



**Special Meeting Agenda  
City Council**

12:00 p.m. (Noon) Special Meeting  
Monday, April 20, 2020  
Large Conference Room – City Hall  
25 Center Street  
Vermillion, South Dakota 57069

1. **Roll Call.**
2. **Visitors to Be Heard.**
3. **Capital Improvement Plan – John Prescott.**
4. **Briefing on the April 20, 2020 City Council Regular Meeting** – Briefings are intended to be informational only and no deliberation or decision will occur on this item.
5. **Adjourn.**

**Access the City Council Agenda on the web – [www.vermillion.us](http://www.vermillion.us)**

**Addressing the Council:** Persons addressing the Council shall be recognized. Please state your name and address. Presentations are limited to 5 minutes. For those who do not appear on the agenda, no decision is to be expected at this time.

**Meeting Assistance:** If you require assistance, alternative formats and/or accessible locations consistent with the Americans with Disabilities Act, please contact the City Manager's Office at 677-7050 at least 3 working days prior to the meeting.

**Council Meetings:** City Council regular meetings are held the first and third Monday of each month at 7:00 p.m. If a meeting falls on a City holiday, the meeting will be scheduled for the following Tuesday.

**Live Broadcasts of Council Meetings on Cable Channel:** Regular City Council meetings are broadcast live on Cable Channel 3.

As a courtesy to others, we ask that cellular phones and other electronic devices be turned off during the meeting.



## City of Vermillion Council Agenda

7:00 p.m. Regular Meeting

Monday, April 20, 2020

City Council Chambers

25 Center Street

Vermillion, South Dakota 57069

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Minutes**
  - a. April 6, 2020 Special Meeting; April 6, 2020 Regular Meeting.
4. **Adoption of the Agenda**
5. **Visitors to be Heard**
6. **Public Hearings**
  - a. Issuance of a retail on-off sale malt beverage and South Dakota Farm wine license for BeBee Street II, Inc for Carey's Bar at 18 West Main Street.
7. **Old Business**
  - a. Review of Ordinance 1413 and determine continuation of the Emergency Ordinance.
8. **New Business**
  - a. Resignation of Mayor Jack Powell.
  - b. Agreement for Professional Services with Stockwell Engineers, Inc. for the Downtown Streetscape Project.
  - c. Agreement with the Vermillion Chamber of Commerce and Development Company for rebate of second penny sales tax for Nutrien building project.
  - d. Agreement with the Vermillion Chamber of Commerce and Development Company to utilize Vermillion Now 2 funding for construction of a street extending west from Princeton Street approximately 370 foot street to and located on what is currently Lot 4A of Erickson Addition.
  - e. Historic Preservation Commission appointment.
  - f. Agreement with Mr. Michael Barkl, owner of Lot 1 and 2, Block 2, Arobba Addition, regarding Sanitary Sewer Service.
9. **Bid Openings**
10. **City Manager's Report**
11. **Invoices Payable**
12. **Consensus Agenda**
13. **Adjourn**

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**Addressing the Council:** Persons addressing the Council shall use the microphone at the podium. Please raise your hand to be recognized, go to the podium and state your name and address.

**a. Items Not on the Agenda** Members of the public may speak under Visitors to Be Heard on any topic NOT on the agenda. Remarks are limited to 5 minutes and no decision will be made at this time.

**b. Agenda Items:** Public testimony will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen who wishes may speak one time for 5 minutes on each agenda item. Public testimony will then be closed and the topic will be given to the governing body for possible action. At this point, only City Council members and staff may discuss the current agenda item unless a Council member moves to allow another person to speak and there is unanimous consent from the Council. Questions from Council members, however, may be directed to staff or a member of the public through the presiding officer at any time.

**Meeting Assistance:** The City of Vermillion fully subscribes to the provisions of the Americans with Disabilities Act of 1990. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Manager's Office at 677-7050 at least 3 working days prior to the meeting so appropriate auxiliary aids and services can be made available.

**Council Meetings:** City Council regular meetings are held the first and third Monday of each month at 7:00 p.m. If a meeting falls on a City holiday, the meeting will be scheduled for the following Tuesday. The City Council typically has a Special Meeting on the first and third Monday of each month at Noon.

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***Vermillion City Council's Values and Vision***

*This community values its people, its services, its vitality and growth, and its quality of life and sees itself reinforcing and promoting these ideals to a consistently increasing populace.*

Unapproved Minutes  
Council Special Session  
April 6, 2020  
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, April 6, 2020 at 12:00 noon at the City Hall large conference room. (Mayor Powell requested Council President Collier-Wise chair the meeting.)

1. Roll Call

Present: Collier-Wise (teleconference), Hellwege (teleconference), Holland (teleconference), Humphrey (teleconference), Price (teleconference), Sorensen, Ward (teleconference), Willson (teleconference), Mayor Powell (teleconference)

2. Visitors to be Heard - None

3. Playground and Basketball court update due to COVID-19 - Jim Goblirsch

Jim Goblirsch, Director of Parks and Recreation, reported that the SD Parks and Recreation Association has been following the National Parks and Recreation Association as it applies to recommendations to slow the spread of COVID-19. Jim stated that it is impossible to ensure that parks amenities such as playground equipment are free from contamination. Jim recommended that the following parks and recreation amenities be closed until further notice: dog park, playground equipment, skate park, park/picnic shelters and that all City owned/operated athletic fields be closed to organized activities and social gathering. Jim stated that the hike/bike paths will remain open along with the green spaces of the parks, but encouraged social distancing. Jim stated that all bathrooms in the parks will remain closed and drinking fountains will not be available for use. Jim stated that, in talking to the superintendent of the public schools, the schools would be closing their playgrounds. Discussion followed on the proposal. The consensus of the City Council was to authorize Parks and Recreation staff to move forward with the closing of the parks amenities as presented in the proposal. Jim stated that a press release will be made this afternoon.

4. Briefing on the April 6, 2020 City Council Regular Meeting

Council reviewed items on the agenda with City staff. No action was taken.

5. Executive Session - Economic Development matters

79-20

Alderman Price moved to go into Executive Session for economic development matters at 12:16 p.m. Alderman Holland seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted and the Council in Executive Session.

President Collier-Wise declared the City Council out of Executive Session at 1:15 p.m.

80-20

Alderman Price moved to authorize City staff to work with the VCDC in preparation of developer's agreements for economic development items for future City Council consideration. Alderman Willson seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

6. Adjourn

81-20

Alderman Ward moved to adjourn the Council special session at 1:17 p.m. Alderman Sorensen seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

Dated at Vermillion, South Dakota this 6th day of April, 2020.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA  
BY \_\_\_\_\_  
Kelsey Collier-Wise, President

ATTEST:

BY \_\_\_\_\_  
Michael D. Carlson, Finance Officer

Unapproved Minutes  
City Council Regular Session  
April 6, 2020  
Monday 7:00 p.m.

The regular session of the City Council, City of Vermillion, South Dakota was called to order on April 6, 2020 at 7:00 p.m. by President Collier-Wise. (Mayor Powell requested that Council President Collier-Wise chair the meeting.)

1. Roll Call

Present: Collier-Wise (teleconference), Hellwege (teleconference), Holland (teleconference), Humphrey (teleconference), Price (teleconference), Sorensen, Ward (teleconference), Willson (teleconference), Mayor Powell (teleconference)

2. Pledge of Allegiance

3. Minutes

A. Minutes of March 16, 2020 Special Meeting; March 16, 2020 Regular Meeting; March 24, 2020 Emergency Meeting; and March 30, 2020 Emergency Meeting.

82-20

Alderman Sorensen moved approval of the March 16, 2020 Special Meeting; March 16, 2020 Regular Meeting, March 24, 2020 Emergency Meeting and March 30, 2020 Emergency Meeting minutes. Alderman Willson seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

4. Adoption of Agenda

83-20

Alderman Willson moved approval of the agenda. Alderman Price seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

5. Visitors to be Heard

A. Arbor Day proclamation

Alderman Sorensen read the proclamation designating April 24, 2020 as "Arbor Day" in Vermillion and urged all citizens to protect our trees and woodlands. Alderman Holland, Council Representative on the Tree Board, accepted the proclamation.

## 6. Public Hearings

### A. Transfer of the retail on sale liquor license from BACT Group, LLC to PR Vermillion, LLC for Pizza Ranch at 912 North Dakota Street

Mike Carlson, Finance Officer, reported that an application was received for the transfer of the on-sale liquor license from BACT Group, LLC to Pizza Ranch Vermillion, LLC for Pizza Ranch at 912 North Dakota Street. Mike stated that the City Council has the ability to transfer a license on two criteria: suitable applicant and suitable location. Mike stated that as to suitable applicant, the corporate officers of Pizza Ranch Vermillion, LLC and BACT Group, LLC, are Aric Van Voorst and Brian Tooker and when the license was transferred to BACT Group, LLC from Brian Engleman on June 3, 2019, the Police Chief's memo stated that there was no information to preclude the transfer of the license to the new owners. Mike noted that, with respect to the location criteria, an on-sale liquor license has been issued to this location in the past. Mike stated that the notice of hearing, the Police Chief's memo, and an email from Brian Tooker regarding control measures are included in the packet. Mike recommended approval of the transfer unless additional information is received. Discussion followed.

84-20

Alderman Hellwege moved approval of the transfer of the retail on sale liquor license from BACT Group, LLC to Pizza Ranch Vermillion, LLC for Pizza Ranch at 912 North Dakota Street. Alderman Humphrey seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

## 7. Old Business

### A. Review of Ordinance 1413 and determine continuation of the Emergency Ordinance

John Prescott, City Manager, reported that the City Council adopted emergency Ordinance No. 1413 to address COVID-19 in the community was effective on Tuesday, March 30, 2020. John stated that Section 6 of the ordinance requires the City Council to review continuation of the restrictions at each regular meeting and any special meeting called to address the ordinance during the 60-day period. John stated that this is the first City Council meeting and opportunity since the adoption of the ordinance for the governing body to consider the continuation of all or part of the restrictions in the ordinance. John noted that, per the ordinance, the City Council can amend the ordinance with the adoption of

a resolution. John stated that a sample resolution has been drafted and included in the packet which can be adjusted to fit the needs of the City Council and community. John noted that we have had good compliance with the ordinance and if the Council does not want to make any changes, no action is needed. Discussion followed without any action by the City Council.

## 8. New Business

### A. Update on downtown infrastructure project (Streetscape project)

Jose Dominguez, City Engineer, reported that the businesses in downtown Vermillion and the City have been working to improve the Main Street area with a streetscape project which would tie Main Street together and serve as a framework to showcase the downtown area. Jose stated that the City created the Business Improvement District #2 (BID) with the intent to provide a funding mechanism to bring the streetscape plan, that downtown Vermillion has wanted, to completion. Jose noted that the City Council received an update on the consultant interviews at the March 16th meeting. Jose stated that the BID Board chose to work with Stockwell Engineers. Jose reported that the City Staff, BID Board and Stockwell Engineers have been working together to develop an Agreement for Professional Work for the project. Jose reported that the draft agreement for professional work is attached and reviewed the content of the agreement. Jose reported that the BID Board will be meeting this week to discuss the agreement in anticipation of having a recommendation on the agreement for the City Council at the April 20th meeting. Jose noted that no City Council action is necessary at this time. Discussion followed.

### B. Agreement for professional services with Helms and Associates for Hangar Taxilane Reconstruction Project at Harold Davidson Field

Jose Dominguez, City Engineer, reported that the latest capital improvement plan for the airport shows that, during the 2020 year, the City would start the reconstruction of the hangar taxi lane at the City's airport. Jose stated that, in February 2019, the City Council entered into an agreement with Helms and Associates for the design of the hangar taxi lane reconstruction. Jose stated that this agreement with Helms & Associates is for the bidding and construction administration of the hangar taxi lane reconstruction project. Jose stated that the agreement with Helms and Associations is for \$49,762.73 which will be paid by the City and 95% will be reimbursed with state and federal funds. Jose recommended approval of the professional services agreement for airport project number AIP-3-46-0056-13-2019. Discussion followed.

Alderman Willson moved approval of the Agreement for Professional Services with Helms and Associates for airport project number AIP-3-46-0056-13-2019 in the amount of \$49,762.73 and authorized the Mayor to sign. Alderman Ward seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

C. Agreement to change the designation and maintenance of the sanitary sewer from North Norbeck Street to 310-feet east along the vacated right-of-way of Madison Street

Jose Dominguez, City Engineer, reported that, in 2014 as part of the construction of North Norbeck Street from East Clark Street to Roosevelt Street, the City constructed an 8-inch sanitary sewer from North Norbeck Street east 310-feet along the now vacated Madison Street right-of-way. Jose noted that this sanitary sewer was intended to allow for private services to be connected into it from the north and south properties and would have been able to be extended an additional 330-feet east to serve other properties to the east. Jose stated that the owner of all of the land that would be served by this sanitary sewer has constructed several high-density apartment buildings that utilize this sewer. Jose reported that in 2018 at the request of the property owner the City Council vacated this portion of Madison street but kept a utility easement over the City's sanitary sewer and a privately owned gas line. Jose stated that the City was made aware of the layout for the new apartment buildings to be constructed along the north side of the now vacated Madison Street where the apartments were found to be outside of the utility easement, but were between five and ten feet from the sanitary sewer. Jose reported that the City has been discussing the possibility of the sanitary sewer being designated to a sewer service, rather than a sewer main. Jose reported that the proposed agreement would change the designation of the sanitary sewer main from a 'main' to a 'building or house connection sanitary sewer' (or a sewer service). Jose reported that the change in designation would remove the City's responsibility for maintenance and ownership, and place this responsibility on the owner of both of the adjoining properties, G.A. Haan Development, L.L.C. (Haan). Jose noted that this change in the designation will not adversely affect the public as Haan's properties are the only ones that will be served by the current sewer. Jose recommended approval of the agreement. Discussion followed with Jose reviewing a map showing the sewer in question.

86-20

Alderman Holland moved approval of the agreement to change the designation and maintenance of the sanitary sewer from North Norbeck Street to 310-feet east along the vacated right-of-way of Madison Street with G.A. Haan Development, LLC and authorized the Mayor to sign.

Alderman Ward seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

## 9. Bid Openings

### A. Fuel quotes

Mike Carlson, Finance Officer, read the monthly fuel quotes and recommended the low quote of Stern Oil on all four items.

