

Brookings City Council
April 27, 2021 (unapproved)

The Brookings City Council held a meeting on Tuesday, April 27, 2021 at 6:00 PM, at the City & County Government Building Chambers with the following City Council members present: Mayor Keith Corbett, Council Members Patty Bacon, Leah Brink, Joey Collins, Oepke Niemeyer, Holly Tilton Byrne, and Nick Wendell. City Attorney Steve Britzman, City Manager Paul Briseno, and City Clerk Bonnie Foster were also present.

6:00 PM REGULAR MEETING

Consent Agenda. A motion was made by Council Member Wendell, seconded by Council Member Collins, to approve the Consent Agenda. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

3.A. Action to approve the agenda.

3.B. Action to approve the March 23 and April 20, 2021 City Council Minutes.

3.C. Action on appointments to City Boards, Committees, and Commissions:

Airport Board: Reappoint Brian VanLiere (term expires 5/1/2026); Board of Adjustment: Appoint Jake Russell, 2nd Alternate position (term expires 1/1/2024); Library Board: Appoint Denise Hall (term expires 1/1/2024); Park & Recreation Board: Reappoint Doug Smith & Jay Larsen (terms expire 5/1/2024); Utility Board: Reappoint Tim Harvey (term expires 5/1/2026).

3.D. Action to abate property taxes in the amount of \$1,246.38 for Parcel #40180-00900-002-00, Verhoek Investments, LLC, Chad Verhoek, owner. Legal description: Lot 2, Block 9, Freeland Addition.

Recognition of Mayor Keith W. Corbett. Mayor Keith W. Corbett was recognized for his leadership to the City of Brookings in the following roles: City Council Member from May 2010-May 2017; Brookings Health Systems Board of Trustees from June 2013 - June 2018; Joint Powers Board from May 2015 - May 2016; Brookings Municipal Utilities Board from July 2010 - June 2012; BEDC Leaders Roundtable; Communities of Excellence; and as Mayor from May 2017 - May 2021. Deputy Mayor Patty Bacon presented Mayor Corbett with an American Flag in recognition of his years as City Council Member, and a gavel in recognition of his years as Mayor.

Presentation: South Dakota Resilient Communities. Heidi Gullickson, United Way Director, and City of Brookings Police Chief Dave Erickson presented to the City of Brookings a plaque recognizing the City of Brookings as a Resilient Community. The Resilient Communities South Dakota framework was created by the Center for the Prevention of Child Maltreatment and its partner organizations to help address factors in communities that put children at risk for abuse and neglect. It creates an environment that is trauma-informed, so community members understand the lifetime effects of experiencing childhood adversity. The process also identifies existing resources in the community that can be used to strengthen multi-sector collaborations and prevention efforts.

Presentation: Brookings Insights Performance Management System. Jake Meshke, Assistant City Manager, provided an overview and presentation on the Brookings Insights Performance Management System. Brookings Insights is an organization-wide performance management system that tracks key metrics in comparison to historical performance, national averages, and benchmarks as available. The chosen assortment of data points aligns with state and federal reporting metrics, professional association recommendations, and from peer communities utilizing best practices from across the country. Reviewing and analyzing data against historical performance, national averages, and established benchmarks highlights trends, tells the story of City operations, and sets the stage for continuous organizational improvement.

SDSU Report. Anna Shane, Government Affairs Chair for the SDSU Students Association, provided an update on SDSU happenings to the City Council and public.

Resolution 21-024. A motion was made by Council Member Wendell, seconded by Council Member Tilton Byrne, that Resolution 21-024 be removed from the Table. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 21-024, a Resolution Replacing the Mandatory Provisions set forth in Emergency Ordinance 21-013 with Recommendations to Address a Public Health Crisis and Slow the Spread of Coronavirus (COVID-19) in the City of Brookings, South Dakota, be approved. Public Comment: Cole Sartell, Bradley Walker, and Kelly Winger. The motion carried by the following vote: Yes: 6 - Corbett, Niemeyer, Bacon, Wendell, Tilton Byrne, and Collins No: 1 – Brink.

Resolution 21-024 - A Resolution Replacing the Mandatory Provisions set forth in Emergency Ordinance 21-013 with Recommendations to Address a Public Health Crisis and Slow the Spread of Coronavirus (COVID-19) in the City of Brookings, SD.

I.

