
PRIMARY LEASE

BETWEEN THE

CITY OF VERGAS, MINNESOTA

AS LESSOR

AND

VERGAS STATE BANK

AS LESSEE

Dated as of October ____, 2023

This instrument was drafted by:

Fryberger, Buchanan, Smith & Frederick, P.A.
302 West Superior Street, Suite 700
Duluth, Minnesota 55802

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This PRIMARY LEASE (the “Primary Lease”), dated as of October __, 2023, by and between the CITY OF VERGAS, MINNESOTA, a municipal corporation and political subdivision organized under Minnesota Statutes, 412.211, as lessor (the “City” or the “Lessor”), and VERGAS STATE BANK, a Minnesota banking corporation (the “Bank” or the “Lessee”).

W I T N E S S E T H:

In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I – DEMISE OF LAND AND WARRANTIES

Section 1.01 Demise. Subject to and upon the terms, conditions, covenants and undertakings hereinafter set forth, the City leases to the Bank, and the Bank leases from the City, the land described on Exhibit A attached hereto (the “Land”) and the other Operating Facilities as defined in the Lease-Purchase Agreement dated the date hereof between the Bank as lessor and the City as lessee.

Section 1.02 City’s Warranties. The City covenants and warrants to the Bank:

(a) that the City, with the approval of the City Council of the City, has authority to enter into, execute and deliver this Primary Lease, and has duly authorized the execution and delivery of this Primary Lease;

(b) that the Land is properly zoned for the purposes of the City’s proposed new emergency services facility that will house the fire department and ambulance services; and

(c) that the City, with the approval of the City Council of the City, has authority to enter into, execute and deliver the Lease-Purchase Agreement between the Bank, as lessor, and the City, as lessee, dated the date hereof (the “Lease-Purchase Agreement”), and has duly authorized the execution and delivery of the Lease-Purchase Agreement.

Section 1.03 The Bank’s Warranties. The Bank covenants and warrants to the City that the Bank has authority to enter into, execute and deliver this Primary Lease and the Lease-Purchase Agreement, and has duly authorized the execution and delivery of this Primary Lease and the Lease-Purchase Agreement.

Section 1.04 Environmental Indemnification Factors. The City agrees to indemnify and hold the Bank harmless from and against any notice, claim, loss, demand, complaint or action from any governmental agency or office or from any third party for the payment of damages, costs or expenses relating to any environmental condition to the Land including, but not limited to, disposal or remedial action pursuant to federal, state or local law, and legal, engineering, testing and other fees.

ARTICLE II – TERM AND RENT

Section 2.01 Term. The term of this Primary Lease shall commence as of the day and year first above written, and shall end 20 years from such date, subject to earlier termination as provided in the Lease-Purchase Agreement.

Section 2.02 Rent. The rent shall be ten dollars payable in one installment in advance on the date hereof.

Section 2.03 Lease-Purchase Agreement. In further consideration of the authorization, execution and delivery of this Primary Lease by each of the parties, and the advancement of monies under the Lease-Purchase Agreement, the parties have entered into the Lease-Purchase Agreement and agreed to carry out and perform their respective obligations thereunder.

ARTICLE III – USE OF LAND; ADDITIONAL COVENANTS

Section 3.01 Use. The Bank shall not use the Land for any unlawful purpose. If the Lease-Purchase Agreement is terminated pursuant to Sections 12.2 or 12.7 thereof, this Primary Lease shall remain in force and the Bank may use the Operating Facilities for any lawful purpose, subject to any restrictions on use that constitute a Permitted Encumbrance.

Section 3.02 Quiet Enjoyment. The City covenants that upon the Bank's paying the rent reserved herein, and performing all conditions and covenants set forth in this Primary Lease and the Lease-Purchase Agreement, the Bank shall and may peaceably have, hold and enjoy the Land for the term of this Primary Lease. The Bank covenants that upon expiration of this Primary Lease, either on the date specified in Section 2.01 hereof or earlier pursuant to the terms of the Lease-Purchase Agreement, it shall give the City peaceable possession of the Operating Facilities.

