

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

- 1. Public Hearing - Townline Road**
- 2. Call to Order**
- 3. Citizens' Concerns**
- 4. Agenda Additions and Deletions**
- 5. Approval of Consent Agenda**
 - a. Council Minutes of the July 13 and 22, 2021
 - b. Liquor Store bills for July 2021
 - c. Bills paid between Council meetings and Council bills
 - d. Late water/sewer bills
 - e. General Fund/Special Revenue Money Market Account Report
 - f. 2021 Investment Schedule/Bond Schedule
 - h. Certified bills to property taxes
- 6. City Attorney**
 - A. Thank you to retiring Attorney Steve Peloquin
 - B. Welcome to new Attorney Firm: Ramstad, Skoyles & Winters, P.A.
- 7. 1156 Frazee Ave**
- 8. Mayor's Update**
- 9. Committee Reports**
 - a. EDA/HRA
 - b. Park Advisory Board
 - c. Planning Commission
 - d. Event Center Advisory Board
- 10. 88 Park View Drive - Berm**
- 11. 105 Main Street**
 - a. Community Growth Partnership Grant
 - b. Tax Abatement
- 12. Construction Permits**
 - a. 151 1st Ave N, siding and replace current signs (to be mounted on building- same size and current signs)
 - b. 401 W Lake St., fence, rock moving, gate, planting trees
 - c. 100 S Townline Road, shed
- 13. LMC-Liability Coverage -Waiver**
- 14. Ottertail County Property - 140 E Linden St**
- 15. Ole's Ride**
- 16. Attic Shoppe Lease**
- 17. Otter Tail Lakes Country Association**
- 18. Fiscal Agent**
 - a. Pickleball
 - b. Veteran's Memorial
- 19. Veterans Memorial**
 - A. Assignment of City Representative
 - B. Phase 1

20. Staff Reports

- a. Utilities Superintendent Report
- b. Liquor Store Manager Report

21. Information & Announcements

- a. MN Rural Water Conference-Aug 24-26, 2021 (DFrane) St Cloud
- b. Clerks Advanced Academy- Sept. 23-24, 2021 (Lammers) St Cloud
- c. MN Beverage Association (MMBA)-Sept. 25-28, 2021 (Kaplan) Alexandria

22. Adjournment

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1. Public Hearing - Townline Road

Files Attached

- Public Hearing Dedication of Townline Road.pdf

VERGAS CITY COUNCIL
PUBLIC HEARING NOTICE

NOTICE OF PUBLIC HEARING REGARDING
PROPOSED DEDICATION OF TOWNLINE ROAD IN THE CITY LIMITS OF VERGAS MN

NOTICE IS HEREBY GIVEN that the Vergas City Council will hold public hearing on Tuesday, August 10, 2021, at 6:30 p.m. to be held in the Council Chambers at the Vergas Event Center, 140 Linden, Vergas, Minnesota, and on zoom id number 267-094-2170 (password 56587) to consider the dedication of Townline Road.

All interested parties are invited to attend and will be given the opportunity to ask questions and to provide public input and/or comments. If you are unable to attend the hearing, you are invited to submit your comments in writing to the City Clerk-Treasurer prior to the scheduled hearing. Written comments or questions will be addressed at the hearing and a written response will be provided by the City. Non-English-speaking residents and other persons with special needs who plan to attend the hearing are asked to contact City Hall (218) 342-2091 prior to the hearing so that arrangements can be made to address any special requirements.

Julie Lammers
City Clerk-Treasurer

Please Publish Frazee-Vergas Forum July 28 and August 4

AFFIDAVIT REQUIRED: Please send to – City of Vergas
Attn: Julie Lammers
City Clerk-Treasurer
P O Box 32
Vergas MN 56587

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5. Approval of Consent Agenda

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- e. General Fund/Special Revenue Money Market Account Report
- f. 2021 Investment Schedule/Bond Schedule
- h. Certified bills to property taxes

Files Attached

- Liquor Store bill listing for July.pdf
- City Bill Listing Between Council Meetings.pdf
- City Claims.pdf
- Utility Billing AgedBalance_08092021.pdf

City of Vergas Liquor Store Checks Paid in July 2021

Vendor	Description	Total
Alexandria Freight Service		\$40.00
Artic Glacier		\$1,541.75
Artisan Beer Company		\$599.50
Arvig Communications	Phone, Security, TV	\$132.16
Bergseth Bros		24,693.43
Beverage Wholesalers		8,949.21
Breakthru Beverage MN Wine and Spirits		5,065.93
Burkett, Jezmae	Supplies	\$2.16
City of Vergas	Utility	60.49
City of Vergas	Payroll	3,286.47
City of Vergas	Trasfer to City	15,000.00
Colonial Life	Employee Ins, reimbursed	159.86
Datamann, Inc	Computer Support	27.60
DCR Brewing Company		265.00
D-S Beverage		23,561.71
Great Plains Natural Gas	Utility	24.70
Hoffman, Philipp & Knutson	2020 Audit	3,375.00
Internal Revenue Service	2021 Withholding Tax	905.22
Jack Pine		234.00
Johnson Brothers Liquor Co		6,113.66
Leighton Broadcasting	Advertising	300.00
Lincoln Marketing, Inc	Advertising	249.50
Minnesota Municipal Beverage Assn.	Dues	600.00
MN Dept. of Revenue	2021 Withholding Tax	87.22
MN Dept. of Revenue	Sales Tax	\$8,581.38
Natalie's Serendipity	Supplies	181.46
NCR	Credit Card Fees	2,061.09
Otter Tail Power Company	Utility	723.25
Paustis Wine Company		399.00
PERA	Payroll	588.62
Phillips Wine & Spirits		3,587.48
Quill	Supplies	423.01
Southern Wine & Spirits of MN		6,702.88
True Brands		35.88
Viking Coca-Cola Bottling Co		586.30
Vinocopia, Inc.		241.02
	Total	119,385.94
	July Receipts	136,117.55
July Operating Income (Loss)		\$16,731.61
	Jan- June Operating Income (Loss)	\$31,328.44
2020 Total Operating Income (Loss)		\$48,060.05

CITY OF VERGAS

Bill Listing for July 15 to Aug. 9, 2021

<u>VENDOR</u>	<u>DESCRIPTION</u>	<u>TOTAL</u>
Adobe Reader	All Depts., Computer Program	16.10
Cash	Petty Cash - postage	28.01
City of Vergas	Payroll	14,275.16
DuFrane, Michael	Cell Phone	75.00
Engbretson, Matthew	Cell Phone	25.00
Internal Revenue Services	2021 Withholding Tax	1,959.99
Lake Region Electric	Sign, electricity	12.67
Lammers, Julie	Cell Phone	25.00
Microsoft	All depts., Office 365	21.48
MN Dept. of Revenue	Sales Tax	87.62
MN Dept. Revenue	2021 Withholding Tax	573.51
Northland Trust Services, Inc	St, \$985,000 Gen Obligation Improvement Bond	13,930.63
Public Employees Retirement Assoc.	Payroll	2,152.97
United States Postal Service	Postage	330.00
Vergas State Bank	Shazam Card	1.00
Total for bills paid between Council Meetings		<hr/> \$33,514.14

Date Range : 7/9/2021 To 8/10/2021

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
08/10/2021	Adkins Equipment, Inc.	Street & Parks, loader hose	54293	\$40.75			
					100-43110-210-	Highways, Streets & Roadways	\$20.38
					100-45210-210-	Parks	\$20.37
08/10/2021	Arvig Communication Systems	LS, Gg, Ev, Shop, phone, fax, internet, security	54294	\$671.17			
					609-49751-321-	Liquor Store - Manager - Off-Sale	\$132.16
					100-43010-321-	City Shop	\$64.00
					100-45110-321-	EVENT CENTER	\$209.91
					100-41010-321-	GENERAL GOVERNMENT	\$265.10
08/10/2021	Blue Cross Blue Shield of Minnesota	Employees Health Insurance Premium, August 2021	54295	\$1,448.62			
					100-41405-131-	Clerk	\$180.07
					601-49440-131-	Water Utilities - Administration and General	\$317.14
					602-49490-131-	Sewer Utilities - Administration and General	\$317.14
					100-43110-131-	Highways, Streets & Roadways	\$317.14
					100-45210-131-	Parks	\$317.13
08/10/2021	CDH-Vergas Fire Department	Fire and Rescue, 3rd Quarter contribution	54296	\$2,904.63			
					100-42210-405-	Fire Administration	\$2,904.63
08/10/2021	Calvary Lutheran Church	Event, refund 4 Sundays due to other events	54297	\$140.00			
					100-45110-810-	EVENT CENTER	\$140.00
08/10/2021	Colonial Life	Employee, insurance employee reimbursed	54298	\$217.98			
					100-41405-999-	Clerk	\$58.12
					609-49751-999-	Liquor Store - Manager - Off-Sale	\$159.86
08/10/2021	Core & Main LP	Water & Sewer, operating parts	54299	\$2,373.78			
					601-49440-210-	Water Utilities - Administration and General	\$1,186.89

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					602-49490-530-	Sewer Utilities - Administration and General	\$1,186.89
08/10/2021	Michael DuFrane	St, Park, Wtr, Swr, reimbursement for cell phone	54300	\$75.00			
					100-43110-321-	Highways, Streets & Roadways	\$18.75
					100-45210-321-	Parks	\$18.75
					601-49440-321-	Water Utilities - Administration and General	\$18.75
					602-49490-321-	Sewer Utilities - Administration and General	\$18.75
08/10/2021	Dacotah Paper Company	LS, Event, Parks, supplies	54301	\$701.68			
					100-45110-211-	EVENT CENTER	\$192.82
					609-49751-211-	Liquor Store - Manager - Off-Sale	\$229.60
					100-45210-211-	Parks	\$242.06
					100-41010-211-	GENERAL GOVERNMENT	\$37.20
08/10/2021	Dewey's Septic Service	LS, Sewer, Park, Clean out LS sewer line,sanitary sewer jetted & cleaned sand w/vac truck	54302	\$6,842.50			
					602-49490-300-	Sewer Utilities - Administration and General	\$5,767.50
					100-45210-400-	Parks	\$850.00
					609-49751-400-	Liquor Store - Manager - Off-Sale	\$225.00
08/10/2021	Matthew Engebretson	Park, St, Phone reimbursement	54303	\$25.00			
					100-45210-321-	Parks	\$12.50
					100-43110-321-	Highways, Streets & Roadways	\$12.50
08/10/2021	Essentia Health	Str, DuFrane physical	54304	\$100.00			
					100-43110-300-	Highways, Streets & Roadways	\$100.00
08/10/2021	Franklin Fence Company, Inc.	Parks, supply	54305	\$38.00			
					100-45210-210-	Parks	\$38.00

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08/10/2021	Farnam's Genuine Parts, Inc.	Street, parts	54306	\$158.07			
					100-43110-220-	Highways, Streets & Roadways	\$158.07
08/10/2021	Gopher State One Call	Wtr, Swr, Locates	54307	\$17.55			
					602-49490-210-	Sewer Utilities - Administration and General	\$8.77
					601-49440-210-	Water Utilities - Administration and General	\$8.78
08/10/2021	Great Plains Natural Gas Company	Event, Shop, 2021 utility	54308	\$165.31			
					100-45110-380-	EVENT CENTER	\$94.06
					100-43010-380-	City Shop	\$71.25
08/10/2021	Hansons Plumbing & Heating, Inc.	Park, supplies for repairs to sprinkler system	54309	\$383.02			
					100-45210-210-	Parks	\$383.02
08/10/2021	Isaac Ratz	Park, Monument Wall improvement	54310	\$2,475.00			
					100-45210-530-	Parks	\$2,475.00
08/10/2021	INTERNATION INST OF MUNICIPAL CLERK	Clerk, Dues	54311	\$175.00			
					100-41405-345-	Clerk	\$58.33
					601-41405-345-	Clerk	\$58.33
					602-41405-345-	Clerk	\$58.34
08/10/2021	Julie Lammers	All Depts, cell phone reimbursment	54312	\$75.00			
					100-41405-321-	Clerk	\$25.00
					601-49440-321-	Water Utilities - Administration and General	\$25.00
					602-49490-321-	Sewer Utilities - Administration and General	\$25.00
08/10/2021	KLJ Engineering LLC	Engineering services-88 Park View Drive, Easement Skating	54313	\$3,297.17			
					100-41010-303-	GENERAL GOVERNMENT	\$2,897.17
					100-41010-303-	GENERAL GOVERNMENT	\$400.00

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08/10/2021	KLM Engineering Inc.	Water, ROV	54314	\$1,870.00	601-49440-310-	Water Utilities - Administration and General	\$1,870.00
08/10/2021	L & M Supply, Inc.	St, Wastewater, tools	54315	\$134.96	100-43110-240- 602-49440-240-	Highways, Streets & Roadways Water Utilities - Administration and General	\$119.97 \$14.99
08/10/2021	Lake Region Electric Cooperative	Yard Waste, lighting & power for camera	54316	\$62.47	100-43128-380-	YARD WASTE	\$62.47
08/10/2021	Leighton Broadcasting	LS, Event, advertising	54317	\$600.00	609-49751-340- 100-45110-340-	Liquor Store - Manager - Off-Sale EVENT CENTER	\$300.00 \$300.00
08/10/2021	Madison National Life Ins Co, Inc	Employee short term Insurance	54318	\$69.06	100-45210-130- 601-49440-130- 602-49490-130- 100-41405-130-	Parks Water Utilities - Administration and General Sewer Utilities - Administration and General Clerk	\$11.50 \$23.03 \$23.03 \$11.50
08/10/2021	Marco Inc	Copier, contract	54319	\$154.74	100-41010-200- 601-49440-200- 602-49490-200-	GENERAL GOVERNMENT Water Utilities - Administration and General Sewer Utilities - Administration and General	\$51.58 \$51.58 \$51.58
08/10/2021	MENARDS - DETROIT LAKES	Shop & LS, supplies	54320	\$40.85	100-43010-210- 609-49751-210-	City Shop Liquor Store - Manager - Off-Sale	\$7.89 \$32.96
08/10/2021	Otter Tail Power Company	All depts, utility	54321	\$2,206.36	100-43160-380-	Street Lighting	\$675.72

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					100-45110-380-	EVENT CENTER	\$551.20
					601-49440-380-	Water Utilities - Administration and General	\$448.67
					602-49490-380-	Sewer Utilities - Administration and General	\$202.70
					100-43010-380-	City Shop	\$87.30
					100-45210-380-	Parks	\$240.77
08/10/2021	Peloquin, Jenson PLLC	Legal Fees Invoices 21064, 54062	54322	\$2,335.30			
					100-41610-304-	City/Town Attorney	\$2,335.30
08/10/2021	Perham Printing	GG, letterhead	54323	\$68.40			
					100-41010-200-	GENERAL GOVERNMENT	\$68.40
08/10/2021	Productive Alternatives	Event Center, Cleaning	54324	\$123.38			
					100-45110-300-	EVENT CENTER	\$123.38
08/10/2021	RMB Environmental Laboratories, Inc	Water, Chemicals	54325	\$20.00			
					601-49440-218-	Water Utilities - Administration and General	\$20.00
08/10/2021	S & S Security Services, LLC	Event, security system	54326	\$4,486.55			
					100-45110-530-	EVENT CENTER	\$4,486.55
08/10/2021	Tyler Saazma	Park, reimbursed mowing expense	54327	\$330.00			
					100-45210-810-	Parks	\$330.00
08/10/2021	Stallman, William	Lagoon, removal of woodchuck	54328	\$50.00			
					602-49490-400-	Sewer Utilities - Administration and General	\$50.00
08/10/2021	Steve's Sanitation, Inc.	Park, Event, garbage pick up	54329	\$305.35			
					100-45210-384-	Parks	\$198.99
					100-45110-384-	EVENT CENTER	\$106.36
08/10/2021	U.S. Bank	Go Water and Sewer Bond Series 2009	54330	\$500.00			

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					310-41010-620-	GENERAL GOVERNMENT	\$500.00
08/10/2021	Vergas Hardware	All Depts, supplies	54331	\$551.12			
					100-45210-210-	Parks	\$363.79
					100-45110-210-	EVENT CENTER	\$45.47
					609-49751-210-	Liquor Store - Manager - Off-Sale	\$18.98
					601-49400-210-	Water Utilities - Source of Supply	\$70.89
					602-49490-210-	Sewer Utilities - Administration and General	\$32.00
					100-43110-210-	Highways, Streets & Roadways	\$19.99
08/10/2021	Olson Oil Co.	All Depts, operating supplies	54332	\$162.52			
					100-43110-210-	Highways, Streets & Roadways	\$162.52
08/10/2021	Lakes Area Co-operative	Pks, operating fuel	54333	\$247.33			
					100-45210-210-	Parks	\$247.33
Total For Selected Claims				\$36,643.62			\$36,643.62

Bruce E Albright	City Council/Town Board	Date
Julie A Bruhn	City Council/Town Board	Date
Logan M Dahlgren	City Council/Town Board	Date
Natalie K Fischer	City Council/Town Board	Date

AGED BALANCES

CITY OF VERGAS

DATE: 08/09/2021 AUTHOR: VERJL22

CRITERIA: ACCT#: 0 - 999999999 NAME: 0 - Z ZIP: 0 - 0 * includes unbilled transactions

STATUS KEY: N=NORMAL W=NEW C=CUTOFF O=CHARGEOFF I=INACTIVE F=FINAL D=DISABLED R=RENTER L=LANDLORD

Acct#	Stat	Customer	Current	Over 30	Over 60	Over 90	Balance
80	N	PENNEY, JOYCE	\$78.03	\$73.67	\$63.15	\$0.00	\$214.85
361	N	RHONDA UEKE	\$103.08	\$94.80	\$76.45	\$0.00	\$274.33
501	N	PHILLIP KERN	\$120.61	\$86.73	\$79.39	\$138.44	\$425.17
550	N	HOWE, JEREMIAH	\$142.84	\$114.58	\$91.62	\$206.68	\$555.72
570	N	TONY LICENSE	\$144.00	\$104.73	\$100.12	\$171.65	\$520.50
621	N	WOODS, CASSANDRA	\$104.25	\$114.96	\$80.06	\$0.00	\$299.27
1220	N	VERGAS POST OFFICE	\$73.07	\$72.44	\$65.86	\$0.00	\$211.37
Totals(7):			\$765.88	\$661.91	\$556.65	\$516.77	\$2,501.21

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6:30 PM on Tuesday, August 10, 2021

6. City Attorney

- A. Thank you to retiring Attorney Steve Peloquin
- B. Welcome to new Attorney Firm: Ramstad, Skoyles & Winters, P.A.

Files Attached

- Draft RESOLUTION for Prosecuting Attorney only.pdf
- Vergas Pros Attny Court Amendment.pdf
- Vergas Pros Attny Master JPA.pdf
- Vergas Contract for City Attorney 2021.pdf

RESOLUTION NO. _____

**RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS WITH THE CITY OF
VERGAS ON BEHALF OF ITS CITY ATTORNEY**

WHEREAS, the City of Vergas on behalf of its Prosecuting Attorney and Police Department desires to enter into Joint Powers Agreements with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to use systems and tools available over the State's criminal justice data communications network for which the City is eligible. The Joint Powers Agreements further provide the City with the ability to add, modify and delete connectivity, systems and tools over the five year life of the agreement and obligates the City to pay the costs for the network connection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Vergas, Minnesota as follows:

1. That the State of Minnesota Joint Powers Agreements by and between the State of Minnesota acting through its Department of Public Safety, Bureau of Criminal Apprehension and the City of Vergas on behalf of its Prosecuting Attorney and Police Department, are hereby approved.
3. That the City Clerk-Treasurer, Julie Lammers, or his or her successor, is designated the Authorized Representative for the Prosecuting Attorney. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.
4. That Julie Bruhn, the Mayor for the City of Vergas, and Julie Lammers, the City Clerk-Treasurer, are authorized to sign the State of Minnesota Joint Powers Agreements.

