

**AGREEMENT BETWEEN THE CITY OF DEADWOOD AND  
BRANCH CONSTRUCTION SERVICES, LLC RE: 74 VAN BUREN STREET  
RETAINING WALL**

THIS AGREEMENT is by and between the CITY OF DEADWOOD, a municipal corporation with its principal place of business located at 102 Sherman Street, Deadwood, South Dakota 57732, hereinafter referred to as “CITY,” Glenn Fasnacht, owner of 74 Van Buren Street, hereafter referred to as “OWNER” and Branch Construction Services, LLC. with its principal place of business located at 11429 Pass Creek Rd., Custer, SD 57730, hereinafter referred to as “CONTRACTOR;”

**WHEREAS**, CONTRACTOR has agreed to furnish all necessary labor, material, equipment and expertise necessary for the completion of the Demolition and Reconstruction of the retaining wall located at 74 Van Buren Street;

**WHEREAS**, the purpose of this agreement is to set forth the terms and conditions for which CONTRACTOR shall undertake and complete in a professional and workmanlike manner as set forth below;

**WHEREAS**, OWNER is the owner of the property on which the retaining wall is situated;

**WHEREAS**, CITY has accepted the bid proposal from CONTRACTOR in the amount of Fifty-Five Thousand and 00/100 Dollars (\$55,000.00); and

**WHEREAS**, CITY will pay Thirty Five Thousand Nine Hundred Twenty Seven and 00/100 Dollars (\$35,927.00);

**WHEREAS**, OWNER will pay ten percent (10%) of the assessed value of 74 Van Buren Street in the amount of Nineteen Thousand Five Seventy Three and 00/100 Dollars (\$19,073.00), for the services set forth above, the parties agree as follows:

1. The Recitals set forth above are herein incorporated and made part of this Agreement;
2. CONTRACTOR shall provide Reconstruction of the Retaining Wall located at 74 Van Buren Street;
3. CONTRACTOR shall be responsible for all applicable permitting;
4. CONTRACTOR shall limit use of premises to work in areas indicated and not disturb portions of site beyond areas in which the work is indicated;
5. CONTRACTOR shall keep driveway and entrances serving the premises clear and available to adjacent Owner, Owner's employees and emergency vehicles at all times and will not use these areas for parking or storage of materials;
6. CONTRACTOR shall provide access to all streets at all times and use traffic control as required;
7. CONTRACTOR shall be responsible for locating all overhead and underground utilities in the project area and taking all necessary precautions to prevent damaging all utilities;
8. CONTRACTOR shall be responsible for any damages to any utilities caused by his/her project operations;
9. Requirements for payment schedule, change order documentation and approval are responsibility of OWNER with concurrence from the CITY. Construction to be completed within 90 days of Notice to Proceed. Liquidated damages in the amount of \$100.00/day will be assessed for each day past the 90-day limit in which construction is not completed.
10. All replaced sidewalk shall be 4" minimum depth with #4 rebar at 18" c.c. centered in slab.
11. CONTRACTOR shall fully execute the work described in the Contract Documents;
12. Final payment, constituting the remaining unpaid balance of the contract sum, shall be paid by CITY when CONTRACTOR has fully performed the contract, the general conditions of the contract for construction to satisfy other requirements, if any, which extend beyond final payment and the final certificate for payment has been issued by CITY;
13. CONTRACTOR shall comply with the following miscellaneous provisions:
  - a. Properly sign the area to prevent any injuries to persons or property and to

warn and keep people from entering the work area at all times while work is underway;

- b. All work shall be done in a professional workmanlike manner;
  - c. All work will be subject to final inspection by Historic Preservation Officer before acceptance;
  - d. All work is to be completed in accordance with existing building codes;
  - e. Any changes or additional work must be provided in writing by the parties prior to any changes being made;
  - f. Comply with all local and state laws relating to workmen's compensation and additional insurance requirements to adequately protect them from any claims or damages arising out of or in conjunction with the work contemplated herein; and
  - g. Contractor agrees to indemnify and hold harmless CITY and any of its officers, agents, and employees from any and all liabilities, actions, causes of actions, claims or executions of any character, including attorney's fees, or any sums which CITY may have to pay to any person on account of any personal or bodily injury, death or property damage, which results from any negligent act, error or omission of CONTRACTOR in connection with Agreement or services performed or materials provided pursuant to this Agreement.
14. OWNER agrees to indemnify and hold harmless CITY and any of its officers agents, and employees from any and all liabilities, actions, causes of actions, claims or executions of any character, including attorney's fees, or any sums which CITY may have to pay to any person on account of any personal or bodily injury, death or property damage, which results from any negligent act, error or omission of OWNER in connection with Agreement or services performed or materials provided pursuant to this Agreement.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF DEADWOOD

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

Dave R. Ruth, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Jessica McKeown  
City Finance Officer

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024

OWNER:

\_\_\_\_\_  
Glenn Fasnacht

State of South Dakota                    )  
  ) SS  
County of \_\_\_\_\_                    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned officer, personally appeared Glenn Fasnacht, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.

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

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

Branch Construction Services, LLC

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

Its: President

State of South Dakota            )  
  ) SS  
County of \_\_\_\_\_            )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned officer, personally appeared \_\_\_\_\_, the owner of Branch Construction Services, LLC and acknowledged that he executed the same for the purposes therein contained.

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

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_