

**Kearney, Nebraska**  
**November 26, 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 November 26, 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, Bob Lammers and Jonathan Nikkila. Absent: Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager; Kirk Stocker, Director of Utilities; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Joel Johnson, Jim Cudaback, Betty Warren, Alexis McNeal, Janice Wiebusch, Jack McSweeney, Gerry O'Rourke, Jim Bunger, Jim Berglund, Carroll Sheldon, Jon Abegglen, Phil Jossi, Paul Younes, Darren Robinson, Roger Jasnoch, Jim McKenzie, Cathy McKenzie, Reed Miller, Chris Miller, Tom Henning, Brad Kernick, Dan Wurtz, Mitchel Greenwalt, Gerald Brandorff, Ginny Brandorff, Dick Pierce, Allen Mitchell, Ronnie O'Brien, Mary Henning, JoAnn Englert, Steve Altmaier from KGFV Radio, Mike Konz from Kearney Hub, and several other citizens interested in the Archway Monument.

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.

**RECOGNITION**

Mayor Clouse and Council Members read and presented a Proclamation to the Kearney Catholic Lady Stars Volleyball team declaring November 26, 2013 as Lady Stars State Volleyball Championship Day.

**ORAL COMMUNICATIONS**

There was no Oral Communications.

**II. UNFINISHED BUSINESS**

There was no Unfinished Business.

**III. PUBLIC HEARINGS****VACATE PORTION OF FOUNTAIN HILLS SECOND ADDITION AND REZONING SOUTH OF 56TH STREET AND EAST OF 11TH AVENUE**

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 1 on the Applications submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner): (1) to vacate Lots 1 and 2 of Block One, Fountain Hills Second Addition to the City of Kearney, Buffalo County, Nebraska and to consider Ordinance No. 7853; and (2) to rezone from District AG, Agricultural District and District C-2, Community Commercial District to District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue) will remain on the table until December 10, 2013.

**FINAL PLAT FOR FOUNTAIN HILLS SEVENTH ADDITION**

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 2 on the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for the Final Plat and Subdivision Agreement for Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue) will remain on the table until December 10, 2013.

**ANNEXATION OF FOUNTAIN HILLS SEVENTH ADDITION**

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 3 on the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for the annexation of Fountain Hills Seventh Addition, an addition to

the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue) will remain on the table until December 10, 2013.

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

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 4 on the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for Planned District Development Plan Approval for an apartment complex on property to be zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District on property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue) will remain on the table until December 10, 2013.

**PERMANENT SANITARY SEWER MAIN EASEMENT IN LIGHTHOUSE POINT ADDITION**

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land described as the east 15 feet of the northerly 400 feet of Lot 4, Block 8, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska for a Permanent Sanitary Sewer Main Easement and a tract of land described as the east 50 feet of the northerly 425 feet of Lot 4, Block 8, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska for a Temporary Sanitary Sewer Main Easement and to consider Resolution No. 2013-219.

Director of Utilities Kirk Stocker presented this matter to the Council. The Lighthouse Point Subdivision Home Owners Association Inc. has granted a Permanent and Temporary Sanitary Sewer Easement to the City of Kearney. The purpose of the easement is so that a sanitary sewer main can be constructed to connect Lot 3, High Plains Estates to the sanitary sewer main located in 42nd Street.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-219** approving the proposed acquisition of a tract of land described as the east 15 feet of the northerly 400 feet of Lot 4, Block 8, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska for a Permanent Sanitary Sewer Main Easement and a tract of land described as the east 50 feet of the northerly 425 feet of Lot 4, Block 8, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska for a Temporary Sanitary Sewer Main Easement. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2013-219**

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real

property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

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

WHEREAS, Lighthouse Point Subdivision Homeowners Association Inc., a Nebraska Corporation, has granted to the City of Kearney, Nebraska a Permanent Sanitary Sewer Main Easement and a Temporary Sanitary Sewer Main Easement as follows:

**PERMANENT SANITARY SEWER MAIN EASEMENT**

A tract of land described as the east 15 feet of the northerly 400 feet of Lot 4, Block 8, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska.

**TEMPORARY SANITARY SEWER MAIN EASEMENT**

A tract of land described as the east 50 feet of the northerly 425 feet of Lot 4, Block 8, Lighthouse Point, 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 Permanent Sanitary Sewer Main Easement and a Temporary Sanitary Sewer Main Easement granted by Lighthouse Point Subdivision Homeowners Association Inc., a Nebraska Corporation to the City of Kearney be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**PURCHASE PROPERTY ADJACENT TO ARCHWAY PARKWAY WELCOME SIGN**

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land described as part of Lot 3 and the North Half of the Northeast Quarter lying north of the Interstate 80 all in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska for municipal purposes and to consider Resolution No. 2013-220.

City Attorney Michael Tye presented this matter to the Council. City staff has negotiated the purchase of a parcel for property adjacent to the new Welcome sign along Interstate 80 and along Archway Parkway. This property consists of approximately 1.10 acres and includes a small building. The owner of the property has agreed to sell to the City of Kearney for this amount and has executed the Purchase Agreement and will be executing a Warranty Deed in the near future. The proposed purchase price is \$35,000.

Council member Nikkila asked what the purpose for purchasing the property and City Attorney responded it is adjacent to the Welcome sign which is not very visible to the public. The building will moved off for another use within the City.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-220** approving the proposed acquisition of a tract of land described as part of Lot 3 and the North Half of the Northeast Quarter lying north of the Interstate 80 all in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska for municipal purposes. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

### **RESOLUTION NO. 2013-220**

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

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for municipal purposes and voted in favor to proceed with the acquisition; and

WHEREAS, Charles R. Rundstrom and Jacqueline D. Rundstrom, Husband and Wife, have executed a Purchase Agreement with the City of Kearney, Nebraska for the following tract of land: part of Lot 3 and the North Half of the Northeast Quarter lying north of the Interstate 80 all in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.

WHEREAS, Charles R. Rundstrom and Jacqueline D. Rundstrom, Husband and Wife, are granting to the City of Kearney, Nebraska a Warranty Deed as follows: part of Lot 3 and the North Half of the Northeast Quarter lying north of the Interstate 80 all in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Purchase Agreement between Charles R. Rundstrom and Jacqueline D. Rundstrom and the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved.

BE IT FURTHER RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Warranty Deed being granted by Charles R. Rundstrom and Jacqueline D. Rundstrom, Husband and Wife, to the City of Kearney be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **IV. CONSENT AGENDA**

Mayor Clouse stated Item 16 needs to be amended to the date of the event being December 14 in the Exposition Building and not December 5.

