

Kearney, Nebraska
November 25, 2014
5:30 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on November 25, 2014, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Wendell Wessels, Director of Finance and Acting City Manager; Michael Tye, City Attorney; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Shelby Tracer, Taylor Knuth, Megan Greg, Amy Trousch, Brad Ward, Phil Kringle, Greg Benson, Mike Eggen, Dave Humphrey, Tim Hughbanks, Shelley Dennis, 11 UNK students, Steve Altmaier from KGFW Radio, Ashley White from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION/MOMENT OF SILENCE

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

PLEDGE OF ALLEGIANCE

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.

UNK CRIMINAL JUSTICE PRESENTATION

Present were: Shelby Tracer, president, Taylor Knuth, vice-president, Megan Greg, secretary, Amy Trousch, treasurer, Brad Ward, Public Relations Officer, Phil Kringle Public Relations Officer.

They started working on the program a year ago; they did fundraising with candle sales to raise money for the program. They work mostly with Officer Greg Benson and K-9 Frank. He showed them how the K-9 Unit works. They hide toys for Frank to find and they wanted to figure out a way to give back for all the time so they had the plaque made that will hang in the Law Enforcement Center to honor all the K-9 Units. In the future, they will get another plaque so they can add names.

They have meetings every other week on Thursday night; they bring in speakers from different areas of Law Enforcement and corrections. Every other semester they take a trip somewhere. They do fundraising and try to get involved anyway they can in law enforcement and the criminal justice system itself to give students a way to get their names out there and learn about the different fields that they may want to go into.

Officer Greg Benson stated in 2007 when he took over working the police service dog, he was contacted by the Criminal Justice Club and asked to come and speak to the student body at UNK. Over those years of going to talking to the club he had the opportunity to gain some friendships. A lot of the students who come and ride along get to see Frank, his dog at the time, work first hand.

Approximately 1½ years ago, the club wanted to take on a project and he thought what a better way to remember all of the dogs that have gone before us, these dogs go out and lay it on the line for them. This is an awesome example of the student body at UNK, the Criminal Justice Club what they were able to accomplish and he knows it means a lot to him and former handlers.

This service started in 1990. Officer Benson stated the plaque has the Police Department dogs as well as the Sheriff Office dogs; traditionally they have always alternated those services. When they started brainstorming the idea, they did not want to just focus on the Police Department side, he also wanted the Sheriff Office because they are a team. He wanted to incorporate them with the plaque so the idea was dreamed up. The student body made it happen. They have some wonderful students at UNK and this is an example of it.

Mayor Clouse stated the City Council appreciates the students and all the students provide a great service to the community and the Police Department as well. The Police Department keeps the community safe and hopefully that is a career the students will embark on because there are a lot of rewards.

TIM HUGHBANKS INSURANCE UPDATE

Tim Hughbanks from Barney Insurance updated the Council on the City's insurance and provided graphs. He stated 2014 proved to be another good year with regards to the limited claims activities they saw from the City. Minimal increase in premium this year is evidence to how good a year it really was. Outside of a couple wind claims from this past spring and few minor auto claims, the only claims that were filed were for workers compensation. While they did see a slight increase in the number of work comp claims the change that was made several years ago to go to a deductible base plan has proven to still save substantial premium dollars over the years.

The premium for this year is still less than when the City first decided to move the coverage to Employers Mutual in 2007. The initial drop off was in 2008 when the City did go to the deductible based work comp policy. That was also the same year that they saw the major tornado and windstorms, even with that they did see a substantial drop off in premium at that time.

While the premium has crept up slightly since then the rates have changed very little. As the City grows, unfortunately so does the need for more insurance. The City has added a lot of property to the policy since they first began the relationship including the Peterson Senior Center, the Harmon Park Activity Building, the Library and the new Fire Station. In addition they have replaced a lot of equipment with newer equipment and added several autos and increase in payroll for the year.

The premium change each year could largely be attributed to nothing more than exposure changes. As the property values climb, autos and equipment are replaced with newer models and premium does continue to go up.

