

All City Council Meetings are recorded.

**CITY OF CUSTER CITY
COUNCIL AGENDA
November 4th, 2019 – City Hall Council Chambers
5:30 P.M.**

1. Call to Order - Roll Call - Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes – October 21st, 2019 Regular Meeting
4. Declaration of Conflict of Interest
5. Public Hearings - Public Presentations
 - a. Executive Proclamation – Zonta Day
 - b. Second Reading – Ordinance #828 – Water Rates
 - c. Second Reading – Ordinance #829 – Wastewater Rates
 - d. Second Reading – Ordinance #830 – Water Off Rates
 - e. First Reading – Ordinance #831 – Class 1 Misdemeanor Clarification
 - f. Resolution #11-04-19A – Parade Stipulations
 - g. Resolution #11-04-19B – Write-Offs
 - h.
6. Public Comments (3-minute max. per person, with total public comment period not to exceed 15 minutes)
7. Old Business
 - a. Summer Music Update – Van Arp
 - b.
8. New Business
 - a. Dog Park Signs
 - b. Code Red Agreement
 - c. Custer Cruisin Committee Appointment
 - d. Deer Management Letter
 - e.
 - f.
9. Presentation of Claims -
10. Department Head Discussion & Committee Reports –
11. Possible Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2(1,2,3,4,5))
12. Adjournment

REMINDERS

**General Government Committee Meeting – November 12th, 2019 4:30 P.M.
Planning Commission Meeting – November 12th, 2019 5:00 P.M.
Regular City Council Meeting – November 18st, 2019 5:30 P.M.
Park & Recreation Committee Meeting – November 19th, 5:30 P.M.
Public Works Committee Meeting – December 2nd, 2019 4:30 P.M.
Regular City Council Meeting – December 2nd, 2019 5:30 P.M.**

ADA Compliance: The City of Custer City fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Finance Office 24 hours prior to the meeting so that appropriate services are available.

**CITY OF CUSTER CITY
COUNCIL PROCEEDINGS- REGULAR SESSION
October 21st, 2019**

Mayor Corbin Herman called to order the second meeting of the Common Council for the month of October 2019 at 5:30 p.m. Present at roll call were Councilpersons Blom, Whittaker, Moore, Fischer and Nielsen. The Pledge of Allegiance was stated.

AGENDA

Councilperson Blom moved, with a second by Councilperson Nielsen, to approve the agenda. The motion unanimously carried.

MINUTES

Councilperson Nielsen moved, with a second by Councilperson Whittaker, to approve the minutes from the October 7th regular council meeting. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

VIGILANCE SCULPTURE – MATT FRIDELL

Matt Fridell presented council with drawings of the proposed location for the Vigilance sculpture. Councilperson Fischer moved to approve the placement of the Vigilance sculpture on the north side of the Fourth Street and Crook Street intersection adjacent to the vacated Fourth Street right-of-way. Seconded by Councilperson Blom, the motion unanimously carried.

SECOND READING – ORDINANCE #827 – CONSTRUCTION CODES AND BUILDING PERMITS

Councilperson Nielsen moved to adopt Ordinance #827, Construction Codes and Building Permits. Seconded by Councilperson, Blom, the motion carried with Councilperson Blom, Whittaker, Moore, Fischer and Nielsen voting yes.

FIRST READING – ORDINANCE #828 – WATER RATES

Councilperson Fischer moved to approve Ordinance #828, Water Rates. Seconded by Councilperson Nielsen, the motion unanimously carried.

FIRST READING – ORDINANCE #829 – WASTEWATER RATES

Councilperson Blom moved to approve Ordinance #829, Wastewater Rates. Seconded by Councilperson Moore, the motion unanimously carried.

FIRST READING – ORDINANCE #830 – WATER OFF RATES

Councilperson Nielsen moved to approve Ordinance #830, Water Off Rates. Seconded by Councilperson Moore, the motion unanimously carried.

RESOLUTION #10-21-19A – LAND AND WATER CONSERVATION FUND GRANT

Councilperson Nielsen moved to adopt Resolution #10-21-19A, Land and Water Conservation Fund Grant. Seconded by Councilperson Blom, the motion unanimously carried.

RESOLUTION NO. 10-21-19A

Land and Water Conservation Fund Grant

WHEREAS, the United States of America and the State of South Dakota have authorized the making of grants from the Land and Water Conservation Fund (LWCF) to public bodies to aid in financing the acquisition and/or construction of specific public outdoor recreation projects;

NOW THEREFORE BE IT RESOLVED:

1. That Mike Bender with KLJ, is hereby authorized to execute and file an application on behalf of the City of Custer City, South Dakota with the National Park Service, U.S. Department of the Interior, through the State of South Dakota, Department of Game, Fish and Parks, Division of Parks and Recreation, for an LWCF grant to aid in financing Harbach Park Improvements Phase I for the City of Custer City, South Dakota and its Environs.
2. That Corbin Herman, Mayor is hereby authorized and directed to furnish such information as the above mentioned federal and/or state agencies may reasonably request in connection with the application with is hereby authorized to be filed.
3. That the City of Custer City, South Dakota shall provide a minimum of 50% of the total cost of the project; and will assume all responsibility in the operation and maintenance of the project upon completion of construction, for the reasonable life expectancy of the facility.

CERTIFICATE OF RECORDING OFFICER

The undersigned duly qualified and acting Finance Officer of the City of Custer, South Dakota does hereby certify: That the attached Resolution is a true and correct copy of the Resolution, authorizing the filing of application with the National Park Service as regularly adopted at a legally convened meeting of

the City Council duly held on the 21st day of October, 2019 and further that such Resolution has been fully recorded in the journal of proceedings and records in my office.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of October, 2019.

City of Custer City

S/Corbin Herman, Mayor

ATTEST: Laurie Woodward, Finance Officer

PUBLIC COMMENTS

No public comments were received.

FINAL PLAT – AKERS SUBDIVISION

Councilperson Fischer moved to approve the final plat for Akers Subdivision. Seconded by Councilperson Blom, the motion unanimously carried.

CLAIMS

Councilperson Nielsen moved, with a second by Councilperson Whittaker, to approve the following claims. The motion unanimously carried.

Black Hills Energy, Utilities, \$14,904.32

Black Hills Truck and Trailer, Supplies, \$22.26

California State Disbursement, Deduction, \$92.30

Culligan, Repair & Maintenance, \$18.50

Chamber of Commerce, Sales Tax Subsidy, \$7,852.41

Custer Ace Hardware, Supplies, Repairs & Maintenance, \$425.33

DGR Engineering, Professional Fees, \$11,964.50

Discovery Benefits, Supplies, \$30.00

French Creek Supply, Supplies, \$24.86

Golden West Technologies, Professional Fees, \$2,068.00

Hawkins, Supplies, \$6,383.43

Hillyard, Supplies, \$582.94

Imageall, Supplies, \$19.50

Jenner Equipment, Repairs & Maintenance, \$516.87

KLJ, Professional Fees, \$10,532.00

Lynn's Dakotamart, Supplies, \$179.86

Lamonte's Auto Center, Repairs & Maintenance, \$685.00

Lasting Impressions Unlimited, Supplies, \$44.00

Midcontinent Testing Labs, Professional Fee, \$800.00

Midco Diving, Repairs & Maintenance, \$1,937.76

Nelson's Oil & Gas, Supplies, \$1,006.88

Newman Signs, Supplies, \$356.50

Northwest Pipe Fittings, Supplies, \$2,535.22

Petty Cash, Supplies, \$90.00

Promotion Physical Therapy, Safety, \$60.00

SRF Loan Payment, \$15,577.11

Sanders Sanitation, Supplies, \$13,816.99

State of SD, Sales Tax, \$1,047.86

SD Division of Criminal Investigation, Safety, \$43.25

SD One Call, Supplies, \$130.20

Treetop Product, Supplies, \$2,286.38

USDA Loan Payments, \$8,910.00

Unemployment Insurance Division of SD, \$40.94

Total Claims, \$104,985.17

DEPARTMENT HEADS & COMMITTEE REPORTS

Various committee reports were given in addition to department heads giving an update.

Council took a break from 6:13-6:15 pm.

EXECUTIVE SESSION

Councilperson Fischer moved to go into and out of executive session for personnel and contract negotiations per SDCL 1-25-2(1-5) at 6:15 pm, with the Public Works Director, Planning Administrator and Finance Officer present. Seconded by Councilperson Moore, the motion unanimously carried. Attorney Beesley joined the executive session at 6:19 pm. The Public Works Director and Planning Administrator

left the meeting at 6:42 pm. Chad Gollnick and Fred Folsom joined the executive session at 6:42 pm and left the meeting at 7:17 pm. Council came out of executive session at 7:28 pm, with no action taken.

ADJOURNMENT

With no further business, Councilperson Whittaker moved to adjourn the meeting at 7:28 p.m. Seconded by Councilperson Blom, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Corbin Herman
Mayor

EXECUTIVE PROCLAMATION

WHEREAS, Zonta International, founded on November 8, 1919, in Buffalo, N.Y, as a women's organization to serve the needs of girls and young women in the community.

WHEREAS, there are over 29,000 Zonta club members comprised of professional and business leaders in over 1,200 clubs in 63 countries and geographic areas; and

WHEREAS, the Zonta motto "Women Empowering Women" inspires members to make the world a better place by empowering women by working together toward gender equality in a supportive community of like-minded professionals that even extends to other countries and

WHEREAS, Zonta International funds education programs that enable women to continue making great strides and overcome gender barriers in the pursuit of education, careers and leadership roles. To date, nearly 1,600 fellowships, awards and grants have been awarded to women representing 73 countries, of which were donations made to the Zonta International Foundation.

WHEREAS, since 1923, Zonta International has provided more than \$40.9 million to empower women and expand their access to education, health care, economic opportunities and safe living conditions. Through donations to the Zonta International Foundation, Zonta improves women's lives, their children's lives and the communities in which they live and work.

WHEREAS, Zonta's commitment to end early marriage results in a biennial \$2 million contribution to the Ending Child Marriage project in partnership with UNICEF and UNFPA.

WHEREAS, every year from November 25 through December 10, Zonta clubs around the world participate in Zonta Says NO to Violence Against Women, which raises awareness of the global pandemic of women's rights violations and unites Zonta clubs worldwide in conducting impactful advocacy actions to fight violence against women and gender inequality.

WHEREAS, Zonta envisions a world in which women's rights are recognized as human rights and every woman is able to achieve her full potential. In such a world, women have access to all resources and are represented in decision making positions on an equal basis with men. In such a world, no woman lives in fear of violence.

WHEREAS, there are 14 Zonta club members in the Zonta of the Southern Black Hills, which sponsor service projects to address these critical issues and more in its local community and abroad.

NOW, THEREFORE, I, Corbin Herman, Mayor of Custer City, of the State of South Dakota, do hereby proclaim November 8, 2019, as Zonta Day in Custer City, and encourage all citizens to join me in recognizing Zonta International for its 100 years of service and Zonta of the Southern Black Hills for its 24 years of service in empowering women in Custer and the Southern Black Hills.

CITY OF CUSTER CITY

ATTEST:

Laurie Woodward
Finance Officer

Corbin Herman
Mayor

(SEAL)

ORDINANCE NO. 828

An Ordinance entitled An Ordinance Amending Title 13 Public Services, Chapter 13.08. Section 13.08.010 A & B of the City of Custer City Municipal Code and amending, replacing, and superseding all prior ordinances or amendments, by which amending and superseding said Ordinance as follows, to wit:

BE IT ORDAINED by the Common Council of the City of Custer City that section 13.08.010 be amended as follows:

13.08.010 Rates and charges.

There shall be charged by the city, effective for the January 2020 billing upon passage and publication of the ordinance codified in this chapter as provided by law, a charge for water services (operation and maintenance) to persons, associations of individuals, partnerships, corporations or firms based upon the usage of water. The rates shall be as follows:

A. 1. Operation and Maintenance—Residential (Single Family).

Gallons Used	Water Charge
2,000 (minimum)	\$11.34

On amounts of water used over two thousand (2,000) gallons, add seven dollars and ninety-nine cents (\$7.99) per thousand gallons used to the water charge.