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 16 of Consent Agenda Item IV be approved with the noted date change to Item 16. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

1. Approve Minutes of Regular Meeting held November 12, 2013.
2. Approve the following Claims:
 

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

1000Bulbscom \$288.08 smcs; 4Imprint \$267.41 smcs; AT&T \$149.08 smcs; AA LED Supply \$56.94 smcs; AccessData Group \$951.15 smcs; Ace Eaton Metals \$638.70 co; Ace Hardware \$42.95 smcs,co; Advance Auto Parts \$29.93 smcs; Agrium Advanced \$1,508.64 smcs; Air Delights \$237.87 smcs; All Makes Auto \$354.00 smcs; All Makes Equip \$18,201.33 co; All Road Barricades \$700.00 smcs; Alley Rose \$97.51 smcs; Allied Electronics \$56.86 smcs; AM Leonard \$416.75 smcs; Amazon \$1,214.19 smcs,co; American \$426.39 smcs; Amer First Aid \$240.36 smcs; Amer Legion Emblem \$165.26 smcs; Amer Library Assn \$265.00 smcs; Amer Red Cross \$304.00 smcs; Amsan \$663.84 smcs; Apple Itunes \$249.04 co;ARC Services \$171.00 smcs; Ask Supply \$237.77 smcs; Atbattcom \$36.68 smcs; Aurora Coop \$1,854.55 smcs; Auto Parts \$269.88 smcs; Baird Holm \$1,507.83 smcs; Baker & Taylor \$4,715.78 smcs; Barr-Thorp Electric \$1,323.35 smcs; Bear Frame \$126.49 smcs; Bike Shed \$146.96 smcs; BlueCross BlueShield \$118,211.51 smcs; Boopsie \$3,596.00 smcs; Brandt,L \$169.84 smcs; Brewer,P \$51.73 smcs; Broadfoot's \$740.00 smcs; Brodart Co \$613.35 smcs; Buffalo Community Partners \$1,000.00 smcs; Buffalo Outdoor Power \$57.20 smcs; Builders \$6,557.62 smcs,co; Bustamante,J \$68.20 smcs; Cabela's \$10.00 smcs; Carquest Auto \$2,172.59 smcs; Cash-Wa \$444.90 smcs; CDW Govt \$2,881.03 co; Center Point Large Print \$23.37 smcs; Central Hydraulic Systems \$5,382.15 smcs; Charter \$6.33 smcs; Chesterman \$108.90 smcs; Chicken Coop \$40.00 smcs; CHS Agri Service \$1,998.92 smcs; Chung,T \$95.18 smcs; City of Ky \$11,054.69 ps,smcs,co; Cleverbridgenet \$109.90 co; CMS Communications \$37.84 smcs; Coldspring \$216.90 smcs; Community Action Partner \$313.00 smcs; Compasscom \$50.00 smcs; Consec Life Ins \$19.00 ps; Consolidated Management \$394.25 smcs; Consolidated Plastics \$66.91 smcs; Construction Rental \$836.31 smcs,co; Copycat Printing \$448.50 smcs; Courtyard Marriott \$912.16 smcs; Cowpoke \$100.00 smcs; Credit Management Serv. \$141.09 ps; Crossroads Ford \$45.96 smcs; C-Tech Restoration \$6,363.22 smcs; Culligan \$89.75 smcs; Cummins Central Power \$2,022.54 smcs; Curb-It \$1,782.00 smcs; D&S Lighting \$75.00 smcs; Danko Emergency \$1,017.12 smcs; Davis Equipment \$421.74 smcs; Dawson PPD \$24,535.92 smcs; Daylight Donuts \$44.10 smcs; Days Inn \$149.64 smcs; Del City \$100.90 smcs; Dell \$783.38 co; Demco \$925.53 smcs; Department of Airports \$3,690.00 smcs; Depository Trust \$18,993.37 ds; Deterdings \$136.27 smcs; Diamond Vogel Paint \$169.96 smcs; Digicert \$419.00 co; Digital Intelligence \$61.56 co; Disc Sport Products \$214.23 smcs; Dish \$77.02 smcs; Dollar-Thrifty \$219.42 smcs; Eakes \$1,234.13 smcs,co; Earl May \$85.94 smcs; Ecessa Corp \$1,648.00 smcs; Economic Development \$135,000.00 smcs; Eileen's \$15.25 smcs; Elliott Equip \$13,627.96 smcs; EMC Ins \$16,259.22 smcs; Emergency Apparatus \$587.53 smcs; Eustis Body Shop \$200.00 smcs; Evans,S \$43.36 smcs; Evers,B \$768.75 smcs; Exhaust Pros \$557.00 smcs; Fairbanks \$604.38 smcs; Farmers Union Coop \$79.10 smcs; Fastenal \$1,099.62 smcs; Fedex \$137.11 smcs; Fiddelke \$225.44 smcs,co; Fire Cam \$567.90 smcs; Fitness \$86.00 ps; Fleetpride \$1,139.82 smcs;

Frontier \$189.35 smcs; Gale \$293.90 smcs; Galls \$130.01 smcs; Gametime \$59,987.77 co; Garrett Tires \$4,151.84 smcs,co; Gaylord Bros \$300.48 smcs; GE Money Bank \$2,090.69 smcs; Geminicomputercom \$209.46 smcs; Gempler \$751.09 smcs; General Traffic Controls \$226.87 smcs; Global Industries \$210.62 smcs; Graham Tire \$502.54 smcs; Grainger \$1,597.39 smcs; Griffith,C \$23.01 smcs; Hach Co \$2,118.47 smcs; Hastings Daily Tribune \$38.30 smcs; Hays,J \$89.57 smcs; HD Supply \$96.30 smcs; Heiman Fire Equip \$252.90 smcs; HOA Solutions \$2,688.00 smcs; Hobby-Lobby \$938.15 smcs,co; Holiday Inn \$838.62 smcs; Holmes Plbg \$604.75 smcs,co; IAPMO \$155.30 smcs; ICMA RC \$4,074.22 ps; ID Security Online \$73.00 co; Image Factory \$500.00 smcs; Impact Data Books \$603.92 smcs; Infogroup \$2,968.00 smcs; IRS \$125,699.07 ps; Int'l Institute \$185.00 smcs; Investment Property \$3,000.00 smcs; Jack Lederman \$47.04 smcs; Jamar Technologies \$4,321.00 smcs; John Deere Landscapes \$619.15 smcs,co; Johnson Controls \$3,450.00 smcs; Johnstone Supply \$135.88 smcs; Just Blinds \$324.00 smcs; K&K Parts \$37.75 smcs; Ky Chamber Comm \$347.00 smcs; Ky Clinic \$100.00 ps; Ky Concrete \$7,579.95 co; Ky Crete & Block \$851.66 smcs,co; Ky Hub \$3,194.91 smcs; KVFD \$500.00 ps; Ky Whse \$457.68 smcs; Ky Winlectric \$267.11 smcs; Ky Winnelson \$55.98 smcs; Kelly Supply \$916.28 smcs; Kerby,C \$724.95 smcs; Killion Motors \$112.94 smcs; Kimball Midwest \$157.45 smcs; Kiplinger Tax Letter \$67.00 smcs; Kmart \$7.04 co; Konica Minolta \$1,800.25 smcs; Laerdal Medical \$215.95 smcs; Larue Distributing \$114.71 smcs; Lawson Products \$337.54 smcs; Leopold Painting \$21,830.00 co; Lerner Publishing \$1,791.13 smcs; Lincoln Airport Parking \$88.00 smcs; Lincoln Winwater Works \$2,125.98 smcs; Little Caesars \$9.00 smcs; Lockmobile \$110.00 smcs; Logmeincom \$149.00 smcs; Magic Cleaning \$7,660.00 smcs; Maintenance Engineering \$2,687.80 smcs; Marlatt Machine \$60.00 smcs; Matheson Tri-Gas \$586.27 smcs; McAfee \$2,063.04 smcs; Mead Lumber \$116.32 smcs; Menards \$2,793.65 smcs,co; Merryman Performing Arts \$258.00 smcs; Mid Amer Signal \$2,340.00 smcs; Middleton Electric \$218.72 smcs; Midlands Contracting \$6,272.40 smcs; Mid-State Units \$1,160.00 smcs; Midway Chrysler \$114.08 smcs; Midwest Labs \$506.75 smcs; Midwest Pump \$2,072.69 smcs; Midwest Turf \$283.21 smcs; Miles Supply \$140.47 smcs; Miller & Associates \$91,484.17 smcs,co; Miller & Equip \$1,432.12 co; Miller Signs \$550.00 smcs; Missouri Park \$550.00 smcs; Mohlman,C \$100.00 ps; Monoprice \$149.65 smcs; Moonlight Embroidery \$32.00 smcs; Moore Roughouts \$54.90 smcs; Municipal Supply \$16,507.35 smcs,co; Mycreativeshop.com \$19.95 smcs; Navigator Motorcoaches \$175.00 smcs; NE Child Support \$2,284.66 ps; NE Crane \$1,586.25 co; NE Dept of Revenue \$43,984.09 smcs; NE Golf Assn \$200.00 smcs; NE League of Municipalities \$105.00 smcs; NE Library Commission \$1,500.00 smcs; NE Machinery \$72.67 smcs; NE Public Health \$1,976.00 smcs; NE Section AWWA \$45.00 smcs; NE State BA \$10.70 smcs; NE Truck Center \$1,520.51 smcs; NeRPA \$420.00 smcs; New Victorian Inn \$49.99 smcs; New World Systems \$80,293.00 smcs; Northern Safety \$475.80 smcs; Northwestern Energy \$2,435.42 smcs,co; NRG Media \$52.00 smcs; OCLC \$436.51 smcs; O'Connor,M \$3.88 smcs; Officenet \$439.44 smcs; Office Max \$1,413.00 smcs,co; O'Hara Lindsay & Assn \$1,500.00 smcs; Omaha World Herald \$215.06 smcs; Oriental Trading \$375.41 smcs; Orscheln \$1,043.19 smcs,co; Oshkosh Corp. \$708.19 smcs; Overdrive \$9,400.00 smcs; Panowicz,K \$20.00 ps; Paramount \$160.97 smcs; Party America \$33.74 smcs; Paypal \$1,269.23 smcs,co; PCMG \$900.00 smcs; Pep Co \$56.34 smcs; Platte Valley Comm \$4,494.07 smcs; Postage Refill \$750.00 smcs; Prestige Group \$100.00 smcs; Presto-X \$440.02 smcs; Pritts,H \$11.54 smcs; Proactive Sports \$146.00 smcs; Provantage \$1,630.34 smcs,co; Quill \$676.74 smcs; Radioshack \$53.48 smcs; Random House

