

**CITY OF CUSTER CITY
CITY COUNCIL
March 21, 2022 – City Hall Council Chambers
5:30 PM**

1. Call to Order - Roll Call - Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes
 - a. March 7th, 2022 Council Minutes
4. Declaration of Conflict of Interest
5. Public Hearings - Public Presentations
 - a. Public Hearing - New Malt Beverage & Wine License - Old Pine Axe & Social
 - b. Custer Chamber of Commerce Presentation
 - c. Application for Cannabis Establishment License - Cultivation - GLP Custer, LLC, 1135 Mt Rushmore Road
 - d. Exception to Municipal Code 9.08.070, Occupancy of Camping or Travel Trailer - Greg & Jane Eide, 1202 Pine Street
6. Public Comments (3-minute max. per person, with total public comment period not to exceed 15 minutes)
7. Old Business
8. New Business
 - a. Custer Chamber of Commerce Agreement
 - b. Downtown Hanging Baskets Request - Chamber of Commerce
 - c. Fourth of July Additional Request - Chamber of Commerce
 - d. Minor Plat - A Plat of Murillo Tract of Block 19
 - e. Preliminary Plat - A Plat of Tract M&E West and Tract M&E East of M&E Linde Subdivision
 - f. Statement of Values for Insurance
 - g. Memorandum of Understanding for Lease Buyout - SD Department of Military
 - h. Agreement for Lease Termination - SD Department of Military
 - i. Employee Step Increase
9. Presentation of Claims
 - a. 3.21.22 Claims List
10. Department Head Discussion & Committee Reports
11. Possible Executive Session – Personnel (1&4), Proposed/Pending Litigation (3), & Contract Negotiations (3) (SDCL 1-25-2(1,2,3,4,5,6))
12. Adjournment

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/694905605>

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.

All City Council Meetings are recorded.

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

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Access Code: 694-905-605

**CITY OF CUSTER CITY
CITY COUNCIL MINUTES
March 7, 2022 – City Hall Council Chambers
5:30 PM**

Call to Order - Roll Call - Pledge of Allegiance

Council President Nina Nielsen called to order the meeting of the Common Council on March 7, 2022 at 5:30 PM. Present at roll call were Councilpersons Jenniges, Ryan, Fischer and Whittaker (remote). Attorney Williams was present remotely. The Pledge of Allegiance was stated.

Approval of Agenda

Councilperson Fischer moved to approve the agenda with the removal of the Employee Certification Increase agenda item. Seconded by Councilperson Ryan, the motion unanimously carried.

Approval of Minutes

February 22nd 2022 Council Minutes

Councilperson Ryan moved, with a second by Councilperson Jenniges, to approve the minutes from the February 22nd Council Meeting. The motion unanimously carried.

Declaration of Conflict of Interest

No conflicts of interest were stated.

Public Hearings - Public Presentations

Request for Exception to Utility Metering - Steven Riss

Steven Riss presented his request for exception to utility metering to the Council. Councilperson Ryan moved to not allow an exception to the city ordinance regarding utility metering. Seconded by Councilperson Fischer, the motion unanimously carried.

Resolution #03-07-22A - 2022 Archery Deer Permit Program

Councilperson Fischer moved to adopt Resolution #03-07-22A - 2022 Archery Deer Permit Program. Seconded by Councilperson Jenniges, the motion unanimously carried.

RESOLUTION 03-07-22A

A RESOLUTION ESTABLISHING THE 2022 CITY OF CUSTER CITY ARCHERY DEER PERMIT PROGRAM

WHEREAS, the deer population throughout the City of Custer results in a number of conflicts between deer and people, including collisions between automobiles and deer that can result in extensive property damage, bodily injury, and in some cases even death; and

WHEREAS, the deer population can also cause property damage to home gardens, landscaping, and natural environments that are habitats for other species; and

WHEREAS, whitetail deer are a primary host to Black Legged (deer) ticks, the carrier of several human diseases, including Lyme Disease; and

WHEREAS, Chronic Wasting Disease, an always fatal neurological disease of cervids, has been found in the city limits of Custer and reducing deer densities has been indicated as one method that may limit the spread of the disease; and

WHEREAS, the Common Council recognizes that deer in urban areas, for the most part, lack predators to control deer populations and, that, deer in large numbers can cause significant habitat damage; and

WHEREAS, the City of Custer wishes to manage the deer population within the city limits of Custer; and

WHEREAS, the City of Custer adopted a deer management plan entitled Deer Management Plan, City of Custer City, South Dakota in an effort to address related public complaints, public safety concerns and foster healthy deer populations; and

WHEREAS, sportsmen and women across the nation contribute the majority of the monies used to manage and conserve wildlife; and
WHEREAS, the City of Custer has an ordinance that generally prohibits archery deer hunting within City limits except for hunting by those individuals who obtain a municipal license pursuant to the City of Custer City Archery Deer Permit Program;
NOW, THEREFORE, BE IT RESOLVED by the Common Council that the City establishes the following City of Custer City Archery Deer Permit Program for the year 2022, in order to provide hunter opportunities for sportsmen and women and help manage the deer population within the city limits of Custer City.

Dated this 7th day of March 2022.

City of Custer City

S/Nina Nielsen, Council President

Attest: Laurie Woodward, Finance Officer

Resolution #03-07-22B - Annexing Custer City Properties

Councilperson Jenniges moved to adopt Resolution #03-07-22B - Annexing Custer City Properties. Seconded by Councilperson Ryan, the motion unanimously carried.

RESOLUTION NO. 03-07-22B

RESOLUTION ANNEXING REAL PROPERTY

WHEREAS, the City of Custer City has submitted a Petition for Annexation to the City Council pursuant to South Dakota Codified Law 9-4-1; and

WHEREAS, said petitioner constitutes not less than three-fourths of the registered voters and by the owners of not less than three-fourths of the value of such territory sought to be annexed to the City of Custer City; and

WHEREAS, pursuant to South Dakota Codified Law 9-4-1, said property is contiguous to the boundary of the City of Custer City by adjoining existing property boundaries and by land owned by a subdivision of the State of South Dakota; and

WHEREAS, by virtue of said petition for annexation, said owners are agreeing to be subject to all of the rules, regulations, and ordinances of the City of Custer City; and

WHEREAS, annexation of the hereinafter described real property is in the best interest of the City of Custer, now therefore

BE IT HEREBY RESOLVED that the following described real property:

*Lot A of the SW1/4 Section 19 T3S R5E, Less Lot H-1 of Lot A, as shown on the Plats filed within the office of the Custer County Register of Deeds in Book 1 of Plats page 107 and Book 12 of Plats page 257.

*Lot R, being part of Tract A of the NE1/4 SW1/4 Section 19 T3S R5E, as shown on the Plat filed within the office of the Custer County Register of Deeds in Book 11 of Plats page 277.

*Lot A, a portion of HES#422 in the NW1/4 SE1/4 Section 19 T3S R5E, as shown on the Plat filed within the office of the Custer County Register of Deeds in Book 10 of Plats page 140.

all in Section 19, Township 3 South, Range 5 East, BHM, Custer County, South Dakota.

is hereby annexed to the City of Custer City and hereafter located within the corporate limits of the City of Custer City

Dated this 7th day of March, 2022.

City of Custer City

S/Nina Nielsen, Council President

ATTEST: Laurie Woodward, Finance Officer

Public Comments (3-minute max. per person, with total public comment period not to exceed 15 minutes)

No public comments were received.

New Business

Run Crazy Horse Marathon Request - Emily Wheeler

Emily Wheeler, with Run Crazy Horse Marathon, presented her request for temporary street closure to Council.

Councilperson Fischer moved to approve the temporary street closure and permission to stop traffic for runners on the Mickelson Trail crossings of Montgomery Street, Harney Street, Crook Street, Mt Rushmore Road, Eighth Street,

Seventh Street, Sixth Street and Fourth Street on October 9th, 2022 from approximately 9 am to 11:30 am for the Run Crazy Horse Marathon. Seconded by Councilperson Ryan, the motion carried

Gold Discovery Days - Black Hills Prospecting Club

Councilperson Fischer moved to table the Black Hills Prospecting Club's request for Gold Discovery Days until some more information can be obtained. Seconded by Councilperson Jenniges, the motion unanimously carried.

Gold Discovery Days Various Request including Parade - Custer Chamber of Commerce

Councilperson Fischer moved to approve the Chamber of Commerce request for Gold Discovery Days 2022 which included the following:

- *Washington Street closure from 8th Street to 2nd Street, with a single lane between Dacotah Bank and 6th Street (left turn out of drive thru only with access to 6th Street) and South 4th Street being left open for traffic; 6th Street to 4th Street being closed from Thursday, July 14th at 8:00 am through Sunday, July 17th and 4th Street to 2nd Street being closed from Friday, July 15th at 6:00 am through Saturday, July 16th at 4:00 pm.

- *Carnival to be placed on Washington Street between 8th Street and 6th Street and on South 7th Street. Street closure to be from Monday, July 11th at 6 am until Tuesday, July 19th at 8 am to allow for setup and take down. Use of north side of Harbach Park for a couple rides pending coordination with City Staff due park improvement project.

- *Allow carnival campers/trailers to park in the parking lot of the Community Center from Monday, July 11th through Tuesday, July 19th.

- *Open container from the north edge of Mt Rushmore Road to Washington Street between 2nd Street and 8th Street for the following times: Thursday, July 14th 5pm until 10 pm; Friday, July 15th from 12 pm until 12 am; and Saturday, July 16th from 10 am until 12 am.

- *Use of City's trash cans, picnic tables and traffic barriers.

- *Parade Approval and Street Closures – parade line up on Pageant Hill then proceed out of Pageant Hill onto Canal Street and 9th Street to Gordon Street, onto 8th Street to Mt Rushmore Road then proceeding west on Mt Rushmore Road until 4th Street, exiting onto North 4th Street. Parade will be Saturday, July 16th at 10:00 am.

Seconded by Councilperson Jenniges, the motion unanimously carried.

Pool Management Contract with YMCA

Councilperson Ryan moved to approve the 2022 Pool Management Contract with the Custer YMCA for \$16,000. Seconded by Councilperson Jenniges, the motion carried with Councilperson Jenniges, Ryan, Fischer and Whittaker voting yes.

Asphalt Surface Treatment Bids

Councilperson Whittaker moved to accept the Asphalt Surface Treatment Bid from Bituminous Paving for a total of \$166,000. Seconded by Councilperson Fischer, the motion carried with Councilperson Ryan, Fischer, Whittaker and Jenniges voting yes.