Item 1 - 4,350 gal unleaded 10% ethanol: Stern Oil \$.8815, Brunick's Service \$1.20, Jerry's Service \$1.80; Item 2 - 1,000 gal unleaded regular: Stern Oil \$1.0332, Brunick's Service \$1.45, Jerry's Service \$2.10; Item 3 - 3,000 gal No. 2 Diesel fuel dyed: Stern Oil \$1.3492, Brunick's Service \$1.55, Jerry's Service \$1.65; Item 4 - 1,000 gal No. 2 diesel fuel-clear: Stern Oil \$1.645, Brunick's Service \$1.80, Jerry's Service \$1.95.

87-20

Alderman Ward moved approval of the low quote of Stern Oil on all four items. Alderman Price seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

### B. West Main Street Lights

Jose Dominguez, City Engineer, reported that, at the September 16, 2019 meeting, the City Council adopted the Resolution of Necessity and Notice of Hearing for the Installation of Street Lighting along West Main Street west of Stanford Street and set a public hearing date. Jose stated that the project provides for the installation of three street lights on Main Street west of Stanford Street. Jose stated that bids were sent to 9 potential bidders and two bids were received for the project at the April 1, 2020 bid opening. Jose stated that the low bid was received from Bear Inc., dba Todd's Electric Service in the amount of \$10,045.60. Jose noted that the City estimate was \$10,422.50. Jose stated that after the completion of the project the City Council will be provided with an adjusted special assessment roll to reflect actual costs of the project to be assessed to the adjoining property owners. Jose recommended approval of the low bid.

Bids: Bear, Inc, dba Todd's Electric \$10,045.60; Nystrom Electric \$14,414.32.

88-20

Alderman Holland moved approval of the low bid of Bear Inc., dba Todd's Electric Service in the amount of \$10,045.60 for the West Main Street light project. Alderman Hellwege seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

#### 10. City Manager's Report

A. John reported on the following openings on City Boards and Commissions:

One opening on the Historic Preservation Commission for a term expiring in August 2021. John asked individuals to complete an Expression of Interest form by Noon on Thursday, April 16th in anticipation that the City Council will make an appointment at the April 20th meeting.

One opening and three terms are expiring on the Human Relations Commission in May. John reported that one of the terms is for a post-secondary student position for a one-year, one opening is for one-year term and two of the terms are for three-years. John asked individuals to complete an Expression of Interest form by Noon on Thursday, April 30th in anticipation that the City Council will make an appointment at the May 4th meeting.

Two terms are expiring on the Library Board in May. John reported that both terms are for three-years. John asked individuals to complete an Expression of Interest form by Noon on Thursday, April 30th in anticipation that the City Council will make an appointment at the May 4th meeting.

B. John noted that included with your Council packet is information about sanitary sewer rates. John stated that annually staff reviews the winter consumption levels to determine if the sewer rate will generate the revenues to meet the operating expenses and the debt service payments. John noted that the current multiplier of 128% of the winter water billing is sufficient to meet the operating expenses and make the debt service payments but will not increase reserves as much as planned. John noted that there is no change proposed in sanitary sewer rate. John stated that customers may see changes in their individual sewer billings if their average winter water consumption was higher or lower than the previous year.

C. John reported that curbside recycling is paused as of this week and will begin again when it is safe for the citizens and employees.

D. John noted that there was a very important item that all residents can do for the city which is to complete the Census.

PAYROLL ADDITIONS AND CHANGES

Finance: Katie Redden \$23.27/hr; Police: Jon Cole \$28.23/hr, Ryan Hough \$33.90/hr; Ambulance: Allaina Howard \$11.00/hr-\$16.50/hol hr-\$2.00/on call-\$3.00/hol on call, Hannah Myer \$11.00/hr-\$16.50/hol hr-\$2.00/on call-\$3.00/hol on call, Logan Peterson \$11.00/hr-\$16.50/hol hr-\$2.00/on call-\$3.00/hol on call; Parks: Joshua Haaland \$10.00/hr, Tyler Leif \$9.50/hr; Golf Clubhouse: Grant Campbell \$13.66/hr; Water: James Goeden \$18.52/hr; Landfill: Jasper Johnson \$17.17/hr

11. Invoices Payable

89-20

Alderman Price moved approval of the following invoices:

3D Specialties Inc	supplies	438.35
A & A Refrigeration	repairs	1,758.39
A-Ox Welding Supply Co	chemicals	1,889.88
All American Gasket	supplies	153.10
Allegiant Emergency Service	repairs	66.99
Anna Kappenman	refund parking tckt overpmt	3.00
Apex Equipment, LLC	repairs	1,050.10
Appeara	shop towels	45.00
Aramark Uniform Services	uniform cleaning	448.96
Argus Leader Media #1085	subscription	235.58
Banner Associates, Inc	professional services	5,633.50
Ben's Handyman Services	repairs	27.81
Blackstone Publishing	books	100.00
Border States Elec Supply	supplies	503.98
Bound Tree Medical, LLC	eyewear/gloves/repairs	1,766.50
Bridgestone Sports Inc	merchandise	1,216.08
Butch's Propane Inc	propane	861.30
Butler Machinery Co.	parts	2,598.09
Callaway Golf	merchandise	6,552.11
Cannon Technologies, Inc	water nodes/gateway modem	25,972.26
Cask & Cork	merchandise	1,285.00
Century Business Products	copier contract/copies	205.38
Chamberlain Oil Co	oil	1,148.98
Chesterman Co	merchandise	478.64
City Of Vermillion	copies/postage	1,049.30
City Of Vermillion	utility bills	33,648.61

Clark Bennett	refund armory rental fee	25.00
Clay-Union Electric Corp	one call breakfast	102.66
Coffee King, Inc	supplies	62.75
Colonial Life Acc Ins.	insurance	3,055.41
Concrete Materials	asphalt	814.28
Core & Main LP	supplies	1,713.47
Cornhusker International Truck	supplies	98.04
Crouch Recreation	parks equipment	1,140.00
Dakota Beverage	merchandise	10,657.60
Dakota Pc Warehouse	ink cartridge/monitor	297.95
Dakota Pump Incorp	parts	147.40
Dale Husby	safety boots reimbursement	100.00
Dan Sundberg	refund special daily license	35.00
Danko Emergency Equipment	firefighter equipment	5,133.92
Delta Dental Plan	insurance	6,192.08
Dennis Martens	maintenance	833.34
Diamond Vogel Paints	yellow traffic paint	1,911.80
Division Of Motor Vehicle	title/license plates	21.20
Dubois Chemicals	soda ash	14,696.00
Eagle Caulking	housing grant funds	2,449.50
Eakes Office Solutions	supplies	98.07
Echo Electric Supply	supplies	1,275.00
Ed M. Feld Eqpt Co	repairs	129.70
Emergency Services Marketing	subscription agreement	660.00
Environmental Resource Assoc	chemicals	1,312.30
Erickson Solutions Group	cloud backup storage/mgmt	780.00
Farmer Brothers Co.	supplies	76.85
Fast Auto Glass	windshield repair	60.00
Fliegen Construction	refund hyd deposit less usage	60.06
Foreman Media	Feb/March council meetings	200.00
Frontier Precision, Inc	subscription	1,650.00
Gale/Cengage Learning Inc	books	941.69
Graham Tire Co.	tire	59.95
Grainger	parts	440.88
Graybar Electric	supplies	4,147.81
Graymont (WI) LLC	chemicals	12,445.26
Gregg Peters	freight	1,384.80
Gregg Peters	rent	937.50
Guarantee Roofing & Siding	repairs	4,477.19
Hach Co	chemicals	3,383.17
Heiman Fire Equipment	annual inspection	325.67
Helms & Associates	professional services	3,502.79
Henderson Exhaust Plus	repairs	68.02

Herren-Schempp Building	supplies	274.32
Hy Vee Food Store	supplies	4.00
Imperial Headwear, Inc	merchandise	300.00
IMS Alliance	name tags	50.00
In Control, Inc	modems	200.00
Ingram	books	2,226.99
International Code Council	dues	135.00
International Public Mgmt	testing materials	347.00
Interstate Power Systems, Inc	repairs	1,102.10
Intl Assoc Of Arson Invest.	dues	100.00
Istate Truck Center	parts	267.50
John A Conkling Dist.	merchandise	4,811.20
Johnson Brothers Of SD	merchandise	16,959.64
Johnstone Supply	filters	318.58
Jon Cole	meals reimbursement	70.00
Jones Food Center	supplies	950.12
Joseph A Ostrem	safety boots reimbursement	160.00
Kalins Indoor Comfort	repairs	349.69
Karsten Mfg Corp	merchandise	131.67
Kimball Midwest	supplies	47.95
Lawson Products Inc	supplies	81.68
Laynes World	fire/ems supplies/plaque	355.38
Lessman Elec. Supply Co	supplies	1,794.25
Locators And Supplies, Inc	flags	106.45
Longs Propane Inc	propane	100.00
Malloy Electric	parts	399.08
Mart Auto Body	towing	495.00
Matheson Tri-Gas, Inc	medical oxygen/cylinder rental	399.74
Matthew Bender & Co, Inc	books	58.44
McCulloch Law Office	professional services	2,308.95
Mead Lumber	supplies	447.43
Medical Waste Transport, Inc	haul medical waste	236.17
Menards	supplies	166.34
Merrick Industries	parts	1,639.66
Micro Marketing LLC	books	45.00
Midwest Alarm Co	alarm monitoring	81.00
Midwest Turf & Irrigation	parts/filters	1,697.38
Midwest Wheel Companies	parts	253.18
Missouri Valley Maintenance	repairs	1,898.65
Motorola Inc	portable radios	18,352.62
MSC Industrial Supply Co	supplies	116.34
Natl Golf Foundation	membership dues	250.00
NCL Of Wisconsin, Inc	supplies	1,675.10

Netsys+	professional services	936.00
Nike Inc	merchandise	2,414.25
Noridian	refund ambulance overpmt	390.65
Northern Truck Eqpt Corp	parts	2,870.96
O'Reilly Auto Parts	parts	508.33
Odeys Inc	supplies	382.00
Overhead Door Of Sioux City	repairs	803.60
PCC, Inc	commission	3,976.75
Penworthy Company	books	131.76
Plain Talk Publishers	subscription	26.00
Pollman Excavation	crushed concrete	3,383.68
Pomps Tire Service, Inc.	tires	1,462.00
Pressing Matters	supplies	166.00
Presto-X-Company	inspection/treatment	62.00
Print Source	visitors guide	190.00
Prochem Dynamics	mop bucket/wringer/paper towels	224.90
Quill	supplies	47.98
Racom Corporation	maintenance	411.70
Reams Sprinkler Supply	supplies	453.17
Recorded Books, Inc	books	181.20
Redi Towing	towing	150.00
Reel Sharp	grind reel/bed knife	1,887.90
Republic National Distributing	merchandise	14,601.61
Resco	supplies	146.00
Riverside Technologies, Inc	computers	4,668.00
Rons Auto Glass, Inc	replace windshield	350.00
Running Supply, LLC	supplies	1,232.63
Sanford Health	refund ambulance overpmt	1,086.20
Sanford USD Medical Center	supplies	361.19
Scantron Corporation	maintenance/ribbons	1,863.80
Schaeffer Mfg. Co	supplies	708.00
Scott Hoffman	refund parking tckt overpmt	5.00
SD Dept Of Environment	permit fee	500.00
SD Dept Of Health	testing	150.00
SD Fire Instructors Association	registration & dues	385.00
SD Narcotics Officers Assoc	registration	50.00
SD Redbook Fund	subscription	150.00
SD Retirement System	contributions	60,051.38
Security Shredding Service	document shredding	35.00
Service Master Of Se SD	custodial	3,499.04
Shi International Corp.	maintenance	101.00
Sioux Equipment	repairs	950.00
Sooland Bobcat	parts	321.25

Southern Glazer's Of SD	merchandise	5,657.90
Staples Business Credit	supplies	1,702.91
Stewart Oil-Tire Co	repairs	31.90
Stryker Sales Corporation	AED/maintenance agreement	8,740.12
Sturdevants Auto Parts	parts	1,342.49
Sun Mountain	merchandise	3,065.05
Superior Tech Products	cleaner	35.00
Synch/Amazon	books/dvds/supplies	245.23
Target Solutions Learning	membership/maintenance	6,335.00
Taylor Made	merchandise	623.83
The Equalizer	advertising	1,158.00
The Library Store, Inc	supplies	164.31
The New Sioux City Iron Co	repairs	136.85
The Ups Store #6751	shipping	135.38
Titleist-Acushnet Company	merchandise	12,032.12
Tomahawk Live Trap Company	traps	365.92
Tractor Supply Credit Plan	supplies	253.73
Triview Communications	phone system computer	799.50
True Fabrications	merchandise	53.88
Turner Plumbing	repairs	385.15
Twin City Hardware	supplies	241.76
United Way	contributions	771.00
Unum Life Insurance Company	life insurance	1,474.04
Utility Equipment Co.	water meters	7,145.00
UV Doctor Lamps, LLC	uv lighting	4,177.89
Valiant Vineyards	hand sanitizer/wipes	253.50
Vantek Communications, Inc	parts	59.50
Vast Broadband	911 circuit/dialup service	1,415.45
Verizon Wireless	cell phones/ipad access	2,391.68
Vermillion Ace Hardware	mowers/supplies/parts	28,800.90
Vermillion Chamber Of Commerce	vermillion bucks/coffee sponsor	175.00
Vermillion Ford	repairs	42.92
Vermillion Housing Authority	audit contribution	6,900.00
Visa/First Bank & Trust	fuel/lodging/supplies	5,433.66
Wal-Mart Community	supplies	587.74
Wesco Distribution, Inc	electric meters	9,465.80
Wexford Fulfillment Solutions	merchandise	310.39
Yankton Janitorial Supply	supplies	936.00
Yankton Motorsports LLC	utility vehicle	16,948.00
Zee Medical Service	supplies	274.00
Zimco Supply Co	supplies	172.00
Dave Everding	Bright Energy Rebate	250.00
Greg Kerkman	Bright Energy Rebate	150.00

Ken Ryan	Bright Energy Rebate	250.00
Lori Jerred	Bright Energy Rebate	25.00
Lucelle Lansing	Bright Energy Rebate	250.00
Susan Stach Hudson	Bright Energy Rebate	25.00
Anita Mehaffey	Bright Energy Rebate	250.00
Srini Ragothaman	Bright Energy Rebate	250.00
Sylvester Clifford	Bright Energy Rebate	250.00

Alderman Hellwege seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

12. Consensus Agenda

A. Set a public hearing date of April 20, 2020 for a retail on-off sale malt beverage and SD Farm wine license for BeBee Street II, Inc for Carey's Bar at 18 West Main Street.