The other chart shows how the premiums have trended over the years. Again, the major drop in the workers compensation coverage is when the deductible change was made. Due to the entire City's staff, due diligence and attention to safety they have seen that premium drop even further. The rest of the coverage has had very slight change in premium again mainly due to the additions and changes in exposure over the last several years.

With the summary of premiums over the years, the overall increase including the new buildings, autos and equipment is a little under four percent for those lines of coverage insured by Employers Mutual. This is even more remarkable in that it comes in a year when they have seen many changes in property insurance across the state with the majority of the insurers due to the wind and hail storms experienced here in Nebraska this past year.

The effort put forth by City Manager and his staff, particularly Shelley Dennis and Shawna Erbsen work directly with the safety committee and the regular safety audits is why these premiums have remained so stable. It is truly a team effort to help minimize claims by the entire staff and he is impressed by their efforts every time he attends one of the safety audits.

City Manager Michael Morgan stated prior to 2007 the total package premium was almost \$900,000. The City has been very fortunate with its great working relationship. Several other communities in the eastern part of the state recently just switched to this model to look at some options and do some things very similar to what Kearney is doing now. He is very proud of this program and the work Shelley and Shawna do but at the end of the day it is all the employees; they are the reason when you look at the exposure they have as a community and all the things they are involved in to have the limited number of claims and regarding work comp it is really remarkable.

They hardly could achieve a better rating most years than what they receive. Some may remember in 2006 some of the conversations and the comments about the claims were going to go down and then they were going to go way up. Numbers do not lie in this case; they are very proud with the relationship with EMC and Tim and his staff and look

forward to continuing hopefully for a long time.

Mayor Clouse stated he would agree with that. Mr. Morgan and he have had the opportunity to talk to a lot of the other communities and they want to change insurance companies. There is a key piece to the program and you have to have risk management and Shelley and Shawna that goes with it. You cannot just go find cheaper insurance; you have to have the whole package.

Mr. Hughbanks stated he appreciates the opportunity and it truly is a very educational time to go through those safety audits and in just the time he has done it he has seen some major changes. It is unusual for them to find hardly any problems at any times when they go out; it is usually very insignificant so the entire staff across the City has taken it seriously and it has shown. EMC is aware of it too, they have talked to the underwriters about it each year and they could not be more impressed with what the City does. Kearney is the model that they use within their organization as they communicate with other cities across the state. EMC does insure over 200 communities in Nebraska so they have a lot of experience but they have told him more than once that none compare to the City of Kearney's.

Council Member Buschkoetter stated he remembers when they made the change and they were already moving in that direction in terms of risk management and they never really saw any benefits with the previous insurance program and policies so it is nice to bring it all together. They have seen the benefits and it is real money in the budget and a major contribution to why the City's property tax rates are the lowest in the State.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

There are no Public Hearings.

IV. CONSENT AGENDA

Moved by Lammers seconded by Nikkila that Subsections 1 through 10 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held November 12, 2014.
2. Approve the following Claims:

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

AAA Tarps \$206.00 smcs; Ace Eaton \$95.00 smcs; Ace Hardware \$79.30 smcs;