\$24.00 smcs; Ready Mixed Concrete \$15,732.40 smcs,co; Reams \$187.11 smcs; Recorded Books \$159.41 smcs; Red Cross Store \$40.81 smcs; Redman's Shoes \$482.44 smcs; Reinke's \$325.11 smcs; Relectric Supply \$224.18 smcs; Research Tech \$254.95 smcs; Resource Management \$1,176.00 smcs; Rheome Tree \$1,870.00 smcs; Roeda Signs \$67.86 smcs; Russell's Appliance \$189.00 smcs; Sahling Kenworth \$1,944.74 smcs; Sapp Bros \$27,213.50 smcs; Schindler Elevator \$932.16 smcs; Seneca Co \$190,455.30 co; Sherwin Williams \$1,045.60 smcs; Shopletcom \$47.22 smcs; Showcases \$1,124.84 smcs; Sirisi Dynix \$2,340.00 smcs; Smartsign \$35.75 smcs; Softchoice Corp \$199.00 smcs; Softwaremediacom \$759.96 co; SOS Portable Toilets \$117.00 smcs; SE Comm College \$14.98 smcs; Sportsmartcom \$595.00 smcs; Stampscom \$9.99 smcs; Standard Printing \$271.60 smcs; Steinbrink Landscaping; \$1,979.85 smcs; Steve Spangler Science \$18.02 smcs; Strategic Materials \$342.62 smcs; Streakwave Wireless \$1,270.49 co; Sungard Public Sector \$1,480.20 smcs; Sunmart \$6.98 smcs; Sunset Printing \$600.00 smcs; Target \$56.91 smcs,co; Tielke's Sandwiches \$59.15 smcs; TLO \$1,320.00 smcs; TM Sporting Goods \$42.80 smcs; Tokay Software \$790.00 smcs; Tool Doctor \$32.00 smcs; Tractor-Supply \$613.53 smcs,co; Trans Iowa Equip \$244.92 smcs; Transit Works \$284.25 smcs; Transtyle Transportation \$110.00 smcs; Tri City Outdoor Power \$56.41 smcs; Turkey Creek Garden \$139.80 co; Uline \$91.81 smcs; Under Armour Direct \$629.72 ps; Union Bank & Trust \$60,621.31 ps; Unique Management \$331.15 smcs; United Seeds \$555.00 co; UPS Store \$49.89 smcs; USPS \$249.93 smcs; USTA Membership \$35.00 smcs; Van Diest Supply \$2,427.44 smcs; Verizon Wireless \$81.62 smcs; Vernon \$4,093.53 smcs; Virtual Graffiti \$675.90 co; Wagner Irrigation \$1,598.00 smcs; Walgreens \$205.31 smcs,co; Wal-mart \$906.52 smcs; Walsh,C \$149.72 smcs; Walters Electric \$26,457.20 smcs,co; Warren-T Plbg \$153.00 smcs; Wastecorp Pumps \$463.35 smcs; Watchguard Video \$43.00 co; Water Environment \$62.00 smcs; Water Environment Federation \$109.00 smcs; Wegner,T \$213.75 ps; Wiegand Security \$90.00 smcs; Wilke's True Value \$173.42 smcs; Williams,M \$40.12 smcs; Willis Shoe Shop \$214.65 smcs; Wittek Golf Supply \$302.01 smcs; WPCI \$107.00 ps; Payroll Ending 11-16-2013 -- \$363,863.89. 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 December 10, 2013 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the Plans and Specifications for the Ultra Violet Disinfection Equipment Procurement and set the bid opening date for January 7, 2014 at 2:00 p.m.
5. Adopt **Resolution No. 2013-221** approving Application and Certificate for Payment No. 2 in the amount of \$1,590.00 submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 9 Improvements; CDBG Sidewalks in the Emerson School Area.

#### **RESOLUTION NO. 2013-221**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 9 Improvements; CDBG Sidewalks in the Emerson School Area, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$1,590.00, as shown on

Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$290,885.23
Change Order No. 1 (6-11-2013)	<u>          .00</u>
Contract Sum To Date	290,885.23
Gross Amount Due	27,750.00
Retainage (10%)	2,775.00
Amount Due to Date	24,975.00
Less Previous Certificates for Payment	<u>23,385.00</u>
Current Payment Due	\$ 1,590.00

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 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**6.** Adopt **Resolution No. 2013-222** approving Application and Certificate for Payment No. 1 in the amount of \$99,160.57 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2013 Part 1 Improvements – Bid A consisting of Water District No. 2013-570 and Sanitary Sewer District No. 2013-508 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition.

#### **RESOLUTION NO. 2013-222**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2013 Part 1 Improvements – Bid A consisting of Water District No. 2013-570 and Sanitary Sewer District No. 2013-508 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of

Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$99,160.57, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$1,141,528.00</u>
Contract Sum To Date	1,141,582.00
Gross Amount Due	110,178.41
Retainage (10%)	11,017.84
Amount Due to Date	99,160.57
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$99,160.547

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

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**7.** Adopt **Resolution No. 2013-223** approving Change Order No. 1 showing an increase in the amount of \$6,138.00, Application and Certificate for Payment No. 1 in the amount of \$326,166.93 submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2013 Part 4 Improvements consisting of Paving Improvement District No. 2013-963, Sanitary Sewer District No. 2013-509 for Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet and for 6th Avenue from the north line of Talmadge Street north a distance of 366.09 feet, Water District No. 2013-572 in Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet.

