

**AGREEMENT BETWEEN THE CITY OF DEADWOOD AND
R.C.S. CONSTRUCTION, INC. RE: 33 1/2 JACKSON 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," Thomas Julius , owner of 33 ½ Jackson Street, hereafter referred to as "OWNER" and R.C.S. CONSTRUCTION, Inc. with its principal place of business located at 1314 Fountain Plaza Drive, Rapid City, SD, 57702, hereinafter referred to as "CONTRACTOR;"

WHEREAS, CONTRACTOR has agreed to furnish all necessary labor, tools, materials, and equipment to complete in all detail, the removal and replacement of the retaining wall located at 33 ½ Jackson Street 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 in the amount of One Hundred Ninety-Six Thousand and 00/100 Dollars (\$196,000.00); and

WHEREAS, CITY will pay One Hundred Sixty Two Thousand Eight Hundred Seventeen and 00/100 Dollars (\$162,817.00);

WHEREAS, OWNER will pay ten percent (10%) of the total cost in the amount of Nineteen Thousand Six Hundred and 00/100 Dollars (\$19,600.00); and

WHEREAS, OWNER will pay ten percent (10%) of the assessed value of 33 ½ Jackson Street in the amount of Thirteen Thousand Five Hundred Eighty Three and 00/100 Dollars (\$13,583.00), for a combined payment of Thirty Three Thousand One Hundred Eighty Three and 00/100 Dollars (\$33,183.00).

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 33½ Jackson 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 of 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 salvage existing stone removed during construction. CITY to pay CONTRACTOR an additional \$350.00 for additional stones to retaining walls above the included 60 stones included in the base bid. CONTRACTOR to deduct stones from retaining walls from the 60 included in the base bid at \$250.00 per each stone. CONTRACTOR to add additional tuckpointing above the 6,000

linear feet included in the base bid at \$13.00 per lineal foot. CONTRACTOR to deduct tuckpointing from the 6,000 LF included in the base bid at \$9.00 per lineal foot.

11. All replaced sidewalk shall be 4" minimum depth with #4 rebar at 18" c.c. centered in slab.
12. CONTRACTOR shall fully execute the work described in the Contract Documents;
13. 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;
14. 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.
15. 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 _____, 2023.

CITY OF DEADWOOD

By: _____
Dave R. Ruth, Jr., Mayor

ATTEST:

Jessica McKeown
City Finance Officer

Dated this ___ day of _____, 2023

OWNER:

Thomas Julius

State of South Dakota)
) SS
County of _____)

On this ____ day of _____, 2023, before me, the undersigned officer, personally appeared Thomas Julius, 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 _____, 2023.

R.C.S. Construction, Inc.

By: _____

Its: President

State of South Dakota)
) SS
County of _____)

On this ____ day of _____, 2023, before me, the undersigned officer, personally appeared _____, the President of R.C.S. Construction, Inc. 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: _____