

Brookings City Council
April 1, 2014

The Brookings City Council held a special meeting on Tuesday, April 1, 2014 at 6:00 p.m., at City Hall with the following members present: Mayor Tim Reed, Council Members Mike McClemans, Ope Niemeyer, Keith Corbett, John Kubal, Tom Bezdichek and Jael Thorpe. City Attorney Steve Britzman, City Manager Jeffrey Weldon and City Clerk Shari Thornes were also present.

The special Council Meeting was called to order by Mayor Reed at 6:00 p.m.

Resolution No. 27-14. A motion was made by Niemeyer, seconded by Corbett, to remove the following item from the table: Resolution No. 27-14, a Resolution awarding a contract for 2014-02STA Main Avenue & 26th Street South Assessment Project. All present voted yes; motion carried.

A motion was made by Reed, seconded by Niemeyer, to approve Resolution No. 27-14, accepting the low bid of Bowes for Schedule A and Bid Alternate A1 (asphalt pavement) in the amount of \$3,349,498.40; and accepting the low bid of Bowes for Schedule B for Bid Alternate B1 (asphalt pavement), in the amount of \$295,880.06, contingent on signed Memorandum of Understanding with Oakwood Equity. All present voted yes; except McClemans voted no, motion carried.

Resolution No. 27-14
Resolution Awarding Bids on Project 2014-02STA
Main Avenue South and 26th Street South Assessment Project

Whereas, the City of Brookings opened bids for Project 2014-02STA Main Avenue South and 26th Street South Assessment Project on Tuesday, March 18, 2014 at 1:30 pm at the Brookings City & County Government Center; and

Whereas, the City of Brookings has received the following bid for Project 2014-02STA Main Avenue South and 26th Street South Assessment Project: Base Bid Schedule A: Winter Brothers Underground, Inc.: \$3,150,287.95, BX Civil Construction, Inc.: \$3,416,849.90, T & R Contracting, Inc.: \$2,811,467.66, Bowes Construction, Inc.: \$2,763,185.40; Bid Alternate A1 (asphalt pavement option): Winter Brothers Underground, Inc.: no bid, BX Civil Construction, Inc.: no bid, T & R Contracting, Inc.: no bid, Bowes Construction, Inc.: \$586,313.00; Bid Alternate A2 (PCC pavement option): Winter Brothers Underground, Inc.: \$996,348.00, BX Civil Construction, Inc.: \$912,566.50, T & R Contracting, Inc.: \$820,692.35, Bowes Construction, Inc.: no bid; Base Bid Schedule B: Winter Brothers Underground, Inc.: \$203,758.15, BX Civil Construction, Inc.: \$232,102.20, T & R Contracting, Inc.: \$214,181.32, Bowes Construction, Inc.: \$184,495.06; Bid Alternate B1 (asphalt pavement option): Winter Brothers Underground, Inc.: no bid, BX Civil Construction, Inc.: no bid, T & R Contracting, Inc.: no bid, Bowes Construction, Inc.: \$111,385.00; Bid Alternate B2 (PCC pavement option): Winter Brothers

Underground, Inc.: \$210,962.00, BX Civil Construction, Inc.: \$188,353.50, T & R Contracting, Inc.: \$169,090.65, Bowes Construction, Inc.: no bid.

Now Therefore, Be It Resolved that the low bid of Bowes Construction, Inc., Brookings, for Schedule A and Bid Alternate A1 (asphalt pavement option) for the combined low bid of \$3,349,498.40 and Schedule B and Bid Alternate B1 (asphalt pavement option) for the combined low bid of \$295,880.06 contingent on a signed Memorandum Of Understanding with Oakwood Equity for Schedule B and Bid Alternate B1 be accepted and all other schedules and alternates be rejected.