### **RESOLUTION NO. 2013-223**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2013 Part 4 Improvements consisting of Paving Improvement District No. 2013-963, Sanitary Sewer District No. 2013-509 for Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet and for 6th Avenue from the north line of Talmadge Street north a distance of 366.09 feet, Water District No. 2013-572 in Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$6,138.00, 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. 1 in the amount of \$326,166.93, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$477,203.80
Change Order No. 1 (11-26-2013)	<u>+ 6,138.00</u>
	\$483,341.80
Contract Sum To Date	483,341.80
Gross Amount Due	332,823.40
Retainage (2%)	6,656.47
Amount Due to Date	326,166.93
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$326,166.93

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

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**8.** Adopt **Resolution No. 2013-224** approving Change Order No. 3 showing an increase in the amount of \$13,044.15, Application and Certificate for Payment No. 4-Final in the amount of \$144,058.34, and accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 6 Improvements; Phase 2 consisting of Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue.

#### **RESOLUTION NO. 2013-224**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 6 Improvements – Phase 2 consisting of Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing an increase in the amount of \$13,044.15, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

WHEREAS, Blessing, LLC and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 4-Final in the amount of \$144,058.34, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$683,092.30
Change Order No. 1 (5-28-2013)	+ 27,602.00
Change Order No. 2 (7-23-2013)	+ 2,852.50
Change Order No. 3 (11-26-2013)	<u>+ 13,044.15</u>
Contract Sum To Date	726,590.95
Gross Amount Due	726,590.95
Retainage	.00
Amount Due to Date	726,590.95
Less Previous Certificates for Payment	<u>582,532.61</u>
Current Payment Due	\$144,058.34

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 1, 2013, 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. 3, as shown on Exhibit "A", Application and Certificate for Payment No. 4-Final, as shown on Exhibit "B" and the Certificate of Substantial Completion as shown on Exhibit "C" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

9. Adopt **Resolution No. 2013-225** approving Change Order No. 2 showing an increase in the amount of \$3,819.15 submitted by JIL Asphalt for the 2013 Airport Asphalt Pavement Improvements, Bid A (Asphalt).

**RESOLUTION NO. 2013-225**

WHEREAS, JIL Asphalt Paving Co., of Grand Island, Nebraska has performed services in connection with the 2013 Airport Asphalt Pavement Improvements, Bid B (Asphalt) and have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$3,819.15, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$ 58,428.25
Change Order No. 1 (8-13-2013)	+ 65,990.00
Change Order No. 2 (11-26-2013)	+ <u>3,819.15</u>
Contract Sum to Date	\$128,237.40

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

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

10. Adopt **Resolution No. 2013-226** appointing David Brandt to fulfill the term vacated on the Downtown Improvement Board.

**RESOLUTION NO. 2013-226**

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, a vacancy currently exists on the Downtown Improvement Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following person, as proposed by the Mayor of the City of Kearney, Nebraska, is hereby appointed to fulfill the vacated term as indicated:

**DOWNTOWN IMPROVEMENT BOARD**

David Brandt appointed to fulfill the term vacated by Jon Bokenkamp to July 31, 2017.

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**11.** Adopt **Resolution No. 2013-227** repealing Resolution No. 2013-72 pertaining to the redevelopment project (TFD Investments) for Redevelopment Area #5 for an area described as Lots 6 and 7 of Block 3, Kearney Land & Investment Company’s Choice Addition to the City of Kearney, Buffalo County, Nebraska (1804 8th Avenue).

**RESOLUTION NO. 2013-227**

WHEREAS, on April 23, 2013 the City Council passed and approved Resolution No. 2013-72 pertaining to the redevelopment project submitted by TFD Investments for Redevelopment Area #5 for an area described as Lots 6 and 7 of Block 3, Kearney Land & Investment Company’s Choice Addition to the City of Kearney, Buffalo County, Nebraska (1804 8th Avenue); and

WHEREAS, TFD Investment submitted an NAHP grant application to the Nebraska Department of Economic Development to help fund its housing project; and

WHEREAS, the City was notified by the Nebraska Department of Economic Development that the NAHP grant application was not approved.

NOW THEREFORE BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that Resolution No. 2013-72 passed and approved on April 23, 2013 be and is hereby repealed in its entirety.

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**12.** Adopt **Resolution No. 2013-71A** amending Resolution No. 2013-71 to correct the legal description for the specific area on the redevelopment project submitted by Old Towne Enterprises for a personal and commercial storage facility located in Redevelopment Area 5 (north side of South Railroad Street between Avenue A and Avenue B).

**RESOLUTION NO. 2013-71A**

WHEREAS, the City Council adopted Resolution No. 2013-71 on April 23, 2013 approving a specific redevelopment project within Redevelopment Plan No. 5; and

WHEREAS, it has been determined that the legal description set forth in Resolution

No. 2013-71 needs to be amended to specifically designate the area to be part of Lot 8, Glacier Park Addition to the City of Kearney, Buffalo County, Nebraska, with that part of said Lot 8 more particularly described as follows: Beginning at the Southwest corner of said Lot 8; thence northerly N 00° 32' 51" W (assumed bearing), along the West line of said Lot 8, a distance of 110.90 feet; thence northeasterly, N 71° 38' 53" E, a distance of 156.66 feet to the North line of said Lot 8; thence easterly, N 80° 25' 35" E, along the North line of said Lot 8, said North line also being the existing southerly right-of-way line of the Union Pacific Railroad Company, a distance of 26.16 feet to the Northeast corner of said Lot 8; thence southerly, S 00° 34' 30" E, along the East line of said Lot 8, a distance of 158.45 feet to the Southeast corner of said Lot 8; thence westerly, N 88° 15' 58" W, along the South line of said Lot 8, said South line also being the existing northerly right-of-way line of South Railroad Street, a distance of 50.22 feet to the beginning of a curve concave to the South; thence westerly, along said curve and said South line, an arc distance of 125.19 feet to the Southwest corner of said Lot 8 and the point of beginning, said curve having a central angle of 09° 02' 00" and a radius length of 794.04 feet, the long chord of said curve bears S 86° 29' 26" W, a long chord distance of 125.06 feet and is designated as Parcel ID 602486575.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the legal description set forth in Resolution No. 2013-71 be amended to specifically designate the area for this redevelopment project to be part of Lot 8, Glacier Park Addition to the City of Kearney, Buffalo County, Nebraska, with that part of said Lot 8 more particularly described as follows: Beginning at the Southwest corner of said Lot 8; thence northerly N 00° 32' 51" W (assumed bearing), along the West line of said Lot 8, a distance of 110.90 feet; thence northeasterly, N 71° 38' 53" E, a distance of 156.66 feet to the North line of said Lot 8; thence easterly, N 80° 25' 35" E, along the North line of said Lot 8, said North line also being the existing southerly right-of-way line of the Union Pacific Railroad Company, a distance of 26.16 feet to the Northeast corner of said Lot 8; thence southerly, S 00° 34' 30" E, along the East line of said Lot 8, a distance of 158.45 feet to the Southeast corner of said Lot 8; thence westerly, N 88° 15' 58" W, along the South line of said Lot 8, said South line also being the existing northerly right-of-way line of South Railroad Street, a distance of 50.22 feet to the beginning of a curve concave to the South; thence westerly, along said curve and said South line, an arc distance of 125.19 feet to the Southwest corner of said Lot 8 and the point of beginning, said curve having a central angle of 09° 02' 00" and a radius length of 794.04 feet, the long chord of said curve bears S 86° 29' 26" W, a long chord distance of 125.06 feet and is designated as Parcel ID 602486575.

