

**AGREEMENT FOR SCADA UPDATE (PHASE 2) SERVICES FOR
DEADWOOD, SOUTH DAKOTA**

This agreement is entered into the _____ day of _____
("effective date") by and between the City of Deadwood, South Dakota, hereinafter referred to as
the "City" and TTG Enterprises Inc., hereinafter referred to as "TTG" as follows:

1.0 RECITALS AND PURPOSE

- 1.1** The City desires to engage TTG to update the current SCADA system at the City of Deadwood Public Works building.
- 1.2** TTG represents that it has the special expertise and background necessary to provide the City with these services.

2.0 SCOPE OF SERVICES

TTG agrees to provide the City with the specific professional services as set forth in TTG's scope of services attached hereto as Exhibit A.

3.0 COMPENSATION

- 3.1** The City shall pay TTG for services under this agreement a total contract lump sum amount of \$25,000.00. Such fee shall be inclusive of all costs of whatsoever nature associated with TTG's efforts, including but not limited to salaries, benefits, overhead, administration, and profits. Reimbursable expenses for travel and technical costs are included in the lump sum budget.

TTG will not exceed the lump sum amount of \$25,000.00 for professional fees and reimbursable expenses. The scope of services and payment for the services and expenses shall only be modified by a properly authorized amendment to this Agreement signed in writing by both parties. No City employee has the authority to bind the City with regard to any payment for any services, which exceeds the amount payable under the terms of this Agreement.

- 3.2** TTG shall submit a detailed invoice to the City indicating the services performed and expenditures incurred for the specified time period. The City shall pay the invoice within thirty (30) days of receipt provided such amounts are not in dispute or the subject of disputes.

4.0 PROJECT REPRESENTATION

- 4.1** The City designates the Public Works Director as the responsible City staff member to provide direction to TTG during the conduct of the project. TTG shall comply with the directions given by the Public Works Director.
- 4.2** TTG designates Kevin Morris as the Principal-in-Charge. The City may rely upon the guidance, opinions, and recommendations provided by TTG and its representatives.

5.0 INSURANCE

- 5.1** TTG shall procure and maintain the minimum insurance coverages listed below. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by TTG pursuant to this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured by TTG to maintain such continuous coverage.

5.1.1 Evidence of Workers' Compensation insurance or qualified self-insured status shall be provided, if requested.

5.1.2 General Liability insurance with bodily injury and property damage each occurrence ONE MILLION DOLLARS (\$1,000,000) and general aggregate TWO MILLION DOLLARS (\$2,000,000).

5.1.3 Professional liability insurance in the amount of ONE MILLION DOLLARS (\$1,000,000) against claims arising out of work provided for in this agreement.

6.0 INDEMNIFICATION

TTG agrees to indemnify and hold harmless the City and its elected and appointed officials, agents and employees, from and against liability, claims, demands, and expenses, including court costs and reasonable attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with the services to be performed by TTG, its officers and employees, under this contract. The obligations of this Section 7 shall not extend to any injury, loss, or damage, which is caused solely by the act, omission, or other fault of the City.

7.0 QUALITY OF WORK

TTG's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of professional services of a similar nature in the United States.

8.0 WORK PRODUCT/CONFIDENTIALITY

It is agreed that any and all information disclosed to TTG by the City in connection with this Agreement, as well as any ideas, concepts, know-how, or techniques developed for the City in the performance of this Agreement, will be held confidential by TTG and will not be disclosed to any other party without the express consent of the City.

9.0 INDEPENDENT CONTRACTOR

TTG and any persons employed by TTG for the performance of work hereunder shall be independent contractors and not agents of the City. Any provisions in this Agreement that may appear to give the City the right to direct TTG as to details of doing work or to exercise a measure of control over the work mean that TTG shall follow the direction of the City as to end results of the work only. As an independent contractor, TTG, its officers and employees, are not entitled to workers' compensation benefits except as may be provided by TTG nor to unemployment insurance benefits unless the independent contractor or some other entity provides unemployment compensation coverage. TTG is obligated to pay all federal and state income tax on any monies earned or paid pursuant to this contract relationship.

10.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

11.0 TERMINATION

11.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party, not caused by any action or omission of the terminating party. Terminating party will give the other party written notice at least fifteen (15) days in advance of the termination date.

11.2 In addition to the foregoing, this Agreement may be terminated by the City for its

convenience and without cause of any nature by giving written notice to TTG at least seven (7) days in advance of the termination date. In the event of such termination, TTG will be paid for the reasonable value of the services rendered to the date of termination, not to exceed the total amount of the Fee as set forth in Section 3.0 of this Agreement, and upon such payment, all obligations of the City to TTG under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies, which may be available to it.

12.0 INSPECTION

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of TTG that are related to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

13.0 ENFORCEMENT

The laws of the State of South Dakota shall govern the formation, interpretation, and performance of this Agreement. Any lawsuit pertaining to any matter under or growing out of this Agreement shall be venued in Lawrence County, South Dakota.

14.0 COMPLIANCE WITH LAW

TTG shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules and regulations of the City for payment of all applicable taxes, and obtaining and keeping in force all applicable permits and approvals.

15.0 NON-DISCRIMINATION

TTG shall administer all functions without discrimination because of race, creed, sex, national origin, age, economic status, sexual orientation, gender identity or gender expression.

16.0 INTEGRATION AND AMENDMENT

Any changes to the terms and conditions as outlined herein must be mutually agreed upon by and between the parties and shall be incorporated in written amendments hereto, executed with the same formalities as this Agreement. No amendment or modification of this Agreement shall be effective until executed by the parties.

17.0 SEVERABILITY

If any provision of this Agreement is found to be illegal or unenforceable, then such provision shall be deemed stricken and the remaining provisions shall remain in full force and effect.

18.0 ASSIGNMENT

This Agreement shall be binding upon each of the parties, their successors, executors, administrators and assigns. TTG shall not assign, sublet, contract, or otherwise transfer its interest, in whole or in part, in this Agreement without the express written consent of the City. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of City.

CLIENT:
CITY OF DEADWOOD
108 Sherman Street
Deadwood, SD 57732

TTG:
TTG ENTERPRISES INC.
24492 Oak Meadows Ct.
Keystone, SD 57751
(605) 666-4987

Dated this _____ day of _____, 2021.

CITY OF DEADWOOD

David R. Ruth, Jr., Mayor

ATTEST:

Jessica McKeown
Finance Officer

Dated this _____ day of _____, 2021.

TTG ENTERPRISES INC.

By: _____
Its: _____

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF _____)

On this _____ day of _____, 2021, before me the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of TTG ENTERPRISES INC. and as such, being authorized to do so, executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

Notary Public, South Dakota

(SEAL)

My Commission Expires: _____