Passed and Adopted by the Council on this 10th day of August 2021.

CITY OF Vergas

By: Julie Bruhn
Its Mayor

ATTEST: _____
By: Julie Lammers
Its City Clerk-Treasurer

COURT DATA SERVICES SUBSCRIBER AMENDMENT TO CJDN SUBSCRIBER AGREEMENT

This Court Data Services Subscriber Amendment (“Subscriber Amendment”) is entered into by the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension, (“BCA”) and the City of Vergas on behalf of its Prosecuting Attorney (“Agency”), and by and for the benefit of the State of Minnesota acting through its State Court Administrator’s Office (“Court”) who shall be entitled to enforce any provisions hereof through any legal action against any party.

Recitals

This Subscriber Amendment modifies and supplements the Agreement between the BCA and Agency, SWIFT Contract number 198059, of even or prior date, for Agency use of BCA systems and tools (referred to herein as “the CJDN Subscriber Agreement”). Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes this Subscriber Amendment. The Agency desires to use one or more BCA systems and tools to access and/or submit Court Records to assist the Agency in the efficient performance of its duties as required or authorized by law or court rule. Court desires to permit such access and/or submission. This Subscriber Amendment is intended to add Court as a party to the CJDN Subscriber Agreement and to create obligations by the Agency to the Court that can be enforced by the Court. It is also understood that, pursuant to the Master Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA, the BCA is authorized to sign this Subscriber Amendment on behalf of Court. Upon execution the Subscriber Amendment will be incorporated into the CJDN Subscriber Agreement by reference. The BCA, the Agency and the Court desire to amend the CJDN Subscriber Agreement as stated below.

The CJDN Subscriber Agreement is amended by the addition of the following provisions:

1. **TERM; TERMINATION; ONGOING OBLIGATIONS.** This Subscriber Amendment shall be effective on the date finally executed by all parties and shall remain in effect until expiration or termination of the CJDN Subscriber Agreement unless terminated earlier as provided in this Subscriber Amendment. Any party may terminate this Subscriber Amendment with or without cause by giving written notice to all other parties. The effective date of the termination shall be thirty days after the other party's receipt of the notice of termination, unless a later date is specified in the notice. The provisions of sections 5 through 9, 12.b., 12.c., and 15 through 24 shall survive any termination of this Subscriber Amendment as shall any other provisions which by their nature are intended or expected to survive such termination. Upon termination, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

2. **Definitions.** Unless otherwise specifically defined, each term used herein shall have the meaning assigned to such term in the CJDN Subscriber Agreement.

a. **“Authorized Court Data Services”** means Court Data Services that have been authorized for delivery to CJDN Subscribers via BCA systems and tools pursuant to an Authorization Amendment to the Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA.

b. **“Court Data Services”** means one or more of the services set forth on the Justice Agency Resource webpage of the Minnesota Judicial Branch website (for which the current address is www.courts.state.mn.us) or other location designated by the Court, as the same may be amended from time to time by the Court.

c. **“Court Records”** means all information in any form made available by the Court to Subscriber through the BCA for the purposes of carrying out this Subscriber Amendment, including:

- i. **“Court Case Information”** means any information in the Court Records that conveys information about a particular case or controversy, including without limitation Court Confidential Case Information, as defined herein.
- ii. **“Court Confidential Case Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that conveys information about a particular case or controversy.
- iii. **“Court Confidential Security and Activation Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that explains how to use or gain access to Court Data Services, including but not limited to login account names, passwords, TCP/IP addresses, Court Data Services user manuals, Court Data Services Programs, Court Data Services Databases, and other technical information.
- iv. **“Court Confidential Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access, including without limitation both i) Court Confidential Case Information; and ii) Court Confidential Security and Activation Information.

d. **“DCA”** shall mean the district courts of the state of Minnesota and their respective staff.

e. **“Policies & Notices”** means the policies and notices published by the Court in connection with each of its Court Data Services, on a website or other location designated by the Court, as the same may be amended from time to time by the Court. Policies & Notices for each Authorized Court Data Service identified in an approved request form under section 3, below, are hereby made part of this Subscriber Amendment by this reference and provide additional terms and conditions that govern Subscriber’s use of Court Records accessed through such services, including but not limited to provisions on access and use limitations.

f. **“Rules of Public Access”** means the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time, including without limitation lists or tables published from time to time by the Court entitled *Limits on Public Access to Case Records* or *Limits on Public Access to Administrative Records*, all of which by this reference are made a part of this Subscriber Amendment. It is the obligation of Subscriber to check from time to time for updated rules, lists, and tables and be familiar with the contents thereof. It is contemplated that such rules, lists, and tables will be posted on the Minnesota Judicial Branch website, for which the current address is www.courts.state.mn.us.

g. **“Court”** shall mean the State of Minnesota, State Court Administrator's Office.

h. **“Subscriber”** shall mean the Agency.

i. **“Subscriber Records”** means any information in any form made available by the Subscriber to the Court for the purposes of carrying out this Subscriber Amendment.

3. REQUESTS FOR AUTHORIZED COURT DATA SERVICES. Following execution of this Subscriber Amendment by all parties, Subscriber may submit to the BCA one or more separate requests for Authorized Court Data Services. The BCA is authorized in the Master Authorization Agreement to process, credential and approve such requests on behalf of Court and all such requests approved by the BCA are adopted and incorporated herein by this reference the same as if set forth verbatim herein.

a. **Activation.** Activation of the requested Authorized Court Data Service(s) shall occur promptly following approval.

b. **Rejection.** Requests may be rejected for any reason, at the discretion of the BCA and/or the Court.

c. **Requests for Termination of One or More Authorized Court Data Services.** The Subscriber may request the termination of an Authorized Court Data Services previously requested by submitting a notice to Court with a copy to the BCA. Promptly upon receipt of a request for termination of an Authorized Court Data Service, the BCA will deactivate the service requested. The termination of one or more Authorized Court Data Services does not terminate this Subscriber Amendment. Provisions for termination of this Subscriber Amendment are set forth in section 1. Upon termination of Authorized Court Data Services, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

4. SCOPE OF ACCESS TO COURT RECORDS LIMITED. Subscriber's access to and/or submission of the Court Records shall be limited to Authorized Court Data Services identified in an approved request form under section 3, above, and other Court Records necessary for Subscriber to use Authorized Court Data Services. Authorized Court Data Services shall only be used according to the instructions provided in corresponding Policies & Notices or other materials and only as necessary to assist Subscriber in the efficient performance of Subscriber's duties

required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body. Subscriber's access to the Court Records for personal or non-official use is prohibited. Subscriber will not use or attempt to use Authorized Court Data Services in any manner not set forth in this Subscriber Amendment, Policies & Notices, or other Authorized Court Data Services documentation, and upon any such unauthorized use or attempted use the Court may immediately terminate this Subscriber Amendment without prior notice to Subscriber.

5. GUARANTEES OF CONFIDENTIALITY. Subscriber agrees:

a. To not disclose Court Confidential Information to any third party except where necessary to carry out the Subscriber's duties as required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body.

b. To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of Court Confidential Information and to satisfy Subscriber's obligations under this Subscriber Amendment.

c. To limit the use of and access to Court Confidential Information to Subscriber's bona fide personnel whose use or access is necessary to effect the purposes of this Subscriber Amendment, and to advise each individual who is permitted use of and/or access to any Court Confidential Information of the restrictions upon disclosure and use contained in this Subscriber Amendment, requiring each individual who is permitted use of and/or access to Court Confidential Information to acknowledge in writing that the individual has read and understands such restrictions. Subscriber shall keep such acknowledgements on file for one year following termination of the Subscriber Amendment and/or CJDN Subscriber Agreement, whichever is longer, and shall provide the Court with access to, and copies of, such acknowledgements upon request. For purposes of this Subscriber Amendment, Subscriber's bona fide personnel shall mean individuals who are employees of Subscriber or provide services to Subscriber either on a voluntary basis or as independent contractors with Subscriber.

d. That, without limiting section 1 of this Subscriber Amendment, the obligations of Subscriber and its bona fide personnel with respect to the confidentiality and security of Court Confidential Information shall survive the termination of this Subscriber Amendment and the CJDN Subscriber Agreement and the termination of their relationship with Subscriber.

e. That, notwithstanding any federal or state law applicable to the nondisclosure obligations of Subscriber and Subscriber's bona fide personnel under this Subscriber Amendment, such obligations of Subscriber and Subscriber's bona fide personnel are founded independently on the provisions of this Subscriber Amendment.

6. APPLICABILITY TO PREVIOUSLY DISCLOSED COURT RECORDS.

Subscriber acknowledges and agrees that all Authorized Court Data Services and related Court Records disclosed to Subscriber prior to the effective date of this Subscriber Amendment shall be subject to the provisions of this Subscriber Amendment.

7. LICENSE AND PROTECTION OF PROPRIETARY RIGHTS. During the term of this Subscriber Amendment, subject to the terms and conditions hereof, the Court hereby grants to Subscriber a nonexclusive, nontransferable, limited license to use Court Data Services Programs and Court Data Services Databases to access or receive the Authorized Court Data Services identified in an approved request form under section 3, above, and related Court Records. Court reserves the right to make modifications to the Authorized Court Data Services, Court Data Services Programs, and Court Data Services Databases, and related materials without notice to Subscriber. These modifications shall be treated in all respects as their previous counterparts.

a. Court Data Services Programs. Court is the copyright owner and licensor of the Court Data Services Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the Court Data Services Programs, and all information contained in documentation pertaining to the Court Data Services Programs, including but not limited to manuals, user documentation, and passwords, are trade secret information of Court and its licensors.

b. Court Data Services Databases. Court is the copyright owner and licensor of the Court Data Services Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the Court Data Services Databases and their structure, sequence and organization, including without limitation data schemas such as the Court XML Schema, are trade secret information of Court and its licensors.

c. Marks. Subscriber shall neither have nor claim any right, title, or interest in or use of any trademark used in connection with Authorized Court Data Services, including but not limited to the marks "MNCIS" and "Odyssey."

d. Restrictions on Duplication, Disclosure, and Use. Trade secret information of Court and its licensors will be treated by Subscriber in the same manner as Court Confidential Information. In addition, Subscriber will not copy any part of the Court Data Services Programs or Court Data Services Databases, or reverse engineer or otherwise attempt to discern the source code of the Court Data Services Programs or Court Data Services Databases, or use any trademark of Court or its licensors, in any way or for any purpose not specifically and expressly authorized by this Subscriber Amendment. As used herein, "trade secret information of Court and its licensors" means any information possessed by Court which derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of Court and its licensors" does not, however, include information which was known to Subscriber prior to Subscriber's receipt thereof, either directly or indirectly, from Court or its licensors, information which is independently developed by Subscriber without reference to or use of information received from Court or its licensors, or information which would not qualify as a trade secret under Minnesota law. It will not be a violation of this section 7, sub-section d, for Subscriber to make up to one copy of training materials and configuration documentation, if any, for each individual authorized to access, use, or configure Authorized Court Data Services, solely for its own use in connection with this Subscriber Amendment. Subscriber will take all steps reasonably necessary to protect the copyright, trade secret, and trademark rights of Court and its licensors and Subscriber will advise its bona fide personnel who are permitted access to any of the Court Data Services Programs and Court Data Services Databases, and trade secret information of Court and its licensors, of the restrictions upon duplication, disclosure and use contained in this Subscriber Amendment.

e. Proprietary Notices. Subscriber will not remove any copyright or proprietary notices included in and/or on the Court Data Services Programs or Court Data Services Databases, related documentation, or trade secret information of Court and its licensors, or any part thereof, made available by Court directly or through the BCA, if any, and Subscriber will include in and/or on any copy of the Court Data Services Programs or Court Data Services Databases, or trade secret information of Court and its licensors and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to Subscriber by Court directly or through the BCA, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

f. Title; Return. The Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration material, if any, and logon account information and passwords, if any, made available by the Court to Subscriber directly or through the BCA and all copies, including partial copies, thereof are and remain the property of the respective licensor. Except as expressly provided in section 12.b., within ten days of the effective date of termination of this Subscriber Amendment or the CJDN Subscriber Agreement or within ten days of a request for termination of Authorized Court Data Service as described in section 4, Subscriber shall either: (i) uninstall and return any and all copies of the applicable Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration materials, if any, and logon account information, if any; or (2) destroy the same and certify in writing to the Court that the same have been destroyed.

8. INJUNCTIVE RELIEF. Subscriber acknowledges that the Court, Court's licensors, and DCA will be irreparably harmed if Subscriber's obligations under this Subscriber Amendment are not specifically enforced and that the Court, Court's licensors, and DCA would not have an adequate remedy at law in the event of an actual or threatened violation by Subscriber of its obligations. Therefore, Subscriber agrees that the Court, Court's licensors, and DCA shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by Subscriber or its bona fide personnel without the necessity of the Court, Court's licensors, or DCA showing actual damages or that monetary damages would not afford an adequate remedy. Unless Subscriber is an office, officer, agency, department, division, or bureau of the state of Minnesota, Subscriber shall be liable to the Court, Court's licensors, and DCA for reasonable attorneys fees incurred by the Court, Court's licensors, and DCA in obtaining any relief pursuant to this Subscriber Amendment.

9. LIABILITY. Subscriber and the Court agree that, except as otherwise expressly provided herein, each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Liability shall be governed by applicable law. Without limiting the foregoing, liability of the Court and any Subscriber that is an office, officer, agency, department, division, or bureau of the state of Minnesota shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, section 3.376, and other applicable law. Without limiting the foregoing, if Subscriber is a political subdivision of the state of Minnesota, liability of the Subscriber shall be governed by the provisions of Minn. Stat. Ch. 466 (Tort Liability, Political Subdivisions) or other applicable law. Subscriber and Court further acknowledge that the liability, if any, of the BCA is governed by a separate agreement between the Court and the BCA dated December 13, 2010 with DPS-M -0958.

10. AVAILABILITY. Specific terms of availability shall be established by the Court and communicated to Subscriber by the Court and/or the BCA. The Court reserves the right to terminate this Subscriber Amendment immediately and/or temporarily suspend Subscriber's Authorized Court Data Services in the event the capacity of any host computer system or legislative appropriation of funds is determined solely by the Court to be insufficient to meet the computer needs of the courts served by the host computer system.

11. [reserved]

12. ADDITIONAL USER OBLIGATIONS. The obligations of the Subscriber set forth in this section are in addition to the other obligations of the Subscriber set forth elsewhere in this Subscriber Amendment.

a. Judicial Policy Statement. Subscriber agrees to comply with all policies identified in Policies & Notices applicable to Court Records accessed by Subscriber using Authorized Court Data Services. Upon failure of the Subscriber to comply with such policies, the Court shall have the option of immediately suspending the Subscriber's Authorized Court Data Services on a temporary basis and/or immediately terminating this Subscriber Amendment.

b. Access and Use; Log. Subscriber shall be responsible for all access to and use of Authorized Court Data Services and Court Records by Subscriber's bona fide personnel or by means of Subscriber's equipment or passwords, whether or not Subscriber has knowledge of or authorizes such access and use. Subscriber shall also maintain a log identifying all persons to whom Subscriber has disclosed its Court Confidential Security and Activation Information, such as user ID(s) and password(s), including the date of such disclosure. Subscriber shall maintain such logs for a minimum period of six years from the date of disclosure, and shall provide the Court with access to, and copies of, such logs upon request. The Court may conduct audits of Subscriber's logs and use of Authorized Court Data Services and Court Records from time to time. Upon Subscriber's failure to maintain such logs, to maintain accurate logs, or to promptly provide access by the Court to such logs, the Court may terminate this Subscriber Amendment without prior notice to Subscriber.

c. Personnel. Subscriber agrees to investigate, at the request of the Court and/or the BCA, allegations of misconduct pertaining to Subscriber's bona fide personnel having access to or use of Authorized Court Data Services, Court Confidential Information, or trade secret information of the Court and its licensors where such persons are alleged to have violated the provisions of this Subscriber Amendment, Policies & Notices, Judicial Branch policies, or other security requirements or laws regulating access to the Court Records.

d. Minnesota Data Practices Act Applicability. If Subscriber is a Minnesota Government entity that is subject to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, Subscriber acknowledges and agrees that: (1) the Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court; (2) Minn. Stat. section 13.03, subdivision 4(e) requires that Subscriber comply with the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court for access to Court Records provided via the

BCA systems and tools under this Subscriber Amendment; (3) the use of and access to Court Records may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law; and (4) these applicable restrictions must be followed in the appropriate circumstances.

13. FEES; INVOICES. Unless the Subscriber is an office, officer, department, division, agency, or bureau of the state of Minnesota, Subscriber shall pay the fees, if any, set forth in applicable Policies & Notices, together with applicable sales, use or other taxes. Applicable monthly fees commence ten (10) days after notice of approval of the request pursuant to section 3 of this Subscriber Amendment or upon the initial Subscriber transaction as defined in the Policies & Notices, whichever occurs earlier. When fees apply, the Court shall invoice Subscriber on a monthly basis for charges incurred in the preceding month and applicable taxes, if any, and payment of all amounts shall be due upon receipt of invoice. If all amounts are not paid within 30 days of the date of the invoice, the Court may immediately cancel this Subscriber Amendment without notice to Subscriber and pursue all available legal remedies. Subscriber certifies that funds have been appropriated for the payment of charges under this Subscriber Amendment for the current fiscal year, if applicable.

14. MODIFICATION OF FEES. Court may modify the fees by amending the Policies & Notices as provided herein, and the modified fees shall be effective on the date specified in the Policies & Notices, which shall not be less than thirty days from the publication of the Policies & Notices. Subscriber shall have the option of accepting such changes or terminating this Subscriber Amendment as provided in section 1 hereof.

15. WARRANTY DISCLAIMERS.

a. WARRANTY EXCLUSIONS. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED HEREIN, COURT, COURT'S LICENSORS, AND DCA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, NOR ARE ANY WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE INFORMATION, SERVICES OR COMPUTER PROGRAMS MADE AVAILABLE UNDER THIS AGREEMENT.

b. ACCURACY AND COMPLETENESS OF INFORMATION. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, COURT, COURT'S LICENSORS, AND DCA MAKE NO WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THE COURT RECORDS.

16. RELATIONSHIP OF THE PARTIES. Subscriber is an independent contractor and shall not be deemed for any purpose to be an employee, partner, agent or franchisee of the Court, Court's licensors, or DCA. Neither Subscriber nor the Court, Court's licensors, or DCA shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

17. NOTICE. Except as provided in section 2 regarding notices of or modifications to Authorized Court Data Services and Policies & Notices, any notice to Court or Subscriber

hereunder shall be deemed to have been received when personally delivered in writing or seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at the address set forth on page one of this Agreement or at such other address of which notice has been given in accordance herewith.