BE IT FURTHER RESOLVED that except as amended by this resolution, all of the terms and conditions of original Resolution No. 2013-71 are hereby confirmed. The legal description set forth in said original Resolution No. 2013-71 is hereby replaced in full as part of Lot 8, Glacier Park Addition to the City of Kearney, Buffalo County, Nebraska, with that part of said Lot 8 more particularly described as follows: Beginning at the Southwest corner of said Lot 8; thence northerly N 00° 32' 51" W (assumed bearing), along the West line of said Lot 8, a distance of 110.90 feet; thence northeasterly, N 71° 38' 53" E, a distance of 156.66 feet to the North line of said Lot 8; thence easterly, N 80° 25' 35" E, along the North line of said Lot 8, said North line also being the existing southerly right-of-way line of the Union Pacific Railroad Company, a distance of 26.16 feet to the Northeast corner of said Lot 8; thence southerly, S 00° 34' 30" E, along the East line of said Lot 8, a distance of 158.45 feet to the Southeast corner of said Lot 8; thence westerly, N 88° 15' 58" W, along the South line of said Lot

8, said South line also being the existing northerly right-of-way line of South Railroad Street, a distance of 50.22 feet to the beginning of a curve concave to the South; thence westerly, along said curve and said South line, an arc distance of 125.19 feet to the Southwest corner of said Lot 8 and the point of beginning, said curve having a central angle of 09° 02' 00" and a radius length of 794.04 feet, the long chord of said curve bears S 86° 29' 26" W, a long chord distance of 125.06 feet and is designated as Parcel ID 602486575.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Amended Allocation Agreement and Notice of Pledge of Taxes with the correct legal description with respect to the Redevelopment Project substantially in the form attached hereto as Amended Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Adopt **Resolution No. 2012-195A** amending Resolution No. 2012-195 to correct the legal description for the specific area on the redevelopment project submitted by Paul Younes for the construction of a hotel located in Redevelopment Area 8 (northwest of 4th Avenue and Talmadge Street).

#### **RESOLUTION NO. 2012-195A**

WHEREAS, the City Council adopted Resolution No. 2012-195 on November 5, 2012 approving a specific redevelopment project within Redevelopment Plan No. 8; and

WHEREAS, it has been determined that the legal description set forth in Resolution No. 2012-195 needs to be amended to specifically designate the area to be Lot 1, Younes Center Addition, an Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 580092010.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the legal description set forth in Resolution No. 2012-195 be amended to specifically designate the area for this redevelopment project to be Lot 1, Younes Center Addition, an Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 580092010.

BE IT FURTHER RESOLVED that except as amended by this resolution, all of the terms and conditions of original Resolution No. 2012-195 are hereby confirmed. The legal description set forth in said original Resolution No. 2012-195 is hereby replaced in full as Lot 1, Younes Center Addition, an Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 580092010.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Amended Allocation Agreement and Notice of Pledge of Taxes with the correct legal description with respect to the Redevelopment Project substantially in the form attached hereto as Amended Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Adopt **Resolution No. 2013-228** repealing Resolution No. 2013-183 and approve the redevelopment project submitted by Habitat for Humanity for Redevelopment Area #7 for an area described as Lots 1 through 5 and Outlot A of Block Two and Lots 1 through 6 of Block 3, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Avenue M and east 17th Street).

#### **RESOLUTION NO. 2013-228**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #7 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land described as Lots 1 through 5 and Outlot A of Block Two, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 600008006 through and including 600008011; and Lots 1 through 6 of Block 3, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 600008013 through and including 600008018; and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the

community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land described as Lots 1 through 5 and Outlot A of Block Two, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 600008006 through and including 600008011; and Lots 1 through 6 of Block 3, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 600008013 through and including 600008018 is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land described as Lots 1 through 5 and Outlot A of Block Two, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 600008006 through and including 600008011; and Lots 1 through 6 of Block 3, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 600008013 through and including 600008018 shall be divided, for a period not to exceed 15 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or

for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

BE IT FURTHER RESOLVED that Resolution No. 2013-183 passed and approved on the 10th day of September, 2013 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**15.** Adopt **Resolution No. 2013-229** approving Change Order No. 1 showing a decrease in the amount of \$566.00, Application and Certificate for Payment No. 1-Final in the amount of \$49,169.00 and accept the Certificate of Substantial Completion submitted by Midlands Contracting and approved by Olsson Associates for the 2013 Part 11 Improvements consisting of Water District No. 2013-571 for Box Butte Avenue from 39th Street south to the south line of Northeast Industrial Second Subdivision and Northeast Industrial Sixth Subdivision.

**RESOLUTION NO. 2013-229**

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2013 Part 11 Improvements consisting of Water District No. 2013-571 for Box Butte Avenue from 39th Street south to the south line of Northeast Industrial Second Subdivision and Northeast Industrial Sixth Subdivision, and the City's engineer, Olsson Associates, have filed with the City Clerk Change Order No. 1 showing decrease in the amount of \$566.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

WHEREAS, Midlands Contracting and Olsson Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$49,169.00, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$49,735.00
Change Order No. 1 (11-26-2013)	- 566.00
Contract Sum To Date	49,169.00
Gross Amount Due	49,169.00
Retainage	.00
Amount Due to Date	.00
Less Previous Certificates for Payment	.00
Current Payment Due	\$49,169.00

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 1, 2013, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

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

“B” and the Certificate of Substantial Completion as shown on Exhibit “C” be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

16. 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 in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on December 5, 2013 from 3:00 p.m. until 12:00 a.m. for a rodeo.

## **V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **MANAGER APPLICATION FOR SMOKER FRIENDLY #017/SF LIQUORS**

Mayor Clouse opened for discussion the manager application for Ashley Lewis submitted by The Cigarette Store Corp., dba Smoker Friendly #017/SF Liquors in connection with their Class C-102050 liquor license located at 620 East 25th Street, Suite F.

Ashley Lewis presented this matter to the Council. They recently opened the store in June. As for training, she started bartending when she was 19 at the Blarney Stone in O'Neill, Nebraska. She also worked at Grandpa's Steakhouse as a bartender, cocktail waitress and a server. For the last year from March 2012 to May 2013 she managed the liquor store SF Liquors and T&D Liquors in North Platte, Nebraska. They require all of their employees to take the TIPS class online and they have to pass 100 percent and get their certificate before they can start working for their stores. They do not hire anyone under 21 and they train all of their cashiers under the Bars Program as well as all guidelines with Kearney.

Mayor Clouse asked what type of protections they have on their cash registers. Ms. Lewis stated they have a date lock that when they scan alcohol it asks what the year is and if it is within the year they turned 21 it asks also for the month and date.

Council Member Lammers asked what are their plans if an employee is caught selling to a minor. Ms. Lewis stated they automatically terminate any employee selling to a minor.