B. 1. Operation and Maintenance—Commercial and Multi Family.

Gallons Used	Water Charge
2,000 (minimum)	\$24.42

On amounts of water used over two thousand (2,000) gallons, add nine dollars and forty cents (\$9.40) per thousand gallons used to the water charge.

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 4th day of November, 2019.

City of Custer City

Attest _____
Laurie Woodward, Finance Officer

Corbin Herman, Mayor

(SEAL)

First Reading: October 21st, 2019
Seconding Reading: November 4th, 2019
Publication: November 13th, 2019

Vote:
Ryan:
Moore:
Nielsen:

Fischer:
Blom:
Whittaker:

ORDINANCE NO. 829

An Ordinance entitled An Ordinance Amending Title 13 Public Services, Chapter 13.20. Section 13.20.130 of the City of Custer City Municipal Code and amending, replacing, and superseding all prior ordinances or amendments, by which amending and superseding said Ordinance as follows, to wit:

BE IT ORDAINED by the Common Council of the City of Custer City that section 13.20.130 be amended as follows:

13.20.130 Rates and charges.

There shall be charged by the city, effective for the January 2020 billing upon passage and publication of the ordinance codified in this chapter as provided by law, a charge for wastewater services (operation and maintenance) to persons, associations of individuals, partnerships, corporations or firms based upon the usage of water. The rates shall be as follows:

A. 1. Operation and Maintenance—Residential (Single Family).

Gallons Used	Wastewater Charge
2,000 (minimum)	\$23.33

On amounts of water used over two thousand (2,000) gallons, add two dollar and fifty-six cents (\$2.56) per thousand gallons used to the wastewater charge.

B. 1. Operation and Maintenance—Commercial and Multi Family.

Gallons Used	Wastewater Charge
2,000 (minimum)	\$27.39

On amounts of water used over two thousand (2,000) gallons, add seven dollars and forty-one cents (\$7.41) per thousand gallons used to the wastewater charge.

C. In addition to the charge for wastewater services (operation and maintenance) to persons, associations of individuals, partnerships, corporations or firms, there shall be a surcharge for the services of the facilities financed.

1. Bond Redemption – 2012 SRF. The following surcharge is imposed pursuant to SDCL 9-40-15 to pay, redeem and discharge the 2012 SRF Loan in the amount of nine hundred twenty-five thousand nine hundred and nineteen dollars (\$925,919.00) until such loan is paid full. This charge shall be charged by the city, commencing with the June 2016 billing upon passage and publication of the ordinance codified in this chapter as provided by law.

	Monthly Fee Charged
Residential (Single-family), Commercial, and Multifamily	\$5.50

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 4th day of November, 2019.

City of Custer City

Attest _____
Laurie Woodward, Finance Officer

Corbin Herman, Mayor

(SEAL)

First Reading: October 21st, 2019
Seconding Reading: November 4th, 2019
Publication: November 13th, 2019

Vote:	
Ryan:	Fischer:
Moore:	Blom:
Nielsen:	Whittaker:

ORDINANCE NO. 830

AN ORDINANCE ENTITLED AN ORDINANCE AMENDING TITLE 13 PUBLIC SERVICES CHAPTER 13.24 WATER AND SEWER RATE CLASSIFICATIONS SECTION 13.24.060 SERVICE REDUCTION OF THE CITY OF CUSTER CITY MUNICIPAL CODE AND AMENDING, REPLACING, AND SUPERSEDING ALL PRIOR ORDINANCES OR AMENDMENTS, BY WHICH AMENDING AND SUPERSEDING SAID ORDINANCE AS FOLLOWS, TO WIT:

BE IT ORDAINED by the Common Council of the City of Custer City that section 13.24.60 be amended as follows:

13.24.60 Service Reduction

All residential and commercial customers whose home is not occupied for a period of thirty (30) consecutive days or more shall present a written request for water shut-off in order to have their water and wastewater bill reduced during said period. In order to reinstate water and wastewater service, the customer shall present a written request therefore, at which time the rate reduction will terminate. The following reduced rates will apply for residential customers: water charge – six dollars and ninety-two cents (\$6.92); bond charge – two dollars and sixty-eight cents (\$2.68); wastewater charge - seven dollars and eight-four cents (\$7.84). The following reduced rates will apply for commercial customers: water charge – eight dollars and thirty-one cents (\$8.31); bond charge – two dollars and sixty-eight cents (\$2.68); wastewater charge - ten dollars and forty-five cents (\$10.45).

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 4th day of November, 2019.

City of Custer City

Corbin Herman, Mayor

Attest _____

Laurie Woodward, Finance Officer

(SEAL)

First Reading: October 21st, 2019

Seconding Reading: November 4th, 2019

Publication: November 13th, 2019

Vote:

Ryan:

Moore:

Nielsen:

Fischer:

Blom:

Whittaker:

2020 UTILITY RATES - 2000 GALLON BASE

Single Family	1000 Gallons	2000 Gallons	3000 Gallons	4000 Gallons	5000 Gallons	6000 Gallons	7000 Gallons	8000 Gallons	9000 Gallons	10000 Gallons
Water	11.34	11.34	19.33	27.32	35.31	43.30	51.29	59.28	67.27	75.26
Water Bond	3.40	3.40	4.99	6.58	8.17	9.76	11.35	12.94	14.53	16.12
Wastewater	23.33	23.33	25.89	28.45	31.01	33.57	36.13	38.69	41.25	43.81
Sewer Bond	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50
Garbage	19.20	19.20	19.20	19.20	19.20	19.20	19.20	19.20	19.20	19.20
Garbage Tax	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Total Residential Rate	64.02	64.02	76.16	88.30	100.44	112.58	124.72	136.86	149.00	161.14

7.99
1.59
2.56

Commercial & Multi Family	1000 Gallons	2000 Gallons	3000 Gallons	4000 Gallons	5000 Gallons	6000 Gallons	7000 Gallons	8000 Gallons	9000 Gallons	10000 Gallons	20000 Gallons
Water	24.42	24.42	33.82	43.22	52.62	62.02	71.42	80.82	90.22	99.62	193.62
Water Bond	3.40	3.40	4.99	6.58	8.17	9.76	11.35	12.94	14.53	16.12	32.02
Wastewater	27.39	27.39	34.80	42.21	49.62	57.03	64.44	71.85	79.26	86.67	160.77
Sewer Bond	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50
Total Commercial Rate	60.71	60.71	79.11	97.51	115.91	134.31	152.71	171.11	189.51	207.91	391.91

9.40
1.59
7.41

100000 Gallons	200000 Gallons
945.62	1885.62
159.22	318.22
753.57	1494.57
5.50	5.50
1863.91	3703.91

2020 UTILITY RATES INCREASE

Single Family	1000	2000	3000	4000	5000	6000	7000	8000	9000	10000	
	Gallons										
Water	0.33	0.33	0.56	0.79	1.02	1.25	1.48	1.71	1.94	2.17	0.23
Water Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Wastewater	0.68	0.68	0.75	0.82	0.89	0.96	1.03	1.10	1.17	1.24	0.07
Sewer Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Garbage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Garbage Tax	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Residential Rate	1.01	1.01	1.31	1.61	1.91	2.21	2.51	2.81	3.11	3.41	
	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%

Commercial & Multi Family	1000	2000	3000	4000	5000	6000	7000	8000	9000	10000	20000
	Gallons										
Water	0.71	0.71	0.98	1.25	1.52	1.79	2.06	2.33	2.60	2.87	5.57
Water Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Wastewater	0.80	0.80	1.02	1.24	1.46	1.68	1.90	2.12	2.34	2.56	4.76
Sewer Bond	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Commercial Rate	1.51	1.51	2.00	2.49	2.98	3.47	3.96	4.45	4.94	5.43	10.33
	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%

100000 Gallons	200000 Gallons
27.17	54.17
0.00	0.00
22.36	44.36
0.00	0.00
49.53	98.53
3%	3%

0.27
0.00
0.22

2020 UTILITY RATES - 2000 GALLON BASE

<u>Single Family</u>	1000	2000	3000	4000	5000	6000	7000	8000	9000	10000
	Gallons									
Water	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Water Bond	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Wastewater	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Sewer Bond	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Garbage	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Garbage Tax	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total Residential Rate	1.6%	1.6%	1.8%	1.9%	1.9%	2.0%	2.1%	2.1%	2.1%	2.2%

3%
0%
3%

<u>Commercial & Multi Family</u>	1000	2000	3000	4000	5000	6000	7000	8000	9000	10000	20000
	Gallons										
Water	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Water Bond	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Wastewater	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Sewer Bond	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total Commercial Rate	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%

3%
0%
3%

100000 Gallons	200000 Gallons
3%	3%
0%	0%
3%	3%
0%	0%
3%	3%
0%	0%
3%	3%
0%	0%
3%	3%

ORDINANCE NO. 831

AN ORDINANCE ENTITLED AN ORDINANCE AMENDING TITLE 9 PUBLIC PEACE, MORALS AND WELFARE CHAPTER 9.04 OFFENSES AGAINST PUBLIC PEACE AND DECENCY AND CHAPTER 9.08 PROPERTY OFFENSES; TITLE 10 VEHICLES AND TRAFFIC CHAPTER 10.08 RULES OF THE ROAD, OF THE CITY OF CUSTER CITY MUNICIPAL CODE ARE AMENDED, REPLACING, AND SUPERSEDING ALL PRIOR ORDINANCES OR AMENDMENTS, BY WHICH AMENDING AND SUPERSEDING SAID ORDINANCE AS FOLLOWS, TO WIT:

BE IT ORDAINED by the Common Council of the City of Custer City that sections 9.04.010, 9.04.030, 9.04.040, 9.04.050, 9.08.010, 9.08.020, 9.08.040, and 10.08.300 be amended as follows:

Any designations as Class I misdemeanor violations and punishments therefor be amended to designate any violations thereof as a Class II misdemeanor, and subject to the penalties therefor as set forth in Chapter 1.12 of this code.

NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 18th day of November, 2019.

City of Custer City

Corbin Herman, Mayor

Attest _____
Laurie Woodward, Finance Officer

(SEAL)

First Reading: November 4 th , 2019	Vote:	
Seconding Reading: November 18 th , 2019	Ryan:	Fischer:
Publication: November 27 th , 2019	Moore:	Blom:
	Nielsen:	Whittaker:

RESOLUTION # 11-04-19A

WHEREAS, the Common Council of the City of Custer City has expressed some concerns with parade safety; and

WHEREAS, the Common Council has previously determined that a parade request form shall be created to gather more information from parade requesting entities; and

WHEREAS, the Common Council of the City of Custer City has determined that the following six stipulations shall be modified from previous Resolution #09-03-19A and put in place for parade request.

- 1) Drugs and alcohol shall not be consumed ~~by any participant~~ on the parade route.
- 2) No candy, prizes, promotional items, etc, shall be thrown from any parade float or vehicle. Such items shall be handed out to the onlookers by walkers, with enough distance from the floats that onlookers do not have to enter the roadway to retrieve them.
- 3) Participants shall not spray liquids at the crowd.
- 4) Each parade participating group must be responsible not only for their own safety and must also take precautions to ensure the safety of their float ~~and its~~ participants and the public audience around them.
- 5) Vehicle drivers are solely responsible for the safe operation of their vehicle. Each float/truck driver must be the holder of a valid driver's license and must have valid auto liability coverage in force.
- 6) Participants with horses or animals of any kind shall provide personnel to perform immediate excrement removal.

