

All City Council Meetings are recorded.

**CITY OF CUSTER CITY  
COUNCIL AGENDA  
September 4<sup>th</sup>, 2018 – 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 – August 20<sup>th</sup>, 2018 Regular Meeting
4. Declaration of Conflict of Interest
5. Public Hearings - Public Presentations
  - a. Dog Park Request – Lesa McDermott
  - b. Second Reading – Ordinance #810 – Licensing & Regulation of Alcohol, Malt Beverages & Drinking Establishments
  - c.
  - d.
  - e.
  - f.
6. Public Comments (3-minute max. per person, with total public comment period not to exceed 15 minutes)
7. Old Business
  - a.
  - b.
  - c.
8. New Business
  - a. Request to use City Property (Tract Well) – Randy Larson
  - b. Amended Fire Suppression System Covenant & Agreement – 503/507 Mt Rushmore Road, S. 100' Block 1, Lot 8
  - c. Custer Community Center Contract Termination – Fennell Design
  - d. Custer Community Center Proposed Design, Fees and Services – Fennel Design
  - e. Golf Course Gate
  - f. New Hire
  - g.
  - h.
9. Presentation of Claims –
10. Department Head Discussion & Committee Reports –
11. Executive Session – Personnel, Proposed Litigation, & Contract Negotiations (SDCL 1-25-2(1-4))
12. 2019 Budget Work Session
13. First Reading – Ordinance #811 – 2019 Appropriation Ordinance
14. Adjournment

**REMINDERS**

- General Government Committee Meeting – September 10<sup>th</sup>, 2018 4:30 P.M.  
Planning Commission Meeting – September 11<sup>th</sup>, 2018 5:00 P.M.  
Regular City Council Meeting – September 17<sup>th</sup>, 2018 5:30 P.M.  
Park & Recreation Committee Meeting – September 18<sup>th</sup>, 2018 5:30 P.M.  
Public Works Committee Meeting – October 1<sup>st</sup>, 2018 4:30 P.M.  
Regular City Council Meeting – October 1<sup>st</sup>, 2018 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  
August 20<sup>th</sup>, 2018**

Council President Nina Nielsen called to order the second meeting of the Common Council for the month of August 2018 at 5:30 p.m. Present at roll call were Councilpersons Blom, Whittaker, Moore and Arseneault. The Pledge of Allegiance was stated.

**AGENDA**

Councilperson Blom moved to approve the agenda. Seconded by Councilperson Moore, the motion unanimously carried.

**MINUTES**

Councilperson Arseneault moved, with a second by Councilperson Blom, to approve the minutes from the August 6<sup>th</sup> regular council meeting. The motion unanimously carried.

**CONFLICTS OF INTEREST**

No conflicts of interest were stated.

**FIRST READING – ORDINANCE #810 – LICENSING AND REGULATION OF ALCOHOL, MALT BEVERAGES AND DRINKING ESTABLISHMENTS**

Councilperson Moore moved to approve Ordinance #810 – Licensing and Regulation of Alcohol, Malt Beverages and Drinking Establishment. Seconded by Councilperson Whittaker, the motion carried unanimously.

**RESOLUTION #8-20-2018A – CERTIFYING DELINQUENT ASSESSMENTS**

Councilperson Moore moved to adopt Resolution #8-20-18A, Certifying Delinquent Assessments. Seconded by Councilperson Blom, the motion unanimously carried.

RESOLUTION #8-20-18B  
RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF CUSTER  
CERTIFYING A DELINQUENT ASSESSMENT PURSUANT TO  
SDCL 10-23-1.1

The City Council of the City of Custer, State of South Dakota does hereby assess and levy on and against the several lots and parcels of land described below the respective sums of money set against each lot or parcel.

This assessment is made to defray the cost of fees and charges as per SDCL 34A-6-29.

The owners of said described lot or parcel have been noticed by certified mail return receipt requested and have failed to pay the amount of said described abatement.

NAME OF OWNER	DESCRIPTION OF PROPERTY	AMOUNT
COLLEEN RAE HICKS	LOT 9 BLOCK 26 CUSTER, SOUTH DAKOTA PARCEL #008216	\$ 423.76
ROBERT DRAKE	T&K ENTERPRISES SUBD-TRK SEC 26/27 T3R4.56AC PARCEL #008919	\$ 467.49
STEVEN BROWN	LOT 10 BLOCK 13+N.15' OF VACATED E/W ALLEY CUSTER, SOUTH DAKOTA PARCEL # 008088	\$ 372.65
	TOTAL	\$1263.90

The City Finance Officer is directed to file this Resolution with the Custer County Auditor's Office to certify the delinquent assessment pursuant to SDCL 10-23-1.1.

Dated this 20<sup>th</sup> day of August 2018.

CITY OF CUSTER

S/Nina Nielsen, Council President

Attest: Laurie Woodward, Finance Officer

**RESOLUTION #8-20-2018B – CERTIFYING DELINQUENT ASSESSMENTS**

Councilperson Blom moved to adopt Resolution #8-20-18B, Certifying Delinquent Assessments. Seconded by Councilperson Whittaker, the motion unanimously carried.

RESOLUTION #8-20-18A  
RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF CUSTER  
CERTIFYING A DELINQUENT ASSESSMENT PURSUANT TO  
SDCL 10-23-1.1

The City Council of the City of Custer, State of South Dakota does hereby assess and levy on and against the several lots and parcels of land described below the respective sums of money set against each lot or parcel. This assessment is made to defray the cost of abating a nuisance as per SDCL 21-10-6. The owners of said described lot or parcel have been noticed by certified mail return receipt requested and have failed to pay the amount of said described abatement.

NAME OF OWNER	DESCRIPTION OF PROPERTY	AMOUNT
DAVID A DAVIS & VICTORIA S	910 MT RUSHMORE ROAD LOT 11 BLOCK 95 CUSTER, SOUTH DAKOTA PARCEL #008564	\$310.00
WITT / VANDER HEIDE DEBRA S LAMBERSON (WALLING)	304 YOUNG DRIVE LOTS 8-9 BLOCK 12 CUSTER, SOUTH DAKOTA PARCEL #008079	\$510.00
	TOTAL	\$820.00

The City Finance Officer is directed to file this Resolution with the Custer County Auditor's Office to certify the delinquent assessment pursuant to SDCL 10-23-1.1.

Dated this 20<sup>th</sup> day of August 2018.

CITY OF CUSTER

S/Nina Nielsen, Council President

Attest: Laurie Woodward, Finance Officer

**2019 CUSTER CHAMBER DIRECTORY & RELOCATION GUIDE - CHRONICLE**

Kate Najacht with the Custer Chronicle, presented the 2019 Custer Area Chamber Business & Membership Directory information to Council. Councilperson Arseneault moved to approve the placement of a half page ad in the directory for \$725 with an additional \$25 for a "click it" feature. Seconded by Councilperson Moore, the motion carried with Councilperson Whittaker, Arseneault, Moore and Blom voting yes.