18. NON-WAIVER. The failure by any party at any time to enforce any of the provisions of this Subscriber Amendment or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Subscriber Amendment. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

19. FORCE MAJEURE. Neither Subscriber nor Court shall be responsible for failure or delay in the performance of their respective obligations hereunder caused by acts beyond their reasonable control.

20. SEVERABILITY. Every provision of this Subscriber Amendment shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Subscriber Amendment so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Subscriber Amendment, and all other provisions shall remain in full force and effect.

21. ASSIGNMENT AND BINDING EFFECT. Except as otherwise expressly permitted herein, neither Subscriber nor Court may assign, delegate and/or otherwise transfer this Subscriber Amendment or any of its rights or obligations hereunder without the prior written consent of the other. This Subscriber Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any other legal entity into, by or with which Subscriber may be merged, acquired or consolidated.

22. GOVERNING LAW. This Subscriber Amendment shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota.

23. VENUE AND JURISDICTION. Any action arising out of or relating to this Subscriber Amendment, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. Subscriber hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

24. INTEGRATION. This Subscriber Amendment contains all negotiations and agreements between the parties. No other understanding regarding this Subscriber Amendment, whether written or oral, may be used to bind either party, provided that all terms and conditions of the CJDN Subscriber Agreement and all previous amendments remain in full force and effect except as supplemented or modified by this Subscriber Amendment.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Subscriber Amendment in duplicate, intending to be bound thereby.

1. SUBSCRIBER (AGENCY)

Subscriber must attach written verification of authority to sign on behalf of and bind the entity, such as an opinion of counsel or resolution.

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION delegated to Materials Management Division

By: _____

Date: _____

4. COURTS

Authority granted to Bureau of Criminal Apprehension

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with authorized authority)

Date: _____



State of Minnesota Joint Powers Agreement

This Agreement is between the State of Minnesota, acting through its Department of Public Safety on behalf of the Bureau of Criminal Apprehension ("BCA"), and the City of Vergas of behalf of its Prosecuting Attorney ("Governmental Unit"). The BCA and the Governmental Unit may be referred to jointly as "Parties."

Recitals

Under Minn. Stat. § 471.59, the BCA and the Governmental Unit are empowered to engage in agreements that are necessary to exercise their powers. Under Minn. Stat. § 299C.46, the BCA must provide a criminal justice data communications network to benefit political subdivisions as defined under Minn. Stat. § 299C.46, subd. 2 and subd. 2(a). The Governmental Unit is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this Agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit authorized political subdivisions in performing their duties. The Governmental Unit wants to access data in support of its official duties.

The purpose of this Agreement is to create a method by which the Governmental Unit has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

Agreement

1 Term of Agreement

- 1.1 **Effective Date.** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 **Expiration Date.** This Agreement expires five years from the date it is effective.

2 Agreement Between the Parties

- 2.1 **General Access.** BCA agrees to provide Governmental Unit with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Governmental Unit is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.

- 2.2 **Methods of Access.**

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

- A. **Direct access** occurs when individual users at the Governmental Unit use the Governmental Unit's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.
- B. **Indirect Access** occurs when individual users at the Governmental Unit go to another Governmental Unit to obtain data and information from BCA's systems and tools. This method of access generally results in the Governmental Unit with indirect access obtaining the needed data and information in a physical format like a paper report.
- C. **Computer-to-Computer System Interface** occurs when the Governmental Unit's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Governmental Unit employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Governmental Unit will select a

method of access and can change the methodology following the process in Clause 2.10.

- 2.3 Federal Systems Access.** In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA may provide Governmental Unit with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.
- 2.4 Governmental Unit Policies.** Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Governmental Unit has created its own policies to ensure that Governmental Unit's employees and contractors comply with all applicable requirements. Governmental Unit ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at <https://bcanextest.x.state.mn.us/launchpad/>.
- 2.5 Governmental Unit Resources.** To assist Governmental Unit in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>. Additional information on appropriate use is found in the Minnesota Bureau of Criminal Apprehension Policy on Appropriate Use of Systems and Data available at <https://bcanextest.x.state.mn.us/launchpad/cjisdocs/docs.cgi?cmd=FS&ID=795&TYPE=DOCS>.
- 2.6 Access Granted.**
- A. Governmental Unit is granted permission to use all current and future BCA systems and tools for which Governmental Unit is eligible. Eligibility is dependent on Governmental Unit (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Governmental Unit's written request for use of a specific system or tool.
 - B. To facilitate changes in systems and tools, Governmental Unit grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Governmental Unit needs to meet its criminal justice obligations and for which Governmental Unit is eligible.
- 2.7 Future Access.** On written request from the Governmental Unit, BCA also may provide Governmental Unit with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Governmental Unit agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.
- 2.8 Limitations on Access.** BCA agrees that it will comply with applicable state and federal laws when making information accessible. Governmental Unit agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.
- 2.9 Supersedes Prior Agreements.** This Agreement supersedes any and all prior agreements between the BCA and the Governmental Unit regarding access to and use of systems and tools provided by BCA.
- 2.10 Requirement to Update Information.** The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving the Governmental Unit as its prosecutor. Any change in performance of the prosecutorial function must be provided to the BCA in writing by giving notice to the Service Desk, BCA.ServiceDesk@state.mn.us.

- 2.11 Transaction Record.** The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Governmental Unit conducted a

particular transaction.

If Governmental Unit uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Governmental Unit's method of access is a computer-to-computer interface as described in Clause 2.2C, the Governmental Unit must keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If a Governmental Unit accesses data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety and keeps a copy of the data, Governmental Unit must have a transaction record of all subsequent access to the data that are kept by the Governmental Unit. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

- 2.12 Court Information Access.** Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Governmental Unit if the Governmental Unit completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by the Governmental Unit under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Governmental Unit's access to and/or submission of the Court Records delivered through the BCA systems and tools.
- 2.13 Vendor Personnel Screening.** The BCA will conduct all vendor personnel screening on behalf of Governmental Unit as is required by the FBI CJIS Security Policy. The BCA will maintain records of the federal, fingerprint-based background check on each vendor employee as well as records of the completion of the security awareness training that may be relied on by the Governmental Unit.

3 Payment

The Governmental Unit currently accesses the criminal justice data communications network described in Minn. Stat. §299C.46. At the time this Agreement is signed, BCA understands that a third party will be responsible for the cost of access.

The Governmental Unit will identify the third party and provide the BCA with the contact information and its contact person for billing purposes so that billing can be established. The Governmental Unit will provide updated information to BCA's Authorized Representative within ten business days when this information changes.

If Governmental Unit chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

4 Authorized Representatives

The BCA's Authorized Representative is the person below, or her successor:

Name:	Dana Gotz, Deputy Superintendent
Address:	Minnesota Department of Public Safety; Bureau of Criminal Apprehension 1430 Maryland Avenue

Saint Paul, MN 55106
 Telephone: 651.793.2007
 Email Address: Dana.Gotz@state.mn.us

The Governmental Unit's Authorized Representative is the person below, or his/her successor:

Name: Karen Skoyles, Attorney
 Address: 114 Holmes St W
 Detroit Lakes, MN 56501
 Telephone: 218.847.5653
 Email Address: skoyles@arvig.net

5 Assignment, Amendments, Waiver, and Agreement Complete

- 5.1 Assignment.** Neither party may assign nor transfer any rights or obligations under this Agreement.
- 5.2 Amendments.** Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or another individual duly authorized.
- 5.3 Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the right to enforce it.
- 5.4 Agreement Complete.** This Agreement contains all negotiations and agreements between the BCA and the Governmental Unit. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

6 Liability

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws, governs the Governmental Unit's liability.

7 Audits

- 7.1** Under Minn. Stat. § 16C.05, subd. 5, the Governmental Unit's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

- 7.2** Under applicable state and federal law, the Governmental Unit's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.
- 7.3** If the Governmental Unit accesses federal databases, the Governmental Unit's records are subject to examination by the FBI and BCA; the Governmental Unit will cooperate with FBI and BCA auditors and make any requested data available for review and audit.
- 7.4** If the Governmental Unit accesses state databases, the Governmental Unit's records are subject to examination by the BCA; the Governmental Unit will cooperate with the BCA auditors and make any requested data available for review and audit.

- 7.5** To facilitate the audits required by state and federal law, Governmental Unit is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

8 Government Data Practices

- 8.1 BCA and Governmental Unit.** The Governmental Unit and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Governmental Unit under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Governmental Unit or the BCA.
- 8.2 Court Records.** If Governmental Unit chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 but is subject to the *Rules of Public Access to Records of the Judicial Branch* promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Governmental Unit comply with the *Rules of Public Access* for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

9 Investigation of Alleged Violations; Sanctions

For purposes of this clause, "Individual User" means an employee or contractor of Governmental Unit.

- 9.1 Investigation.** The Governmental Unit and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal and state law referenced in this Agreement. Governmental Unit and BCA agree to cooperate in the investigation of suspected violations of the policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Governmental Unit of the suspected violation, subject to any restrictions in applicable law. When Governmental Unit becomes aware that a violation has occurred, Governmental Unit will inform BCA subject to any restrictions in applicable law.
- 9.2 Sanctions Involving Only BCA Systems and Tools.**
The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber Amendment. None of these provisions alter the Governmental Unit internal discipline processes, including those governed by a collective bargaining agreement.
- 9.2.1** For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Governmental Unit must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Governmental Unit must report the status of the Individual User's access to BCA without delay. BCA reserves the right to make a different determination concerning an Individual User's access to systems or tools than that made by Governmental Unit and BCA's determination controls.
- 9.2.2** If BCA determines that Governmental Unit has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Governmental Unit's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.

9.3 Sanctions Involving Only Court Data Services

The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Governmental Unit. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Governmental Unit. The agreement further provides that only the Court has the authority to reinstate access and use.

9.3.1 Governmental Unit understands that if it has signed the Court Data Services Subscriber Amendment and if Governmental Unit's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Governmental Unit also understands that reinstatement is only at the direction of the Court.

9.3.2 Governmental Unit further agrees that if Governmental Unit believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

10 Venue

Venue for all legal proceedings involving this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

11 Termination

11.1 Termination. The BCA or the Governmental Unit may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

11.2 Termination for Insufficient Funding. Either party may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to the other party's authorized representative. The Governmental Unit is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

12 Continuing Obligations

The following clauses survive the expiration or cancellation of this Agreement: Liability; Audits; Government Data Practices; 9. Investigation of Alleged Violations; Sanctions; and Venue.

THE BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK

The Parties indicate their agreement and authority to execute this Agreement by signing below.

1. GOVERNMENTAL UNIT

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION

As delegated to the Office of State Procurement

By: _____

Date: _____

City of Vergas

Contract for Legal Services

City Attorney

This Agreement is made effective _____, 2021 by and between the City of Vergas, Minnesota, a municipal corporation (hereinafter "City"), whose business address is 111 Main Street, P.O. Box 32, Vergas, MN 56587-0032, and Ramstad, Skoyles & Winters, P.A., a Minnesota professional association with a registered address of 114 Holmes Street West, Detroit Lakes, MN 56501 (hereinafter "RSW"). RSW employs persons who are attorneys licensed in the State of Minnesota. City and Attorney may hereafter be referred to collectively as the "Parties."

Preliminary Statement

The purpose of this Agreement is to set forth the terms and conditions for the provision of designated general City legal services for the City by licensed attorneys employed by RSW. The City does not have a legal department or any on staff attorneys to fulfill the duties outlined in this Agreement. The services contemplated by this Agreement are those of a public official, an agent of the City designated to fulfill the role of the City Attorney as described in this Agreement and by statute. This Agreement includes civil litigation services and criminal prosecution services for designated petty misdemeanor and ordinance violations arising from incidents within the City of Vergas. It does not include criminal prosecution services for State law misdemeanors and gross misdemeanors arising from incidents within the City of Vergas, because the City separately contracts with the Otter Tail County Attorney for those services. In consideration of the following terms, conditions and mutual promises, the **City and Attorney agree as follows:**

1. *Designation of Attorney.* The City hereby appoints Thomas P. Winters as the "City Attorney" and Karen Skoyles as "City Prosecutor," hereinafter collectively referred to as "Attorneys." These appointments are for an indefinite period and may be terminated by the City Council of the City at any time and for any reason or for no reason, with or without cause, and upon such termination of appointment this Agreement is terminated under the provisions of Section Numbered 11 of this Agreement. This Agreement sets forth the terms of that appointment. Nothing in this Agreement shall constitute an exclusive right on the part of RSW or any specific Attorney to perform legal services for the City. The City may at any time and for any reason retain, contract with or employ other legal services consultants and other attorneys for the performance of specific project related legal services including but not limited to civil litigation pursuant to separate agreements for legal services.

2. *Services of Attorney.* Attorneys working for RSW shall perform the following work as general and basic City legal services. Thomas P. Winters shall serve as City Attorney, the City's designated professional representative in performing legal services upon the request of and as directed by the City Clerk/Treasurer, including but not limited to the following:

- a. Providing legal consultation and advice to the City, City Utilities, City Departments and the Vergas Economic Development Authority.
- b. Furnishing customary general municipal legal services including contract drafting and drafting legal documents and ordinances.

- c. Subdivision, zoning and planning reviews related to legal issues.
- d. Special legal services and studies as directed by the City Clerk/Treasurer.
- e. Research for and preparation of legal correspondence
- f. Attendance at meetings of the City Council and its committees as directed by the City Clerk/Treasurer or City Council.
- g. Attendance at meetings of the Vergas Economic Development Authority as directed by the City Clerk/Treasurer or City Council.
- h. Attendance at and participation in meetings and conferences involving legal questions and issues.
- I. Performing regulatory functions for the City in close coordination with other City officials.
- j. Civil litigation matters where Attorney is the attorney of record.
- k. Real estate sale, acquisition or development matters for the City or for the Economic Development Authority. Examples include actions to amend or vacate Plats developed by the City or Economic Development Authority, title examinations, facilitating sales of City or Economic Development Authority property with purchase agreements and related documentation and disclosures, and working on loan documentation when the Development Authority or the City are the lender or participating lender in financing for development purposes.
- l. Some miscellaneous project based matters. Examples could include administrative proceedings with State or Federal agencies. This would also include work with the City on annexations.
- m. Work with affiliated entities or management companies. From time to time Attorney will review or work on special agreements or special projects with or for entities that are affiliated with the City.
- n. Cooperating with other special consultants or attorney specialists such as bond counsel, labor relations counsel or legislative counsel to advance the interests of the City in projects related to those specialized services.

Within the scope of the services described in this agreement, the City Attorney is the agent of the City and has the authority to bind the City and act on the City's behalf.

If authorized in writing by the City in a supplemental agreement or authorization, the Attorney shall furnish, or obtain from other special consultants, additional services not included as part of these general and basic services and for additional fees as described in Section 5 of this Agreement. Additional services are project based, where the Attorney involved in accomplishing a specific task for the City that will have a definite start and a definite conclusion.

Karen Skoyles shall serve as City Prosecutor, the City's designated professional representative in performing legal prosecution services, including but not limited to the following

- o. Criminal prosecution services for designated petty misdemeanors and misdemeanor ordinance violations arising from incidents within the City of Vergas in hearings and trials held at Otter Tail County District Court.
- p. Advice and consultation for law enforcement officers at all hours relating to prosecution matters.

- q. Representing the City in vehicle forfeitures occurring in the City of Vergas.
3. *Effective date.* This Agreement will be effective on the date specified above.
4. *Modification of this Agreement.* This Agreement may be modified only by the written mutual consent of both Parties
5. *Compensation for Services.* City agrees to pay the Attorney for general and basic City legal services described in section numbered two (2) of this agreement as follows:

For City Attorney services fees will be invoiced at an hourly rate of \$225.00 per hour, with adjustments in the rate approved in advance by the authorized representative of the City or by the City Council. Hourly rates are charged in increments of 0.6 of an hour (6 minutes). The minimum increment billed for each service is 0.6 of an hour for phone calls, e-mails, correspondence and personal conferences.

For City Prosecutor services fees will be charged as a monthly fixed sum fee of \$250.00, subject to adjustment each six (6) months based on volume with adjustments in the fixed fee approved in advance by the Attorney and the authorized representative of the City or by the City Council.

Attendance of the City Attorney at evening regular or special Council meetings at the request of the City will be invoiced at a flat fee of \$100.00 per meeting.

In addition to the monthly fixed sum fee, the flat rate meeting fee and the hourly fee compensation, the City will reimburse RSW on a monthly basis for mileage at the current IRS reimbursement rate per mile, excessive copy charges at \$0.25 per copy and for other expenses and fees associated with access for the City Prosecutor to the State of Minnesota Bureau of Criminal Apprehension Department of Public Safety database and any fees or expenses associated with access for the City Prosecutor to the Minnesota Government Access to Court records.

6. *Business Relationship.* The City understands and acknowledges that the City Attorney and City Prosecutor are employees of a law firm currently identified as Ramstad, Skoyles & Winters, P.A., a Minnesota professional association with a registered address of 114 Holmes Street West, Detroit Lakes, MN 56501. The City consents to this business relationship and agrees that for so long as Thomas P. Winters is designated as the City Attorney and Karen Skoyles is designated as the City Prosecutor and these attorneys are employed by RSW, the City will permit other representatives of RSW to provide the Services of the City Attorney as assistant City Attorneys under the supervision and responsibility of Thomas P. Winters and City Prosecutor as assistant City Prosecutors under the supervision and responsibility of Karen Skoyles, and it will compensate RSW for the Services of these attorneys as described herein and accept and pay invoices for the services of these attorneys from RSW.
7. *Method of Payment.* RSW will submit to the City, on a monthly basis, an itemized invoice for hourly attorney fees and for the monthly fixed fee and any claim for expense reimbursement. Invoices submitted will be paid in the same manner as other claims made to the City. For work compensated on an hourly basis, RSW will indicate the number of hours worked, the Attorney doing the work, the

rate of pay, a computation of amounts due, and the total amount due. For work compensated by a monthly fixed fee RSW will indicate the number of open City of Sebeka prosecution files as of the date of the invoice and the number of City of Sebeka prosecution files closed since the previous invoice.

For reimbursable expenses RSW will provide an itemized listing and such documentation as reasonably required by the City.

To receive any payment, the invoice or bill must include the following signed and dated statement: "I declare under penalty of perjury that this account, claim, or demand is just and correct and that no part of it has been paid."

8. *Standard of Care.* The Attorneys will exercise the same degree of care, skill and diligence in the performance of its services as is ordinarily exercised by members of the profession under similar circumstances in Minnesota.

9. *Audit Disclosure.* Any reports, information, data, etc. given to, or prepared or assembled by RSW under this Agreement which the City requests to be kept confidential, will not be made available to any individual or organization without the City's prior written approval. The books, records, documents and accounting procedures and practices of RSW are subject to examination by the City, its designated Auditor and either the Legislative Auditor or the State Auditor for a period of six (6) years after the effective date of this Contract. The Attorneys and RSW will at all times abide by Minn. Stat. 13.01 et seq., the Minnesota Government Data Practices Act, to the extent the Act is applicable to data and documents in the possession of the Attorneys and RSW, as limited by the Attorney Client privilege.