SD DOT Application for Utility Permit - Wastewater Improvement Project

Councilperson Ryan moved to authorize the Mayor to sign and submit the SD DOT Application for Utility Permit for the Wastewater Improvement Project . Seconded by Councilperson Fischer, the motion unanimously carried.

Application for Occupancy on Right of Way to Custer County - Wastewater Improvement Project

Councilperson Fischer moved to authorize the Mayor to sign and submit the Custer County Application for Occupancy on Right of Way for the Wastewater Improvement Project . Seconded by Councilperson Ryan, the motion unanimously carried.

SDGFP Application for Utility Permit - Wastewater Improvement Project

Councilperson Jenniges moved to authorize the Mayor to sign and submit the SD Game Fish & Parks Application for Utility Permit for the Wastewater Improvement Project . Seconded by Councilperson Fischer, the motion unanimously carried.

Presentation of Claims

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

Battle Mountain Humane Society, Animal Control Contract, \$1,000.00
Butler Machinery, Repairs & Maintenance, \$9.22
Century Business Products, Supplies, \$177.83
Chronicle, Publishing, \$147.97
Custer Do It Best, Supplies, Repairs and Maintenance, \$33.98
Dacotah Bank, TIF #2 Payment, \$894.47
Dacotah Bank, Loan Payment, \$8,337.63
Delta Dental, Insurance, \$219.40
DGR Engineering, Professional Fees, \$78,508.05
Discovery Benefits, Supplies, \$4,735.00
East Custer Sewer District, Sewer Contract, \$2,000.00
EFTPS, Taxes, \$15,191.25
Freeman's Electric, Repairs & Maintenance, \$1,345.00
Hawkins, Supplies, \$20.00
Lawrence & Schiller, Bid Board Advertising, \$2,941.13
Mt Rushmore Brewing Company, Refund, \$500.00
New York Life, Insurance, \$190.00
Petty Cash, Supplies, \$555.33
RCS Construction, Professional Fees, \$72,081.72
S & B Motors, Repairs & Maintenance, \$59.98
Sanders Sanitation, Garbage Collection Contract, \$13,783.36
Servall, Supplies, \$224.60
SD Retirement System, \$6,768.54
Bit/State Long Distance, \$80.37
Supplemental Retirement, \$1,100.00
The Hartford, Insurance, \$110.16
Traffic Control Corp, Repairs & Maintenance, \$421.00
VSP, Insurance, \$167.01
Wellmark, Insurance, \$6,681.81
WEAVE, Subsidy, \$5,000.00
YMCA, Membership, \$96.00
Ebbighausan, Greg/Christine, Utility Refund, \$22.60
Stevens, Cecilia, Utility Refund, \$21.55
Mayor & Council, \$4,973.00
Finance Department, \$5,324.25
Planning Department, \$8,530.81
Public Works Department, \$3,661.56
Street Department, \$10,394.58
Cruisin Department, \$186.80
Parks Department, \$6,625.55
Water Department, \$15,392.43
Wastewater Department, \$14,234.53
Total Claims \$292,748.47

Department Head Discussion & Committee Reports

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

Adjournment

With no further business, Councilperson Jenniges moved to adjourn the meeting at 6:21 pm. Seconded by Councilperson Ryan, the motion carried unanimously.

ATTEST:

CITY OF CUSTER CITY

Laurie Woodward
Finance Officer

Nina Nielsen
Council President

ESTABLISHMENT	LICENSE	AGREEMENT	INSURANCE	SALES TAX NUMBER
OLD PINE AXE & SOCIAL	MB - NEW	✓	PENDING	✓
OLD PINE AXE & SOCIAL	WINE - NEW	✓	PENDING	✓

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 alcoholic beverage at a meeting of the City Council to be held on the 21st day of March 2022, in the Council Chambers of City Hall in said City at 5:30 p.m. of said day. Application to be considered for now or transfer pursuant to SDCL 35-4 is as follows:

Old Pine Axe & Social - Retail (On-Off Sale) Malt Beverage & SD Farm Wine - New
Old Pine Axe & Social - Retail (On-Off Sale) Wine and Cider - New

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 28th day of February 2022.

/s/Sydney Stender
Deputy Finance Officer

Custer County Chronicle - Please Publish March 9th, 2022

APPLICATION FOR LICENSE
CITY OF CUSTER, COUNTY OF CUSTER,
STATE OF SOUTH DAKOTA

Application for license to engage in the business of **Medical Cannabis Establishment** located at Custer, South Dakota, for the calendar year of 2022

☒ NEW APPLICATION: Non-Refundable Fee: \$1,500.00

(Note: First Annual Fee of \$3,500.00 is Also Due Upon State Registration — No Partial Year Pro-ration)

☐ RENEWAL: Annual Fee: \$5,000.00

Establishment Type:

☐ Dispensary ☒ Cultivation Facility ☐ Manufacturing Facility ☐ Testing Facility

Part I: APPLICANT/LICENSEE INFORMATION

Name of Applicant/Licensee: GLP Custer, LLC

☐ Individual ☐ Corporation ☐ Partnership ☒ Limited Liability Company (LLC) ☐ Other _____

If Corporation, please submit copy of Articles of Incorporation, By-Laws, and Certificate of Good Standing.
If LLC, please submit copy of Articles of Organization, Operating Agreement, and Certificate of Good Standing. If
Partnership, please submit copy of written Partnership Agreement.

Trade Name (or DBA) of Business: Greenlight

Please submit proof of fictitious business name (DBA) registration with South Dakota Secretary of State.

Address of Business:	1135 Mt. Rushmore Rd	Custer	SD	57730
	Street	City	State	Zip Code

Part II: PREMISES INFORMATION

Business Phone: _____ Is the premises owned or rented? Under contract for purchase

**** If rented, applicant must attach "Authorization to use Property for a Cannabis Business" page 5.**

If this is a renewal application and all premises information remains the same as the original initial application, check here ☐ **If checked, skip questions below to Part III*

Attach a copy of the deed or lease along with a "to scale" sketch of the floor plan, a "to scale" site plan reflecting all construction and lot boundaries, and an elevation drawing or rendering of the exterior.

Zoning: The proposed business is located within (check one):

☐ Highway Commercial District ☐ Central Business District ☒ Industrial District ☐ Medical District

Is this business located within 1,000 feet from the nearest property line of any public or private school? ☐ Yes ☒ No

Will the applicant business need any anticipated building or construction-related permits in conjunction with this license? ☒ Yes ☐ No

If yes, please explain: Exterior remodel, adding floor to ceiling metal studded walls per floor plan.

Note: issuance of a medical cannabis dispensary license does not eliminate the need for any other applicable license (i.e. building permits, etc.).

Part III: OPERATIONS INFORMATION

Attach a business plan to include your intended hours and rules of operation demonstrating compliance with City of Custer Ordinance Section 5.10.130

If this is a renewal application and all operations information remains the same as the original initial application, check here ☐ (If checked, no new business plan or safety/security measures is needed)

Attach a sales tax clearance letter from the State of South Dakota Department of Revenue
(Required Annually)

Sales Tax ID# n/a - new business

Attach a list of products and suppliers (To Be Supplemented Annually)

Part V: AFFIRMATION AND CONSENT

Licensee or Business Name (print): GLP Custer, LLC,
as the applicant or as an authorized agent, officer, owner, or manager for the applicant, declare under the penalty of perjury and under penalty for offering a false instrument for recording that this entire application, statements, and attachments are true, correct, and complete to the best of my knowledge. I further declare & consent that:

1. This statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for the denial of this license application by the City of Custer (initial here) JS
2. I consent to any background investigation necessary to determine my present and continuing suitability and that consent continues as long as I hold a Medical Cannabis Establishment License (initial here) JS
3. I understand and acknowledge that the City Finance and Planning Office and the State of South Dakota may request other information from me in connection with this application. Failure to provide the requested information may result in denial of this application (initial here) JS
4. I understand this license shall not be transferable to any other person, business entity, or location and is not a property right (initial here) JS
5. I understand that the licensed Medical Cannabis business must maintain legal possession of the licensed premises at all times (initial here) JS
6. I understand that the entire location premises shall be subject to inspections by relevant authorities at all operational hours and other times of apparent activity (initial here) JS
7. I hereby state that I have read SDCL Chap. 34-20G, all applicable State rules and regulations, and City of Custer Ordinances No. 858 and 859 regarding Medical Cannabis establishment licensing rules and regulations, and I understand the contents thereof and agree to be bound by them in all respects. By accepting a license, the licensee waives any claim concerning, and releases the City, its officers, elected officials, employees, attorneys and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers of the licensee for a violation of state or federal laws, rules or regulations. (initial here) JS
8. I hereby understand that by accepting a license, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical cannabis establishment that is the subject of the license (initial here) JS
9. I understand that any Medical Cannabis business license issued by the City of Custer is provisional, conditional, and must be annually renewed by application submitted no less than thirty (30) days prior to the expiration date, unless earlier revoked or surrendered (initial here) JS

I have completed all the above information and understand my responsibilities as a Medical Cannabis Establishment applicant, licensee owner, or manager. I further understand that failure to comply with any law, regulations, or provisions of this affirmation may be grounds for disciplinary action, including, but not limited to, the suspension or revocation of the license.

JS
Applicant Signature

CEO
Title

Jan 31, 2022
Date

Instructions: File this application form along with the required attachments and application license fee to the City Finance Officer, 622 Crook Street, Custer, SD 57730. Call 673-4824 for questions.

Application Fees: The applicable fee (Initial Application Fee of \$5,000 (non-refundable 1,500) is due at the time of submitting this application. The first Annual fee of \$5,000 is due upon receipt of Medical Cannabis Establishment License. The Annual Fee is not prorated.

For Finance Office Use Only:

Date application received: 2-7-2022 Fee Paid \$ 1,500 Receipt No. 51470

March 16, 2022

City Of Custer

Dear Council Members,

As you may already know, on February 17, 2022 we had a fire at our home at 1202 Pine St. The fire started in the upper garage, went through the carport into the garage directly attached to the house. Through the valiant efforts of the volunteer fire depts, the fire was stopped in the garage attached to the house. However, there was significant smoke damage to the house & all its contents.