IT IS NOW THEREFORE RESOLVED that the above six stipulations shall be modified and incorporated into a parade request form to be updated as needed by City staff.

Dated this 4th day of November 2019

City of Custer City
Corbin Herman, Mayor

Attest:

Laurie Woodward
Finance Officer

(Seal)

RESOLUTION NO. 11/04/19B

WHEREAS, Chapter 9-22-4 of the South Dakota Codified Law states “every municipality may assign for collection any or all delinquent accounts receivable. After reasonable collection efforts, the governing body may determine that an account is non-collectible, and by formal action direct that the non-collectible amount be removed from the records and disclosed on that year’s financial report. Evidence of the debt removed from the records by the formal action of the governing body shall be retained by the municipality to support possible subsequent collection of that debt.”

WHEREAS, efforts have been made to collect these past due accounts receivable, and

WHEREAS, adequate time has elapsed to consider these accounts receivable delinquent and past due,

NOW THEREFORE BE IT RESOLVED that the following accounts be deemed non-collectible and removed from the records and disclosed on the 2019 Financial Report.

NAME:	ACCOUNT #:	AMOUNT:
Nicholle Caudy	500590-07	\$364.85
Jeri Hewitt	200310-02	\$153.76
Melissa Johnson	201210-18	\$118.49
Lewis Trusty	401390-02	\$289.89
Marcus Engle	SNOW ABATEMENT	\$440.00
	TOTAL	<u>\$1366.99</u>

Signed this 4th day of November, 2019.

ATTEST:

CITY OF CUSTER

LAURIE WOODWARD
FINANCE OFFICER
(SEAL)

CORBIN HERMAN
MAYOR

CUSTER CITY COUNCIL MEETING

OCT 31 2019

NAME:

Van Arp

PHONE #:

CITY OF CUSTER
970-0640

ADDRESS:

25524 Veterans Tr.

MEETING DATE:

Nov. 4

Council meets on the 1st and 3rd Monday of each month, however if such date follows on a holiday Council will meet the following day.

ACTION REQUESTED (Give a brief summary of the action you would like the Council to take):

Updating Summer Music 2020 plans
from Oct. 7 meeting

REASONS FOR ACTION (Give a detailed account for the reasons you feel the Council should take the above action. Please state the history behind the request and as much information supporting your request as you can. Attach additional sheets if necessary.):

Have you visited with any staff or committees regarding your request, please state who (General Government Committee, Public Works Committee, Planning Commission, Community Development Director, Public Works Director, Finance Officer):

Public Works - Bob Morrison

SIGNATURE

Van Arp

DATE

10/31/19

This form must be returned to the Finance Office by noon on the Wednesday preceding a regular scheduled meeting.

Welcome to the Custer County Bark Park

The place for happy dogs!

PARK RULES

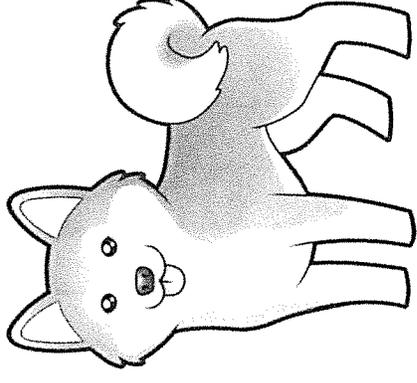
OPEN SUNRISE TO SUNSET

HANDLERS MUST:

- * ASSUME FULL LEGAL RESPONSIBILITY FOR THEIR DOGS & ANY PERSONAL INJURY DAMAGES CAUSED BY THEM, HOLDING THE CITY & COUNTY OF CUSTER HARMLESS
- * BE 18 YEARS OR OLDER
- * BRING NO MORE THAN 2 DOGS TO THE PARK AREA AT ANY ONE TIME
- * CARRY A LEASH FOR EACH DOG IN YOUR CARE
- * REMAIN INSIDE THE FENCED AREA WITHIN FULL VIEW, ABLE TO USE VOICE CONTROL & MAINTAIN TOTAL SUPERVISION OF THEIR DOGS AT ALL TIMES
- * PICK UP & DISPOSE OF YOUR DOG'S WASTE IN THE PROVIDED RECEPTALS
- * CHILDREN 12-17 YEARS OLD MUST BE ACCOMPANIED BY AN ADULT. CHILDREN UNDER 12 MUST HAVE DIRECT SUPERVISION
- * NO STROLLERS ALLOWED INSIDE THE FENCE
- * CLOSE GATES IN THE PARK AFTER ENTERING & EXITING
- * NO FOOD, GLASS CONTAINERS, OR TOBACCO IS ALLOWED IN THE PARK

DOGS MUST:

- * BE AT LEAST 6 MONTHS OLD
- * BE LEASHED WHEN ENTERING & LEAVING THE ENCLOSURE
- * BE HEALTHY, PROPERLY LICENSED & VACCINATED
- * DOGS IN HEAT ARE NOT ALLOWED TO USE THE DOG PARK
- * NOT BARK ON A CONTINUOUS OR FREQUENT BASIS
- * BE REMOVED AT THE FIRST SIGN OF AGGRESSION AGAINST OTHER DOGS OR PEOPLE
- * NOT DIG HOLES
- * NOT BRING FOOD OR DOG CHEWS

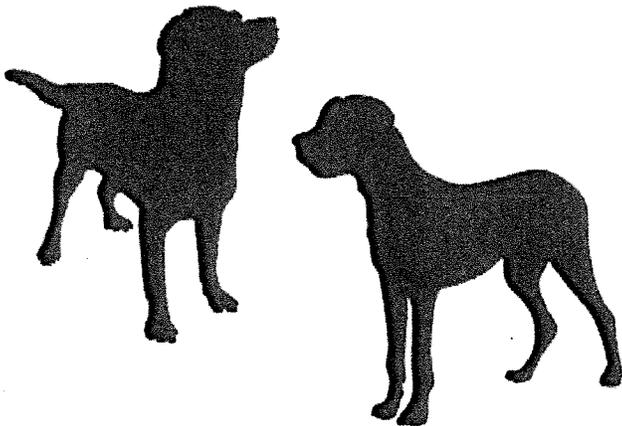


VIOLATORS OF THE RULES WILL BE SUBJECT TO REMOVAL FROM THE PARK AND SUSPENSION OF PARK PRIVILEGES

Large Dog Area

Suggested Use:

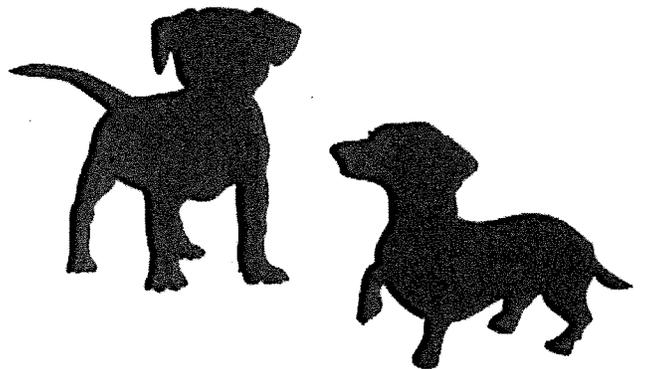
- Dogs over 30 pounds
- Active small dogs (Those who think they are BIG dogs)
- Placement of dogs in this area is at the owners discretion

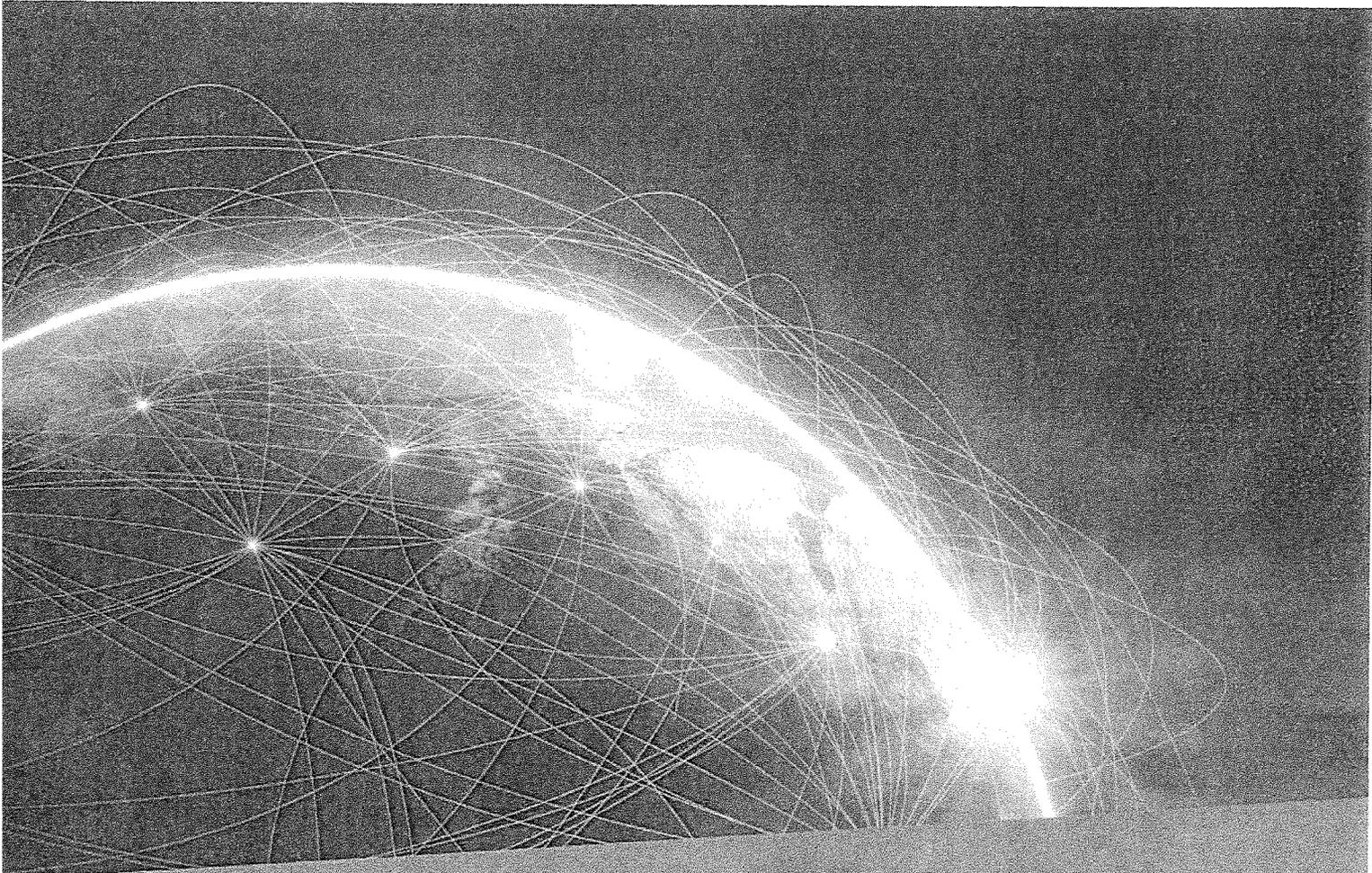


Small Dog Area

Suggested Use:

- Dogs under 30 pounds
- Less active senior dog and/or those who are more comfortable with smaller friends
- Placement of dogs in this area is at the owners discretion





