

Smart Room Project Agreement

This Smart Room Project Agreement (the “Agreement”) is made between Viking Library System, 1915 Fir Avenue, Fergus Falls, Minnesota 56537 (“VLS”) and the City of Vergas, located in Otter Tail County, Minnesota. This Agreement is effective on _____, _____, 2020 (the “Effective Date”).

This Agreement outlines the goals and responsibilities of the parties to this Agreement for the Smart Room Project that is funded by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding.

1. Purpose. The purpose of the Agreement is to provide and expand technology access for: (a) children and families to help with distance learning and (b) individuals impacted by COVID-19 and in need of access to technology and the internet for purposes of job seeking, telehealth access/services, etc. VLS is administering funds from the CARES Act to purchase the Equipment set forth in this and pay for the installation. The City of Vergas has agreed to be a smart room location and to receive the Equipment and provide the technology access.
2. Effective Date and Termination Date. This Agreement shall be in full force and effect as of the Effective Date and **terminated one year from the Effective Date.**
3. Roles and Responsibilities.
 - a. VLS shall do and perform the following:
 - i. Administer the contract for the purchase and installation of the following Equipment in the meeting room located within the Vergas Event Center for the Equipment.
 1. The Equipment shall mean the following: (1) Vaddio Huddleshot camera system; (2) Vaddio Huddleshot mounting bracket; (3) Vaddio tabletop microphone; (4) Sony 65” television; (5) Sannus TV mount; (6) HDMI/Microphone wall jack; (7) Micro PC w/ Bluetooth mouse and keyboard; (8) Wi-fi card for micro PC; (9) Unifi Dream Machine.
 - ii. Pay for the Equipment.
 - iii. **Provide a one-time stipend of \$2,000.00 to the City of Vergas and the stipend shall be used to further the purposes of this Agreement.**
 - iv. Pay for the installation of the Equipment which includes installation of an electrical outlet for the TV and all necessary network cabling.
 - v. Work with the City of Vergas to administer and coordinate installation with the contractor **and Arvig (the telecommunications company).**
 - b. The City of Vergas shall do and perform the following:
 - i. Provide a meeting room located within Vergas Event Center for the Equipment purchased with the CARES Act funding.
 - ii. Assume any and all responsibility and liability for the maintenance, repair, and/or replacement of the Equipment.

- iii. Pay for any associated network connection and service fees related to the Equipment and the performance of the Equipment.
 - iv. Work with VLS to administer and coordinate installation with the contractor **and Arvig (the telecommunications company).**
 - v. Put any and all utilities in the City of Vergas' name from the date the utilities are installed and/or first used (whichever occurs first).
 - vi. **The City of Vergas shall look to the manufacturer of any Equipment and/or the service provider for any warranty claims and agrees that the City of Vergas shall have no claims against VLS for any warranty matters.**
 - vii. **Use the \$2,000.00 stipend to further the purposes of this Agreement**
4. Ownership of the Equipment. The Equipment shall be owned by the City of Vergas and VLS shall have no liability or responsibility for the Equipment **other than as set forth in this Agreement.**
 5. Termination. Either party may terminate this Agreement upon the following conditions: (1) a party breaches this Agreement; (2) the non-breaching party provides written notice of the breach; and (3) the breaching party fails to cure the breach within fourteen (14) days after receipt of the written notice of the breach. The termination of this Agreement shall be effective on the 15th day after receipt of the written notice of the breach and the breaching party has failed to cure the breach.
 6. Termination for Insufficient Funding. VLS may immediately terminate this Agreement if it does not obtain sufficient funding from the CARES Act to perform its obligations under this Agreement and VLS shall not be liable to the City of Vergas for any damages as a result of VLS failing to obtain sufficient funding from the CARES Act to perform its obligations under this Agreement. VLS shall provide reasonable notice after VLS receives notice that there is not sufficient funding from the CARES Act to the City of Vergas.
 7. No Partnership or Joint Venture. This Agreement does not create or establish the relationship of a partnership or a joint venture between VLS and the City of Vergas. The City of Vergas is not acting as the agent, representative, or employee of VLS for any purpose. The City of Vergas shall remain an independent contractor under this Agreement.
 8. Compliance with Law. The City of Vergas agrees to abide by the requirements and regulations of the Americans with Disabilities Act of 1990 (ADA) including changes made by the ADA Amendments Act of 2008 (P.L. 110325), the Minnesota Human Rights Act (Minn. Stat. Chapter 363, as amended), and Title VII of the Civil Rights Act of 1964. These laws deal with discrimination based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age. In the event of questions from the City of Verga concerning these requirements, VLS agrees to promptly supply all necessary clarifications. Violation of any of the above laws can lead to termination of this Agreement.
 9. Audits. The city of Vergas agrees that VLS, an auditor from the State of Minnesota or a federal auditor, or any of their duly authorized representatives, at any time during

normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, inspect, excerpt, copy and/or transcribe any books, documents, papers, and records that are relevant and involve transactions relating to this Agreement.

