

All City Council Meetings are recorded.

CITY OF CUSTER CITY
COUNCIL AGENDA
April 15th, 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 – April 1st, 2019 Regular Meeting
4. Declaration of Conflict of Interest
5. Public Hearings - Public Presentations
 - a. Public Hearing – License Transfers (Restaurant License, Retail On-Off Sale Wine & Cider License, Retail On-Off Sale Malt Beverage & SD Farm Wine License) – WR Hospitality LLC
 - b. First Reading – Ordinance #822 – Meetings, Assemblies and Parades
 - c. First Reading – Ordinance #823 – Taxis (Removal)
 - d. Resolution #04-15-2019A – Fee Schedule
 - e. Resolution #04-15-2019B – Personnel Manual – Vehicle Safety
 - f. Resolution #04-15-2019C – Dakota Resources Financing
 - g. Grace of the Pines – Barb Almich
6. Public Comments (3-minute max. per person, with total public comment period not to exceed 15 minutes)
7. Old Business
 - a.
 - b.
8. New Business
 - a. Construction Manager at Risk Contract – Ainsworth Benning Construction (Journey Group)
 - b. Approval of Election Workers
 - c. Annual Report
 - d.
9. Presentation of Claims –
10. Department Head Discussion & Committee Reports –
11. Possible Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2(1-4))
12. Adjournment

REMINDERS

- Park & Recreation Committee Meeting – April 16th, 2019 5:30 P.M.**
Public Works Committee Meeting – May 6th, 2019 4:30 P.M.
Regular City Council Meeting – May 6th, 2019 5:30 P.M.
General Government Committee Meeting – May 13th, 2019 4:30 P.M.
Planning Commission Meeting – May 14th, 2019 5:00 P.M.
Regular City Council Meeting – May 20th, 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
April 1st, 2019

Mayor Corbin Herman called to order the first meeting of the Common Council for the month of April 2019 at 5:30 p.m. Present at roll call were Councilpersons Blom, Whittaker, Nielsen, Fischer and Arseneault (by phone). The Pledge of Allegiance was stated.

AGENDA

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

MINUTES

Councilperson Nielsen moved, with a second by Councilperson Fischer, to approve the minutes from the March 18th regular council meeting and the March 18th Board of Equalization meeting. The motion unanimously carried.

CONFLICTS OF INTEREST

No conflicts of interest were stated.

PUBLIC HEARING – CONVENTION CENTER ON-SALE LICENSE & RETAIL ON-OFF SALE MALT BEVERAGE & SD FARM WINE LICENSE – BAVARIAN INN

Councilperson Fischer moved to approve the convention center on-sale and retail on-off sale malt beverage licenses for the Bavarian Inn contingent upon proof of insurance and background checks being provided. Seconded by Councilperson Blom, the motion unanimously carried.

SECOND READING – ORDINANCE #819 – ALLOWING CHICKENS IN CITY LIMITS

Mayor Herman took comments from the public regarding the proposed Ordinance #819. Councilperson Fischer moved to adopt Ordinance #819, Allowing Chickens in City Limits. Seconded by Councilperson Arseneault, the motion failed with Councilperson Blom, Whittaker and Nielsen voting no and Councilperson Fischer and Arseneault voting yes.

PUBLIC COMMENTS

No public comments were received.

MINOR PLAT – FRENCH CREEK SUBDIVISION

Councilperson Fischer moved to approve the minor plat for French Creek Subdivision. Seconded by Councilperson Blom, the motion unanimously carried.

MINOR PLAT – CALVIRD TRACT OF BLOCK 89

Councilperson Nielsen moved to approve the minor plat for Calvird Tract of Block 89. Seconded by Councilperson Blom, the motion unanimously carried.

BENCHES ALONG MICKELSON TRAIL – PARK, RECREATION & FORESTRY BOARD

Steve Pischke, Chairman of the Park, Recreation and Forestry Board presented the idea of memorial benches being placed along the Mickelson Trail. Councilperson Fischer moved to approve the placement of memorial benches along the Mickelson Trail as presented with the attorney reviewing the agreement for the sponsoring parties. Seconded by Councilperson Blom, the motion unanimously carried.

DOWNTOWN HANGING BASKETS – CHAMBER OF COMMERCE

Councilperson Fischer moved to allow the placement of the hanging baskets downtown this summer. Seconded by Councilperson Whittaker, the motion carried with Councilperson Whittaker, Nielsen, Fischer, Arseneault and Blom voting yes.

CARNIVAL STREET CLOSURE REQUEST – CHAMBER OF COMMERCE

Councilperson Nielsen moved to approve the Chamber of Commerce request to extend the street closure request for the Gold Discovery Days Carnival, previously submitted, to include closure of Washington Street from Sixth to Eight Street starting at 9:00 am on July 18th with remaining closures to take place at 5:00 pm that day. Seconded by Councilperson Blom, the motion carried with Councilperson Nielsen, Fischer, Arseneault, Blom and Whittaker voting yes.

FARMER'S MARKET REQUEST – CHAMBER OF COMMERCE

Councilperson Blom moved to approve the Chamber of Commerce request to use Way Park on Saturday's from 8m through 1pm, from June through October, except for Gold Discovery Days weekend, for the Farmer's Market. Seconded by Councilperson Whittaker, the motion carried with Councilperson Fischer, Arseneault, Blom, Whittaker and Nielsen voting yes.

OLD TIME COUNTRY FOURTH REQUEST – 1881 COURTHOUSE MUSEUM

Councilperson Nielsen moved to approve the Fourth of July Celebration request from the Courthouse Museum for closure of Fourth Street from Mt Rushmore Road to the north alley, to be utilized by food vendors, from July 3rd through July 7th, 2019 and allow the Skate Park to be utilized on July 4th for parade assembly. Seconded by Councilperson Blom, the motion carried with Councilperson Arseneault, Blom, Whittaker, Nielsen and Fischer voting yes.

AMERICORP NCCC NORTH CENTRAL REGION PROJECT

Councilperson Fischer moved to approve submitting the AmeriCorps application for a 2019 project in cooperation with Custer State Park. Seconded by Councilperson Blom, the motion carried with Councilperson Blom, Whittaker, Nielsen, Fischer and Arseneault voting yes.

USE AGREEMENT FOR COMMUNITY CENTER GYM - YMCA

Councilperson Blom moved to approve the use agreement for the Custer Community Center Gym with the Custer YMCA for April 1st, 2019 through April 1st, 2020. Seconded by Councilperson Nielsen, the motion carried with Councilperson Whittaker, Nielsen, Fischer, Arseneault and Blom voting yes.

ELECTION WORKER PAY

Councilperson Whittaker moved to approve \$10 per hour pay for the election workers for the June 4th election. Seconded by Councilperson Nielsen, the motion carried with Councilperson Nielsen, Fischer, Arseneault, Blom and Whittaker voting yes.

CLAIMS

Councilperson Nielsen moved, with a second by Councilperson Whittaker, to approve the following claims. The motion carried with Councilperson Fischer, Arseneault, Blom, Whittaker and Nielsen voting yes.