10. *Minnesota Government Data Practices Act.* RSW and the Attorneys must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to (1) all data provided by the City pursuant to this Agreement, and (2) all data, created, collected, received, stored, used, maintained, or disseminated by the Attorney pursuant to this Agreement. RSW is subject to all the provisions of the Minnesota Government Data Practices Act, including but not limited to the civil remedies of Minnesota Statutes Section 13.08, as if RSW were a government entity. In addition, RSW will comply with data and evidence disclosure requirements of Minnesota law with regard to the criminal prosecution services provided by RSW as well as the standards for data protection provided by the Minnesota Rules of Professional Conduct applicable to Attorneys.

11. *Termination.* This Agreement may be terminated by either party for any reason or no reason, with or without cause by one (1) day written notice delivered to the other party at the address written above. Upon termination under this provision, if there is no fault of the Attorneys, RSW will be paid for services rendered and reimbursable expenses until the effective date of termination. If however, the Attorneys have failed to perform in accordance with this Agreement, RSW will not be relieved of liability to the City for damages sustained by the City as a result of any breach of this Agreement by the Attorneys. The City may, in such event, withhold payments due to RSW for the purpose of set-off until such time as the exact amount of damages due to the City is determined. The rights or remedies provided for herein will not limit the City, in case of any default by RSW, from asserting any other right or remedy allowed by law, equity, or by statute.

Should termination be initiated by RSW, the Attorneys will complete all outstanding assignments based upon the terms and conditions of this Agreement, if so requested by the City in writing. In such

a case, RSW will be compensated for completion of those assignments according to the terms of this Agreement.

Termination of this Agreement shall not relieve the parties from the mutual duties and obligations of this Agreement stated in Sections Numbered 9, 10, 12, 14, 18, 20.C, 21, 22 and 23, which shall continue to be effective and enforceable as if this Agreement remained in effect for a period not less than six (6) years following the termination of this Agreement.

12. *Subcontractor.* The Attorney will not enter into subcontracts for services provided under this Agreement.

13. *Independent Contractor.* At all times and for all purposes herein, RSW and its Attorneys are independent contractors and not employees of the City. No statement herein will be construed so as to find the Attorneys to be employees of the City. Any and all assistants and associates of the Attorneys or other persons engaged in the performance of any work or services required of the Attorneys under this Contract will be considered employees of RSW only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services to be rendered or provided herein, will be the sole obligation and responsibility of RSW.

14. *Non-Discrimination.* During the performance of this Agreement, RSW will not discriminate against any person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age. RSW will post in places available to the Attorneys' assistants, employees and applicants for employment, notices setting forth the provision of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. RSW further agrees to comply with all aspects of the Minnesota Human Rights Act, Minnesota Statutes 363.01, et. seq., Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990.

15. *Assignment.* Neither party will assign this Agreement, nor any interest arising herein, without the written consent of the other party. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

16. *Services Not Provided For.* No claim for services furnished by RSW not specifically provided for herein shall be honored by the City.

17. *Severability.* The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.

18. *Compliance with Laws and Regulations.* In providing services hereunder, the Attorneys shall abide by statutes, ordinances, rules and regulations pertaining to the provisions of services to be provided. The Attorneys and City, together with their respective agents and employees, agree to abide by the provisions of the Minnesota Data Practices Act, Minnesota Statutes Section 13, as amended, and Minnesota Rules promulgated pursuant to Chapter 13. Any violation of statutes, ordinances, rules and

regulations pertaining to the services to be provided shall constitute a material breach of this Agreement and entitle the City to all remedies contemplated by this Agreement.

19. *Waiver.* Any waiver by either party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.

20. *Insurance.*

A. *General Liability.* Prior to starting the Work, RSW shall procure, maintain and pay for such insurance as will protect against claims for bodily injury or death, or for damage to property, including loss of use, which may arise out of operations RSW or by anyone employed by RSW or by anyone for whose acts RSW may be liable. Such insurance shall include, but not be limited to, minimum coverages and limits of liability specified in this Section, or required by law.

B. RSW shall procure and maintain the following minimum insurance coverages and limits of liability:

Worker's Compensation:

Statutory Limits

Employer's Liability:

\$500,000 each accident

\$500,000 disease policy limit

\$500,000 disease each employee

Comprehensive General Liability

\$1,000,000 property damage and bodily injury per occurrence

\$2,000,000 general aggregate

\$5,000 medical expense

Comprehensive Automobile Liability

\$1,000,000 combined single limit each accident (shall include coverage for all owned, hired and non-owned vehicles.

C. *Professional Liability Insurance.* RSW shall procure and maintain professional liability (errors and omissions) insurance from an insurance company in good standing and authorized to do business in Minnesota, during the term of this Agreement and for such additional periods of time as may be required elsewhere in this Agreement. This policy must be maintained for six (6) years following the termination of this Agreement, insuring payment of damages for legal liability arising out of the performance of professional services for the City in the insured's capacity as City Attorney, if such legal liability is caused or alleged to have been caused by the acts or omissions of the Attorneys and the Attorney's associates, employer, assistants, agents, employees, or subcontractors in the performance of the services provided by this Agreement. Said policy shall provide a minimum aggregate limit of \$2,000,000.

D. RSW shall maintain in effect all insurance coverages required under this Section at RSW's sole expense and with insurance companies licensed to do business in the state in Minnesota and having a current A.M. Best rating of no less than A-, unless specifically accepted by City in writing. All policies, except the Professional Liability Insurance policy, shall be written on an "occurrence" form ("claims made" and "modified occurrence" forms are not acceptable). A copy of the

Attorney's Certificate of Insurance which evidences the compliance with this Section 20 must be filed with City upon request.. Such documents evidencing Insurance shall be in a form acceptable to City and shall provide satisfactory evidence that Attorney has complied with all insurance requirements.

E. Acceptance of the insurance by the City shall not relieve, limit or decrease the liability of the RSW. Any policy deductibles or retention shall be the responsibility of RSW. The City does not represent that the insurance requirements are sufficient to protect the Attorney's interest or provide adequate coverage.

21. *Ownership of Documents.*

A. **Intellectual Property Rights.** City and RSW each independently own a separate and concurrent right, title and interest in all completed ordinances, resolutions, research, memorandums, contracts, agreements, findings of fact and other documents or materials drafted for or on behalf of the City by the Attorneys. RSW shall deliver or return copies of all such documents to the City upon request, and upon termination or cancellation of this Agreement. Neither the City nor the Attorneys are required to have or obtain any license from the other in order to make full and independent use of the documents..

B. **Representation.** RSW represents that the documents created and paid for under this Agreement do not and will not infringe upon any intellectual property rights of any person or entity. RSW will indemnify, defend and hold harmless the City, at RSW's expense, from any action or claim brought against the City to the extent that it is based on a claim that all or a part of the documents created and paid for under this Agreement infringe upon the intellectual property rights of others. This remedy of the City is in addition to and not exclusive of other remedies provided by law or equity

22. *Disputes.* In an effort to resolve any conflicts that arise during or following the completion of the services described in this Agreement, the dispute will first be submitted to non-binding mediation unless the parties mutually agree otherwise. The cost of mediation will be shared equally by the parties. If either party does not agree with the outcome of the mediation, the parties can then otherwise exercise their rights under this Agreement and under law. Unless otherwise specifically agreed or provided herein, the prevailing party in any action regarding this Agreement shall be entitled to their costs, disbursements and reasonable attorney fees as provided by law.

23. *Governing Law.* This Agreement shall be controlled by the laws of the State of Minnesota. Jurisdiction and Venue for any disputes shall be in the District Courts of the State of Minnesota in Otter Tail County, Minnesota.

24. *Conflicts.* RSW and the Attorneys shall not knowingly represent any other client or undertake to provide any legal service that would constitute a conflict of interest with the services to be provided by RSW to the City under this Agreement. If a conflict of interest should develop, Attorneys shall be responsible to take and shall take all steps necessary to eliminate that conflict of interest consistent with the Minnesota Rules of Professional Conduct applicable to Attorneys.

25. *Successors and Assigns.* This Agreement is binding upon the successors and assigns of the Parties.

26. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be considered an original.

IN WITNESS WHEREOF, RSW and City have caused this Contract to be executed in their behalf respectively by their proper officers as follows:

CITY OF VERGAS

Date:

Mayor

Dated:

City Clerk/Treasurer

RAMSTAD, SKOYLES & WINTERS, P.A.

Dated:

By: Karen Skoyles
Its: President

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

7. 1156 Frazee Ave

Files Attached

- 08.05.21 ltr to Weibye-City of Vergas (1).pdf



Steven R. Peloquin
Amy L. Jenson

August 5, 2021

Ryan Weibye
9708 Robin Road
Horace, ND 58047

RE: Dock Storage Proposal with City of Vergas
Our File No.: 95680k

Dear Mr. Weibye,

The city has asked me to respond to information Mr. Buhr, a realtor purporting to represent your interests, provided to the City Council at its July 13th meeting.

The City agrees that you are now subject to the easement in favor of the City. The easement allows the City to "construct and maintain a pedestrian and non-motorized vehicle trail 8 feet in width within the easement...." In order to construct a safe and functional trail, a retaining wall was built adjacent to the trail, and within the easement, to correct the slope for the trail base, to retain the uphill soil from washing out the trail and to prevent erosion damage to the Goettel property.

The City, in a separate agreement, allowed the Goettels to store their dock and lift on city property, but intentionally did not give them an easement to do so.

Mr. Buhr makes at least four points in his letter, to which I will respond:

- 1) That the City had no right to build a retaining wall;
- 2) That the agreement Goettels had with the City to store their lift and dock on City land was automatically transferred to you when you purchased the Goettel property;

PERHAM:
(218) 346-6900

DETROIT LAKES:
(218) 844-8900
1009 Lake Avenue
Detroit Lakes, MN 56501

PARK RAPIDS:
(218) 237-2200
602 Pleasant Avenue
Park Rapids, MN 56470

TOLL FREE NUMBER:
(855) 494-6900

Page 44 of 109
MAILING: P.O. Box 1026, Detroit Lakes, MN 56502

3) That Goettels have right to store their dock and lift on City property since, apparently, title to those items have not been transferred and they still own the lakeshore part of their property.

4) Otter Tail County had no authority to issue a permit to the City because the County's highway easement, derived from the State's easement once the highway was transferred to the county, gives it no authority to allow the building of a retaining wall within the County's easement.

First, the retaining wall is integral to the structure of the trail. Also, Goettels not only knew it would be built, but negotiated with the City to fund, in part, the building of steps, (now a landing) consistent with County requirements, to allow Goettels safe access to their lakeshore. Courts have consistently allowed the owner of the dominant estate (the City holding the easement rights) to burden the servient estate (you, the property owner subject to those rights) to make improvements that are reasonably necessary to enjoy the easement, as long as those improvements do not unreasonably burden the servient estate. See, e.g., Keller vs. Cochran, 425 S.E.2d 432, 434 (1993), a North Carolina case (attached). I believe a Minnesota Court will following its reasoning.

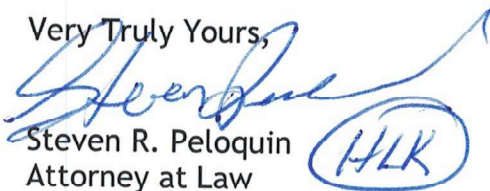
Second, the City did not grant Goettels an easement to store their dock and lift on City property indefinitely nor agree to allow that right to be transferred to a third party buyer. Your purchase agreement with Goettels recognizes that you knew this when you included a damage clause in the agreement which was apparently contingent upon Goettels obtaining this right for you.

Third, your deed from Goettels did not reserve land to them so that they might continue to enforce the storage agreement with the City.

Fourth, Otter Tail gave permission to have the trail and wall constructed within its easement, as these structures do not impact the use to which the easement is put (highway use and maintenance). There is no requirement that the county have authority to grant these uses. It simply allowed them.

You may certainly ask the City for permission to use the trail to remove your dock and lift and to store the same on City property. It will be up to the City to decide if it will give permission. I suggest you ask the City for permission instead of threatening litigation.

Very Truly Yours,



Steven R. Peloquin
Attorney at Law
Peloquin Jenson PLLC
602 Pleasant Avenue
Park Rapids, MN 56470
Phone: (218) 237-2200
steve@peloquinlawoffice.com

PERHAM:
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Keller v. Cochran, 425 S.E.2d 432, 108 N.C.App. 783 (N.C. App. 1993)

Page 432

425 S.E.2d 432

108 N.C.App. 783

Joseph W. KELLER, III, Plaintiff,

v.

Hazel A. COCHRAN and David S. White and wife Jean C. White,
Defendants.

No. 9129DC1070.

Court of Appeals of North Carolina.

Feb. 2, 1993.

Page 434

Prince, Youngblood, Massagee & Jackson by Sharon B. Ellis and Roy D. Neill, Hendersonville, for plaintiff-appellant.

Ramsey, Hill, Smart, Ramsey & Pratt, P.A. by Michael K. Pratt and Angela M. Skerrett, Brevard, for defendants-appellees.

WELLS, Judge.

The sole issue of this appeal is to determine whether the trial court committed reversible error when it found plaintiff in violation of N.C.Gen.Stat. § 1A-1, Rule 11 of the North Carolina Rules of Civil Procedure and imposed a sanction. The trial court's decision to grant or deny motions to impose sanctions under Rule 11 is "reviewable de novo as a legal issue." Turner v. Duke University, 325 N.C. 152, 381 S.E.2d 706 (1989). A pleading violates Rule 11 if (1) it is not "well grounded in fact," (2) it is not "warranted by existing law or [by] a good faith argument for the extension, modification, or reversal of existing law" or (3) it is interposed for an "improper purpose." Rule 11 of the North Carolina Rules of Civil Procedure.

In North Carolina, it is an established principle that the possessor of an easement has all rights that are necessary to the reasonable and proper enjoyment of that easement. Shingleton v. State, 260 N.C. 451, 133 S.E.2d 183 (1963) (quoting 12A Am.Jur., Easements, s. 113, pp. 720, 721). "[A]n easement in general terms is limited to a use which is reasonably necessary and convenient [108 N.C.App. 785] and as little burdensome to the servient estate as possible for the use contemplated." *Id.* Whether a specific use of an easement constitutes a reasonable use is a question of fact and is not a matter of law. *Id.*

Because the determination of reasonable use is a question for a fact-finder, plaintiff's attempt to limit defendants' use of their easement is well-founded in law, if plaintiff presented competent evidence which could lead a reasonable fact-finder to determine that defendants' excavations and construction of a retaining wall do not constitute a reasonable use of the easement. Although the jury in this case determined that the construction of the restraining wall was, in fact, a reasonable use, Rule 11 sanctions would not be appropriate unless it can be said that the evidence dictated a finding of reasonableness as a matter of law.

At trial, plaintiff presented evidence which would support the conclusion that there were several alternative methods by which defendants' easement could be kept reasonably accessible. The evidence showed that the uneven slope could have been corrected by either excavation or fill and that, while some approaches offered more benefits than others, the access could have been made or kept accessible without the construction of a retaining wall. While the jury found the construction of the retaining wall to be a reasonable approach to maintaining use of the right-of-way, the existence of other less obtrusive options established that a valid issue of fact existed and that the plaintiff was not in violation of Rule 11 when he pursued this case.

Therefore, we hold that it was error for the trial court to reach the conclusion that plaintiff's pleadings were not well grounded in fact or warranted by existing law.

Having found plaintiff's pleadings to be sufficiently grounded in law and fact, we discern no sufficient basis in the record to support the finding that plaintiff brought this action in bad faith. We therefore hold that plaintiff's pleadings were not interposed for an improper purpose.

The trial court's imposition of Rule 11 sanctions are

Reversed.

EAGLES and LEWIS, JJ., concur.

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

8. Mayor's Update

Files Attached

- Role-with-it-Individual-Versus-Council-Authority.pdf

INFORMATION MEMO

Role with It: Individual Versus Council Authority

Learn common ways councilmembers may overstep their proper role and the personal liability that may ensue. Understand your role as an individual councilmember versus your role as part of the entire city council.

RELEVANT LINKS:

See Handbook, [Elected Officials and Council Structure and Role](#), Section II-A, *Role of the Individual Councilmember* and Section II-B, *The Council's Authority*.

I. Role of an individual elected official

The cornerstone of city government in Minnesota is the elected city council. The city council passes ordinances and adopts policies that determine a community's present and future well-being.

Councilmembers and mayors perform their statutory duties, almost without exception, as a member of a council as a whole. The entire council, not individual councilmembers, supervise administrative officers, formulate policies, enter into contracts and exercise city powers. Indeed, preparing for and attending meetings and voting on policy represent the key duties of elected officials. For statutory cities, Minnesota's statutes specifically list out council duties, which include full authority to make and second motions, participate in discussions, and vote on the matters before council.

II. Tips for meetings

It is not uncommon for elected officials to struggle with the transition from an individual candidate to a member of a decision-making body. The following basic tips for meetings can ease that transition:

- Read the packet before the meeting and share any possible questions or concerns with staff ahead of time.
- Be mindful that staff work for the city and act on the direction of the council as a whole, not at the discretion of individual councilmembers or the mayor.
- Arrive to meetings on time.
- Learn and use the city's rules of process to help ensure clear communication in meetings.
- Proactively learn how to get things on the agenda.
- Approach every agenda item with the belief that everyone has something to contribute and likely has information that you do not have. Listen to others and be curious about their perspective.
- Avoid making assumptions, choosing instead to listen with a true

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

curiosity.

- Focus on the policy at hand, not the person, and put personal feelings aside.
- Acknowledge others' reasoning and explain your own. Try to find commonality of interests.
- Keep cell phones and other distractors off the dais.

Focus on progress toward the overall goals of the city, not individual positions.

Since councilmembers collectively make decisions, how councilmembers behave in meetings matters a great deal. With the right mindset and clear policy in place, public meetings can result in efficient decision making.

III. Team leadership

Councils represent a team – both with each other and with staff. Highly cohesive teams have more success achieving the goals they have set for themselves, than teams that suffer from distrust. Lack of civility within a team working environment impacts team performance by causing unnecessary stress and tension among team members. Leaders of highly cohesive teams do the following:

- Cut people slack – remember, whatever the situation, it likely may be new for some, if not everyone, and may be causing angst for all.
- Don't play the blame game. Don't play the power game. Councils and Council-Staff represent a TEAM.
- Focus on process, not the people involved.
- Assume good motives of others.
- Listen to learn, rather than pretending to listen while formulating a counter argument.
- Ask expansive questions and be patient with silence while waiting for a response. Compromise is good but understanding all the underlying interests may lead to a new idea that meets everyone's needs.
- Practice interpersonal empathy. Remember empathy does not mean giving up your beliefs; rather, it means listening, respecting others positions and validating their worth.
- Identify individual strengths of team members and recognize their unique contributions to validate belonging.
- Learn to delegate with clear expectations to empower others.
- Celebrate success – all success. Realize success comes in all shapes and sizes.

IV. Councilmembers and city employees

While the council handles the mission and policy objectives for the city, staff handle the administrative and management side of things. Sometimes, these roles unintentionally get blurred in city government. Relationships between the council and city employees can create situations where councilmembers may overstep their proper role, causing potential liability for the councilmember and the city. Generally, councilmember duties include upholding their oath, modeling respectful behavior, participating in council meetings and votes, working with staff to get educated on issues, and serving as a liaison between the city and residents. Individual councilmembers do not have administrative authority and they cannot directly give orders or otherwise supervise city employees, unless specifically directed to do so by the council. Councilmembers should remember that staff work for the entire council (as a whole), not for one individual councilmember.

