SUBJECT: Resolution requesting the grant of a perpetual easement on lands occupied by South Dakota State University in Brookings County, South Dakota, to the City of Brookings for installation, maintenance reconstruction, repair, and operation, including right to ingress and egress, of utility easements.

BACKGROUND: South Dakota State University requests that the Board adopt a resolution pursuant to the power vested in the Board under SDCL § 5-2-10, requesting the commissioner of school and public lands to draw up all necessary documents and to request that the Governor approve the grant of a perpetual easement on lands occupied by the South Dakota State University in Brookings County, South Dakota, to the City of Brookings, for installation, maintenance reconstruction, repair and operation, including right to ingress and egress, of utility easements.

One easement runs south of and parallel to 11\textsuperscript{th} Street from 22\textsuperscript{nd} Avenue west at the northern edge of McCrory Gardens. A second spur enters McCrory Gardens some 125 feet south of the center point of the intersection. There are two easement locations and both are shown in Attachment II of this document. Each easement will be 10 feet wide. There are currently electrical utilities installed in these areas and Brookings Municipal Utilities accesses these easements.

RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR

Adopt a resolution pursuant to the power vested in the Board under SDCL § 5-2-10, requesting the commissioner of school and public lands to draw up all necessary documents and to request that the Governor approve the grant of a perpetual easement on lands occupied by the South Dakota State University in Brookings County, South Dakota, to the City of Brookings, for installation, maintenance reconstruction, repair, and operation, including right to ingress and egress, of utility easements and described as:

The South Ten Feet (S10') of the North Fifty-Five Feet (N55') of the West One Thousand Four Hundred Thirty Feet (W1430') of the East One Thousand Four Hundred Sixty-Three Feet (E1463'); and the South Ten Feet (S10') of the North One Hundred Thirty-Five Feet (N135') of the West Seventy-Seven Feet (W77') of the East One Hundred Ten Feet (E110') of the Southeast Quarter (SE\textsuperscript{¼}) of Section 24, Township 110 North, Range 50 West of the 5\textsuperscript{th} Principal Meridian, City of Brookings, Brookings County, State of South Dakota as shown on Exhibit A, attached to and made part of this easement.
locations for maintenance purposes. SDSU has requested that formal easements be placed over these existing utility corridors.

The purpose of the easement agreement is to provide a platted easement corridor for the existing electrical utility that connects to a BMU sewer lift station located south of 11th Street. This sanitary sewage lift station serves the northeast quadrant of the City of Brookings. This power source also powers street lighting along 22nd Avenue and 11th Streets which benefits a population of SDSU students that live east of campus and walk this route to and from campus. This easement will increase reliability of security (street) lighting along 11th Street into campus as well as provide a power source for a sewer lift station serving development of Innovation Campus.

The appraised value of the ten foot runs comprising the easement is $6,025, and the creation of the easement is estimated to have a null effect on that value, a $6.20 reduction in value. (A full copy of the appraisal is available upon request.) The university benefits substantially from the proper functioning of the utilities that will be placed in the site by the municipality, so it recommends that the easement be granted for nominal consideration.
RESOLUTION

Request for grant of a perpetual easement on lands occupied by South Dakota State University in Brookings County, South Dakota, to the City of Brookings for installation, maintenance reconstruction, repair and operation, including right to ingress and egress, of utility easements.

The South Dakota Board of Regents (hereinafter referred to as “Grantor”), on behalf of South Dakota State University, in consideration for one dollar ($1) and other good and valuable consideration, and pursuant to the authority vested in Grantor under SDCL § 5-2-11, hereby requests the commissioner of school and public lands to draw up all necessary documents and to forward them to the Governor to request their execution in order to effect the grant a perpetual easement on lands occupied by the South Dakota State University in Brookings County, South Dakota, to the City of Brookings, for installation, maintenance reconstruction, repair, and operation, including right to ingress and egress, of utility easements and described as:

The South Ten Feet (S10’) of the North Fifty-Five Feet (N55’) of the West One Thousand Four Hundred Thirty Feet (W1430’) of the East One Thousand Four Hundred Sixty-Three Feet (E1463’); and the South Ten Feet (S10’) of the North One Hundred Thirty-Five Feet (135’) of the West Seventy-Seven Feet (W77’) of the East One Hundred Ten Feet (E110’) of the Southeast Quarter (SE¼) of Section 24, Township 110 North, Range 50 West of the 5th Principal Meridian, City of Brookings, Brookings County, State of South Dakota as shown on Exhibit A, attached to and made part of this easement.

Grantor requests that any grant of easement provide that Grantor shall not be liable for any personal injury, property damage, or other liability to Grantee, its agents, employees, invitees, or to any other party caused by or related to Grantee’s use of the premises, irrespective of how such injury or damage may be caused, whether by action of the elements or acts of negligence of Grantee or any other party, and that Grantee further agree to reimburse Grantor for any judgment against it arising from Grantee’s use of the property.

Dated this thirteenth Day of December 2012
SOUTH DAKOTA BOARD OF REGENTS

By __________________________________________
Kathryn O. Johnson
President
**Certification:**

I have compared the foregoing with an action taken by the Board of Regents at a regular meeting of the Board in Spearfish, South Dakota, on the thirteenth day of December 2012, and I hereby certify that the same is a true, correct, and complete copy thereof and that the same has not been rescinded.

Dated this thirteenth Day of December 2012
SOUTH DAKOTA BOARD OF REGENTS

By _________________________________
Randy Schaefer
Secretary
EXHIBIT A

The South Ten Feet (S10') of the North Fifty-Five Feet (N55') of the West One Thousand Four Hundred Thirty Feet (W1430) of the East One Thousand Four Hundred Sixty Three Feet (E1463'); and the South Ten Feet (S10') of the North One Hundred Thirty-Five Feet (N135') of the West Seventy Seven Feet (W77') of the East One Hundred Ten Feet (E110') of the Southeast Quarter (SE 1/4) of Section 24, Township 110 North, Range 50 West of the 5th Principal Meridian, City of Brookings, Brookings County, State of South Dakota as shown in EXHIBIT A, attached to and made part of this easement.

PERMANENT UTILITY EASEMENT

LEGEND:
- POUND 5/8" RED
- RIGHT OF WAY LINE
- SECTION LINE
- SIXTEENTH SECTION LINE

NOTES:
- BASIS OF SURVEYS FOR THIS PLAT IS UTM ZONE 14 NORTH - GROUND COORDINATES.
- THIS EASEMENT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT.

DRAWN BY: JGW
CHECKED BY: JRV
DATE: 9/05/12