

BROOKINGS CITY COUNCIL
February 10, 2026 (unapproved)

The Brookings City Council held a meeting Tuesday, February 10, 2026 at 6:00 PM, at the Brookings City & County Government Center, Chambers, with the following City Council members present: Mayor Oepke Niemeyer, and Council Members Wayne Avery, Brianna Doran, Lisa Hager, Bonny Specker, Holly Tilton Byrne, and Nick Wendell. City Manager Paul Briseno, City Attorney J. Vince Jones, and City Clerk Bonnie Foster were also present.

Agenda. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that the agenda be approved. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

Consent Agenda. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that the consent agenda be approved. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

A. Action to approve the January 27, 2026 City Council Minutes.

B. Action to abate the 2025 Drainage Fee in the amount of \$75.84, for Parcel #40494-00300-004-05.

C. Action to abate the 2025 Drainage Fee in the amount of \$75.84, for Parcel #40340-00200-001-00.

D. Action to abate the 2025 Drainage Fee in the amount of \$75.84, for Parcel #40340-00100-001-00.

E. Action to abate Property Taxes in the amount of \$2,409.53 for Parcel #04000-11049-291-00.

F. Action to abate Property Taxes in the amount of \$38.04 for Parcel #40071-00100-002-00.

G. Action on Temporary Alcohol / Special Event Alcoholic Beverage Licenses from existing alcohol license holders: Sodexo Catering (License Holder RB-28249 and RW-28251): SDSU TL26-026, SDSU TL26-025, SDSU TL26-024, SDSU TL26-023, SDSU TL26-022, SDSU TL26-027, SDSU TL26-028, SDSU TL26-029, SDSU TL26-030, SDSU TL26-031, SDSU TL26-032, SDSU TL26-033. Wooden Legs Brewing Co. (License Holder RB-19577 and RW-23484): CITY TL26-009.

H. Action to cancel the February 17, 2026 City Council Study Session.

Special Presentation: Brookings High School HOSA Students. Amelia Wendell and Lauryn Bortnem, members of the Brookings High School HOSA (Health Occupations Students of America) shared the recently launched hygiene drive for students.

Report: SDSU Student Association. Anna Hundt, SDSU Student's Association Government Affairs Chair, provided an update on SDSU current affairs.

Report: City Council Ex-Officio Report. A Brookings Municipal Utility Board

report was not given. A Brookings Health Systems Board of Trustees report was given by Council Member Doran. Council Member Wendell provided an update on the Brookings Regional Growth Alliance.

Resolution 26-018. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 26-018, a Resolution authorizing Change Order No. 1 for 2025-04STI 20th Street South Shared-Use Path, be approved. The motion passed by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

RESOLUTION 26-018 - RESOLUTION AUTHORIZING CHANGE ORDER #1 FOR PROJECT 2025-04STI, 20th STREET SOUTH SHARED-USE PROJECT

WHEREAS, the City of Brookings opened bids for the 2025-04STI 20th Street South Shared-Use Path on Tuesday, June 3, 2025 at 1:30 pm at the Brookings City and County Government Center; and

WHEREAS, the City of Brookings awarded Timmons Construction, Inc. the contract for 2025-04STI 20th Street South Shared-Use Path project for their low bid of \$461,337.17 at the June 10, 2025 City Council Meeting; and

WHEREAS, the adopted budget for this project is \$650,000, which includes design, construction, testing, and strategic communications; and

WHEREAS, staff is proposing Change Order #1 in the amount of \$81,180.48 for work associated with: 1) supplemental paving and embankment stabilization at the southeast corner of 20th Street South and Medary Avenue; and 2) additional gravel placement to adequately cover the installed storm sewer; and 3) additional concrete work surrounding storm sewer inlets; and

WHEREAS, the overall project cost will remain under the original budget amount by \$13,827.35.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That Change Order 1 totaling \$81,180.48 for additional work be approved; and
2. The City Manager is authorized to sign the change order.