**DOG PARK REQUEST – LESA MCDERMOTT**

Councilperson Blom moved to table the Dog Park request, seconded by Councilperson Whittaker. After some discussion Councilperson Blom amended her motion to table the Dog Park request by excluding the Dog Park name from the motion. Seconded by Councilperson Whittaker, the motion unanimously carried. Lesa McDermott gave Council an overview of what the Dog Park Fundraising Committee has been working on. Councilperson Arseneault moved to name the Dog Park the Bark Park. Seconded by Councilperson Blom, the motion unanimously carried.

**ALCOHOLIC BEVERAGE OPERATING AGREEMENT**

Councilperson Moore moved to approve the changes to the alcoholic beverage license operating agreement as presented by the Finance Officer. Seconded by Councilperson Blom, the motion unanimously carried.

**TEAMMATES MENTORING PROGRAM – LETTER OF SUPPORT**

Councilperson Blom moved to approve submitting a letter of support to TeamMates Mentoring program for the Custer School District and authorize the Mayor to sign the letter. Seconded by Councilperson Whittaker, the motion unanimously carried.

**SURPLUS PROPERTY**

Councilperson Arseneault moved to approve the surplus property list as presented by Public Work Director, Bob Morrison and to be on file in the Finance Office. Second by Blom, the motion unanimously carried.

**PLANNING ADMINISTRATOR TRAVEL REQUEST**

Councilperson Arseneault moved to approve travel cost up to \$2,500 for Tim Hartmann, Planning Administrator to attend training, with FEMA reimbursement request being submitted for all applicable cost. Seconded by Councilperson Moore, the motion carried with Councilperson Moore, Arseneault, Blom and Whittaker voting yes.

**CLAIMS**

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

- Audio- Video Solutions, Repairs and Maintenance, \$430.00
- Banner Associates, Professional Fees, \$1,906.95
- Baumann, Fred, Professional Fees, \$60.00
- Black Hill Chemical, Supplies, \$370.74
- Black Hills Energy, Utilities, \$14,448.68
- California State Disbursement, Deductions, \$53.19
- Chamber of Commerce, Sales Tax Subsidy, \$45,881.19

Culligan, Repairs and Maintenance, \$18.50  
Custer Ace Hardware, Supplies, Repairs and Maintenance, \$967.08  
Custer Heating & Air Conditioning, Repairs and Maintenance, \$1,343.86  
Defleece Designs, Cruisin Deposit Refund, \$100.00  
Diamond Vogel, Supplies, \$686.50  
Discovery Benefits, Supplies, \$25.00  
Environmental Equipment & Service, Repairs and Maintenance, \$67.51  
Fastenal, Supplies, \$142.53  
Frank, Jim, Professional Fees, \$120.00  
General Lee Collection, Cruisin Deposit Refund, \$100.00  
Grizzly's Jewelry, Cruisin Deposit Refund, \$100.00  
Gypsy & Gyms, Cruisin Deposit Refund, \$100.00  
Hawkins, Supplies, \$5,611.44  
Henessy, Colleen, Professional Fees, \$140.00  
Hillyard, Supplies, \$555.27  
Lone Elk Gallery, Cruisin Deposit Refund, \$100.00  
Lynn's Dakotamart, Supplies, \$23.54  
McGas, Pre-Paid Utilities, \$29,750.00  
Michael Todd & Company, Supplies, \$208.76  
Midcontinent Testing Labs, Professional Fees, \$1,265.00  
Mt. View Baptist Church, Cruisin Deposit Refund, \$100.00  
Pomper, Sam, Professional Fees, \$100.00  
Rapid Fire Protection, Profession Fees, \$390.00  
Regional Health Network, Sales Tax Subsidy, \$80,717.95  
SD Department of Revenue, Supplies, Sales Tax, \$1,271.77  
Servall, Supplies, \$165.02  
Signs & Wonders, Cruisin Deposit Refund, \$100.00  
Simon Materials, Repair and Maintenance, \$91,973.45  
Steele Collision, Repairs and Maintenance, \$320.00  
USDA Loan Payment, 8,910.00  
Walker, Gaile, Reimbursement, \$500.00  
Warne Chemical & Equipment, Supplies, \$232.20  
Total Claims, \$289,356.13

**DEPARTMENT HEADS & COMMITTEE REPORTS**

Various committee reports were given in addition to updates from the department heads.

**EXECUTIVE SESSION**

Councilperson Arseneault moved to go into and out of executive session for personnel per SDCL 1-25-2(1-4) at 6:29 pm, with the Attorney, Planning Administrator, Public Works Director, Finance Officer and Deputy Finance Officer present. Seconded by Councilperson Whittaker, the motion unanimously carried. Council came out of executive session at 6:35 pm, with no action taken.

**EMPLOYEE STEP INCREASE**

Councilperson Arseneault moved to approve the step increases for Jeri Hewitt to step 9, at \$22.15 per hour effective August 7th, 2018. Seconded by Councilperson Blom, the motion unanimously carried.

**2019 BUDGET WORK SESSION**

Council had a work session for the 2019 budget.

**ADJOURNMENT**

With no further business, Councilperson Moore moved to adjourn the meeting at 7:42 p.m. Seconded by Councilperson Whittaker, the motion carried unanimously.

ATTEST:

*Laurie Woodward*

Laurie Woodward  
Finance Officer



CITY OF CUSTER CITY

*Nina Nielsen*

Nina Nielsen  
Council President



Svensson Construction, LLC

Karl Svensson  
Lesa McDermott

PO Box 4051  
Custer, SD, 57730

Phone: 605-517-0737 (Karl)  
605-440-0989 (Lesa)

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[https://www.facebook.com/  
SvenssonConstruction](https://www.facebook.com/SvenssonConstruction)

August 20, 2018

RE: Custer Dog Park

Mayor Herman and Councilwomen:

On behalf of the newly formed Custer dog park committee, we would like to ask for a formal commitment from the City to build the park. We would also like to ask for the following:

- 1) That the city hold all funds raised by the committee for the building of the dog park and that it be a separate line item in the City's accounting system similar to what it being done for the West Dam Project. Such funds are to be used only for the building of the dog park.
- 2) That the city contribute \$15,000 in funds and services to be used towards the building of the dog park. Said funds and services to be used in 2018 and 2019.
- 3) That the city appoint Tim Hartman as the City's project coordinator.
- 4) That the city approve the repurposing of the shelter at West Dam to be moved to the new dog park location.
- 5) That the city approve the name of the park to be the "Bark Park."

For informational purposes, our committee has met a few times and is off to a great start. Current members on the committee include myself, Oonagh Wood, Steve Pischke, Hank Whitney, Kay Walsh, Tina Conner, Cindy Hamm, Mary Hoover, Windy Schuyler, Holly Thornell, Lane Arthur, Susie Rabenberg, and Nancy Gellerman.

Regarding fundraising, we already have commitments to \$8,000 in cash and services. We've been approached by Art Expressions that they would like to do some type of fundraisers and the Custer High School Student Council has designated the dog park as one of its fundraisers for the 2018-2019 school year. We have also requested funds or gravel from Custer County.