Solution Overview

Presented to City of Custer, SD

October 4, 2019

Presented by:

Becki Gallahan
Regional Sales Manager

Becki.gallahan@onsolve.com 

Office 866 939 0911 

Mobile 386 527 9129 

780 W. Granada Blvd. 
Ormond Beach, FL 32174 





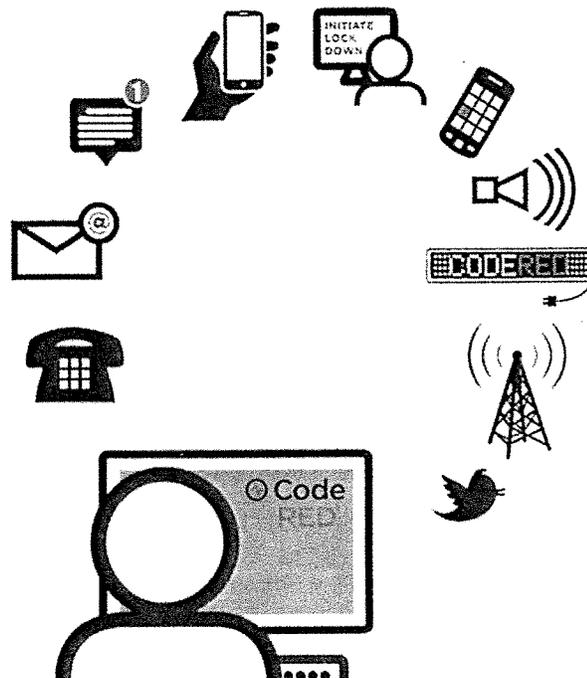
EMERGENCY AND CRITICAL COMMUNICATIONS

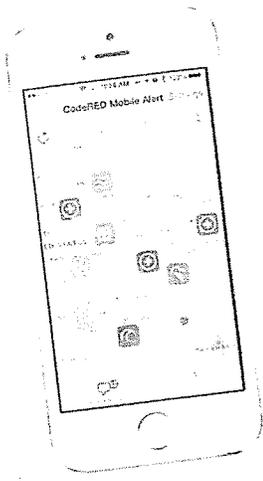
OnSolve provides the industry's most proven and easy-to-use notification services capable of reaching hundreds of thousands of citizens in minutes. The company has been in the critical communications business for nearly two decades, developing and implementing the technology that has delivered more than a billion messages across North America.



CodeRED

The CodeRED solution was designed specifically for government and public safety officials to record, send and track personalized voice, email, text and social media messages to citizens, as well as staff. OnSolve employs a proprietary mapping technology and patented delivery methods as integral components of its high-speed notification system in operation since 1998.





CodeRED Mobile Alert app

This latest innovation in the public safety arena answers the question asked by many Emergency Managers nationwide – “How do we communicate with people in our jurisdiction who do not reside here?”

The answer is by using a location-based method to deliver CodeRED initiated messages. The CodeRED Mobile Alert app is geo-aware and sends push notifications to a subscriber’s device when alerts are issued for their current geographical location. This advanced technology enables local officials which utilize CodeRED to reach those individuals passing through their jurisdiction and helps to also protect citizens traveling outside their local coverage area.

MOBILE LAUNCHING CAPABILITIES

The world has become increasingly mobile and therefore, OnSolve has developed tools to meet the specific needs of our clients. This includes the ability to create and send notifications on the go, from any location at any time via a mobile device.

The CodeRED Launcher app, which can be used on any Android, iOS or Windows device, allows users to quickly and easily build scenarios, utilize saved scenarios, launch to existing contact groups, select a geographic calling area via the map, and launch ad hoc notifications across all modes of dissemination. The app also provides users with a detailed view of statistics in order to analyze each notification sent.

Simple and user-friendly interface

Ability to start and stop message campaigns from any device

Ability to record and save a voice message to be distributed at a later time

Integrated campaign statistics to show completion results

The CodeRED Launcher app empowers users to launch notifications immediately from the field

TWO-WAY MESSAGING CAPABILITIES

Two-way messaging allows system users to collect real-time responses from your message recipients; helping you make better informed decisions, fulfill open shifts, track resources, enable two-way dialogue, and more.

When a two-way enabled message is sent, recipients receive a custom URL directing them to a responsive web form displaying their available responses. System users can then:

- View and track all responses via detailed analytics
- Establish a pre-determined expiration time for required responses
- Attach documents, pictures or files containing additional information
- Enable simple yes/no survey responses or text fields

Message Builder

Reply Page Creation

Team activation: Can you respond? If so, would you be available for a shift?

Add a yes/no response
 Add a text box response

Duration to accept replies: 3 Hours 0 Minutes

Hours:

Minutes:

Previous Save Replies



Response Center

Client Name
Utility Department

To: Jiro Erickson
From: Dispatch Supervisor
June 08, 2016, 2:20 PM
Team deployment from
Dispatch Supervisor
Available: 12/12/16

Can you respond?
 Yes
 No

Submit

ONSOLVE

Name	Device	Client Status	Time	Answered	Reply Message
Harpel, Troy	350443	Replied	1:20:43	Yes	Delayed by traffic
	tharpel@cnetwork.com	Opened	1:22:15		
Shuts, John	350493	Replied	1:20:43		
	johnsh@gma.com	Replied	1:20:18	No	Out of town
Heston, Mike	353503	Delivered	1:20:43		
	mheston@waco.com	Replied	1:20:44	Yes	
Vickers, Patty	350559	Delivered	1:20:44		

Simple implementation



select
audience

The CodeRED system is operational immediately and can be ready for use today. With no equipment to install or phone lines to add, authorized users simply login to the CodeRED system with their password to begin. An initial calling database and local maps are provided by OnSolve and are instantly available to enable users to easily target residents and businesses by specified area.



record

Ease of use

The CodeRED system was designed to be easy to use even under the most strenuous of conditions. Expecting use under pressure, the feature rich interface was built with a simple three step process to initiate critical communications. Messages may be launched by authorized users via telephone or the Internet, from anywhere at any time.



launch

Training and refresher courses are regularly provided via live web-based seminars to ensure your staff is always comfortable with the system and confident in their ability to launch a notification.

Live client support



notify

Available 24/7/365, the OnSolve Client Support Team is staffed by knowledgeable individuals thoroughly trained on all aspects of the CodeRED system. In addition to handling inbound inquiries, the team monitors system activity as well as weather and other news feeds, to stay on top of developing situations; when appropriate, they will also reach out to clients to provide suggestions and support for system use.

Affordability

OnSolve has priced its CodeRED solution to be cost-effective. There are no set-up fees to pay, no equipment to buy, no phone lines to lease, and no annual maintenance is required. System time, training and support, initial calling database, mapping, integration of client supplied data, and database clean-up are all included.



Technology

CodeRED's robust platform is built upon a sophisticated infrastructure which includes multiple built-in redundancies to support thousands of jobs running simultaneously.

Proprietary trademarked technology is used to ensure messages are delivered in their entirety regardless if the call is picked up by a person, or by an answering device. If a call is missed, message recipients may simply dial the system back via the toll-free number displayed on their caller ID to hear the last message delivered to their phone. This Universal ANI® feature is not only convenient for the recipients of notifications; but, it also relieves inbound call congestion on your personnel and often overworked emergency lines.

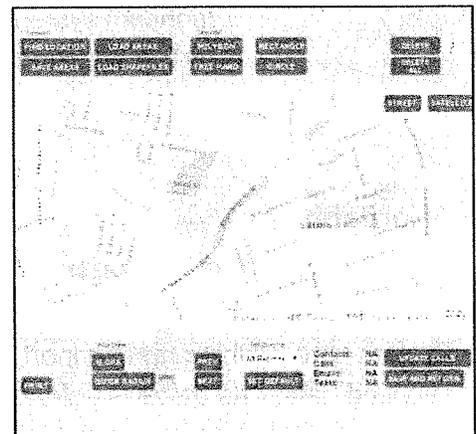
Furthermore, OnSolve manages its entire network in-house, maintaining control over dialing systems and not relying on any third-party or shared lines to place calls. This dedicated network ensures client jobs initiate immediately and do not have to be queued or competed by available phone lines with other dialing priorities. Most importantly, by eliminating any dependence on third-party Service Level Agreements (SLAs), an entire layer of potential failure is removed.

Speed

The OnSolve infrastructure maintains a massive system capacity that is able to transmit millions of messages an hour. Each account is throttled and system resources are allocated to match the local telephone infrastructure, resulting in more connected calls, less network congestion, and fewer busy signals. The CodeRED system was built for use during time-sensitive situations, when ensuring communications are delivered as quickly as possible, is what matters most.

Mapping

Mapping is available for use when messages need to be geographically targeted. The web-based mapping interface, written by OnSolve, is both intuitive and easy-to-use. CodeRED utilizes ESRI mapping as a foundation and has created area selection tools that range from polygons to simple paint brush tools, allowing users to quickly become familiar with the map's features. OnSolve hosts all components of the mapping interface, relying on no third-party providers.

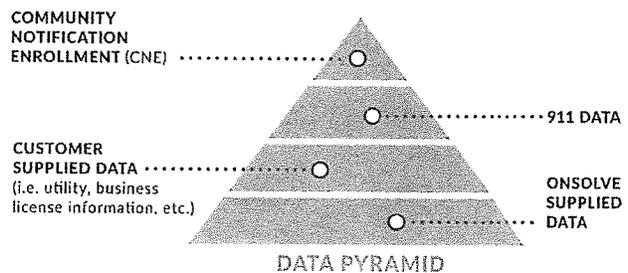


OnSolve includes local mapping with your CodeRED license and has the ability to provide custom maps using client supplied GIS layers, or by integrating client supplied street layer mapping to the ESRI foundation. With CodeRED there is no requirement for client communities to purchase GIS software and there is also no need for you to utilize internal resources to host, maintain, or update maps.

Calling data

Each client accesses a database which is populated by multiple sources. All compiled data is verified and addresses are assigned lat/long coordinates by the OnSolve custom multi-layer geo-coding service.

OnSolve provides initial calling data for immediate use; this allows communities to be up and running on CodeRED quickly. Data is acquired through various commercial sources and includes both residential and business data, as well as some mobile phones and VoIP numbers. This data is provided at no additional cost and serves as the foundation for each client's database.



The middle data tier is supplied by the client. Communities using CodeRED typically provide data from their local utilities as well as their 911 data. OnSolve geo-codes all client supplied data as a standard part of the database building process.

And finally, the most accurate layer of the pyramid is created by entries to the Community Notification Enrollment (CNE) page. OnSolve provides a custom Web page for each community, allowing residents and businesses to directly submit additional calling data, text and email addresses, as well as TDD/TTY requirements, to further populate the database. All information added to the CNE is instantly available for use within CodeRED.

Validata®

The CodeRED database is scrubbed using the unique Validata process, numbers that cannot be confirmed as valid, are removed to create a cleaner, more efficient calling list.

Internal use

The CodeRED system enables users to easily import data groups with up to eight points of contact including text and email addresses. OnSolve developed this multi-channel approach to internal communications as a way to ensure message consistency for first responder notifications, critical incident call outs, and official comment direction. With a few clicks of the mouse, multiple groups, an individual group, or specific group members can quickly be contacted. Users select the best way to send alerts and can then verify the information was delivered rapidly and accurately.



Types of Warnings*



severe
thunderstorm



tornado



flash flood



tsunami



winter storm

**Tsunami and winter storm warnings are only available to those regions prone to such conditions.*

Features of CodeRED Weather Warning

Automatically initiated messages

Warnings are generated automatically through proprietary computer algorithms. No impact is placed on internal resources as no staff action is required to initiate the notifications.