Aflac, Insurance, \$766.73
Battle Mountain Humane Society, Animal Control Contract, \$1,000.00
Beesley Law Office, Professional Fees, \$2,652.50
Black Hills Energy, Utilities, \$9,979.15
California State Disbursement, Deductions, \$53.19
Custer Do It Best, Supplies, \$79.76
Custer Heating & Air Conditioning, Repairs & Maintenance, \$71.43
Dacotah Bank, TIF# 2 Payment, \$1,545.66
Delta Dental, Insurance, \$254.20
Discovery Benefits, Supplies, \$1,376.92
EFTPS, Taxes, \$13,083.68
Express Collections, Professional Fees, \$17.70
G & R Controls, Repairs & Maintenance, \$3,510.33
Golden West Technologies, Supplies, Professional Fees, \$1853.00
Hach, Repairs & Maintenance, \$234.19
Itron, Repairs & Maintenance, \$855.53
J & M Lawncare LLC, Caretake Contract, \$5,000.00
Nelson's Oil & Gas, Supplies, \$1,967.75
Petty Cash, Supplies, \$476.05
Sanders Sanitation, Garbage Collection Contract, \$13,816.99
SD DCI, Safety, \$53.50
SDML, Travel and Conference, \$126.00
SD Retirement System, \$6,649.72
Supplemental Retirement, \$520.00
Wellmark, Insurance, \$14,028.20
WesDak Welding & Diesel LLC, Repairs & Maintenance, \$999.50
Wright Express, Supplies, \$1,148.31
YMCA, Membership, \$47.00
Wallin, Doug/Bridget, Utility Refund, \$.96
Mayor & Council, \$4,634.00
Finance Department, \$4,976.23
Public Buildings, \$2,867.20
Planning Department, \$7,415.16
Public Works Department, \$3,087.63
Street Department, \$10,245.55

Cruisin Department, \$72.39
Parks Department, \$3,746.61
Water Department, \$11,825.16
Wastewater Department, \$11,677.76
Total Claims \$142,715.64

DEPARTMENT HEADS & COMMITTEE REPORTS

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

ADJOURNMENT

With no further business, Councilperson Whittaker moved to adjourn the meeting at 6:49 p.m. Seconded by Councilperson Blom, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Corbin Herman
Mayor

ESTABLISHMENT	LICENSE	TAXES		
		PAID	AGREEMENT	INSURANCE
VR HOSPITALITY LLC	RESTAURANT LICENSE TRANSFER	✓	PENDING	PENDING
VR HOSPITALITY LLC	RETAIL (ON-OFF SALE) WINE & CIDER LICENSE TRANSFER	✓	PENDING	PENDING
VR HOSPITALITY LLC	RETAIL (ON-OFF SALE) MALT BEVERAGE & SD FARM WINE LICENSE TRANSFER	✓	PENDING	PENDING

Contingent upon proof of insurance and signed operating agreement being provided.

NOTICE OF PUBLIC HEARING UPON APPLICATION FOR THE SALE OF ALCOHOLIC BEVERAGES

Notice is hereby given that the City Council of the City of Custer City, Custer County, South Dakota will hear and consider the following for the sale of malt beverage at a meeting of the City Council to be held on the 15th day of April 2019, in the Council Chambers of City Hall in said City at 5:30 p.m. of said day. Application to be considered for renewal pursuant to SDCL 35-4 is as follows:

WR Hospitality LLC - Retail (on-sale) Liquor Restaurant License - Transfer
WR Hospitality LLC - Retail (on-off Sale) Wine and Cider License - Transfer
WR Hospitality LLC - Retail (on-off sale) Malt Beverage & SD Farm Wine License - Transfer

Any person or persons interested either for or against the granting of any such application may appear at the time and place above stated. Individuals needing assistance, pursuant to the Americans with Disabilities Act should contact the City Finance Officer no less than 24 hours prior to this meeting to make necessary arrangements.

Dated this 1st day of April 2019.

/s/Laurie Woodward
Finance Officer

Custer County Chronicle - Please Publish April 3rd, 2019

ORDINANCE NO. 822

AN ORDINANCE ENTITLED AN ORDINANCE AMENDING TITLE 12 STREETS, SIDEWALKS AND PUBLIC PLACES, CHAPTER 12.24 MEETINGS, ASSEMBLIES AND PARADES OF THE CITY OF CUSTER CITY MUNICIPAL CODE AND AMENDING AND SUPERSEDING SAID SECTIONS AS FOLLOWS, TO WIT:

Chapter 12.24

MEETINGS, ASSEMBLIES AND PARADES

Sections:

- 12.24.010 Definitions.
- 12.24.020 Permit required.
- 12.24.030 Exceptions.
- 12.24.040 Application.
- 12.24.050 Findings required.
- 12.24.060 Conditions to permit.
- 12.24.070 Prior application.
- 12.24.080 Notice of issuance or denial.
- 12.24.090 Appeal procedure.
- 12.24.100 Contents of permit.
- 12.24.110 Duty of permittee.
- 12.24.120 Revocation of permit.
- 12.24.130 Public conduct during a meeting, assembly or parade.
- 12.24.140 Hold Harmless and Insurance.

12.24.010 Definitions.

As used in this chapter:

"Activity" means a parade or public meeting or assembly.

"Funeral procession" means a single movement from a mortuary or church to the place of burial of a human body, under direction of an authorized funeral director.

"Parade" means a march or procession of any kind.

"Public meeting or assembly" means a planned or organized gathering of a group of persons, or any ceremony, show, exhibition or pageant which may reasonably be expected to result in the gathering of a group of persons, upon any public street, park or other public grounds.

"Special Event" means a community activity or activities that involve the use of public facilities, buildings, streets, sidewalks or property.

"Use" means to construct, erect or maintain in, on, over or under any street, right-of-way, park or other public place, any building, structure, sign, equipment or scaffolding, to paint, spray or write on the surface of a public right-of-way thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public property within the city, including any use related to parade or special event.

12.24.020 Permit required.

It is unlawful for any person to hold, manage, conduct, aid, participate in, form, start or carry on any parade or public meeting or assembly, as defined in this chapter, in or upon any public street, park or other public grounds in the city unless and until a permit to conduct such meeting, assembly or parade has been obtained in compliance with the provisions of this chapter, except as herein provided.

12.24.030 Exceptions.

This chapter shall not apply to any of the following:

- A. Funeral processions;
- B. A governmental agency within the scope of its functions;
- C. Students going to and from school classes or participating in educational activities, providing such activity is authorized by the school district and is under the immediate direction and supervision of the school authorities authorized by the school district to approve and supervise such activity.

12.24.040 Application.

A. Application for permits under this ordinance must be filed with the ~~chief of police or duly authorized law enforcement officer~~ finance office not less than ~~thirty~~ fifty (30) days in advance of the proposed activity. Late applications may be accepted if filed sufficiently in advance of the date of the proposed activity to enable the ~~chief of police or duly authorized law enforcement officer~~ City Council ~~adequate time~~ to determine that the activity will meet the requirements set forth in Section 12.24.050 of this chapter.

B. This application shall be in writing and shall give the following information:

1. The name, address and telephone number of the person requesting the permit. If the activity is proposed to be conducted for, on behalf of, or by any organization, the name, address and telephone number of the headquarters of the organization and the authorized head of such organization shall be stated;
2. The name, address and telephone number of the person who will be directly in charge of and responsible for the activity;
3. The purpose of the activity;
4. The date, time and location or route of the proposed activity;
5. The approximate number of persons who will participate in the activity and the number and kind of vehicles, equipment and animals which will be used;
6. Plans for the assembly and dispersal of the parade, including times and locations thereof;
7. A statement as to whether the parade will occupy all or only a portion of the streets proposed to be traversed;
8. A statement as to whether a permit has been requested or obtained from any other city within which said activity shall commence, terminate or occur in part;
9. Any additional information which the ~~chief of police or duly authorized law enforcement officer~~ city may find reasonably necessary to a determination of the findings required by Section 12.24.050 of this chapter.