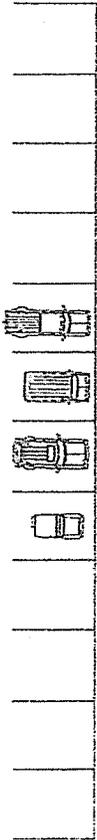
Our plan is to do fundraising over the fall, winter and spring. As soon as weather permits in the spring, we will start construction of the dog park.

Thank you for your consideration on this project. It will be a great addition to the Custer and Black Hills area.

Sincerely

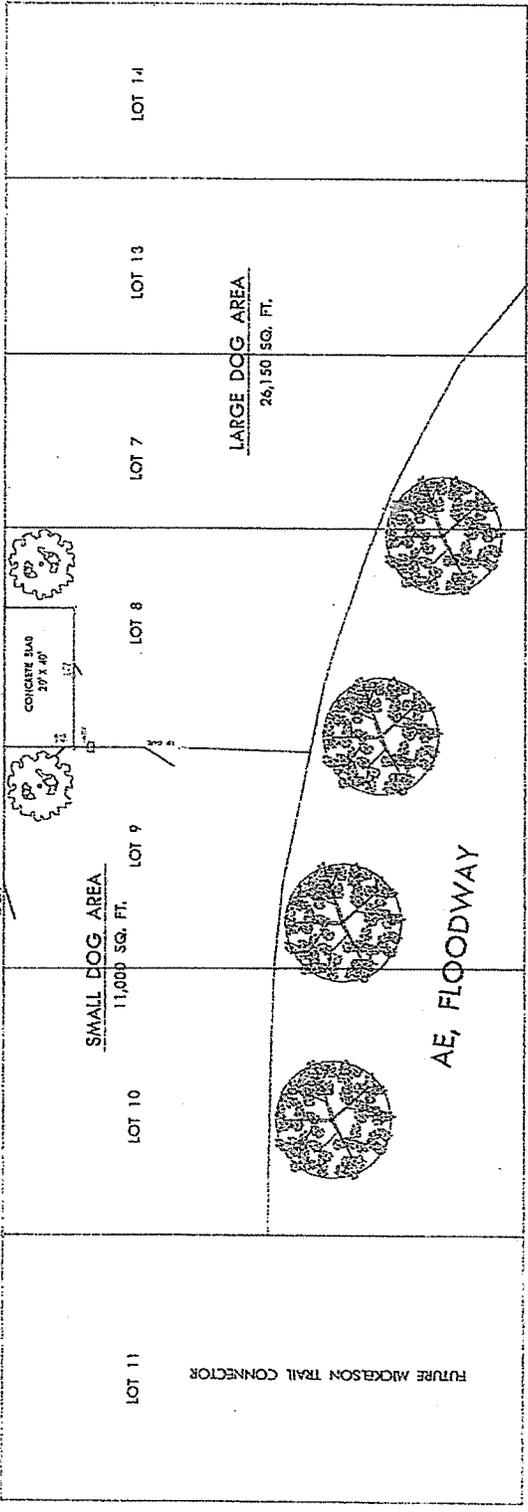
Lesa McDermott  
Committee Chair

WASHINGTON STREET



MICKELSON TRAIL SPUR

DOG PARK ENTRANCE



S. 11th STREET

DATE	12-28-22
SCALE	AS SHOWN
PROJECT	LANE ARTISTS - SLOPE PROJECT
CLIENT	CHRIS CITY DOG PARK
DESIGNER	LANE ARTISTS
PROJECT NO.	2022-001
DATE	12-28-22
SCALE	AS SHOWN
PROJECT	LANE ARTISTS - SLOPE PROJECT
CLIENT	CHRIS CITY DOG PARK
DESIGNER	LANE ARTISTS
PROJECT NO.	2022-001

Name	Email	Phone
Lesa McDermott	<a href="mailto:lesamc@cityofmadison.com">lesamc@cityofmadison.com</a>	440-0989
Oonagh Wood	<a href="mailto:oonagh@cityofmadison.com">oonagh@cityofmadison.com</a>	673-2625
Steve Pischke	<a href="mailto:spischke@cityofmadison.com">spischke@cityofmadison.com</a>	637-3067
Hank Whitney	<a href="mailto:hwhitney@cityofmadison.com">hwhitney@cityofmadison.com</a>	673-3671
Kay Walsh	<a href="mailto:kw Walsh@cityofmadison.com">kw Walsh@cityofmadison.com</a>	673--5131
Tina Conner	<a href="mailto:tconner@cityofmadison.com">tconner@cityofmadison.com</a>	673-5101
Cindy Hamm	<a href="mailto:chamm@cityofmadison.com">chamm@cityofmadison.com</a>	673-3588
Mary Hoover	<a href="mailto:mhoover@cityofmadison.com">mhoover@cityofmadison.com</a>	673-2820
Wendy Schuyler	<a href="mailto:wschuyler@cityofmadison.com">wschuyler@cityofmadison.com</a>	440-1814
Holly Thornell	<a href="mailto:hthornell@cityofmadison.com">hthornell@cityofmadison.com</a>	517-2411
Lane Arthur	<a href="mailto:lane@cityofmadison.com">lane@cityofmadison.com</a>	440-0020
Nancy Gellerman	<a href="mailto:ngellerman@cityofmadison.com">ngellerman@cityofmadison.com</a>	
Susie Rabenberg	<a href="mailto:srabenberg@cityofmadison.com">srabenberg@cityofmadison.com</a>	

Laurie Woodward [laurie@cityofmadison.com](mailto:laurie@cityofmadison.com)  
Tim Hartman [thartman@cityofmadison.com](mailto:thartman@cityofmadison.com)

Finance Officer  
City Planner

# Custer City Dog Park Estimate

Category	Items	Quantity	Estimated Cost	Actual Cost	Total Estimated Cost	Total Actual Cost
Chain-Link Fence *	6' High Chain-Link Fence	1	\$13,722		\$13,722	\$0
Concrete Slab	20' X 40' Concrete Slab	1	\$4,000		\$4,000	\$0
Dog Fountain w/ Materials & Labor **	Water, Sewer, Asphalt, and Fountain	1	\$3,955		\$3,955	\$0
Landscaping w/ Labor	Candadian Red Cherry Tree	2	\$250		\$500	\$0
Landscaping w/ Labor	Green Ash Shade Tree	4	\$200		\$800	\$0
Chain-Link Gate	10' Gate; 5' High	2	\$284		\$567	\$0
Chain-Link Gate	Walk Gate; 5' High	3	\$82		\$246	\$0
Outdoor Bench	Lifetime Faux Wood Convertible Bench/Table	6	\$230		\$1,380	\$0
Dog Waste	Masterpaws 36" Metal Tray & Rake Pet Waste Scooper	6	\$19		\$114	\$0
Garbage Cans	Rubbermaid 32 Gallon Heavy Duty Menard Logo Can With Lid	4	\$24		\$96	\$0
Park Rule Sign	Metal Sign	1	\$125		\$125	\$0
Parking Area	Cement Wheel Stops	12	\$55		\$660	\$0
<b>Total</b>			<b>\$22,946</b>		<b>\$26,165</b>	<b>\$0</b>

Subtotal \$26,165  
 Unexpected Costs - Add 30% \$7,850  
 Total \$34,015

\* For 5' fence, add \$736. For 4' fence, subtract \$1,564.

