearing S88°07'45"W and all bearings contained herein are relative thereto; thence S88°07'45"W and on the South line of said Government Lot 5 a distance of 1135.49 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of Lot 1, Interstate Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S88°07'45"W and continuing on the South line of said Government Lot 5 and said Government Lot 6 located in Section 11 a distance of 367.28 feet; thence leaving the South line of said Government Lot 6 located in Section 11, N02°11'25"E a distance of 916.60 feet to a point on the South line of Talmadge Street; thence S87°48'42"E and on the South line of said Talmadge Street a distance of 372.00 feet to a point on the West line of a tract of land described on Warranty Deed filed on Microfilm Roll 86, Page 729, Recorded February 4, 1986, in the office of the Buffalo County Register of Deeds, said point being identified by 5/8" rod as shown on a survey dated February 12, 1987, by Wayne A. Humphrey, Nebraska Registered Land Surveyor No. 224, appearing of record in the Survey Record Repository of the State of Nebraska at Index No. 125-756 and received by such repository on September 25, 1987 (said Wayne A Humphrey survey being herein after referred to as "the W.A. Humphrey survey"); thence continuing S87°48'42"E and on the South line of said Talmadge Street a distance of 299.98 feet to a point on the East line of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" rod shown on the W.A. Humphrey survey; thence leaving the South line of said Talmadge Street, S00°18'59"W and on the East line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 56.66 feet to the Southeast Corner of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" R. Rod with I.D. cap stamped "Humphrey L.S. 492 as shown on a survey dated February 23, 2005, by Mitchell W. Humphrey, Nebraska, Registered Land Surveyor No. 492, filed of record in the office of the Buffalo County Surveyor, thence S88°05'19"W and on the South line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 204.87 feet to a point on the West line of Lot B, Interstate Subdivision to the City of Kearney, Buffalo County, Nebraska; thence leaving the South line of said tract of land described on Microfilm Roll 86, Page 729, S00°08'21"W and on the West line of said Lot B, Interstate Subdivision a distance of 210.83 feet to the Southwest Corner of said Lot B, Interstate Subdivision, said point also being on the North line of Lot I, Block 1, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N89°59'18"W and on the North line of said Lot 1, Block 1, Interstate Third Addition a distance of 50.0 feet to the Northwest Corner of said Lot 1, Block 1, Interstate

Third Addition; thence $S00^{\circ}09'32''W$ and on the West line of said Lot 1, Block 1, Interstate Third Addition, a distance of 294.24 feet to a point on the North line of said Lot 1, Interstate Fourth Addition; thence $S89^{\circ}48'38''W$ and on the North line of said Lot 1, Interstate Fourth Addition a distance of 83.00 feet to the Northwest Corner of said Lot 1, Interstate Fourth Addition; thence $S00^{\circ}04'21''W$ and on the West line of said Lot 1, Interstate Fourth Addition a distance of 309.39 feet to the place of beginning, containing 8.99 acres, more or less, all in Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of MJ Developments L.L.C. for Planned District Development Plan Approval for the construction of an exposition center on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as a tract of land being part of Government Lot 5 and part of Government Lot 6 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the Southeast Corner of Government Lot 5 located in Section 11 and assuming the South line of Government Lot 5 and Government Lot 6 located in Section 11 as bearing $S88^{\circ}07'45''W$ and all bearings contained herein are relative thereto; thence $S88^{\circ}07'45''W$ and on the South line of said Government Lot 5 a distance of 1135.49 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of Lot 1, Interstate Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing $S88^{\circ}07'45''W$ and continuing on the South line of said Government Lot 5 and said Government Lot 6 located in Section 11 a distance of 367.28 feet; thence leaving the South line of said Government Lot 6 located in Section 11, $N02^{\circ}11'25''E$ a distance of 916.60 feet to a point on the South line of Talmadge Street; thence $S87^{\circ}48'42''E$ and on the South line of said Talmadge Street a distance of 372.00 feet to a point on the West line of a tract of land described on Warranty Deed filed on Microfilm Roll 86, Page 729, Recorded February 4, 1986, in the office of the Buffalo County Register of Deeds, said point being identified by 5/8" rod as shown on a survey dated February 12, 1987, by Wayne A. Humphrey, Nebraska Registered Land Survey No. 224, appearing of record in the Survey Record Repository of the State of Nebraska at Index No. 125-756 and received by such repository on September 25, 1987 (said Wayne A Humphrey survey being herein after referred to as "the W.A. Humphrey survey"); thence continuing $S87^{\circ}48'42''E$ and on the South line of said Talmadge Street a distance of 299.98 feet to a point on the East line of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" rod shown on the W.A. Humphrey survey; thence leaving the South line of said Talmadge Street, $S00^{\circ}18'59''W$ and on the East line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 56.66 feet to the Southeast Corner of said tract of land described on Microfilm Roll 86, Page 729, said point being monumented by a 5/8" R. Rod with I.D. cap stamped "Humphrey L.S. 492 as shown on a survey dated February 23, 2005, by Mitchell W. Humphrey, Nebraska, Registered Land Surveyor No. 492, filed of record in the office of the Buffalo County Surveyor, thence $S88^{\circ}05'19''W$ and on the South line of said tract of land described on Microfilm Roll 86, Page 729, a distance of 204.87 feet to a point on the West line of Lot B, Interstate Subdivision to the City of Kearney, Buffalo County, Nebraska; thence leaving the South line of said tract of land described on Microfilm Roll 86, Page 729, $S00^{\circ}08'21''W$ and on the West line of said Lot B, Interstate Subdivision a distance of 210.83 feet to the Southwest Corner of said Lot B, Interstate Subdivision, said point also being on the North line of Lot I, Block 1,

Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N89°59'18"W and on the North line of said Lot 1, Block 1, Interstate Third Addition a distance of 50.0 feet to the Northwest Corner of said Lot 1, Block 1, Interstate Third Addition; thence S00°09'32"W and on the West line of said Lot 1, Block 1, Interstate Third Addition, a distance of 294.24 feet to a point on the North line of said Lot 1, Interstate Fourth Addition; thence S89°48'38"W and on the North line of said Lot 1, Interstate Fourth Addition a distance of 83.00 feet to the Northwest Corner of said Lot 1, Interstate Fourth Addition; thence S00°04'21"W and on the West line of said Lot 1, Interstate Fourth Addition a distance of 309.39 feet to the place of beginning, containing 8.99 acres, more or less, all in Buffalo County, Nebraska (south of Talmadge Street and 650 feet west of 3rd Avenue) be approved.

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CONTRACT FOR PROJECT ADMINISTRATION ON DATA CENTER BUSINESSES

Mayor Clouse opened for discussion the Contract for Project Administration between the City of Kearney and Miller & Associates to assist in planning strategy and marketing of a site for technology and data center businesses and to consider Resolution No. 2009-177.

Assistant to the City Manager Suzanne Brodine presented this matter to the Council. The City of Kearney has applied for a CDBG Economic Development Program Planning Grant from the Nebraska Department of Economic Development (DED). Kearney will receive \$50,000 to assist in planning strategy and marketing of a site for technology and data center businesses. The grant will fund consultant fees and marketing expenses. The City of Kearney is required by DED to select a Project Administrator for the grant. The Project Administrator is responsible to ensure that the activities conducted with grant funding are in compliance with DED and Federal regulations.

The City advertised for Request for Proposals for a Project Administrator. Miller & Associates was the only company submitting a proposal for the Project Administrator. City staff reviewed the proposal and recommends pursuing an agreement with Miller & Associates of Kearney. Miller & Associates has agreed to perform Project Administration services for \$2,500, the amount included in the grant application for administrative services. City staff will continue to be involved with grant administration but in the less time-consuming areas. Grant funding is available to pay for the entire cost of grant administration. No City funds will be utilized to pay for Administration services.

Moved by Buschkoetter seconded by Clouse to approve the Contract for Project Administration between the City of Kearney and Miller & Associates to assist in planning strategy and marketing of a site for technology and data center businesses and approve **Resolution No. 2009-177**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2009-177

WHEREAS, the City of Kearney was awarded Community Development Block Grant Funds from the Nebraska Department of Economic Development which will provide funds to assist in planning strategy and marketing of a site for technology and data center businesses; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for project administration services relating to this project; and

WHEREAS, City staff reviewed the proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide project administration services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute, on behalf of the City of Kearney, the Contract between the City of Kearney and Miller & Associates for project administration services as set forth in the Contract. A copy of the said Contract, marked Exhibit "A", is attached hereto and made a part hereof by reference

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

SITE MASTER PLAN AND MARKETING SERVICES CONTRACT WITH GENSLER

Mayor Clouse opened for discussion the proposals received for the Site Master Plan and Marketing Services to assist in assessing, planning and marketing a site for technology and data center businesses and to consider Resolution No. 2009-178 authorizing the City Manager to negotiate and execute a contract with Gensler Architects.

Assistant to the City Manager Suzanne Brodine presented this matter to the Council. The City of Kearney has requested \$50,000 to assist in assessing, planning and marketing a site for technology and data center businesses. Activities for these planning funds will include: a site master plan, and recruitment strategy including market analysis, branding, and marketing plan. All planning activities are expected to be completed by February 1, 2010.