12.24.050 Findings required.

~~The chief of police, his designated representative, or a duly authorized law enforcement officer~~ The City Council shall ~~issue~~ approve of such permit as provided for hereunder when from

a consideration of the application and from such other information as may otherwise be obtained; ~~he finds that:~~

A. The conduct of such activity will not substantially interrupt the safe and orderly movement of other traffic;

B. The concentration of persons, animals and vehicles will not unduly interfere with proper fire and police protection of, or ambulance service to, areas where the activity will take place or areas contiguous to such area;

C. The conduct of such activity will not unduly interfere with the movement of firefighting equipment en route to a fire, or the movement of other emergency equipment;

D. The conduct of such activity is not reasonably likely to cause injury to persons or property; and

E. Such activity is not to be held for the sole purpose of advertising the goods, wares or merchandise of a particular business establishment or vendor.

12.24.060 Conditions to permit.

~~The chief of police or duly authorized law enforcement officer~~ City Council shall have the authority to impose such conditions as are necessary to insure that all the findings mentioned in Section 12.24.050 of this chapter shall exist during the continuation of the activity.

12.24.070 Prior application.

If a prior permit application shall have been made for an activity proposed to be held at the same time or place, ~~the chief of police or duly authorized law enforcement officer~~ City Council may refuse approval of the later application. In case of such refusal, the applicant shall be provided a written notice that they may apply for an alternate time and place, forthwith send the applicant a written notice that he may apply for an alternate time and place.

12.24.080 Notice of issuance or denial.

~~The chief of police or duly authorized law enforcement officer~~ The City Council shall act upon the permit application within three days of the filing thereof at its next meeting following receipt of the notice contingent upon meeting the filing requirements in section 12.24.040 of this chapter. If the permit is denied, the Finance Officer disapproves of the application, he shall mail to the applicant within that three days of the Council's decision period, notice a notice of the denial and the reasoning for it.

12.24.090 Appeal procedure.

The applicant shall have the right to appeal the denial of a permit to the city council. A notice of appeal shall be filed with the city clerk within two days after receipt of notice of the denial. The city council shall act upon the appeal at its next meeting following receipt of the notice of appeal.

12.24.100 Contents of permit.

Conditions to the issuance of any permit shall be set forth in the permit.

12.24.110 Duty of permittee.

A. A permittee hereunder shall comply with all terms and conditions of said permit and with all applicable laws and ordinances.

B. ~~The written permit obtained pursuant to this chapter shall be carried by the person heading or leading the activity for which the permit was issued.~~

12.24.120 Revocation of permit.

~~The chief of police or duly authorized City or a law enforcement officer under the direction of the Mayor and City Council, may revoke any permit issued hereunder upon the failure of the permittee to comply with the terms and conditions of said permit or if the activity, because of the manner in which it is being conducted, or for any other reason, is jeopardizing those elements of the public safety or welfare set forth in Section 12.24.050 of this chapter.~~

12.24.130 Public conduct during a meeting, assembly or parade.

A. It is unlawful for any person to unreasonably obstruct, impede or interfere with any parade or public meeting or assembly or with any person, vehicle or animal participating in such a parade, meeting or assembly for which a permit has been granted in accordance with the provisions of this chapter.

B. ~~The chief of police or duly authorized~~ A law enforcement officer shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting part of the route of a parade. ~~The chief of police or duly authorized law enforcement officer shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.~~

12.24.140 Hold Harmless and Insurance.

Any permittee shall, with their application, acknowledge a hold harmless clause where the permittee using the public property agrees to hold the city harmless from loss. Any activity in this section where alcohol is permitted to be consumed, sold and/or served shall also show proof of general liability insurance in the amount of not less than one million dollars.

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 6th day of May, 2019

City of Custer City

Corbin Herman, Mayor

Attest _____

Laurie Woodward, Finance Officer

(SEAL)

First Reading: April 15, 2019

Vote:

Seconding Reading: May 6, 2019

Moore: Arseneault:

Publication: May 15, 2019

Blom: Nielsen:

Whittaker: Fischer:

ORDINANCE NO. 823

AN ORDINANCE ENTITLED AN ORDINANCE REMOVING TITLE 5 BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.60 TAXIS OF THE CITY OF CUSTER CITY MUNICIPAL.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CUSTER CITY THAT THE CUSTER MUNICIPAL CODE BE AMENDED BY REPEALING THE ENTIRETY OF CUSTER MUNICIPAL CODE CHAPTER 5.60 TAXIS.

Dated this 6th day of May, 2019

City of Custer City of Custer City

Corbin Herman, Mayor

Attest _____

Laurie Woodward, Finance Officer

(SEAL)

First Reading: April 15, 2019

Seconding Reading: May 6, 2019

Publication: May 15, 2019

Vote:

Moore:

Nielsen:

Fischer:

Arseneault:

Whittaker:

Blom:

Chapter 5.60

TAXIS

Sections:

Article I. General Provisions

- 5.60.010 Definitions.
- 5.60.020 Transporting intoxicating liquor prohibited.
- 5.60.030 License—Application—False statements.

Article II. Business License

- 5.60.040 Required.
- 5.60.050 Application.
- 5.60.060 Issuance—Required findings.
- 5.60.070 Fee.
- 5.60.080 License number to be displayed on vehicle.
- 5.60.090 Commercial auto insurance.

Article III. Driver's Licenses

- 5.60.100 Term.
- 5.60.110 Suspension—Revocation.
- 5.60.120 Exemptions for certain entities.

Article I. General Provisions

5.60.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Driver”. One who actually engages in the driving of a taxicab.

“Operator”. A person engaged in operating a taxicab business.

“Seating capacity”. The number of persons, not including the driver, who can be conveniently seated in a taxicab without crowding.

“Taxicab”. Any motor vehicle being utilized for carrying, transporting, or accepting passenger(s) for hire to, from or within, the city limits of the city of Custer City.

5.60.010

“Wheelchair transport”. Any motor vehicle being utilized for carrying, transporting, or accepting passenger(s) using a wheelchair and their accompanying guests for hire to, from, or within the city limits of the city of Custer City.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.020 Transporting intoxicating liquor prohibited.

All licenses issued under this chapter shall be subject to revocation at any time by the City Council, if any taxicab operated or used by the licensee shall be used for the delivery of intoxicating liquor or for any other unlawful purpose. Upon the revocation, the license fee paid shall be retained by the city.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.030 License—Application—False statements.

Any license issued under the provisions of this chapter shall be revoked by the Custer County Sheriff’s Office upon discovery of any false material statement made in the application for the license.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

Article II. Business License

5.60.040 Required.

No person shall engage in the business of operating a taxicab upon the streets, without a license as provided by this article.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.050 Application.

Every person desiring a license to operate a taxicab business in the city shall make application in writing to the Finance Office in the general form required for all applications for licenses and shall also give the following additional information:

- A. Previous experience in the business, if the applicant has not been licensed before; and
- B. Number of taxicabs to be operated.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.060 Issuance—Required findings.

The Finance Officer or his or her designee shall approve the issuance of a license applied for under this article.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.070 Fee.

The fee for a license under this article shall be as follows:

- A. Initial fee: fifty dollars (\$50.00); and
- B. Annual renewal fee: twenty-five dollars (\$25.00).

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.080 License number to be displayed on vehicle.

Every operator of any taxicab licensed under this article shall carry on each vehicle, on the rear of same and in a conspicuous place, a license decal showing his or her license number as provided by the city at the time of issuing the license.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.090 Commercial auto insurance.

Every operator of any taxicab licensed under this article must maintain insurance liability coverage in a minimum of one million dollars (\$1,000,000) per occurrence with Custer City as an additional insured, and shall provide proof of such insurance coverage to the City Finance Officer on a yearly basis.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

Article III. Driver's Licenses

5.60.100 Term.

Any license issued under this article shall expire on December 31 next following its issuance; provided, however, any license applied for after October 1 of any calendar year shall remain in effect until December 31 of the succeeding calendar year, unless sooner revoked, canceled or otherwise terminated.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.110 Suspension—Revocation.

