

**Brookings City Council**  
**July 13, 2021** (unapproved)

The Brookings City Council held a meeting on Tuesday, July 13, 2021 at 6:00 PM, at the City & County Government Building Chambers with the following City Council members present: Mayor Oepke Niemeyer, Council Members Leah Brink, Patty Bacon, Holly Tilton Byrne, Joey Collins, and Wayne Avery. Absent: Council Member Nick Wendell. City Attorney Steve Britzman, Assistant City Manager Jacob Meshke, and City Clerk Bonnie Foster were also present.

**6:00 PM REGULAR MEETING**

**Consent Agenda.** A motion was made by Council Member Brink, seconded by Council Member Collins, to approve the Consent Agenda. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**3.A. Action to approve the agenda.**

**3.B. Action to approve the June 22, 2021 City Council Minutes.**

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

Brookings Disability Awareness Committee: appoint Aysia Platte (term expires 1/1/2022); Park & Recreation Board: Reappoint Isaac Schulte (term expires 5/1/2022); Public Arts Commission: appoint Julia Eberhart (term expires 1/1/2022); Sustainability Council: appoint Albert Patin (term expires 1/1/2022).

**3.D. Action on Resolution 21-057, a Resolution authoring the City Manager to sign documents for an Airport Coronavirus Response Grant Program (ACRGP) Grant for the Brookings Municipal Airport.**

Resolution 21-057 - A Resolution Authorizing the City Manager  
to Sign Documents for a ACRGP Grant for the Brookings Airport

Whereas, the City of Brookings desires financial assistance due to the COVID-19 public health emergency; and

Whereas, the Brookings Airport is eligible for funding under the Airport Coronavirus Response Grant Program (ACRGP) to assist the airport in addressing the COVID-19 public health emergency.

Now Therefore, Be It Resolved that the Brookings City Manager is authorized to sign all related documents for the CARES Act Grant.

**Open Forum.** Council Member Collins shared with the City Council and the public about the National Night Out event to be held August 3<sup>rd</sup> from 5:00 - 7:00 pm at Pioneer Park.

**Resolution 21-056.** A motion was made by Council Member Bacon, seconded by Council Member Brink, that Resolution 21-056, a Resolution Awarding Bids on Project 2021-02STA 15<sup>th</sup> Street South and 7<sup>th</sup> Avenue South Project, be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and

Avery; Absent: 1 – Wendell.

Resolution 21-056 - Resolution Awarding Bids on  
Project 2021-02STA 15<sup>th</sup> Street South and 7<sup>th</sup> Avenue South Project

Whereas, the City of Brookings opened bids for Project 2021-02STA 15<sup>th</sup> Street South and 7<sup>th</sup> Avenue South Project on Thursday, July 1, 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 2021-02STA Street Maintenance and Overlay Project: Bowes Construction, Inc.- \$2,628,516.46 and Midland Contracting, Inc.- \$2,783,823.22.

Now, Therefore, Be It Resolved that the total low bid \$2,628,516.46 for Bowes Construction, Inc. be accepted.

**FIRST READING – Ordinance 21-021.** An introduction and first reading was held on Ordinance 21-021, an Ordinance repealing Article II of Chapter 42 of the Code of Ordinances of the City of Brookings, SD, and pertaining to the Board of Health. Second Reading: July 27, 2021.

**FIRST READING – Ordinance 21-024.** An introduction and first reading was held on Ordinance 21-024, an Ordinance to permit by Conditional Use a Hair Salon in a Residence R-1B Single-Family District on Lot 5, Block 4, East Acres Second Addition, also known as 2029 Elmwood Drive. Public Hearing: July 27, 2021.

**FIRST READING – Ordinance 21-025.** An introduction and first reading was held on Ordinance 21-025, an Ordinance establishing zoning regulations for cannabis establishments. Public Hearing: July 27, 2021.

A motion was made by Council Member Tilton Byrne, seconded by Council Member Brink, to amend Ordinance 21-025 to reduce the distance between establishments from 1,000 feet to 300 feet. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**Ordinance 21-022.** A public hearing was held on Ordinance 21-022, an Ordinance amending Section 94-222 of the Zoning Ordinances of the City of Brookings and pertaining to the procedure for Conditional Use Applications. A motion was made by Council Member Brink, seconded by Council Member Collins, that Ordinance 21-022 be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**Ordinance 21-023.** A public hearing was held on Ordinance 21-023, an Ordinance amending Chapter 94-7(b) of the City of Brookings and pertaining to the procedure for a Zoning Change. A motion was made by Council Member Bacon, seconded by Council Member Brink, that Ordinance 21-023 be approved. The motion carried by the following

vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**Commercial Corridor Design Review Overlay District Site Plan.** A public hearing was held on a Commercial Corridor Design Review Overlay District Site Plan on Lot 1 excluding Lot H-1, Cheevers Addition, also known as 418 6<sup>th</sup> Street. A motion was made by Council Member Avery, seconded by Council Member Collins, that the site plan for 418 6<sup>th</sup> Street be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**Commercial Corridor Design Review Overlay District Site Plan.** A public hearing was held on a Commercial Corridor Design Review Overlay District Site Plan for 1402 / 1404 6<sup>th</sup> Street, CD Properties, LLC, owner. A motion was made by Council Member Collins, seconded by Council Member Brink, that the site plan for 1402/1404 6<sup>th</sup> Street be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**Temporary Alcohol Application.** A public hearing was held on a Temporary Alcohol Application from Aramark Educational Services, LLC, to operate within the City of Brookings, South Dakota for an Awards Banquet to be held November 5, 2021 at the SDSU Alumni Center Woster Celebration Hall, 815 Medary Avenue. A motion was made by Council Member Brink, seconded by Council Member Bacon, that the Temporary Alcohol Application for November 5, 2021 be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**On-Off Sale Malt License.** A public hearing was held on a request to transfer an On-Off Sale Malt License for the Swiftel Center from VenuWorks LLC Management to Global Spectrum, LP, aka Spectra, 824 32<sup>nd</sup> Avenue. Legal description: Blocks 4-5, Wiese Addition. A motion was made by Council Member Brink, seconded by Council Member Collins, that the On-Off Sale Malt License be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**Resolution 21-039.** A public hearing was held on Resolution 21-039, a Resolution authorizing the City Manager to sign a Wine Operating Agreement for Global Spectrum, LP, dba Spectra Management Services at the Swiftel Center, 824 32<sup>nd</sup> Avenue. Legal description: Blocks 4-5, Wiese Addition. A motion was made by Council Member Avery, seconded by Council Member Brink, that Resolution 21-039 be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

Resolution 21-039 - Wine Operating Agreement – new  
Global Spectrum, LP, aka Spectra

Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby

approves a Wine Operating Management Agreement between the City of Brookings and Global Spectrum, LP, aka Spectra, for the purpose of a manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 824 32<sup>nd</sup> Avenue, legal description: Blocks 4-5, Wiese 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 ten (10) years, with a renewal in five (5) years.

**On-Off Sale Malt License.** A public hearing was held on a request for an On-Off Sale Malt License for the Mosaic Wine Bar, 225 Main Avenue. Legal description: North 57.5 feet of the East 155 feet, Temple Block Addition. Pending permit issuance and final inspection per the Community Development Dept. A motion was made by Council Member Bacon, seconded by Council Member Brink, that the On-Off Sale Malt License be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

**Resolution 21-055.** A public hearing was held on Resolution 21-055, a Resolution authorizing the City Manager to sign a Wine Operating Agreement for Mosaic Wine Bar, 225 Main Avenue. Legal description: North 57.5 feet of the East 155 feet of Temple Block Addition. A motion was made by Council Member Brink, seconded by Council Member Collins, that Resolution 21-055 be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

Resolution 21-055 - Wine Operating Agreement – new  
Mosaic Wine Bar, LLC

Be It Resolved by the City of Brookings, South Dakota, that the City Council hereby approves a Wine Operating Management Agreement between the City of Brookings and Mosaic Wine Bar, LLC, for the purpose of a manager to operate the on-sale establishment or business for and on behalf of the City of Brookings at 225 Main Avenue, legal description: North 57.5 feet of the East 155 feet, Temple Block 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 ten (10) years, with a renewal in five (5) years.

**East Central Regional Communication Council Joint Powers Agreement (E-911) Amendment.** A motion was made by Council Member Collins, seconded by Council Member Avery, that an Amendment to the East Central Regional Communication Council Joint Powers Agreement, be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

## AMENDMENT TO THE EAST CENTRAL REGIONAL COMMUNICATION COUNCIL JOINT POWERS AGREEMENT

This Amendment to the East Central Regional Communication Council Joint Powers Agreement is made and entered into by and between the County of Brookings, South Dakota and the City of Brookings, South Dakota.

Whereas, the parties did enter into a Joint Powers Agreement dated the 7<sup>th</sup> day of August, 2018 and the parties desire to modify Article VI pertaining to the Membership of Council of said East Central Regional Communication Council Joint Powers Agreement.

Now, Therefore, the parties to the above-referenced Agreement hereby amend said Agreement in the manner set forth below.

### I.

The parties hereby amend Article VI, to provide as follows:

VI. MEMBERSHIP OF COUNCIL The Council shall consist of four members. These members shall be as follows:

- 1) The Chairperson of the Brookings County Board of County Commissioners, or their authorized representative;
- 2) The Brookings Police Chief, or their authorized representative;
- 3) The Vice-Chairperson of the Brookings County Board of County Commissioner, or their authorized representative; and
- 4) The City Manager, or their authorized representative.

An authorized representative shall inform the other members of the Council that they are acting in the place of a Member. An authorized representative shall have the same authority as any member of the Council, including the power to vote on matters before the Council.

### II.

The parties hereby ratify and confirm all other provisions of the East Central Regional Communication Council Joint Powers Agreement dated the 7<sup>th</sup> day of August, 2018 and hereby affirm their intent to have said East Central Regional Communication Council Joint Powers Agreement, as amended, remain in full force and effect.