\*\* For ADA dog Fountain, add \$2,000.

ORDINANCE #810

AN ORDINANCE ENTITLED AN ORDINANCE AMENDING Title 5 Business Licenses and Regulations.

BE IT HEREBY ORDAINED, by the Common Council of the City of Custer City that Title 5 Chapter 8 of the Custer City Municipal Code be amended, replacing and superseding all prior ordinances or amendments as follows, to wit:

**Chapter 5.08**  
**LICENSING AND REGULATION OF ALCOHOL, MALT BEVERAGES**  
**AND DRINKING ESTABLISHMENTS**

Sections:

- 5.08.010 Definitions
- 5.08.015 Penalty
- 5.08.020 License required
- 5.08.030 Hours of sale
- 5.08.040 Violation as ground for revocation or suspension of license – Multiple licenses
- 5.08.050 No delivery – Purchase only from licensed dealers
- 5.08.060 Classification and fees
- 5.08.070 Full-Service On-Sale Restaurant Licenses
- 5.08.080 Special Event License Requirements
- 5.08.090 Consumption Only Permit (brown bag)
- 5.08.100 Purchase of alcoholic beverages
- 5.08.110 Number of liquor licenses
- 5.08.120 Fee for alcoholic beverage licensees who have video lottery licenses
- 5.08.130 On-sale restriction by school property

5.08.010 Definitions

This chapter shall set forth licensing requirements related to the sale of alcohol and malt beverages and shall regulate drinking establishments and the sale of alcohol and malt beverages within the City.

A term that is defined in a specific section of this chapter is to be first given the meaning therein defined. If a term is not defined in a specific section, the term is to be defined using the definitions below in this section. If a term is not defined in this section the term is to be given the meaning as defined in Title 35 of the South Dakota Codified Laws, SDCL. If a term is not provided for in the SDCL the term is to be given its plain and ordinary meaning.

**BAR:** Any permanent installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person employed by the facility and is tending bar or drawing or mixing or otherwise preparing alcoholic beverages for consumption within the facility.

**BEER GARDEN:** A designated area within the premises of a licensed on sale dealer, identified in the license application, adjacent to the permanent structure on the licensed premises, and separated and defined by the temporary or permanent barriers required by this Ordinance. A Beer Garden shall not include the area of a deck or patio as defined in the Ordinance, and the beer garden may be covered or uncovered. The total area of a beer garden may not exceed the square footage of the ground floor footprint of the qualified, permanent structure located on the licensed premises.

**BUILDING/STRUCTURE:** Structure having a roof supported by columns or walls for the shelter, support or enclosure for persons, animals or chattels. A building may be precut or prefabricated, or it may be made up of mobile modules or sections, factory fabricated and transportable by rail or truck to a building site, and designed to be incorporated into a structure upon a permanent foundation on the said site.

**BUSINESS:** Means any activity, trade, calling, profession, or occupation, whether sole proprietorship, partnership, corporation, limited liability company or other recognized entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of Custer. Business includes "home occupations" which involve the sale of goods or services as described in this definition.

**CIVIC ORGANIZATION:** Any South Dakota recognized or 501(c)(4) not-for-profit organization or league not organized for profit, but operated exclusively for the promotion of social welfare or for the purpose of serving a public or mutual benefit within or to the community. Alternatively, any local association of persons, the membership of which is limited to the persons in the City of Custer and the net earnings of which are devoted exclusively to charitable, education or recreational purposes in the City of Custer.

**CHARITABLE ORGANIZATION:** Any South Dakota recognized or 501(c)(3) not-for-profit organization (either a private foundation or public charity) that is organized and operated exclusively for established philanthropic, humanitarian, altruistic, benevolent, public-spirited, scientific, literary or religious purposes, including but not limited to relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

**DECK:** Any walking surface, covered or uncovered, which is attached to the exterior of a structure and is elevated above finish grade. Decks shall have at least one access attached to a permanent structure for which malt beverage or alcohol is served or consumed.

**EDUCATIONAL ORGANIZATION:** Any South Dakota recognized or 501(c)(3) not-for-profit organization that is organized and operated exclusively for established educational purposes, encompassing individual instruction, as well as public instruction "on subjects useful to the individual and beneficial to the community". An educational organization does not include any elementary, secondary or higher educational institution in the public school system of this state.

**EVENT:** An organized occurrence or happening lasting four (4) or more consecutive days or where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control. This definition does not apply to a Special Event license described below.

**FRATERNAL ORGANIZATION:** Any South Dakota recognized or 501(c)(8) or 501(c)(10) not-for-profit organization that is organized and operated for a fraternal purpose and whose membership is based on a common tie or the pursuit of a common object. A fraternal organization must operate under a lodge system.

**FLOOR:** An area that is surrounded by exterior walls and a roof of the building or portion thereof.

**FULL-SERVICE RESTAURANT:** Any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or food such as sandwiches; hamburgers or salads is not a full-service restaurant.

**MINOR:** Any person who is under the age of twenty-one (21).

**OPERATION:** In action, functioning.

**PATIO:** Any finished walking surface which is at grade and is covered or uncovered. Patios shall have one access attached to a permanent structure for which malt beverage or alcohol is served or consumed.

**PUBLIC PLACE:** Any location (in or out of a building) that the local, state, or national government maintains for the use of the public, such as a street, highway, alley, public parking area, parks, or public building.

**RESTAURANT:** A room and/or structure regularly, and in bona fide manner, used and kept open for the serving and/or preparing of meals to guest for compensation which has suitable table accommodations for at least fifty (50) guests therein at one and the same time; and a kitchen connected

therewith containing conveniences for cooking sufficient to provide preparation and cooking of meals in a bona fide manner for fifty (50) or more guests at one and the same time. Facilities who serve only prepackage foods or items that can be heated in a microwave or small pizza or toaster ovens will not be considered a restaurant.

**ROOF:** Any structural element or group of elements which are structural in nature and are covered with a material(s) that is (are) weather resistant. The roof shall be the top most element of the structure that meets the requirement of the current adopted building code.

**SPECIAL EVENT ON SALE LICENSE:** For purposes purpose of section 5.08.080, a special event within the municipality is defined as an event or activity to be conducted within the City by a generally recognized:

- a. Civic organization with an active chapter located within the City,
- b. Charitable organization with an active chapter located within the City,
- c. Educational organization with an active chapter located within the City,
- d. Fraternal organization with an active chapter located within the City,
- e. Veterans organization with an active chapter located within the City, or one of the following events or activities within the City to be conducted by a licensee already holding an on-sale license issued by the City pursuant to SDCL 35-4-2(4), (12), or (16):
  1. Wedding reception
  2. a private family gathering
  3. an event sponsored by or for the benefit of a recognized non-profit organization

To obtain the Special Event license, the applicant shall submit an application stating their qualifications for a Special Event license on a form consistent with the requirements of SDCL 35-4-124, and providing all additional information required by the City Finance Office to meet the requirements of this ordinance. A Special Event license may only be issued to a current Custer license holder only for the same class of license previously issued to the licensee by the City of Custer.