90-20

Alderman Price moved approval of the consensus agenda. Alderman Hellwege seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collier-Wise declared the motion adopted.

13. Adjourn

91-20

Alderman Ward moved to adjourn the Council Meeting at 7:38 p.m. Alderman Sorensen seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. President Collie-Wise declared the motion adopted.

Dated at Vermillion, South Dakota this 6th day of April, 2020.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA  
BY \_\_\_\_\_  
Kelsey Collier-Wise, President

ATTEST:

BY \_\_\_\_\_  
Michael D. Carlson, Finance Officer

Published once at the approximate cost of \_\_\_\_\_.





## *Council Agenda Memo*

**From:** Mike Carlson, Finance Officer

**Meeting:** April 20, 2020

**Subject:** Retail on-off sale Malt Beverage and SD Farm wine license for BeBee Street II, Inc for Carey's Bar at 18 West Main Street

**Presenter:** Mike Carlson

**Background:** An application was received for a retail on-off sale malt beverage and SD Farm wine license for BeBee Street II, Inc for Carey's Bar located at 18 West Main Street. The retail on-off sale malt beverage and SD farm wine license is for the licensing period that will expire on June 30, 2020.

**Discussion:** The City Council has the ability to issue a license on two criteria: suitable applicant and suitable location. As to the suitable applicant, an on-sale liquor license has been issued to BeBee Street II, Inc for many years with the same corporate officers, therefore a background check was not requested of the corporate officers. With respect to the location criteria, an on-sale liquor license has been issued for this location for many years. A recent western South Dakota legal ruling defined that other items can impact the location criteria. The character of neighborhoods and businesses tend to change over time and a local governing body has a legitimate interest in managing the alcoholic beverage licensing in its jurisdiction to assess whether an alcohol sales location continues to be suitable. The following are the city ordinances on suitable applicant and suitable location.

§ 112.20 SUITABLE APPLICANT.

(A) South Dakota Codified Law § 35-2-1.2 requires the City Council to determine whether retail alcohol beverage license applicants are suitable before issuing, transferring or renewing said licenses. This determination is required annually for each license the applicant seeks. In order to effectuate a thorough determination of suitable applicant eligibility for license issuance, new applicants must submit to a criminal background check to determine suitability. Each new applicant shall make arrangements with a law enforcement agency and submit to the fingerprinting process. The applicant must also provide to law enforcement payment to the South Dakota Division of Criminal Investigation and FBI in an amount necessary to cover the costs of the criminal record check. These actions must be taken by an applicant prior to publication of hearing notice required by South Dakota law. The applicant's completed application will be attached to the certification of the law enforcement agency when received.

(B) A DISQUALIFYING CRIMINAL RECORD for alcoholic beverage license purposes means any conviction for any felony, a crime of violence as defined in SDCL § 22-1-2(9), a sex offense as defined in SDCL § 22-24B-1, or trafficking in controlled drugs or substances which when and where committed would constitute such in the state of South Dakota. Unpardoned convictions of any crime of moral turpitude as defined by SDCL § 22-1-2(25) which when and where committed would constitute such in the state of South Dakota may constitute a disqualifying record as determined by the City Council on a case-by-case basis. Any criminal conviction not disclosed by an applicant on his application form may be treated as a disqualifying record. Any criminal conviction may be considered in making license issuance decision. Suspended imposition of sentence will not be considered a conviction.

(C) An applicant subject to this policy shall provide to the law enforcement agency performing the fingerprinting process cash, check, or money order in an amount necessary to cover the costs of fingerprints for the criminal record check.

(D) An applicant or principal in any business entity that is an applicant having any indebtedness to the city must satisfy said indebtedness before the City Council will consider any application for alcoholic beverage license issuance or renewal, except for plan one or two special assessment obligations that are not in arrears.

#### § 112.21 SUITABLE LOCATION.

(A) South Dakota Codified Laws § 35-2-1.2 requires the City Council to determine whether retail alcohol beverage license applications propose suitable locations before issuing or renewing said licenses. This determination is required annually for each license the applicant seeks. The following are nonexclusive criteria established to assist in determining suitable location status:

- (1) Identification of a garbage hauler to be utilized by the business and the frequency of the garbage pickup;
- (2) Zoning restrictions, and
- (3) Neighborhood characteristics.

(B) In determining suitable location, the City Council will also utilize factors developed through South Dakota case law. This includes the manner in which the business is operated; the extent to which minors frequent or are employed in such place of business; the adequacy of police facilities to properly police the proposed location, and other factors associated with the sale of alcoholic beverages, such as noise and litter.

#### § 112.22 SUITABLE APPLICANT AND SUITABLE LOCATION CONSIDERATION.

(A) South Dakota codified laws and case law support the premise that the decision to issue an alcoholic beverage license is discretionary. Therefore, the city hereby establishes a two-tiered process to evaluate on-sale liquor applications. The first tier will assess the suitability of the applicant or principals and whether the location is suitable according to §§ 112.20 and 112.21 of this chapter.

(B) Upon finding evidence of the suitability of the applicant and location, the City Council will consider second tier criteria. This process can include examining the best location for economic and tourism development, the best ancillary uses (restaurant, etc.) developed with the sale of liquor, the best location in accordance with the city long-range plan, the size of the facility, parking facilities, closeness to existing supplementing businesses, residences, and activities deemed important by the City Council.

The notice of hearing and the Police Chief's memo are included in the packet.

**Financial Consideration:** The license fee is \$300 for the retail on-off sale malt beverage and SD Farm wine license of which \$150 is retained by the City.

**Conclusion/Recommendations:** Administration would recommend approval of the retail on-off sale malt beverage and SD Farm wine license unless input from the public hearing provides additional information. The City Council is asked to make a decision on the approval or denial of the issuance of the retail on-off sale malt beverage and SD Farm wine license to BeBee Street II, Inc. for Carey's Bar at 18 West Main Street.

City of Vermillion  
Police Department  
15 Washington Street  
Vermillion, SD 57069  
Phone: (605)677-7070  
FAX: (605)677-7166  
[www.vermillionpd.org](http://www.vermillionpd.org)



04/01/2020

To: Mike Carlson, Finance Director

From: Matt Betzen, Chief of Police

Reference: Retail on-off sale malt beverage license until 6/30/20 for Carey's Bar

This is a change in licensing for Carey's Bar to allow for the purchase of sealed malt beverages to be taken out of the tavern. Normally, these renewals are done in the spring and are accompanied with a 12-month review police contacts with the license holder.

Below is a summary of alcohol related incidents for Carey's Bar over the last 12 months. Of note, the only incidents reported here are the events that actually take place on the property of the license holder and/or are clearly associated with the business and its sale of alcohol. The downtown area has a large number of alcohol related investigations that are not necessary attributed to any specific license holder. Examples of this would-be persons with open containers or urinating in public, who are in the downtown area but are not specifically identified as being in or from a license holder's establishment.

Carey's Bar at 18 W. Main Street:

- No compliance checks have been done at Carey's Bar in the last 12 months.
- On 02/02/2020, Officers responded to a highly intoxicated woman who was too drunk to be in the bar. She was removed.
- On 01/26/20, Officers responded to a domestic dispute at the bar.
- Management cooperated with all investigative efforts throughout the last 12 months.

The management at Carey's Bar has historically exercised due diligence to mitigate the dangers surrounding being an alcohol vendor and made reasonable efforts to deter underage possession/consumption.

NOTICE OF PUBLIC HEARING OF APPLICATIONS  
FOR SALE OF ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 20<sup>th</sup> day of April, 2020 at the hour of 7:00 P.M. in the City Hall Council Chambers, 25 Center Street, will meet in regular session to consider the following application for an alcoholic beverage license to operate within the municipality for the licensing period stated below, which has been presented to the City Council and filed in the Finance Officer's Office:

Retail (On-Sale) Malt Beverage with SD Farm Wine until June 30, 2020:

BeBee Street II, Inc. for Carey's Bar at 18 West Main Street.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 2<sup>nd</sup> day of April, 2020.

Michael D. Carlson, Finance Officer

Publish: April 10, 2019

Published once at the approximate cost of \_\_\_\_\_.



## *Council Agenda Memo*

**From:** John Prescott, City Manager

**Meeting:** April 20, 2020

**Subject:** Review of and possible continuation of Ordinance 1413 – Emergency ordinance to address COVID-19

**Presenter:** John Prescott

**Background:** At emergency meetings held on March 24 and March 30, the City Council reviewed, modified, and adopted Ordinance 1413. This emergency ordinance placed restrictions on public gathering places and entertainment venues such as bars, restaurants, movie theaters, video lottery casino operations, and similar places of public accommodation as well as nail and hair salons, barber shops, health clubs, and spas where individuals are in close contact. With the second reading of the Ordinance on March 30, 2020, the City Council set a fine of \$56.50 plus court costs for each violation of the ordinance. Each day is treated as a separate violation of the ordinance.

**Discussion:** The ordinance became effective on Tuesday, March 30, 2020. Section 6 of the ordinance requires the City Council to review continuation of the restrictions at each regular meeting and any special meeting called to address the ordinance during the 60-day period. The City Council reviewed the Ordinance during the April 6, 2020 meeting but did not make any changes. This is the second opportunity since the adoption of the Ordinance for the governing body to consider the continuation of all or part of the restrictions in the ordinance. Per the ordinance, the City Council can amend the ordinance with the adoption of a resolution noting any changes. A sample resolution has been drafted. The details of the resolution can be adjusted to fit the needs of the City Council and community. For example, if it was deemed appropriate to remove restrictions on restaurants, just that section can be listed. A blank resolution will be included each time the City Council considers the ordinance to provide for changes to parts or all of the ordinance. Since the April 6, 2020 meeting, Administration has received one inquiry about adjusting the ordinance to allow a hair salon/barber shop to open to cut hair with enhanced safety practices such as gloves, masks, and spacing of customers.

On Thursday afternoon, April 16, 2020 the White House released guidelines that may assist the City Council in the consideration of making changes or amendments to the

Ordinance. When considering making changes to the ordinance, the City Council will also want to review and consider Governor Noem's Executive Order 2020-12.

**Financial Consideration:** Without information on the sales of each business or the length of time that the ordinance remains in place, this is difficult to determine. Sales tax receipts and the BBB fund will be impacted.

**Conclusion/Recommendations:** Administration recommends that the City Council thoughtfully review information related to COVID-19, which changes daily. If the conditions remain such that restrictions on certain public gatherings and activities will help prevent the spread of COVID-19, no action is needed as the minutes will demonstrate that the City Council considered consideration of the ordinance.

**ORDINANCE NO. 1413**

**AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH CRISIS BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF COVID 19 (CORONAVIRUS).**

**WHEREAS**, the City of Vermillion (City) has the authority pursuant to SDCL 9-29-1 and 9-32-1 to enact ordinances for the purpose of promoting the health, safety, morals, and general welfare, of the community; and

**WHEREAS**, an outbreak of the COVID-19 disease, which is caused by the novel coronavirus, has been confirmed in more than 100 countries, including the United States; and

**WHEREAS**, COVID-19 is a severe respiratory disease transmitted by person-to-person contact, or by contact with surfaces contaminated by the virus that in some cases, especially among older adults and persons with serious underlying health conditions, can result in serious illness requiring hospitalization, admission to an intensive care unit, and death; and

**WHEREAS**, the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), and the Secretary of the United States Department of Health and Human Services have declared the outbreak of COVID-19 as a public health emergency; and

**WHEREAS**, on March 13, 2020, President Donald Trump declared a national emergency in response to the global pandemic of COVID-19; and

**WHEREAS**, on the same day, Governor Kristi Noem, issued Executive Order 2020-04 which declared a state of emergency to exist in the State of South Dakota in response to the spread of COVID-19; and

**WHEREAS**, cases of COVID-19 have been confirmed in South Dakota; and

**WHEREAS**, the CDC and health experts have recommended social distancing to slow the spread of COVID-19; and

**WHEREAS**, social distancing is a method of slowing down or stopping the spread of a contagious disease by reducing the probability of contact between infected persons and those not infected in order to minimize disease transmission; and

**WHEREAS**, in response to the need to implement social distancing, all schools in the state of South Dakota have been closed for at least two weeks; and

**WHEREAS**, on March 16, 2020, the Trump Administration (White House) issued guidance recommending that social gatherings of more than ten (10) people be avoided and that people avoid eating or drinking at bars, restaurants, and food courts; and

**WHEREAS**, the guidance issued by the White House further recommended that in states with evidence of community transmission, bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate should be closed; and

**WHEREAS**, many states and communities across the country have already implemented the White House recommendations by ordering all bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate be closed until the public health emergency is over; and

**WHEREAS**, Governor Kristi Noem on March 23, 2020 issued an Executive Order that noted that any South Dakota enclosed retail business that promotes public gatherings should suspend or modify business practices as recommended by the CDC, and continue or consider business models that do not involve public gatherings; and

**WHEREAS**, the failure to successfully implement social distancing will likely result in higher numbers of infected individuals and has the potential to overwhelm the capacity of the City's health care providers; and

**WHEREAS**, it is important that control measures be taken to reduce or slow down the spread of COVID-19 in order to protect the health and safety of the City's residents, especially for seniors and those with underlying health conditions that make them particularly vulnerable to COVID-19; and

**WHEREAS**, while this ordinance cannot become legally effective until after the second reading of an ordinance which must be at least five (5) days after the first reading of an ordinance due to the requirements of state law, the City strongly urges all businesses to start voluntarily complying with these regulations immediately.

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the City of Vermillion that:

1. Effective at 9:00 a.m. CDT Monday, March 30, 2020, all restaurants, food courts, coffee houses, bars, breweries, distilleries, wineries, clubs, cafes, and other similar places of public accommodation offering food and beverages for on-site consumption, including any alcohol licensees with on-sale privileges, are closed to on-site/on-sale patrons. These businesses may continue to operate in order to provide take-out, delivery, curbside service, and drive-thru service. Any business continuing to operate in order to provide lawful off-site service should implement procedures to ensure social distancing and operation in compliance with federal and state health guidance in order to prevent the spread of COVID-19.
2. Effective at 9:00 a.m. CDT Monday, March 30, 2020, all recreational facilities, public pools, health clubs, hair and nail salons, barber shops, spas, massage facilities unless providing prescribed, required, or recommended services as directed by a licensed medical provider, athletic facilities, and theaters, including movie theaters, and music or entertainment venues are directed to close and cease operations.