Any license issued under this chapter may be revoked, for cause, by the City Council, after notice to the holder of the license and an opportunity for hearing before the City Council. The Custer County Sheriff's Office shall have the authority to suspend any license issued under this chapter for good cause pending a hearing before the Council. The power to suspend the license shall be exercised only if it shall appear to the Custer County Sheriffs Office that there is probable cause to believe that the holder of the license has committed a crime involving moral turpitude. The holder of any license suspended by the Custer County Sheriff's Office shall have a right to a hearing before the Custer County Sheriff's Office within forty-eight (48) hours of a written request therefore. As used herein the term Custer County Sheriff's Office shall include the Custer County Sheriff's Office and any subordinate officer temporarily acting as the officer in charge of the Sheriff's Office.

(Ord. 792 (part), 2017; Ord. 670 (part), 2009)

5.60.120 Exemptions for certain entities.

Non-profit public organizations or entities, and governmental sponsored organizations or entities shall be exempted from the provisions of this chapter.

(Ord. 792 (part), 2017)

RESOLUTION NO. 04-15-2019A

WHEREAS, the Common Council of the City of Custer City, Custer County, South Dakota, determined that a Fee Schedule be established to set forth fees for the City of Custer;

WHEREAS, Custer City staff and Common Council have jointly established guidelines for said fees.

IT IS NOW THEREFORE RESOLVED, that the City of Custer City Fee Schedule consisting of 13 pages, (attached hereto and incorporated herein) is hereby adopted;

IT IS FURTHER RESOLVED, that said Schedule shall be subject to modification as requested by staff or required by circumstances; it is further resolved that schedule shall be reviewed by the Common Council annually and may be modified to insure appropriate fees.

Dated this 15th day of April 2019.

CITY OF CUSTER CITY

ATTEST:

Corbin Herman, Mayor

Laurie Woodward
Finance Officer
(SEAL)



Fee Schedule

Adopted April 15, 2019

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CITYWIDE FEES

Photocopies (includes sales tax)	
Photocopies - Black & White - all sizes	\$0.15 per page
Photocopies - Color - all sizes	Single: \$0.25 Double-sided: \$0.40

Faxes	
Faxes - Send and Receive	First Page: \$1.00 Additional Pages: \$0.15

Research (includes sales tax)	
Time involved by City Employee to research information (when time exceeds 15 minutes)	\$30.00 per hour

Electronic Media Duplication	
CD-ROM, DVD	\$7.00 per CD-ROM, DVD

Register of Deeds Filing	
Filing Fee - Deeds, Easements, Contracts, Resolutions	\$30.00 for the first 50 pages

Non Sufficient Funds Fee	
Non Sufficient Funds Fees	\$20.00 per item

Peddling & Transient Merchants Permit	
0-3 Days	\$25.00
4-12 Days	\$100.00

Liquor Licenses	
Off-Sale Liquor License (January 1st - December 31st)	\$1,500 per year
On-Sale Liquor License (January 1st - December 31st)	\$1,200 per year
On-Sale Convention Facility License	\$1,200 per year
Full-Service On-Sale Restaurant License	\$25,000 Initial Fee, \$1,200 yearly renewal
On-Off Sale Wine License (January 1st - December 31st)	\$500 per year
On-Off Sale Malt Beverage & SD Farm Wine License (July 1st - June 30th)	\$300 per year
Transfer Fee	\$150.00
Special Malt Beverage Retailer's License & Retail On-Sale Wine Retailer's License to Organizations	\$50 for first day, \$5 per day thereafter
Special Malt Beverage License by Current Licensee	Per SDCL 35-4-2(16)
Special Permit for Alcohol on Public Property (Brown Bag)	\$5.00
Video Lottery License Fee	\$50 per video lottery machine

CITYWIDE FEES

Tattooing & Body Piercing Registration	
Tattooing Establishment Registration	\$75.00
Body Piercing Establishment Registration	\$100.00
Tattooing & Body Piercing Establishment Registration	\$175.00

Pawnbrokers License	
Pawnbrokers License Fee	\$100 annually

Showmobile Use	
Setup Fee	\$200 per setup
Damage Deposit (refundable) - insurance also required	\$500.00

Background Checks	
Background Checks	\$45 per person

PLANNING DEPARTMENT

Maps		
8x10	-with topography	\$1.00
8x10	-without topography	No Charge
8x10	-special request	\$2.00
11x17	-with topography	\$2.00
11x17	-without topography	\$1.00
11x17	-special request	\$3.00
12x18 thru 36x24	-with topography	\$15.00
12x18 thru 36x24	-without topography	\$10.00
12x18 thru 36x24	-special request	\$20.00
37x25 thru 60x42	-with topography	\$25.00
37x25 thru 60x42	-with topography	\$20.00
37x25 thru 60x42	-with topography	\$30.00

Research (includes sales tax)	
Time involved by City Employee to research information (when time exceeds 15 minutes)	\$30.00 per hour

Register of Deeds Filing	
Filing Fee - Deeds, Easements, Contracts, Resolutions	\$30.00 for the first 50 pages
Filing Fee - Plats	\$60.00 per plat

Contractor License Fee		
Contractor License Fee	New	Yearly Renewal
Class A - Commercial & Residential	\$200.00	\$25.00
Class B - Residential	\$100.00	\$25.00
Class C - Others	\$50.00	\$25.00

Commercial Refuse Collection Fee	
Commercial Refuse Collections Fee (per vehicle)	\$25.00 annually

Subdivision Fee (fee paid prior to Planning Commission review however no fees for sketch plans)	
Subdivision Fee - within City	\$400 plus \$125 per lot
Subdivision Fee - within 3 mile limit	\$400 plus \$25 per lot
Approval of Non-Subdivision Plats	\$150

Refund Policy - If a written request for no further action is received for a subdivision plat between the Planning Commission meeting & Council meeting then \$200 plus the per lot fee will be refunded.

PLANNING DEPARTMENT

Easement, Encroachment and Street/Alley Vacation (paid prior to Planning Commission review)	
Easement, Encroachment or Vacation Fee	\$400
Refund Policy - If a written request for no further action is received for the submitted document between the Planning Commission meeting & Council meeting then \$200 will be refunded.	

Variance Fee (paid prior to Planning Commission review)	
Fee for each variance request to any zoning, subdivision, building or	\$250
Refund Policy - If a written request for no further action is received for the submitted document between the Planning Commission meeting & BOA meeting then \$125 will be refunded.	

Permitted Conditional Use Fee (paid prior to Planning Commission review)	
Fee for each permitted conditional use	\$200
Refund Policy - If a written request for no further action is received prior to the Planning Commission but after public notification has commenced, \$75 will be refunded.	