Be It Resolved and Adopted by the City Council of the City of Brookings, State of South Dakota, as follows:

Whereas, the City of Brookings has the authority pursuant to SDCL 9-29-1 and SDCL 9-32-1 to pass ordinances and resolutions for the purpose of promoting the health, safety and general welfare of the community, and to do what may be necessary for the promotion of health or the suppression of diseases; and

Whereas, COVID-19 has been confirmed in more than 100 countries, including the United States; and

Whereas, COVID-19 is a continuing global pandemic. United States Supreme Court Chief Justice Roberts stated in a 2020 decision “people may be infected but

asymptomatic, [and] they may unwittingly infect others”; and

Whereas, the Centers for Disease Control and Prevention (CDC), the World Health Organization (WHO), medical and scientific associations and physicians continue to suggest individuals wear a face covering to slow the spread of COVID-19; and

Whereas, Ordinance 21-001 was adopted to continue necessary procedures to slow the rise of positive cases of COVID-19 and slow down the rate of infection, and therefore bore a real and substantial relationship to public health because the measures were recognized to be the best available procedures to slow the rate of transmission of COVID-19; and

Whereas, the current rate of infections and community spread of COVID-19 in Brookings, South Dakota, together with the increasing number of vaccinated residents of Brookings County and within the State of South Dakota, and the reduction of hospitalizations provide the basis for replacing the mandatory restrictions set forth in Ordinance 21-001 with the recommendations set forth in this Resolution; and

Whereas, the intent of this Resolution is to encourage the public to continue the safety measures provided in this Resolution which, outside of the vaccines, remain reasonable measures available to reduce the spread of COVID-19; and

Whereas, while many States and Cities have recently revised their COVID-19 safety protocols, the City of Brookings and many States and communities across the country continue to encourage the public to follow White House and CDC recommendations by restricting occupancy at bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate until the public health emergency is over; and

Whereas, the failure to follow reasonable recommendations, including social distancing would likely result in higher numbers of infected individuals and has the potential to threaten the capacity of the City's health care providers; and

Whereas, it is important that control measures, including use of face masks in indoor places, continue to be taken to reduce or slow down the spread of COVID-19 in order to protect the health and safety of the City's residents, especially seniors and those with underlying health conditions that make them particularly vulnerable to COVID-19; and

Whereas, the City of Brookings has been utilizing Ordinance 21-001 and subsequently Ordinance 21-013 to address the COVID-19 public emergency in the City of Brookings; and

Whereas, based on the number of cases in Brookings County, the number of current hospitalizations in the City, and the available modeling, the City Council believes the occupancy, social distancing and face covering restrictions set forth in

Ordinance 21-001 and subsequently Ordinance 21-013 can be replaced with similar recommendations which, while not mandatory, will reduce the potential for community spread of COVID-19 cases in the City and State.

Now, Therefore, the City Council of the City of Brookings makes the following recommendations:

1. Any businesses identified in Ordinance 20-005 may reopen or remain open to serve patrons on-site.
2. Businesses within the City of Brookings which are open to the public are encouraged to follow guidelines to slow the spread of COVID-19:
 - a) Establish a minimum six-foot distance between any tables. This provision does not need to be observed between members of the same household.
 - b) All businesses should collaborate with the City to identify their occupancy allowance and post it in a conspicuous location outside the building.
 - c) Restaurants, bars, and casinos should be limited to a maximum capacity of one-half ($\frac{1}{2}$) of their maximum posted capacity. Capacity should be posted at the front of the business.
 - d) All restaurants, food trucks and bars should disinfect or dispose of all menus before and after use by each customer. Condiment containers should be cleaned/disinfected between each group and should not be shared among multiple groups. Salad bars and self-service buffets are permitted, but not recommended.
 - e) Grocery stores, retail businesses, recreation and fitness businesses should be limited to a maximum capacity of one-half ($\frac{1}{2}$) of their maximum posted capacity. Capacity must be posted at the front of the business.
 - f) Businesses should require social distance spacing while customers or patrons are waiting for service or entry into a business. Spacing may be accomplished by requiring people to remain in their vehicles.
 - g) In retail and grocery businesses, businesses should install a plexiglass, or similar divider where physically possible between the cashier and customer.
 - h) Businesses should require employees to wash hands at regular intervals.
 - i) Restaurant and bar (those businesses with an alcoholic beverage license) staff and employees should wear masks which cover the employee's nose and mouth.
 - j) In casinos, video lottery machines should be cleaned and disinfected between each customer.
 - k) Staff and employees of hair salons, nail and tanning salons, spas and barber shops should wear masks which cover their nose and mouth during customer contact times. Customer seating should be at least six (6) feet apart.
 - l) In gyms and fitness facilities, any equipment and/or exercise mats should be cleaned or disinfected between each use.
 - m) Customer seating in theaters and similar businesses should be reduced to