**TO SELL AND SERVE ALCOHOLIC BEVERAGES:** To take orders for alcoholic beverages and to deliver alcoholic beverages to customers as a normal adjunct of waiting tables. This term does not include tending bar or drawing or mixing alcoholic beverages.

**WALL:** Any wall or element of a wall, or any member or group of members, structural or non-structural, which defines the boundaries of a building and which is opaque in nature with the exception of windows or doors and supports a roof and/or floor above.

**VETERANS ORGANIZATION:** Any bona fide congressionally chartered veteran's organization.

#### 5.08.015 Penalty

Any violations of these provisions of this Chapter is a Class 2 Misdemeanor. In addition, any person holding a license under this Chapter who is found to be in violation of any provisions of this Chapter shall face the possibility of revocation or non-renewal of any license.

#### 5.08.020 License Required

No person shall sell, exchange, barter, distribute or keep for sale any alcoholic or malt beverage, as herein defined, without having obtained a license therefore, pursuant to the provisions of Title 35 of the South Dakota Codified Laws and by Custer City Ordinance, Chapter 5.08. All classes of licenses shall also be set out in Title 35, except where otherwise indicated.

Any person who intends to sell, exchange, barter, distribute or keep for sale any alcoholic or malt beverage shall make an application for license under the provisions of SDCL Title 35, to the City Finance Officer. The application shall be presented along with payment for the license fee. A public hearing is required before approval and issuance of any new license or the transfer of an existing license issued.

The Common Council may approve or disapprove an application for any license depending on whether the Council deems the applicant a suitable person to hold the license and whether the Council considers the proposed location suitable. The Common Council may, at its discretion, require the applicant to appear personally at any meeting of the Council and to answer any questions which may be asked pertaining to the applicant or the place of business which may in any way pertain to the carrying on of the business applied for.

Upon issuance of said license, the licensee shall be given a copy of Custer City Ordinance Chapter 5.08 and sign a statement verifying that he or she has received a copy of Chapter 5.08 and signed an operating agreement with the City. It shall be the responsibility of each licensee to acknowledge in writing they have read and understood Chapter 5.08 and the operating agreement.

Any licensee under this chapter and SDCL Title 35 must be a person of good moral character who has never been convicted of a felony. If the licensee is a corporation, the managing officers thereof must have like qualifications.

5.08.030 Hours of Sale

The days and hours for the sale of alcoholic beverages shall be in accordance with SDCL Title 35.

5.08.040 Violation as ground for revocation or suspension of license – Multiple licenses

The common council may revoke or suspend any license issued under this chapter and SDCL Title 35 upon proof of violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a City license, of any of the following:

- 1) Any provision of SDCL Title 35;
- 2) Any rule promulgated pursuant to SDCL Title 35; or
- 3) Any ordinance or regulation relevant to alcoholic beverage control that has been adopted by the City.

For any licensees with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license issued pursuant to this chapter or SDCL Title 35, such licensee shall cease operation under all alcoholic beverage licenses held by such licensee for the same premises for the same period as the suspension or revocation.

5.08.050 No delivery – Purchase only from licensed dealers

No package dealer or off-sale dealer as defined by this chapter shall permit or shall make any deliveries of alcoholic beverages outside their place of business without a transport license from the South Dakota Department of Revenue. No person shall buy any alcoholic beverages in package except from a package dealer, holding a valid license.

5.08.060 Classification and fees

No license shall be issued pursuant to this chapter except after a public hearing unless otherwise expressly stated. Classes of licenses, with the fee of each, follow:

ANNUAL LICENSE	LICENSE TERM	INITIAL FEE	RENEWAL FEE
Off-Sale Package Liquor License	January 1 through December 31	Price as set by City Council	\$ 1,500
On-Sale Liquor License	January 1 through December 31	Price as set by City Council but may not be less than one dollar (\$1.00) for each person residing within the City as measured by the last preceding federal census.	\$ 1,200
Full-Service On-Sale Restaurant License	January 1 through December 31	Market price as set by City Council	\$ 1,200
Convention Facility On-Sale Liquor License	January 1 through December 31	Price as set by City Council but may not be less than one dollar (\$1.00) for each person residing within the City as measured by the last preceding federal census.	\$ 1,200
Retail (On-Off Sale) Wine License	January 1 through December 31	\$ 500	\$ 500
On-Off Sale Malt Beverage / On-Off Sale SD Farm Wines License	July 1 through June 30	\$ 300	\$ 300
Transfer fees		\$ 150	

5.08.070 Full-Service On Sale Restaurant Licenses

An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverage. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the City on forms provided by the City Finance Office of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. When renewing the license, the City shall condition the license renewal upon receiving documentation that not more than forty percent of gross sales from the preceding twelve months' operation of the full-service restaurant is derived from the sale of alcohol or alcoholic beverage. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

1. Food and nonalcoholic beverage sales; and
2. Alcoholic beverage sales

Full-service on-sale restaurant license holders shall follow all South Dakota Codified Laws regarding full-service restaurant on-sale license.

5.08.80 Special Event License Requirements

The following are special event license and fees:

SPECIAL EVENT LICENSES	INITIAL FEE
Special Malt Beverage Retailer and/or On-Sale Wine Retailer License to Organizations. (for any qualified public, civic, charitable, educational, fraternal or veteran's organization in conjunction with a special event within the municipality)	\$50.00 for first day and \$5.00 per day thereafter
Special Malt Beverage License by Current Licensee. Issued to any holder of an alcoholic beverage license issued pursuant to SDCL 35-4-2(4), (6), or (16) in conjunction with a special events temporary malt beverage license in addition to any other licenses held by the special events applicant.	Same as fee established in SDCL 35-4-2(16)

A. To obtain a special event license, the applicant shall be submitted to the City Finance Office license fee, license application which shall include a statement of the qualifications of the applicant for a special event license on a form consistent with the requirements of SDCL 35-4-124, including an authorized statement of consent to the license by the participating local civic, charitable, educational, fraternal or veterans organization, as defined in subsection 5.08.010 herein, and a statement of the fixed location of the active chapter of the participating local non-profit organization within the City. The application shall also include all other information required to comply with this title, as established by the policies of the City Finance Office, including but not limited to the following:

- Applicant's & licensee's contact information
- General description of event
- A separate statement of consent and participation from the civic, charitable, education, fraternal or veteran's organization
- Address and legal description of the event location including specific area and size proposed for the event
- Description of how the applicant will ensure compliance with all alcoholic beverage

sales laws

-Proof of proper insurance covering the event must be provided (public liability and liquor liability insurance coverage in the amount of one million dollars per person, two million dollars per occurrence, and shall name the City as an additional insured thereunder)

B. A special event license issued pursuant to this section shall only be issued to the organization for the location and dates specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the common council, however, such period may not exceed fifteen (15) consecutive days, with each day expiring at twelve o'clock (12:00) midnight.