Occasionally, councilmembers (including mayors) can lose sight of their collective role and try to handle matters individually. In doing so, those city officials' actions can cause discord on the council, can make staff feel untrusted or unappreciated and, in some instances, can subject councilmembers and the city to liability for taking unauthorized actions on the part of the city.

City employees face the unique challenge of working for an entity governed by a collective body, the makeup of which can change from year to year. Many cities have found that adopting clear practices or policies regarding the below and frequently communicating them to elected officials have led to better governance:

- Elected officials follow a common, communication method for them to get information to or from staff.
- Staff check-in with the elected officials after packets go out but before council meetings to gather or answer questions.
- Elected officials provide staff with a heads-up, when feasible, about concerns or additional questions prior to the meeting.
- Elected officials use a designated staff person to distribute information to other elected officials before the meeting to ensure more robust discussion during meeting without violating the Open Meeting Law.
- Staff realize that Council may not always follow staff recommendation and, in those instances, accept and implement the Council decision.

RELEVANT LINKS:

[Minn. Stat. § 412.221](#), listing powers of the council.

[Minn. Stat. § 412.201](#), requiring council approval of contracts for Standard Plan and Plan A cities.

[Plymouth Foam Products, Inc. v. City of Becker](#), 944 F. Supp. 781 (D. Minn. 1996).

[Minn. Stat. § 412.611](#). For further discussion of Plan B cities, see discussion III below.

[Minn. Stat. § 410.16](#).

A. Role scenario

The following employment scenario helps demonstrate how an individual councilmember, who just wants to do the right thing for the city, can overstep his or her role in dealing with employee discipline and termination, potentially exposing the city to liability.

Imagine the council has ongoing concerns with the municipal liquor store manager. Citizens complain the store is closed when it should be open and that the staff drinks on the premises. One councilmember decides to address the situation herself. She continuously stops by the store and even drives by the manager's house to make sure he is not home when he should be working. During one visit to the store, the councilmember finds the staff, including the manager, drinking in the back of the store. Knowing the council would agree, she terminates the manager on the spot. To make this situation easier, she negotiates a severance package with him. The councilmember then relates the incident to several friends, making some exaggerated descriptions of what happened.

Even though the liquor store manager's actions raise many liability concerns for the city, the councilmember acted beyond the scope of her authority and her actions also present problems for the city.

B. Investigating and terminating employees

In the scenario above, did the councilmember have authority to investigate or terminate the store manager? No.

In Minnesota, state statutes or city charters set forth city council powers. In statutory Standard Plan and Plan A cities, the statutes give the entire council control over city matters, including the power to control city finances, to make contracts, to enact ordinances, and to oversee city personnel. The statutes do not allow an individual councilmember to independently investigate employees or terminate employment. In the optional statutory Plan B cities, known as the council-manager plan, the council determines all matters of policy, and a city manager heads up the administrative branch with responsibility to the council for the proper administration of all affairs relating to city.

In charter cities, the charter dictates a councilmember's role. State law allows charter cities to adopt any form of government, if it is not inconsistent with state statutes or the state constitution. In almost all charter cities, the charter gives authority to the council rather than to individual councilmembers. However, councilmembers from charter cities should consult their charters to determine their proper roles.

RELEVANT LINKS:

Sovereign v. Dunn, 498 N.W.2d 62 (Minn. Ct. App. 1993) (discussion of delegations of duties and inapplicability of open meeting law based on lack of decision making authority).

[Minn. R. 1250.0400, subd. 2.](#)

[Minn. Stat. § 13.43, subd. 2.](#)

See Handbook, [Elected Officials and Council Structure and Role](#), Section III, *Mayor*.

C. Delegating authority to councilmembers

Could the council, in our liquor store scenario, have delegated some of its authority to individual councilmembers? It depends, but unlikely based on the nature of the actions.

Individual councilmembers can perform those duties the council, as a whole, **legally** assigns to them. However, a statutory city council cannot legally delegate any of its discretionary powers, defined by case law as powers involving the exercise of judgment, like making independent hiring or firing decisions. Charter cities also likely cannot delegate any discretionary authority, unless the charter specifically allows the delegation. Councilmembers should act carefully so as to not overstep boundaries.

On a related matter, the League often receives calls about whether an individual councilmember can review an employee's private personnel documents. Individuals whose job duties reasonably require access to private data may, in certain instances, view the data. However, since **individual** councilmembers **do not** have authority over city personnel, they cannot, as a matter of course, access this private information. The council could authorize an individual councilmember to view the data, such as in instances when councilmembers serve on the personnel committee and need to do so for a review. Keep in mind that state law does classify some employee information as public, and councilmembers, like any member of the public, can have access to that information. Cities should work with their city attorneys to understand what employee data represents public data and what employee data qualifies as private personnel data.

D. Mayor's power to investigate or terminate employees

Like councilmembers, in most cities, a mayor usually does not have authority to investigate or terminate an employee. Contrary to common misconceptions, statutory city mayors do not have more decision-making power than other councilmembers. The mayor serves as the official head of the city, and he or she presides over council meetings. The mayor in a statutory city does not break tie votes of the council, with one exception. Statutory city mayors do have authority to break a tie vote on an appointment from council to fill a council vacancy. The mayor also has authority to make some other appointments, such as park board members, often subject to council approval. As outlined above, the mayor of a statutory city does not have individual authority over city staff.

RELEVANT LINKS:

[Minn. Stat. § 412.201.](#)

Jewell v. Bertha, 97 N.W. 424 (Minn. 1903). *Plymouth Foam Products, Inc. v. City of Becker*, 944 F. Supp. 781 (D. Minn. 1996).

[Minn. Stat. §§ 412.601 - .751.](#)

Similarly, a majority of charter cities have a weak-mayor form of government, in which the mayor's powers generally do not exceed those of other councilmembers. A few charter cities give the mayor limited additional powers, such as control over the police department. However, three charter cities—St. Paul, Duluth, and St. Cloud—follow a strong-mayor format where the mayor has administrative authority over city matters, including city personnel. Mayors of these cities probably could investigate and remove employees without council approval. Mayors in charter cities should review their charters to determine the extent of their authority over employees.

E. Negotiating employee severance packages

In the liquor store scenario, did the councilmember lawfully negotiate a severance package? No, individual councilmembers may not independently negotiate contracts or agreements, such as a severance package with the liquor store manager. State law provides the “council” must authorize contracts. Minnesota case law not only states that this power cannot be delegated, it also prevents a city from being bound by a contract made by an individual councilmember. Councilmembers from charter cities should consult their charters, but most charters probably do not authorize an individual councilmember to execute contracts.

The full council could later ratify the contract. If the council does not ratify the contract, the individual councilmember potentially could bear the personal liability for claims raised by the contracting party, such as detrimental reliance or promissory estoppel. Accordingly, all councilmembers should make clear to individuals interested in contracting with the city that the city can only enter into a contract with the vote of council.

V. Councilmembers and employees in Plan B cities

Plan B cities have a council-manager form of government. A number of charter cities also use this structure. Like Standard Plan and Plan A cities, the council exercises policy-making and legislative authority. However, for Plan B cities, Minnesota's statutes grant city managers additional, administrative duties. For example, the council appoints the manager who, in turn, appoints and supervises the city staff. Therefore, in a Plan B city, the city manager makes initial hiring and firing decisions, with later approval of the council needed still being required. Additionally, regarding expenditures, a city manager in a Plan B city serves as the city's purchasing agent for contracts under \$20,000, unless the city council provides for a lower limit, which provides the city manager some discretion in spending.

RELEVANT LINKS:

Handbook, [City Administrative Staff](#).

[Minn. Stat. 412.651](#).

[Minn. Stat. § 466.07](#).

See Handbook, [Liability](#),
Section II-E, *Official Immunity*.

See Handbook, [Liability](#),
Section III-B, *Protection from Defamation*.

[Minn. Stat. § 13.08](#).
[Minn. Stat. § 13.09](#).

People often confuse city managers with city administrators, but the statutes treat these two positions very differently. Minnesota statutes define the duties of the city manager position and recognize the position as integral to the Statutory B city. The city administrator position, on the other hand, is a position created by council, not by statute. The duties of the administrator vary from city to city, with some administrators also serving as city clerk. A statutory city council cannot delegate any discretionary authority to a city administrator. A charter city council may do so only if the charter allows delegation.

VI. Potential personal liability for councilmembers

Subject to certain limitations, state law generally requires cities to defend and indemnify councilmembers (and employees) for lawsuits arising out of their official duties, as long as the councilmember or employee did not act in bad faith, malfeasance, or willful neglect of their duties.

The doctrine of official immunity protects public officials from suits based upon discretionary actions performed in the course of their official duties. For example, a councilmember, acting in good faith, likely would not have liability over the question of calling for special assessments. Neither official immunity nor the statute applies when a councilmember acts with malice or in bad faith.

In the liquor store manager scenario above, immunity may not protect the councilmember because she acted outside the scope of her duties.

The liquor store scenario highlights other possible issues, such as providing a basis for the employee to allege defamation, intrusion upon seclusion, harassment, retaliation, or data practices violations. For example, the law states that a defamatory statement is one that is false, made to a third party, and harms the reputation of the subject. In the scenario provided, depending on what was said, a councilmember's exaggerated rendition of the termination and severance to her friends may rise to the level of defamation. A councilmember has protection through immunity from claims of defamation if the councilmember made statements, in good faith, during a proper occasion and based on probable cause. Here, none of these factors apply. Also, the councilmember in the scenario likely disclosed private personnel data in retelling the events surrounding the termination and severance to her friends, possibly subjecting the city to civil liability for the disclosure.

RELEVANT LINKS:

Research@lmc.org
651.281.1200 or
800.925.1122

VII. Further Assistance

If you have questions about the role of an individual councilmember or the city council as a whole, you should discuss the matter with your city attorney. In addition, the League's Research and Information Services Department can answer questions about the role of council members in different types of cities.

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

9. Committee Reports

- a. EDA/HRA
- b. Park Advisory Board
- c. Planning Commission
- d. Event Center Advisory Board

Files Attached

- 08-04-21 EDA Minutes.pdf
- 8.3.2021 Park Budget Meeting_PDF.pdf
- 2022 Park Budget.pdf
- July Park Board Meeting Minutes.pdf
- 07-26-2021 Planning Commission Meeting minutes.pdf
- 2021-07-14 Event Center Meeting Agenda & Minutes.pdf
- Park Dedication.pdf

CITY OF VERGAS EDA/HRA
Wednesday, August 4, 2021
11:00 am
Billy's Corner Bar

The City of Vergas Economic Development Authority (EDA) and Housing Redevelopment Authority (HRA) met on Wednesday, August 4, 2021, at 11:00 am on Zoom and at the Vergas Event Center with the following members present, Kevin Zitzow, Bruce Albright, Austin Tegtmeier, Paul Pinke, and Clerk/Treasurer Julie Lammers. Absent: Vanessa Perry. Also present: Barbie Porter of Vergas-Frazee Forum and David Morse.

Meeting was called to order by President Kevin Zitzow at 11:00 am.

Approval of Agenda

Approve agenda with additions of campground and county garage.

Approval of Minutes

Motion by Albright, seconded by Tegtmeier to approve June 2, 2021, minutes. Motion passed unanimously.

Campground

Lammers provided campground ordinance with the EDA/HRA members. David Morse reviewed ordinance for a campground in Vergas and asked the committee if they felt there was a need for a campground in Vergas. EDA/HRA members stated they are supportive of a campground. Discussed the sell of City property on W Lake Street or the idea of making the property into a park. EDA/HRA members stated they would consider a park or selling the property.

Old Business

Development properties were discussed and Lammers provided maps of Scharf Avenue. EDA/HRA members stated they could use the large maps of the city to plan for future development.

Commercial Abatement for buildings with multiple use was discussed. Currently the City Council has approved abatement at \$5,000 or 5 years for new development of homesteaded homes or commercial buildings. Motion by Albright, seconded by Tegtmeier to request for Council to approve tax abatement for \$5,000 per housing unit and/or per commercial building or 5 years whichever is less per parcel. Motion passed unanimously.

2022 Budget request of \$7,000 has not changed.

New Business

2022 ERA and HRA goals were mentioned and the need to work with the comprehensive plan on deciding goals. Discussed the MN DEED Main Street Economic Revitalization Program grant which is due August 31, 2021. Members would like to keep this in mind for the future after comprehensive plan is complete.

2021 Budget

There has been no change in the revenue or expenses for the EDA/HRA.

Meeting adjourned at 11:40 a.m.

Julie Lammers
City Clerk-Treasurer
City of Vergas

Council Recommendations

Approve tax abatement for \$5,000 per housing unit and/or per commercial building or 5 years whichever is less per parcel

Follow up Actions.

Albright will speak with area property owners about possibility of land development.

DRAFT

8.3.2021 Special Meeting of Vergas Parks & Rec Advisory Board 3:00 p.m. Vergas Event Center

Present: Sherri Hanson, Julie Lammers, Steph Hogan, Carol Albright, Mike DuFrane, Paul Pinke (attempted ZOOM attendance), and Tony Sailer.

The 2022 Budget was set at \$103, 255:

Wages and Salaries (100)	\$22,000*
Employer Cont./Soc. Sec. (122)	
Health Insurance (131)	
Workers Comp.	
Engineering	\$ 2500.*
Office Supplies (200)	100.
Operating Supplies (210)	7000.
Telephone	375.
Travel, meetings, school	400.
Repair & Maintenance Supplies	3000.*
Employee Clothing Allowance	200.
Printing & Publishing	100.*(Swimming Lessons)
Licenses/Permits	35.**
Insurance	5000.
Utility Services	3000.*
Rubbish Service	2400.*
Repair & Maintenance Service	2600.
City Share/Assessments	1200.
Improvements	36,000.*
Refunds & Reimbursements.	0.

The Budget reflects a 23% increase in wages and salaries due to adding back 20 hours per week for the summer months at \$12/hour.

* Indicates an increase from 2021.

** Indicates a decrease from 2021.

TOTAL \$103,255 (Increase from \$73,225 in 2021 and \$82,774 in 2020)
The proposed budget of \$103,255 was approved in a motion by Hanson and seconded by Hogan.

Discussion Items included:

1. **Big expenses** coming up: replace siding on dugouts \$1600, brush cutter \$700, shingles for dugouts \$500, replace asphalt on the trail \$17,000, replace wooden fence on the trail (no estimate at this time).
2. **Hanson will talk to the baseball team** to find out what they can contribute to the ball diamond maintenance costs.
3. **The City cannot continue to lose money** on swimming lessons.
4. **Hanson will contact OtterTail County** about setting up recycling units in Long Lake Park.
5. **DuFrane will gather information about curbside recycling services available.**
6. **Sailer will work with DuFrane to set up long term capital needs.**

7. Sailer asked if there is any chance **to set up sponsorships/advertising to raise revenue.**
8. **TIP contributes 10% of their revenue to the City.** The Liquor Store could contribute to the Parks Board but currently contributes to the General Fund.
9. **Hanson will place the following advertising on buckets** used to collect donations at the Looney Days events in Long Lake Park on Friday and Saturday nights. Donations will be used for Long Lake Park Improvements:
 - Trash Receptacles
 - Pet Waste Elimination Station
 - Picnic Tables
 - Adult Exercise Equipment
 - Grills

The next regular meeting will be Thursday, August 26, 2021 at 3:30 p.m. in the Vergas Event Center and via ZOOM.

		<u>2020 Year to</u>	<u>2020 Final</u>	<u>7/30/2021</u>	<u>2021 Final</u>	<u>Proposed 2022</u>	
		<u>Date</u>	<u>Budget</u>	<u>Expenditures</u>	<u>Budget</u>		
Parks (45200)	Wages and Salaries (100)	17,993.26	27,049.00	12,390.55	17,000.00	22,000.00	Mike, Matt & Swimming Instructors
	Employer Cont./Soc.Sec/PERA. (122)	9,816.87	11,500.00	6,523.18	11,500.00	14,145.00	
	Health Insurance (131)	3,367.37	3,500.00	2,256.87	3,500.00	3,700.00	
	Workers Compensation	450.00	450.00	0.00	450.00	0.00	
	Engineering	3,242.50	2,500.00	0.00	0.00	2,500.00	Engineering beach, beachhouse
	Office Supplies (200)	75.17	100.00	0.00	100.00	0.00	
	Operating Supplies (210)	5,766.05	7,000.00	5,151.77	7,000.00	7,000.00	
	Telephone	350.00	375.00	218.75	375.00	375.00	Mike \$18.75, Matt \$12.50 a month
	Travel, Mtgs, & Schools	300.00	400.00	0.00	400.00	0.00	
	Repair & Maint. Supplies (220)	1,668.95	1,500.00	910.00	1,500.00	3,000.00	Shingle dugouts, brushhog
	Employee Clothing Allowance(245)	0.00	200.00	265.90	200.00	200.00	
	Printing & Publishing (350)	265.90	50.00	0.00	50.00	100.00	Swimming lesson ads
	Licenses/Permits	35.00	350.00	35.00	350.00	35.00	Beach Permit
	Insurance (360)	3,315.00	5,000.00	332.00	5,000.00	5,000.00	Property/Casualty
	Utility Services (380)	2,436.18	2,500.00	1,110.93	2,500.00	3,000.00	
	Rubbish Service (384)	1,251.46	1,500.00	1,386.35	1,500.00	2,400.00	
	Repair & Maintenance Service(400)	5,201.60	2,600.00	0.00	2,600.00	2,600.00	Water Off, Replace water fountain
	City Share/Assessments (440)	1,910.34	1,200.00	535.00	1,200.00	1,200.00	
	Improvements (530)	13,257.37	15,000.00	20,064.00	18,000.00	36,000.00	*
	Refunds & Reimbursements	2,112.72	0.00	0.00	0.00	0.00	
Total for Parks		\$72,815.74	\$82,774.00	\$51,180.30	\$73,225.00	\$103,255.00	

Notes:

2020 Expense Engineering Costs - \$2,400 is for the trail, \$842.50 is for 88 Park View Easement

2021 Budget Council has approved \$1,000 to be spent on Engineering the trail (Goettle property access)
Dec. 8, 2020 Council Meeting

2021 Budget 88 Park View Berm, Council approved 12/8/2020 for \$2,500 (1/2 paid for by park)
Dec. 8, 2020 Council Meeting

2022 Park Board is requesting hiring a part-time summer employee for 320 hours.

*2022

Improvements: Beach House, Trail Overlay, Fence, Wall, Lawnmowers, Vehicles, picnic tables

Savings Accounts for the Park

	3/1/2021
Money Market Account	\$13,211.17
West Central Initiative (Trail)	\$53.54

Total

\$13,264.71

Need Council Approval to spend

Verges Park and Rec Board Minutes

July 22, 2021

3:30 pm at Verges Event Center

Members present: Sherri Hanson, Steph Hogan, Mike Dufrane, Paul Pinke

Members absent: Carol Albright, Julie Lammers, Maggie Puetz

Others present: Tony Sailer

Additions/corrections to agenda: Tree cutting at the park, Grills at Lions shelter, and Flag poles.

June minutes: There were no additions or corrections to June minutes. Sherri moved to approve minutes, Steph seconded and approved.