3. Effective at 9:00 a.m. CDT Monday, March 30, 2020, all hookah lounges, cigar bars, vaping lounges or other similar businesses that allow for on-site consumption are directed to cease allowing on-site consumption, but may continue to offer products for sale to consume off-site under the same conditions as bars and restaurants outlined in #1 above.
4. Effective at 9:00 a.m. CDT Monday, March 30, 2020, all arcades, bingo halls, bowling alleys, video lottery casino operations, indoor climbing facilities, skating rinks, trampoline parks, and other similar recreational or entertainment facilities are directed to close and cease operations.
5. The prohibitions and closures in this order do not apply to the following businesses, activities or operations:
  - a. Places of public accommodation that offer food and beverages for off-site consumption, including grocery stores, markets, retail stores that offer food, convenience stores, liquor stores, pharmacies, drug stores, and food pantries, other than any portion of such business which offer on-site consumption which would be subject to the requirements of #1 above.
  - b. Room service in hotels.
  - c. Health care facilities, residential care facilities, congregate care facilities, correctional facilities, and facilities providing medical, therapy, or rehabilitation services as prescribed, required or recommended by a licensed medical provider.
  - d. Crisis shelters, homeless shelters, soup kitchens, or other similar institutions.
  - e. Airport concessionaires.
  - f. Any emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster.
  - g. Official meetings of the city, schools, county, or state.
  - h. The operations and meetings of any state, federal, or local governments or their courts.
  - i. Educational institutions and their related services under the governance of the Board of Regents or local school boards to the extent permitted by the governing authorities.
  - j. Parks, trails, hike/bike path, and the Bluffs Golf Course.
6. This ordinance shall remain in effect for a period of sixty (60) days, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the City Council. At each regular City Council meeting during the sixty (60) day period or at a special meeting called for consideration of this ordinance, the City Council will have

as an agenda item consideration of a resolution to suspend the provisions herein prior to the end of the sixty (60) day period. Any restriction contained in this ordinance may be modified at any time by a resolution of the City Council which modification may expand its scope to encompass additional businesses, activities or operations.

7. Any violation of this ordinance is subject to a fine set by resolution in compliance with the general penalty provision in Section 10.99 of the City of Vermillion Municipal Code. Each day a violation of this ordinance is allowed to occur is considered a separate offense.

**BE IT FURTHER ORDAINED**, that, pursuant to SDCL 9-19-13, this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare of the City and shall become effective immediately upon passage.

Dated at Vermillion, South Dakota this 30<sup>th</sup> day of March, 2020.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY John E. Powell  
John E. (Jack) Powell, Mayor

ATTEST:

BY Michael D. Carlson  
Michael D. Carlson, Finance Officer

First Reading: March 24, 2020  
Second Reading: March 30, 2020  
Effective Date: March 30, 2020



**EMERGENCY RESOLUTION**

**AMENDING PARTS OF ORDINANCE 1413 WHICH ADDRESSES A PUBLIC HEALTH CRISIS BY IMPLEMENTING CERTAIN MEASURES WHICH WERE DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF COVID 19 (CORONAVIRUS)**

**WHEREAS**, an outbreak of the COVID-19 disease, which is caused by the novel coronavirus, has been confirmed in more than 100 countries, including the United States; and

**WHEREAS**, the City Council adopted emergency Ordinance No. 1413 with second reading on March 30, 2020 to implement measures to slow the community spread of the COVID-19 virus; and

**WHEREAS**, Ordinance No. 1413 became effective upon passage for a maximum of sixty days (March 30, 2020 to May 30, 2020); and

**WHEREAS**, Ordinance No. 1413 provided that the City Council will have as an agenda item at each regular City Council meeting the consideration of a resolution to suspend the provisions herein prior to the end of the sixty (60) day period included.

**NOW THEREFORE BE IT RESOLVED**, by the Governing Body of the City of Vermillion, South Dakota, at a regular meeting thereof in the Council Chambers of said City at 7:00 p.m. CDT on the 6<sup>th</sup> day of April, 2020, to make the following changes to Ordinance 1413: (strike non applicable sections)

Amend section(s) to adjust dates, remove or add the as follows:

Section # \_\_\_\_: \_\_\_\_\_

Section # \_\_\_\_: \_\_\_\_\_

That restrictions on \_\_\_\_\_ be hereby ended on \_\_\_\_\_, 2020.

Dated at Vermillion, South Dakota this 20<sup>th</sup> day of April, 2020.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

By \_\_\_\_\_  
Kelsey Collier-Wise, Council President

Attest:

By \_\_\_\_\_  
Michael D. Carlson, Finance Officer

Adopted: April 20, 2020

Effective:



## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** April 20, 2020  
**Subject:** Resignation of Mayor Jack Powell  
**Presenter:** John Prescott

**Background:** Jack Powell began serving as a City Council member representing the Northwest ward in 2000. He was elected Mayor in 2010. Jack was subsequently re-elected to serve as Mayor in 2014 and 2018. His current term as Mayor runs until July 2022.

**Discussion:** Mayor Powell has submitted the attached letter resigning his term of office as Mayor. The City Council, City employees, and the community have been the fortunate beneficiaries of his commitment as well as his leadership, and guidance over the last twenty years. We wish him well as he leaves the City Council and service as Mayor.

There are statutes which guide the City Council with respect to the resignation of the Mayor. One statute of reference is:

9-8-2. Vacancy in office of mayor--Temporary absence or disability. If there is a vacancy from any cause in the office of the mayor, the vacancy shall be filled by appointment by a majority vote of the aldermen, as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next annual municipal election or by special election as provided in § 9-13-14.2. Until the vacancy is filled or during the time of temporary absence or disability of the mayor, the powers and duties of mayor are executed by the president or vice president of the council as provided in § 9-8-7.

Staff, in consultation with the City Attorney and Secretary of State's Office, are currently researching and reviewing the appropriate statutory guidelines for the City Council with respect to filling the vacancy. Additional information will be available on Monday evening.

**Financial Consideration:** None.

**Conclusion/Recommendations:** Administration recommends that the City Council accept the resignation of Mayor Jack Powell.

April 14, 2020

Dear Vermillion City Council, City Administration, City Staff, Partner Organizations, and Vermillion Citizens:

As many of you may be aware, I have been dealing with some significant health issues for the past five and a half years. I have been very fortunate, blessed, and thankful to have world-class medical care and cutting-edge treatment through the collaborative efforts of the Mayo Clinic in Rochester, Sanford Health in Sioux Falls, Sanford Health in Vermillion, and the Olson Medical Clinic in Vermillion. In addition, the loving care, concern, and support from my wife, family, friends, professional colleagues, and members of this community has been truly incredible and invaluable to me on this journey.

We have successfully managed to overcome many unique challenges and to beat many odds along the way. We have come to a point in which my situation is medically incurable, further treatment options are limited, and my ability to physically rebound from treatment is increasingly challenging.

As a result, I feel that I am no longer able to effectively continue to lead the City of Vermillion as Mayor, and would ask that you accept my resignation at the next City Council meeting on April 20, 2020. While this decision has not been an easy one to make, I am confident that the City of Vermillion will carry on and continue to flourish with the very capable City Council members, City Administration, and City Staff who are in place.

I am very proud of all that we have achieved together during my ten years (two and a half terms) as Mayor and my ten years of service as a City Council representative prior to that. I am honored and blessed to have served this great community. My wife and I will continue to do all that we can to support the City of Vermillion and our citizens. We wish you the very best always.

Sincerely,

Mayor John "Jack" Powell (and wife Lisa Ketcham)



## *Council Agenda Memo*

**From:** José L. Domínguez, City Engineer

**Meeting:** April 20, 2020

**Subject:** Agreement for Professional Services with Stockwell Engineers, Inc. for the Downtown Streetscape Project

**Presenter:** José L. Domínguez

**Background:** Since 2004, the businesses in downtown Vermillion and the City have been working to improve the Main Street area. Besides improving building facades and the additions of the Pocket Park and Ratingen Platz, the community has been working to complete a streetscape project that would tie Main Street together and serve as a framework to showcase the downtown area.

In January 2020, the City created the Business Improvement District #2 (BID). This BID was created with the intent to provide a funding mechanism to bring forward a streetscape plan for downtown Vermillion. The BID #2 Board is comprised of four downtown business owners and one downtown resident.

The City Council received updates on the consultant selection process, and on the development of the Professional Services document at the March 16<sup>th</sup> and April 6<sup>th</sup> meetings.

**Discussion:** The document that the City and Stockwell Engineers developed sets the expectations of the City and how Stockwell will achieve those expectations. The end result is to have a set of construction documents that were developed with public input throughout the entire process. In order to achieve this, Stockwell has proposed to have several public meetings throughout the design phase.

The first meeting will be a design charrette that would allow stakeholders and the public an opportunity to provide their opinions and comments on how the downtown area should be improved. The charrette would be a multi-day event with a few meetings. After the design charrette, Stockwell is proposing additional meetings at different times of the project to show the public how the project is progressing. The meetings will also

allow Staff to ask the public if they believe the project is headed in an agreeable direction.

In addition to these meetings, Stockwell is also proposing more individual meetings with property owners to address specific concerns that they may have regarding their properties, or areas near their properties. At this time Stockwell will also ask if there are any basements that may protrude into the sidewalks.

The document will also require Stockwell to complete a topographical survey, cost estimates, develop construction documents, and manage the bidding process.

The BID Board held a meeting on April 15, 2020 where the document was reviewed. At that meeting the BID Board unanimously recommended that the City Council enter into an agreement with Stockwell Engineers to complete the construction documents for the Downtown Streetscape project.

It should again be noted that the BID Board is composed of five members, four of them have businesses downtown that are being affected by the current COVID-19 situation, and will be affected by future assessments scheduled to take place no sooner than November 2021. Even though their finances have been negatively impacted, they still feel very strongly that the completion of this project will show to the public that Vermillion has an optimistic outlook on the current situation, a bright future, and that it will showcase the downtown area.

**Financial Consideration:** The cost for the services outlined in the document are \$238,318. This would be funded by second penny funds. This cost was included in the original project cost discussed by the City Council at previous meetings. At this point, the City has reserved \$1,000,000 of second penny funds for this project that would be used to pay for the design cost.

**Conclusion/Recommendations:** The BID Board recommends approval of the agreement with Stockwell Engineers for the Downtown Streetscape Project.



## AGREEMENT FOR PROFESSIONAL SERVICES

**Project:** Downtown Streetscape Project

**Stockwell Project No.:** 20054

This Agreement for Professional Services (hereinafter "Agreement") is made and entered into this 27<sup>th</sup> day of March, 2020, by and between **STOCKWELL ENGINEERS, INC.**, 801 North Phillips Avenue, Suite 100, Sioux Falls, SD 57104, (hereinafter "Engineer") and **CITY OF VERMILLION**, (hereinafter "Client"), for the services described under the Scope of Services (the "Services").

**CLIENT:** City of Vermillion

**Address:** 25 Center Street | Vermillion, SD 57069

**Phone No.**

**Fax No.**

**Scope of Services:** Client hereby agrees to retain Engineer to perform the Services as outlined in the attached *Proposal for Professional Services* dated March 27, 2020. In general, the Project consists of survey, design and bidding services for streetscape improvements to pedestrian infrastructure, streetlights, pedestrian level lights, storm sewer and landscaping within the project limits.

**Compensation:** In consideration of these Services, the Client agrees to pay Engineer compensation as follows:

**Basic Compensation:** Hourly time and materials not to exceed \$238,318.00 excluding sales tax

**Additional Services Multiplier:** 1.0 times the expense incurred by the Engineer

**Reimbursable Expense Multiplier:** 1.0 times the expense incurred by the Engineer

The attached Proposal for Professional Services, Schedule of Billing Rates and Standard Terms and Conditions are made a part hereof and incorporated into this Agreement.

IN WITNESS WHEREOF, this Agreement is accepted on the date last written below, subject to the terms and conditions above stated and the provisions set forth herein.

**CLIENT**

**STOCKWELL ENGINEERS, INC.**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Name (printed): Jon Brown, P.E.

Title: \_\_\_\_\_

Title: President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# Proposal for Professional Services

City of Vermillion  
Downtown Streetscape Project



March 27, 2020

Mr. José Domínguez  
City of Vermillion  
25 Center Street  
Vermillion, SD 57069

**BY EMAIL ONLY**  
[JoseD@cityofvermillion.com](mailto:JoseD@cityofvermillion.com)

Re: Proposal for Professional Services  
Downtown Streetscape Project

Dear Mr. Domínguez,

Thank you for your consideration of our proposal. Stockwell Engineers, Inc. (Stockwell) proposes to provide professional services for the Downtown Streetscape Project (the "Project"). Stockwell's services will be provided in the manner described in this Proposal. The **City of Vermillion** is referred to as the "Client."

## Acknowledgments

**Client:** City of Vermillion

**Project:** Downtown Streetscape Project

**Description:** In general, the Project consists of survey, design and bidding services for streetscape improvements to pedestrian infrastructure, streetlights, pedestrian level lights, storm sewer and landscaping within the project limits. Project limits shall be as identified in the attached illustration.

## Scope of Services

The following is a scope of work meant to describe services to be provided to the Client for the abovementioned project. Work listed below will be completed by Stockwell Engineers, Inc. (Stockwell) unless otherwise stated. Work not explicitly listed shall be considered an additional service. The scope is organized into the following tasks.

### Task 1 | Project Initiation

- 1.1 Coordinate and conduct project kickoff meeting with Client's staff.
- 1.2 Review all background information made available to Stockwell by Client.
  - 1.2.1 All existing Streetscape Master Plan documents.
  - 1.2.2 City GIS information for project area.

# Proposal for Professional Services

City of Vermillion

Downtown Streetscape Project

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- 1.3 Establish list of Stakeholders.
- 1.4 Develop project website.

## Task 2 | Survey

- 2.1 Notify affected property owners of pending survey.
- 2.2 Request permission to survey on private property. Where denied, Client shall negotiate and provide Site.
- 2.3 Research existing easements and plats of record at county courthouse for properties within and adjacent to the project. Client to provide title search if necessary.
- 2.4 Locate existing boundary markers at the time of the survey.
- 2.5 Establish benchmarks and control points throughout site.
- 2.6 Locate all existing above ground features within the established survey limits. Take a sufficient frequency of elevation shots to establish reasonable accuracy for contours to be shown on a one foot interval. Provide building floor elevations available at the time of survey through existing exterior doorways made available by Client and/or Owner, as necessary.
- 2.7 Show utilities, above and below ground, located in the field at the time of the survey by the utility companies, Client or other authorized agents of utility companies. Stockwell will contact appropriate One Call System, if available, to arrange for the location of utilities at the time of survey.
- 2.8 Prepare topographic survey utilizing AutoCAD Civil 3D for use in development of plan documents.