Adams,L \$39.18 smcs; AFS Brush \$61.56 smcs; Alamar Uniform \$2,561.25 smcs; Albrecht,H \$855.00 smcs; Albrecht,M \$60.00 smcs; Alertshirt \$1,731.68 smcs; All Makes Auto \$2,144.57 smcs; Alta Convenience \$63.40 smcs; Amazon \$2,555.21 smcs,co; American \$111.08 smcs; Amer First Aid \$295.34 smcs; AWWA \$1,698.00 smcs; Amsan \$909.08 smcs; Anderson Ford \$28,514.00 smcs; Apple Market \$5.12 smcs; Applebee's \$30.00 smcs; Arrowhead Scientific \$418.24 smcs; Arvato Windows \$399.96 co; Ask Supply \$3,627.53 smcs; ATAP \$110.00 smcs; Baird Holm \$10,264.00 smcs; Baker & Taylor \$4,928.08 smcs; Beehive Industries \$7,697.00 smcs; Berens-Tate Consulting \$750.00 smcs; Big Rack Shack \$881.82 smcs; Bluecross Blueshield \$170,471.29 smcs; Boardtronics \$603.54 smcs; Bosselman \$4,907.20 smcs; Brabec,R \$1,363.60 smcs; Brown Transfer \$293.30 smcs; Browns Shoe Fit \$399.97 smcs; BSN Sport Supply \$806.36 smcs; Buffalo Co Treasurer \$15.00 smcs; Buffalo Outdoor \$123.99 smcs; Buggy Bath \$74.90 smcs; Buildasigncom \$14.99 smcs; Builders \$1,470.72 smcs; Bullhorn Graphics \$73.83 smcs; Cabela's \$46.21 smcs; Capital Business Systems \$232.47 smcs; Carquest \$1,020.62 smcs; Casey's \$20.00 smcs; Cash Wa \$874.10 smcs; Cenex Farmers \$30.00 smcs; Central Hydraulic \$382.53 smcs; Central NE Bobcat \$89.32 smcs; Central State Mueller \$252.17 smcs; Central States Group \$3,137.18 smcs; Champlin Tire Recycling \$25,622.52 smcs; Charter \$213.33 smcs; Charter Media Midwest \$140.00 smcs; Chavez,K \$25.68 smcs; Chesterman \$518.10 smcs; Chicken Coop \$50.00 smcs; Cintas \$370.23 smcs; City of Ky \$11,653.00 smcs,ps; Clevenger Oil \$1,229.18 smcs; CNA Ins \$40.00 smcs; CNHRMA \$30.00 smcs; Coldspring \$677.70 smcs; Compass Navigation \$4,750.00 smcs; Compass Tools \$295.00 smcs; CompassCom \$50.00 smcs; Conseco Life Ins \$19.00 ps; Consolidated Management \$167.00 smcs;Constantcontact.com \$364.00 smcs; Construction Rental \$735.41 smcs,co; Control Yours \$260.00 smcs; Cook,K \$100.00 smcs; Cooperative Producers \$147.95 smcs; Copycat \$258.50 smcs; Cornhusker Cleaning \$68.78 smcs; Country Inn & Suites \$96.68 smcs; Cowpoke \$200.00 smcs; Creativemarket.com \$7.00 smcs; Crossroads Ford \$282.00 smcs; Cullen,M \$18.72 smcs; Culligan \$155.50 smcs; Cummins Central Power \$1,841.16 smcs; Curbit \$1,800.00 smcs; D&S Lighting \$488.43 smcs; Danko Emergency \$1,242.32 smcs; Dawson Co Museum \$38.85 smcs; Dawson PPD \$27,993.46 smcs; Daylight Donuts \$53.10 smcs; Dell \$1,767.55 smcs,co; Deterdings \$338.19 smcs; Diamond Vogel \$149.30 smcs; Dish Network \$79.00 smcs; Dmilico \$775.22 smcs; Dogpoopbags.com \$264.37 smcs; Dollar-General \$26.75 smcs; Domino's \$73.11 smcs; Dutton-Lainson \$71.57 smcs; Eakes \$310.87 smcs; Earl May \$56.94 smcs; Eileen's Cookies \$62.00 smcs; Element5.info \$79.00 smcs; Elliott Equipment \$645.59 smcs; Embassy Suites \$231.80 smcs; EMC Ins \$9,605.92 smcs; Enforcement Technology \$327.50 smcs; Express Sharpening \$41.00 smcs; Expression Wear \$696.75 smcs; Fairbanks \$188.69 smcs; Fastenal \$1,335.78 smcs; Fearnley,M \$72.22 smcs; Fedex \$91.58 smcs; Fiddelke \$427.06 smcs; Fleetpride \$71.99 smcs; Fort Bend Services \$5,653.44 smcs; Fred Pryor Career Track \$99.00 smcs; Frontier \$9,402.82 smcs; Fun Express \$33.95 smcs; Gale \$446.01 smcs; Ganson Engineering \$116.00 co; Garrett Tires \$1,211.22 smcs; Gempler \$177.00 smcs; GICS \$17,235.00 co; GPM \$20,708.76 co; Graham Tire \$230.84 smcs; Grainger \$1,225.00 smcs; Gross Belgians \$650.00 smcs; Hach \$3,401.09 smcs; Hampton Inn \$106.25 smcs; Hasenkamp,G \$15.78 smcs; HD Supply \$160.50 smcs; Hilton Garden Inn \$450.24 smcs; Hobby Lobby \$316.87 smcs; Holiday Inn \$573.06 smcs; Holmes Plbg \$332.43 smcs; Hometown \$275.00 smcs; Hometown Leasing \$279.21 smcs; Hy-Vee \$47.92 smcs; IA, NE, SD PRIMA \$40.00 smcs; ICMA RC \$4,151.02 ps; ID Cards \$59.50 smcs; IRS \$131,237.52 ps; Isaac,B \$850.00 smcs; Jack Lederman \$150.55 smcs; Jarmin,A \$1,680.00 smcs; Jegs