- allow for social distancing, with certain seats marked as “not available due to social distancing guidelines” to ensure compliance.
- n) Hand sanitizer locations readily available for public use should be made available at grocery stores and retail businesses.
 - o) Enhanced cleaning/disinfecting requirements should be used for motel and hotel rooms.
 - p) Seating for large gatherings should be reduced to comply with a six-foot minimum distance between attendees.
 - q) Businesses are encouraged to conduct daily employee screenings for illness.
 - r) Businesses are encouraged to post signage outside of their facility that encourages customers to wear face coverings and to not enter if they are not feeling well or have COVID-19 symptoms.
 - s) Businesses are encouraged to develop risk mitigation strategies for restrooms or other areas where social distancing requirements are likely to be compromised.
 - t) Certain businesses (e.g. gym, recreation facilities, casinos, etc.) are encouraged to have customers wipe down their equipment/machines before and after use. However, businesses are recommended to ensure proper cleaning and disinfecting of equipment and surfaces potentially touched by customers and patrons is occurring.
 - u) Businesses, particularly salons, barber shops, and spas are encouraged to provide service on an appointment-only basis to ensure proper social distancing and hygiene practices are met.
 - v) Masks should be worn at city-sanctioned events. Masks which cover a person's nose and mouth should be required for all persons attending or working at events which require a City permit when a minimum of six – foot distance cannot be maintained or achieved.
 - w) Masks should be worn when obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee thereof or a health care provider.
 - x) Masks should be worn while riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle.
3. The following individuals are exempt from wearing masks or other face coverings:
- a) Persons age five years or under; Children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - b) Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - c) Persons who are deaf or hard of hearing, or when communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
 - d) Persons for whom wearing a face covering would create a risk to the person

related to their work, as determined by local, state, or federal regulations or workplace safety guidelines;

- e) Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - f) Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a six-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
 - g) Athletes and participants who are engaged in an organized sports activity that allows athletes to maintain a six-foot distance from others with only infrequent or incidental moments of closer proximity;
 - h) Persons who are engaged in an activity that a professional or recreational association, public regulatory entity, medical association, or other public health oriented entity has determined cannot be safely conducted while wearing a mask or other face covering and where other protections and precautions are established and utilized;
 - i) Persons attending educational institutions where the public and private schools through 12th grade, colleges, and universities have implemented protections to slow the spread of COVID-19;
 - j) Persons engaged in church and activities within religious places of worship, including preschools, social halls and chapels within church facilities, which may implement their own protections.
4. In addition to the specific recommendations listed above, businesses are encouraged to operate in a manner consistent with the most recent CDC guidelines and any applicable state regulations and the South Dakota Governor's Executive Orders. CDC guidelines continue to recommend use of face coverings where social distancing cannot be maintained.
 5. The City encourages all members of the public within the City of Brookings to continue to follow the CDC guidelines and recommended hygiene practices, including, but not limited to, engaging in social distancing, and wearing masks when outside their homes wherever possible.
 6. Because this Resolution contains recommendations and not mandatory COVID-19 safety measures, businesses are no longer required to request administrative exceptions from the City to modify the strict compliance with these recommendations. The City will no longer require that businesses implement social distancing, or that Business are required to comply with the recommendations set forth in this Resolution or the CDC guidelines.
 7. This Resolution contains recommendations, and while adherence to the recommendations is requested in the public interest, there is no penalty for any person or business who cannot or chooses not to comply with any of the recommendations contained in this Resolution.