## Task 3 | Design Charrette

- 3.1 Develop analysis of existing 2016 Master Plan created by others.
- 3.2 Create draft Microsoft PowerPoint presentation for use at the charrette.
  - 3.2.1 Maximum of 20 minutes long.
  - 3.2.2 Review existing Master Plan.
  - 3.2.3 Discuss Vermillion and theming opportunities.
  - 3.2.4 Review design element options.
- 3.3 Identify stakeholders for participation in the charrette with assistance from Client.
- 3.4 Develop 2-3 day charrette schedule. At the very least, the charrette will include the following meetings:
  - 3.4.1 Stakeholder meetings.
    - Maximum two (2) hours in length.
    - Topics as described above.
    - Prepare agenda and necessary presentations.
  - 3.4.2 Design team sketch sessions.
  - 3.4.3 Kick-off and wrap-up sessions.
  - 3.4.4 One (1) public meeting/open house.
    - Maximum two (2) hours in length.
    - Gather input on the theming of the project and the existing Master Plan.

# Proposal for Professional Services

City of Vermillion

Downtown Streetscape Project

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- Answer any questions or comments.
- 3.4.5 Client to provide:
  - Venue.
  - Advertisement.
  - Invitations to stakeholders and public meetings.
  - Catering (as determined by the City).
- 3.4.6 Submit to Client for review and comment.
- 3.4.7 Address Client comments.

## Task 4 | Schematic Design

- 4.1 Recommend location and extent of utility and basement exploratory services necessary for the Project.
- 4.2 Notify the following regulatory agencies about the Project and request their review.
  - 4.2.1 SDDENR agencies.
- 4.3 Notify the City's Historic Preservation Commission about the project and request their review. Client to provide archeological survey, if required.
- 4.4 Propose general layout and alignment of improvements following 2016 Master Plan prepared by others and modified based on design charrette public input. Improvements to be designed to local industry accepted standards. Where available, Stockwell shall implement Client's published standards.
- 4.5 Identify rights-of-way (ROW) and easements required for the Project
- 4.6 Review preliminary layouts with Client's staff.
- 4.7 Develop preliminary opinion of estimated construction costs for the Project.
- 4.8 Prepare preliminary plan submittal. Preliminary plan to contain information suitable to convey to the Client the following:
  - 4.8.1 General layout of improvements
  - 4.8.2 Impacted stakeholders.
  - 4.8.3 Construction phasing.
  - 4.8.4 Preliminary opinion of estimated construction costs.
- 4.9 Submit one electronic pdf copy of the preliminary plan to Client for review.
- 4.10 Address comments to review documents and incorporate into final deliverables.
- 4.11 Deliver electronic pdf copies of the finalized preliminary plan to review entities.
- 4.12 Deliver to Client one electronic pdf copy of the finalized preliminary plan.
- 4.13 Coordinate the scheduling of a public meeting for adjacent property owners and others attending. Notice of the meeting will be mailed to all property owners and property adjacent to the proposed Project site, those in the immediate area who may be directly impacted by construction, and as determined by Client and governmental agencies. Prepare informative exhibits for display at the meeting. Stockwell to lead meeting. City to attend meeting and provide support by assisting with answering questions and addressing concerns of the public. Record minutes and distribute a copy to Client and meeting attendees.
- 4.14 Coordinate the scheduling of individual meetings with stakeholders and property owners (estimated at 20 meetings or at least a meeting with the property owners of each block

# Proposal for Professional Services

City of Vermillion

Downtown Streetscape Project

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face). Client to assist in determining comprehensive list of required meetings. Anticipated groups include private utilities, area developers, and neighboring property owners. Record minutes and distribute a copy to Client and meeting attendees.

- 4.14.1 Property owner's shall be asked if their basements protrude under the sidewalk, and if we would be allowed to inspect the adjacent ROW wall within their basement.
- 4.15 Coordinate with Client's legal staff to prepare easements and ROW documents for Client to negotiate and execute. Stockwell will provide legal descriptions and types of easements required.

[Deliverables: Preliminary plan, cost estimates, and ROW documents.](#)

## Task 5 | Design Development

- 5.1 Layout and design the project improvements based on Client approved preliminary plan.
- 5.2 Design improvements in coordination with Client's staff.
- 5.3 Design improvements to local industry accepted standards. Where available, Stockwell shall implement Client's published standards.
- 5.4 Design drainage facilities to intercept and convey runoff in conformance with Client's standards. Identify watershed boundaries based on best available contour data for the area. Determine runoff potential for minor and major storm events. Evaluate flood conditions and inundation levels.
- 5.5 Coordinate streetscape design with drainage facilities and underground utilities. Design streetscape pavements in conformance with Client's standards.
- 5.6 Design street lighting and special event outlets, by sub-consultant.
- 5.7 Design of basement walls at property line, by sub-consultant.
  - 5.7.1 Assumed to be 5 basements/ROW protrusions.
- 5.8 Design project to comply with the Americans with Disabilities Act (ADA). Notify Client of conditions which prevent or limit compliance with the ADA. Client to provide Stockwell guidance for proceeding or variances from the ADA.
- 5.9 Determine removal limits for the Project site.
- 5.10 Coordinate and conduct meetings with private utility companies.
  - 5.10.1 Consider small cell/5G technology with light poles.
- 5.11 If applicable, prepare Notice of Intent (NOI) and deliver to Client to execute. Client to submit NOI to permit authority.
- 5.12 Update preliminary opinion of estimated construction costs for the Project.
- 5.13 Submit PDF electronic copy of 65% plan documents and Stockwell's opinion of probable construction cost to Client for review.
- 5.14 Address comments to 65% review documents and incorporate into construction documents.

[Deliverables: Notice of Intent.](#)

## Task 6 | Construction Documents

- 6.1 Finalize design.

# Proposal for Professional Services

City of Vermillion

Downtown Streetscape Project

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- 6.2 Prepare construction documents. Where applicable, Stockwell shall utilize Client's drafting standards. Construction documents to contain information suitable for contractors to provide construction pricing or bidding. Final construction documents provided by Stockwell will contain the Professional Seal of an Engineer or Landscape Architect licensed in the State of the project site and will be suitable for review by permitting agencies with jurisdiction over the project.
- 6.3 Perform Internal Quality Assurance Procedures
- 6.4 Submit three copies of construction documents and Stockwell's opinion of probable construction cost to Client for review.
- 6.5 Submit construction documents to the following entities for comment.
  - 6.5.1 Private Utility Companies.
- 6.6 Coordinate and conduct one public meeting. Prepare informative exhibits and presentations as necessary.
- 6.7 Address comments to review documents and incorporate into final deliverables.
- 6.8 Deliver copies of final construction documents to review entities.
- 6.9 Deliver to Client an electronic pdf copy of Stockwell's opinion of probable construction cost and three paper copies of final construction documents for bidding purposes.
- 6.10 Deliver cost proposal for construction administrative services and construction staking.

[Deliverables: Opinion of probable construction cost; construction documents for bidding purposes; and cost proposal for construction administrative services and construction staking.](#)

## Task 7 | Bidding

- 7.1 Provide bidding documents to prospective bidders.
- 7.2 Maintain a list of plan holders.
- 7.3 Answer any questions arising throughout the bidding process and prepare addendums as required.
- 7.4 Attend the bid opening.
- 7.5 Deliver to Client tabulation of bids received and letter of recommendation for awarding the construction contract.
- 7.6 Attend council meeting to present recommendation to Client.

[Deliverables: Addendums; tabulation of bids received; and recommendation of award.](#)

## Additional Services

A non-comprehensive outline of additional services and exclusions from Stockwell's proposal are listed below. If authorized in writing by Client, Stockwell will furnish additional services over and above the amount set forth by this agreement. Compensation for additional services will be at Stockwell's current hourly rates or otherwise as mutually agreed upon by both parties.

- Coordinating and negotiating land acquisitions.
- Architectural modification to buildings.
- Archeological survey.
- Title search of properties.
- Review or filing fees.
- Development of cost recovery districts.

# Proposal for Professional Services

City of Vermillion

Downtown Streetscape Project

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- Construction administration services.
- Construction staking.

## Compensation

Compensation for services provided by Stockwell pursuant to this Proposal will be on an **hourly time and materials basis, in an amount not to exceed \$238,318.00 excluding sales or excise tax.**

Stockwell's detailed Project Fee Estimate and current Hourly Rate Schedule are attached. Client must make payments in accordance with Item B of the Standard Terms and Conditions attached to this Proposal.

The level of effort required of Stockwell to accomplish the services described in this Proposal may be affected by factors beyond Stockwell's control. Therefore, if it appears at any time compensation for services rendered will exceed the maximum compensation amount, Stockwell will notify Client in writing. Stockwell will not perform services or be entitled to additional compensation in excess of the maximum compensation amount until Stockwell and Client have agreed upon additional compensation for services to be rendered and Client has available funds to pay for Stockwell's services.

Sincerely,

STOCKWELL ENGINEERS, INC.

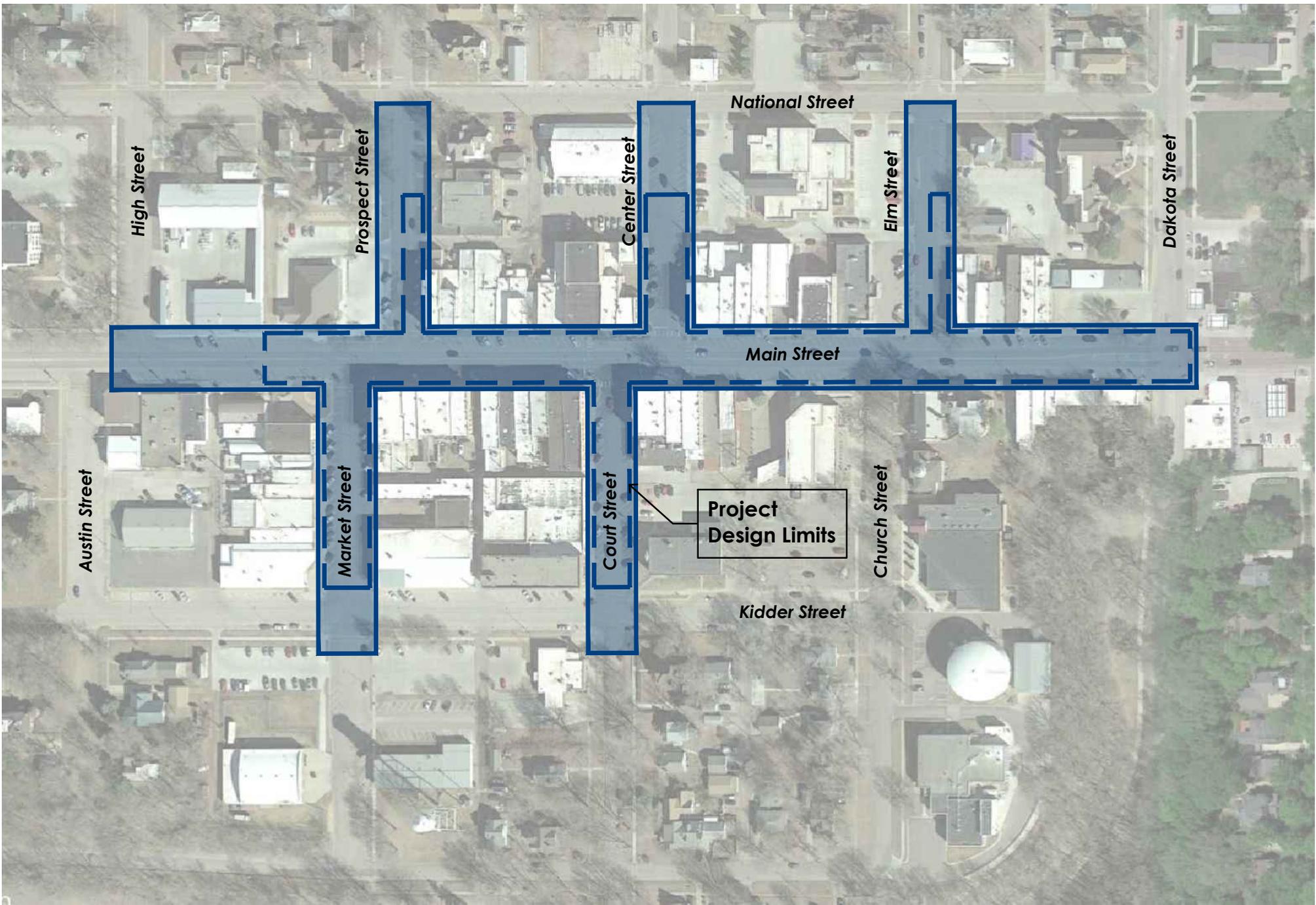


Jon Brown, P.E.  
President



Task Description	Estimated Person Hours Required											Stockwell Totals			Sub-consultants			Total
	Mitch Mergen	Gaard Rops	Jon Fischer	David Locke	Annie Dorhout	Kristin Satterness	Joe Whitlock	Chad Barutt	Logan Henzel	Mike Seiner	Katie Lee	Expenses	Hours	Fee	Website Designer	Electrical Engineer	Structural Engineer	
	\$177.10	\$177.10	\$166.50	\$162.20	\$104.60	\$78.10	\$171.70	\$119.30	\$86.90	\$119.30	\$83.10							
Project Initiation	4			10		10						\$35	24	\$3,146	\$700	x	x	
Survey								60	60	50		\$3,423	170	\$21,760		x	x	
Design Charrette				80		106					20	\$105	206	\$23,022				
Schematic Design	10	20	10	60		40	20			40	2	\$525	202	\$28,731				
Design Development	20	44	20	82	80	120				144	2	\$75	512	\$63,125			\$39,500	\$16,000
Construction Documents	10	62	10	56		30				90	8	\$75	266	\$37,319				
Bidding		10		10						6	10	\$75	36	\$5,015		x		
											<b>Total Project Fee</b>						<b>\$238,318</b>	

**Project Fee Estimate**



20054 - survey limits.dwg

# Survey Limits Downtown Streetscape Project



## City of Vermillion

## Schedule of Billing Rates

Effective January 1, 2020

Principal	\$236.00 per hour
Engineer VIII	\$223.80 per hour
Engineer VII	\$177.10 per hour
Engineer VI	\$166.50 per hour
Engineer V	\$156.20 per hour
Engineer IV	\$152.30 per hour
Engineer III	\$148.20 per hour
Engineer II	\$137.90 per hour
Engineer I	\$130.40 per hour
Engineer/Technology Student	\$61.70 per hour
Water System Advisor	\$150.00 per hour
Land Surveyor VII	\$171.70 per hour
Land Surveyor VI	\$163.40 per hour
Land Surveyor V	\$147.10 per hour
Land Surveyor IV	\$130.90 per hour
Land Surveyor III	\$125.10 per hour
Land Surveyor II	\$119.60 per hour
Land Surveyor I	\$108.00 per hour
Landscape Architect VI	\$162.20 per hour
Landscape Architect V	\$152.10 per hour
Landscape Architect IV	\$142.20 per hour
Landscape Architect III	\$132.30 per hour
Landscape Architect II	\$104.60 per hour
Landscape Architect I	\$98.10 per hour
Landscape Designer	\$78.10 per hour
Construction Manager II	\$148.00 per hour
Construction Manager I	\$137.50 per hour
Construction Inspector II	\$120.90 per hour
Construction Inspector I	\$111.10 per hour
Technician VI	\$127.00 per hour
Technician V	\$119.30 per hour
Technician IV	\$108.00 per hour
Technician III	\$98.10 per hour
Technician II	\$92.50 per hour
Technician I	\$86.90 per hour
Administration IV	\$98.20 per hour
Administration III	\$90.70 per hour
Administration II	\$83.10 per hour
Administration I	\$75.60 per hour
Electronic Survey Equipment	\$51.30 per hour
Mileage	current IRS mileage rate

Stockwell reserves the right to adjust the rates.