190 Autoparts \$142.78 smcs; John Deere Landscapes \$712.34 smcs; Johnstone Supply \$234.06 smcs; Jones Automotive \$228.17 smcs; K&K Parts \$1,917.50 smcs; Ky Clinic \$1,628.00 ps; Ky Concrete \$5,502.74 smcs,co; Ky Crete & Block \$361.00 co; Ky Hub \$4,098.06 smcs; Ky Powder Coating \$87.85 smcs; Ky Public Schools \$40.00 smcs; KVFD \$1,000.00 ps; Ky Warehouse \$792.25 smcs; Ky Winlectric \$129.01 smcs; Ky Winnelson \$1.72 smcs; Kelly Supply \$267.06 smcs; KHGI-TV \$295.00 smcs; Konica Minolta \$446.54 smcs; Kriz Davis \$24.39 smcs; Kully Pipe \$168.40 smcs; La Quinta Inn \$176.66 smcs; Landmark Implement \$574.83 smcs; Lawson Products \$45.98 smcs; Lincoln Winwater Works \$934.73 smcs; Lindsay,S \$68.00 smcs; Link,M \$125.00 smcs; Lips Printing \$64.43 smcs; Lockmobile \$5.00 co; Loder,B \$15.79 smcs; Logmein.com \$299.00 smcs; Maas,B \$40.83 smcs; Mail Express \$157.44 smcs; Marina Inn \$99.68 smcs; Marlatt Machine \$679.42 smcs; Masek Golf Car \$651.08 smcs; Masonic Temple Assoc. \$500.00 smcs; Matheson \$1,132.19 smcs; McAfee \$2,063.04 smcs; Mead Lumber \$784.25 smcs; Menards \$2,454.32 smcs; Merryman Performing \$358.21 smcs; Metal Doors \$165.89 smcs; Midwest Labs \$187.00 smcs; Mirror Image \$214.50 smcs; Moonlight Embroidery \$181.50 smcs; Morris Press \$677.50 smcs; Mostek Electric \$312.58 smcs; Municipal Supply \$5,085.17 smcs; Museum of NE Art \$132.06 smcs; Mycreativeshop.com \$19.95 smcs; Nat'l Fire Protection \$165.00 smcs; Navigator Motorcoaches \$350.00 smcs; NE Child Support \$2,732.58 ps; NE Dept of Environmental \$52,564.40 ds; NE Safety & Fire \$250.00 smcs; NE Truck Center \$618.93 smcs; NE Environ Prods \$2,033.00 smcs; NE Truck Center \$1,354.12 smcs; New Victorian Inn \$70.89 smcs; New World Systems \$83,710.00 smcs; Northern Safety \$932.36 smcs; Northwest Electric \$1,259.02 smcs; Northwestern Energy \$3,937.02 smcs; NRG Media \$52.00 smcs; NTOA \$150.00 smcs; OCLC, Inc \$607.10 smcs; Office Max \$1,450.76 smcs; Officenet \$787.58 smcs; O'Hara Lindsay & Assoc \$2,000.00 smcs; One Call Concept \$486.15 smcs; Opengear \$142.52 smcs; Oriental Trading \$137.75 smcs; Orscheln \$567.44 smcs; Osborne Family Enterprises \$22.15 smcs; Otto Environmental \$10,910.00 smcs; Outdoor Recreation \$31.25 co; Overhead Door \$100.00 smcs; Paramount \$280.95 smcs; Paypal \$113.96 co; PDF Complete \$49.95 smcs; Physio-Control \$702.00 smcs; Pickens,C \$50.00 smcs; Platte Valley Comm \$235.35 smcs,co; Police Officers Assoc \$855.00 smcs; Postage Refill \$900.00 smcs; Potter & Associates \$30.00 smcs; Potter,L \$849.40 co; Power & Telephone \$257.47 smcs; Powerplan \$830.01 smcs; Priority Management \$98.00 smcs; Provantage \$847.91 co; PSC Mobile \$569.00 smcs; Purdy Enterprises \$3,625.00 smcs; QT 391 \$142.44 smcs; Quill \$752.37 smcs; Radioshack \$73.04 smcs; Rakuten.com \$92.57 smcs; Random House \$174.75 smcs; Reams \$441.27 smcs; Reams Sprinkler \$4,480.00 smcs,co; Recorded Books \$195.87 smcs; Redder,L \$41.49 smcs; Redman's Shoes \$673.99 smcs; Rolanka \$969.73 smcs; Rooks,M \$9.55 smcs; Rourke Publishing Group \$730.10 smcs; Rouse,H \$100.00 smcs; Safety Vision \$219.46 smcs; Sahling Kenworth \$427.60 smcs; Sapp Bros \$18,450.32 smcs; Sawin,M \$100.00 smcs; Schindler Elevator \$961.20 smcs; Sequel Bookshop \$25.00 smcs; Shaw,J \$5.13 smcs; Shell Oil \$50.93 smcs; Shopper \$451.78 smcs; Sign Center \$1,735.00 smcs; Simmons,D \$95.00 smcs; Sirchie Finger Print Lab \$193.13 smcs; Smartsign \$105.72 smcs; Snap-On Tools \$175.00 smcs; Stamps.com \$4.99 smcs; Staples \$49.75 smcs; Steinbrink Landscaping \$1,594.19 smcs; Strategic Materials \$336.86 smcs; Streakwave Wireless \$878.43 co; Sunmart \$5.38 smcs; Supply Depot \$213.50 smcs; Supplyhouse.com \$83.76 smcs; SUSPA \$100.29 smcs; Target \$200.07 smcs; Techsoup \$181.00 smcs,co; The Depository Trust \$23,328.75 ds; The Thompson Co \$236.20 smcs; Ticket Omaha \$835.00 smcs; Tielke's Sandwiches \$95.57 smcs; Tokay Software \$790.00 smcs; Tool Doctor \$103.46 smcs; Tour Edge Golf \$2,410.00 smcs;