Zoning Map Change or Zoning Text Change	
Fee for each zoning map change or zoning text change	\$400

Demolition Permit Fee	
Demolish any structure or facility	\$50

Flood Plain Development Permit Fee	
All work in a designated flood area within the city	\$125

Sign Permit	
For each new sign erected	\$75

Building Permits	
\$0.00 to \$5,000.00 Total Valuation	\$50
\$5,000.01 to \$10,000.00 Total Valuation	\$150
\$10,000.01 and up	\$150.00 for first \$10,000 valuation plus \$8.50 per additional \$1,000 valuation
Residential Roofing Fee	\$25
Commercial Roofing Fee	\$50
Patching under 100 sq feet doesn't require a roofing permit.	
Carport Permit Fee	\$25

Inspection Fees	
Inspections outside of the normal business hours (minimum charge - two hours)	\$75.00 per hour
Reinspection Fees	\$75.00 per hour
Inspections for which no fee is specifically indicated (minimum charge - one hour)	\$75.00 per hour
Additional plan review required by changes, addition or revisions to approved plans (minimum charge-one hr)	\$75.00 per hour

PLANNING DEPARTMENT

Request for Special Planning Commission Meeting

Request for Special Planning Commission Meeting	\$250 per meeting
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Mobile Home or Manufactured Housing Park Fees

Construction Fees	\$250 for the first 6 spaces plus \$25 for each additional spaces
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Certificate of Occupancy	\$25
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Moving Permit	\$25
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Nuisance Violation Fees

Lawn Maintenance Violation	\$100
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Lawn Maintenance Administrative Fee*	\$50
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Snow Removal Violation	\$100
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Snow Removal Administrative Fee*	\$50
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*(other charges also apply)

Other Nuisance Violation	\$100
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Other Nuisance Administrative Fee*	\$50
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*(towing cost and other charges also apply)

Storage of Vehicle or Personal Property	\$10 per day
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Camping on Public Streets or Right-of-Ways	\$25 per occurrence
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These fees are charged if property goes through the abatement process

Wireless Communications

Wireless Communications Tower Permit Fee (Res. 9-19-16A)	\$5,000
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PUBLIC WORKS DEPARTMENT FEES

Utility Account Fees	
New Account Setup Fee	\$10.00
Residential Owner Deposit	\$50.00
Rental Account Deposit	\$100.00
Commercial Account Deposit	\$100.00
Delinquent Account Deposit	\$100.00
Delinquent Account Charge	\$10 for water service \$5 for sewer service
No Reading Charge	\$15.00
Hand Delivery Charge	\$10.00
Turn On Fee - Monday - Friday between 8 am and 4 pm	\$25.00
Turn On Fee - After Hours	\$75.00

Water Meter Testing (includes sales tax)	
Water Meter Testing Fee (13.04.190)	\$25

Water Tap Fees	(Paid with Building Permit)
1 Inch	\$500.00
1 1/2 Inch	\$1,000.00
2 Inch	\$2,000.00
Over 2 Inch	Determined by Public Works Director

Sewer Tap Fees (Cost based on water tap size)	(Paid with Building Permit)
1 Inch Water Tap	\$300
1 1/2 Inch Water Tap	\$600
2 Inch Water Tap	\$1,200
Over 2 Inch Water Tap	Determined by Public Works Director

Water Meters & ERT Radio Module (plus sales tax)	
3/4 Inch	\$425.00
1 Inch	\$615.00
Over 1 Inch	Determined by Public Works Director
ERT Radio Module	\$225
Meter Freeze Plate - 3/4 Inch	\$20
Meter Freeze Plate - 1 Inch	\$25
Check Valve - 1 Inch	\$80

Lawn Watering Meters without ERT	
Rent (1 summer)	\$25
Purchase	\$100 (plus sales tax)

PUBLIC WORKS DEPARTMENT FEES

Diseased Tree Abatement (per hour) - 1 hour minimum (includes sales tax)	
Diseased Tree Abatement	\$100 (per tree)

(includes saw, fall tree, chunk and delimb only no clean-

**Equipment (per hour, operator included) when available (includes sales tax)	
Skid Steer/Tool Cat with Bucket	\$170.00
Skid Steer Attachment	\$40.00
Large Patrol	\$300.00
Back Hoe	\$220.00
Loader	\$300.00
Dump Truck (Large)	\$200.00
Dump Truck (Small)	\$160.00
Plow Truck	\$180.00
Sander	\$160.00
Sweeper	\$240.00
Cherry Picker	\$160.00
Jet Machine	\$300.00
Saw (Cutoff, Chain, Concrete)	\$150.00
Water Truck (Plus Cost for Water)	\$160.00
Vacuum Trailer	\$160.00
Mower / Weed Eater	\$160.00
Pickup Truck	\$120.00

**Equipment (per hour, operator NOT included) when available (includes sales tax)	
Chipper	\$160.00
Compressor	\$100.00
Soil Tamper	\$100.00
Trash Pump	\$50.00
Pump - 6"	\$100.00

** The Public Works Director is to be contacted at least 24 hours prior to any projected use of equipment. The minimum rate charged will be at a one-hour rate fee and the Director will approve the area of use. Usage of any equipment other than between the hours of 7 am and 4 pm on Monday through Friday will be at the rate of time and a half (1.5). Equipment is available only upon the condition that no other rentals are available privately & that an emergency exists.

Labor Cost (per person) (includes sales tax)	
Labor Cost - 1 hour minimum during working hours	\$35

PUBLIC WORKS DEPARTMENT FEES

Water Hookup Bond

For Excavating of Alley or Street (12.08.070)	\$100
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Fine for Damage to Asphalt (including any holes placed in asphalt)

Fine per damage hole	\$100
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Water (treated) used for Fire purposes-Custer Volunteer Fire Department exempt (covered under other contract)

Per Gallon Charge	\$0.01
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CEMETERY FEES

Grave Space	
Single	\$200.00 per space
Double (only noted spaces are available for double)	\$350.00 per space
Cremation (only noted spaces where rocks or trees interfere)	\$100.00 per space

Perpetual Care	
Perpetual Care	\$200.00 per space (plus sales tax)

Monument Permit	
Monument Permit	\$25.00 per monument
*Veteran's Markers placed by Veteran's Service Organization - Fee is waived however paperwork must still be completed	*For any single infant monument that the monument company is not charging family, there will be no charge for the monument permit.

Register of Deeds Filing	
Filing Fee - Deeds	\$30.00 per deed

ANIMAL CONTROL FEES

Animal Licenses	
Spayed or Neutered Animal	\$7.00 per animal
Non-Spayed or Non-Neutered Animal	\$25.00 per animal
Animal that has been Micro-Chipped	\$2.00 per animal

Animal Control Citation Schedule (first offense listed below, second offense is double, third offense is triple and so on per licensing year)	
Use of any license for any animal other than the animal for which it is issued	\$25.00
Failure to License	\$25.00
Female Animal in Heat Not Contained	\$25.00
Licensed Animal at Large	\$25.00
Renewal of Vaccination	\$25.00
Failure to Vaccinate	\$25.00
Failure to Vaccinate After Release	\$25.00
Unlicensed Animal at Large	\$30.00
Barking Dogs	\$30.00
Public Nuisance Violation (as defined in chapter 6.04)	\$30.00
Teasing, Molesting, Bothering Animals	\$30.00
Vehicle Accident involving Animal	\$50.00
Feeding of Wild Animals	\$50.00
Excreta Removal	\$50.00
Vicious Animal - Mandatory Appearance Bond	\$75.00
Attacking Animal - Mandatory Appearance Bond	\$75.00
Chasing, Wounding, Worrying Livestock - Mandatory Appearance Bond	\$125.00
Killing of Livestock - Mandatory Appearance Bond	\$125.00
Cruelty to Animals - Mandatory Appearance Bond	\$125.00
Any Other Violation of Ordinance Book Chapter 6.04	\$30.00
Shelter Fees Set by Animal Control Officer/Law Enforcement Officer	

RESOLUTION # 4-15-19B

WHEREAS, the City of Custer City has previously adopted an Employee Manual; and
WHEREAS, updating and amending of said Employee Personnel Manual was provided for in Resolution 01-07-19A; and

WHEREAS, the Common Council of the City of Custer City has determined that Employee Personnel Manual Policy be modified regarding Policy #2 General Policies, 2.23 Vehicle Safety, with the following and it shall read as follows:

2.23 Vehicle Safety

City Owned Vehicles

1. Only authorized persons are to be passengers in a City vehicle and such vehicle shall only be operated for City business. Authorized persons/passengers include customers/contractors, vendors, fellow employees, Mayor and Council. Immediate family members may only be allowed to be passengers included upon prior written approval from a department head or the Mayor. All authorized non-employee passengers must sign a waiver prior to riding in a City owned vehicle.