Memorandum of Understanding and Construction Agreement. A motion was made by Reed, seconded by McClemons, to approve the Memorandum of Understanding and Construction Agreement between City of Brookings and Oakwood Equity and authorize the Mayor, City Manager and City Clerk to execute any necessary documents. All present voted yes; motion carried.

MEMORANDUM OF UNDERSTANDING and CONSTRUCTION AGREEMENT
By and Between the City of Brookings (City) and Oakwood Equity (Developer)
For the construction of the westerly portion of 26th Street South (Project)

WHEREAS, the City and the Developer mutually desire to see the completion of the Project for the overall benefit of the community, the school district, and benefiting residential subdivisions that may exist now and into the future in the immediate vicinity of the Project; and

WHEREAS, both parties acknowledge the Project is the responsibility of the Developer pursuant to usual and customary subdivision regulations of the City governing infrastructure development; and

WHEREAS, the City has secured competitive bids for the construction of the Project.

NOW, THEREFORE, in consideration of the administration, planning and bidding of the Project, the City and Developer agree to the foregoing and as follows:

CITY shall construct the Project in conjunction with another project involving the easterly portion of 26th Street South and South Main Avenue for the necessary streets and utility improvements. Specifications of the Project shall be determined exclusively by the City pursuant to usual and customary construction standards. The Developer and City agree that the Project Scope of Work to be performed shall be the westerly portion of the 26th Street South Project as more fully described in the Project Specifications for the contract for 2014-02STA on file in the office of the City.

CITY and DEVELOPER agree the work to be performed pursuant to this Agreement shall commence upon execution of this Agreement and shall be fully completed by the Project close-out date as provided in the Project documents.

CITY and its construction contractor and engineers shall maintain itemized costs of the Project for subsequent billing to the Developer.

DEVELOPER agrees to convey the necessary right-of-way for the Project and provide such evidence of having conveyed the right-of-way for street and utility construction purposes to the City.

DEVELOPER agrees to petition for annexation of all portions of right-of-way for the Project by the time of Project close-out.

DEVELOPER agrees to pay to the City the Contract Sum, which shall be the sum total of the itemized costs of the Project, with the total sum determined by the time of Project close-out.

CITY shall submit a billing statement to the Developer as soon as possible after the Project has been closed-out. The statement shall contain all of the construction costs to be billed to the Developer associated with the Project including but not limited to contract labor, material, engineering & design, construction administration, approved change orders, and surveying/staking.

CITY shall bill the Developer five (5) annual installments of the total amount due at zero (0) percent per annum on the unpaid balance, with interest and penalties applicable to any unpaid or delinquent installments. The first annual payment shall be due December 31, 2015 with subsequent annual payments due on December 31 of each year.

In the event of default, the CITY may collect the unpaid balance due the CITY by civil action or the CITY may submit the unpaid balance to the County for assessment and collection with other property taxes in accordance with the procedure for Plan One in SDCL 9-43-102 in the event any payments are delinquent pursuant to the payment schedule as described in the preceding paragraph. Such delinquencies shall have an interest rate of ten percent per annum (10%).

The City and Developer, at any time and from time to time before and after the execution of this Agreement shall, at the request of the other party, and without further consideration, promptly execute, acknowledge and deliver such further instruments and take such further action as a party may reasonably request in order to consummate and confirm the transaction contemplated by this Agreement to accomplish the purposes of this Agreement; however, no such instruments or actions shall impose upon the parties any burden or obligation which is in excess of any burden or obligation specifically imposed upon the parties pursuant to the terms of this Agreement.

This Agreement shall bind the parties and their estates, trustees, heirs, personal representatives, legal representatives, successors-in-interest and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding and Construction Agreement by their duly authorized representatives.

Adjourn. A motion was made by Corbett, seconded by Niemeyer, to adjourn. All present voted yes; motion carried. Meeting adjourned 6:59 p.m.

CITY OF BROOKINGS

Tim Reed, Mayor

ATTEST:

Shari Thornes, City Clerk