

AGREEMENT BETWEEN THE CITY OF DEADWOOD AND
FTH GENERAL RE: 15 FOREST AVENUE
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," Adrian Newkirk, owner of 15 Forest Avenue, Deadwood, South Dakota, hereinafter referred to as "OWNER," and FTH General, with its principal place of business located at 40 Taylor Ave., Deadwood, South Dakota 57732, hereinafter referred to as "CONTRACTOR;"

WHEREAS, CONTRACTOR has agreed to furnish all necessary labor, tools, materials, and equipment to complete in all detail, the reconstruction of the retaining wall located at 15 Forest Ave. in strict accordance with the Contract Documents, as defined herein, within the time set forth herein; and

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 and provides compensation in the amount of Eighty Four Thousand Nine Hundred and 00/100 Dollars (\$84,900.00);

WHEREAS, OWNER will pay ten percent (10%) of the bid and ten percent (10%) of the assessed valuation of the property in the amount of Thirty Seven Thousand Forty Seven and 00/100 Dollars (\$37,047.00), for the services set forth above. The City shall pay the remaining balance of

Forty Seven Thousand Eight Hundred Fifty Three and 00/100 Dollars (\$47,853.00) upon the following terms and conditions:

WHEREAS, 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 15 Forest Avenue;
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 its 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. CONTRACTOR shall fully execute the work described in the Contract Documents;
11. 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;
12. 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.
13. 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.

Signature pages to follow.

Dated this ____ day of _____, 2026.

CITY OF DEADWOOD

By: _____
Charlie Struble Mook, Mayor

ATTEST:

Jessica McKeown
City Finance Officer

Dated this ____ day of _____, 2026.

OWNER:

Adrian Newkirk

State of South Dakota)
) SS
County of _____)

On this ____ day of _____, 2026, before me, the undersigned officer, personally appeared Adrian Newkirk, 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 _____, 2026.

FTH General

By: _____
Marty Reynolds
Its: President

State of South Dakota)
) SS
County of _____)

On this ____ day of _____, 2026, before me, the undersigned officer, personally appeared Marty Reynolds, the owner of FTH General 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: _____