2. City owned vehicles are provided for business related travel only, and personal use is not permitted. City owned vehicles are not to be used for employee transportation to or from employee personal residence.

3. All employee's shall advise their department head prior to intended travel plans by way of an itinerary or other equivalent method, including a means of contact during an emergency.

4. Employees who are assigned City vehicles are responsible for keeping the interior clean, reporting any vehicle problems or defects, and maintaining the vehicle according to the City policy. Employee's not assigned City vehicles must return the vehicle in the same conditions, reporting any problems to the assigned driver or department head.

5. A copy of each driver's Motor Vehicle Report (MVR) will be obtained annually or more frequently if the driver is under disciplinary probation or suspension. The following MVR evaluation guidelines will be used for review in employment offers and annually reviewed for continued employment. If any of the following apply, disciplinary action may be taken.

- a. Three or more convictions for moving traffic violations within any 12-month period.
- b. Conviction of any traffic violation that is defined as a class 1 misdemeanor by SDCL.
- c. No DUI convictions in the last 5 years.

6. Any change in driver's license status must be reported immediately to the employee's supervisor, which may result in disciplinary actions.

7. Drivers are responsible for promptly paying any and all tickets received while driving any city vehicle.

8. Employees shall complete a defensive driving course at least every two years. These classes help reduce the likelihood of being involved in a motor vehicle crash. Employees may be required by the Council to attend an additional DDC course whenever they deem the training to be necessary. This can be required even though the guidelines have not been exceeded.

Private Vehicle Usage - In addition to the above rules, employees driving their personal vehicle on City business are subject to the following:

1. All employees using their personal vehicle for City business will provide a Certificate of Insurance or photocopy of an insurance statement to show proof of insurance.

2. As required by state law, proof of insurance or financial responsibility must be carried in the vehicle at all times. (Resolution #5-19-14C, Resolution #2-22-11A)

NOW THEREFORE BE IT RESOLVED that the Employee Personnel Manual is amended and superseded as adopted.

Dated this 15th day of April, 2019.

City of Custer City
Corbin Herman, Mayor

Attest: _____
Laurie Woodward
Finance Officer

(Seal)

RESOLUTION 4-15-19C
RESOLUTION OF GOVERNING BODY

WHEREAS, the United States Department of Agriculture Rural Development and Dakota Resources have partner;

WHEREAS, USDA has named Dakota Resources as a “re-lender” of \$10 million in federal funds to help spur economic development opportunities in South Dakota communities;

NOW THEREFORE BE IT RESOLVED that the Mayor is hereby authorized to sign an application on behalf of the City of Custer City with the Dakota Resources;

IT IS FURTHER RESOLVED the Finance Officer is hereby authorized and directed to furnish all needed information the above-mentioned agencies may reasonably request in connection with the above authorized application, and to work with the Black Hills Council of Local Government on the submittal of such application.

Dated this 15th day of April, 2019.

City of Custer City

Corbin Herman, Mayor

ATTEST:

Laurie Woodward
Finance Officer

 **AIA**® Document A133™ – 2009

**Standard Form of Agreement Between Owner and Construction Manager
as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a
Guaranteed Maximum Price**

AGREEMENT made as of the 29th day of March in the year 2019
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status and address)

City of Custer
622 Crook Street
Custer, SD 57730

and the Construction Manager:
(Name, legal status and address)

Journey Group Companies dba Ainsworth Benning Construction
345 Industrial Drive
Spearfish, SD 57783

for the following Project:
(Name and address or location)

Custer Community Center
Custer, SD

The Architect:
(Name, legal status and address)

Fennell Design Inc.
247 N. 6th Street
Custer, SD 57730

The Owner's Designated Representative:
(Name, address and other information)

Tim Hartmann
City of Custer
622 Crook Street
Custer, SD 57730

The Construction Manager's Designated Representative:
(Name, address and other information)

Don Werner

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Project Manager
345 Industrial Drive
Spearfish, SD 57783

The Architect's Designated Representative:
(Name, address and other information)

Gene Fennell
Fennell Design Inc.
247 N. 6th Street
Custer, SD 57730

The Owner and Construction Manager agree as follows.

Init.

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 3 OWNER'S RESPONSIBILITIES
- 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 6 COST OF THE WORK FOR CONSTRUCTION PHASE
- 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
- 8 INSURANCE AND BONDS
- 9 DISPUTE RESOLUTION
- 10 TERMINATION OR SUSPENSION
- 11 MISCELLANEOUS PROVISIONS
- 12 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

Init.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

Opinion of Probable Cost

Cost Engineering Reviews

Life Cycle Cost Analysis

Value Engineering

Material Cost Forecasting

Shape the project scope to meet the budget - City will need to define a hard budget

Bid-ability Review

Coordinate site visits for subcontractors for review

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's

init.

review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost plus fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a “related party” according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner’s objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner’s budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner’s other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner’s budget for

the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2014, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

\$15,200.00

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Four (4) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager. (Insert rate of monthly or annual interest agreed upon.)

%

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

4.25%

§ 5.1.2 The method of adjustment of the Construction Manager's Fee for changes in the Work:

4.25%

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

NA

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed (4.25 %) of the standard rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

(Insert specific provisions if the Construction Manager is to participate in any savings.)

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner’s prior consent on the basis of cost plus a fee), the terms “cost” and “fee” as used in Section 7.3.3.3 of AIA Document A201–2007 and the term “costs” as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

All construction work, whether self-performed or otherwise, will be bid out in bid packages.

§ 6.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site with the Owner’s prior approval.

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager’s principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

§ 6.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value. These costs will be included in the bid packages.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval. These costs will be included in the bid packages.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work. NA

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 6.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.

§ 6.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201–2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval. Included in General Conditions.

§ 6.6.7 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 6.6.8 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 6.6.9 Subject to the Owner's prior approval, expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201–2007.

§ 6.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;

- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the 30 days after the 10th of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than the 1st day of the following month.
(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of Ten percent (10 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of Ten percent (10 %) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

Init.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007. *(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)*

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Please see attached insurance certificate.	

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 15.4 of AIA Document A201-2007
- Litigation in a court of competent jurisdiction Litigation to take place in Custer County.
- Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201-2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the

Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

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§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

- .4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

- .5 Other documents:
(List other documents, if any, forming part of the Agreement.)

This Agreement is entered into as of the day and year first written above.

OWNER (Signature) *City of Custer*

CONSTRUCTION MANAGER (Signature) *Journey
Group Companies dba Ainsworth Benning
Construction*

(Printed name and title)

*(Printed name and title) William R. McElroy,
President*

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City of Custer City
2018 Annual Report