Moved by Clouse seconded by Lammers to recommend approval to the Liquor Commission the manager application for Ashley Lewis submitted by The Cigarette Store Corp., dba Smoker Friendly #017/SF Liquors in connection with their Class C-102050 liquor license located at 620 East 25th Street, Suite F. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

**REDEVELOPMENT PROJECT FOR BIG BOY PHASE II: SOUTH OF RAILROAD STREET AND WEST OF AVENUE B**

Mayor Clouse opened for discussion the redevelopment project for warehouse space (Big Boy Phase II) for Redevelopment Area #3 for an area described as all of Lots 688, 689, 690 and the North Half of Lot 691 and the North Half of Lot 712, and all of Lots 713 and 714, and the vacated alley lying between said Lots in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska, together with the vacated West 10 feet of Avenue "B" abutting said Lots 688, 689, 690, and the North Half of Lot 691 on the East, and together with the vacated East 10 feet of Avenue "A" abutting the North Half of Lot 712, and all of Lots 713 and 714 to the West, all in the City of Kearney, Buffalo County, Nebraska (south of Railroad Street west of Avenue B) and to consider Resolution No. 2013-230.

Assistant City Manager/Development Services Director Suzanne Brodine stated in May 2013, Big Boy, LLC (Allen Mitchel) submitted a TIF application that was approved by the CRA for Phase II of this project. Unfortunately, Mr. Mitchel was unsuccessful in securing the property proposed in the project and withdrew his application prior to City Council approval. Mr. Mitchel has recently located property that fits the needs of the project and has resubmitted a TIF application for this project.

Big Boy, LLC (Allen Mitchel) is considering constructing a 2,925 square foot personal and commercial storage facility in southeast Kearney in Redevelopment Area #3. The site development costs including the land purchase pose a challenge on this railway corridor property.

The total new valuation of the property is estimated to be \$225,000. The most recent valuation was \$68,735, thus creating an estimated new increment of \$156,265.00. Current annual taxes for both parcels combined are \$1,376.50. The estimated new real estate taxes per year are \$3,293. Total estimated eligible on-site TIF expenditures are \$235,300 which includes an estimated \$145,000 for the land purchase and \$38,000.00 for site related improvements (dirt work, paving, landscaping, etc.). On November 7, 2013 the CRA recommended Council approve up to 96 percent of the available Tax Increment up to \$38,000 of eligible expenses payable over 12 years.

Moved by Lammers seconded by Nikkila to adopt **Resolution No. 2013-230** finding that the redevelopment project set forth in the application submitted by Big Boy, LLC would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 96 percent of the anticipated TIF valuation up to a maximum of \$38,000 payable until the 12-year TIF period expires be granted and further grant the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Big Boy, LLC. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2013-230**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #3 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land described as all of Lots 688, 689, 690 and the North Half of Lot 691 and the North Half of Lot 712, and all of Lots 713 and 714, and the vacated alley lying between said Lots in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska, TOGETHER WITH the vacated West 10 feet of Avenue "B" abutting said Lots 688, 689, 690, and the North Half of Lot 691 on the East, AND TOGETHER WITH the vacated East 10 feet of Avenue "A" abutting the North Half of Lot 712, and all of Lots 713 and 714 to the West and is designated as Parcel IDs 600615000 and 600617000; and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land described as all of Lots 688, 689, 690 and the North Half of Lot 691 and the North Half of Lot 712, and all of Lots 713 and 714, and the vacated alley lying between said Lots in the Original Town of Kearney Junction, now the City of

Kearney, Buffalo County, Nebraska, TOGETHER WITH the vacated West 10 feet of Avenue "B" abutting said Lots 688, 689, 690, and the North Half of Lot 691 on the East, AND TOGETHER WITH the vacated East 10 feet of Avenue "A" abutting the North Half of Lot 712, and all of Lots 713 and 714 to the West and is designated as Parcel IDs 600615000 and 600617000 is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land described as all of Lots 688, 689, 690 and the North Half of Lot 691 and the North Half of Lot 712, and all of Lots 713 and 714, and the vacated alley lying between said Lots in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska, TOGETHER WITH the vacated West 10 feet of Avenue "B" abutting said Lots 688, 689, 690, and the North Half of Lot 691 on the East, AND TOGETHER WITH the vacated East 10 feet of Avenue "A" abutting the North Half of Lot 712, and all of Lots 713 and 714 to the West and is designated as Parcel IDs 600615000 and 600617000 shall be divided, for a period not to exceed 12 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially

in the form attached hereto as Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REDEVELOPMENT PROJECT FOR JD INVESTMENTS (LOGANVIEW APARTMENTS); 1906 WEST 24TH STREET**

Mayor Clouse opened for discussion the redevelopment project (JD Investments) for Redevelopment Area #10 for an area described the north 240 feet of Lots 2, 3 and 4, Lincoln Way Villa Plots to the City of Kearney, Buffalo County, Nebraska (1906 West 24th Street and adjacent property) and to consider Resolution No. 2013-231.

Assistant City Manager/Development Services Director Suzanne Brodine stated on November 7, 2013 the Kearney Community Redevelopment Authority approved a Tax Increment Financing (TIF) application submitted by Jean and Dan Wurtz, on behalf of JD Investments for a 16-unit duplex housing development project located in Area 10.

The CRA recognized that significant blight and substandard factors exist in the area and that redevelopment in Area 10, particularly housing, would be beneficial to the City of Kearney. This TIF project ameliorates such factors on the project site and creates a substantial investment in site preparation and infrastructure which would not be possible without tax increment financing. The property is currently owned by the developer. Infrastructure costs including dirt work, water and sewer infrastructure, drainage, and paved parking pose a significant impact on development. Total estimated eligible costs are \$503,800.

The total new valuation of the property is estimated to be \$1,992,000. The most recent valuation was \$290,070. This project is estimated to generate an increased tax increment of \$1,701,930.

On November 7, the CRA recommended Council approve up to 90 percent of the available Tax Increment not to exceed \$378,000.00 of eligible expenses payable over 12 years.

Moved by Nikkila seconded by Buschkoetter to adopt **Resolution No. 2013-231** finding that the redevelopment project set forth in the application submitted by JD Investments would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 90 percent of the anticipated TIF valuation up to a maximum of \$378,000.00 payable until the 12-year TIF period expires be granted and further grant the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with JD Investments. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2013-231**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #10 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land described as the north 240 feet of Lots 2, 3 and 4, Lincoln Way Villa Plots to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 603744000; and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land described as the north 240 feet of Lots 2, 3 and 4, Lincoln Way Villa Plots to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 603744000 is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment

Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land described as the north 240 feet of Lots 2, 3 and 4, Lincoln Way Villa Plots to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 603744000 shall be divided, for a period not to exceed 12 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**MANAGEMENT SERVICES WITH GREAT PLATTE RIVER ROAD ARCHWAY**

Mayor Clouse opened for discussion the Agreement for Management Services between the City of Kearney and the Great Platte River Road Memorial Foundation allowing the City to provide management services to the Archway and to consider Resolution No. 2013-232.

Due to the Archway's current financial conditions there has been a great deal of discussion regarding the possibility of the City of Kearney providing direct financial assistance to support the Archway. Recently, the City received a letter from the Archway Board requesting:

- \$75,000 annually for three (3) years
- In-kind services – assistance
- Direct management oversight

To date, the City of Kearney has provided no direct financial contribution to the Archway. However, the City of Kearney has provided special sales tax funding for capital projects including the Children's Museum, Firefighters Museum, World Theater, Kearney Raceway, and Kearney Sports Shooting Range. This request is for funds to support ongoing operational costs which special sales tax funds have not been used for.

In evaluating this request, City Council should be aware of the following:

- The Archway Board has responded to any requests for information from City staff.
- The annual operating budget has been reduced from \$1,100,000 to \$770,000.
- The bridge portion has recently been inspected with no structural issues noted.
- The facility is completely debt free and totally locally controlled.
- The new interstate exit is open with an average of 1,200 cars a day.
- The KENO fund has a \$200,000 fund balance and could be used for this purpose.
- Potential closure may require state tax funds to be used for the removal of the facility.
- Presently, private and corporate financial support is non-existent.
- Significant recreational opportunities are available at the site.