Geographically targeted warnings

Using storm coordinates, heading and speeds to determine the most vulnerable areas, CodeRED Weather Warning notifies those most at risk first.

Polygon methodology

Based on the National Weather Service's polygon methodology, only citizens in the path of projected weather are contacted; thereby increasing message relevance and reducing false alarms.

Opt-in model

Only citizens who sign up will receive these notifications. They may personally elect to receive alerts for any types or combinations of severe weather warnings.



Cost Proposal (PRICING GOOD FOR 90 DAYS FROM 10/4/2019)

The Web-based CodeRED® service, from OnSolve, was designed specifically to enable clients to rapidly record, send and track personalized voice, email, text and social media messages. The dedicated, triple redundant network and patented delivery methods employed by OnSolve add to the value of this affordable, high-speed notification system that has been in operation since 1998 and is currently used every day by clients from coast to coast.

A one (1) year license includes 24/7/365 uninterrupted CodeRED system access and the following

- CodeRED system set-up and training
- Initial residential and business database provided, with ongoing updates (4x per year)
- Unlimited emergency and general calling
- Unlimited NWS automatic severe weather warnings
- Unlimited SMS, email, social media messaging and social sharing
- Unlimited use of the CodeRED Launcher App
- Unlimited push notifications to citizens via CodeRED Mobile App
- Unlimited groups, with unlimited contacts
- Unlimited message templates
- Unlimited scenarios
- Unlimited saved/pre-defined areas
- Unlimited 24/7 technical support and training
- Unlimited RSS Feed and Website Widget
- Emergency and General database
- OnSolve standard ESRI mapping and geo-coding
- 24/7 technical support at no cost
- Unlimited scheduled alerting with daily, weekly and monthly options
- Complimentary system time for testing and training
- Design and hosting of custom Web page for community enrollment
- Validata
- Universal ANI and customizable Caller ID
- City owns all opt in data
- TEXT to Enroll

\$ 1,500.00usd Annual cost

All information contained within this document is Confidential and Proprietary to OnSolve, LLC



ONSOLVE™

SERVICE AGREEMENT
CodeRED®

This Service Agreement (the "Agreement") by and between Provider (as defined below) and Customer (as defined below) is made as of November 5, 2019 (the "Effective Date").

SERVICE ORDER

Provider Information: ("Provider")	Provider Name: Entity Type: State of Incorporation: Provider Address:	ONSOLVE, LLC Limited Liability Company Delaware 780 W. Granada Boulevard Ormond Beach, FL 32174
Customer Information: ("Customer")	Customer Name: Entity Type: State of Incorporation: Customer Address: Business Contact/Title: Phone: Email:	<u>City of Custer</u> <u>body politic</u> <u>South Dakota</u> <u>622 Crook Street</u> <u>Custer, SD 57730</u> <u>Corbin Herman/Mayor</u> <u>(605) 673-4824</u> <u>mayer@cityofcuster.com laurie@cityofcuster.com</u>

Please complete below if the Primary User is different from the Business Contact

Primary User Name:	<u>Laurie Woodward</u>
Phone:	<u>605-673-4824</u>
Email:	<u>laurie@cityofcuster.com</u>

Unless otherwise specified on a Customer purchase order or below, Provider will send invoices to the Customer Business Contact address above.

Customer Invoice Name:	
Attention:	
Address:	
City, State, Zip:	
Phone:	
Email:	
Preferred method of receiving invoices: <input checked="" type="checkbox"/> Email <input type="checkbox"/> US Mail	

DETAILED SERVICE DESCRIPTION

Initial Term (commencing on Effective Date)	One (1) Year and fifty-seven (57) Days
Renewal Term(s)	One (1) Year
<i>If the Agreement is renewed, the first Renewal Term shall commence as of <u>January 1, 2021</u></i>	
CodeRED On-Demand Notification Service - Unlimited	
Annual Notification Subscription Fee:	\$1,500.00
Initial Term Cost for Notification Service:	\$1,734.27
Additional Features	
Commercially Available Data	Included
One (1) annual Provider-assisted traditional import for Customer data	Included
Annual CodeRED Weather Warning® Subscription Fee:	Included
Annual Cost for all Additional Features:	Included
Initial Term Cost for all Additional Features:	Included
Annual Subtotal:	\$1,500.00
Initial Term Subtotal:	\$1,734.27
May be paid in installments:	
Due on the Effective Date	\$ 234.27
Due on or before 01/01/2020	\$1,500.00
<i>Will be paid by 1/10/20</i>	
<i>All amounts are stated in United States Dollars unless specifically indicated otherwise.</i>	

- GIS (Target Recipients by Geographic Location): City of Custer, South Dakota (the "Notification Area")
- Up to 4,000 Recipients. A deviation above 10% in the number of Recipients shall result in increased pricing at Provider's then-current rates.
- Notification Subscription Fee includes Unlimited Message Units for Notifications sent via phone, SMS text or email.
- Provider reserves the right to increase the fees for any Renewal Term in an amount not to exceed five percent (5%) of the prior Initial Term or Renewal Term (as applicable).

ATTACHMENTS: EXHIBIT A – GENERAL SERVICE DESCRIPTION, EXHIBIT B – TERMS AND CONDITIONS, EXHIBIT C – ACCEPTABLE USE POLICY

ONSOLVE, LLC

CUSTOMER: CITY OF CUSTER, SOUTH DAKOTA

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
GENERAL SERVICE DESCRIPTION – CODERED®

Description of On-Demand Notification Service: The Service is an on-demand alerting and response software-as-a-service (SaaS) for the Notification Area. Use of the Service is by subscription and does not require Customer to purchase, install or maintain any dedicated hardware or software. The Service allows any Initiator to send a single alert to thousands of Contacts simultaneously via a combination of familiar communication devices including the ability to capture real-time responses.

Customer can access and activate the Service using any of the following methods:

- *Web:* log in 24/7/365 at <https://www.onsolve.com/login/> to send alerts or to modify your account.
- *Phone:* call (866) 939-0911 for live operator assistance 24/7/365.

Description of Service. With subscription, Customer receives:

- Up to the number of Message Units stipulated on Service Order of the Agreement, which can be used as described on the Service Order and in Exhibit B.
- Unlimited messaging via email and to the CodeRED Mobile Alert App.
- "Message Unit" means:
 - Sixty (60) seconds or less of connected call time in the Service. As an example, a call connected for ninety (90) seconds shall be equal to two (2) Message Units
 - SMS messages that are 140 characters in length. SMS messages over 140 characters in length are separated into multiple Message Units.
- Transaction Fee (as defined on Exhibit B) for unlimited Service (for refund purposes only, where applicable) is equal to \$0.09. Transaction Fee for Message Unit-based Service is equal to the Overage Message Unit price set forth on the Service Order
- Unlimited Initiators (those with role-based ability to access and activate the Service).
- Unlimited groups within accounts: A group is an alert distribution list.
- Standard upgrades. Standard upgrades include all maintenance releases.
- For optional features purchased (e.g. Conference Bridge, Bulletin Board) up to the number of Message Units stipulated on Service Order of the Agreement.
- Absent separate purchase of Commercially Available Data from Provider, Customer is responsible to provide data for use in the Service, and Provider shall not be responsible for Customer's inability to use the Service due to Customer's delay in providing data.
- Customer may purchase professional services ("Professional Services"), such as installations, implementations, software testing, custom modifications, data services or international training sessions from Provider. Professional Services will be described in a separate statement of work.

Contact List Maintenance. Provider provides multiple ways for Customer to enter and maintain the Contact list at no additional charge:

- Community Notification Enrollment ("CNE") Page (public self-registration): Contacts may sign up on the CNE Page and enrollment information will be transferred to Customer. Customer acknowledges and agrees that Provider may notify such individuals that their data will be transmitted to Customer, and that the transmission of such data to Customer may render it public record and is subject to Customer's privacy policies. Customer agrees that it will be solely responsible for providing such privacy policies to these individuals and that Provider shall not be responsible for the individual contribution of contact information through the CNE page.
- Contact Group Enrollment Page (internal self-registration): Customer's internal Contacts may sign up on the Contact Group Enrollment Page and enrollment information will be transferred to Customer.
- Provider agrees that it will, upon termination of the Agreement and Customer's request, provided all Fees are paid in full, transmit in Provider's standard format any Community Notification Enrollment data received on or after the Effective Date and all Contact Group Enrollment data, one (1) time, to Customer at no charge.
- Traditional Import: For its initial population of the Contact list, Customer may supply Provider with a spreadsheet (flat-file format) of Contact list data. Customer Support will scrub (examine) the submission as a courtesy for discernible data exceptions, or errors in formatting or content that might interfere with the proper loading of data or use of the Service. Provider generally updates data provided via traditional import within two (2) business days after receipt of such data. Customer may utilize this traditional flat-file import no more than one (1) time per year at no additional cost, unless otherwise set forth on the Service Order.
- On-Demand Entry: Customer may enter or edit Contact data directly within the Service through the User interface.

Customer Support. Provider provides Customer with 24/7/365 live phone support at no extra charge. Customer may dial (866) 939-0911, or the local support number provided to you by Provider. At Provider's reasonable discretion, non-urgent after hours and off hours ("AHOH") inquiries may be deferred until conventional business hours to facilitate best handling.

Training. All training is customized and individual to the Customer. Provider training included with subscription at no extra charge:

- One (1) annual Initiator training session;
- Unlimited pre-recorded, web-based remote trainings
- New features training sessions; and
- Best practices feature training sessions (whenever applicable).

Provider Customer Support works with Customer to schedule training flexibly and to accommodate Customer's schedule. All training is conducted via Web meeting/conference call.

Customer may request additional sessions, or onsite training in lieu of Web-based training. Such training is billable at a base \$1,500 day rate (minimum half day fee applies). For any onsite training, Customer is responsible for all of Provider's reasonable and pre-approved travel/lodging/incidental expenses.

Support Documentation. Service documentation appears online. In addition to other online help documentation, Customer may download/print the current version of the Provider User Guide at any time.