## STANDARD TERMS AND CONDITIONS

### A. Commencement of Services.

The Services will be commenced immediately upon receipt of the signed Proposal (the "Agreement"). If after commencement of the Services, the Project is delayed for any reason beyond Stockwell's control for more than 60 days, the terms and conditions contained herein will be subject to revision by Stockwell. Subsequent modifications to this Agreement must be in writing and signed by the parties to the Agreement.

### B. Fees and Payment.

- 1.0 **Invoices.** Compensation for Services will be as designated in this Agreement. Services based on Stockwell's standard hourly rates will be those rates currently in effect at the time the Services are rendered. Hourly rates are subject to change upon 30 days' written notice, including during the term of this Agreement. Client must reimburse Stockwell for out-of-pocket expenses directly attributable to the Project, such as: (1) living and traveling expenses of Stockwell's employees when away from the home office on business connected with the Project; (2) phone and fax expenses; (3) copy costs applicable to the Services; and (4) additional contracted third-party services to be charged in accordance with the rates in effect at the time the services are rendered.
- 2.0 **Payment Due.** Stockwell will deliver to Client invoices monthly. Payment will be due within 30 days after the date of the invoice describing the Services performed and expenses incurred during the preceding month.
- 3.0 **Failure to Pay.** Client agrees timely payment is a material term of this Agreement and failure to make timely payment as agreed will constitute a breach hereof. In the event payment for Services rendered has not been made within 30 days from the date of the invoice, Stockwell may, after to Client giving 7 days' written notice, and without penalty or liability of any nature, and without waiving any claim against Client, suspend all Services to be performed. Upon receipt of payment in full for Services rendered, plus interest charges, Stockwell will continue with the Services, but all deadlines for Stockwell's performance of services will be extended for a period of time equal to the delay in Stockwell's receipt of payment. Payment of all compensation due Stockwell pursuant to this Agreement will be a condition precedent to Client using any of Stockwell's Services' work product under this Agreement.
- 4.0 **Interest on Late Payments.** In order to defray carrying charges resulting from delayed payments, interest at the rate of 1.5% per month will be added to the unpaid balance of each invoice. The interest period will commence 45 days after the date of the original invoice and will terminate upon date of payment. Payments will be first credited to interest and then to principal.

### C. Owner's Responsibilities.

- 1.0 **Client to Provide Information.** Unless otherwise provided for under this Agreement, Client will provide information in a timely manner regarding requirements for and limitations on the Project, including Client's Program objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from Stockwell, Client must furnish the requested information as necessary and relevant for Stockwell to evaluate, give notice of or enforce lien rights.
- 2.0 **Client to Provide Contractors.** Client will furnish the services of a contractor who along with Client will be responsible for creating the overall Project Schedule. Client will adjust the Project Schedule, if necessary, as the Project proceeds.
- 3.0 **Client to Provide Representative.** Client will identify a representative authorized to act on Client's behalf with respect to the Project. Client will render decisions and approve Stockwell's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of Stockwell's Services.
- 4.0 **Client to Provide Notice.** Client will provide to Stockwell prompt written notice if Client becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in Stockwell's instruments of service.

### D. Miscellaneous Provisions.

#### 1.0 Insurance/Indemnification/Risk Allocation

1.1 Insurance/Limitation of Stockwell's Liability. Stockwell will maintain the following insurance coverages.

- (a) Worker's compensation insurance pursuant to state law.
- (b) Business automobile insurance covering claims for injuries to members of the public and/or damages to property of

others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, with a combined single limit of \$1,000,000.

- (c) Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of Stockwell with limits of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate.
- (d) Professional liability insurance of \$1,000,000 per occurrence and in the aggregate.

1.2 Professional Liability. Stockwell agrees to indemnify and hold Client harmless from and against claims, losses, damages, expenses, costs, including reasonable attorney's fees and expenses, but only to the proportionate extent caused by the negligence of Stockwell.

1.3 Hazardous Materials – Indemnification by Client. Client understands and agrees Stockwell has not created nor contributed to the creation or existence of any types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at Client's premises, or in connection with or related to the Project with respect to which Stockwell has been retained to provide Services. The compensation to be paid Stockwell for Services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, Client agrees to defend, indemnify and hold harmless Stockwell, its agents, officers, directors, employees, contractors and consultants, from and against any and all claims, damages, and expenses, whether direct, indirect, consequential or otherwise, including, but not limited to, attorneys' fees and court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkaline, toxic chemicals, liquid gases, or other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto upon, in or into the surface or subsurface or soil, water, or water courses, objects, or any tangible or intangible matter, whether sudden or not.

1.4 No Governmental Action Liability. Stockwell will not be liable for damages arising out of or resulting from the actions or inaction of government agencies, including, but not limited to, permit processing, environmental impact reports, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, and building permits. Client agrees to defend, indemnify and hold harmless Stockwell, its agents, officers, directors, employees, contractors, and consultants from any and all such liabilities (including reasonable attorneys' fees and court costs), other than that caused by the negligent acts, errors or omissions of Stockwell, arising out of or resulting from the same.

1.5 No Project Liability. Notwithstanding any provisions in this Agreement to the contrary, if the Project involves construction, as that term is generally understood, and Stockwell does not provide Services during construction, including, but not limited to, observation, site visits, shop drawing review, and design clarifications, Client agrees to defend, indemnify and hold harmless Stockwell, its agents, officers, directors, employees, contractors and consultants from any and all liability (including reasonable attorneys' fees and court costs) arising out of the Project or this Agreement.

1.6 Warranty. Stockwell makes no warranties of any kind, including any implied warranty of merchantability or of fitness for any particular purpose.

#### 2.0

**Documents.** Notwithstanding the foregoing, all computer programs, work product, inventions, patents, copyrights, software, and other like data developed during the course of the Project, are and will remain Stockwell's sole property.

Stockwell's liability to Client for any errors or omissions is limited solely to the correction of residual errors, minor maintenance, or updates as needed.

2.2 Environmental. Environmental Audit/Site Assessment reports are prepared for Client's use only. Client agrees to defend, indemnify, and hold harmless Stockwell, its agents, officers, directors, employees, contractors and consultants against all damages, claims, expenses, and losses (including reasonable attorneys' fees and court costs) arising out of or resulting from any reuse of the Environmental Audit/Site Assessment reports without Stockwell's written authorization.

Nothing contained in this Agreement may be construed or interpreted as requiring Stockwell to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 et seq.

as amended, or within any state statute governing the generation, treatment, storage, and disposal of waste.

- 3.0 Injury to Workers on Project.** Client agrees Stockwell will be named an Additional Insured on construction contractors' insurance policy for commercial general liability insurance, and Client agrees to insert into all contracts for construction between Client and construction contractors a provision requiring the construction contractors to defend, indemnify and hold harmless both Client and Stockwell from any and all actions arising out of the construction Project, including, but not limited to, injury to or death of any worker on the job site, not caused by the sole negligence of Client or Stockwell.
- 4.0 Probable Construction Cost Opinions.** Any opinion of probable construction costs for the Project considered and designed under this Agreement will be prepared by Stockwell through the exercise of its experience and judgment in applying presently available cost data, but it is recognized Stockwell has no control over the cost of labor and materials, the construction contractors' methods of determining prices, competitive bidding procedures, market conditions, and unknown field conditions. Stockwell cannot and does not guarantee proposals, bids, or the Project construction costs will not vary from Stockwell's opinion of probable construction costs.
- 5.0 Site Visits.** Visits to the construction site and observations made by Stockwell as part of the Services during construction under this Agreement will not make Stockwell responsible for, nor relieve the construction contractors of the obligation to conduct comprehensive monitoring of the work sufficient to ensure conformance with the intent of the contract documents, will not make Stockwell responsible for, nor relieve the construction contractors of the full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing portions of the work under the construction contracts, and will not relieve the construction contractors of the obligation to provide all safety precautions incidental thereto. Such visits by Stockwell are not to be construed as part of Stockwell's observation duties of the Project site.
- 6.0 On-Site Observation.** When Stockwell provides on-site observation personnel as part of the Services during construction, the on-site observation personnel will make reasonable efforts to advise Client of observed defects and deficiencies in the contractors' work, and to help determine if the provisions of the Contract Documents are being fulfilled. Their day-to-day observation will not, however, cause Stockwell to be responsible for those duties and responsibilities which belong to the construction contractors, including, but not limited to, full responsibility for the means, methods, techniques, sequences, and progress of construction, and the safety precautions incidental thereto, and for performing the construction work in accordance with the Contract Documents.
- 7.0 Right of Entry.** Client must provide for entry to the Project site for Stockwell's agents, employees, contractors and consultants and for all necessary equipment.
- 8.0 Termination.** Either party may, by thirty (30) days written notice to the other, terminate this agreement in whole or part at any time. Upon receipt of notice, a party shall immediately discontinue all services affected, unless the notice directs otherwise. If the termination is for the convenience of the Client, no amount shall be allowed for Stockwell for unperformed service, but Stockwell shall be compensated for services rendered through the date of termination notice.
- 9.0 Default and Remedies.**  
**9.1 Client's Default.** If Client breaches any of the terms of this Agreement, Stockwell, in addition to other rights set forth in Section 1.3 above, will give Client written notice of default setting forth the default. If Client has not remedied the default within 7 days of the date of default, Stockwell may terminate this Agreement and proceed with any or all remedies provided under applicable law.  
**9.2 Stockwell's Default.** If Stockwell breaches any of the terms of this Agreement, Client will give Stockwell written notice of default setting forth the default. If Stockwell has not remedied the default within 7 days of the date of default, Client may terminate this Agreement and proceed with any or all remedies provided under applicable law.
- 10.0 Jurisdiction.** This Agreement is governed by the laws of the State of South Dakota and any action at law or other judicial proceeding arising from this Agreement must be instituted only in Minnehaha County Circuit Court, Sioux Falls, South Dakota, and may not be removed to federal district court, nor may venue be changed to any other circuit court.
- 11.0 Waiver.** Stockwell's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, will not constitute a waiver of any other term, condition, or covenant, or the breach thereof.
- 12.0 Entire Agreement.** This Agreement, and its attachments, constitutes the entire understanding between Client and Stockwell relating to services to be provided by Stockwell and supersede any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein. Subsequent modifications or amendments to this Agreement must be in writing and signed by the parties to this Agreement. The

foregoing notwithstanding, if Client, its agents, officers, directors, employees, contractors and consultants request Stockwell perform extra Services pursuant to this Agreement, Client must pay for the additional Services even though an additional written agreement is not issued or signed.

- 13.0 Successors and Assigns.** All of the terms, conditions and provisions of this Agreement will include and be for the benefit of and be binding upon the parties and their respective successors and assigns; provided, however, no assignment of this Agreement may be made without written consent of the other party to this Agreement.
- 14.0 Severability.** If any provision of this Agreement is declared invalid, illegal or incapable of being enforced by any court of competent jurisdiction, all of the remaining provisions of this Agreement will nevertheless continue in full force and effect, and no provision will be deemed dependent upon any other provision unless so expressed herein.
- 15.0 Force Majeure.** Stockwell will not be liable to Client for delays in performing its obligations, or for the direct or indirect cost resulting from delays that may result from acts of nature, governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond Stockwell's reasonable control. Each party will take reasonable steps to mitigate the impact of any force majeure event. Stockwell will be entitled to an adjustment to the schedule and its compensation under this Agreement to the extent required by the force majeure event.
- 16.0 Underground Utilities.** If included as a Service under this Agreement, Stockwell or its authorized consultant will conduct research in Stockwell's or the consultant's professional opinion is necessary, and will prepare a plan indicating the locations intended for subsurface penetrations with respect to assumed locations of underground improvements. These Services will be performed in a manner consistent with the ordinary standard of care. Client recognizes the research may not identify all underground improvements or their locations, and the information upon which Stockwell and the consultant rely may contain errors or may not be complete. Client agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless Stockwell and its agents, officers, directors, contractors and consultants from all liability (including reasonable attorneys' fees and court costs) of Client, its contractors or all other persons for delay or additional compensation relating to the identification, removal, relocation, or restoration of utilities, or damages to underground improvements resulting from subsurface penetration locations established by Stockwell.



## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** April 20, 2020  
**Subject:** Nutrien Development Program Reinvestment agreement  
**Presenter:** John Prescott

**Background:** In December 2019, the City Council approved a Conditional Use Permit for Nutrien to construct an agricultural retail facility at the northwest corner of the intersection of 317<sup>th</sup> Street and N. Crawford Road (a portion of Heikes Tract 2). The agricultural retail facility will include a 29,900 square-foot dry fertilizer building, a 28,950 square-foot ag product warehouse building, a 3,400 square-foot office building, a 1-million-gallon bulk liquid fertilizer tank, and associated site work. The Nutrien investment is estimated at over \$15 million for buildings and site improvements.

**Discussion:** Nutrien, through the VCDC, has requested a partial local sales and use tax rebate on construction building materials utilized to construct the agricultural retail facility. Nutrien is also requesting a rebate of a portion of the state sales and use tax paid on construction building materials. Nutrien and the VCDC are in the process of gaining approval of rebate program through GOED for a portion of the State of South Dakota sales and use tax. The proposed agreement provides that only the second penny sales tax paid in Vermillion on construction building materials would be rebated. The City's total participation with this reinvestment program is capped at \$100,000.