Resolution 26-015. A public hearing was held on Resolution 26-015, a Resolution authorizing the City Manager to enter into a 10-year On-Sale Liquor Operating Agreement with Murdo Properties, LLC dba Macs Eastside Grill LLC, owner Al Kurtenbach. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 26-015 be approved. Public Comment: Al Kurtenbach. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

RESOLUTION 26-015 - ON-SALE LIQUOR OPERATING AGREEMENT –

10-YEAR AGREEMENT / Murdo Properties LLC, dba Macs Eastside Grill

BE IT RESOLVED by the City of Brookings, South Dakota, that the City Council hereby approves an Operating Alcohol Management Agreement for Liquor between the City of Brookings and owner Al Kurtenbach, Murdo Properties LLC, dba Macs Eastside Grill, for the purpose of an alcohol manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 631 32nd Avenue. Legal description: SE Corner of Block 1, Wiese Addition, City of Brookings, Brookings County, South Dakota.

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 10-years, with a 5-year mid-term renewal.

Ordinance 26-003. A public hearing was held on Ordinance 26-003, an Ordinance Amending Chapter 70 - Solid Waste, of the Code of Ordinances of the City of Brookings, South Dakota. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Ordinance 26-003 be approved. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

Ordinance 26-004. A public hearing was held on Ordinance 26-004, an Ordinance to Change the Zoning Within the City of Brookings (Lot 1 of Clark 2nd Addition from an Agricultural A District to an Industrial I-1 Light District). A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Ordinance 26-004 be approved. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

Ordinance 26-005. A public hearing was held on Ordinance 26-005, an Ordinance to Change the Zoning Within the City of Brookings (Block 1 of Mills Third Addition, Excluding H1 & H2 from a Residential R-3A Apartments/Mobile Homes/Manufactured Housing District to a Business B-2 District). A motion was made by Council Member Tilton Byrne, seconded by Council Member Doran, that Ordinance 26-005 be approved. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

Resolution 26-007. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 26-007, a Resolution authorizing the City Manager, or his designee, to execute a Termination Agreement with Henry Carlson Construction LLC and directing staff to issue a Request for Proposal for Construction Manager at Risk, be approved.

A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 26-007 be amended by removing Item B (City staff are directed to proceed with the issuance of a new RFP for CMAR services related to the construction of a Police and Fire Facility). The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

A motion was made by Mayor Niemeyer, seconded by Council Member Tilton Byrne, to revisit Resolution 26-007, a Resolution authorizing the City Manager to Terminate an Agreement with Henry Carlson Construction, LLC and Directing Staff to Issue a Request for Proposal for Construction Manager at Risk Services (revisiting the Resolution in its original presentation). The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

A motion was made by Council Member Tilton Byrne, seconded by Council Member Specker, that Resolution 26-007 Item B be amended as: City Staff are directed to proceed with the issuance of a new RFP for CMAR services related to the construction of a Police Department Facility, and conduct a public bid process for the Fire Department Facility. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

A motion was made by Mayor Niemeyer, seconded by Council Member Tilton Byrne, that Resolution 26-007 be approved as amended. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

**RESOLUTION 26-007 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO
TERMINATE AN AGREEMENT WITH HENRY CARLSON CONSTRUCTION, LLC AND
DIRECTING STAFF TO ISSUE A REQUEST FOR PROPOSAL FOR CONSTRUCTION
MANAGER AT RISK SERVICES**

BE IT RESOLVED by the City Council of the City of Brookings, South Dakota, as follows:

WHEREAS, in 2022 the City of Brookings, through a Request for Proposal (RFP) process, retained Henry Carlson Construction, LLC, for Construction Manager at Risk (CMAR) services in April of 2022; and

WHEREAS, the scope of the work stated in the 2022 RFP has changed as the City is now considering the construction of separate Police and Fire facilities, versus a combined Public Safety Facility; and

WHEREAS, the City desires to solicit new proposals based on the change of scope.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Brookings, South Dakota, as follows:

- A. That the City Manager or his designee is authorized to execute a termination agreement with Henry Carlson Construction LLC; and
- B. City staff are directed to proceed with the issuance of a new RFP for CMAR services related to the construction of a Police Department Facility, and conduct a public bid process for the Fire Department Facility.