C. The license must be issued in the same manner as any other alcoholic beverage license including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval. The common council shall have sole discretion to approve or disapprove the application, depending on whether it deems the applicant to hold such license and whether it considers the proposed location suitable.

D. If an organization receiving a license pursuant to this section conducts a street dance or concert in conjunction with the special event, the organization shall provide qualified security personnel as deemed necessary by the governing body which issued the license to maintain order during the event.

E. The applicant must apply for this license not less than forty-five (45) days prior to the scheduled event.

F. No entity may be issued more than ten (10) special licenses per calendar year.

5.08.090 Consumption Only Permit (brown bag)

The consumption of alcoholic beverages in any public place except at on-sale locations is prohibited.

The city may issue a permit for the consumption or blending of alcoholic beverages at a public place upon receipt of a written request from the person(s) or organization.

A permit granted pursuant to this provision shall be for a length of time authorized by the common council which shall not exceed twenty-four hours and shall not be permitted between the hours of two a.m. and seven a.m.

The granting of a permit pursuant to this provision does not authorize person(s) or organization granted a permit to sell alcoholic beverages and the person(s) or organization granted a permit pursuant to this provision is prohibited from selling alcoholic beverages.

A special permit issued pursuant to this subsection may only be issued to the person(s) or organization, location and date specified on the application.

An application fee of five dollars shall be submitted with the application for the special permit.

The applicant must submit an application permit not less than forty-five days prior to the scheduled event in order to allow sufficient time for the common council to consider the request.

The applicant must be at least twenty-one (21) years of age and provide an acceptable form of identification, together with a signed Hold Harmless Agreement and the name, policy number and expiration date of applicant's homeowner's insurance or liability insurance carrier and proof that the policy will cover the event.

5.08.100 Purchase of alcoholic beverages

Each licensee classified in sections 5.08.060 and 5.08.080 special malt beverage license by current licensee of this chapter shall buy all alcoholic beverages through the city's alcoholic beverage license and shall be subject to all provisions of SDCL Title 35. The licensee shall pay directly the distributor of all alcoholic beverages for any and all invoices attributable to such establishment.

Each licensee classified in sections 5.08.060 and 5.08.080 special malt beverage license by current licensee of this chapter shall pay to the city on or before the twentieth of each month, a mark-up of ten (10) percent on all alcoholic, non-alcoholic wine and malt beverage, or malt beverage invoices from the preceding month and submit the monthly Remittance Form itemizing all costs.

5.08.110 Number of liquor licenses

The number of liquor licenses issued in the city shall be subject to the determination as set forth in SDCL 35-4-11, as amended.

5.08.120 Fee for alcoholic beverage licensees who have video lottery licenses

Any person who is licensed pursuant to SDCL 35-4-2(4), (6), (11), (12), (134), or (16), and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41 must pay an additional annual fee for locating video lottery machines on the licensed premises. The fee is established at fifty dollars (\$50.00) for each video lottery machine and the fee shall be paid at the same time and in the same manner as the fees paid on licenses issued pursuant to SDCL 35-4-2. All fees received under this section shall be deposited into the general fund of the city.

5.08.130 On-sale restriction by school property

Any on-sale licensed property that is, property to property, within 200 feet of school property may not serve alcoholic beverages outside of the building and all alcoholic beverages must stay within the structure.

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 4<sup>th</sup> day of September, 2018.

City of Custer City

---

Corbin Herman, Mayor

Attest \_\_\_\_\_  
Laurie Woodward, Finance Officer

(SEAL)

First Reading: August 20, 2018

Vote:

Seconding Reading: September 4, 2018

Arseneault:

Whittaker:

Publication: September 12, 2018

Moore:

Nielsen:

Fischer:

Blom:

REQUEST TO BE ON AGENDA  
CUSTER CITY COUNCIL MEETING

RECEIVED

AUG 30 2018

CITY OF CUSTER

NAME: Randy Larson PHONE #: 605-350-6426

ADDRESS: 22446 401 st Ave Woonsocket SD 57385

MEETING DATE: \_\_\_\_\_

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

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

Request to use <sup>city</sup> Liquor store lot Every 2 weeks to sell Farm Produce through End of September this year.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE Randy Larson DATE 8-30-18

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





Planning Department  
622 Crook Street  
Custer, SD. 57730  
Phone: 673-4824 Fax: 673-2411  
e-mail: timh@cityofcuster.com

**Staff Report**

Subject: Amended Fire Suppression System Covenant and Agreement - Structure at 503/507 Mt  
Rushmore Road, South 100' of Lot 1 Block 8  
Date Prepared: August 31, 2018  
City Council Meeting: September 4, 2018  
Prepared by: Tim Hartmann, Planning Administrator

**GENERAL**

Presented before the Council is an amended fire suppression agreement for the structure on the South 100' of Lot 1 Block 8 (currently Good Karma Jewelry and NXT Law). In the early spring of 2017 renovations and alterations were planned and had begun on the structure. During the building permit review process, it was identified that the proposed use (office space (Group B), mercantile space (Group M) and assembly occupancy (Group A)) would require a fire suppression system. The property owner agreed to this, began gathering cost estimates for the work, but did request an extension of time to complete the installation. City staff and legal council drafted the original agreement to grant an extension for installation. Such agreement was completed by all parties and filed at the Custer County Register of Deeds on November 7<sup>th</sup>, 2017.

Prior to installation of the system the occupancy of the structure changed again to the current use (Good Karma Jewelry absorbed the Naked Winery Space in April of 2018). The property owner inquired about the requirement for sprinkler system installation under the occupancy group B (NXT Law) and M (Good Karma). Planning Administrator acknowledged the occupancy change and reviewed further. After discussions with city code consultant Dave St. Pierre, it was determined that the current occupancy would not require a fire sprinkler system per the International Building Code. City Staff and legal counsel have drafted an amended covenant and agreement.

**PREVIOUS ACTION BY THE CITY COUNCIL**

City Council reviewed and approved the original covenant and agreement with a unanimous yes vote at the November 6<sup>th</sup>, 2017 meeting.

**STAFF RECOMMENDATIONS**

Staff supports approval of the amended agreement. Per discussion with Dave St. Pierre, under the current occupancy a fire suppression system would not be required, and therefore warrants approval of this amended agreement. All other code requirements such as ADA, egress safety concerns, directional signing, emergency lighting, etc. have been completed.