From a staff perspective, the Archway, without debt, has potential to be nearly self-supporting. That also assumes no capital requirements. From a policy and current practice standpoint, special sales tax funds could assist with capital needs leaving the City Council with the decision on how to fund operational needs. If City Council wishes to fund, staff would recommend an agreement with the Archway stipulating the following:

- Direct financial assistance - \$75,000 a year for three years.
- City to provide direct oversight of the facility – no ownership change.
- In-direct services to assist as operations need per City Manager.
- Buffalo County to provide \$75,000 a year for three years.
- Kearney Visitors Bureau to provide \$100,000 first year and \$150,000 each year for two years.
- A direct City Council appointment on the Archway Board.
- Provision allowing the City to cancel the agreement any time at the City's sole discretion.

Council Member Lammers stated he wanted to make sure that there will be multiple partners involved in any financing and the money the City is providing. City Manager stated there are multiple partners: the City, the Archway, Buffalo County and the Visitors Bureau. Buffalo County will meet in a few weeks to consider this issue. Mayor Clouse

stated he believed the agreement covers a lot of those areas and provides a lot of oversight and minimizes the risk and the amount of investment the City will have.

Leonard Skov, 5610 Avenue N, stated he is a member of the Archway Board and a volunteer director of the Arch. On behalf of the Board he thanked the City for the time already spent and into the future. Since its opening in 2000, the Arch really never had a fair start, visitors projected was grossly over stated, the debt was enormous, access to the Archway from the interstate was difficult at best. To make matters worse fund raising of any significance stalled as the funds were subject to pro-ration to the bond holders. From the beginning the Arch never felt like it was Kearney's.

The Archway has entertained over 1.4 million visitors from every state and almost every country. In 2013, the Archway was featured by US Today as a top five destination to see as part of the 100th anniversary of the Lincoln Highway. The Archway has been covered by the New York Times, Wall Street Journal and was featured in a movie. Over 13 million travelers pass by it ever year and they are greeted by a design that resembles a Nebraska sunset. If you read just a few of the reviews left by visitors you will see amazing, exceptional, impressive and those kinds of words consistently. There is only one Arch in the world and it is here.

As of November 15, all debts required by the court have been paid and the Arch is free of its debts. The fund raising limitations are gone. Access to the Arch has dramatically improved. The 1.4 million visitors had to exit the interstate and back track a mile over winding roads. What is different if two of their largest hurdles have been completed. They have the right people asking the right questions; with the help of the City, they have been able to reduce operation expense by over \$150,000. Just eliminating the bond debt reduced their insurance at a cost by \$60,000. The Arch Forward Committee raised over \$140,000 in private funding to take control. Funds came from citizens, business leaders, Grand Island, Humphrey, Lincoln, Omaha, McCook, Miller, South Sioux City as well as Colorado just to name a few. These people sent their support not only for the Arch but for Kearney. They have support that they have never had until now. The Archway is now designated a State Visitors Center. Finally, with the help of the City and County, the Archway with the right people engaged, changes the game significantly. The most difficult hurdle created by bankruptcy is that they start from zero. They have provided the City with an operation plan and they have business leaders and volunteers invested in making this work. If they have the City's full support, they just need a little time to see what this community can do. If they have not made a significant progress in a short time they understand that they do not have the opportunity and the right to have that support.

Council Member Buschkoetter stated there are going to be those that think the City is throwing good money after bad in terms of the Archway's future. Mr. Skov stated the conditions under which it has been there for those first years were really handicapped and shackled by the bonds. The Archway is in a position now to put its arms around the Arch and the Arch puts itself around Kearney and visa versa. They are in a position to do what is best for Kearney and what Kearney can do that is best for the Arch.

Council Member Buschkoetter stated the City is considering \$75,000 for the first three years and he thinks the cynic in a lot of folks would say it is going to be more than three

years. Mr. Skov stated that is the hope that it would be that way. He does know there is no other a facility in the State of Nebraska or anywhere.

Council Member Lammers asked are there additional plans for the campus out at the Archway as far as other events or activities that may expand the opportunity to raise income out there. Mr. Skov stated that the main function and the main mission of the Arch is to have people learn and understand what was going on here 150 years ago and if they were to get too carried away from that would actually interrupt the main vision and the main operation. We have seen some wonderful pow-wows which attracted a lot of people. It did not help the Arch, in fact, it was an interruption simply because you cannot get out there. If someone drives down the interstate and wants to drive in that particular day they cannot get their car in their so you go to get a bus, and people are not going to do that. They need to get smart enough to have good special events but also to keep where they came from and in its best condition as it can be and they can even expand on that.

Mayor Clouse stated this is not a public hearing but certainly it is an important. He will open this up to public comments with some ground rules. The City is interested in the citizens comments but would like citizens to keep them brief and to the point and not to repeat comments that have been stated by someone else.

Tom Henning stated he is chairman of the Buffalo County Economic Development Council and a member of the Arch Forward Committee that was formed last March when the Archway ran out of money. Fortunately it is now out from underneath the bondage of a massive amount of debt and has really in place two elements that were badly needed from the beginning to make it a resounding success. First is the newly opened interchange which opened in August and the second element is community support and both of those things were noticeably absent the last ten years. There is no doubt that the interchange has been a huge issue from day one and the response from the community and the outpouring of nearly \$150,000 in monetary gifts to buy it out of bankruptcy was overwhelming.

The Archway with the support of the community and the City can be a resounding success just like MONA. There was a bunch of community people who took what was once the old post office and this was back in the late 80's and transitioned it into the Museum of Nebraska Art. They could have ignored it and let it find its way to the same list of landmarks in the community that were torn down. They do not want that to happen with the Archway and Kearney is the "can do community" and can make things work.

The Archway has put Kearney, Nebraska on the national map even though it was a financial disaster. It can achieve the greatness from the local, state and national perspective and meet the expectations we all have for it. There is a larger number of people of the Kearney area that believe in this community that will lend their support in making the Archway what it was expected to be from the very beginning. The Council's decision of support will make that the right one and they will be standing ready to help in any way. There have been many hours spent by many people just to get at the point they are at tonight. Future generations of Kearneyites along with those who love Nebraska will thank the City for stepping up to the plate with its help and consideration.

Betty Warren stated she is here as the Kearney Area Chamber of Commerce Chairman along with most of her people on her committees. Their mission statement at the Chamber reads "promoting the success and profitability of the members through the involvement, education, advocacy and marketing of the Kearney Area business community." With this in mind, she believes it is in their best interest to do everything they can to support the Arch in any way that they can. The City will not be obligated to fund any capital improvements or pay for the removal of the exhibit if this becomes necessary. A vote to support this agreement may provide the Archway time to implement a plan to engage private and corporate support to sustain operations for the full impact of the new exit to be realized. Again the risk of the City is manageable; however, the opportunity for Kearney and Buffalo County is significant.

The Archway is iconic as the only structure of its kind to span an interstate traveled by millions each year. The grounds surrounding the monument are beautiful and valuable. Consideration needs to be given of the possibility of what the Archway and the surrounding area can become for travelers and purpose more importantly the citizens of Kearney. With imagination and vision one can envision a place where travelers stop, rest and explore and a place where area residents can go for fellowship and leisure. The Archway and the surrounding area should be considered an opportunity instead of a burden which has a potential to further enhance the quality of life for Kearney and Buffalo County with very manageable downside risks.