Budget: Julie Lammers had sent out a copy of the budget in the morning with an email stating where we were currently standing. She informed us that the Payroll is consistent with the budget. We have not used our engineering budget but with upcoming projects she sees a need for \$1000 to \$2000 being needing to be added to the budget. She sees that operating supplies will need to be increased to \$8000 in the future with the addition of Pickleball courts and park usage. Our telephone bill is a set amount at \$375 and the insurance dollars are as listed. We should be able to drop the license and permit costs to \$35. The costs of rubbish removal is increasing so budgeting will also need to be raised. It was suggested maybe we should look at different services. We were informed that Steve's does the garbage collection presently and works with the city. We also have to consider that we have between 20 and 30 porta pots at a cost of \$7000.

Because we have not had adequate time to study the budget it was proposed that we have a special one hour meeting on Wednesday, July 28th at 3:30. An invitation will be sent to Julie Lammers and Julie Bruan.

Wish list: Sherri asked about the water fountain at the park. The water fountain is currently not being used and has issues.

Bath house: There are numerous problems with the current bath house. To do the things that need to be done would cost about \$100,000. First of all there needs to be a new holding tank. Mike has checked several sources about putting in a lining in the current holding tank and was told that would not be possible. The current bath house was built in the 1960's. There are no flush toilets now and the toilets need what is call a muffin monster to take care of the stuff put down the toilet. Another option might be a stopper but Mike does not feel that would solve the problems. There are lights presently in the bath house. One idea is to cement over the holding tank and move the bath house to a new location. There is already a sewer line across the road from the park and it would seem that we could connect to that line. Mike says the Engineers ideas for the bath house unrealistic.

Needle disposal containers: Mike says that they are finding needles at the park which are not being disposed of correctly. They would like to see disposal containers available.

Swim beach: The buoys have arrived but they have not received the buoy rope. Mike would like to get 2 more buoys for next year. We now have a foundation for designated swimming area although getting it

done may not happen till next year. The ski show people want to be sure they could move the buoys for the show. No problem.

Weed removal: Mike is aware the poison used for weed removal is not working well this year. He tries to limit the poison use.

Drain at the Beach is working.

Baseball fields: Question raised as to who is in charge of the baseball fields. Mike said the city does the mowing and Jerry Johnson does the grooming. The baseball teams are in charge of the chalking. Julie B. is concerned with the condition of the field. The dugouts need repairs but this requires both time and money. The roof at the field will be reshingled this fall when the weather is cooler. They will retin over the dugout. Sherri suggested maybe the baseball team needs to do a fund raiser. Tony said that in Brainerd youth games are free but adult teams need to pay \$50 per game. Here the use of the field is free and comes with no responsibility. The baseball team is doing the bean bag tournament at Loony Days. Logan and Keith Bunkowski are associated with the team here. Sherri believes there should be a meeting with team members to encourage communication but also increase user responsibility.

Mike wanted us to know that watering the field will increase the water bill a lot. It used to be that they would use backwash water to water but they can no longer do that.

Loony Day volunteers: There was some back and forth discussion regarding a park board raffle. It is too late to pursue that idea this year. We will pass the hat between the water ski show and show on Friday night and before the water ski show on Saturday. Tony volunteered for both nights. Steph will not be here. Sherri will send an email requesting volunteers.

Flag poles at Cheryl's garden: The flag poles will be removed. There will be flag poles at the proposed Veterans Memorial Park. Glawe family gave the park to the city.

Strand tree will be planted this fall.

Isaac Ratz bid for planter was accepted and approved by the council. Isaac can start next week. Hopefully finished by Loony Days. The city guys will water.

Hours at Long Lake Park: Park will not close. Motion made by Mike and seconded by Sherri. There is a vehicle sound ordinance in town. If there is a problem call the sheriff. Verges has no law enforcement personnel.

Signage for the wheelers: There is need for signage reminding 4 wheelers to stay off yards etc.

Don Snyder had attended last month's meeting and he was unhappy to see he had not had the opportunity to address the board about his groups request to put rod holders on the pier for handicapped. He had not made a request to address the board and the board was not aware of his request. Mike said there are already rod holders on the pier. The pier is DNR pier which they gave the city but DNR works with city. The pier is Quickschriber pier. Sherri is going to email Mr Snyder and tell him to come up with a plan, get on the agenda and present it to the board.

New grills: Mike said the grill by the Lions shelter rusted and fell a part. Mike having trouble visualizing on line at cost of \$289 but it looked cheap and doesn't want to get a cheap one. Tony connected with

place he knew and they were under 200 with longer warranty. We will get two. One for shelter and one up by benches and picnic table on the trail.

Long Lake Lake Association request for removal of tree at Long Lake park: There is some hesitancy to remove the tree. There will be lack of shade and question of the bank. Lake Association would handle the removal. Paul made motion to remove tree and Sherri seconded. The request will be forwarded to council.

Meeting adjourned.

Special meeting Wednesday 7/28 at 3:30.

Regular meeting 8/22 at 3:30.

CITY OF VERGAS PLANNING COMMISSION MINUTES

Monday, July 26, 2021

6:00 pm

Event Center & Zoom Meeting

The City of Vergas Planning Commission was held on Monday, July 26, 2021, at 6:00 pm at the Vergas Event Center and on Zoom with the following members present Bruce Albright, Van Bruhn, Robert Jacoby, Neil Wothe and Paul Pinke. Absent: None. Also, present: Clerk- Treasurer Julie Lammers and Utilities Superintendent Mike DuFrane.

Bruce Albright opened the meeting at 6:00 pm.

Agenda changes consisted of the addition Vice Chairperson and 131 East Linden construction permit.

Vice Chairperson position is vacant due to the resignation of Natalie Fischer. Motion by Bruhn, seconded by Pinke to appoint Robert Jacoby as Vice Chairman. Motion passed unanimously.

Albright, due to attending meeting on zoom asked Jacoby to chair the meeting due to some technical issues regarding zoom and he agreed.

Motion by Jacoby, seconded by Pinke to approve the minutes of the June 28, 2021, meeting with the change in follow up actions for Albright to prepare a draft grass ordinance not a grass ordinance. Motion passed unanimously.

Status of Council Recommendations

Lammers reviewed the following Council actions: Council has proceeded with Townline Road dedication and will hold a public hearing on Tuesday, August 10, 2021, at 6:30 pm. Council approved the construction permit for Veteran's Memorial and the proposal of projects on City property was approved.

Construction Permits

151 1st Ave N has applied for a construction permit for siding and signs, Lammers has called for information on the signs but does not know where signs will be placed, size of signs or how many signs. Permit will be brought to council if information is available by August 10, 2021, for approval.

Motion by Bruhn, seconded by Wothe to approve construction permit for 131 East Linden to shingle, windows, siding and general repair. Motion passed unanimously.

Reviewed grade and fill permit for 98 Park View Drive to add approximately 185 yards of black dirt. Motion by Wothe, seconded by Pinke to approve permit with the conditions of section 5.3 of Shoreline Ordinance. Motion passed unanimously.

Old Business:

Nuisance property located at parcel 82000500034000 of an old trailer house was discussed and letter had been sent and response was presented to the commissioners. Commissioners asked Lammers send letter to property owner requesting he purchase a construction permit and put windows in by end of September. Lammers will update planning commissioners regarding property at the September meeting.

Discussed property at 88 Park View Drive and the ability for snowmobiles to come up from the lake in the City trail easement area. Albright and DuFrane will review the area and bring a proposal to the August meeting regarding if there is enough room for snowmobiles to safely drive though City trail easement.

Albright is reviewing grass ordinances from other communities and questions from the Weed Inspector Mayor Julie Bruhn. Albright stated he plans to have a draft ordinance for the August meeting.

Lammers provided the contract for the Vergas Comprehensive Plan to the commissioners. Discussed the process of moving forward with the plan.

New Business

None.

Meeting adjourned at 6:45 pm.

Secretary,

Julie Lammers, CMC Clerk-Treasurer
City of Vergas

Follow Up Actions:

Albright to prepare a draft grass ordinance.

Lammers contacts the county regarding building by the lake.

Lammers send letter to parcel 82000500034000 regarding nuisance mobile home.

Actions Completed and Removed from Follow up:

None.

Council recommendations:

None.

CITY OF VERGAS
Event Center Advisory Minutes
Vergas Event Center
6:30 P.M. on Wednesday, July 14, 2021

The City of Vergas Event Center Advisory Committee was called to order by Julie Lammers on Wednesday, July 14, 2021 at 6:37 pm with the following members present: Julie Lammers, Paul Haarstick, Paul Pinke, and Mary Ditterich. Absent: Jay Norby and Logan Dahlgren. Guests included: None.

Approval of the Agenda

Meeting agenda approved through consensus of members in attendance.

Approval of Minutes from June 9, 2021

Because there were no members from the previous meeting, approval of the minutes was tabled until the next meeting.

Kitchen Project Update

No reported progress.

Remodeling Project Update

No updates were available to the committee. The contractor has been contacted but has not responded.

Budget

Lammers reviewed the 2022 budget with committee members. The budget is very similar to the 2021 budget with minor changes. Committee members listed various ideas of improvements for the Event Center.

Council Recommendations

- None

Follow up Actions

- None

The business for which the meeting was called having been completed, the meeting was adjourned at 7:28 p.m.

Respectfully submitted,

Paul Haarstick, Secretary

to consider and take action toward acquisition of such site by purchase or other means.

Subd. 2 Park Dedication. Because of the current status of the park and recreational system for the City, and particularly the amount of improvements needed for park land, the need for additional lands for parks does not necessarily coincide with the areas being subdivided. Consequently, the Council has determined that contributions by subdividers to the development of recreational park facilities should be primarily by payment of park dedication fees rather than land dedication.

Brainerd City Code

500.47 Subd. 2 cont. (Rev. 2003)

Park dedication fees shall be deposited in the Park Capital Fund and be used solely for the development of, and improvements to existing or future parks, and will not be used for maintenance, repair and other "daily" expenses. The Park Board shall make a recommendation to the City Council as to the location of any sites or improvements to be funded with such park dedication fees in said Park Capital Fund.

Whenever any land in the City is subdivided by any process, including but not limited to subdivision under this Ordinance, by a registered land survey, or whenever any land within the City is to be built upon where no previous park fee was paid, the policy of the City is to require dedication for park land and facilities accordance with the policies detailed herein. If property which was subject to a park dedication fee or dedication of land computed on the basis of a use that is not constructed is to be subsequently developed with uses that would require an additional fee or dedication of additional land, there shall be a credit for the amount previously paid or dedicated.

If a subdivision proposes dedication of land for park use, which the City Council finds is not needed, is not suitable for the intended use, or is too small for practical maintenance, the City Council may reject such dedication and require cash payment in lieu thereof.

Subd. 3 Determination of Land to be Dedicated or Park Dedication Fees to be Paid. All subdivisions of land within the corporate limits of the City of Brainerd hereafter submitted for approval shall fully comply in all respects with the regulations set forth herein. Plans for all commercial and industrial developments shall be presented in the same manner as a subdivision. Plans for planned unit developments for housing, commercial, industrial or other uses or for any combination of uses designed for sale or rental purposes shall be presented in the same manner as subdivisions for the review by the Planning Commission and the approval of the City Council.

1) Fee: The City Council shall require that the subdivider contribute an amount in cash as the park dedication fee according to the following fee schedule:

Single dwelling: \$500 per buildable lot

Double or multiple dwellings: \$500 per unit
(Including PUD's)

If the as-built plans of all developments within the plat are not provided when the final plat is approved, the developer shall pay a fee based on the fair market value of the land as set forth below and also execute a developer's agreement which states that when a building permit is requested a plan to develop the entire subdivision must be presented and if the dedication cost would have been more at the time of the plat approval based on the per unit fee, the developer will pay the difference between the original fee and the per unit fee before any building permit is issued.

Commercial/Industrial/Business: \$1,000 per acre or 5% of the fair market value of the subdivision as set forth below, whichever calculation creates the greatest amount of funds.

If any of the fees set forth herein above are determined by any Court to be invalid for any reason whatsoever, the park dedication fee shall be the fair market value of the land to be subdivided. For the purposes of this section, "fair market value" means a price that a willing buyer would pay and a willing seller would accept for the property at the time of acceptance of the final plat including but not limited to zoning, public and subdivider improvements or other factors as determined by the County Assessor but excluding any buildings or structures located thereon.

2) Land Amount: If, in the judgement of the City Council, after consultation with the Park Board, that a tract of land is desirable for public use because of location, size or other reasons, a dedication of land by a developer shall be required based on the gross area included in the subdivision, which would be developed for residential, commercial, or industrial purposes and shall be 7%.

This paragraph shall apply to all new development, redevelopment, lot combination/redivisions meant to facilitate development, and expansion of residential or commercial/industrial/business use. It shall not apply to lot combination/redivisions which do not increase the number of single family residential lots or units, conversion of apartments to condominiums, or internal leasehold improvements.

(Rev. Ord. 1200)

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

10. 88 Park View Drive - Berm

Files Attached

- 88 Park View -Berm.pdf

Invoice

Invoice #: 2179

Date: 7/25/2021

Bill To:

City of Vergas

PO Box 32

Vergas, MN 56587



DESIGN • BUILD • MAINTAIN

MW Landscaping, LLC

PO Box 1135

Detroit Lakes, MN 56502

mark@gomwlandscaping.com

www.gomwlandscaping.com

Date	Description	Qty	Unit Price	Amount
	Dirt work in easment at 88 Park View (Dresen's	1	\$ 2,500.00	\$ 2,500.00
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -

*MW Landscaping is not responsible for lawn, driveway, sidewalk, irrigation or underground utility damage. It is the responsibility of the homeowner to contact and locate all private underground utilities prior to any work beginning. MW Landscaping promises to furnish top quality plant materials from local nursery stock. It is our policy to re-supply one time the original purchaser at no charge, any plant which fails to survive the first year from the date of original purchase. Labor, fertilizers, travel and/or delivery fees not included. Warranty does not cover acts of God, mechanical or animal damage, vandalism, or any damage caused by means out of MW Landscaping's control. Cancellation fee is 15% of order. All orders are accepted using the above terms and conditions. No other warranty is expressed, applied or assumed in this contract. All work will be completed in a professional manner, according to industry standards. All agreements contingent upon weather and are subject to delays. We are fully covered by worker's compensation insurance and general liability insurance. There will be a 1.5% service charge per month plus all costs incurred for collections and attorney's fees should your account become delinquent. In the event of delinquency, MW Landscaping reserves the right to place a lien against the property where the work was completed. A deposit of 50% is required to begin work. Final payment is due on or before completion. Warranty is void if any of the terms of this agreement are not met by the client.

Subtotal \$ 2,500.00

Tax Rate 7.875%

Total Tax

Total Estimate \$ 2,500.00

Terms: Balance due upon receipt

Remaining Balance: \$ 2,500.00

CITY OF VERGAS

JUL 28 2021

RECEIVED

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

11. 105 Main Street

- a. Community Growth Partnership Grant
- b. Tax Abatement

Files Attached

- Resolution for 105 Main St Grant.pdf

CITY OF VERGAS
COUNTY OF OTTER TAIL
STATE OF MINNESOTA
RESOLUTION **2021-0__**

THE CITY COUNCIL OF THE CITY OF VERGAS, MINNESOTA DOES HEREBY RESOLVE AS FOLLOWS;

WHEREAS, the City of Vergas has identified a proposed project 105 Main Street Development within the City of Vergas that meets the Otter Tail County Community Development Agency (CDA) Community Growth Partnership Grant program's purpose and criteria; and

WHEREAS, the City has the capability and capacity to ensure the proposed project be completed and administered within the Community Growth Partnership Grant program guidelines; and

WHEREAS, the City has legal authority to apply for financial assistance; and

NOW BE IT RESOLVED that the City of Vergas approves the application for funding from the Otter Tail County CDA Community Growth Partnership Grant program.

BE IT RESOLVED that upon approval of its application by the Otter Tail County CDA, the City Clerk-Treasurer Julie Lammers, is hereby authorized to execute such agreements as are necessary to receive and use the funding for the proposed project.

Adopted this 10th day of August 2021 by the City Council of the City of Vergas.

Julie A. Bruhn, Mayor

ATTEST:

Julie Lammers, City Clerk/Treasurer

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

12. Construction Permits

- a. 151 1st Ave N, siding and replace current signs (to be mounted on building- same size and current signs)
- b. 401 W Lake St., fence, rock moving, gate, planting trees
- c. 100 S Townline Road, shed

Files Attached

- Construction Permit - 151 1st Ave N.pdf
- Construction Permit - 401 West Lake St.pdf
- Construction Permit - 100 S Townline Rd.pdf

Permit Number: _____ Date Received: 7/14/2021 Parcel Number: 82000990088000

Construction Permit Application

To the City Council of the City of Vergas in the County of Otter Tail, State of Minnesota:
Application is hereby made by the undersigned for a Construction Permit as provided by City Ordinance as adopted by the City of Vergas.

- GOPHER STATE ONE CALL MUST BE NOTIFIED 48 HOURS PRIOR TO ANY DIGGING, CALL 1-800-252-1166 AS REQUIRED BY MINNESOTA STATE LAW.
- THE CITY OF VERGAS WILL CHECK ALL SETBACKS ON ANY NEW CONSTRUCTION. IT IS THE APPLICANT'S RESPONSIBILITY TO HAVE ALL PROPERTY LINES LOCATED. ALL NEW CONSTRUCTION REQUIRES THE APPLICANT TO MARK THE PROPOSED BUILDING SITE AND PROPERTY LINES BEFORE THE BUILDING PERMIT WILL BE APPROVED.

- **All Electrical work MUST have an electrical permit, which must be obtained separately from a MN State Contract Electrical Inspector (218)342-3345 or (218)849-6059.**

Property Description: (NEW CONSTRUCTION ONLY)

Lot _____, Block _____, Addition _____

Property: Width _____ feet, Length _____ feet

Must supply City with a \$1,000 deposit for tar break up. City will reimburse \$1,000 when project complete and street is approved by Utilities Superintendent.

PLEASE NOTE: WITH ANY NEWLY CONSTRUCTED HOME, THERE ARE FEES FOR START UP OF UTILITIES. WATER HOOK-UP ASSESSMENT IS \$750.00, SEWER IS \$750.00.

Name of Applicant: Lakes Area Word Fellowship

Address of Construction Project: 151 1ST AVE N.

Mailing Address: PO BOX 218 Phone: 218-342-2620 / 201-866-9969

Name of Owner (If not the Applicant): Same

Address of Owner (If not the Applicant): _____

1. Permit to (CIRCLE ONE)

Build

Install

Addition

Alter

Move

Demolish

Repair

Remodel

Description of work to be done:

siding & new signs

2. Proposed use of building: (CIRCLE ONE) Residential Commercial

3. **VALUATION** (not just your cost) of work being completed: \$ _____

Building Contractor:

Name: _____ License Number: _____ Phone: _____

Plumber: (must have MN License)

Name: _____ License Number: _____ Phone: _____

Electrician:

Name: _____ License Number: _____ Phone: _____

4. Attached a "Site Plan", showing the proposed location of any new building in reference to the property including existing buildings. If you have a copy of a professionally prepared site plan, attach a copy for review by the City's Site/Zoning Inspector. Blueprint or Design Drawings must be submitted for any new construction, addition, or remodel.
5. Certification: I hereby certify that I am the applicant herein and that the information given above and/or any exhibits submitted herewith is in all respects true and accurate to the best of my knowledge and belief, and further, if this permit is granted, said construction will comply with plans and specifications herewith submitted and applicable requirements of the City of Vegas.

