

AGREEMENT FOR SALE OF GOODS

THIS AGREEMENT entered into by and between the **City of Coralville, Iowa** (hereinafter “Owner”); and **City of Tiffin, Iowa** (hereafter “Purchaser”), for the sale of suitable fill dirt.

WHEREAS, the Owner is in possession of suitable fill dirt for the Purchaser to purchase for the purposes of project fill dirt, and,

WHEREAS, the Owner has verified that there are 55,000 cubic yards of suitable fill dirt for a sales transaction with the Purchaser, and,

WHEREAS, Purchaser agreed to purchase 55,000 cubic yards of suitable fill dirt at the cost of \$1 per cubic yard for a total of \$55,000 under the terms and conditions below.

IT IS AGREED AS FOLLOWS:

I. COMPENSATION FOR SALE OF GOODS

1. Contract amount/Warranty. The PURCHASER shall compensate the OWNER the amount of not-to-exceed \$55,000 for supplying 55,000 cubic yards suitable fill dirt currently stored on Westcor Drive, parcel number 0635203003. Suitability verification of the material is the responsibility of the PURCHASER; report from Terracon provided as Exhibit A attached. PURCHASER agrees that the OWNER makes no warranty about the suitability of the fill dirt.
2. Hauling and Progress Tracking: The PURCHASER is responsible for all loading and hauling operations and fees associated with operations. The PURCHASER shall be responsible for submitting load tickets to the Director of Parks and Recreation on a weekly basis while undergoing hauling operation.
3. Site Conditions: OWNER will ensure suitable pathway through site for access to fill dirt. On a daily basis, PURCHASER hauling operations will ensure pathway continues to stay clear and excess dirt is pushed back into the piles. Hauler will work from interior pathway if storage area and not disturb the outer erosion control measures and seeding on outside slopes of the storage site unless a discussion is had with Director of Parks and Recreation about access.
4. Road Conditions: OWNER will be responsible for sweeping any tracking of dirt onto Westcor Drive on a daily basis to keep in compliance with stormwater regulations.

5. **Invoicing and Payment:** One invoice will be submitted to the PURCHASER by OWNER once informed hauling has concluded and tickets have been submitted up to 55,000 cubic yards maximum. Payment due in forty-five (45) days.

II. GENERAL CONDITIONS

- A. **Time of Completion:** The PURCHASER shall complete the hauling and removal of up to 55,000 cubic yards of suitable fill dirt by Friday, July 18, 2025. PURCHASER does hereby acknowledge and agrees that TIME IS OF THE ESSENCE of this agreement and thus, failure by the PURCHASER to timely render and perform said Work in accordance with the approved schedule shall constitute a material breach of this Agreement.
- B. **Assignment Prohibited:** This Agreement shall not be assigned or in any manner transferred by the PURCHASER without the express written consent of the OWNER.
- C. **Independent Contractor/SubContractors:** It is hereby expressly acknowledged and agreed by the PURCHASER and OWNER that the engagement of the PURCHASER in connection with the loading and delivery of fill soil shall be separate as an independent contractor and shall not be at the services of the OWNER. The PURCHASER may retain the services of subcontractors for the purposes of performing its obligations and responsibilities under this Agreement provided that the PURCHASER has provided a list of subcontractors to the OWNER, and further provided that, should the PURCHASER so engage subcontractors under the terms of this paragraph, that the PURCHASER shall be solely responsible for compensating any such subcontractors.
- D. **Indemnification:** The PURCHASER agrees to fully indemnify, defend, save and hold the OWNER, its officers, representatives, agents, contractors, subcontractors and employees harmless from any and all liability to third parties (including the reimbursement of reasonable legal fees and costs) arising directly or indirectly from the act, error or omission of the PURCHASER, its officers, representatives, agents, contractors, subcontractors or employees in connection with this contract.
- E. **Governing Law:** This Agreement is to be governed by the laws of the State of Iowa. The parties to this Agreement hereto agree that any action, suit or proceeding based upon any matter, claim or controversy arising under this Agreement shall be brought solely in the state courts located in Johnson County, Iowa or the federal courts located in Linn County, Iowa. The parties hereto irrevocably waive objection to the venue of the above-mentioned courts, including any claim that such action, suit or proceeding has been brought in an inconvenient forum. All parties hereto expressly acknowledge and agree that nothing contained in this Agreement shall be construed to require the parties to submit to mandatory arbitration or mediation in the event of a breach or dispute hereunder.
- F. **Headings:** The headings of section of this Agreement are for convenient reference only and shall not be deemed to limit, construe, affect, modify or alter the meaning of such sections.

G. **Survival**: All express representations, indemnifications, or limitations of liability made in or given in this Agreement shall survive the completion of the services to be rendered by the PURCHASER hereunder or the termination of this Agreement for any reason.

H. **Final Agreement**: The OWNER and PURCHASER hereby expressly agree that this Rider, along with the Agreement and any attachments thereto, constitute the entire agreement and understanding among the parties in connection with the Project, and that there are no other considerations or monies have been solicited. No waiver, change, modification or amendment of this Agreement shall be binding upon any party hereto unless in writing and signed by all parties.

Dated this 27th____ day of ____May_____, 2025.

OWNER:

PURCHASER:
City of Tiffin

Meghann Foster, Mayor

Tim Kasperek, Mayor

Print name and title

ATTEST:

Thorsten J. Johnson, City Clerk