Resolution 26-017. A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 26-017, a Resolution amending the adopted procedures related to Construction Manager at Risk projects, be approved.

A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 26-017 be amended, removing the Fire Facility reference. Public Comment: Randy Hansen. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

A Friendly Amendment was made to proceed with the Fire Department Facility as a public bid process, and the Police Department Facility as a CMAR process. The amendment failed by the following vote: No: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

A motion was made by Council Member Tilton Byrne, seconded by Council Member Wendell, that Resolution 26-017 be approved as amended. The motion carried by the following vote: Yes: 7 - Avery, Doran, Hager, Niemeyer, Specker, Tilton Byrne, and Wendell.

RESOLUTION 26-017 - A RESOLUTION AMENDING PROCEDURES FOR CITY OF BROOKINGS CONSTRUCTION MANAGER-AT-RISK PROJECTS

BE IT RESOLVED by the City Council of the City of Brookings, South Dakota as follows:

Section 1. Purpose.

In order to comply with State law requirements for construction manager-at-risk ("CMAR") projects, the City of Brookings adopts these procedures and will select CMAR firms to provide construction management services for authorized projects in accordance with the following procedures:

Section 2. Findings and Determinations.

The City of Brookings makes the following determinations:

- a. It is in the City's interest to utilize the services of a construction manager for construction of the Brookings Police Department Facility, and future projects expressly authorized by resolution of the City Council; and
- b. That the construction management services would not unreasonably duplicate and would be in addition to the normal scope of separate architect or engineer contracts concerning the construction of authorized projects; and
- c. The construction manager shall be a CMAR and be solicited through a qualification-based request for proposals method of procurement as provided in SDCL § 5-18B-44. The CMAR, for any actual construction contracted by the CMAR to be performed on the project shall provide payment and performance bonds and competitive bids for the work as required by any statute governing bidding and bonding for public improvement projects.

Section 3. Definitions.

For purposes of these procedures, the following definitions apply:

- a. "City" means the City of Brookings.
- b. "CMAR" means construction manager-at-risk
- c. "Department" is defined as any department of the City of Brookings, including the Dacotah Bank Center.
- d. "Firm" is defined as any individual, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice construction contracting in the State of South Dakota.
- e. "Project" is defined as that project described in the public announcement.

Section 4. Minimum Qualification Requirements for Firms Providing CMAR Services.

Firms providing CMAR services shall be registered with the Department of Revenue prior to contract award. Where required by State law, the CMAR shall be able to provide construction management services by licensed or registered individuals.

Section 5. Public Announcement Procedures.

Except in emergency situations, the Department will publish an announcement in accordance with SDCL §5-18B-1. The announcement will set forth a general description of the project requiring construction management services and will define the time frame and procedures for interested qualified firms to apply for consideration. The public announcement will further state whether construction management firms will be pre-qualified for the project.

Section 6. Request for Proposals.

- 1) The City will prepare a Request for Proposal ("RFP"). The RFP developer may be either a private firm retained by the City or may be a staff member of the City. The RFP developer is prohibited from being part of the bidding entity. The RFP may include the following:
 - Background and Description of the project
 - Preliminary Project Schedule
 - Outline of CMAR Best Value selection process and timeline
 - Detailed description of the scope of services for each phase of the project
 - RFP evaluation criteria and requirements of RFP response
- 2) The purpose of the RFP is to furnish sufficient information for firms to prepare qualitative proposals and price proposals. The firm submitting the successful proposal shall develop a detailed proposal based on the criteria in the RFP. All Requests for Proposals shall also comply with the City's Purchasing Policy Guide.

Section 7. Evaluation Criteria for Shortlisting Construction Management Firms.

The City's selection committee will review proposals from all candidate firms and shortlist no more than three firms who will be invited to be interviewed. Shortlisting will be based the following qualifications:

- a. Company background

- b. Applicable and relevant experience and education of proposed key team members Team / personnel experience working together and on similar projects
- c. Project approach including working in South Dakota on CMAR projects for public
- d. sector clients Demonstrated knowledge of the local and regional subcontractor market
- e. To be considered for the shortlist selection, the firm must demonstrate the ability to provide a performance and payment bond as described in the RFP.