6. I am the (CIRCLE ONE) OWNER LESSEE PURCHASER AGENT

7. APPLICANT'S
SIGNATURE:

DATE: 7-14-21

\$ 25.00 penalty

FOR OFFICE USE ONLY

\$ _____ Water Hook-up

\$ _____ Sewer Hook-up

\$ 25.00 Permit Fee

\$ _____ Tar Break Up Deposit

\$ 50.00 Total Fees

Receipt # 144484 Date Paid 7-14, 20 21

Form given to client to display the permit to be visible from the street & to notify office of completion.

Signature: _____ Date: _____, 20__
(Permitting Authority)

Date Approved by Council: _____, 20__

Permit expires in one year if project is not complete please reapply for permit.

Permit Number: _____ Date Received: _____ Parcel Number: _____

Construction Permit Application

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- **All Electrical work MUST have an electrical permit, which must be obtained separately from a MN State Contract Electrical Inspector (218)342-3345 or (218)849-6059.**

Property Description: (NEW CONSTRUCTION ONLY)

Lot _____, Block _____, Addition _____

Property: Width _____ feet, Length _____ feet

Must supply City with a \$1,000 deposit for tar break up. City will reimburse \$1,000 when project complete and street is approved by Utilities Superintendent.

PLEASE NOTE: WITH ANY NEWLY CONSTRUCTED HOME, THERE ARE FEES FOR START UP OF UTILITIES. WATER HOOK-UP ASSESSMENT IS \$750.00, SEWER IS \$750.00.

Name of Applicant: Sandra L Grow

Address of Construction Project: 401 West Lake

Mailing Address: Po Box 153 Phone: 218-841-3885

Name of Owner (If not the Applicant) : _____

Address of Owner (If not the Applicant) : _____

1. Permit to (CIRCLE ONE)

Build

Install

Addition

Alter

Move

Demolish

Repair

Remodel

Description of work to be done:

wire mesh fence, rock removal
trees, gate across driveway

2. Proposed use of building: (CIRCLE ONE) Residential Commercial

3. **VALUATION** (not just your cost) of work being completed: \$ 500.00

Building Contractor:

Labor 0.0

Name: _____ License Number: _____ Phone: _____

Plumber: (must have MN License)

Name: _____ License Number: _____ Phone: _____

Electrician:

Name: _____ License Number: _____ Phone: _____

Form approved by City of Vergas Council 09/12/2017

4. Attached a "Site Plan", showing the proposed location of any new building in reference to the property including existing buildings. If you have a copy of a professionally prepared site plan, attach a copy for review by the City's Site/Zoning Inspector. Blueprint or Design Drawings must be submitted for any new construction, addition, or remodel.
5. Certification: I hereby certify that I am the applicant herein and that the information given above and/or any exhibits submitted herewith is in all respects true and accurate to the best of my knowledge and belief, and further, if this permit is granted, said construction will comply with plans and specifications herewith submitted and applicable requirements of the City of Vergas.
6. I am the (CIRCLE ONE) OWNER LESSEE PURCHASER AGENT

7. APPLICANT'S

SIGNATURE: _____ DATE: _____

FOR OFFICE USE ONLY

\$ _____ Water Hook-up \$ _____ Sewer Hook-up
\$ 55- Permit Fee (25-) \$ _____ Tar Break Up Deposit
\$ 50- Total Fees

Receipt # _____ Date Paid _____, 20__

Form given to client to display the permit to be visible from the street & to notify office of completion.

Signature: _____ Date: _____, 20__
(Permitting Authority)

Date Approved by Council: _____, 20__

Permit expires in one year if project is not complete please reapply for permit.

Permit Number: _____ Date Received: _____ Parcel Number: _____

Construction Permit Application

To the City Council of the City of Vergas in the County of Otter Tail, State of Minnesota:
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- **All Electrical work MUST have an electrical permit, which must be obtained separately from a MN State Contract Electrical Inspector (218)342-3345 or (218)849-6059.**

Property Description: (NEW CONSTRUCTION ONLY)

Lot _____, Block _____, Addition _____

Property: Width _____ feet, Length _____ feet

Must supply City with a \$1,000 deposit for tar break up. City will reimburse \$1,000 when project complete and street is approved by Utilities Superintendent.

PLEASE NOTE: WITH ANY NEWLY CONSTRUCTED HOME, THERE ARE FEES FOR START UP OF UTILITIES. WATER HOOK-UP ASSESSMENT IS \$750.00, SEWER IS \$750.00.

Name of Applicant: Kerry R Strand

Address of Construction Project: 100 S. Townline Rd

Mailing Address: _____ Phone: _____

Name of Owner (If not the Applicant): _____

Address of Owner (If not the Applicant): _____

1. Permit to (CIRCLE ONE)

Build	Install	Addition	Alter
Move	Demolish	Repair	Remodel

Description of work to be done:

Shed

2. Proposed use of building: (CIRCLE ONE) Residential Commercial

3. **VALUATION** (not just your cost) of work being completed: \$ 3600

Building Contractor:

Name: _____ License Number: _____ Phone: _____

Plumber: (must have MN License)

Name: _____ License Number: _____ Phone: _____

Electrician:

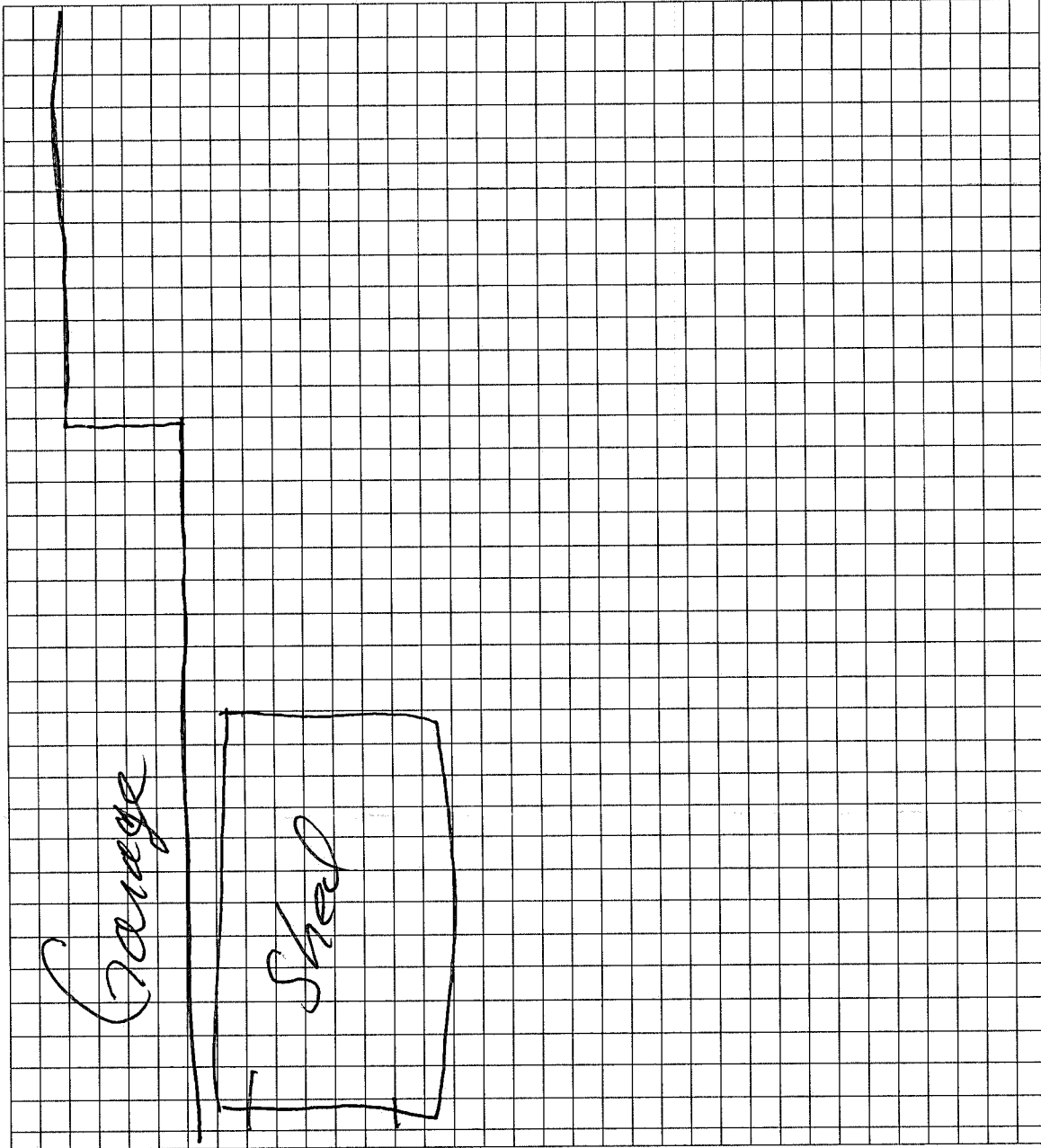
Name: _____ License Number: _____ Phone: _____

CONSTRUCTION APPLICATION SITE PLAN DESIGN

1. Please identify and describe the work to be covered by the permit for which application is being made on the line provided below:

Shed

2. Please sketch the proposed project on the graph below. Describe the land on which the Proposed work is to be done (note the lot size and dimensions and locations of proposed project).



I do hereby say that the facts stated by me in the above site application are true to the best of my knowledge and belief. Please be aware that no construction shall begin until the Zoning official has approved the plans and revisions/the site plan if necessary and has indicated approval to begin.

[Signature]
Signature of Applicant

8/2/21
Date

Zoning Official

Date

OTTER TAIL COUNTY ASSESSOR

Assessor Hub provided by
Vanguard Appraisals, Inc



Parcel Number:

82-000-99-0189-000

Deed Holder:

KERRY & MICHELLE STRAND

Property Address:

100 TOWN LINE RD

VERGAS, MN 56587-0000 [MAP THIS ADDRESS](#)

Mailing Address:

100 TOWNLINE RD S

VERGAS, MN 56587-4218 USA

PDF Name:

VERGAS VILLAGE

Subdivision:

02201-KEILLEY SHORES

Sec-Twp-Rng:

30-137-040

Legal Description:

LOT 1 BLK 1

No image
to display

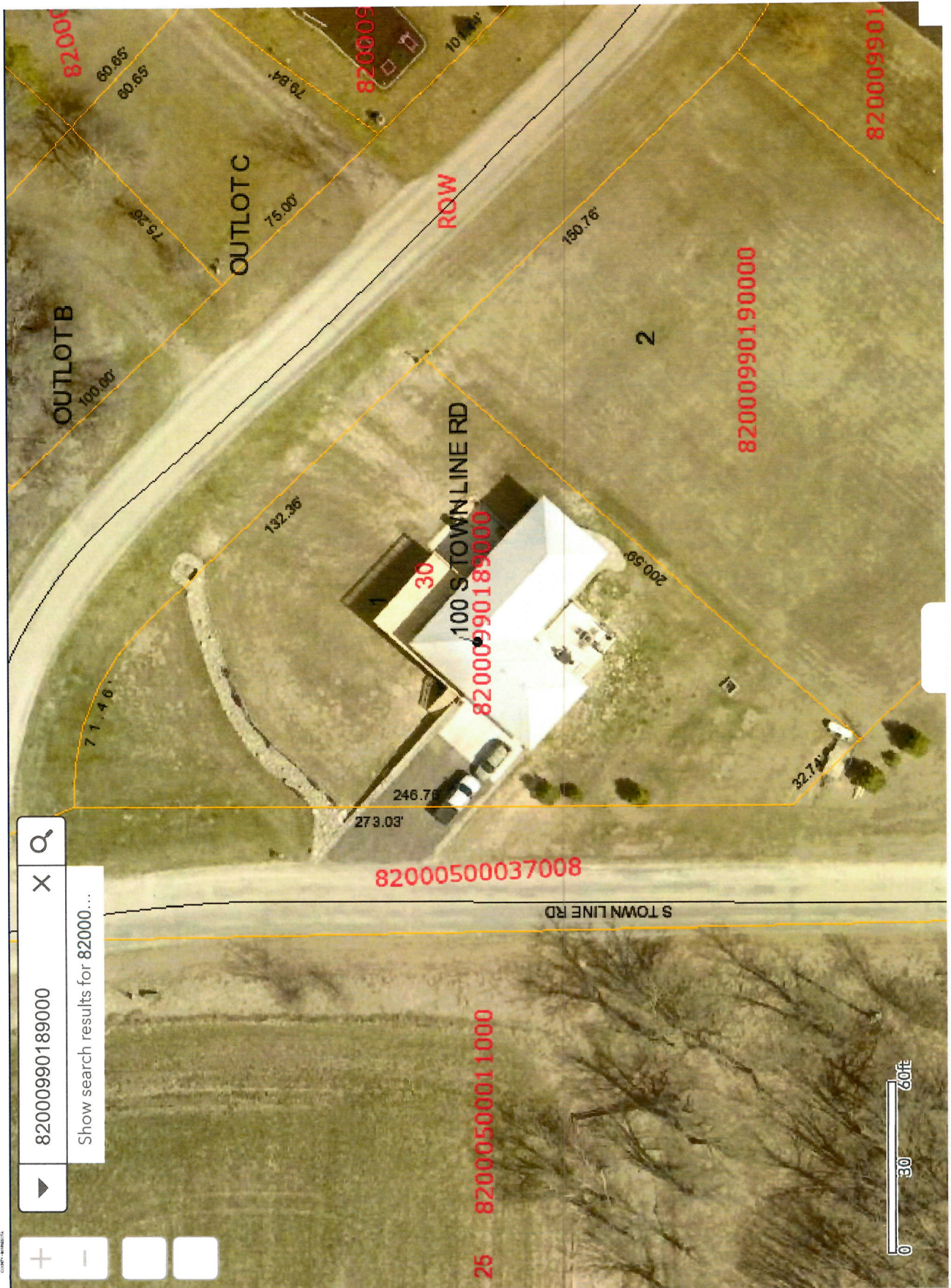
Prior Year Value Information

Year	Land Value	Dwelling Value	Improvement Value	Total Value
2022	\$18,400	\$190,500	\$0	\$208,900
2021	\$16,200	\$0	\$214,000	\$230,200
2020	\$13,720	\$0	\$203,880	\$217,600



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Show search results for 82000...



City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

13. LMC-Liability Coverage -Waiver

Files Attached

- Liability-Coverage-Waiver-Form (1).pdf

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to psstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.*
- *If the member waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.*
- *If the member waives the statutory tort limits and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.*

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name:

Check one:

- The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#).
- The member **WAIVES** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#), to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature: _____ Position: _____

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

14. Ottertail County Property - 140 E Linden St

Files Attached

- Otter Tail County - purchase.pdf

Purchase of County Property

Memo

To: Otter Tail County MN
From: City of Vergas
CC: Amy Baldwin
Date: August 11, 2021
Re: Vergas plan for County property located at 140 E Linden Vergas MN

Comments:

The City of Vergas is discussing the purchase the County property for the following:

1. To support the Economic and Housing development at 105 Main Street and 100 S Railway Avenue.
 - A. 105 Main Street development will remove 6 parking spots currently used by our Main Street businesses.
 - B. Railway Avenue will remove about 30 parking spaces from our Main Street businesses.
 2. To support housing growth in Vergas.
 - A. The 105 Main Street development will add 8 new housing units causing a need of 16 more parking spots.
 - B. If current businesses add rental units above their businesses, 8-10 parking spots will be needed.
 3. Parking available on the County Site.
 - A. Current layout of property, City would add 10-12 parking spots.
 - B. Removal of building, we could add 30-32 parking spots.
 4. Reuse of current building for City Offices.
 - A. Currently the Liquor Store Manager needs an office.
 - B. Expansion of Liquor Store – City Office Space
 1. Managers Office
 2. Tasting room
-

City Council
2021 August Council Meeting
Vergas Event Center and Zoom Id number 267-094-2170 (password 56587)
6:30 PM on Tuesday, August 10, 2021

16. Attic Shoppe Lease

Files Attached

- Attic Lease Agreement 05122020.pdf

LEASE AGREEMENT

THIS AGREEMENT is entered into this 12th day of May, 2020, by and between the City of Vergas, hereinafter referred to as "Lessor", and Bonnie Anderson, d/b/a The Vegas Attic Shoppe, Limited, hereinafter referred to as "Lessee".

The Lessor owns land and a building located at 117 East Main Street, Vergas, Minnesota. Lessee desires to utilize the upper floor of the building as a shop for her business.

The parties hereto, being desirous of setting forth their respective obligations, rights and duties relating to the lease of the above referenced areas (hereinafter referred to as the "Premises"), now agree and covenant as follows:

1. **LOCATION OF PREMISES.** Lessor shall lease to Lessee the entire second floor of the Vergas Municipal Building and shall have the use of the restroom on the first floor of the building located at 117 East Main Street, Vergas, Minnesota.

2. **USE OF PREMISES.** Lessee shall lease the premises for the purpose of operating the "Attic Shoppe". The Premises shall not be used for any other purpose unless Lessor agrees in writing to the change. Lessee shall not use the Premises for any unlawful propose nor shall it operate its business so as to create a nuisance.

3. **TERM.** This lease shall be for an initial period of One (1) year, commencing June 1, 2021.

4. **RENTAL RATE.** Lessee shall pay to Lessor the sum indicated in the following schedule of payments: Monthly rental payments shall be \$500.00;

All payments are due on or before the fifteenth day of the month for which rent is due. Payment after the due date shall incur a penalty of 10% the amount due. Rent shall be paid at City Hall, Vergas, Minnesota.

5. **SECURITY DEPOSIT.** Lessor will not require any security deposit for the performance of the terms and conditions contained herein.

6. **UTILITIES.** Lessee shall be responsible for the cost of all utility services supplied to the Premises for the entire term of the lease. Lessee shall be solely responsible for said costs and shall hold harmless and indemnify Lessor for any costs associated with the maintenance, installation or use thereof.

7. **TAXES.** Lessee shall timely pay all sales, use, payroll income and all other taxes incurred in the operation of Lessee's business on the Premises. Lessee shall timely pay all real estate taxes levied against the Premises and any additions thereto payable in

2012 and each year thereafter as long as this lease or any renewal thereof is in effect. Lessor shall pay any special assessments levied against the premises in 2012 and subsequent years.

8. **INSURANCE.**

A. **GENERAL LIABILITY.** During the term of this lease, and any renewals hereof, Lessee shall maintain general comprehensive liability and casualty insurance covering its operations both on the Premises and including the surrounding parking lot and contiguous area. Lessee shall provide liability insurance in an amount to be agreed upon between Lessor and Lessee, which shall be not less than \$300,000.00. Said amount shall not be less than the policy limits in effect during the last policy term prior to the date the lease is entered into. Lessee shall protect and hold Lessor harmless from any losses or liability arising out of Lessee's use of the Premises.

B. **WORKMEN'S COMPENSATION INSURANCE.** Lessee shall be responsible for providing workmens compensation insurance for all of Lessee's employees working on the Premises.

C. **PHYSICAL DAMAGE INSURANCE.** Lessee shall insure the Premises and any additions or improvements thereto and all fixtures, against physical damage with a replacement cost policy naming the Lessor as a loss payee.

D. **PROOF OF INSURANCE.** Lessee shall cause its insurer to provide a certificate of insurance to Lessor at the beginning of this lease showing Lessor's designation as either loss payee or named insured, as may be appropriate, on all applicable insurances. Hereafter, these documents shall be provided no later than 30 days subsequent to the renewal date of any applicable policy period. The policies shall provide that notice will be provided to Lessor of cancellation or non-renewal at least 30 days prior to the expiration or cancellation of the policy.