8. The recommendations set forth herein may not be applicable to the following entities which have their own specific COVID-19 restrictions:
 - a) Health care facilities, residential care facilities, congregate care facilities, and correctional facilities.
 - b) Crisis shelters, homeless shelters, and other similar institutions.
 - c) Any emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster.
 - d) Official meetings of the city, schools, county or state.
 - e) The operations and meetings of any state or federal courts.
 - f) Educational institutions where public and private schools through 12th grade, colleges, and universities have implemented protections to slow the spread of COVID-19.
 - g) Places of worship.
 - h) Any and all polling places, including absentee voting and Election Day polling places, as well as all locations for processing absentee ballots and counting ballots. All polling places for absentee and Election Day voting shall remain open at all times.
9. This Resolution shall remain in effect for a period of sixty (60) days, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the City Council.
10. Enforcement – This Resolution contains only safety recommendations to reduce the spread of COVID-19, and there will be no penalty or enforcement actions which stem from noncompliance with the recommendations provided in this Resolution.
11. Ordinance, 21-001 as subsequently amended by Ordinance 21-013, shall expire at the earliest date permitted by law, and until it expires, its requirements will be considered recommendations.
12. Face Masks/Face Coverings Recommended. Within the City of Brookings, it is recommended, but not required, that all persons except those under the age of five (5) and those with a medical condition, mental health condition, or disability that makes it unreasonable for the individual to maintain a face covering, wear a face mask/face covering in indoor businesses and indoor public places where six (6) foot social distancing cannot be achieved or maintained. A "face covering" or "mask" must be worn to cover the nose and mouth completely, and can include a paper or disposable face mask, a cloth mask, a scarf, a bandanna, or neck gaiter.

II.

Be It Further Resolved that pursuant to SDCL 9-19-13, this resolution is adopted to address a public health emergency and is necessary for the immediate preservation of

the public peace, health, safety and welfare of the City and shall become effective immediately upon passage and publication.

Resolution 21-037. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 21-037, a Resolution Rejecting Bids on 2021-01SWR, Sidewalk Maintenance Project, be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-037 - Resolution Rejecting Bids on
Project 2021-01SWR Sidewalk Maintenance Project

Whereas, the City of Brookings opened bids for Project 2021-01SWR, Sidewalk Maintenance Project on Tuesday, April 20, 2021 at 1:30 pm at the Brookings City & County Government Center; and

Whereas, the City of Brookings received the following bid for the 2021-01SWR Sidewalk Maintenance Project: Clark Drew Construction, Inc. - \$89,580.00; and

Whereas, the low bid was approximately 66% higher than the Engineer's Estimate. Now, Therefore, Be It Resolved that the total low bid of \$89,580.00 for Clark Drew Construction, Inc. be rejected.

Resolution 21-038. A motion was made by Council Member Brink, seconded by Council Member Wendell, that Resolution 21-038, a Resolution Rejecting Bids on 2021-05STI, Concrete Maintenance Project, be approved. Public Comment: Kesmond Willert. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-038 - Resolution Rejecting Bids on
Project 2021-05SWR Concrete Maintenance Project

Whereas, the City of Brookings opened bids for Project 2021-05SWR Concrete Maintenance Project on Tuesday, April 20, 2021 at 1:30 pm at the Brookings City & County Government Center; and

Whereas, the City of Brookings received the following bid for the 2021-05SWR Concrete Maintenance Project: Schedule A: Timmons Construction, Inc. - \$539,933.78; Schedule B: \$115,656.00; Total Bid: \$655,589.78; and

Whereas, the low bid was approximately 40% higher than the Engineer's Estimate.

Now, Therefore, Be It Resolved that the total low bid of \$655,589.78 for Timmons Construction be rejected.

Resolution 21-036. A motion was made by Council Member Brink, seconded by Council Member Bacon, that Resolution 21-036, a Resolution Awarding Bids on Project

2021-08STI Street Maintenance and Overlay Project, be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-036 - Resolution Awarding Bids on
Project 2021-08STI Street Maintenance and Overlay

Whereas, the City of Brookings opened bids for Project 2021-08STI, Street Maintenance and Overlay Project on Tuesday, April 20, 2021 at 1:30 pm at the Brookings City & County Government Center; and

Whereas, the City of Brookings has received the following bids for the 2021-08STI Street Maintenance and Overlay Project: Schedule A: Bowes Construction - \$1,359,453.64 and Asphalt Surfacing Company - \$1,563,522.16; Schedule B: Bowes Construction - \$104,526.50 and Asphalt Surfacing Company - \$124,909.70; Schedule C: Bowes Construction - \$10,368.75 and Asphalt Surfacing Company - \$10,743.00; Schedule D: Bowes Construction - \$119,770.25 and Asphalt Surfacing Company - \$169,365.95; Schedule E: Bowes Construction - \$96,391.83 and Asphalt Surfacing Company - \$104,331.95; Total Bid: Bowes Construction - \$1,690,510.97 and Asphalt Surfacing Company - \$1,972,872.76.