**Resolution 21-058.** A motion was made by Council Member Collins, seconded by Council Member Avery, that Resolution 21-058, a Resolution of Necessity for Acquisition of Real Property for Public Highway Project, be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

Resolution 21-058 - 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 (20<sup>th</sup> 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 20<sup>th</sup> Street South in the City of Brookings and over I-29; and 214<sup>th</sup> Street, from I-29 to 473<sup>rd</sup> 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 and Lot H2 in R'Surene Morgan Farm Addition to the County of Brookings in Government Lot Four (4) of the

Northwest Quarter (NW¼) 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, as shown on Attachment "B". Said Lot H1 containing 0.02 acres (916 sq. ft.), more or less. Said Lot H2 containing 0.71 acres (30738 sq. ft.), more or less.

Description of land to be acquired for temporary easements ("T.E."):

A parcel in R'Surene Morgan Farm Addition to the County of Brookings in Government Lot Four (4) of the Northwest Quarter (NW¼) 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, as shown on Attachment "A". Said T.E. containing 1.0 acre (43167 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.

**Resolution 21-059.** A motion was made by Council Member Brink, seconded by Council Member Avery, that Resolution 21-059, a Resolution of Necessity for Acquisition of Real Property for Public Highway Project, be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

Resolution 21-059 - 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 (20<sup>th</sup> 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 20<sup>th</sup> Street South in the City of Brookings and over I-29; and 214<sup>th</sup> Street, from I-29 to 473<sup>rd</sup> 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 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 Block One (1), Mills Third Addition in Government Lots Three (3) and Four (4) of the Northwest Quarter (NW¼) 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, as shown on Attachment "B". Said Lot H1 containing 0.54 acres (23629 sq. ft.), more or less.

Lot H2 in Block One (1), Mills Third Addition in Government Lots Three (3) and Four (4) of the Northwest Quarter (NW¼) 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, as shown on Attachment "B". Said Lot H2 containing 9.42 acres (410481 sq. ft.), more or less. (See Attachment)



Description of the control of access: No access permitted to or from Construction Station 25+07.36-75.00' R to Station 331+56.00-75.00' L, 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 Block One (1), Mills Third Addition in Government Lots Three (3) and Four (4) of the Northwest Quarter (NW¼) 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, as shown on Attachment "A". Said T.E. containing 0.3 acres (11756 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.

**Resolution 21-060.** A motion was made by Council Member Brink, seconded by Council Member Collins, that Resolution 21-060, a Resolution of Necessity for Acquisition of Real Property for Public Highway Project, be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

Resolution 21-060 - 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 20<sup>th</sup> Street South in the City of Brookings and over I-29; and 214<sup>th</sup> Street, from I-29 to 473<sup>rd</sup> 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;

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

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 Outlot One (1) in the Northwest Quarter (NW¼), Section Six (6), Township One Hundred Nine (109) North, Range Forty-nine (49) West of the 5th P.M., City of Brookings, County of Brookings, State of South Dakota, as shown on Attachment "B". Said Lot H1 containing 6.12 acres (266669 sq. ft.), more or less.

Description of the control of access: No access permitted to or from Construction Station 320+12.29-75.00' L to Station 331+56.00-75.00' L, 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 Outlot One (1) in the Northwest Quarter (NW¼), Section Six (6), Township One Hundred Nine (109) North, Range Forty-nine (49) West of the 5th P.M., City of Brookings, County of Brookings, State of South Dakota, as

shown on Attachment "A". Said T.E. containing 0.6 acres (23041 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.

**Resolution 21-061.** A motion was made by Council Member Brink, seconded by Council Member Collins, that Resolution 21-061, a Resolution of Necessity for Acquisition of Real Property for Public Highway Project, be approved. The motion carried by the following vote: Yes: 6 - Niemeyer, Brink, Bacon, Tilton Byrne, Collins, and Avery; Absent: 1 – Wendell.

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 (20<sup>th</sup> 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 20<sup>th</sup> Street South in the City of Brookings and over I-29; and 214<sup>th</sup> Street, from I-29 to 473<sup>rd</sup> 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 (S $\frac{1}{2}$ NE $\frac{1}{4}$ ) 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 S $\frac{1}{2}$ NE $\frac{1}{4}$  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.

**Council Member Introduction of Topics for Future Discussion.** A motion was made by Council Member Collins, seconded by Council Member Bacon, to have a discussion around gas prices in Brookings on a future Study Session. The motion carried by the following vote: Yes: 4 - Niemeyer, Bacon, Tilton Byrne, and Collins; No: 2 – Brink and Avery; Absent: 1 – Wendell.

**Adjourn.** A motion was made by Council Member Brink, seconded by Council Member Collins, that the meeting be adjourned at 7:04 p.m. The motion carried by a unanimous vote.

CITY OF BROOKINGS

ATTEST:

\_\_\_\_\_  
Oepke G. Niemeyer, Mayor

\_\_\_\_\_  
Bonnie Foster, City Clerk