FILED WITH: 03  
BENTLEY LAW OFFICE  
Custer City Attorney's Office  
118 West Buchanan Rd  
Custer, SD 57730  
(605) 673-1181  
(605) 673-2021 Fax

**DRAFT  
AMENDED**

**FIRE SUPPRESSION SYSTEM COVENANT AND AGREEMENT**

Comes now the following parties, Jason and Alana Sparling and Spink County Land, LLC., a South Dakota Corporation (hereinafter "Owners"), of PO Box 548, 215 Crook St., Custer, South Dakota 57730, and the **CITY OF CUSTER CITY**, a South Dakota Municipal Corporation (hereinafter "City"), of 622 Crook Street, Custer City, South Dakota 57730, and hereby stipulate and agree that the original Fire Suppression System Covenant and Agreement (hereinafter "Agreement") entered into the **6th** day of **November, 2017**, consisting of eight pages, and filed of record with the Custer County Register of Deeds November 11, 2017 at 10:28 am, Book 46 MISC 616, attached hereto and incorporated herein by this reference as though set forth in full, by and between Jason and Alana Sparling and Spink County Land, LLC., a South Dakota Corporation (hereinafter "Owners"), of PO Box 548, 215 Crook St., Custer, South Dakota 57730, and the **CITY OF CUSTER CITY**, a South Dakota Municipal Corporation (hereinafter "City"), of 622 Crook Street, Custer City, South Dakota 57730, regarding the following property:

Owner hereby acknowledges that it owns the property legally described as:

Legal as: South 100 Feet of Lot 1 in Block 8, original Town,  
now City of Custer City, Custer County, South Dakota.

(DOE#008022)

Property Address: 503 Mt. Rushmore Rd., Custer, SD 57730

be amended, as follows:

When the original Fire Suppression System Covenant and Agreement referenced above was executed, the Owners' intent was to utilize a portion of said real property as Occupancy Classification A pursuant to Custer Municipal Code § 15.04.010, which required the building on the property to have an automatic sprinkler system and a fire alarm system in place and operational on or before May 28th, 2018;

That Owner' intentions for usage of the property changed to an Occupancy Classification M and Occupancy Classification B, which do not require an automatic sprinkler system and a fire alarm system in place for such occupancies.

That the parties hereto agree that in the event Owner determines to change the usage of the structure, or portion thereof, to Occupancy Classification A in the future, the terms and conditions contained in the original 2017 Agreement shall control and be in effect, except for those terms specifically modified herein, and Owners shall have an approved automatic fire suppression system and a fire alarm system installed by a qualified fire suppression contractor prior to issuance of a certificate of occupancy by the City Planning Administrator.

WHEREAS, The South 100 feet of Lot 1, as hereinabove - described, is located within a Fire Limit District as defined in Chapter 15.12 of the Custer City Municipal Code; and

WHEREAS, it is agreed by both parties that the 1997 Universal Fire Code, Article 10, as adopted, amended and codified by § 15.04.010 and § 15.12 of the Custer City Municipal Code, requires the building on the property to have an automatic sprinkler system and a fire alarm system in place;

WHEREAS, the Fire Official would not support approval of Tenant's Certificate of Occupancy unless Owners enter into an agreement with the City that ensures that the property will have a fire suppression system and a fire alarm system installed; and

WHEREAS, Owners and the City wish to enter into this Agreement whereby Owners, or their successor in interest, agree to have a fire suppression system and a fire alarm system installed by a qualified fire suppression contractor prior to issuance of a certificate of occupancy by the City Planning Administrator and in exchange for receiving support of the Fire Official for the approval of such Certificate of Occupancy.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, it is agreed by the parties as follows:

1. Installation of Systems. Owners hereby covenant and agree that they will have a fire suppression system and a fire

alarm system installed by a qualified fire suppression contractor, and such systems shall be operational prior to the issuance of a certificate of occupancy by the City Planning Administrator.

2. Maintenance. Owners covenant and agree to maintain in good repair the fire suppression system, fire alarm system and related improvements on the property.

3. Inspection. Owners covenant and agree to arrange for the above-described property to be inspected each year following the installation of the fire suppression system and fire alarm system by a qualified fire suppression system inspector. Owners further covenant and agree that they shall make the property available upon request to the Custer City Fire Official or his designee for inspection according to the requirements of the Universal Fire Code of 1997 as adopted by the City.

4. Sale or Transfer. Owners covenant and agree that should the above-described property be sold, transferred, conveyed or subdivided prior to installation of a fire suppression system and fire alarm system, that installation thereof shall be a condition of such sale, transfer, conveyance, or subdivision.

5. Default. If Owners fail to abide by the terms of this Agreement, the City shall have the right, in addition to any other legal or equitable rights it may possess, to enjoin the use of the above-described property until such time as Owners cure the default.

6. Covenants Run with the Land. All of the terms and conditions herein set forth are covenants made for the direct

benefit of the property that shall run with the land and as such shall extend to, and be binding upon, the heirs, personal representatives, assigns, or successors in interest of Owners. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this Agreement.

7. Notices. All notices given hereunder shall be made by hand delivery or certified mail, return receipt requested, to the parties at the following addresses:

Jason and Alana Sparling  
528 Kansas City ST  
Rapid City, SD 57701

City of Custer City  
622 Crook Street  
Custer, SD 57730

Spink County Land LLC  
a South Dakota Corporation  
528 Kansas City ST  
Rapid City, SD 57701

8. Time of the Essence. Time is of the essence of this Agreement.

9. Amendments. This Agreement may only be amended by a written document duly executed by all parties.

10. Waivers. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

11. Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all prior

negotiations, agreements and understandings, whether oral or written.

12. Counterparts. This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

13. Severability. If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, such holding shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

14. Headings. The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

15. Construction and Venue. This Agreement shall be interpreted under the laws of the State of South Dakota. Any litigation under this Agreement shall be resolved in the Circuit Court of Custer County, State of South Dakota.

*[SIGNATURE PAGES FOLLOW]*

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Jason Sparling, (Member)

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Alana Sparling, (Member)

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Spink County Land, LLC.  
A South Dakota LLC.

By: \_\_\_\_\_  
Jason Sparling, (Member)

**ACKNOWLEDGMENT**

STATE OF SOUTH DAKOTA ) LIMITED LIABILITY  
 ) ss. COMPANY ACKNOWLEDGEMENT  
COUNTY OF \_\_\_\_\_ )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself to be a duly authorized and acting representative of \_\_\_\_\_, a limited liability company, and that he, as such member being authorized so to do, executed the foregoing instrument for the purpose therein





Who	Cash	Labor	Materials	Received
Svensson Construction	\$1,000.00			
Svensson Construction		\$5,000.00		
Hank Whitney	\$1,000.00			
Custer County				

Art Expressions  
Custer High School Student Council





August 19, 2018

Mr. Tim Hartman, Planner  
Custer City,  
622 Crook St.  
Custer, SD 57730

Re: Arch. #18013 Custer Community Center

Dear Tim,

Please find within this letter our suggestion for mutual termination of the current Design Contract for the Custer Community Center.

There are multiple reasons for termination of the existing contract and renegotiation of the Scope and Fee agreement.

- Rural Development involvement:
  - RD has very specific requirements of the issue Form of Contract for the architect.
  - RD has very specific re requirements of the language/edits of the Form of Contract for the architect.
  - RD Front-end specifications are detailed RD formats
  - General Conditions and other Forms of Contract must be fully edited and require specific language.
  - Review timing stretches the process.
- Black Hills Council of Local Governments involvement:
  - Generally requires Davis Bacon Wage determination and Certified Payrolls
- Scope Change:
  - Discovery during the small package bid projects has helped further define the scope
  - Portions of the project have now been completed.
  - The project configuration has changed, causing the required A&E effort to change.