Description of Additional Features. Customer may purchase (if set forth on the Services Order):

- **Commercially Available Data.** Provider shall include commercially available data (the "Commercial Data") for use by Customer in the Service. Provider will perform Commercial Data updates 3 to 4 times per year. Commercial Data is subject to licensing requirements that do not permit Provider to transfer ownership to Customer.
- **Foreign Message Translation.** All Notifications must be input in English. Once specified, languages may not be changed, absent execution of an updated Schedule 1. ONLY those Users that have opted-in to the Service will receive their selected FMT. Translation is supplied by a third party and is AS-IS.
- **CodeRED Weather Warning® ("CRWW")** - Includes automated Notifications generated from severe weather bulletins issued by the National Weather Service ("NWS"). CRWW Notifications are sent by matching the geographic locations associated with Users against the geographic polygon(s) associated with severe weather bulletins issued by NWS. CRWW Notifications are automatically launched 24 hours a day in response to the issuance of NWS severe weather bulletins. ONLY those Users that have opted-in to CRWW will receive CRWW Notifications. Consent for opt-in is required as set forth in the Agreement. CRWW Notifications are not deducted from Message Units.
- **Integrated Public Alert Warning System ("IPAWS") Submission App ("IPAWS App").** Permits Customer to submit Notifications to IPAWS. IPAWS Notifications may be reviewed by the Federal Emergency Management Agency ("FEMA") to determine appropriate dissemination. Initiators with access to the IPAWS App shall be authorized by FEMA to use IPAWS. In order to use the IPAWS App, Customer agrees to provide Provider, using best practices and secure means, with a copy of its IPAWS digital signature ("Signature") along with its associated keystore, Signature pass codes, application for IPAWS, and any other information reasonably requested by Provider. Customer authorizes Provider to use and keep such information on Provider's servers for the purpose of allowing Customer and Provider to access, use and test IPAWS through the IPAWS App. Customer acknowledges and agrees that: (a) the dissemination of Notifications through IPAWS is not guaranteed nor controlled by Provider, and is the sole responsibility of FEMA; (b) Provider shall not be responsible or liable for the failure of Notifications to be disseminated through IPAWS; and (c) IPAWS may include additional features which are not supported through the IPAWS App (eg. the receipt of messages) and Provider shall not be required to provide such additional features. IPAWS App Notifications are not deducted from Message Units.
- **Bulletin Board.** Bulletin Board allows Customer to record messages by dialing an interactive voice response system. Customer may promote its assigned number, and callers may call to listen to the prerecorded messages. Bulletin Board will capture the caller's spoken responses and/or keypress information and provide a report in the Service. Upon termination or expiration of the Agreement, Provider will retain any numbers provided. Message Units for Bulletin Board will be deducted in sixty (60) second increments. All incoming calls whether made for the purpose of recording or listening to Notifications will result in call time deduction.
- **Conference Calling.** Conference lines are available on a first come, first serve basis. Conference lines are supplied by a third party and are AS-IS. Message Units for Conference Calling will be deducted in sixty (60) second increments. Each line invited into the call will result in call time deduction.
- **GIS Custom Map.** GIS information must be in a standard format recognizable and electronically transferable to the Service. A full GIS map must be provided by Customer for hosting by Provider in order to be used in the Service.

Exhibit B
TERMS AND CONDITIONS

1. DEFINITIONS.

- 1.1. "Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with, a party to this Agreement, where "control" means the control, through ownership or contract, of more than 50% of all the voting power of the shares entitled to vote for the election of the entity's directors or members of the entity's governing body; provided that such entity shall be considered an Affiliate only for the time during which such control exists.
- 1.2. "API" means the application program interface for the Service.
- 1.3. "API Contacts" means an individual person whose information is stored in an external third party application database (not in the Service database) capable of only receiving and responding to Notifications. API Contacts are not permitted to log in to the Service. All API Contacts are included in Customer's total number of Contacts as set forth on the Service Order, whether or not they are transmitted to the Service.
- 1.4. "Applicable Law" means any domestic and/or foreign statute, ordinance, judicial decision, executive order, or regulation having the force and effect of law, including US-EU Privacy Shield (where applicable).
- 1.5. "Contact" means an individual person capable of only receiving and responding to Notifications and, if permitted, updating its own profile. Contact includes API Contacts.
- 1.6. "Content" means content, data, text, messages and other material contained in a Notification.
- 1.7. "Data Processing Addendum" means Provider's data processing addendum (if applicable) that is executed by the Parties under this Agreement.
- 1.8. "Documentation" means any official, applicable documentation that Provider provides to Customer (electronic or written) regarding the Service.
- 1.9. "EU or Swiss Personal Data" means Standard Personal Information of any European Economic Area (EEA) resident as defined under the General Data Protection Regulation (EU 2016/679)("GDPR") and any national laws implementing the GDPR, regulations and secondary legislation, or of any Swiss resident as defined under the Swiss Federal Data Protection Act and Data Ordinance 2017, each as amended or updated from time to time.
- 1.10. "Fees" means any fees due hereunder, including without limitation all Transaction Fees and Subscription Fees.
- 1.11. "Initiator(s)" means an individual person or application authorized to create and issue Notifications.
- 1.12. "Notification(s)" means messages issued by an Initiator through the Service, whether or not responded to by Contact.
- 1.13. "Sensitive Data" means any personally identifiable information relating to health/genetic or biometric information; religious beliefs or affiliations; political opinions or political party membership; labor or trade union membership; sexual preferences, practices or marital status; national, racial or ethnic origin; philosophical or moral beliefs; criminal record, investigations or proceedings or administrative proceedings; financial, banking or credit data; date of birth; social security number or other national id number, drivers' license information; or any other "sensitive data" category specifically identified under any Applicable Laws.
- 1.14. "Service" means Provider's software-as-a-service, Internet-based and accessed notification service to set up and send Notifications.
- 1.15. "Service Order" means the service order to which these Terms and Conditions are attached, which describes the specific Service to be provided to Customer.
- 1.16. "Standard Personal Information" means name, business contact details (work telephone number, cell phone number, e-mail address and office address and location), personal contact details (home telephone number, cell phone number, other telephone, e-mail address and physical address), geolocation, and employee ID or other non-identifying ID number.
- 1.17. "Subscription Fee" means the fees for access to and use of the Service, including any activation fees.
- 1.18. "Transaction Fee" means the fees for individual transactions of sending and/or receiving Notifications to and from devices.
- 1.19. "User" means, collectively, Initiator(s) and Contact(s).

2. SCOPE OF THE SERVICE.

2.1. Service. Subject to these Terms and Conditions (this "Agreement"), including the Exhibits attached hereto, Provider shall provide Customer with access to the Service in accordance with Provider's Documentation. Customer will not, and will not allow or assist any other entity to, sublicense, assign, transfer, distribute, rent or sell use or access to the Service, or remove, alter or obscure any product identification, copyright or other notices. Only Customer, its Affiliates' and their respective employees and agents may act as Initiators; all use of the Service by Customer, its Affiliates' and their respective employees and agents is subject to the restrictions set forth in this Agreement.

2.2. Ownership and Service Components. All rights not expressly granted to Customer herein are expressly reserved by Provider. The Service is and shall remain the exclusive property of Provider and its licensors. Customer represents and warrants it has the right and authority to provide Provider with the Content for use in connection with the Service and Provider agrees that Content shall be owned by Customer. Provider and its third-party providers shall have a royalty-free, worldwide, transferable, sub-licenseable license to use the Content to perform the Service. Provider may gather Service data for the purpose of optimizing the Service. This information includes data regarding memory usage, connection speed and efficiency. Users are subject to Provider's terms of service and privacy policy available on Provider's website, www.onsolve.com/privacy-statement. Customer shall not, and shall not allow or assist any other entity to, create derivative works, modify, decompile, disassemble, or otherwise reverse engineer or attempt to discover any source code or underlying ideas of any component of the Service, except to the extent that Applicable Law prohibits such restrictions. Customer agrees that any suggestions, enhancement requests, recommendations, or other improvements (collectively, "Feedback") provided by Customer to Provider may be incorporated by Provider into the Service. Feedback is provided without warranty of any kind. Customer grants Provider the right to copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate, and reformat the Feedback, and the right to sublicense such rights to others. No compensation will be paid with respect to the use of Feedback.

2.3. Contact Limit. During the term of the applicable Service Order and for a period of one (1) year thereafter, Provider shall have the right (at its own expense, upon reasonable notice, and no more frequently than once per calendar year unless prior breach has been uncovered) to inspect the number of Contacts. If Provider determines that Customer has exceeded the licensed number of Contacts, Customer shall pay Provider for the additional Contacts and the costs of such review within ten (10) days of Provider's invoice.

3. PAYMENT AND TAXES

3.1. Payment. Customer shall pay the Fees as set forth on the Service Order to this Agreement without setoff or deductions, within thirty (30) days from the invoice date. Payment shall be in advance, excluding any Transaction Fees which will be billed in arrears. Unpaid balances will be subject to interest at a rate of one and a half percent (1.5%) per month or the highest rate permitted by Applicable Law, whichever is lower, commencing on the date that payment was due.

3.2. Taxes. In addition to the Fees, Customer agrees to pay any taxes (including any VAT or sales tax), whether foreign, federal, state, local or municipal that may be imposed upon or with respect to the Service exclusive of taxes on Provider's net income.

3.3. Message Surcharges. Provider will not be liable to Customer, to any Contact or to any other person for any charges or fees that arise from sending or receipt of a Notification using the Service, including as a result of increases in pass-through charges by telecommunications providers.

4. TERM AND TERMINATION

4.1. Term. Unless earlier terminated in accordance with the terms of this Agreement, the Initial Term of this Agreement shall begin on the Effective Date and continue for the period set forth on the applicable Service Order. Upon completion of the Initial Term, this Agreement shall automatically renew for successive renewal terms (each a "Renewal Term") as set forth on the applicable Service Order, unless either party provides at least thirty (30) days' written notice that the Agreement will expire at the end of the Initial Term or then-current Renewal Term.

4.2. Termination. If either party defaults in any of its material obligations under this Agreement and such default has not been cured within thirty (30) days after written notice of such default, or if either party makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy, is adjudicated bankrupt or insolvent, is subject to appointment of a receiver or is a party in any proceeding in any jurisdiction to which it is subject that has an effect similar or equivalent to any of the events mentioned, the non-defaulting party may immediately terminate this Agreement in addition to its other rights and remedies.

4.3. Suspension. Provider may suspend the Service: (a) effective immediately upon notice if Customer breaches any provision under Section 5 (Customer Obligations); or (b) if payment for any portion of the Fees is not received by Provider within fifteen (15) days after receipt of written notice that payment is past due. Such suspension shall not modify or lengthen the term of this Agreement or any then current Service Order, nor shall any rights or obligations hereunder be waived during the suspension period.

4.4. Effects of Termination. Upon termination or expiration of this Agreement (i) Provider will, upon written request of Customer, erase Customer data from the production servers controlled by Provider, except that: (a) any data stored on Provider's backup servers shall be deleted as soon as technically feasible, and in any event within ninety (90) days from deletion from production, and Provider agrees that it (1) shall discontinue processing such data; and (2) shall maintain the confidentiality of such data in accordance with this Agreement; and (b) Provider may retain report data (e.g., date/time of Notification and number of Notifications sent) necessary to support its billing and accounting records; (ii) Customer will immediately pay to Provider all amounts due and payable for Services delivered prior to the date of termination; (iii) Customer shall immediately cease all use of the Service and return or destroy all copies, extracts, derivatives and reflections of the Service, and, upon Provider's request, provide written notice that Customer has fully complied with this clause, and (iv) remedies for breach, rights to accrued payments and Sections 1 (Definitions), 2.2 (Ownership and Service Components), 2.3 (Contact Limit), 3. (Payment and Taxes), 4.4 (Effects of Termination), 5 (Customer Obligations), 6 (Confidentiality and Security), 8 (Indemnification and Responsibility), 9 (Limitation of Liability), and 10 (General) will survive. Upon termination of this Agreement for Customer's breach: (a) Customer will immediately pay to Provider all unpaid Fees that would become due under the then-current term if such termination did not occur; and (b) Provider shall retain any Fees paid to date. Upon termination of this Agreement for Provider's breach, Provider will refund an amount equal to the prorated amount of Fees paid for the remainder of the then current term, less any expenses for transactions completed prior to the date of termination, which shall be calculated based upon the Transaction Fees.

5. CUSTOMER OBLIGATIONS

5.1. Customer Obligations. The Service is subject to pass-through terms from certain telephony, facsimile, GIS and/or Short Message Service (SMS) vendors and as such, Provider may modify these terms upon thirty (30) days written notice to Customer if reasonably necessitated due to changes by the third-party providers. Failure to comply with these terms could result in the termination of certain critical services from Provider's vendors which would impact all of Provider's customers.

5.2. Acceptable Use Policy. Customer will use the Service in accordance with all Applicable Laws and the Acceptable Use Policy attached to the Agreement as Exhibit C.