Carroll Sheldon stated he had a couple of thoughts. The Archway could be called other things like the Archway Silhouette and be made supporting material to help that. Buffalo grazing Buffalo County could be used in the area as far as visual but also butcher them and sell the meat there. Contact Ted Turner to have an Open House at the Arch to advertise this. Also, it is a neat place for a mobile home park out there to eventually make it an operating business. He always thought the Archway was a little shy on providing a small movie area to hold the kids. He has gone to Indianapolis for 50 years and they use a movie to hold the kids in the place in order for the parents to stay there and spend money. Where else in the United States can you advertise that you have an interstate highway going through your living room. There are so many ideas that can be thrashed around here and made to work but this is a fantastic chance for Kearney to really be on the map. He talked to some truckers from Pennsylvania the other day, they knew about the Archway. It is a conversation piece that goes up and down the interstate and north and south and around the country. It is just starting to come alive. He is not worried about the Archway succeeding; it will succeed and it will make a lot of money down the road. It is important to get some solvent ideas and start to work on them. It is important to advertise and market the Archway. There is no worry on his part on this making a living; it is going to be excellent business out there and it will not take too long.

Paul Younes, chairman of Kearney Visitors Bureau stated the Visitors Bureau has supported the Arch since it opened. They support the Arch in excess of \$150,000 a year and will continue their commitment. Kearney is very fortunate to have 50,000 visitors come to the community to visit the Arch and to spend money in the community in restaurants, shop, gas stations and hotels. They attract a lot of conventions and a lot of travelers that come to Kearney. Mr. Lammers asked what kind of special events

could be held out there. Mr. Younes stated with the group they currently have in place could raise more money to do more things at the Arch. He believes the money needs to be invested in the Arch to make it a better place for everybody. They are committed with their funding of \$150,000 to the Arch to help with promotion, special events, advertisement, marketing and a variety of expenses. He is very happy to see the City willing to step up to support \$75,000 a year and hopefully the County will do the same thing and hopefully under the direction of the City Manager and the City, he believes the Arch will be very successful.

Mayor Clouse stated as he travels the state he always tells people if you are going to live in Kearney or you are going to do business in Kearney you have to have vision because that is how they roll in Kearney. Kearney citizens are visionaries and make things happen; you have to have vision if you want to be in Kearney. The last couple months as he traveled the state there are a lot of people saying "what are you going to do about the Arch." He would tell them that they are working on it, whatever will be done will be done the right way. The easiest thing as elected officials is to do nothing but he has never taken the easy road on anything. As they worked on this agreement and working with the Arch Board the risk is minimal and fully supports what they are doing. He supports it because their vision for the Arch is they can sit by and let someone else take care of this problem or they can meet it head on and do something with it and if they have the right vision and the right controls and management the vision for the Arch is that it will be successful in some manner. A lot of people are very complimentary of the Arch so to do nothing is not the answer and he fully supports this agreement.

Council member Lammers stated the important thing here is the Arch is a national brand, Kearney is noted by the Arch whether we like it or not. When it was originally built for \$60 million that was more money than most of us would have thought about putting into that but Kearney is branded by that. People across the country recognize Kearney by the Arch. Also, it is important to note that in this agreement there will be partnerships. Kearney has always been a city of partnerships; people that work together to do the right thing to make things happen. A lot of activities similar to what was previously mentioned with the buffalo across the way, things that bring people off the interstate to enjoy those activities. There are all kinds of activities that would draw people and make the Arch a real drawing card so he also supports the agreement.

Council member Nikkila stated he does not have any philosophical quandary about whether they should or whether they can provide support to the Archway. He believes keno is the right pot of money. He believes in the people of Kearney. He knows they can work things out because that is how Kearney works; people get together and solve problems. But he has always believed the City support should follow foundation and corporate support. The City support should be the last box checked off and when a foundation or sponsor wants to support an organization like this they say what is your vision, what are you going to be doing with the property over the next five years. He believes the ideas are just that but does not think this is money that represents tax payers that could be used for other things that have plans. He would rather see that 5-year plan first for where the Archway is going before voting on it.

Council member Buschkoetter stated his percentage is well below 100 percent in believing what the future holds for the Archway. Doing nothing is also doing something if you can consciously make that decision. He currently sees the Arch as being on life support but because of the new entry off of the interstate and also because of the bankruptcy. A patient might be on life support but it is getting better and as a result of that it might need a little transfusion of what is going to come in here. When he first ran for office in 1998, questions that he was asked was when the Archway goes bad what are you going to do. He really did not know the answer then and will say 15 years later he believes Kearney has come up with a plan and something that makes sense. He is not sure if it will work. He is sure that if Kearney does not do something, the patient is not going to make it and it is going to be too late then. He agreed that usually they would like to have that foundation (5-year plan) in place first and he believes and has confidence it will come. He also agreed that the City is the last box checked when it comes to funding and that is the way he would prefer it to be; however, he does not think they have the luxury at this time because of how things have timed out and where they are at. This is the right pool of money, he would much rather be spending \$75,000 on a baseball complex, a softball complex, a youth sports complex of some sort there is a long list of things he would rather spend the money on but the reality of the situation is if they do not do something he is afraid the Archway would go away and he thinks that comes at too high of a price for us.

Mayor Clouse stated nobody really wants to be in this position, half of the people out here do not want to be in this position but it is where we are at. He still believes we need to step up and make it work.

Moved by Buschkoetter seconded by Clouse to adopt **Resolution No. 2013-232** approving the Agreement for Management Services between the City of Kearney and the Great Platte River Road Memorial Foundation allowing the City to provide management services to the Archway. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter. Nay: Nikkila. Lear absent. Motion carried.

### **RESOLUTION NO. 2013-232**

WHEREAS, The Great Platte River Road Archway is an educational and tourism museum located over Interstate 80 within the city limits of Kearney, Nebraska; and

WHEREAS, the Great Platte River Road Archway is the only venue of its kind; and

WHEREAS, the Great Platte River Road Archway has brought national attention to Kearney, Nebraska being featured in movies, the New York Times, Wall Street Journal, USA Today, and countless articles in tourism guides and magazines; and

WHEREAS, the Great Platte River Road Archway has sold more than 1.4 million tickets since its opening with visitors from all 50 states and almost every country; and

WHEREAS, the Great Platte River Road Archway is the attraction associated with Kearney, Nebraska and viewed by over 13 million travelers annually; and

WHEREAS, the Great Platte River Road Archway is no longer limited by the significant indebtedness that limited success and local support; and

WHEREAS, the Great Platte River Road Archway will benefit from the new Interstate access allowing visitors immediate accessibility to the venue; and

WHEREAS, the Great Platte River Road Archway project benefited the City of Kearney with the construction of over \$5 million of infrastructure provided to the City of Kearney; and

WHEREAS, the City of Kearney, in partnership with the Great Platte River Road Archway, will create efficiencies and improvements resulting in decreased operating expenses, improved aesthetics and significant operational efficiencies.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney commits itself to providing financial and operational support for the Great Platte River Road Archway.

BE IT FURTHER RESOLVED that the City Manager be and is hereby designated as the authorized official.

BE IT FURTHER RESOLVED that this proposal is valid for a period of three (3) years from the date of approval.

PASSED AND APPROVED THIS 26TH DAY OF NOVEMBER 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIM TO NPPD - \$4,165.59**

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$4,165.59 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Nikkila. Nay: None. Clouse abstained. Lear absent. Motion carried.

**VII. REPORTS**

No reports.

**VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 7:52 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

ATTEST:

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

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