Now, Therefore, Be It Resolved that the total low bid \$1,690,510.97 for Bowes Construction Co., Inc. be accepted.

Resolution 21-040. A motion was made by Council Member Wendell, seconded by Council Member Collins, that Resolution 21-040, a Resolution Awarding Bids on Airport Pavement Maintenance / Rehabilitation Project, AIP #3-46-0005-034-2021, be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-040 - Resolution Authorizing the City Manager to Sign Bid Award and Grant Documents for Brookings Airport Pavement Maintenance/Rehabilitation Project
No. AIP #3-46-0005-034-2021

Whereas, the Brookings City Council desires South Dakota Department of Transportation assistance with the Brookings Regional Airport Project 3-46-0005-034-2021; and

Whereas, the City of Brookings desires the Airport Pavement Maintenance / Rehabilitation Project that will include crack sealing, seal coat, mill and overlay of a portions of runway 17/35, and runway and taxiway pavement markings; and

Whereas, the City of Brookings opened bids for the project on Tuesday, April 20, 2021 at 1:30 pm at the Brookings City and County Government Center and received the following bids: Fahrner Asphalt Sealers - \$174,882.66, Astech Corp - \$182,353.00,

American Road Maintenance - \$190,900.00, Gee Asphalt - \$217,430.00, Maxwell Asphalt, Inc. - \$264,975.00.

Now, Therefore, Be It Resolved that the tentative award for AIP Project #3-46-0005-34-2021, Airport Pavement Maintenance Project is made to Fahrner Asphalt Sealers, for the low bid of \$174,882.66, contingent upon receipt and approval of a Good Faith DBE Effort and receipt of an FAA Grant Offer, and the Brookings City Manager is authorized to sign the FAA Grant Offer, Grant Agreement and all necessary paperwork for the Contract Documents.

FIRST READING – Ordinance 21-015. An introduction and first reading was held on Ordinance 21-015, an Ordinance rezoning 21625 471st Avenue, from a Joint Jurisdiction Agriculture (JJ-A) District and Joint Jurisdiction Residence (JJ-R1B) Single-family District to a Joint Jurisdiction Business (JJ-B3) Heavy District. Public Hearing: May 11, 2021.

FIRST READING – Ordinance 21-016. An introduction and first reading was held on Ordinance 21-016, an Ordinance amending Chapter 51, Subdivision Regulations, Pertaining to Section 51-42, 51-64, and 51-65. Public Hearing: May 11, 2021.

FIRST READING – Ordinance 21-017. Introduction and First Reading on Ordinance 21-017, an Ordinance repealing Section 94-165 - SDSU Campus Edge Neighborhood Design Review Overlay District and replacing it with Commercial Corridor Design Review Overlay District. Public Hearing: May 11, 2021.

Ordinance 21-008. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Ordinance 21-008, an Ordinance Authorizing Supplemental Appropriation #3 to the 2021 Budget - Parts 1,2 & 3, be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Ordinance 21-009. A public hearing was held on Ordinance 21-009, an Ordinance Amending Article II of Chapter 22 of the Code of Ordinances of the City of Brookings and pertaining to the Adoption of the 2018 International Building Code, the 2018 International Residential Code, the 2018 International Mechanical Code, the 2018 International Fire Code, and the 2018 International Existing Building Code with certain Amendments thereto. A motion was made by Council Member Wendell, seconded by Council Member Niemeyer, that Ordinance 21-009 be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Temporary Alcohol Application. A public hearing was held on a Temporary Alcohol Application from the Brookings Cubs Baseball Group for a temporary alcohol license to operate within the City of Brookings, South Dakota for the Brookings Cubs Baseball Game Season to be held on at Bob Shelden Field, 530 Elm Avenue. A motion was made by Council Member Tilton Byrne, seconded by Council Member Collins, that the