MUNICIPALITY OF CUSTER
BALANCE SHEET
GOVERNMENTAL FUNDS
December 31, 2018

	General Fund	BID Fund	Debt Service TIF Fund	Cemetery Fund	Promotion Funds	Total Governmental Funds
ASSETS AND DEFERRED OUTFLOWS OF RESOURCES:						
Assets:						
Cash and Cash Equivalents	3,353,947.99	33,139.48	6,268.06	19,582.92	161,270.84	3,574,209.29
151 Investments	1,651,254.34			82,002.65	2,695.90	1,735,952.89
110 Taxes Receivable--Delinquent	63,764.57			200.00		63,764.57
115 Accounts Receivable, Net	33,832.33	1,430.00	195.38		7,637.65	35,657.71
132 Due from Sales Tax Receivable	129,408.88			408.88		137,046.53
135 Interest Receivable	1,252.41					1,661.29
154 Deposits	38,907.58					38,907.58
155 Prepaid Expenses	19,289.14					19,289.14
Total Assets	5,291,657.24	34,569.48	6,463.44	102,194.45	171,604.39	5,606,489.00
Deferred Outflows of Resources:						
198 Other Deferred Outflows of Resources						0.00
Total Deferred Outflows of Resources	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	5,291,657.24	34,569.48	6,463.44	102,194.45	171,604.39	5,606,489.00
LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND FUND BALANCES:						
Liabilities:						
202 Accounts Payable	6,779.26					23,265.86
216 Accrued Wages Payable	15,622.19	319.50	6,463.34		9,703.76	15,622.19
217 Accrued Taxes Payable	106.60					
219 Amounts Held for Others	0.00					0.00
220 Customer Deposits	0.00					0.00
223 Unearned Revenue	0.00					0.00
Total Liabilities	22,508.05	319.50	6,463.34	0.00	9,703.76	38,888.05
Deferred Inflows of Resources:						
245 Unavailable Revenue--Property Taxes	49,660.58					49,660.58

MUNICIPALITY OF CUSTER
BALANCE SHEET
GOVERNMENTAL FUNDS
December 31, 2018

	General Fund	BID Fund	Debt Service TIF Fund	Cemetery Fund	Promotion Funds	Total Governmental Funds
Total Deferred Inflows of Resources	49,660.58	0.00	0.00	0.00	0.00	49,660.58
Fund Balances:						
264 Restricted	11,043.50	34,249.98	0.10	50,000.00		95,293.58
265 Committed	250,000.00					250,000.00
266 Assigned	1,970,416.58					1,970,416.58
267 Unassigned	2,988,028.53			52,194.45	161,900.63	3,202,123.61
Total Fund Balances	5,219,488.61	34,249.98	0.10	102,194.45	161,900.63	5,517,833.77
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND FUND BALANCES	5,291,657.24	34,569.48	6,463.44	102,194.45	171,604.39	5,606,382.40

The notes to the financial statements are an integral part of this statement.

MUNICIPALITY OF CUSTER
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS

For the Year Ended December 31, 2018

	General Fund	BID Fund	Debt Service TIF Fund	Cemetery Fund	Promotion Funds	Total Governmental Funds
Revenues:						
310 Taxes:						
311 General Property Taxes	859,457.15		265,418.94			1,124,876.09
313 General Sales and Use Taxes	1,619,099.20	147,144.00			253,180.93	2,019,424.13
315 Amusement Taxes	312.00					312.00
319 Penalties and Interest on Delinquent Taxes	2,080.45					2,080.45
320 Licenses and Permits	93,759.13					93,759.13
330 Intergovernmental Revenue:						
334 State Grants	10,000.00					10,000.00
335 State Shared Revenue:						
335.01 Bank Franchise Tax	3,098.95					3,098.95
335.02 Prorate License Fees	6,595.38					6,595.38
335.03 Liquor Tax Reversion (25%)	12,635.87					12,635.87
335.04 Motor Vehicle Licenses	39,111.46					39,111.46
335.08 Local Government Highway and Bridge Fund	31,395.18					31,395.18
338.03 County Wheel Tax	1.00					1.00
340 Charges for Goods and Services:						
341 General Government	11,480.77					11,480.77
345 Health	253.00					253.00
346 Culture and Recreation	5,940.00					5,940.00
348 Cemetery	3,800.00			5,843.00		9,643.00
350 Fines and Forfeits:						
351 Court Fines and Costs	441.66					441.66
353 Parking Meter Fines	0.00					0.00
360 Miscellaneous Revenue:						
361 Investment Earnings	31,577.11			576.32	972.49	33,125.92
362 Rentals	4,595.00					4,595.00
367 Contributions and Donations from Private Sources	0.00					0.00

470 Debt Service				265,418.94			265,418.94
485 Capital Outlay	148,771.08						148,771.08
Total Expenditures	2,153,459.13	139,214.26	265,418.94	0.00	230,667.75		2,788,760.08
Excess of Revenues Over (Under) Expenditures	821,914.00	7,929.74	0.00	6,419.32	23,485.67		859,748.73
Other Financing Sources (Uses):							
391.04 Compensation for Loss or Damage to Capital Assets	0.00						0.00
Total Other Financing Sources (Uses)	0.00	0.00	0.00	0.00	0.00		0.00
Net Change in Fund Balances	821,914.00	7,929.74	0.00	6,419.32	23,485.67		859,748.73
Fund Balance - Beginning	4,397,574.61	26,320.24	0.10	95,775.13	138,414.96		4,658,085.04
Adjusted Fund Balance - Beginning	4,397,574.61	26,320.24	0.10	95,775.13	138,414.96		4,658,085.04
FUND BALANCE- ENDING	5,219,488.61	34,249.98	0.10	102,194.45	161,900.63		5,517,833.77

The notes to the financial statements are an integral part of this statement.

MUNICIPALITY OF CUSTER
STATEMENT OF NET POSITION
PROPRIETARY FUNDS
December 31, 2018

	Enterprise Funds			Totals
	Water Fund	Sewer Fund	Solid Waste Fund	
ASSETS:				
Current Assets:				
Cash and Cash Equivalents	166,345.89	187,861.15	67,850.28	422,057.32
151 Investments	736,145.32	1,064,464.30	75,375.09	1,875,984.71
115 Accounts Receivable, Net	24,229.56	34,490.56	13,774.21	72,494.33
117 Unbilled Accounts Receivable	35,605.99	39,347.67	16,113.92	91,067.58
135 Interest Receivable	196.71	3,259.80	229.14	3,685.65
Total Current Assets	962,523.47	1,329,423.48	173,342.64	2,465,289.59
Noncurrent Assets:				
Capital Assets:				
160 Land	54,481.70	91,913.00		146,394.70
162 Buildings	920,268.85	570,305.00		1,490,573.85
164 Improvements Other Than Buildings	8,502,657.24	6,309,610.88		14,812,268.12
166 Machinery and Equipment	388,596.54	1,510,999.22		1,899,595.76
168 Construction Work in Progress	0.00			0.00
Less: Accumulated Depreciation (Credit)	(4,199,893.73)	(4,179,989.68)	()	(8,379,883.41)
189 Net Pension Asset	702.99	697.75		
Total Noncurrent Assets	5,666,813.59	4,303,536.17	0.00	9,968,949.02
TOTAL ASSETS	6,629,337.06	5,632,959.65	173,342.64	12,434,238.61
DEFERRED OUTFLOWS OF RESOURCES:				
196 Pension Related Deferred Outflows	28,808.52	30,610.75		59,419.27
TOTAL DEFERRED OUTFLOWS OF RESOURCES	28,808.52	30,610.75	0.00	59,419.27
LIABILITIES:				
Current Liabilities:				
202 Accounts Payable	2,503.91	6,180.16	964.30	9,648.37
215 Accrued Interest Payable	3,800.25	5,456.99		9,257.24
216 Accrued Wages Payable	4,056.97	4,145.28		8,202.25
219 Amounts Held for Others	0.00	0.00		0.00
220 Customer Deposits	30,435.00			30,435.00
226 Bonds Payable Current:				
226.02 Revenue	34,235.99	39,101.57		73,337.56
230 Compensated Absences Payable -- Current	33,878.55	34,159.43		68,037.98
Total Current Liabilities	108,910.67	89,043.43	964.30	198,918.40
Noncurrent Liabilities:				
231 Bonds Payable:				
231.02 Revenue	1,735,577.94	735,698.54		2,471,276.48
237 Other Long-Term Liabilities				0.00
Total Noncurrent Liabilities	1,735,577.94	735,698.54	0.00	2,471,276.48
TOTAL LIABILITIES	1,844,488.61	824,741.97	964.30	2,670,194.88
DEFERRED INFLOWS OF RESOURCES:				
247 Other Deferred Inflows of Resources				0.00
248 Pension Related Deferred Inflows	0.00	0.00		0.00
TOTAL DEFERRED INFLOWS OF RESOURCES	0.00	0.00	0.00	0.00
NET POSITION:				