The proposed local agreement is very similar to previous sales and use tax rebate programs for large developments in the community. Copies of the invoices on eligible construction building materials would be submitted by Nutrien to the VCDC. The VCDC would verify that the local sales and use tax has been paid on construction building materials in Vermillion. The City would refund the payment of one-cent of local sales and use tax paid on construction building materials to the VCDC who would distribute the funds to Nutrien. The agreement provides that the City will have 45 days from the end of each quarter to complete reimbursement. Construction building material purchases made from the date of the agreement and after issuance of a building permit until

September 30, 2021 would be eligible for reimbursement with documentation and verification that Vermillion local sales and use tax had been paid.

**Financial Consideration:** The budget will need to be adjusted to reflect the distribution to the VCDC for repayment ultimately to Nutrien. The agreement has been developed that the second penny fund will be utilized to make the payment.

**Conclusion/Recommendations:** Administration recommends adoption of the Development Reinvestment Program agreement with VCDC and Nutrien.

## **DEVELOPMENT REINVESTMENT PAYMENT PROGRAM AGREEMENT**

THIS DEVELOPMENT REINVESTMENT PAYMENT PROGRAM AGREEMENT made and entered into as of the 20<sup>th</sup> day of April, 2020, by and between Nutrien Ag Solutions, Inc. (Nutrien), the Vermillion Area Chamber of Commerce and Development Company, Inc (VCDC), and the City of Vermillion, South Dakota (City).

### **WITNESSETH**

**WHEREAS**, Nutrien is planning on constructing over \$15 million in buildings and site improvements at the northwest corner of the intersection of 317<sup>th</sup> Street and Crawford Road in Vermillion in order to build their Vermillion Agricultural Retail Facility; and

**WHEREAS**, the City, VCDC and the State of South Dakota recognize the economic development benefits of the development of the Agricultural Retail Facility; and

**WHEREAS**, the City and Nutrien desire to enter into this Agreement, and as set forth herein, in furtherance of Nutrien's Agricultural Retail Facility project will agree to reimburse Nutrien for one-half of the local sales/use tax paid (one (1) percent of the local two (2) percent sales tax rate) on such facility construction, in installments, based upon the actual local sales and use tax paid on the cost of the building construction materials, on terms and conditions as set forth herein; and

**WHEREAS**, reimbursement to Nutrien of local sales/use tax serves the public purpose of enabling Nutrien to increase its ability to take on additional orders, thereby increasing economic development in the City; and

**WHEREAS**, the City is authorized to enter into this Agreement with VCDC and Nutrien pursuant to the provisions of SDCL Chapter 9-54 and SDCL 9-12-11.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants hereinafter set forth, the City, VCDC, and Nutrien do hereby covenant and agree upon the following terms and conditions:

1. Nutrien has contracted for the construction of an Agricultural Retail Facility to be constructed within the city limits of Vermillion. Such construction materials will be subject to South Dakota state and Vermillion local sales/use tax.
2. The City agrees to quarterly reimburse to VCDC for payment to Nutrien one (1) percent of the local sales/use tax paid on qualifying construction material costs. The reimbursement applies to qualifying construction costs made between the date of this Agreement and after issuance of a building permit until September 30, 2021. In no case shall the total local sales/use tax reimbursement exceed \$100,000. Such reimbursement by the City to VCDC for payment to Nutrien will be made within forty five (45) days after receipt of the complete documentation as further defined in Section 6 (a)-(f) below, following the end of each quarter.

3. Qualifying construction material costs means the costs actually paid by Nutrien to construct the Agricultural Retail Facility at the northwest corner of the intersection of 317<sup>th</sup> Street and Crawford Road. Copies of the qualifying invoices demonstrating the construction of the Vermillion facility and payment of Vermillion sales/use tax are to be provided to the VCDC with the quarterly request. The information provided by Nutrien to the VCDC is private, proprietary and confidential.
4. The City sales tax is the two (2) percent local sales/use taxes imposed by the City on the effective date of this Agreement and issuance of a building permit and paid by Nutrien or affiliated entity on the contract for the building construction. It should be noted that only one (1) percent of the local sales/use tax imposed is eligible for rebate with this agreement. It should also be noted that the State of South Dakota also imposes sales/use tax on qualifying sales or uses within the state as well as contractor's excise tax that is outside of this Agreement.
5. Quarters shall end on June 30, 2020, September 30, 2020, December 31, 2020, March 31, 2021, June 30, 2021, and September 30, 2021. The final quarter for eligible expenses to be incurred and submitted ends September 30, 2021.
6. The reimbursement process shall be as follows, and all parties shall use their best efforts to see that the reimbursement payments are made to Nutrien in accordance with the time frames set forth herein:
  - a) Nutrien shall use its best efforts to cause VCDC to be provided qualifying building construction invoices along with proof of payment that show the applicable state and local sales/use tax was paid including vendor names and sales tax license numbers. The information provided by Nutrien to the VCDC is private, proprietary and confidential.
  - b) VCDC upon verification that the applicable local sales/use tax was paid on such invoices then will request payment of the sales/use tax reimbursement from the City on behalf of Nutrien.
  - c) Should it be found that the local sales/use tax was not paid to the SD Department of Revenue by Nutrien or affiliated entity on qualifying construction material costs, the local sales/use tax will not be reimbursed until documented that such local sales/use tax was collected by the SD Department of Revenue.
  - d) Should it be found that local sales/use tax was refunded or credited by the SD Department of Revenue to Nutrien or affiliated entity, such credit or refund should be reimbursed by Nutrien to VCDC or credited against future payments from VCDC.
  - e) The City will provide for said payment to VCDC to be used solely to reimburse Nutrien.
  - f) VCDC agrees to distribute the amounts it receives from the City as provided in this Agreement to Nutrien.

7. It shall be a mutual obligation of the City, VCDC and Nutrien to identify, track and document that State and Local sales/use taxes are paid on the qualifying construction material costs.
8. The City will make the payments set forth in this Agreement and such payment will be budgeted and appropriated for the purposes set forth herein during the City's applicable fiscal year. The City's obligations hereunder shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the City, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or monies of the City.
9. Any legal actions related to or arising out of this Agreement must be instituted in the Circuit Court of Clay County, South Dakota.
10. The laws of the State of South Dakota shall govern the interpretation and enforcement of this Agreement, without giving effect to the choice of law rules thereof.
11. Force Majeure. In the event that any party hereto shall be delayed or hindered in or prevented from the performance required hereunder by reason of strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, epidemic, pandemic, acts of God, abnormal weather conditions, the inaction of any state or federal governmental agency in approving any state or federal mandated plans or requests for approval submitted by the parties hereto, shortage of materials necessary to completion of the project, utility service or other reason of like nature not the fault of the party delayed in performing work or doing acts (hereinafter referred to as "Force Majeure"), such party shall be excused for the period of time equivalent to the delays caused by such event of Force Majeure. Notwithstanding the foregoing, any extension of time for an event of Force Majeure shall be conditioned upon the party seeking an extension of time delivering written notice of such an event of Force Majeure to the other parties within ten (10) days of the event of Force Majeure.
12. Financial Solvency. Nutrien represents and warrants that it is financially solvent and knows of no facts which would materially and adversely affect its financial condition such that it will be unable to carry out the terms and conditions of this Agreement or the completion of the project.
13. Notices. Notices and demands required, or permitted, to be sent to those listed hereunder shall be sent by certified mail, return receipt requested, postage prepaid, or personal delivery and shall be deemed to have been given upon the date the same is delivered or three (3) days following deposit in the United States Mail if sent by certified mail to the address shown below, and addressed to:

Nutrien Ag Solutions, Inc.:  
President  
Nutrien Ag Solutions, Inc.  
3005 Rocky Mountain Avenue  
Loveland, CO 80538

City of Vermillion:  
City Manager  
City of Vermillion  
25 Center Street  
Vermillion, SD 57069

VCDC:  
Executive Director  
Vermillion Area Chamber of Commerce and Development Company  
2 East Main Street, Suite 101  
Vermillion, SD 57069

14. Amendments and Waiver. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the parties hereto.

15. Successors and Assigns. All covenants, promises, conditions, representations and Agreements herein contained shall be binding upon, apply and inure to the parties hereto and their respective heirs, executors, administrators, successors and assigns.

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

**NUTRIEN AG SOLUTIONS, Inc.**

By: \_\_\_\_\_ Its: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

**THE CITY OF VERMILLION, SOUTH DAKOTA**

By: \_\_\_\_\_ Its: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_ Its: \_\_\_\_\_

**VERMILLION AREA CHAMBER OF COMMERCE AND DEVELOPMENT COMPANY, Inc.**

By: \_\_\_\_\_ Its: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting** April 20, 2020  
**Subject:** Resolution pledging Vermillion Now! funds toward infrastructure  
**Presenter:** John Prescott

**Background:** The Vermillion Chamber of Commerce and Development Company has been working on a plan to construct a new paved street which would extend west from Princeton Street approximately 370 feet. The new street would be about midway between O'Reilly Auto Parts and Casey's General Store and is shown on the attached map. The street would pass through what is currently part of Lot 4B of Erickson Addition. The goal is to provide additional access points to a couple of lots in the community with General Industrial or General Business zoning.

The City and VCDC will be entering into an Agreement to Construct Public Infrastructure by Private Development (Agreement) for street construction. A sanitary sewer line was installed parallel to the proposed street location in 2009. Water will be provided to these lots via other water lines. The VCDC as the current owner of Lot 4B will be submitting a plat to dedicate the land for the street right-of-way. The Planning Commission and City Council will need to approve the plat.

**Discussion:** The VCDC has requested a Resolution pledging the City's unallocated Vermillion Now! 2<sup>nd</sup> Penny contributions to the first two Vermillion Now! campaigns for the construction of the new street. A developer working with the VCDC to construct a building and parking lot on Outlot B would construct the street in accordance with standards approved by the City Council via the Agreement. As is practice with these agreements, the City would not issue reimbursement for any oversized items in the project until the criteria listed in the Agreement are met. The City would also not reimburse the VCDC for the street improvements until the criteria in the Agreement are satisfied. It is anticipated that the street would be constructed in 2020. The anticipated cost of the street is \$140,000. The proposed resolution would provide unobligated second penny funds from the original Vermillion Now! campaign and the Vermillion Now! 2

equal to the documented cost of street construction minus \$25,000. Another party is providing \$25,000 toward the street construction.

**Financial Consideration:** As the original Vermillion Now! and Vermillion Now! 2 campaigns have ended, all of the funding allocated from Second Penny funds for this cause have been reserved. The total amount of available funding remaining from the first two Vermillion Now! Initiatives is \$189,922. The funding would come from Second Penny reserves. As noted, the funding would not be paid to the VCDC until the street has been completed according to the City's specifications in the Agreement, and after a satisfactory inspection by the City Engineer.

**Conclusion/Recommendations:** Administration recommends adoption of the Resolution committing unused Vermillion Now! and Vermillion Now! 2 funds to the construction of a street through Lot 4A in Erickson Addition contingent upon approval of an Agreement to Construct Public Infrastructure by Private Development providing for how portion of the project will be reimbursed by the City.

**RESOLUTION PLEDGING AN USED PORTION OF THE CITY'S CONTRIBUTION  
TO THE VERMILLION NOW 2! CAMPAIGN FOR STREET CONTRIBUTION**

**WHEREAS**, the City of Vermillion pledged \$280,000 of second penny funds to the original Vermillion Now! campaign in 2009 and \$250,000 of second penny sales tax funds to the Vermillion Now!2 campaign in 2014 of which \$189,922 has not been utilized for a project; and

**WHEREAS**, the City of Vermillion has pledged these funds for second penny capital improvements in the community as defined in the City Code of Ordinances; and

**WHEREAS**, the City of Vermillion (City) and Vermillion Area Chamber of Commerce and Development Company (VCDC) anticipate entering into an Agreement to Construct Public Infrastructure by Private Development as noted below for construction of a street from Princeton Street west approximately 370 feet through a portion of what is currently Lot 4B of Erickson Addition, City of Vermillion, Clay County, South Dakota; and

**WHEREAS**, a street in this location would provide enhanced access to Outlot B, Lot 4A and Lot 6 all of Block 6 of Erickson Addition all of which are zoned General Industrial or General Business; and

**WHEREAS**, the VCDC will need to submit a plat of the street right-of-way to the Planning Commission and City Council for approval; and

**WHEREAS**, the VCDC will need City Council approval of an Agreement to Construct Public Infrastructure by Private Development (Agreement) which will establish construction standards, a guarantee for work, and City responsibility for oversized items; and

**WHEREAS**, the VCDC has requested that the City reimburse the VCDC from the Vermillion Now! Campaign second penny sales tax pledge for all of the documented development costs of the street minus \$25,000; and

**WHEREAS**, the amount reimbursed to the VCDC for street construction will not exceed the \$189,922 currently available from the original Vermillion Now! and Vermillion Now!2 pledges of second penny funds; and

**WHEREAS**, it is understood that all payments from the City to the VCDC will be on a reimbursement basis upon completion of the terms and conditions in the Agreement including submission of supporting contract documents, invoices, and records of payments.

**NOW, THEREFORE, BE IT RESOLVED**, that the Governing Body of the City of Vermillion agrees to reimburse the VCDC, as developer, from Vermillion Now! Campaign second penny sales tax funds the documented construction costs of the street not to exceed \$189,922, contingent upon the availability of funds at the time of the reimbursement request, the VCDC dedicating the street right-of-way through acceptance by the City Council of the plat, and entering into and complying with a City Council approved Agreement to Construct Public Infrastructure by Private Development.

Dated at Vermillion, South Dakota, this 20<sup>th</sup> day of April, 2020.

THE GOVERNING BODY OF THE CITY OF  
VERMILLION, SOUTH DAKOTA

---

Kelsey Collier-Wise, Council President

ATTEST:

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Michael D. Carlson, Finance Officer





## *Council Agenda Memo*

**From:** John Prescott, City Manager  
**Meeting:** April 20, 2020  
**Subject:** Appointment to Historic Preservation Commission  
**Presenter:** Kelsey Collier-Wise, Council President

**Background:** The City Council created a Historic Preservation Commission in June 2018 with the adoption of Ordinance 1376. The ordinance became effective on July 19, 2018. The first seven commissioners were appointed to staggered terms in August 2018. A member with a term expiring in August 2021 recently resigned as they were relocating outside of Vermillion. Over the last month the opening has been advertised at City Council meetings, social media, and the City's website.