After we tour the building, determine the new scope and get a firm understanding of the requirements of BHCLG and Rural Development with respect to specifications, administrative and contractual requirements, we will propose a new Scope of Services and Fee structure.

Please feel free to contact me for any questions you may have about this communicate..

Sincerely,

Fennell Design Inc.

Gene A. Fennell

247 N. 6th St. | Custer, SD 57730  
1113 St. Joseph St. | Rapid City, SD 57701  
Ph. (605) 716-0520 1-800-556-8791 | [www.fennelldesigninc.com](http://www.fennelldesigninc.com)



**APPROPRIATION ORDINANCE NO. 811**

**FISCAL YEAR 2019**

**CUSTER CITY, SOUTH DAKOTA**

AN ORDINANCE MAKING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2019, AND ENDING DECEMBER 31, 2019, AND LEVYING THE PROPERTY TAX IN THE YEAR 2019.

Section I: BE IT ORDAINED BY THE COMMON COUNCIL OF CUSTER CITY, SOUTH DAKOTA that the following sums are appropriated to meet the obligations of the municipality.

	General Fund	BID Fund	Debt Service TIF Fund	Promotion Fund	Cemetery Fund
<b>Governmental Funds</b>					
410 General Government					
411 Legislative	105,685				
411.5 Contingency	30,000				
413 Election	1,200				
414 Financial Administration (Finance & Attorney)	173,710				
419 Other (Public Bldgs, Planner)	3,123,985			45,500	
<b>Total General Government</b>	<hr/> 3,434,580				
420 Public Safety (Public Safety, Law Enforcement, Fire Dept.)	524,000				
430 Public Works					
431 Highway & Streets (Engineering, Public Works, Streets)	806,410				
437 Cemetery	35,450				
<b>Total Public Works</b>	<hr/> 841,860				
440 Health & Welfare					
444 Humane Society	12,560				
447 Hospital	347,000				
<b>Total Health &amp; Welfare</b>	<hr/> 359,560				
450 Culture & Recreation					
451 Recreation (Cruisin, Rec., Swimming)	125,415				
452 Parks	249,240				
<b>Total Culture &amp; Recreation</b>	<hr/> 374,655				
465 Economic Development (Promoting the City)	43,000			210,800	
470 Debt Service			240,000		
<b>TOTAL 2019 APPROPRIATIONS</b>	<b>5,577,655</b>	<b>160,000</b>	<b>240,000</b>	<b>256,300</b>	
Committed for Capital Replacement Ordinance #722					
<b>TOTAL APPROPRIATIONS &amp; ACCUMULATIONS</b>	<b>5,577,655</b>	<b>160,000</b>	<b>240,000</b>	<b>256,300</b>	

The following designates the fund or funds that money derived from the following sources is applied to.

	General Fund	BID Fund	Debt Service TIF Fund	Promotion Fund	Cemetery Fund
<b>Governmental Funds</b>					
Unassigned Fund Balance/Cash Applied	2,604,154	-	-	-	
310 Taxes	2,559,300	160,000	240,000	256,000	
320 Licenses and Permits	58,400				
330 Intergovernmental Revenue	7,000				
335 State Shared Revenue	93,501				
340 Charges for Goods and Services	8,550				
345 Health (Animal Control)	200				
346 Culture & Recreation (Cruisin)	4,200				
348 Cemetery	4,500				6,00
350 Fines and Forfeits	100				
360 Miscellaneous Revenue	24,750			300	25
368 Liquor Operating Agreement	200,000				
390 Other Sources	13,000				
<b>TOTAL MEANS OF FINANCE</b>	<b>5,577,655</b>	<b>160,000</b>	<b>240,000</b>	<b>256,300</b>	<b>6,25</b>

	Water Fund	Sewer Fund	Solid Waste Fund
<b>Proprietary Funds</b>			
Beginning Unrestricted Cash	691,000	245,000	155,000
Estimated Revenue	667,900	629,200	193,350
<b>Total Available</b>	<b>1,358,900</b>	<b>874,200</b>	<b>358,350</b>
Less Appropriations (Expenses)	975,090	769,005	193,000

Less Facility Replacement per ORD 603	-	58,360	-
ESTIMATED SURPLUS	<u>383,810</u>	<u>46,835</u>	<u>155,350</u>

Section II: Summary of 2019 Appropriations

Enterprise Funds	1,937,095
Governmental Funds	<u>6,233,955</u>
Total 2019 Appropriations	<u>\$8,171,050</u>

Section III: That there is hereby levied upon all taxable property within the said City of Custer for the purpose of providing funds to meet the expenses and liabilities of said City, as hereinbefore set forth for the fiscal year of 2019 a tax sufficient to raise the following amounts, to wit:

For the General Fund	<u>\$906,870</u>
TOTAL LEVY	\$906,870

Section IV: The City Finance Officer is hereby authorized and directed to certify said tax levy to the County Auditor of Custer County, State of South Dakota, to the end that the same may be spread and assessed as provided by law.

Dated this 17<sup>th</sup> day of September 2018.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward  
Finance Officer  
(SEAL)

Corbin Herman, Mayor

First Reading: September 4<sup>th</sup>, 2018  
Second Reading: September 17<sup>th</sup>, 2018  
Publication: September 26<sup>th</sup>, 2018

Vote:

Fischer:

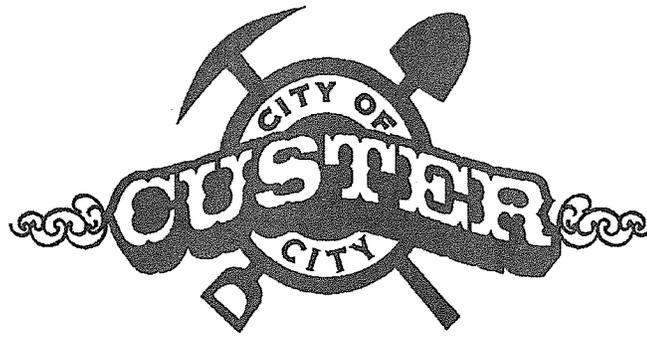
Blom:

Nielsen:

Arseneault:

Moore:

Whittaker:



622 Crook Street  
Custer, SD 57730

Laurie Woodward  
Finance Officer

Phone: (605) 673-4824  
Fax: (605) 673-2411

September 17, 2018

Custer County Auditor  
420 Mt. Rushmore Road  
Custer, South Dakota 57730

Re: 2019 Tax Levy Request

Dear Auditor,

I hereby certify the following to reflect the levy request for taxes collected in the year 2019 for the City of Custer City, pursuant to Ordinance No. 811:

For the General Fund	\$837,870
For Opt Out	\$ 69,000
	-----
Total Levy Request	\$906,870

Thank you,

Laurie Woodward  
Finance Officer  
Custer City

I hereby acknowledge receipt of the Custer City 2019 tax levy request.

\_\_\_\_\_  
County Auditor

\_\_\_\_\_  
Date