253.10 Net Investment in Capital Assets	<u>3,896,296.67</u>	<u>3,528,038.32</u>	<u>7,424,334.99</u>
253.20 Restricted for:			
253.21 Revenue Bond Debt Service	<u>211,059.30</u>	<u>252,700.14</u>	<u>463,759.44</u>
253.26 Equipment Repair and/or Replacement		<u>820,741.71</u>	<u>820,741.71</u>
253.29 SDRS Pension Purposes	<u>31,094.61</u>	<u>23,075.45</u>	<u>54,170.06</u>
253.90 Unrestricted	<u>675,206.39</u>	<u>214,272.81</u>	<u>1,061,857.54</u>
TOTAL NET POSITION	<u>4,813,656.97</u>	<u>4,838,828.43</u>	<u>9,824,863.74</u>

The notes to the financial statements are an integral part of this statement.

MUNICIPALITY OF CUSTER
STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET POSITION
PROPRIETARY FUNDS
For the Year Ended December 31, 2018

	Enterprise Funds			Totals
	Water Fund	Sewer Fund	Solid Waste Fund	
Operating Revenue:				
370/380 Charges for Goods and Services	542,414.52	513,508.34	191,586.48	1,247,509.34
Revenue Dedicated to Servicing Debt	108,960.49	71,438.11		180,398.60
369 Miscellaneous	17,680.00	33,320.00		51,000.00
Total Operating Revenue	669,055.01	618,266.45	191,586.48	1,478,907.94
Operating Expenses:				
410 Personal Services	209,129.00	204,725.79		413,854.79
420 Other Current Expense	228,599.90	173,676.01	178,060.30	580,336.21
457 Depreciation	217,863.43	265,114.65		482,978.08
495 Pension	0.00	0.00		0.00
Total Operating Expenses	655,592.33	643,516.45	178,060.30	1,477,169.08
Operating Income (Loss)	13,462.68	(25,250.00)	13,526.18	1,738.86
Nonoperating Revenue (Expense):				
361 Investment Earnings	6,062.58	5,700.87	863.22	12,626.67
442 Interest Expense (Enter as Negative)	(73,995.58)	(23,691.05)		(97,686.63)
(492)366 Gain (Loss) on Disposition of Assets	0.00	0.00		0.00
Total Nonoperating Revenue (Expense)	(67,933.00)	(17,990.18)	863.22	(85,059.96)
Income (Loss) Before Contributions, Special Items, Extraordinary Items and Transfers	(54,470.32)	(43,240.18)	14,389.40	(83,321.10)
Change in Net Position	(54,470.32)	(43,240.18)	14,389.40	(83,321.10)
Net Position - Beginning	4,868,127.29	4,882,068.61	157,988.94	9,908,184.84
Adjusted Net Position - Beginning	4,868,127.29	4,882,068.61	157,988.94	9,908,184.84
NET POSITION - ENDING	4,813,656.97	4,838,828.43	172,378.34	9,824,863.74

The notes to the financial statements are an integral part of this statement.

Long Term Debt

The following is a summary of the long-term debt activity for the year ending December 31, 2018:

	Balance 1/1/2018	Earned/ Borrowings	Used/ Repayments	Balance 12/31/2018	Due Within One Year
Primary Government:					
Governmental Activities:					
TIF#1 - Boothill	\$ 665,465.28	\$ -	\$ -	\$ -	\$ -
TIF#2 - Stonehill	\$ 1,569,901.27	\$ -	\$ -	\$ 1,569,901.27	
TIF#4 - Downtown	\$ 841,985.08	\$ -	\$ 70,831.44	\$ 771,153.64	\$ 75,941.21
TIF #5 - Pamida	\$ 254,243.16	\$ -	\$ 25,203.03	\$ 229,040.13	\$ 20,834.68
Compensated Absences	\$ 44,379.59	\$ 48,039.80	\$ 33,415.59	\$ 48,158.50	\$ 48,158.50
Total Governmental Activities	\$ 3,375,974.38	\$ 48,039.80	\$ 129,450.06	\$ 2,618,253.54	\$ 144,934.39
Business-Type Activities:					
2007 USDA Water Revenue Bond	\$ 1,802,985.86	\$ -	\$ 33,171.93	\$ 1,769,813.93	\$ 34,235.99
2012 SRF Sewer Revenue Bond	\$ 812,750.30	\$ -	\$ 37,950.20	\$ 774,800.10	\$ 39,101.57
Compensated Absences	\$ 64,608.53	\$ 40,758.10	\$ 18,689.18	\$ 68,037.98	\$ 68,037.98
Total Business-Type Activities	\$ 2,680,344.69	\$ 40,758.10	\$ 89,811.31	\$ 2,612,652.01	\$ 141,375.54
Total Primary Government	\$ 6,056,319.07	\$ 88,797.90	\$ 219,261.37	\$ 5,230,905.55	\$ 286,309.93

Interest expense for the year ended December 31, 2018 was \$ 251,260.26

A & B Welding, Supplies, \$110.55
American Legal, Professional Fees, \$1,193.00
ASFPM, Training, \$50.00
Black Hills Energy, Utilities, \$5,505.60
Butler Machinery, Supplies, \$338.98
California State Disbursement, Deductions, \$53.19
Certified Laboratories, Supplies, \$577.93
Christie, John, Reimbursement, \$121.40
Culligan, Repair & Maintenance, \$18.50
Custer Car Wash, Repair & Maintenance, \$26.50
Custer Ace Hardware, Supplies, Repairs & Maintenance, \$374.76
Chamber of Commerce, Sales Tax Subsidy, \$4,861.17
Chronicle, Publishing, \$676.39
Custer County Treasurer, 2nd Quarter Law Enforcement Contract, \$93,750.00
Discovery Benefits, Supplies, \$27.00
Fastenal, Supplies, \$559.63
First National Bank, SRF Loan Payment, \$15,477.11
French Creek Supply, Supplies, \$549.34
Golden West Telecommunications, Utilities, \$586.63
Golden West Technologies, Professional Fees, \$748.50
Green Owl Media, Professional Fees, \$156.00
Hawkins, Supplies, \$5,546.47
Jenner Equipment, Repairs & Maintenance, \$750.08
Kone, Repairs & Maintenance, \$995.28
Kimball Midwest, Supplies, \$68.44
Leo's Auto Repair, Repairs, \$20.00
Lexis Nexis, Supplies, \$55.44
Lynn's Dakotamart, \$12.79
Metering & Technology Solutions, \$797.92
Midcontinent Testing Labs, Professional Fees, \$115.00
Mayer Plumbing, Repairs & Maintenance, \$420.00
Pitney Bowes, Supplies, \$48.69
Rapid Delivery, Professional Fees, \$39.69
Regional Health Network, Sales Tax Subsidy, \$29,897.78
S & B Motors, Supplies, \$14.99
Servall, Supplies, \$165.42
SD Department of Revenue, License, \$150.00
SD Secretary of State, Annual Report, \$60.00
Bit Finance/State Long Distance, \$37.13
The Hartford, Insurance, \$63.62
Unemployment Insurance Division of SD, \$687.48
USDA Loan Payments, \$8,910.00
Verizon Wireless, Utilities, \$417.01
Vista Print, Supplies, \$321.42
Total Claims \$175,356.83