To-date - we have stayed 2 weeks at the Super 8, in Custer, where our vehicle was broken into. After the break-in of our vehicle, we moved into an AirBNB in town and stayed there for approximately 2 weeks. Yesterday, we had to move out as the AirBNB was previously booked starting March 15. So now we are staying at our son's home in Rapid City. We are driving back & forth daily while we are working on cleaning up the outside of the property and Serv Pro is cleaning the inside. Basically, there is nothing left in our house except for a couple of end tables & a kitchen table & chairs as it all has been deemed "unsalvageable" by Serv Pro.

Serv Pro is telling us it will be at least mid to late May before they have the house where we can move back in. We are exploring other options such as: **AirBNB's**; but most of them are getting booked up, don't allow pets, and we really can not make a commitment as to how long we would be staying. It is all dependent on Serv Pro.

Our camper was lost in the fire however, we have purchased a replacement 5th Wheel camper. We are currently contacting the campgrounds around the area to see if they have any sites available to rent. However, what we are finding that most campgrounds do not open up & turn their water on until mid – late May.

We understand that Custer has an ordinance that homeowners can only live in their RV for up to 20 days/year. We would prefer to not have to live in our 5th wheel on our property, as there will be lots of activity with clean-up/reconstruction, etc. However, we will have to if we are not able to find a place to park it. Therefore, we are asking for a waiver of the 20-day limit until the end of May.

Please feel free to contact us at 605-673-1958 if you have any questions.

Thank you for your time & consideration!

Greg & Jane Eide

9.08.070 Occupancy of camping trailer, tent, travel trailer or motorhome prohibited.

No camping trailer, tent, travel trailer or motor home may be occupied in a place other than a commercial campground except in residential zones. In residential zones, off street camping trailers, tents, travel trailers and motor homes may be occupied a maximum of two occasions per calendar year, for no more than ten consecutive days on each occasion.

In no case shall any camping trailer, tent, travel trailer or motor home hook-up to private sanitary sewer.

Occupancy defined: For purposes of this section, "occupied" means the use and occupation by a human being or beings of a given camping trailer, tent, travel trailer or motor home or non-permanent structure as a place for shelter, sleeping, cooking, eating and other occupation typical of what is commonly understood as being that of living quarters. (Ord. 760, 2015: Ord. 731, 2013)

**2022
CUSTER CITY
AGREEMENT WITH
CUSTER CHAMBER OF COMMERCE**

This Agreement is made effective as of March 1st, 2022 by and between the City of Custer (City), and Custer Chamber of Commerce (Chamber). The parties agree as follows:

Sales Tax

As stated in section 3.08, Additional Sales Tax on Certain Businesses, of the Custer Municipal Code; the City shall pay the Custer Chamber of Commerce a portion of the revenue received from the additional municipal non-ad valorem tax imposed per SDCL 10-52A.

For 2022, the Custer Chamber of Commerce shall receive \$211,150 for the City of Custer. Such payment shall be received prior to April 1st, 2022.

The Chamber agrees to provide the services as stated in attached Exhibit A. The Chamber will also maintain a Board of Directors and shall agree to a City liaison serving on such board.

As stated in the Custer Municipal Code, the Chamber of Commerce shall attend and present an annual accounting report and update of Chamber Activities to the Council yearly.

Building Lease

The City of Custer (Landlord), in consideration of the lease payments provided in this agreement, lease to Custer Chamber of Commerce (Tenant) the Trailhead and Transportation Museum (Premises), located at 615 Washington Street, Custer, South Dakota 57730. The Chamber shall pay to City monthly payments of \$500 per month, payable in advance on the first day of each month. Lease payment shall be made to City at 622 Crook Street, Custer, SD 57730, or as may be changed by City. Chamber shall further provide office staffing and museum supervision for visitor information, during Chamber's normal hours of operation. Chamber shall further maintain the reservation system for Harbach Park.

TERM. The lease term will begin on March 1st, 2022 and will terminate on February 28th, 2023.

LEASE PAYMENTS. Tenant shall pay to Landlord monthly payments of \$500 per month, payable in advance on the first day of each month. Lease payment shall be made to Landlord at 622 Crook Street, Custer, SD 57730, or as may be changed by Landlord. Tenant shall further provide office staffing and museum supervision for visitor information, during Tenant's normal hours of operation. Tenant shall further maintain the reservation system for Harbach Park.

LATE PAYMENTS. Tenant shall pay a late fee equal to 15% of the required installment payment for each payment that is not paid within 15 days after the due date for such late payment.

POSSESSION. Tenant shall be entitled to possession on the first day of the term of this Lease, and Tenant shall, on the last day of the term, or such earlier termination or forfeiture of this Lease, peaceably and quietly surrender and deliver the demised premises to Landlord free of sub tenancies.

USE OF PREMISES. Tenant shall have use of the offices to conduct activities commonly associated with Chamber of Commerce functions. The Premises may be used for any other purpose only with the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence. Tenant may limit extended

term parking to designated sites that allow for visibility of the Chamber building and signs, upon approval of Landlord.

MAINTENANCE. Landlord shall have the responsibility to maintain the Premises in good repair at all times including but not limited to the heating, cooling and/or plumbing systems. Landlord shall further be responsible for all utilities and snow removal. The Tenant shall be responsible for all janitorial services on the Premises.

ACCESS BY LANDLORD TO PREMISES. Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to mortgagees, tenants or workers. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent.

INSURANCE. Landlord and Tenant shall each be responsible to maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. The Landlord agrees to insure the structure located on the premises for the term of the lease. The Tenant agrees to provide worker compensation insurance, personal property insurance insuring their personal property and premises liability insurance in an amount of not less than two million dollars (\$2,000,000) per occurrence, naming the City as an additional insured, for Tenant's operation area and any extensions thereof. Further, the Tenant shall provide proof of said insurance to the Landlord each year herein.

INDEMNITY REGARDING USE OF PREMISES. Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's use or misuse of the Premises. Landlord agrees to indemnify, hold harmless, and defend Tenant from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Tenant may suffer or incur in connection with Landlord's use or misuse of the Premises.

DANGEROUS MATERIALS. Tenant shall not keep or have on the Premises any article or item of a dangerous, inflammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained, and proof of adequate insurance protection is provided by Tenant to Landlord.

TAXES. Tenant shall pay all personal taxes, sales and use taxes, and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises.

DESTRUCTION OR CONDEMNATION OF PREMISES. If the Premises are partially damaged or destroyed in a manner that prevents the conducting of Tenant's use of the Premises in a normal manner, and if the damage is reasonably repairable within sixty days after the occurrence of the damage, and if the cost of repair is less than \$25,000.00, Landlord shall repair the Premises and lease payments shall abate during the period of repair. However, if the damage is not repairable within sixty days, or if the cost of repair is \$25,000.00 or more, or if Landlord is prevented from repairing the damage by forces beyond Landlord's control, or if the property is condemned, this Lease shall terminate upon twenty days written notice of such event or condition by either party.

ADDITIONS/ALTERATIONS. Tenant shall not be entitled to make any additions or alterations to the Premises without the prior written consent of the Landlord which consent shall not be unreasonably withheld. Any improvements or additions erected by the Tenant on its behalf which become permanently fixed to the Premises shall remain a part of the Premises at the termination of this lease unless such improvements or additions can be removed by the Tenant without damage to the Premises. If the Tenant removes the improvements or additions and causes any damage to the Premises, then the Tenant shall immediately notify the Landlord and proceed to repair the Premises and put it in as good a condition of repair as it was at the commencement of this Lease.

DEFAULTS. Tenant shall be in default of this Lease, if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any default within 30 days after written notice of such default is provided by Landlord to Tenant, Landlord may take

possession of the Premises without further notice, and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this lease. Tenant shall pay all costs, damages, and expenses suffered by Landlord by reason of Tenant's defaults.

ASSIGNABILITY/SUBLETTING. Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), without the prior written consent of Landlord, which shall not be unreasonably withheld.

NOTICE. Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

LANDLORD:

City of Custer City
622 Crook Street
Custer, SD 57730

TENANT:

Custer Area Chamber of Commerce
615 Washington Street
Custer, SD 57730

Such addresses may be changed from time to time by either party providing notice as set forth above.

TERMINATION. The parties hereby agree that either entity may terminate this Lease at any time, without cause, by serving at least 90-day written notice to the other party in advance of the anticipated terminate date.

ENTIRE AGREEMENT/AMENDMENT. This Lease Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. Any Agreement hereafter made to modify or amend this lease shall be ineffective or void unless such Agreement is in writing and signed by the Landlord and Tenant, or their duly authorized agents.

SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

CUMULATIVE RIGHTS. The rights of the parties under this Lease are cumulative and shall not be construed as exclusive unless otherwise required by law.

GOVERNING LAW. This Lease shall be construed in accordance with the laws of the State of South Dakota.

Downtown Web Cameras

The downtown Custer City Web Cameras are utilized by the Custer Chamber of Commerce for the promoting of Custer, in addition to Custer County Sheriff's Department and the City of Custer.

Golden West Telecommunications and Golden West Technologies, providers of the above-stated downtown web cameras, has agreed to provide internet connection and video streaming for the same at a monthly fee. The

Chamber along with Custer County and the City of Custer have each agreed to share in being responsible for one third (1/3) of such monthly charge from Golden West (1/3 = \$340 yearly).

The City of Custer represents the specific entity billed by Golden West. The Chamber agrees to pay their one third (1/3) share yearly to the City of Custer Finance Office on or before the 1st day of October. In the event of a price increase during this one (1) year period, the parties agree to continue their one third (1/3) proportionate share of such service.

The term of this agreement begins on March 1st, 2022 and will terminate on February 28th, 2023.