Temporary Alcohol Application be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-035. A public hearing was held on Resolution 21-035, a Resolution authorizing the City Manager to enter into an Operating Agreement for an On-Sale Liquor Operating Agreement for Fergen Enterprises, Inc., dba Ray's Corner, Mike Fergen, owner, 401 Main St. (Legal description change) Legal description: East 119 feet of Lot 1, Lot 2, Block 6, Original Plat Addition. A motion was made by Council Member Brink, seconded by Council Member Tilton Byrne, that Resolution 21-035 be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-035 - Fergen Enterprises, Inc., dba Ray's Corner
On-Sale Liquor Operating Agreement

Now, Therefore, Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Lease Agreement for the Operating Liquor Management Agreement for Liquor between the City of Brookings and Fergen Enterprises, Inc., dba Ray's Corner, Mike Fergen, owner, for the purpose of a liquor manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 401 Main Avenue: legal description: East 119 feet of Lot 1, Lot 2, Block 6, Original Plat Addition.

Now, Therefore, Be It Further Resolved that the City Manager be authorized to execute the Agreement on behalf of the City, which shall be for a period of five (5) years and renewal for another five (5) years.

On-Off Sale Malt License. A public hearing was held on a request for an On-Off Sale Malt License, with video lottery, for Fergen Enterprises, Inc., dba Ray's Corner, Mike Fergen, owner, 401 Main Ave., Suite B, legal description: East 119 feet of Lot 1, Lot 2, Block 6, Original Plat Addition, Suite B. Pending permit issuance and final inspection per the Community Development Dept. A motion was made by Council Member Niemeyer, seconded by Council Member Tilton Byrne, that the On-Off Malt License be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Video Lottery Request. A public hearing was held on a request for Video Lottery for Fergen Enterprises, Inc., dba Ray's Corner, Mike Fergen, owner, 401 Main Avenue. Legal description: East 119 feet of Lot 1, Lot 2, Block 6, Original Plat Addition, Suite B. Pending permit issuance and final inspection per the Community Development Dept. A motion was made by Council Member Wendell, seconded by Council Member Tilton Byrne, that the Video Lottery request be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-032. A public hearing was held on Resolution 21-032, a Resolution amending the 2040 Comprehensive Plan's Future Land Use Map. A motion was made

by Council Member Tilton Byrne, seconded by Mayor Corbett, that Resolution 21-032 be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-032 - A Resolution Amending the Brookings, South Dakota
Comprehensive Plan 2040

Whereas, the Comprehensive Plan provides a Major Street Plan Map, identifies a Future Land Use Map, projects population figures for the planning period, and describes an integrated land use vision for the City; and

Whereas, the owner of property legally described as Tract 1 of Mendel Family Addition to the City of Brookings, Brookings County, South Dakota wishes to amend the Future Land Use Map for the described area from Medium Density Residential (MDR) to Urban Medium Intensity (UMI); and

Whereas, the City Council of the City of Brookings, SD held a public hearing in accordance with SDCL 11-6-18 on the proposed amendment to the Future Land Use Map of the Brookings, South Dakota Comprehensive Plan 2040; and

Whereas, the City Planning Commission of the City of Brookings, SD has recommended approval of the amendment to the Future Land Use Map of the Brookings, South Dakota Comprehensive Plan 2040 in accordance with SDCL 11-6-17;

Now Therefore, Be It Resolved that said amendment to the Future Land Use Map of the Brookings South Dakota Comprehensive Plan 2040 is hereby adopted by the City of Brookings.

Preliminary Plat. A motion was made by Council Member Collins, seconded by Council Member Brink, that the Preliminary Plat for Lots 1-7, Block 1 in Moriarty Square Addition be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-033. A motion was made by Council Member Brink, seconded by Council Member Tilton Byrne, that Resolution 21-033, a Resolution Adopting the Brookings Historic Preservation Plan, be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-033 - A Resolution Adopting the Brookings Historic Preservation Plan

Whereas, the City Council of the City of Brookings, SD held a public hearing on the proposed Brookings Historic Preservation Plan for the City; and

Whereas, the Historic Preservation Plan provides goals, policies, and strategies for preserving the historic resources of the community; and

Whereas, the Brookings Historic Preservation Commission has recommended approval of the Brookings Historic Preservation Plan.

Now, Therefore, Be It Resolved that the Brookings Historic Preservation Plan is hereby adopted for the City of Brookings, with said plan to supersede the previous Brookings Historic Preservation Plan 1999. The Brookings Historic Preservation Plan shall be on file in the office of the City Clerk and is available for public inspection by any interested person.