Tractor-Supply \$392.67 smcs; Trans Iowa Equipment \$690.88 smcs; Tri-Cities Group \$75.00 smcs; TruGreen ChemLawn \$165.00 smcs; Tye Law Firm \$188.69 ps; Union Bank & Trust \$63,267.07 ps; Unique Mgmt Services \$438.55 smcs; United Seeds \$1,260.00 smcs; UNL Athletic Tickets \$302.00 smcs; UPS \$80.70 smcs; USA Blue Book \$850.14 smcs; USPS \$395.90 smcs; USTA Membership \$35.00 smcs; Van Diest \$7,363.76 smcs; Vaporroyale.com \$864.16 smcs; Verizon Wireless \$1,252.45 smcs; Wagner's Irrigation \$562.99 smcs; Walgreens \$12.62 smcs; Wal-Mart \$1,155.19 smcs; Walsh,C \$143.36 smcs; Weller,B \$1,410.00 smcs; Wilke's True Value \$417.53 smcs,co; Winter Equipment \$667.38 smcs; WPCI \$53.50 ps; Yanda's Music \$15.75 co; Yant Equipment \$2,584.90 smcs; Payroll Ending 11-15-2015 - \$376,016.49. 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 9, 2014 at 5:30 p.m. as date and time for hearing on those applications where applicable.
4. Approve setting December 9, 2014 at 5:30 p.m. as the time and date to meet as the Board of Equalization to assess costs in connection with Water District No. 2014-573, and Sanitary Sewer District No. 2014-511.
5. Approve the application for a Special Designated License submitted by Kearney Steak Company dba Whiskey Creek in connection with their Class IK035628 liquor license to dispense beer, wine and distilled spirits inside The Archway located at 3060 East 1st Street on December 13, 2014 from 5:30 p.m. until 1:00 a.m. for a reception.
6. Accept the Certificate of Vote by the Buffalo County Election Commissioner for the November 4, 2014 General Election for Kearney City Council and the City of Kearney Bond & Occupation Tax Issue.
7. Adopt **Resolution No. 2014-232** approving the Technical and Professional Services Contract between the City of Kearney and Miller & Associates for Community Development Block Grant Program CR Supplemental (Grant No. 14-CR-104).