CITY OF CUSTER CITY

CUSTER AREA CHAMBER OF COMMERCE

BY: _____
Robert Brown, Mayor

BY: _____

(Print Name and Title)

Date: _____

Date: _____

ATTEST:

Laurie Woodward, Finance Officer

(SEAL)

Exhibit A

What the Chamber Does for the City of Custer

- **Plan and Execute Events Throughout the Year**
 - Restaurant Week
 - Trade Show
 - Spring Fling
 - Attractions Meeting
 - Tesla Rally
 - Off-Road Rally
 - 4th of July
 - Gold Discovery Days
 - City-Wide Rummage Sale
 - Mickelson Trail Trek Reception
 - Annual Dinner
 - Community Christmas Cash
 - Christmas Parade
 - Mixers-January, February, March, April, November, December

- **Help with other events**
 - Mickelson Trail Trek-Summer and Fall
 - Lean Horse 100
 - Mustang Rally
 - Studebaker Rally

- **Promotion of Custer Community and Custer Chamber Members**
 - Southern Hills Vacation Guide
 - Custer Magazine
 - Ads in various publications
 - Currently those include: SHVG, Black Hills Visitor, SD Vacation Guide
 - Also, ads in local newspapers-mostly for events
 - Chamber Website that is updated regularly
 - Including a weekly blog
 - Buffalo Bytes

- Custer Cash (and Christmas Cash) to promote shopping local
 - Including giving away thousands of dollars in Custer Cash for events and other promotions
- Custer Map (new in 2020)
- Social Media
 - Facebook-Chamber, Gold Discovery Days, Tesla Rally, Restaurant Week
 - Instagram-Chamber, Restaurant Week
 - Twitter
 - Pinterest
 - YouTube
- Hosting Travel Writers and FAM Tours
- Attending Travel Shows
- Membership with Black Hills & Badlands
- **Operate the Visitor Information Center Year Round**
 - Answer questions
 - Give directions
 - Refer our members
 - Display member brochures and rack cards
- **Beautification**
 - Chamber pays for the flowers to be watered throughout downtown
 - Currently pays for flowers in the planters on the corners
- **Other**
 - Rent to the City for Chamber building
 - Sunshine Storage rent for 2 storage buildings
 - 1/3 of web cam fees
 - Music rights/fees to play music downtown
 - At least one large flag provided for Veterans Memorial
 - Local sponsorships such as Burning Beetle and Air Guitar
 - Sell Mickelson Trail Passes (*no profit*)

- Staff Involvement in the Community

- Black Hills & Badlands Board Member
- United Way Southern Hills Board Member
- Liaison to Custer Area Arts Council
- Liaison to Custer BID Board
- TeamMates Mentor
- Senior Projects Mentor
 - And staff assists with several other senior projects throughout the year even when not officially the mentor



March 10, 2022

City of Custer City
ATTN: City Council
622 Crook Street
Custer, SD 57730

Mayor and Council Members,

We wanted to let you know that Dakota Greens-Custer Greenhouses & Nursery will once again be hanging potted plants throughout town this spring. The Custer Area Chamber of Commerce pays to have the plants watered throughout the summer, but each business is responsible for purchasing their own plants. Each business also determines where the plants are hung at their building.

For further information on when the plants will be delivered please contact Dakota Greens at 605-673-2510. If there are issues with placement of plants at a particular business, please contact them directly.

If you have any other questions please feel free to contact the Custer Area Chamber of Commerce.

Respectfully,

Dawn Murray
Office Manager
Custer Area Chamber of Commerce
dmurray@custersd.com
605-673-2244

CUSTER AREA CHAMBER OF COMMERCE
PO Box 5018 | 615 WASHINGTON STREET, CUSTER, SD 57730 | (605) 673-2244
WWW.CUSTERSD.COM | INFO@CUSTERSD.COM | FAX: (605) 673-3726



March 10, 2022

City of Custer City
ATTN: City Council
622 Crook Street
Custer, SD 57730

Dear City Council Members:

The Custer Area Chamber of Commerce would like submit an additional request for the July 4th activities. On July 2, 2022, we would like to request the closure of South 5th Street from the alley to Washington St and Washington St between Dakota Bank and the 5th Street RV Park to be used for the Veteran' street dance.

The Street Dance is scheduled to take place between 7pm and 11pm on July 2nd.

We would additionally like to request the use of the city's trashcans and picnic tables for this area.

If you have any additional questions, you can contact me or Todd Fish, Veteran Service Officer.

Respectfully,

Dawn Murray
Office Manager

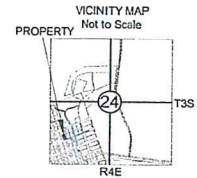
CUSTER AREA CHAMBER OF COMMERCE

PO Box 5018 ♦ Custer, South Dakota 57730 ♦ (605) 673-2244 ♦ 800-992-9818

www.custersd.com ♦ info@ustersd.com ♦ Fax: (605) 673-3726

B/
my

NOTE: See Book 10 of
Plats on Page 360 for Map
of Custer City



BASIS OF BEARING - GPS OBSERVATION
taken N 27°33'57"E 449.75' from the NE corner
of MURILLO TRACT.
OPUS STATIC SOLUTION NAD83(2011)
LAT: 43°46'18.51542"
LONG: -103°35'41.91497"

DATE SURVEYED
14 Dec. 2021

No area of special flood hazard exists within this subdivision according to Flood Hazard Insurance Rate Map Panel No. 46033C0113F, effective date: Jan. 6, 2012. The placement of fill, any new construction, substantial improvements, or another development within the 100-year flood plain as designated by FEMA'S Flood Insurance Rate Maps, shall be in conformity with the City of Custer's Flood Damage Protection Ordinance.

NOTE: 10 FEET EACH SIDE OF REAR AND SIDE LOT LINES ARE RESERVED FOR UTILITY EASEMENTS. IF BOTH SIDES OF THE LOT LINES ARE NOT CONTROLLED BY THIS PLAT THE ENTIRE 20' WIDE EASEMENT WILL BE TAKEN FROM THE LOT.

I, John D. McBride Registered Land Surveyor No. 5906 in the State of South Dakota, do hereby certify that being so authorized, I have prepared the within plat of land shown and described hereon from notes taken during an actual survey made by me or under my direct supervision, and that to the best of my knowledge and belief, the same is a true and correct representation of said survey.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Dated this ____ day of ____, 2022.

Pursuant to SDCI 11-3-8.1 and 11-3-8.2, the developer of the property described within this plat shall be responsible for protecting any waters of the state, including groundwater, located adjacent to or within such platted area from pollution from sewage from such subdivision and shall in prosecution of such protections, conform to and follow all regulations of the South Dakota Department of Agriculture and Natural Resources relating to the same.

It appears that every lot has an acceptable approach location onto a public road and the location of the intersection(s) of the proposed subdivision road(s) with the existing public road(s) is hereby approved.

I, Director of Equalization of Custer County, do hereby certify that my office has been furnished with a true copy of the within plat.
Dated this ____ day of _____, 2022.

Director of Equalization of Custer County

Whereas there has been presented to the City Council of Custer, South Dakota, the within plat of the above described lands, and it appearing to the Council that said plat conforms to the existing plats of said City, that the streets set forth therein conforms to the system of streets of the municipality, that all provisions of the subdivision regulations have been complied with, that all taxes and special assessments upon the tract have been fully paid, and that said plat and the survey thereof have been executed according to law, now therefore,

BE IT RESOLVED, that said plat is hereby approved in all respects.

Dated at Custer, South Dakota this ____ day of ____, 2022.

I, Finance Officer of the City of Custer, South Dakota, do hereby certify that the foregoing instrument is a true and correct copy of the resolution adopted by the City Council of Custer, South Dakota at a meeting held on the ____ day of _____, 2022.

Custer City Finance Officer

On this 10 day of February, 2022, before me, a Notary Public, personally appeared Raphael P. Murillo and Aimee M. Murillo, known to me to be the person(s) described in the foregoing instrument, and acknowledged to me that they signed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires _____

I, Custer County Treasurer, do hereby certify that all taxes and special assessments which are liens upon the within described lands are fully paid according to the records of this office.
Dated this ____ day of _____, 2022.

Filed for record this _____ day of _____, 2022, at _____ o'clock ____M, and recorded in Book _____ of Plats on page _____

Custer County Register of Deeds

	Prepared by ANDERSEN ENGINEERS <i>Land Surveyors, Professional Engineering, & Environmental Consultants</i>	
	Drawn by DR Approved by McB Scale 1"=20'	Date 1/24/2022 Date 1/24/2022 Sheet 1 of 1



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

Staff Report

Request: Minor Plat, Murillo Tract of Block 19
Applicant: Raphael Murillo
Location: Located at the intersection of N 9th and Harney
Legal Desc.: A Plat of Murillo Tract of Block 19, Custer City, Custer County, South Dakota
Parcel #/Address: 008146 847 Harney Street
Fee Paid: \$200.00
Date Prepared: February 14, 2022
Planning Commission Meeting: March 8, 2022
City Council Meeting: March 21, 2022(Tentative)
Prepared by Tim Hartmann, Planning Administrator

GENERAL

This plat is for a non-subdivision plat intended to incorporate the existing lot and the previously vacated 25 feet of vacated North 9th Street into one parcel. The incorporation will then allow the interior lot lines from Lot 6 to be eliminated and allow for the street vacation to be considered in setbacks and construction.

This property is within Custer City and is zoned Residential. Municipal water and sewer facilities serve the parcel.

ROUTING SHEET RESPONSES

CC Em Mngmt – Looks good.
CC ROD – General review and comments, Cross Rd Discussion.
USFS – No issues.

COMPREHENSIVE PLAN

The land use section of the Comprehensive Plan identifies this area as Residential.

RESIDENTIAL LOT SIZE RESTRICTIONS AND REQUIREMENTS

Per CMC 17.12.080 the minimum lot size requirement is 7500 square feet with a minimum lot width of 50'. The previously accepted parcel is a legal non-conforming lot and will remain under the minimum lot size, however the street vacation will achieve compliance with the minimum lot width requirement.

STAFF RECCOMENDATION

This plat is submitted in conjunction with the requirements of CMC 17.12 and provides a deed protective measure for the applicant by absorbing the street vacation into the legally described parcel. Staff supports a recommendation to the City Council for approval of the Minor Plat.

PREVIOUS ACTION BY PC AND UPDATE FOR COUNCIL March 21st, 2022

Planning Commission reviewed and recommended approval of this minor plat at their March 8th meeting. A draft excerpt from their meeting minutes is below.

- a. Minor Plat – A Plat of Murillo Tract of Block 19 Planning Administrator gave a brief explanation of the minor plat. A brief discussion was held. After the discussion, Commissioner Johnson moved, with a second by Commissioner Moore to recommend approval of the Minor Plat by the Council. Johnsons motion carried unanimously.