Section 3.03 Assignment. The Bank shall have the right to assign its interest in this Primary Lease, subject to Permitted Encumbrances, so long as the Lease-Purchase Agreement is in effect.

Section 3.04 Additional Covenants.

(a) In the event that any person or entity, however organized (other than the Bank or any assignee of the Bank), shall be determined to hold any interest that in any manner affects the City's or the Bank's interest in the Land (other than the Permitted Encumbrances) (such interest referred to herein as an "Adverse Interest"), the City shall use its best efforts to acquire the Adverse Interest, such acquisition to be made at the City's sole cost and expense.

(b) In the event that any person or entity, however organized (other than the Bank or an assignee of the Bank), shall claim any interest that in any manner would, if such claim were determined to be valid, affect the City's or the Bank's interest in the Land (other than the Permitted Encumbrances), the City shall take such action, if any, that it and the Bank deem reasonably necessary to protect their respective interests in the Land.

(c) The City agrees to save and keep harmless the Bank, or any assignee of the Bank, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees) of whatever kind and nature, imposed on, incurred by or asserted against the Bank, or any assignee of the Bank, that in any way relate to or arise out of the assertion of any interest affecting the City's good and marketable title to the Land (other than the Permitted Encumbrances) by any person or entity, however organized (other than the Bank or any assignee of the Bank).

ARTICLE IV – DEFAULTS; REMEDIES

Section 4.01 Defaults. The following shall be an “event of default” or a “default” hereunder: (a) if the Bank shall fail to observe or perform any of the obligations of the Bank provided herein; or (b) if the City fails to observe or perform any of the obligations of the City provided herein.

Section 4.02 Remedies.

(a) Upon the occurrence of an event of default by the Bank hereunder, which shall remain uncured for 30 days after receipt by the Bank of written notice of such event of default from the City, the City may thereafter or any time subsequent thereto during the existence of such breach or default: (1) enter into and upon the Land and repossess the same, expelling and removing therefrom all persons and property, and (2) terminate this Primary Lease, holding the Bank liable for damages for its breach.

(b) Upon the occurrence of an event of default by the City, which shall remain uncured for 30 days after receipt by the City of written notice of such event of default from the Bank, the Bank may thereafter or any time subsequent thereto during the existence of such breach or default take whatever legal action or may appear necessary or desirable to enforce any obligation, covenant or agreement of the City under this Primary Lease, including, without limitation, bringing an action for damages against the City.

ARTICLE V – ADMINISTRATIVE PROVISIONS

Section 5.01 Binding Effect. This Primary Lease shall be binding upon, and inure to the benefit of, the parties hereto, and their successors and assigns.

Section 5.02 Applicable Law. This Primary Lease shall be interpreted and enforced in accordance with the laws of the State of Minnesota.

Section 5.03 Definitions. Capitalized terms not otherwise defined herein or required to be capitalized by the rules of grammar have the meanings given in the Lease-Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Primary Lease as of the date first written above.

CITY OF VERGAS, MINNESOTA

By _____
Mayor

By _____
Clerk-Treasurer

STATE OF MINNESOTA)
) ss.
COUNTY OF OTTER TAIL)

This instrument was acknowledged before me on _____, 2023, by Julie Bruhn and Julie Lammers, the Mayor and Clerk-Treasurer, respectively, of the City of Vergas, on behalf of the City.

Notary Public

(Signature page to Primary Lease between the City of Vergas, as Lessor, and Vergas State Bank, as Lessee)

VERGAS STATE BANK
as Lessor

By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF OTTER TAIL)

 This instrument was acknowledged before me on October ____, 2023, by
_____, the Senior Vice President of Vergas State Bank, a Minnesota banking
corporation, on behalf of the corporation.

Notary Public

(Signature page to Primary Lease between the City of Vergas, as Lessor, and Vergas State Bank,
as Lessee)

EXHIBIT A
Legal Description of the Land

[INSERT PROPERTY LEGAL DESCRIPTION]