9. **INDEMNIFICATION.** Lessee shall protect and hold Lessor harmless from any losses or liability arising out of Lessee's use of the Premises.

10. **DAMAGE OR DESTRUCTION OF PREMISES.**

A. **PARTIAL DESTRUCTION.** Lessee shall have thirty (30) days to make repairs sufficient to restore the Premises to its previous condition.

B. **COMPLETE DESTRUCTION.** In the event the Premises are destroyed or rendered untenantable by fire, storm, earthquake, or other casualty not caused by the negligence or intentional acts of Lessee or any of Lessee's agents, employees, representatives, guests, invitees, or customers, or if the same are taken by eminent domain, this Lease shall terminate from such time except for the purpose of enforcing rights hereunder that may have accrued to that date. The rental amount shall be prorated to the date of such destruction or untenantability or taking of the Premises, Lessee paying up to such date and Lessor refunding the rent collected beyond such date.

Should only a part of the Premises be destroyed or rendered untenantable by fire,

storm, earthquake, or other casualty not caused by the negligence or intentional acts of Lessee or any of Lessee's agents, employees, representatives, guests, invitees, or customers, the rent shall abate in the proportion which the damaged portion bears to the whole Premises provided that the business that Lessee has been conducting can reasonably still be conducted in the non-damaged part of the Premises. Lessor shall have no duty to repair any part of the premises which are destroyed or otherwise rendered untenable. The costs of any repairs voluntarily made by Lessor shall be paid for by Lessor unless the damage was caused by the negligence of Lessee or Lessee's agents, employees, representatives, guests, invitees, or customers, in which case said cost shall be paid by Lessee.

11. CARE, MAINTENANCE AND REPAIR OF PREMISES.

A. Lessee shall take the Premises in the condition in which it is in at the time Lessee occupies the Premises. Lessee shall return the Premises, and any of Lessor's equipment located in or about Premises, in as good a condition as it was in at the commencement of this lease, reasonable wear and tear excepted.

B. Lessor shall be responsible for all maintenance and upkeep of the all electrical, heating and cooling systems, and plumbing repairs.

C. Lessee and Lessee's customers may use Lessor's first floor bathroom. Lessor shall be responsible for cleaning and repair of the bathroom. However, should Lessee or Lessee's customers damage or otherwise cause Lessor to incur extraordinary costs to clean and maintain the bathroom such costs shall be borne by Lessee.

D. Lessee shall be responsible for the cost of replacing any broken glass on said premise. Lessor shall be responsible for all other maintenance and upkeep of the structure of the Premises.

12. ALTERATIONS AND IMPROVEMENTS. No alterations, additions or improvements to the Premises shall be made without Lessor's express written consent. If, upon Lessor's consent, alterations, additions, or improvements are made, Lessee shall pay all material-men and laborers promptly. Should any liens be filed against the property by way of Lessee's failure to pay for materials or services, Lessor may pay the same, charge any expense of so doing to Lessee, and terminate this agreement. Any alterations, improvements, or additions become the sole property of Lessor, free of any claim or interest of Lessee, at the expiration or termination of this lease.

13. ASSIGNMENT OR SUBLETTING. Lessee shall not assign this lease or sublet the Premises or any part thereof, without Lessor's prior written consent. Any such assignment or sublet may be grounds for a rental increase by Lessor, dependent upon the use to which the Premises is put. Any assignment or transfer by operation of law or otherwise of the Lessee's interest in the Premises, including through the bankruptcy or the insolvency of the Lessee, may, at the option of Lessor, be considered an assignment within the meaning of this lease and a material breach of the covenants herein.

14. **NOTICES TO LESSOR AND LESSEE.**

A. Any notices required to be given pursuant to the terms of this lease shall be given to the parties in writing by personally providing notice to the parties, their agents or employees at the parties' places of business.

B. Lessee shall give written notice to Lessor of any claimed violation of this lease agreement fifteen days prior to any action being taken by Lessee to enforce his rights under this lease.

C. Lessor shall provide written notice to Lessee of any claimed violation of any of the terms of this lease 15 days prior to any action being taken by Lessor to enforce Lessor's rights under this lease. However, failure to pay rent when due shall subject Lessee to immediate action by Lessor at Lessor's sole discretion.

15. **QUIET ENJOYMENT.** Lessor covenants the Lessee may, upon its full and punctual compliance with the terms and conditions of this lease, peaceably have and hold the Premises and any additions thereto during the term of this lease, free from eviction, interference or disturbance by Lessor.

16. **INSPECTION.** At all times during the term of this lease, Lessor shall have the right, by itself, its agents and employees, to enter into and upon the premises during reasonable business hours for the purpose of examining and inspecting the same and determining whether Lessee shall have complied with all of its obligations hereunder in respect to the care and maintenance of the premises, the repair and rebuilding of the improvements thereon when necessary, and all other terms and conditions hereof.

17. **SIGNS.** Lessee shall ensure that all signs for Lessee's business are attractive, of reasonable size, and do not detract from the Vergas Municipal Liquors Store signs or other signs advertising business or enterprises in which the Lessor is engaged in. Lessor shall obtain prior approval for all signs from the Mayor of the City of Vergas.

18. **RESPONSIBILITIES WHEN CLOSING THE STORE.** If Lessor operates its business while the municipal liquor store is closed, Lessee shall check all restrooms and other areas of the building to ensure the building is empty before locking up the building.

19. **HAZARDOUS SUBSTANCES.**

A. Lessee shall not use, store or dispose of hazardous substances, as may be defined by applicable federal or state law, on, in or around the Premises except as may be allowed by and in compliance with applicable law and any permits held by Lessee.

B. Lessee shall hold Lessor harmless from any civil liability or damages resulting from Lessee's violation of any environmental law, statute or regulation.

C. Lessee shall provide Lessor with immediate notice of any claimed

violation of Federal, State or local laws concerning its use, storage or disposal of hazardous substances or production wastes.

20. **LICENSES AND CODES.** Lessee shall operate its business and shall conduct its activities in or around the Premises in compliance with all applicable local, County, State and Federal codes and laws. Any failure to comply with such codes shall be considered default under this lease. Lessee shall provide evidence to Lessor that all licenses and permits have been obtained and are in current force and effect.

21. **VIOLATIONS OF THE LEASE.** Any violation of the terms of the lease by the Lessee shall be deemed at Lessor's option a material breach of the lease and grounds for Lessor to commence eviction proceedings against Lessee.

22. **VOLUNTARY TERMINATION.** Prior to the expiration of this lease, if Lessee does not want to renew the lease Lessee shall provide Lessor with written notice 60 days before the expiration of the term of this lease. Otherwise, Lessor will have the option of continuing this lease for two years from the expiration of the lease without notice to Lessee.

23. **TERMINATION OF LEASE AND RIGHT OF REENTRY UPON DEFAULT.**

A. Should Lessee default in its obligations hereunder, and continue in its default after notice has been provided pursuant to paragraph 14 (except if Lessee fails to pay rent when due), or abandons the Premises, then Lessor may terminate this lease and reenter the Premises and any additions thereto without penalty and without need for legal process.

B. Should Lessee become insolvent, declare bankruptcy or enter into any assignment for the benefit of creditors, the Lessor shall have the right to terminate this lease after notice pursuant to paragraph 14 and to reenter the Premises.

24. **SURRENDER.** The Lessee shall, at the expiration or other termination of this lease, remove all Lessee's goods and effects from the leased Premises (including without hereby limiting the generality of the foregoing all signs and lettering affixed or painted by the Lessee, either inside or outside the leased Premises). Lessee shall deliver to the Lessor the leased Premises and all keys, locks and other fixtures connected with the Premises and all alterations and additions made to or upon the leased Premises in good condition. In the event of the Lessee's failure to remove any of Lessee's property from the Premises, Lessor is hereby authorized, without liability to Lessee for loss or damage, to remove and store any of the property at Lessee's expense or to retain the same and dispose of it according to law.

25. **FIXTURES.** All fixtures upon the premises are and shall remain the

property of Lessor.

26. **SEVERABILITY.** The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

27. **BINDING EFFECT.** The covenants and conditions herein contained shall apply to and bind the heirs, legal representatives, successors, and assigns of the parties hereto, and all covenants are to be construed as conditions of this Lease.

28. **INTEGRATION CLAUSE.** This agreement shall constitute the entire contract between the parties hereto. No modification hereof shall be binding unless indorsed hereon in writing.

IN WITNESS WHEREOF, this instrument was executed this 1 day of June 2020.

City of Vergas, Lessor

BY: _____

ITS: _____

The Vegas Attic Shoppe, Limited, Lessee

BY: Bonnie Anderson

ITS: _____

City Council
2021 August Council Meeting
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6:30 PM on Tuesday, August 10, 2021

17. Otter Tail Lakes Country Association

Files Attached

- Otter Tail Lakes County Association.pdf



OTTER TAIL LAKES COUNTRY ASSOCIATION

Board Meeting
11:00 AM – August 2, 2021
Government Services Center – Fergus Falls, MN

Call to Order

Welcome and Introduction of Attendees (11:00 – 11:05)

Approval of Agenda & Minutes (11:05 – 11:10)

- Approval of Agenda (**Board Action**)
- Approval of Minutes from June 2021 (**Board Action**)

Treasurer/Secretary Report (11:10 – 11:40)

- OTC Budget Request (**Board Action**)
- Pelican Rapids Position Update
- Other Personnel Updates
- Financial Report (**Board Action**)

Welcoming Communities Strategies (11:40 – 12:00)

- How are we doing? Opportunities for improvement? Suggested activities?
- At Your Service Training?

*Welcome to all strategies, Grant Packet
stress positive attitudes,*

On the Map Strategies (12:00 – 12:25)

- Otter Tail On Us Campaign
- Rural by Choice with Cory Hepola
- Digital Marketing
 - Social Report
 - Website Report
 - Cabela's NWT Championship
 - [ARP Competitive Tourism Grants](#)

Infrastructure Strategies (12:25 – 12:35)

- American Rescue Plan - *federal additional funds*
- Congressionally Directed Spending - *5 projects submitted to committee, infrastructure*
- The Big Build - *tax rebate, new or rehabs, marketing, infrastructure, CDA*

Employer Strategies (12:35 – 12:45)

- Job Portal Website Update

Old Business Discussion, Questions, etc. (12:45 – 12:55)

- Scenic Byway Updates

Next Meeting & Adjournment (12:55)

- Monday, September 27th
- Location?

Nov 22 - Vergas smart room

written by Chris Schuelke. Betsy Roder and NYM is also working on doing a similar Talking Trail.

- Jean Bowman discussed an ownership change for the Scenic Byway. The City of Fergus Falls is the official owner through MNDOT of the Scenic Byway. It is more suitable for the byway to be a county effort given that the byway is perfectly situated throughout the county and the county/OTLCA has been helpful with the new logo and signs. It makes sense to ask MNDOT to recognize Otter Tail County or OTLCA as the official owner of the Scenic Byway.
 - Motion by Betsy Roder for Otter Tail Lakes Country Association to accept the transfer of the Otter Trail Scenic Byway from the City of Fergus Falls, seconded by Laura Bjerke. Discussion. Motion carried.
- Jean Bowman discussed the Henning Spur (referred to as a side trip in the byway guide map). It's time to update our Corridor Management Plan and Wayne Hurley from WCI would facilitate this process. As part of the updated Corridor Management Plan, we may want to consider including a Henning Spur, so that we can include the Henning Landmark Center. Wayne Hurley would walk us through those steps to be sure that the site meets the criteria. The city of Henning would need to officially approve this as well.
- Governor Fishing Opener
 - Erik Osberg presented an update on the GFO, we don't have any official data from EMT, but anticipate getting that in July. The opinion was that it was a tremendous success.
- Otter Tail On Us Campaign – Part 1
 - The 2021 Otter Tail On Us Campaign has started. We are giving away 100 - \$500 gift cards to be spent in Otter Tail County to help stimulate the economy (over the winter months). The tour started with Fargo, Jamestown, and Grand Forks in June and are partnering with live radio and swag to promote getting registered to win. In July the tour will continue to Omaha, NE and Des Moines, IA, and in August will do the in county stops and St Cloud, Minneapolis/St Paul.
- Digital Marketing
 - As part of the On the Map strategy our main tool is digital marketing including the OTLCA website, Twitter, Facebook, Instagram, and YouTube
 - So far, year to date, our Twitter feed has generated 450,000 impressions (100% organic). Our Facebook page has generated 1.1 million impressions, and has generated 189,000 engagements. We have distributed 73 videos year to date, those videos have been watched for a total of 154,000 minutes (2575 hours) (97% organic). Community Videos (Community Collaboratives) have been doing well, and are released one per month.
 - Co-op with EMT and have signed up with a company called SHRPA. The idea is that influencers come to our area and document their journey/stay and post it to the SHRPA website. Through the co-op we were able to get 34 of these adventures. Additionally, SHRPA has a mapping feature that puts pins on the map for these adventures. Anyone can participate and post on SHRPA.

Infrastructure Strategies

- Amy Baldwin presented some updates on The Big Build

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18. Fiscal Agent

- a. Pickleball
- b. Veteran's Memorial

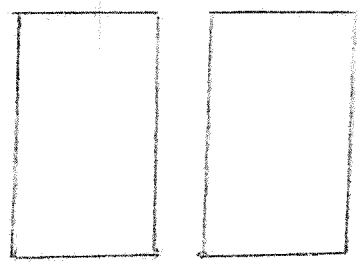
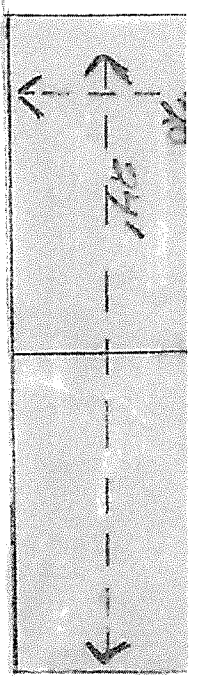
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19. Veterans Memorial

- A. Assignment of City Representative
- B. Phase 1

Files Attached

- Veteran's Memorial Phase 1.pdf



"PHASE 1"
 FLAGS

CONCRETE

POURED CONCRETE

PARKING LOT

ELECTRIC LIGHT POLE
 & OUTLET

CURRENTLY
 DRIVEN IN

30'

25'

15' BACK

Phase One of Veterans Memorial Expenses/Cost			
Expense	Company	Cost	
Advertising - Signs etc	Miscellaneous	\$ 50.00	
Brochure - Design Working - In Kind Donation Amount - Full Cost	Jason Lotzer	\$ 1,500.00	
Brochure - Printing	Perham Printing	\$ 600.00	
Building Permit	City of Vergas	\$ 250.00	
Concrete - Concrete - In Kind Donation Amount - Full Cost	Kost Concrete Materials	\$ 3,500.00	
Concrete - Framing/Materials & Labor	Classic Concrete	\$ 6,000.00	
Concrete - Framing/Materials & Labor - In Kind Donation Amount		\$ 1,500.00	
Electrical Work		\$ 2,900.00	
Entrance Archway - In Kind Donation Amount - Full Cost	J&H Signs	\$ 5,000.00	
Excavating, Gravel, & Sand	Sonneberg Excavating	\$ 6,000.00	
Excavating, Gravel, & Sand - In Kind Donation Amount		\$ 4,000.00	
Flags & Flag Poles	All Flags LLC	\$ 5,600.00	
TOTAL COST - PHASE 1 of PROJECT		\$ 36,900.00	

Cash Donations, Pledges, and In Kind Donations			
Donations	Amount		
Money at WCI Account	\$ 20,000.00	At WCI	
Anonymous Donor - Private	\$ 5,000.00	Pledged	
Anonymous Donor - Private	\$ 5,000.00	Pledged	
Committee Members - Donor	\$ 2,000.00	Pledged	
Vergas Lions - Donor -	\$ 5,000.00	Pledged	
Returned Checks via WCI	\$ 925.00	Returned to Donor	
Income Total	\$ 37,925.00		
Brochure - Design Working - In Kind Donation	\$ 1,500.00	In Kind Donation	
Concrete - Concrete - In Kind Donation - Kost Concrete Materials	\$ 3,500.00	In Kind Donation	
Concrete - Framing/Materials & Labor - In Kind Donation - Classic Concrete	\$ 1,500.00	In Kind Donation	
Entrance Archway - In Kind Donation - J&H Signs	\$ 5,000.00	In Kind Donation	
Excavating, Gravel, & Sand - In Kind Donation - Sonneberg Excavating	\$ 4,000.00	In Kind Donation	
In Kind Donation Total	\$ 15,500.00		
Total Cash and In Kind Donations Available as of 8/04/2021	\$ 53,425.00		

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20. Staff Reports

- a. Utilities Superintendent Report
- b. Liquor Store Manager Report

Files Attached

- 8 Aug DuFrane council report.pdf
- Liquor Store Manager Report.pdf

August 2021 Utilities superintendent report

Parks

1. Isaac Ratz has finished landscaping around planter on tin can alley.
2. Picnic table on doobie beach was installed by Lorin and Diane Menz. Matt and I put black dirt down and planted grass. Bench was moved to a more appealing spot.

Water

1. Inspection was done on the inside of water tower. I will report findings to the water sewer committee at a meeting on a later date.

Wastewater

1. No discharge in July.

Streets

1. Patching was done on Railway, Alley behind Liquor store, Scharf Ave and Franklin Fence.

City farm

1. Mackner excavating is waiting on part for Backhoe to clean burn pile up.

8-10-2021 Liquor Store Manager Report:

Financial:

Lammers began as acting Liquor Store Manager 2016 and was hired as Liquor Store Manager on February 14, 2017.

Lammers began with an operating income of \$5,474 with the city receiving 0 in transfers from Liquor Store from 2014-2016. The following has been transferred to the general fund:

2017- \$5,000

2018 - \$10,000

2019 - \$48,400

2020 - \$30,000

2021- \$15,000

Current Profit for 2021 is currently \$31,328.44 after transfer of funds.

Employees:

Currently at 5 part-time employees and 1 full-time employee.

Liquor Store Manager Gail Kaplan started on Aug. 9, 2021.

Building:

Liquor Store Manger Office has been assembled.

Arvig has installed internet. We are waiting for a Static IP address.

Server will be moved to office after IP address is installed.

Sewer line was plugged causing water issues in both bathrooms and a horrible smell. Hanson's rooter routed line and Dewey Septic jetted the sewer line. During one of these processes the floor drain was broken causing sewer gas issues in municipal building. Hanson's plugged drain and issue has been resolved.

Electrical wire from pole to the municipal building is dropping due to heat. Otter Tail Power has been notified and will remove line once electrician is able to reposition the power line. Zitzow Electric has been notified and asked to either move the line to the top of the building wall or to the ground. For Looney Daze Mike will put a cement barrier under the line by the building and the 3 parking spaces by the pole will be reserved for liquor store employees.

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21. Information & Announcements

- a. MN Rural Water Conference-Aug 24-26, 2021 (DFrane) St Cloud
- b. Clerks Advanced Academy- Sept. 23-24, 2021 (Lammers) St Cloud
- c. MN Beverage Association (MMBA)-Sept. 25-28, 2021 (Kaplan) Alexandria