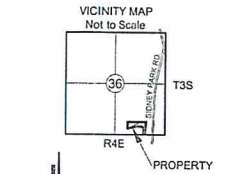
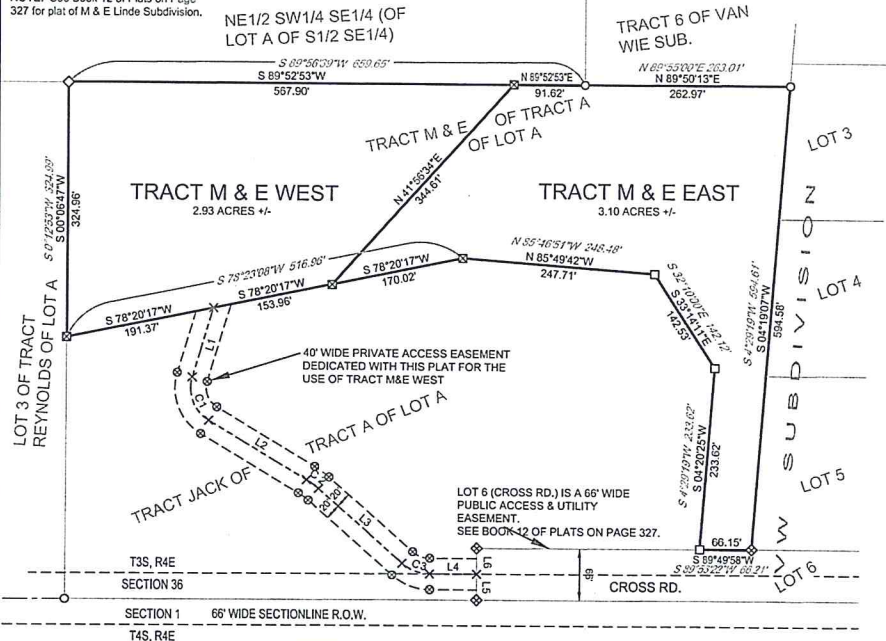
Staff also supports approval of the Minor Plat.

(B)
3/4/22

A PLAT OF
**TRACT M & E WEST AND TRACT M & E EAST OF M & E
LINDE SUBDIVISION, LOCATED IN THE S1/2 SE1/4
SECTION 36, T3S, R4E, BHM, CUSTER COUNTY,
SOUTH DAKOTA**

FORMERLY TRACT M & E

NOTE: See Book 12 of Plats on Page 327 for plat of M & E Linde Subdivision.



DATE SURVEYED
3 Jan. 2022
BASIS OF BEARING - GPS OBSERVATION
taken S 79°38'42"E 350.39' from the SE
corner of Tract M&E East.

- LEGEND**
- Set rebar with AL cap marked "ANDERSEN ENG PLS 5906"
 - Set rebar with PL cap marked "ANDERSEN ENG PLS 5906"
 - Found rebar with AL cap marked "BRYANT RLS 2196"
 - Found rebar with AL cap marked "BUCKHORN RLS 4896"
 - Found rebar with AL cap marked "FURGESON MEADOR 1019"
 - Found rebar with AL cap marked "1019"
 - Found rebar
 - angle point not monumented
 - Slant lettering denotes record calls

0 100 200
Scale in ft.

NOTE: See Misc. Book 43m on Page 227 RIGHT-OF-WAY PERMIT - OHUG INDIVIDUAL.

NOTE: See Misc. Book 43m on Page 228 RIGHT-OF-WAY PERMIT - OHUG INDIVIDUAL.

NOTE: See Misc. Book 42m on Page 660 RIGHT-OF-WAY PERMIT - OHUG INDIVIDUAL.

Curve	Radius	Tangent	Length	Delta	Degree	Chord	Chord Bear.
C1	48.35'	37.53'	63.83'	75°38'16"	118°20'24"	59.29'	S 21°08'45" E
C2	104.80'	9.58'	19.10'	10°26'29"	54°40'11"	19.07'	S 53°44'39" E
C3	52.54'	20.00'	38.22'	41°40'52"	109°03'19"	37.38'	S 69°21'51" E

Course	Bearing	Distance
L1	S 16°40'24" W	92.68'
L2	S 58°57'54" E	145.21'
L3	S 48°31'25" E	143.63'
L4	N 89°47'43" E	58.89'
L5	N 00°08'22" W	33.11'
L6	N 00°08'22" W	33.11'

NOTE: 10 FEET EACH SIDE OF REAR AND SIDE LOT LINES ARE RESERVED FOR UTILITY EASEMENTS. IF BOTH SIDES OF THE LOT LINES ARE NOT CONTROLLED BY THIS PLAT THE ENTIRE 20' WIDE EASEMENT WILL BE TAKEN FROM THE LOT.

No area of special flood hazard exists within this subdivision according to Flood Hazard Insurance Rate Map Panel No. 46033C0425F, effective date: Jan. 6, 2012.

WATER PROTECTION STATEMENT
Pursuant to SDCL 11-3-8.1 and 11-3-8.2, the developer of the property described within this plat shall be responsible for protecting any waters of the state, including groundwater, located adjacent to or within such platted area from pollution from sewage from this subdivision and shall in prosecution of such protections, conform to and follow all regulations of the South Dakota Department of Agriculture and Natural Resources relating to the same.

CERTIFICATE OF COUNTY TREASURER
I, Custer County Treasurer, do hereby certify that all taxes and special assessments which are liens upon the within described lands are fully paid according to the records of this office.
Dated this ____ day of ____, 2022.

CERTIFICATE OF HIGHWAY AUTHORITY
It appears that every lot has an acceptable approach location onto a public road and the location of the intersection(s) of the proposed subdivision road(s) with the existing public road(s) is hereby approved.
Highway Authority _____ Date: _____

CERTIFICATE OF COUNTY DIRECTOR OF EQUALIZATION
I, Director of Equalization of Custer County, do hereby certify that my office has been furnished with a true copy of the within plat.
Dated this ____ day of ____, 2022.

RESOLUTION OF THE CITY COUNCIL
Whereas there has been presented to the City Council of Custer, South Dakota, the within plat of the above described lands, and it appearing to the Council that said plat conforms to the existing plats of said City, that the streets set forth therein conforms to the system of streets of the municipality, that all provisions of the subdivision regulations have been complied with, that all taxes and special assessments upon the tract have been fully paid, and that said plat and the survey thereof have been executed according to law, now therefore,
BE IT RESOLVED, that said plat is hereby approved in all respects.
Dated at Custer, South Dakota this ____ day of ____, 2022.

CERTIFICATE OF CITY FINANCE OFFICER
I, Finance Officer of the City of Custer, South Dakota, do hereby certify that the foregoing instrument is a true and correct copy of the resolution adopted by the City Council of Custer, South Dakota at a meeting held on the ____ day of ____, 2022.

CERTIFICATE OF SURVEYOR
I, John D. McBride Registered Land Surveyor No. 5906 in the State of South Dakota, do hereby certify that being so authorized, I have prepared the within plat of land shown and described hereon from notes taken during an actual survey made by me or under my direct supervision, and that to the best of my knowledge and belief, the same is a true and correct representation of said survey.
IN WITNESS WHEREOF, I hereunto set my hand and official seal.
Dated this ____ day of ____, 2022.

John D. McBride SDRLS No. 5906

STATE OF _____, COUNTY OF _____
I, Elaine K. Linde, do hereby certify that I am the owner of the within described lands and that the within plat was made at my direction for the purposes indicated therein, and that the development of this land shall conform to all existing zoning, subdivision, and erosion and sediment control regulations.
Dated this ____ day of ____, 2022.

Elaine K. Linde

ACKNOWLEDGMENT OF OWNERSHIP
STATE OF _____, COUNTY OF _____
On this ____ day of ____, 2022, before me, a Notary Public, personally appeared Elaine K. Linde, known to me to be the person(s) described in the foregoing instrument, and acknowledged to me that they signed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public
My commission expires _____

STATE OF _____, COUNTY OF _____
The Herbert Jack Linde Revocable Trust, does hereby certify that it is the owner of the within described lands and that the within plat was made at its direction for the purposes indicated therein, and that the development of this land shall conform to all existing zoning, subdivision, and erosion and sediment control regulations.
Dated this ____ day of ____, 2022.

Herbert Jack Linde (TRUSTEE)

ACKNOWLEDGMENT OF OWNERSHIP
STATE OF _____, COUNTY OF _____
On this ____ day of ____, 2022, before me, the undersigned officer, personally appeared Herbert Jack Linde, Trustee of The Herbert Jack Linde Revocable Trust, known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that she executed the same in the capacity therein stated and for the purposes therein contained.
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My commission expires _____

OFFICE OF THE REGISTER OF DEEDS
Filed for record this ____ day of ____, 2022, at ____ o'clock ____ M., and recorded in Book ____ of Plats on page ____.

Custer County Register of Deeds

Prepared by ANDERSEN ENGINEERS Land Surveyors, Professional Engineering & Environmental Consultants	
Drawn by DR/RW	Date 2/11/2022
Approved by McB	Date 2/15/2022
Scale 1"=100'	Sheet 1 of 1
P.O. Box 446 Edgemont, SD 57735 (605)-662-5500 andersenengineers@gwinc.net	
File Name: M&E_LINDE_SUBD	



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

Staff Report

Request: Preliminary Plat, Tract M&E West and Tract M&E East
Applicant: Jessica and Jason Haug
Location: Approximately 1.5-miles South of Custer. Sydney Park Road, Cross Road,
Legal Desc.: Tract M&E West and Tract M&E East of M&E Linde Subdivision - See Plat for full legal
Fee Paid: \$500.00
Date Prepared: February 16, 2022
Planning Commission Meeting: March 8, 2022(prelim)
City Council Meeting: March 21, 2022(prelim, tentative)
Prepared by Tim Hartmann, Planning Administrator

GENERAL

This plat is for a two-parcel subdivision that is not within the city of Custer but is subject to review by the City under the City's extraterritorial jurisdiction. The proposed plat will divide the existing Tract M&E into two parcels, Tract M&E West (2.93 acres) and Tract M&E East (3.10 acres). Additionally, the proposed plat would dedicate a private access easement for Tract M&E West across the neighboring Tract Jack. The proposed Tract M&E East will retain an existing home with accessory structures and a private well and septic.

The area is in the county and therefore has no zoning.

ROUTING RESPONSES

SDDOT – No comments
USFS – No issues
CC EmMgmt – No issues
CC Highway – Access discussions
CC Planning – Access discussions
CC ROD – Access/easement discussions

ACCESS

Access to the proposed subdivision is gained from Sydney Park Road to Cross Road. The Proposed Tract M&E East will retain its existing access point approximately 380' in on Cross Road. Exiting Tract Jack would also maintain its existing access point onto Cross Road. Proposed Tract M&E West would be accessed from Cross Road onto a proposed 40' Private Access Easement.

Per CC Ordinance #2 a private access road and road constructed as a private access road is allowed to serve 1 dwelling unless otherwise approved by the board.