5.3. Data Security. Customer acknowledges and agrees that Provider does not require or "pull" any specific data from Customer; that Customer controls which data and Content is input through the Service and which data is sent and to whom such data is sent; and that Provider only specifically tracks the privacy regulations of the United States, Canada, and the European Economic Area, Switzerland and Japan with respect to the Standard Personal Information and shall have no obligations with respect to privacy regulations in other countries or for other types of data. Accordingly: (i) Customer shall not under any circumstances, transmit or store any Sensitive Data to or through the Service; and (ii) Customer shall not transmit or store any EU or Swiss Personal Data to or through the Service unless: (a) Customer is certified under the US-EU Privacy Shield Framework and complies with the Privacy Shield's principles in connection with the protection and handling of its Standard Personal Information or Customer hereby represents to Provider that its protection and handling of Standard Personal Information is in compliance with the principles outlined in the US-EU Privacy Shield Framework, consisting of: Notice; Choice; Accountability

for Onward Transfer; Security; Data Integrity and Purpose Limitation; Access; Recourse; Enforcement and Liability; or (b) Customer has executed the Data Processing Addendum, and in such case Customer shall fully comply with the Data Processing Addendum. Provider is certified under the US-EU Privacy Shield Framework and complies with the EU-US Privacy Shield principles in its handling and processing of Standard Personal Information.

6. CONFIDENTIALITY AND SECURITY.

6.1. **Confidential Information.** During the course of this Agreement, each party may have access to confidential, proprietary or trade secret information disclosed by the other party, including, without limitation, ideas, trade secrets, procedures, methods, systems, and concepts, whether disclosed orally or in writing or stored within the Service, or by any other media ("**Confidential Information**"). Any information related to the Service, including Documentation, security information, and API information, shall be deemed to be Confidential Information of Provider, and any Content shall be deemed to be Confidential Information of Customer. Each party (the "**Receiving Party**") acknowledges that the Confidential Information of the other party (the "**Disclosing Party**") contains valuable trade secrets and other proprietary information of the Disclosing Party and that any such Confidential Information will remain the sole and exclusive property of the Disclosing Party. Each party will use Confidential Information only for the purpose of performing under this Agreement, restrict disclosure of Confidential Information solely to its employees and contractors with a need to know, not disclose such Confidential Information to any other entities unless required to perform the terms of this Agreement, and otherwise protect the Confidential Information with no less restrictive measures than it uses to protect its own confidential and proprietary information. Information will not be deemed "Confidential Information" if it: (a) is generally available to the public (other than through breach of this Agreement); (b) is received from a third party lawfully empowered to disclose such information without being subject to an obligation of confidentiality; or (c) was rightfully in the Receiving Party's possession free of any obligation of confidence at the time it was communicated to the Receiving Party. Notwithstanding the above, the Receiving Party will not be in violation of the confidentiality restrictions herein with regard to a disclosure that was in response to a valid order by a court or other governmental body, provided that the Receiving Party provides the Disclosing Party with prompt written notice prior to such disclosure where reasonably possible in order to permit the Disclosing Party to seek confidential treatment of such information. A Receiving Party shall promptly notify the Disclosing Party if the Receiving Party becomes aware of any misuse or unauthorized disclosure of Confidential Information.

6.2. **Security.** Provider has put in place commercially reasonable information security procedures designed to protect and prevent unauthorized access to Content and Contact data. Provider will only process Content in accordance with the terms and conditions of this Agreement and Customer's instructions. Provider's security procedures include physical security, network security, hosted/data security and web security. Provider may modify its security procedures from time to time in accordance with changes to industry standards, but only in a manner that retains or increases the stringency of Provider's security obligations.

7. REPRESENTATIONS AND DISCLAIMER

7.1. **Mutual Representations.** Each party represents and warrants that: (i) it has the full corporate right, power and authority to enter into this Agreement, to grant the rights granted hereunder and to fully perform its obligations under this Agreement; (ii) the execution of this Agreement by such party, and the performance by such party of its obligations hereunder, does not and will not violate or conflict with any agreement to which such party is a party or by which it is otherwise bound; and (iii) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

7.2. **Additional Provider Representations.** Provider represents and warrants that: (i) the Service will conform in all material respects to Applicable Law, Provider's Documentation; and (ii) all customer support, training and other services to be performed hereunder shall be performed in a professional and workmanlike manner consistent with industry standards.

7.3. **Disclaimer.** Provider makes no representation, warranty or guaranty, that the Service will work with, or be supported by, all protocols, networks, operating systems or environments; will be error-free; or that all Notifications will be delivered. Customer acknowledges and agrees that the Service is provided on a best efforts basis and is not designed, intended, authorized or warranted to be suitable for hosting life-support or EMT-based applications or other critical applications where the failure or potential failure of the Service can cause injury, harm, death, or other grave problems, including delays in getting medical care or other emergency services, and that any use of the Service to support such applications is fully at Customer's risk and Customer acknowledges that Provider will not have any liability for issues related to such use. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND. PROVIDER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY OR OTHERWISE, REGARDING THE SERVICE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. INDEMNIFICATION AND RESPONSIBILITY

8.1. **Provider General Indemnification.** Provider will defend, indemnify, and hold harmless Customer and its employees ("Customer Indemnitees") from and against any and all third party actions, losses, awards, liabilities, claims, expenses, damages, settlements, fees, penalties and costs of every kind and description, including reasonable legal fees and government regulatory fines (collectively, "**Losses**"), arising from: (i) any gross negligence or willful misconduct by Provider; or (ii) any breach of Section 6 by Provider.

8.2. **Provider IP Indemnification.** Provider will defend, indemnify, and hold harmless the Customer Indemnitees from and against all Losses arising out of a claim that the Service directly infringes a copyright or patent issued as of the Effective Date, or other intellectual property right of a third party. The foregoing obligation of indemnification does not apply where: (a) Customer's use of the Service is not in compliance with the terms of this Agreement; (b) Customer has modified the Service or any part thereof without Provider's express, written authorization; (c) Customer has combined the Service with software, hardware, system, data, or other materials not supplied or authorized by Provider where the infringement or misappropriation relates to such combination, unless Provider expressly authorized such combination or the combination was provided for in the Documentation; (d) the Loss is as a result of Content or Contact data; or (e) Customer continues use of the Service after being provided modifications that would have avoided the alleged infringement. In the event Provider believes that

the Service is, or is likely to be, the subject of an infringement claim, Provider may, at its option, (1) procure for Customer the right to continue using the Service under this Agreement, (2) replace or modify the Service so that it becomes non-infringing but substantially equivalent in functionality and performance, or (3) if neither clause (1) or (2) are feasible in spite of Provider's reasonable efforts, terminate this Agreement and refund a prorated portion of the Subscription Fees based on the days left in the Initial Term or then-current Renewal Term, less any expenses for usage accrued prior to the date of termination. The foregoing obligations are Provider's only obligations and liability in connection with infringement by the Service.

8.3. **Customer Indemnification.** Customer agrees to indemnify, defend and hold harmless Provider and its Affiliates, licensors and suppliers from and against all Losses arising out of: (i) Customer's breach of Sections 5 and 6; (ii) third party claims that Customer's Content infringes on any intellectual property rights; or (iii) Customer's gross negligence or willful misconduct.

8.4. **Indemnification Procedures.** Each party seeking indemnification hereunder shall provide the other party with: (i) prompt written notice of any claim for which indemnification is sought; (ii) complete control of the defense and settlement of such claim; and (iii) reasonable assistance and cooperation in such defense at the indemnifying party's expense. In any proceeding the indemnified party shall have the right to retain, at its expense, its own counsel. Notwithstanding the foregoing, the indemnifying party may not enter into a settlement of a claim that involves a remedy other than the payment of money by the indemnified party (which amounts must be subject to indemnification by the indemnifying party) without the indemnified party's written consent.

9. LIMITATION OF LIABILITY

9.1. **Limitation on Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT WITH RESPECT TO BREACH OF SECTION 5.2 or Section 5.3 (CUSTOMER OBLIGATIONS) OR SECTION 6 (CONFIDENTIALITY AND SECURITY) OR ANY OBLIGATIONS UNDER SECTION 8 (INDEMNIFICATION AND RESPONSIBILITY): (a) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY LOSS OF DATA, REVENUES, PROFITS OR OTHER ECONOMIC ADVANTAGE, OR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR OTHER SIMILAR DAMAGES OF ANY KIND OR NATURE, (HOWEVER ARISING, INCLUDING NEGLIGENCE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THE SERVICE OR THIS AGREEMENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (b) IN NO EVENT SHALL THE CUMULATIVE LIABILITY OF EITHER PARTY, ITS AFFILIATES AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS EXCEED THE FEES ACTUALLY PAID OR PAYABLE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS OF SERVICE PRIOR TO THE DATE ON WHICH SUCH CLAIM AROSE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT WITH RESPECT TO GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL PROVIDER'S TOTAL CUMULATIVE LIABILITY FOR ANY BREACH OF SECTION 6 (CONFIDENTIALITY AND SECURITY) EXCEED THREE TIMES (3X) THE FEES ACTUALLY PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE FIRST NOTICE IS PROVIDED BY CUSTOMER REFERENCING THE RELEVANT CLAIM HEREUNDER. Customer understands and agrees that the limitation of liability in this Agreement for Provider is reasonable and that Provider would not enter into this Agreement without such limitations.

10. GENERAL

10.1. **Force Majeure.** Neither party shall be responsible for delays or failures of performance resulting from acts beyond the reasonable control of such party, including acts of God, acts of war, riots, acts of terror and other acts or omissions of third parties such as interruptions, delays, or malfunctions of service by third-party service providers.

10.2. **Dispute Resolution.** Except for injunctive relief sought by either party, the parties agree to cooperate and escalate any dispute or controversy ("Dispute") arising out of or related to the performance of this Agreement or any Service Order to each party's business managers, who will meet and work in good faith to resolve each Dispute within ten (10) business days after receiving notification of the Dispute. If the business managers are unable to resolve the Dispute, either party may escalate the Dispute to the next highest level of management for resolution. If the Dispute remains unresolved thirty (30) days after referral to the next highest level of management within each party, either party may bring suit in a court of competent jurisdiction. This Section shall survive the expiration or termination of this Agreement for any reason. If either party engages attorneys to enforce any rights out of or relating to this Agreement, the prevailing party in any action to enforce or interpret this Agreement shall be entitled to recover any and all costs and expenses of any nature including attorneys' and experts' fees and costs.

10.3. **Publicity.** For the duration of this Agreement, Provider may use Customer's name and logo on the Provider web site and in Provider's collateral marketing materials identifying Customer as a purchaser of the Service. If Provider's expected use of Customer's name and/or logo includes more than basic identification of Customer, Provider shall provide Customer with a copy of such content for approval, such approval not to be unreasonably withheld.

10.4. **Survival of Terms.** The rights and obligations of either party that by their nature would continue beyond the termination or expiration of this Agreement shall survive termination or expiration of this Agreement. For example, the provisions of this Agreement regarding indemnification and/or limitation of liability shall survive termination of this Agreement as to any cause of action arising under the Agreement.

10.5. **Independent Contractor.** Provider's relationship with Customer shall be that of an independent contractor, and nothing in this Agreement shall be construed to create a partnership, joint venture, principal-agent, or employer-employee relationship. Neither party will have or represent that it has the right, power or authority to bind, contract or commit the other party or to create any obligation on behalf of the other party.

10.6. Severability. If any term or provision of this Agreement or the application thereof is to any extent held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision hereof shall be valid and enforced to the fullest extent of the law.