Three proposals were submitted for Site Master Plan and Marketing Services on October 2, 2009. A proposal review team met on October 6 and interviewed the top two firms by phone. Gensler Architects was selected by the review team for the project. Gensler has created a collaborative team including engineering firms, technology consultants, a real estate firm specializing in data centers and technology businesses, and a local marketing firm.

The fee for services by Gensler is \$147,500. The City of Kearney has requested \$77,500 of which \$75,000 will be used for planning activities and \$2,500 for grant administration. A cash match of \$75,000 must be provided by the City. The City of Kearney will request \$25,000 from the Buffalo County Economic Development Council's Northwestern Energy Economic Development account to reduce the City's contribution.

Moved by Clouse seconded by Kearney to approve the proposals received for the Site Master Plan and Marketing Services to assist in assessing, planning and marketing a site for technology and data center businesses and approve **Resolution No. 2009-178** authorizing the City Manager to negotiate and execute a contract with Gensler Architects. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Kearney. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2009-178

WHEREAS, the City of Kearney requested proposals from firms for Site Master Plan and Marketing Services to assist in assessing, planning and marketing a site for technology and data center businesses; and

WHEREAS, City staff reviewed the proposals and recommends pursuing a contract with Gensler Architects of New York to provide a site master plan, and recruitment strategy including market analysis, branding, and marketing plan.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be and is hereby authorized and directed to negotiate and execute, on behalf of the City of Kearney, the Contract between the City of Kearney and Gensler Architects for Site Master Plan and Marketing Services. A copy of the Contract shall be attached hereto, marked as Exhibit "A", and made a part hereof by reference.

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AWARD BID FOR 2009 PART 13 IMPROVEMENTS

Mayor Clouse opened for discussion the bids received for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet and to consider Resolution No. 2009-179 awarding the bid to Midlands Contracting, Inc. in the amount of \$341,655.00.

Director of Utilities Kirk Stocker presented this matter to the Council. On October 13, 2009 the City Clerk received sealed bids for the 2009 Part 13 Improvements. The 2009 Part 13 Improvements include Water Connection District 2009-1 for the construction of a 16 inch diameter water main in 56th Street from the City Limits located about ½ mile west of Antelope Avenue eastward to Antelope Avenue and Water Connection District 2009-2 for 56th Street from Antelope Avenue eastward about ½ mile. The water main will serve the Data Center/Technology Park which the Nebraska Department of Economic Development is assisting the City with marketing of the site.

Six bids were received for the 2009 Part 13 Improvements. The bids were very competitive due to the limited amount of work available to contractors at this time. Midlands Contracting of Kearney, Nebraska submitted the low bid in the amount of

\$341,655.00. The Engineers Opinion of Probable Construction Cost was \$581,270.00. The City's engineer on the project has submitted a bid tabulation sheet for your review and a letter recommending the award of the bid. The Substantial Completion Date for the project is April 16, 2010 and the Final Contract Completion Date is May 1, 2010.

Moved by Kearney seconded by Lear to approve the bids received for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet and approve **Resolution No. 2009-179** awarding the bid to Midlands Contracting, Inc. in the amount of \$341,655.00. Roll call resulted as follows: Aye: Clouse, Lear, Kearney, Buschkoetter. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2009-179

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on October 13, 2009 at 2:00 p.m. for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$581,270.00; and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$341,655.00 be accepted as the lowest responsible bid for said improvements; and

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, Inc. of Kearney, Nebraska be and is the lowest responsible bidder for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$341,655.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$581,270.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ISSUANCE OF TAX EXEMPT BONDS FOR THE 2009 PART 13 IMPROVEMENTS

Mayor Clouse opened for discussion the issuing tax-exempt bonds on behalf of the City

for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet and to consider Resolution No. 2009-180.

Director of Finance Wendell Wessels presented this matter to the Council. The City Council will be asked to award a bid on October 19, 2009 for the 2009 Part 13 Improvements (56th Street water main). As a funding source for this project, the City may issue Series 2010 Combined Utilities Revenue Bonds. In order to reimburse the City for any payments made by the City to engineers or contractors prior to the issuance of said bonds, the City Council is required, pursuant to Regulation Section 1.150-2 of the regulations of the United States Treasury, to approve a resolution. The resolution will simply allow the City of Kearney to expend funds on the 2009 Part 13 Improvements and subsequently reimburse itself from the proceeds of the Series 2010 Combined Utilities Revenue Bonds.

Moved by Lear seconded by Buschkoetter to approve the issuance of tax-exempt bonds on behalf of the City for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet and approve **Resolution No. 2009-180**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2009-180

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:

56 th Street (Water Connection District 2009-1)	\$229,713.00
56 th Street (Water Connection District 2009-2)	\$163,191.00

2. The maximum principal amount of debt expected to be issued for such project is \$392,904.00.

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ADJOURN

Moved by Kearney seconded by Lear that Council adjourn at 6:47 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**