Resolution 21-028. A motion was made by Council Member Brink, seconded by Council Member Niemeyer, that Resolution 21-028, a Resolution authorizing the Modification of the Interest Rate on the Certificates of Participation (Brookings Health System Project), Series 2013 and Certificate of Participation (Brookings Health System Project), Series 2015B, be approved. The motion carried by the following vote: Yes: 7 - Corbett, Niemeyer, Brink, Bacon, Wendell, Tilton Byrne, and Collins.

Resolution 21-028 - Authorizing the Modification of the Interest Rate and Payment Schedule Regarding the Lease Agreement Dated July 19, 2013; the Certificates of Participation (Brookings Health System Project), Series 2013; the Lease Agreement Dated November 18, 2015; and Certificates of Participation (Brookings Health System Project), Series 2015B; and Authorizing the Execution of such Documents are necessary to carry out the Modification.

Whereas, the City of Brookings (the "City") is a duly organized South Dakota municipality with the power to establish, construct, purchase, and maintain hospitals, medical clinics, nursing facilities and homes for the aged (collectively the "Brookings Health System"); and

Whereas, the City has the power pursuant to SDCL Chapters 34-9 and 9-12 to lease and lease-purchase real and personal property; and

Whereas, the City had a Lease-Purchase Agreement, dated as of October 1, 2012 and a Lease- Purchase Agreement Date November 18, 2015 (collectively the " Leases") with First Bank & Trust, Brookings, South Dakota, as Trustee;

Whereas, the Trustee has executed and delivered a Declaration of Trust, dated as of October 1, 2012 and November 18, 2015 (the Trust Agreements), joined in by the City, pursuant to which is has issued Certificates of Participation in the lease payments to be made by the City under the Leases, Series 2013 and Series 2015 (collectively the "Certificates");

Whereas, the Hospital has negotiated a lowering of the interest rate on the Leases and Certificates.

Now, Therefore, Be It Resolved by the City Council of the City of Brookings as follows: Section 1. Declaration of Necessity. The governing body of the City in accordance

SDCL §§ 6-8B-30 through 6-8B-52, does hereby declare a necessity and in the best interests of the City to modify the interest rate on the Certificates to be dated and effective April 1, 2021, which will reduce the debt service costs.

Section 2. Authorization and Approval of Transactions. Subject to the terms and conditions set forth herein, the City hereby (i) authorizes or approving modification of the interest rates on the Leases and Certificates; (ii) authorizes or approves the execution of supplemental Trust Agreements for the purpose of issuing such modification of the Certificates, and (iii) authorizing the execution of an amendment to the Leases to provide for Lease Payments at least sufficient to pay amounts representing principal, premium, if any, and interest with respect to the Certificates then to be Outstanding.

Section 3. Approval of Documents and Legal Description. The Mayor, Finance Officer and City Clerk (the "Authorized Officers") are hereby authorized and empowered for and on behalf of the City to approve and execute (i) the Certificates; (ii) the supplemental Trust Agreements, and (iii) the amendment to the Leases.

Section 4. Tax Matters. The City covenants and agrees with the registered owners from time to time of the Leases and Certificates that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest component or interest on the Leases or Certificates to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the basic interest on the Certificates will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 5. Miscellaneous. Each Authorized Officer and any other agent or employee of the City is hereby authorized and empowered to take such other actions and execute and deliver such other instruments and agreements, including appropriate tax certifications and other closing certificates, as may be necessary or appropriate for the purposes of consummating the transactions contemplated herein, the necessity therefor and the appropriateness thereof to be evidenced conclusively by any such Authorized Officer's taking any such action or executing and delivering any such instrument, agreement or certificate and all actions taken heretofore and hereafter pursuant to the authority hereof are hereby authorized, ratified and approved for and as the actions of the City.

Section 6. Incontestability. Pursuant to SDCL 6-8B-30 through 6-8B-52, the Leases and Certificates are incontestable for any reason after delivery for value.

Section 7. Conflicting Resolutions Repealed. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Progress Report. Jacob Meshke, Assistant City Manager, provided a progress report highlighting the City's activities and projects to the City Council and public.

Adjourn. A motion was made by Council Member Wendell, seconded by Council Member Brink, that the meeting be adjourned at 7:30 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS

ATTEST:

Keith W. Corbett, Mayor

Bonnie Foster, City Clerk