Section 8. Criteria for Selecting Construction Manager Firm.

The City's selection committee will rely on the information contained and presented in the proposals, interviews, and reference checks in making the decision to select the best value and the most qualified firm to provide services for this project. Selection criteria will be based on:

- a. Experience, qualifications, and availability of proposed team leaders
- b. Broader team structure
- c. History of project team working together
- d. Technical work process
- e. Proposal, interview and response
- f. Price Proposal

Section 9. Construction Manager-at-Risk Proposal Requirements.

(1) The RFP shall outline proposal submittal requirements including but limited to the following:

- a. Letter signed by an individual authorized to commit the proposed team to the scope of work proposed consortiums, joint ventures, or teams submitting proposals must establish contractual responsibility solely with one company or one legal entity. Each submittal should indicate the entity responsible for execution on behalf of the proposal team.
- b. Identification of proposed team members with proposed roles and responsibilities.
- c. Project approach and management capabilities.
- d. Relevant project experience
- e. Statement from a surety company authorized to do business in South Dakota indicating the firm(s) bonding capacity and ability to obtain a performance and payment bond in the amount specified in the RFP.
- f. Certification statement that proposal response will remain in effect for 30 days, and all representations stated in the Response to RFP are true and accurate, and
- g. acknowledge that all costs associated with preparation of the Response to RFP will be the responsibility of the proposing CMAR.

(2) Each firm submitting a proposal shall submit a Qualitative Proposal and a Price Proposal. Proposals shall be segmented into two packages;

- Qualitative Proposal. A qualitative proposal shall include management plan, schedule, and other data requested in response to the RFP. Qualitative proposals shall be submitted in a sealed package, which identifies the project and the construction management firm on the outside of the package. Each firm

shall place the words “QUALITATIVE PROPOSAL” on the outside of the package.

- Price Proposal. Price proposals shall include CMAR fee per phase of the project, a detailed description of management staff general conditions, a detailed description of certain reimbursable general conditions and other cost related questions that pertain the performance of the requested scope of services. Each firm shall submit its price proposal in a separate sealed package. Each firm shall place the words “PRICE PROPOSAL” on the outside of the package.

Section 10. Negotiating Owner / Construction Manager at Risk Agreement and Preservation of Confidential Information.

The procedures for negotiations between the City of Brookings and those submitting proposals prior to the acceptance of a proposal are as follows: Upon completion of the interviews, the firms will be ranked. The City will start negotiations of the contract with the highest-ranking firm. If an agreement for services cannot be reached with the highest ranked firm, the City will move to the second ranked firm. The same process will be repeated with the other ranked firms if no such agreement can be reached. The City reserves the right to not select a firm as part of this process if an agreement cannot be reached with the interviewed firms.

The procedures shall also contain safeguards to preserve confidential information and proprietary information supplied by those submitting proposals consistent with §5-18B-34, which are as follows: Until a proposal is accepted, information in the proposal remain the property of the person making the proposal. The City will make reasonable efforts to maintain the secrecy and confidentiality of any proposal and all information contained in any proposal and the City will not disclose any proposal or the information contained in a proposal to the CMAR's competitors. The City will not disclose, except as may be permitted pursuant to Chapter 1-27, confidential and proprietary information contained in any proposal to the public until such time as the City takes final action to accept a proposal.

Section 11. Emergency Procedures.

The procedures for awarding construction management firm contracts in the event of public emergencies as defined in § 5-18A-9 are as follows: The City may make an emergency procurement without advertising the procurement if there exists a threat to public health, welfare, or safety or for other urgent and compelling reasons. An emergency procurement will be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor will be included in the contract file.

Adjourn. A motion was made by Council Member Tilton Byrne, seconded by Council Member Doran, that this meeting be adjourned at 7:24 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS, SD

Oepke G. Niemeyer, Mayor

ATTEST:

Bonnie Foster, City Clerk