Upon review of Cross Road, the portion of the road which would carry the additional density appears to be substandard to any existing county and/or City subdivision road standards. The easement is established; however, the actual construction of the road is constructed with an approximately 9-10' surface. In accounting for the third parcel that would be added with approval of this plat and the size of the proposed and existing parcels, the smallest but compliant road standard in the interest of compliance with subdivision standards would be a "Low-Volume Road" as defined in County Road Standards due to the number of parcels accessing the first approximately 440' of Cross Road. A low-volume road can serve no more than 5 dwelling units. Improvements to the first 440' of Cross Road should likely be considered.

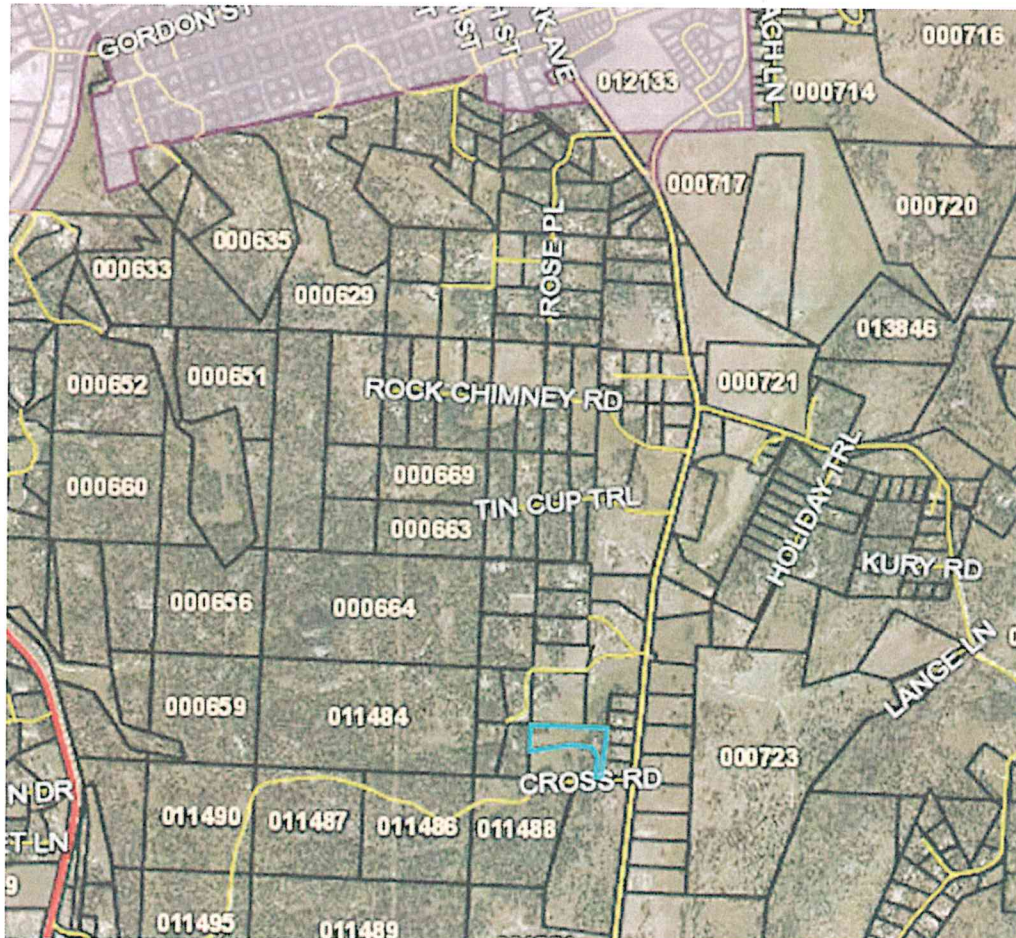
PREVIOUS ACTION BY PC AND UPDATE FOR COUNCIL March 21st, 2022

Planning Commission reviewed and recommended approval of this minor plat at their March 8th meeting. A draft excerpt from their meeting minutes is below.

- a. Preliminary Plat – A Plat of Tract M&E West and Tract M&E East of M & E Linde Subdivision Planning Administrator gave an explanation of the preliminary plat. A discussion was held including but not limited

to access to the proposed parcels, surrounding property ownership, and potential road improvement requirements. The applicants were present to lend to the discussion. After the discussion, Commissioner Uhrich moved, with a second by Commissioner Moore to recommend approval of the preliminary plat with the condition that the first 440' of Cross Road be improved to "Low Volume" county road standard prior to approval of the final plat. Uhrichs motion carried unanimously.

In conjunction with the Planning Commissions noted road improvement requirements, the Council should consider a motion **to approve the preliminary plat with the condition that the final plat will not be approved until such road improvements are completed.**



Statement of Values - Vehicles
City of Custer

No.	Year, Make, Model	VIN	New/Stated Cost	Valuation	Garaging Address	Benefit Deductible (\$)		
						SP	Comp	Coll
2	2007 Freighliner Street Sweeper	6661	\$187,000	ACV		N/C	500	500
6	1978 Weng Showmobile	1650	\$7,000	ACV		N/C	500	500
7	2015 Chevrolet Silverado	2835	\$25,481	ACV		N/C	500	500
8	2015 Chevrolet Silverado	3969	\$25,481	ACV		N/C	500	500
9	2015 Chevrolet Silverado	2766	\$25,481	ACV		N/C	500	500
11	2008 Ford F550 Bucket Truck	9648	\$58,600	ACV		N/C	500	500
12	2016 Chevrolet Traverse	4623	\$26,302	ACV		N/C	500	500
13	2018 Dodge Ram 3500	5397	\$28,967	ACV		N/C	500	500
14	2018 Vactor 2100 Plus Sewer Clea	8493	\$377,312	ACV		N/C	2,500	2,500
17	1996 International Dump Truck	4390	\$10,450	ACV		N/C	500	500
20	2020 Dodge Ram 2500	0596	\$30,589	ACV		N/C	500	500
21	2020 Dodge Ram 1500	2220	\$23,906	ACV		N/C	500	500
22	2014 Ford F150	6814	\$23,000	ACV		N/C	500	500
23	2016 Dodge Ram 1500	2297	\$22,750	ACV		N/C	500	500
Total			\$872,319			(N/C = No Coverage)		

Please add and/or delete any changes to your current coverage. Then sign, date and return to us for review.

Authorized Signature: _____ **Date:** _____
(Vehicles)

GPA 0626V (10/99)

Statement of Values - Buildings & Contents
City of Custer

Loc. No.	Address GPS	Value Building / Contents	Deductible	Valuation	Occupancy	Sq Ft Yr Blt	Cnst NB	Sprnk E/WS	Stry Boiler?
1-1	622 Crook St, Custer, SD 43-46.077N, 103-35.906	\$1,521,073	\$2,500	RC	City Hall	5,000	2	Y	1
		\$173,891					5		☐
1-2	622 Crook St, Custer, SD 43-46.048N, 103-35.894	\$44,403	\$2,500	RC	City Garage Bldg	750	2	N	1
		\$0					5		☐
2-3	31 S 3rd St, Custer, SD 43-45.874N, 103-36.188	\$222,795	\$2,500	RC	Maintenance Shop/ Garage Bldg	3,360	1	N	1
		\$57,963					5		☐
3-4	Lot 5 & 6 Blk 35, Custer, SD 43-45.985N, 103-36.273	\$27,310	\$2,500	RC	Pump House (Pool)	490	1	N	1
		\$39,143					5	WS	☐
4-5	SW 1/3 Sec 19 T 3S R 5E, Custer, SD 43-46.381N, 103-34.068	\$2,417,044	\$2,500	RC	Sewage Plant Bldg	4,490	3	N	1
		\$463,710					5	WS	☐
5-6	Football Field, Custer, SD	\$13,048	\$2,500	RC	Electrical Control Box		7		
		\$0					5	E	☐
6-7	644 Crook St, Custer, SD 43-46.079N, 103-35.899	\$1,196,866	\$2,500	RC	Community Bldg - YMCA	5,000	1	Y	1
		\$0					5		☒
7-8	City Shop Lots 1 thru 6, Blk 43-45.865N, 103-36.216	\$35,112	\$2,500	RC	Water Shed	1,152	1	N	1
		\$38,425					5		☐
7-9	City Shop Lots 1 thru 6, Blk 43-45.869N, 103-36.231	\$37,313	\$2,500	RC	Sand Shed	2,800	1	N	1
		\$0					5		☐
7-10	City Shop Lots 1 thru 6, Blk 43-45.861N, 103-36.250	\$21,696	\$2,500	RC	Barricade Shed	880	1	N	1
		\$0					5		☐
7-11	City Shop Lots 1 thru 6, Blk 43-45.867N, 103-36.182	\$3,864	\$2,500	RC	Paint Storage Building	96	1	N	1
		\$0					5		☐

Statement of Values - Buildings & Contents
City of Custer

Loc. No.	Address GPS	Value Building / Contents	Deductible	Valuation	Occupancy	Sq Ft Yr Blt	Cnst NB	Sprnk E/WS	Stry Boiler?
7-12	City Shop	\$126,678	\$2,500	RC	Parking Garage	3,440	3	N	1
	Lots 1 thru 6, Blk	\$0					5		☐
	43-45.868N, 103-36.220								
8-13	1115 Washington St, Custer, SD	\$109,273	\$2,500	RC	Water Treatment Plant #1 Bldg	1,440	3	N	1
		\$795,675					5	WS	☐
	43-46.068N, 103-35.416								
9-14	French Creek	\$45,638	\$2,500	RC	Well House #9	312	1	N	1
	NW 1/4 SE 1/4 S 28 T 3S	\$23,186					5	WS	☐
	43-45.474N, 103-38.647								
10-15	Custer Lumber	\$17,845	\$2,500	RC	Well House #14	144	1	N	1
	10th St & Crook	\$10,609					5	WS	☐
	43-46.177N, 103-35.579								
11-16	Lot 7 Blk 107, Custer, SD	\$11,184	\$2,500	RC	Harbach Park Well House <i>Remove</i>	144	1	N	1
		\$0					5	WS	☐
	43-45.919N, 103-35.670								
12-17	46 N 9th St, Custer, SD	\$86,457	\$2,500	RC	Water Treatment Plant #2	1,080	3	N	1
		\$685,007					5	WS	☐
	43-46.127N, 103-35.670								
13-18	101 W Mt Rushmore Rd, Custer, SD	\$86,457	\$2,500	RC	Water Treatment Plant #3	840	3	N	1
		\$479,503					5	WS	☐
	43-45.827N, 103-36.577								
14-19	Swimming Pool Crook	\$156,800	\$2,500	RC	Bath House	750	1	N	1
	St Lots 5&6 Blk 35	\$0					5		☐
	43-46.028N, 103-36.259								
15-20	198 Clay Street Lot 7 Blk 44, Custer, SD	\$29,208	\$2,500	RC	Water High Lift Booster	280	1	N	1
		\$23,186					5	WS	☐
	43-46.500N, 103-36.100								
16-21	615 Washington St, Custer, SD	\$399,667	\$2,500	RC	Chamber of Commerce	1,600	1	N	1
		\$11,593					5		☐
	43-45.946N, 103-35.871								
17-23	Harbach Park	\$29,674	\$2,500	RC	Gazebo	280	1	N	1
	107 S 6th	\$0					5		☐
	43-45.904N, 103-35.850								