10. Warranties/Representations. The City of Vergas accepts the Equipment in an “AS IS” “WHERE IS” condition except for any applicable manufacturer’s and contractor’s warranties. VLS expressly disclaims, and the City of Vergas expressly waives, any warranty or representation of any nature, oral or written, express or implied, statutory, or common law, without limitation, that of merchantability or fitness for a particular purpose. The City of Vergas expressly acknowledges that the City of Vergas has not relied on any representation or statement provided by VLS. By accepting the Equipment, the City of Vergas agrees that, (i) the City of Vergas shall be deemed to have accepted all risks associated with the Equipment, (ii) as between the City of Vergas and VLS, except as expressly provided in this Agreement, the City of Vergas shall be deemed to have accepted all costs and liability associated in any way with the condition of the Equipment, (iii) the City of Vergas waives, releases and discharges VLS from any and all objections, claims, liability or any causes of action (whether arising by statute or common law) concerning the Equipment. The City of Vergas acknowledges and agrees that the waivers and releases contained in this Section are a material factor in VLS entering into this Agreement and that VLS is not willing to enter into this Agreement unless VLS is provided such waivers and releases from the City of Vergas.
11. Limitation of Liability. NO PARTY HERETO SHALL BE LIABLE TO ANY OTHER PARTY FOR ANY EXEMPLARY, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES UNDER THIS ADDENDUM INCLUDING, BUT NOT LIMITED TO, BUSINESS INTERRUPTION OR LOST PROFITS DAMAGES, HOWEVER ARISING, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS APPLY EVEN IF THE DAMAGES RESULT FROM A PARTY’S NEGLIGENCE, BREACH OF CONTRACT OR OTHER BASIS OF LEGAL LIABILITY.
12. Indemnification. The City of Vergas agrees to defend, indemnify, and hold VLS, its officials, officers, employees, board members, owners, members, and agents harmless from an and all liability including, claims, demands, actions, suits, causes of action, costs (including reasonable attorneys’ fees and costs), expenses, damages, losses, fines, interest, penalties, assessments, judgments, demands, causes of action, and litigation/arbitration of any kind or character arising in any way in connection with this Agreement and the Equipment.
13. Modification or Amendment. No amendment, change, or modification of this Agreement shall be valid unless in writing and signed by both parties.
14. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior

agreements, understandings, proposals, and communications, oral or written, between the parties.

15. Severability. In the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties as set forth herein and the remainder of the Agreement shall remain in full force and effect.
16. Survival. Provisions of this Agreement which, expressly or by the nature of the rights or obligations set out therein might reasonably be expected to survive, shall survive termination or expiration of this Agreement until they are satisfied or by nature terminate or expire.
17. Authority. Each party acknowledges, represents, and warrants, by and through the duly authorized agent executing this Agreement, that (a) this Agreement was executed after the approval by the governing body of each party; (b) the parties have read and understood this Agreement; (c) the parties have all had a reasonable opportunity to obtain independent legal counsel for advice and representation in connection with this Agreement; and (d) no party is relying on any promises or inducements not contained in this Agreement.
18. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any disputes arising from, related to, or arising out of this Agreement shall be brought in Otter Tail County District Court and each party hereto waives the right to a trial by jury.
19. Notices. Any notice or demand authorized or required under this Agreement shall be in writing and shall be sent by certified mail to the other party as follows:

To City of Vergas:

Name: _____

Title: _____

111 Main Street
Vergas, MN 56587

To VLS:

Erin Smith

Director

1915 Fir Ave. W.
Fergus Falls, MN 56537

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Accepted by: (Signature)

Accepted by: (Signature)

City of Vergas

Viking Library System

Date: _____

Date: _____

By: _____

By: Erin Smith

Its:

Its: Director