RESOLUTION NO. 2014-232

WHEREAS, the City of Kearney has been awarded Community Development Block Grant Program funds for a Community Development Program; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for a Project Administrator in connection with the management and supervision of Grant No. 14-CR-104 relating to the community revitalization planning project and ensuring that proposed activities are in compliance with DED and Federal regulations under a Community Development Block Grant program; and

WHEREAS, City staff received one proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide planning services.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute, on behalf of the City of Kearney, the Technical and Professional Services Contract between the City of Kearney and Miller & Associates as Project Administrator in connection with the management and supervision of Grant No. 14-CR-104 relating to

the community revitalization planning project, as set forth in the Contract. The said Contract, marked Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF NOVEMBER, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt **Resolution No. 2014-233** approving Change Order No. 2 showing a decrease in the amount of \$43,183.00, Application and Certificate for Payment No. 5-Final in the amount of \$150,945.94, and accept the Certificate of Substantial Completion submitted by Paulsen, Inc. and approved by Miller & Associates for the 2013 Part 1 Improvements – Bid B consisting of Paving Improvement District No. 2013-962 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.

RESOLUTION NO. 2014-233

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the 2013 Part 1 Improvements – Bid B consisting of Paving Improvement District No. 2012-962 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, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing a decrease in the amount of \$43,183.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Paulsen, Inc. and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$150,945.94, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,327,913.75
Change Order No. 1 (8-26-2014)	+ 2,125.20
Change Order No. 2 (11-25-2014)	- <u>43,183.00</u>
Contract Sum To Date	1,286,855.95
Gross Amount Due	1,286,855.95
Retainage (0%)	.00
Amount Due to Date	1,286,855.95
Less Previous Certificates for Payment	<u>1,135,910.01</u>
Current Payment Due	\$ 150,945.94

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 17, 2014, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown

on Exhibit "A", Application and Certificate for Payment No. 5-Final, as shown on Exhibit "B" and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF NOVEMBER, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2014-234** approving Change Order No. 2 showing an increase in the amount of \$11,757.75 and Application and Certificate for Payment No. 5 in the amount of \$432,804.47 submitted by Blessing LLC and approved by Miller & Associates for the 2014 Part 2 Improvements consisting of Paving Improvement District No. 2014-964 for Central Avenue from 31st Street to a point 150 feet south of 26th Street and 26th Street from Central Avenue to Avenue C.

RESOLUTION NO. 2014-234

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2014 Part 2 Improvements consisting of Paving Improvement District No. 2014-964 for Central Avenue from 31st Street to a point 150 feet south of 26th Street and 26th Street from Central Avenue to Avenue C, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$11,757.75, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 5 in the amount of \$432,804.47 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$2,474,168.95
Change Order No. 1 (8-26-2014)	+ 17,375.00
Contract Sum To Date	<u>2,491,543.95</u>
Gross Amount Due	1,292,705.05
Retainage (10%)	129,270.50
Amount Due to Date	1,163,434.55
Less Previous Certificates for Payment	<u>730,630.08</u>
Current Payment Due	<u>\$ 432,804.47</u>