Statement of Values - Buildings & Contents
City of Custer

Loc. No.	Address GPS	Value Building / Contents	Deduct-ible	Valu-ation	Occupancy	Sq Ft Yr Blt	Cnst NB	Sprnk E/WS	Stry Boiler?
17-24	Harbach Park 107 S 6th 43-45.935N, 103-35-882	\$13,683	\$2,500	RC	Caboose		7		
		\$0					5		☐
17-25	Harbach Park 107 S 6th 43-45.912N, 103-35.822	\$7,049	\$2,500	RC	North Picnic Shelter	168	1	N	1
		\$0					5		☐
17-26	Harbach Park 107 S 6th St 43-45.908N, 103-35.838	\$7,049	\$2,500	RC	South Picnic Shelter	168	1	N	1
		\$0					5		☐
19-28	Canal St. & Blue Bell Lane Hwy 16 East 43-45.992N, 103-35.081	\$11,415	\$2,500	RC	Chlorinator Bldg @ Soccer Field	120	2	N	1
		\$17,389					5		☐
22-31	20 S 7th St, Custer, SD 43-45.988N, 103-35.803	\$66,793	\$2,500	RC	Tennis Court Bath House	288	2	N	1
		\$17,389					5		☐
23-32	French Creek Park 352 Gordon St 43-45.816N, 103-36.107	\$15,554	\$2,500	RC	Large Picnic Shelter	480	1	N	1
		\$0					5		☐
23-33	352 Gordon St, French Creek Park, Custer, SD 43-45.817N, 103-36.137	\$5,444	\$2,500	RC	West Picnic Shelter	168	1	N	1
		\$0					5		☐
23-34	352 Gordon St, French Creek Park, Custer, SD 43-45.819N, 103-36.086	\$5,444	\$2,500	RC	East Picnic Shelter	168	1	N	1
		\$0					5		☐
24-35	Way Park 420 Mt Rushmore 43-45.934N, 103-36.091	\$53,929	\$2,500	RC	Log Cabin	408	1	N	1
		\$0					5		☐
24-36	Way Park 420 Mt Rushmore 43-45.926N, 103-36.058	\$76,286	\$2,500	RC	Log Restroom	396	1	N	1
		\$17,389				2009	5		☐
25-37	Gates Park West Hwy 16 (Past Golf 43-45.452N, 103-37-638	\$29,432	\$2,500	RC	Ball Field Lighting		7	N	
		\$0					5		☐

Statement of Values - Buildings & Contents
City of Custer

Loc. No.	Address GPS	Value Building / Contents	Deductible	Valuation	Occupancy	Sq Ft Yr Blt	Cnst NB	Sprnk E/WS	Stry Boiler?
25-38	Gates Park	\$23,456	\$2,500	RC	Concession Stand	180	2	N	1
	West Hwy 16 (Past Golf	\$0					5		☐
	43-45.473N, 103-37.640								
26-39	3rd & Washington, Custer, SD	\$6,335	\$2,500	RC	Water Bulk Station	39	1	N	1
		\$6,525					5	WS	☐
	43-45.853N, 103-36.167								
28-41	Community Center 371	\$4,817,474	\$2,500	RC	Old Grade School Bldg <i>Remove</i>	36,544	2	N	3
	Crook Street	\$0					5		☐
	43-46.020N, 103-36.149								
29-42	Custer, SD	\$5,000	\$2,500	RC	Pageant Hill Picnic Shelter		1		
		\$0					5		☐
30-43	Custer, SD	\$28,684	\$2,500	RC	Parks Shop at Old Hospital		1		
		\$0					5		☐
31-44	Custer, SD	\$5,000	\$2,500	RC	Shelter #1 at Dog Park		1		
		\$0					5		☐
32-45	Custer, SD	\$5,000	\$2,500	RC	Shelter #2 at Dog Park		1		
		\$0					5		☐
Totals		\$11,822,432							
		\$2,860,583							

Please add and/or delete any changes to your current coverage. Then sign, date and return to us for review.

Authorized Signature: _____ Date: _____
 (Buildings & Contents)

GPA 0626 (10/99)

Statement of Values - Mobile Equipment
City of Custer

Deductible \$2,500

Valuation ACV

No.	Item Description	Serial No.	Limit	Dept
1	2008 Caterpillar Loader	HTMJJC00393	\$55,000	
5	Pickup Mounted Sander	79740	\$4,400	
6	Vibrating Roller	MDR-704#1	\$4,700	
7	Pickup Mounted Sander	3768	\$4,400	
8	Caterpillar Motor Grader	2ZK0G926	\$167,626	
9	2005 Ditchwitch mdl FX305 mounted on 2005 Dressen Mdl	2Z0295 & 0693	\$27,325	
10	Exmark Mdl LZ2ZLKA523 52" Mower	211797	\$2,000	
11	Exmark Mdl LZ27LKA724 72" Mower	485476	\$3,000	
13	Bobcat Snow Plower Mdl NMK455 SB200	712701276	\$3,700	
14	Bobcat Brushcat Mdl NMK452 60"	A01A00311	\$4,300	
15	Bobcat Tilt-Tach Mdl NMK505 7101600	224101982	\$1,670	
16	Bobcat Snow Blade Mdl MNK456 72"	223103953	\$1,800	
17	Bobcat Bucket Mdl NMK397 62"		\$500	
18	2012 CAT 420E STAIR Backhoe Loader w/attachments		\$91,362	
19	Vermeer BC 1200XL Brush Chipper		\$24,900	
20	Skag Cheetah 61" Kohler	SCZ61V-34CV-EF	\$10,195	
21	Bobcat Skidsteer	AR9R13795	\$32,699	
22	Bobcat 96" Snow V Blade	084101641	\$3,072	
23	Bobcat 60" Sweeper	714430468	\$3,804	
24	Bobcat 72" Root Grapple	AE6H04700	\$2,454	
25	Bobcat 68" Llo Pro Bucket		\$693	
26	Barricades		\$20,000	
27	2018 Bobcat 5600 Tool Cat		\$54,394	
28	2019 Lazer Z 48"	LZE6516KA484A2	\$6,759	
29	2020 Exmark 72" Mower	LZE801GKS724A	\$9,199	
30	2021 Elgin Pelican Street Sweeper	NP42260	\$239,525	
Total			\$779,477	

Please add and/or delete any changes to your current coverage. Then sign, date and return to us for review.

Authorized Signature: _____ **Date:** _____
 (Mobile Equipment)

GPA 0626MP (10/99)

MEMORANDUM OF UNDERSTANDING BETWEEN
STATE OF SOUTH DAKOTA DEPARTMENT OF THE MILITARY
AND
CITY OF CUSTER
FOR
LEASE BUYOUT

THIS MEMORANDUM OF UNDERSTANDING (the "MOU") is made and entered into this ____ day of March, 2022, by and between the City of Custer, acting through its Mayor, of 622 Crook Street, Custer, South Dakota 57730 (the "CITY"), and the State of South Dakota, by and through the Department of the Military, of 425 East Capitol Avenue, Pierre, South Dakota 57501 (the "DOM") (the CITY and the DOM are also referred to below as the "Party" and, collectively, as the "Parties").

WHEREAS, the CITY and the State of South Dakota, by and through its Department of Military Affairs ("DMA") and Adjutant General, entered into a lease agreement on the 19th day of October 1987 (the "Lease Agreement"), for property located in Custer, South Dakota; which would be used by the State of South Dakota Military Department for construction of a Motor Vehicle Storage Building and other improvements; and

WHEREAS, the term of the Lease Agreement was for fifty-five (55) years, with the option for renewal for successive twenty-five (25) year periods at the same consideration; and

WHEREAS, the DMA, by its successor, the South Dakota Department of Military and Veterans Affairs ("DMVA"), entered into an amendment, dated October 19, 1987, to the Lease Agreement and an amendment, dated August 5, 2005, to the Lease Agreement (the Lease Agreement and two amendments shall be referred to collectively as the "Amended Lease Agreement"); and

WHEREAS, the property subject to the Amended Lease Agreement is described as Lot A (less Lot H-1 of Lot A) of the Southwest Quarter, Section 19, Township 3 South, Range 5 East, Black Hills Meridian, Custer County, South Dakota (the "Leased Premises") and is depicted in attached Exhibit A; and

WHEREAS, prior to the Lease Agreement and any use of the Leased Premises by the DOM or its predecessors, the CITY used the Leased Premises, including for a municipal sewer lagoon and related uses; and

WHEREAS, various improvements have been constructed on the Leased Premises including, without limitation, a Motor Vehicle Storage Building, fencing and gates, electrical utilities, gravel driveway and parking areas, concrete pads, a sanitary sewer and a capped water well (collectively, the "Improvements"); and

WHEREAS, the successor to the DMVA is the DOM; and

WHEREAS, the CITY is in need of property for use in improvements to its municipal wastewater treatment system; and;

WHEREAS, the Leased Premises are suitable for such use by the CITY; and

WHEREAS the Parties believe that it is a more efficient use of public resources to terminate the Amended Lease Agreement and to transfer all interest and possession of the Leased Premises and the Improvements to the CITY.