The ordinance establishing the Commission provides for a seven-member board that resides within the City. Four members of the board are to be property owners in one of the officially designated historic districts. The Board member who resigned was a property owner in a historic district. Currently Susan Keith Gray, Ed Gerrish, and Dietrik Vanderhill meet this criteria. When available, two members who have expertise in the disciplines of history, architectural history, architecture, architecture, planning, urban planning, American studies, American civilization, cultural geography, cultural anthropology, or related fields should serve. To assist the City Council in evaluating if an applicant meets one of the disciplines sought in the ordinance, individuals completing an expression of interest form are asked to comment on their background to meet one of the disciplines.

Terms of appointment are for three years. The current members of the Commission and the year of their term expiration are: Cyndy Chaney (2022), Ed Gerrish (2022), Dietrik Vanderhill (2022), William Dendinger (2020), Susan Keith Gray (2020), and Jim Wilson (2021). As noted, the currently vacant term will expire in August 2021.

**Discussion:** To date, one individual has submitted an Expression of Interest form to serve on the Historic Preservation Commission. The individual is a property owner in a historic district.

**Financial Consideration:** None. Commission members are not paid.

8. New Business; item e

**Conclusion/Recommendations:** Administration recommends appointing one individual to complete a term expiring in August 2021 on the Historic Preservation Commission.

**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com)  
**To:** [Vermillion](#); [John Prescott](#); [James Purdy](#)  
**Subject:** Online Form Submittal: Citizen Board/Commission Expression of Interest Form  
**Date:** Monday, April 13, 2020 1:52:14 PM

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## Citizen Board/Commission Expression of Interest Form

Board/Commission on which you are interested in serving: Historic Preservation Commission

---

Name Johnny Beyers

---

Number of years you have lived in/around Vermillion 8

---

Address 

---

City Vermillion

---

State SD

---

Zip Code 57069

---

Phone Number 

---

Email Address 

---

Occupation Lighting Technician

---

Employer IATSE 728

---

Business Address *Field not completed.*

---

Prior elected or appointed offices held (if any) *Field not completed.*

---

Present and past community volunteer activities *Field not completed.*

---

Why are you interested in serving on this Board/Commission? Appreciate Historical Preservation

---

Do you have any unique skills or Organization

experience which would be beneficial to the City to know in selecting someone to serve?

---

Are there any particular projects, programs or goals you would like to see achieved while serving on the Board/Commission? *Field not completed.*

---

Electronic Signature Agreement I agree.

---

Electronic Signature John S Beyers

---

Email not displaying correctly? [View it in your browser.](#)



## *Council Agenda Memo*

**From:** José L. Domínguez, City Engineer

**Meeting:** April 20, 2020

**Subject:** Agreement with Mr. Michael Barkl, owner of Lot 1 and 2, Block 2, Arobba Addition, regarding Sanitary Sewer Service

**Presenter:** José L. Domínguez

**Background:** Mr. Michael Barkl, the owner of Lot 1 and 2, Block 2, Arobba Addition, plans to construct a detached single-family residence on Lot 1. The two lots are on the north side of E. Main Street approximately 550 east of Cypress Drive. These two lots were rezoned to R-2 Residential in December 2019. Mr. Barkl will need utilities for his residence; these include sanitary sewer, water, and electric power. All of the utilities will be available to Mr. Barkl; however, the ease of providing some of these will be more difficult than others.

**Discussion:** Out of the three utilities that Mr. Barkl will need, the sanitary sewer will be the most difficult to provide. Currently, the City's sanitary sewer main ends on East Main Street approximately 280-feet west of his property. Typically, when a sewer is that far from a property, the City allows for the property owner to install a septic system until the sanitary sewer is closer to the property. However, due to the fact that the soils in the area are very wet, a septic system would not be effective and may cause problems for the homeowner in the future. Due to the unique situation, Staff offered the option to Mr. Barkl of installing a sewer pump in his house and pumping the residential sewage to the sanitary sewer 280-feet away. Mr. Barkl would be responsible for the installation of the service line, the connection to the sewer, and the sanitary sewer connection fee.

The agreement clarifies the fact that Mr. Barkl will still be responsible for the cost of the sanitary sewer if it were to be extended to his house. Additionally, the agreement states that if the sewer is extended, the City would be responsible for reconnecting the sewer service closer to his house, and that all future sewer connection fees would be waived.

**Financial Consideration:** The City will incur the filing fee.

8. New Business; item f

**Conclusion/Recommendations:** Administration recommends that the City Council authorize the Mayor to sign the Agreement with Mr. Michael Barkl, owner of Lot 1 and 2, Block 2, Arobba Addition.

Prepared by: The City of Vermillion  
25 Center Street  
Vermillion, SD 57069  
605-677-7050

## AGREEMENT

The City of Vermillion, South Dakota, and Michael Barkl, owner, witnesseth:

In consideration of the mutual covenants herein contained and the benefits to be derived therefrom, the parties agree as follows:

The property owner, their successors or assigns, intend to install a sanitary sewer service for the residential structure to be constructed at:

**Lot 1 and 2, Block 2, Arobba Addition to the City of Vermillion, Clay County, South Dakota.**

### GENERAL:

1. The Agreement filed at the Clay County Courthouse in Book 48 of Miscellaneous on Page 241, is still valid and can be enforced as specified in the document.
2. This **AGREEMENT** shall be binding on the parties, their successors and assigns and will be recorded in the office of the Register of Deeds of Clay County, South Dakota.

### SANITARY SEWER:

1. The owner will be allowed to connect to the City's existing sanitary sewer manhole located at the end of the City's easternmost sanitary sewer (approximately adjacent Lot 2, Block 1, Arobba Addition in the center of East Main Street).
2. The owner will be required to pay any sanitary sewer connection fees associated with connecting to the City's sanitary sewer.
3. If the existing sanitary sewer is extended east so that at least 10 feet of the newly extended sanitary sewer is along the frontage of Lots 1 and 2, Block 2, Arobba Addition, the sanitary sewer connection for said lots will be reconnected to the newly extended sanitary sewer.
4. The cost for reconnecting the sanitary sewer service to the newly extended sanitary sewer will be the City's responsibility.
5. The owner will still be responsible for the costs associated with the extension of the newly extended sanitary sewer as required in the agreement mentioned in item 1 of the General section.
6. **The property owner of Lot 1 and 2, Block 2, Arobba Addition to the City of Vermillion, Clay County, South Dakota, acknowledge that this agreement will run with the land as a restrictive covenant thereon and is binding on the current and future owners, their successors and assigns that they will not remonstrate against the proposed improvements on Lot 1 and 2, Block 2, Arobba Addition to the City of Vermillion, Clay County, South Dakota**

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

OWNER: Michael Barkl

FOR THE CITY OF VERMILLION

By: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
John E. (Jack) Powell, Mayor

STATE OF \_\_\_\_\_ )  
:SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020 before the undersigned officer, personally appeared Michael Barkl, known to me to be the owner of Lot 1 and 2, Block 2, Arobba Addition, he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

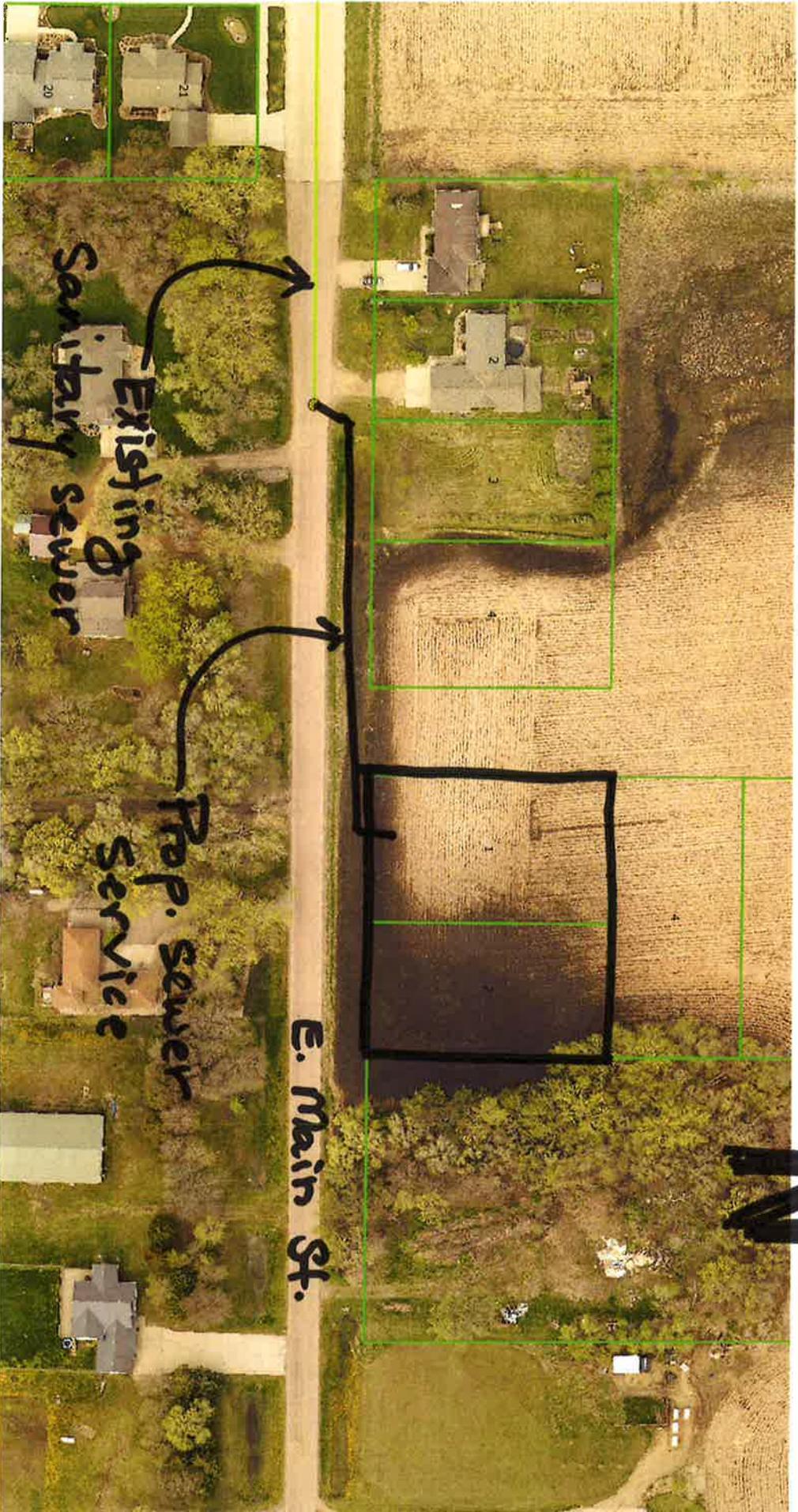
STATE OF SOUTH DAKOTA )  
:SS  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned Officer, personally appeared John E. (Jack) Powell, who acknowledged himself as Mayor of the City of Vermillion, and that he as Mayor being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Mayor.

In witness whereof I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



CITY OF VERMILLION  
 INVOICES PAYABLE-APRIL 20, 2020

1	ACCOUNTS MANAGEMENT, INC	GARNISHMENT	1,555.81
2	ADIDAS AMERICA, INC	MERCHANDISE	5,623.53
3	ARAMARK UNIFORM SERVICES	UNIFORM CLEANING	280.06
4	AT&T MOBILITY	MOBILE HOT SPOTS	229.11
5	AUTOMATIC BUILDING CONTROL	ANNUAL FIRE ALARM INSPECTION	1,682.00
6	BROADCASTER PRESS	ADVERTISING	907.38
7	BUHLS CLEANERS	MAT/MOP SERVICE	546.94
8	BUREAU OF ADMINISTRATION	TELEPHONE	229.44
9	CASK & CORK	MERCHANDISE	1,081.50
10	CENTURYLINK	TELEPHONE	1,585.97
11	CHAMBERLAIN OIL CO	REPAIRS	400.00
12	CLAY RURAL WATER SYSTEM	WATER USAGE	128.10
13	CLAY-UNION ELECTRIC CORP	ELECTRICITY	1,542.70
14	DAKOTA BEVERAGE	MERCHANDISE	7,117.30
15	ENERGY LABORATORIES	TESTING	112.00
16	FARMERS PRIDE	SUPPLIES	540.91
17	FASTENAL COMPANY	PARTS	156.08
18	FEDEX.	SHIPPING	17.15
19	GREGG PETERS	MANAGERS PROFIT/FREIGHT/ADVERTISING	31,172.40
20	JOHN A CONKLING DIST.	MERCHANDISE	1,316.60
21	JOHNSON BROTHERS OF SD	MERCHANDISE	10,805.69
22	JONES FOOD CENTER	SUPPLIES	153.92
23	KARSTEN MFG CORP	MERCHANDISE	1,744.14
24	LOREN FISCHER DISPOSAL	HAUL CARDBOARD	1,180.00
25	MIDAMERICAN	GAS USAGE	3,568.81
26	MIDCONTINENT COMMUNICATION	CABLE/INTERNET SERVICE	746.57
27	ODEYS INC	SUPPLIES	797.50
28	REPUBLIC NATIONAL DIST	MERCHANDISE	20,219.92
29	SANFORD HEALTH PLAN	PARTICIPATION FEES	54.00
30	SD DENR	LANDFILL OPERATIONS FEE	3,305.44
31	SD LIBRARY ASSOCIATION	MEMBERSHIP DUES	590.00
32	SD PUBLIC ASSURANCE ALLIANCE	PROPERTY/INLAND MARINE COVERAGE	73,371.17
33	SOUTHERN GLAZER'S OF SD	MERCHANDISE	6,457.98
34	STERN OIL CO.	FUEL	10,433.48
35	SYNCB/AMAZON	BOOKS/DVDS/SOFTWARE	915.63
36	THE GROWLER STATION, INC	LICENSE FEE/MAINTENANCE	749.97
37	TITLEIST-ACUSHNET COMPANY	MERCHANDISE	2,940.00
38	TRACTOR SUPPLY CREDIT PLAN	SUPPLIES	113.94
39	UNITED PARCEL SERVICE	SHIPPING	13.78
40	US POSTMASTER	POSTAGE FOR UTILITY BILLS	900.00
41	VERMILLION AREA COMMUNITY	ROUND UP PROGRAM	258.92
42	WASTE MANAGEMENT OF WI-MN	WASTE HAULING	879.17
43	FLORENCE LARSON	BRIGHT ENERGY REBATE	250.00
44	CRAIG RASMUSSEN	BRIGHT ENERGY REBATE	250.00
		GRAND TOTAL	\$196,925.01