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit "A" and Application and Certificate for Payment No. 5, as shown on Exhibit "B", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF NOVEMBER, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Adopt **Resolution No. 2014-235** approving Application and Certificate for Payment No. 1 in the amount of \$126,616.43 submitted by Midlands Contracting and

approved by Miller & Associates for the 2014 Part 7 Improvements consisting of Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th Avenue and Sanitary Sewer Connection District No. 2014-1 commencing at a point near the Kearney RV Park located at 315 Avenue M, northward and westward in an easement, Landon Street if extended, thence northward through Riverside Addition and Kreutz Addition to 4th Street, thence westward to Central Avenue

RESOLUTION NO. 2014-235

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2014 Part 7 Improvements consisting of Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th Avenue and Sanitary Sewer Connection District No. 2014-1 commencing at a point near the Kearney RV Park located at 315 Avenue M, northward and westward in an easement, Landon Street if extended, thence northward through Riverside Addition and Kreutz Addition to 4th Street, thence westward to Central Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$126,616.43 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$5,513,218.10</u>
Contract Sum To Date	5,513,218.10
Gross Amount Due	140,684.93
Retainage (10%)	14,068.49
Amount Due to Date	126,616.43
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	<u>\$ 126,616.43</u>

NOW, THEREFORE, BE IT RESOLVED by the Mayor 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 25TH DAY OF NOVEMBER, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7944 SELLING PART OF SOUTH RAILROAD STREET

The City recently deeded certain portions of old South Railroad Street to an adjacent property owner which covered a right-of-way that the City does not intend to use and to clear title. After the last Council meeting, we have been advised that there is an additional small portion that was not included in the earlier legal descriptions and which is necessary to clear title to that property. Therefore, one additional Quitclaim Deed will be necessary to terminate the City's interest in this right-of-way. This ordinance should accomplish relinquishing City right-of-way and transferring it to the adjacent property owner.

Council Member Nikkila introduced Ordinance No. 7944 selling part of South Railroad Street as it abuts Lot 774, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska to HBD Corporation, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7944 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7944 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7944 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7945 CREATING ARTICLE 30 ENTITLED RESTAURANT AND DRINKING PLACE OCCUPATION TAX TO CITY CODE

On November 4, 2014 the voters of Kearney approved a 1% Restaurant and Drinking Place occupation tax. The proceeds from this tax will be used to pay principal and interest on a ten-year bond issue that will be issued for the purpose of constructing a youth baseball and softball complex. The occupation tax will begin on February 1, 2015 and sunset on or before January 31, 2025 and will be imposed on each and every person, individual, partnership, association, organization, or corporation operating a restaurant or drinking place business within the City of Kearney. Examples of businesses subject to the tax include cafes, grills, bistros, delicatessens, coffee shops, bakeries, lunch counters, sandwich stands, grocery stores, convenience stores, supermarkets, arenas, bars, taverns, night clubs, and dance halls. Items that will be subject to the occupation tax include all edible refreshment or nourishment prepared for immediate consumption, whether solid, semisolid, or non-alcoholic liquid and are currently subject to the sales and use tax imposed by Article 22 of Chapter 3 of the Kearney City Code. As reimbursement for the cost of collecting the tax, businesses may deduct and withhold from the taxes due 2% of the amount paid to the City. It is estimated that this occupation tax will generate \$750,000 the first year and grow 3% per year thereafter.

Council Member Nikkila introduced Ordinance No. 7945 amending the Kearney City Code by adding a new Article 30 entitled "Restaurant and Drinking Place Occupation Tax" to Chapter 3 "Business Regulations" by providing a purpose; definitions; tax

imposed; collection of tax; return; tax cumulative; use of revenue; failure to file return; delinquency; assessment by Director of Finance; administration of Article; miscellaneous provisions; recovery of unpaid tax by action at law; suspension or revocation of licenses for failure to pay tax; hearing, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7945 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7945 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7945 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

There are no items.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Buschkoetter seconded by Clouse that Council adjourn at 5:49 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**