NOW THEREFORE, subject to the foregoing, the Parties agree as follows:

1. The purpose of this MOU is to document the mutual agreement of the Parties to terminate the Amended Lease and transfer the Leased Premises and the Improvements from the DOM to the CITY.
2. As consideration for the DOM's agreement to terminate the Amended Lease Agreement, the CITY agrees to pay the DOM the sum of One Hundred Thousand dollars (\$100,000) and agrees to assume all responsibility and ownership of the Leased Premises and the Improvements.
3. Each party shall be responsible for obtaining any environmental survey of the Leased Premises required of the party for purposes of the transfer of the Leased Premises. The DOM shall provide the CITY with copies of any such environmental survey.
4. The CITY acknowledges and agrees that the DOM obtained approval from the CITY to cap the existing water well on the property, that the well was abandoned and plugged the 24th day of August 2020, and that the CITY has received a copy of the well closure report.
5. Upon receipt of the full payment of \$100,000.00 from the CITY, the DOM shall execute and deliver to the CITY the attached agreement (the "Termination Agreement") whereby the Parties shall terminate the Amended Lease to the Leased Premises and transfer all interest in, rights to, and possession of, the Leased Premises and the Improvements from the DOM to the CITY.
6. The CITY shall promptly execute and return the Termination Agreement to the DOM.
7. The CITY agrees that the transfer of the DOM's interest and rights to the Leased Premises and the Improvements shall be "as is" with no representations made regarding the condition of the Leased Premises or of any Improvement.
8. Upon execution of the Termination Agreement by the Parties, the CITY shall be entitled to immediate possession of the Leased Premises and improvements

provided that the DOM shall be allowed up to thirty (30) days in which to remove personal property from the Premises after which the DOM shall notify the CITY that the DOM has vacated the Leased Premises.

9. No delay or failure by either Party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

10. The provisions in this Agreement may only be altered, modified or changed by written amendment hereto subject to the same approval requirements as in this Agreement. Except as otherwise provided herein, this Agreement is made for the benefit of the Parties, and neither Party may assign this Agreement, or any part thereof, or delegate any duty or obligation imposed by this Agreement without the express written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective transferees, successors and assigns.

11. If any provision of this Agreement is held invalid, such invalidity shall not affect the other provisions or application of the other provisions of this Agreement which can be given without the invalid provision, and to this end, the provisions of this Agreement are declared to be severable.

12. This Agreement constitutes the entire agreement between the Parties. No promise or undertaking has been made by either Party, and no understanding exists with respect to the Leased Premises or the Improvements, except as expressly set forth herein. The Parties agree that all property shall be transferred "as is", and the DOM makes no warranties or representations concerning the condition of the Leased Premise or the Improvements.

13. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

14. Time is of the essence in the performance of the covenants, terms and conditions contained in this Agreement.

IN WITNESS WHEREOF the Parties hereto have set their hands and seal effective the day and year above first written.

CITY OF CUSTER

STATE OF SOUTH DAKOTA

Robert Brown Date
Mayor

Jeffrey P. Marlette Date
Major General, SDNG
The Adjutant General
Department of the Military

ATTEST:

Laurie Woodward Date
Finance Officer

AGREEMENT FOR TERMINATION
OF THE LEASE BETWEEN
STATE OF SOUTH DAKOTA DEPARTMENT OF THE MILITARY
AND
CITY OF CUSTER

THIS Agreement (the "Agreement") is made and entered effective on the last date of the signatures below, by and between the City of Custer, acting through its Mayor, of 622 Crook Street, Custer, South Dakota 57730 (the "CITY"), and the State of South Dakota, by and through the Department of the Military, of 425 East Capitol Avenue, Pierre, South Dakota 57501 (the "DOM") (the CITY and the DOM are also referred to below as the "Party" and, collectively, as the "Parties").

WHEREAS, the CITY and the State of South Dakota, by and through its Department of Military Affairs ("DMA") and Adjutant General, entered into a lease agreement on the 19th day of October 1987 (the "Lease Agreement"), for property located in Custer, South Dakota; which would be used by the State of South Dakota Military Department for construction of a Motor Vehicle Storage Building and other improvements; and

WHEREAS, the term of the Lease Agreement was for fifty-five (55) years, rent free, with the option for renewal for successive twenty-five (25) year periods at the same consideration; and

WHEREAS, the DMA, by its successor, the South Dakota Department of Military and Veterans Affairs ("DMVA"), entered into an amendment, dated October 19, 1987, to the Lease Agreement and an amendment, dated August 5, 2005, to the Lease Agreement (the Lease Agreement and two amendments shall be referred to collectively as the "Amended Lease Agreement"); and

WHEREAS, the successor to the DMVA is the DOM; and

WHEREAS, prior to the Lease Agreement and any use of the property by the DOM or its predecessors, the CITY used the property, including for a municipal sewer lagoon and related uses; and

WHEREAS, the parties entered into a Memorandum of Understanding ("MOU") for Lease Buyout, which set forth their mutual understanding and intent to terminate the Amended Lease Agreement, including the purpose and mutual consideration for the termination. A copy of the MOU is attached hereto as Exhibit A and incorporated herein.

NOW, THEREFORE, subject to the foregoing, the parties agree as follows:

1. The Amended Lease Agreement is hereby terminated to the following property:

Lot A, Less Lot H-1 of Lot A of the SW1/4 of Section 19, T3S, R5E, BHM, Custer County South Dakota (the "Leased Premises").

The DOM hereby transfers all interest in, rights to, and possession of, the Leased Premises and improvements thereon, from the DOM to the CITY. The improvements on the Leased Premises include, without limitation, a Motor Vehicle Storage Building, fencing and gates, electrical utilities, gravel driveway and parking areas, concrete pads, a sanitary sewer and a capped water well (collectively, the "Improvements").

2. The CITY hereby accepts and assumes all responsibility for and ownership of the Leased Premises and the Improvements on an "as is with all faults" basis with any and all patent and latent defects, including, without limitation, those relating to the environmental condition of the Leased Premises, and without reliance upon any representation or warranties, express or implied, of any kind whatsoever from the DOM as to any matters concerning the condition of the Leased Premises or of any Improvement. The CITY assumes the risk that hazardous substances or other conditions or defects exist which were not revealed by the CITY's inspection of the Leased Premises or of the Improvements or by any environmental survey of the Leased Premises or of the Improvements by the DOM.
3. The CITY is entitled to immediate possession of the Leased Premises and the Improvements provided that the DOM shall be allowed sole possession of the Leased Premises and the Improvements for up to thirty (30) days in which to remove personal property from the Premises after which the DOM shall notify the CITY that the DOM has vacated the Leased Premises and the Improvements.
4. The CITY agrees to indemnify and hold the State of South Dakota, its officers, agents, and employees, harmless from and against any and all claims or proceedings for actions, suits, damages, liabilities, other losses or equitable relief for injuries to or death of any person or persons, the loss of or damage to any property, or the presence of any hazardous substances resulting from any condition of the Leased Premises or of the Improvements including, without limitation, any condition or defect arising from or relating to the CITY's prior use of the Leased Premises. The CITY shall defend the State of South Dakota, its officers, agents, and employees against any claim, including any claim, action, suit, or other proceeding related to the claim. In defending the State, its officers, agents, and employees, the CITY, at no expense to the State, shall engage attorneys and other professionals, subject to the written approval of the State which shall not be unreasonably withheld. Notwithstanding the foregoing, the State may, in its sole discretion and at the expense of the CITY, engage attorneys and other professionals to defend the State of South Dakota, its officers, agents, and employees, or to assist the CITY in the defense.

5. The provisions in this Agreement may only be altered, modified or changed by written amendment hereto subject to the same approval requirements as in this Agreement. Except as otherwise provided herein, this Agreement is made for the benefit of the Parties, and neither Party may assign this Agreement, or any part thereof, or delegate any duty or obligation imposed by this Agreement without the express written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective transferees, successors and assigns.
6. This Agreement constitutes the entire agreement between the Parties. No promise or undertaking has been made by either Party, and no understanding exists with respect to the Leased Premises or the Improvements, except as expressly set forth herein. The Parties agree that all property is transferred “as is”, and the DOM makes no warranties or representations concerning the condition of the Leased Premises or the Improvements.
7. If any provision of this Agreement is held invalid, such invalidity shall not affect the other provisions or application of the other provisions of this Agreement which can be given without the invalid provision, and to this end, the provisions of this Agreement are declared to be severable.
8. Except as otherwise provided in this Agreement, the representations, warranties, and covenants contained in this Agreement shall survive the termination of this Agreement.
9. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

IN WITNESS WHEREOF the Parties hereto have set their hands and seal effective the last date set forth below.

CITY OF CUSTER

STATE OF SOUTH DAKOTA

Robert Brown Date
Mayor

Jeffrey P. Marlette Date
Major General, SDNG
The Adjutant General
Department of the Military

ATTEST:

Laurie Woodward Date
Finance Officer

ACES, Professional Fees, \$3,174.00
AFLAC, Insurance, \$767.72
Amazon, Supplies, \$93.97
Black Hills Urgent Care, Pre-Employment, \$225.00
Black Hills Energy, Utilities, \$16,117.32
Complete Concrete, Repair, \$1,750.00
Culligan, Repairs & Maintenance, \$20.00
Chamber of Commerce, Sales Tax Subsidy, \$211,150.00
Custer Ace Hardware, Supplies, Repairs & Maintenance, \$301.41
Discovery Benefits, Supplies, \$30.00
Display Sales, Supplies, \$236.00
French Creek Supply, Supplies, Repairs & Maintenance, \$273.70
Golden West Telecommunications, Supplies, \$524.42
Golden West Technologies, Professional Fees, \$4,093.27
Hawkins, Supplies, \$8,831.57
Highpoint Siteworks, Professional Fees, \$21,375.00
Holiday Inn, Travel/Conference, \$163.98
KLJ, Professional Fees, \$5,133.06
Lawrence & Schiller, BID Board Advertising, \$474.76
Log Me In, Supplies, \$51.12
Lynn's Dakotamart, Supplies, \$3.99
McDonnell, Chantel, BID Board, \$1,000.00
Midcontinent Testing Labs, Professional Fees, \$241.00
Nelson's Oil & Gas, Supplies, \$1,347.02
Quill, Supplies, \$308.16
Rapid Delivery, Professional Fees, \$74.75
Regional Health, Sales Tax Subsidy, \$38,883.77
Sam's Club, Supplies, \$38.50
SDARWS, Annual Dues, \$715.00
Stater of SD, Sales Tax, Licensing, \$1,399.97
Sanford Health OccMed, Pre-Employment, \$35.00
SDML, Travel/ Conference, \$156.00
Stansbury, Lance, Reimbursement, \$147.79
USA Bluebook, Supplies, \$2,713.26
Verizon Wireless, Utilities, \$529.21
Vista Print, Supplies, \$59.63
Wright Express, Supplies, \$1,545.18
Green Tree Estate, Utility Refund, \$28.50
Lofswold, Angela, Utility Refund, \$47.27
Pispiza Wounspe, Utility Refund, \$6.06
Total Claims \$324,066.36