

Resolution 21-061

Resolution of Necessity for Acquisition of Real Property for Public Highway Project

WHEREAS, the City of Brookings is constructing an Interstate 29 Interchange, known as the I-29 Exit 130 (20th Street South) Interchange Project (Number EM 0295(45)130 PCN O2OV), (referred to in this Resolution as the “Project”), which involves construction of a new public highway interchange. The Project consists of grading, bridge structures, lighting, asphalt, concrete surfacing, curb and gutter, storm sewer, engineering, right of way acquisition, utilities, and new access ramps. The Project is located on Interstate 29 (I-29), and includes portions of 20th Street South in the City of Brookings and over I-29; and 214th Street, from I-29 to 473rd Avenue in the County of Brookings; and

WHEREAS, a portion of the construction of the Project will require the acquisition of additional land for right of way and construction, including control of access, borrow pits, cutslopes, fillslopes, impoundments, and channel changes, either by purchase or condemnation; and

WHEREAS, the Project is scheduled for construction in 2022; and

WHEREAS, acquisition of the land for right of way and temporary easements must be completed; and

WHEREAS, the City of Brookings has been unable to acquire, by voluntary purchase or agreement, the rights of way, access control and temporary easements described below that are necessary for the construction of the Project; and

WHEREAS, except as otherwise specially provided, whenever the governing body of any municipality shall deem it necessary to appropriate or damage any private property, either within or without the corporate limits of the municipality, for any purpose authorized by law, it shall, by a resolution passed by a two-thirds majority of all the members elected thereto, declare such appropriation necessary, stating the purpose and extent of such appropriation. Thereupon, the proceedings for such appropriation and condemnation shall be as provided by law and the rules of practice and procedure adopted by the South Dakota Supreme Court; and

WHEREAS, SDCL § 9-27-1 authorizes a municipality to acquire real property for any purpose authorized by law; and

WHEREAS, SDCL § 9-27-1 also provides that a municipality must, prior to commencing proceedings in eminent domain, determine that such appropriation is necessary;

NOW THEREFORE, BE IT HEREBY RESOLVED:

1. That it is necessary to acquire the following rights of way, access control and temporary easements by condemnation in accordance with the provisions of SDCL Ch. 21-3 and Ch. 31-19, which may include filing Declarations of Taking pursuant to SDCL 31-19-23:

Right of Way: Lot H1 in Government Lot One (1) of Section Six (6), Township One Hundred Nine (109) North, Range Forty-nine (49) West of the 5th P.M., County of Brookings, State of South Dakota, except 34th Avenue S. Right of Way, as shown on **Attachment “B”**. Said Lot H1 containing 1.25 acres (54450 sq. ft.), more or less.

Lot H2 in Government Lot Two (2) of Section Six (6), Township One Hundred Nine (109) North, Range Forty-nine (49) West of the 5th P.M., County of Brookings, State of South Dakota, except 34th Avenue S. Right of Way, as shown on **Attachment “B”**. Said Lot H2 containing 0.06 acres (2752 sq. ft.), more or less.

Lot H1 in Government Lot Two (2) of Section Six (6), Township One Hundred Nine (109) North, Range Forty-nine (49) West of the 5th P.M., County of Brookings, State of South Dakota, except Interstate 29 Right of Way therein, as shown on **Attachment “B”**. Said Lot H1 containing 6.58 acres (286695 sq. ft.), more or less.

Lot H1 in the South One-half of the Northeast Quarter (S½NE¼) of Section Six (6), Township One Hundred Nine (109) North, Range Forty-nine (49) West of the 5th P.M., County of Brookings, State of South Dakota, except Interstate 29 Right of Way therein, as shown on **Attachment “B”**. Said Lot H1 in the S½NE¼ containing 0.003 acres (157 sq. ft.), more or less.

Description of the control of access: No access permitted to or from Construction Station 213+37.23-75.00’ R to Station 49+78.03-75.00’ R, following the proposed Right of Way boundary and as shown on **Attachment “A”**.

Description of land to be acquired for temporary easements (“T.E.”):
A parcel in Government Lots One (1) and Two (2), and the South One-half of the Northeast Quarter (S½NE¼) of Section Six (6), Township One Hundred Nine (109) North, Range Forty-nine (49) West of the 5th P.M., County of Brookings, State of South Dakota, Except 34th Avenue S. Right of Way, as shown on **Attachment “A”**. Said T.E. containing 2.2 acres (97016 sq. ft.), more or less.

2. That this Resolution must be passed by a 2/3 majority of all the elected and appointed members of the City Council in order to become effective.

Passed and approved on the 13th day of July, 2021.

CITY OF BROOKINGS, SD

ATTEST:

Oepke G. Niemeyer, Mayor

Bonnie Foster, City Clerk