10.7. Entire Agreement. This Agreement constitutes the entire agreement and understanding between Customer and Provider with respect to the subject matter hereof and supersedes all prior and contemporaneous verbal and written negotiations, agreements and understandings, if any, between the parties. This Agreement cannot be modified except by a writing signed by an authorized representative of each party. The terms of this Agreement shall take precedence over any conflicting terms in purchase or procurement documentation, such as a purchase order, acknowledgement form, or other similar documentation and any pre-printed terms and conditions on or attached to Customer's purchase orders or invoices will be of no force or effect. The failure of either party to enforce any provision of this Agreement, unless waived in writing by such party, will not constitute a waiver of that party's right to enforce that provision or any other provision of this Agreement.

10.8. Notice. All notices and consents required or permitted under this Agreement must be in writing; must be personally delivered or sent by registered or certified mail (postage prepaid), by overnight courier or other nationally recognized carrier, or by facsimile (receipt confirmed), in each case to Provider's address on the Service Order, Attn: Legal, and to Customer's Business Contact on the Service Order, and will be effective upon receipt. Each party may change its address for receipt of notices by giving notice of the new address to the other party.

10.9. Counterparts. This Agreement may be executed in facsimile and in counterparts.

10.10. Export Compliance. The Service and other Provider technology, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Customer represents that it is not named on any U.S. government denied-party list. Customer will not permit any User to access or use the Service in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation, and will not permit any U.S.-sanctioned persons or entities to act as Users.

10.11. U.S. Government End Users. As defined in FAR section 2.101, DFAR section 252.227-7014(a)(1) and DFAR section 252.227-7014(a)(5) or otherwise, *all software* and accompanying documentation provided in connection with this Agreement are "commercial items," "commercial computer software," and or "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, disclosure or distribution thereof by or for the U.S. Government shall be governed solely by the terms of this Agreement. Customer will ensure that each copy used or possessed by or for the government is labeled to reflect the foregoing.

10.12. Assignments. Neither party may assign this Agreement without the prior written consent of the other party, except to an Affiliate or an entity that acquires all or substantially all of its business or assets, whether through merger, reorganization or otherwise. Any assignment in violation of the foregoing shall be void and of no effect.

PROVIDER: ONSOLVE, LLC

CUSTOMER: CITY OF CUSTER, SOUTH DAKOTA

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Executed for Exhibits B and C

EXHIBIT C
ACCEPTABLE USE POLICY

1. General Terms.

1.1 All Content is Customer's sole responsibility. Customer is solely responsible for the integrity and quality of the Content. Customer shall be responsible for, and under no circumstances will Provider or its Affiliates or any of their licensors or suppliers be responsible, for any loss, damage or liability arising out of any Content, including any mistakes contained in the Content or the use or subject matter of the Content. Further, Customer is responsible for: (i) any Notifications that are sent through its accounts (other than if caused by the Service itself or breaches by Provider); (ii) all Fees accruing from the use of the Service through its account, whether by its Affiliates and its and their employees and consultants; and (iii) all actions of its Affiliates, and its and their employees consultants, as if such actions had been conducted by Customer.

1.2 Customer shall be responsible for procuring any necessary consents or having other legal basis to contact Contacts with respect to the provision of any data transmitted through the Service.

1.3 Customer shall use any data it uploads into the Service in accordance with any and all restrictions applicable to such data and all Applicable Laws.

1.4 Customer will use and permit its Users to use the Service in accordance with this Agreement and all Applicable Laws, including the Telephone Consumer Protection Act, Fair Debt Collections Practices Act, Federal Communications Commission ("FCC") or Federal Trade Commission ("FTC") rules or regulations and any and all other Applicable Laws related to pre-recorded telephone and/or text messages and the use of automated dialing equipment.

1.5 Customer will include, at the beginning of each Notification, its official business or government name. Customer will include, at the end of each Notification, a telephone number for Customer.

1.6 Customer will not send any Notifications to mobile devices owned by a Contact unless Customer has obtained such Contact's "opt-in" consent to receive, or Customer has other legal basis to send such Contact, pre-recorded, telephone and text Notifications using automated dialing equipment.

1.7 Customer must provide Contacts with a simple mechanism for opting out or unsubscribing from receiving Notifications, including information on how to "opt-out" or unsubscribe.

1.8 Customer will not send Notifications to phone numbers that are emergency numbers and/or other numbers that may not be called using automated dialing equipment under Applicable Law.

1.9 Customer's total Notifications to an individual Contact will not exceed an average of one (1) Notification per day (via any contact method), absent an emergency or a specific use case for the Contact. Should Customer exceed this fair use, the parties will meet to discuss the reasons, review best practices and determine if an adjustment to Customer's Service plan is necessary. Due to vendor requirements for ensuring Notifications sent by the Service are not blacklisted, Customer shall adhere to this fair use policy.

1.10 Customer will not send any Content that it knows, or has reason to know: (i) infringes another's rights in intellectual property; (ii) invades any privacy laws including without limitation another's right to privacy and/or any privacy policies of Customer or any third-party; and/or (iii) justifies a complaint to the FCC and/or FTC.

1.11 Customer will not, and will not permit its Users or any third parties to: (i) engage or facilitate any unethical, deceptive or misleading practices in connection with the use of the Service; (ii) use the Service in connection with any telemarketing, solicitations, donations, sales, spamming or any unsolicited messages (commercial or otherwise); and/or (iii) provide Content to be transmitted in the Service which: (a) is defamatory, libelous, obscene, pornographic, or is otherwise harmful; (b) promotes violence, discrimination, illegal activities, gambling, alcoholic beverages, guns or tobacco; and/or (c) contains or otherwise links to viruses, worms, cancelbots or any other harmful code or computer programs designed to disrupt the functionality of any computer software or hardware or telecommunications equipment.

1.12 Customer may send SMS Texts in text format only.

1.13 Customer acknowledges and agrees that Notifications may not be delivered to the phone if not in range of a transmission site, or if sufficient network capacity is not available at a particular time. Even within a coverage area, factors beyond the control of the carrier may interfere with message delivery, including the Customer's equipment, terrain, proximity to buildings, foliage, and weather. Customer acknowledges that urgent Notifications may not be timely received and that the carrier does not guarantee that messages will be delivered.

1.14 Customer acknowledges that Provider may block Notifications (e.g., based on instructions from Contacts, carriers, aggregators, government agencies, etc.).

1.15 Customer agrees to maintain all security regarding its (and its Users') account ID, password, and connectivity with the Service. If Customer's account ID or password are stolen, or otherwise compromised Customer is obligated to immediately change the password and inform Provider of the compromise.

All Board of Adjustment Meetings are recorded.

CITY OF CUSTER CITY
BOARD OF ADJUSTMENT AGENDA
November 4th, 2019 - City Hall Council Chambers
Immediately following the meeting of the City Council
(City Council Meeting to begin at 5:30pm)

- 1. Call to Order - Roll Call:**
- 2. Approve Agenda:** November 4th, 2019
- 3. Approve Minutes:** October 7th, 2019
- 4. Declaration of Conflict of Interest:**
- 5. Public Hearings:**
 - a.
- 6. ~~Old Business~~**
 - a. ~~—~~
- 7. ~~New Business:~~**
 - a. ~~—~~
- 8. ~~Discussion Items:~~**
 - a.
- 9. Public Comments (3-minute max. per person, with total communication period to not exceed 15 minutes):**
- 10. Adjournment**

ADA Compliance: The City of Custer City fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Finance Office 24 hours prior to the meeting so that appropriate services are available.

Wastewater Department, \$12,753.22

Total Claims, \$327,681.40

DEPARTMENT HEADS & COMMITTEE REPORTS

Various committee reports were given in addition to department heads giving an update.

EXECUTIVE SESSION

Councilperson Fischer moved to go into and out of executive session for proposed litigation and contract negotiations per SDCL 1-25-2(1-5) at 6:43 pm, with the Attorney, Public Works Director, Planning Administrator and Finance Officer present. Seconded by Councilperson Ryan, the motion unanimously carried. Council came out of executive session at 7:13 pm, with no action taken.

ADJOURNMENT

With no further business, Councilperson Ryan moved to adjourn the meeting at 7:13 p.m. Seconded by Councilperson Whittaker, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Corbin Herman
Mayor

**CITY OF CUSTER CITY
BOARD OF ADJUSTMENT MEETING
October 7th, 2019**

Board Chairman Herman called to order the Board of Adjustment Meeting at 7:13 p.m. Present at roll call were Board Members Herman, Blom, Whittaker, Fischer, Nielsen and Ryan.

APPROVAL OF AGENDA

Board Member Nielsen moved, with a second by Board Member Whittaker, to approve the agenda. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

PUBLIC HEARING – SETBACK VARIANCE REQUEST – 216 N 9TH STREET, TRACT 1 BLOCK 50 SUBDIVISION

Board Member Whittaker moved to approve the variance request for Tract 1 of Block 50 subdivision which would allow a setback of 16 feet from the street right-of-way and the covered porch would be setback 8 feet from the street right-of-way. Seconded by Board Member Blom, the motion carried with Board Member Whittaker, Herman, Fischer, Nielsen, Ryan and Blom voting yes.

PUBLIC COMMENTS

No public comments were received.

ADJOURNMENT

With no further business, Board Member Herman moved to adjourn the meeting at 7:19 p.m. Seconded by Board Member Whittaker, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Corbin Herman
Board Chairman

Aflac, Insurance, \$746.47
Battle Mountain Humane Society, Animal Control Contract, \$1,000.00
Beesley Law Office, Professional Fees, \$1,984.00
Black Hills Doors, Repairs & Maintenance, \$763.42
Black Hills Energy, Utilities, \$2,407.76
California State Disbursement, Deduction, \$92.30
Century Business Products, Supplies, \$131.29
Code Works, Professional Fees, \$342.80
Custer Do It Best, Supplies, Repairs and Maintenance, \$70.48
Chamber of Commerce, Conference, \$90.00
Dales Tires, Repairs & Maintenance, \$4,933.60
Delta Dental, Insurance, \$212.00
Discovery Benefits, Supplies, \$1,626.92
EFTPS, Taxes, \$11,711.17
ESRI, Supplies, \$66.85
Fastenal, Supplies, \$35.98
Fennell Design, \$8,846.25
Golden West Telecommunications, Utilities, \$521.80
Golden West Technologies, Professional Fees, \$762.50
Green Owl Media, Professional Fees, \$156.00
Lamonte's Auto Center, Repairs & Maintenance, \$729.20
Lawrance & Schiller, BID Board, \$3,722.94
Matthew Bender/ Lexis Nexis, Supplies, \$10.00
McDonnell, Chantel, Advertising, Bid Board, \$1,400.00
Nielsen Enterprises, Repairs and Maintenance, \$8,300.00
Petty Cash, Supplies, \$312.76
Pitney Bowes, Supplies, \$48.69
Quill, Supplies, \$142.96
SD Property Management, Supplies, \$525.00
SD Retirement System, \$6,162.64
SD State Treasurer, Unclaimed Property, \$121.60
SDSU IPay, Conference, \$100.00
Supplemental Retirement, \$670.00
The Hartford, Insurance, \$64.12
Verizon Wireless, Utilities, \$423.93
Wright Express, Supplies, \$922.87
Wellmark, Insurance, \$12,011.75
YMCA, Membership, \$42.00
Obermann, Eric, Utility Refund, \$63.01
Dacus, Timothy, Utility Refund, \$36.99
Mayor & Council, \$4,532.00
Finance Department, \$6,368.51
Planning Department, \$10,341.83
Public Works Department, \$5,096.88
Street Department, \$16,656.24
Cruisin Department, \$223.44
Parks Department, \$6,732.07
Water Department, \$20,224.95
Wastewater Department, \$20,363.03
Total Claims, \$162,851.00

