

INTERLOCAL AGREEMENT FOR SOIL REMOVAL

This Interlocal Agreement for Soil Removal (this "Agreement") is entered into effective as of _____, 2026 (the "Effective Date"), by and between the CITY OF WAVERLY, NEBRASKA, a municipal corporation organized under the laws of the State of Nebraska (the "City"), and WAVERLY SCHOOL DISTRICT 145, a Nebraska public school district (the "District"). The City and the District are each referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, the City is developing a new fire station generally located near Amberly Road and North 135th Street in Waverly, Nebraska (the "Fire Station Project");

WHEREAS, the District owns certain real property located generally south of Waverly High School from which the Parties desire to permit the excavation and removal of soil for potential use as fill in connection with the Fire Station Project (the "Excavation Area");

WHEREAS, the Excavation Area is generally depicted on Exhibit A attached hereto, provided that Exhibit A depicts only the general location of the Excavation Area and the actual limits and depths of excavation shall be established and approved as provided herein;

WHEREAS, the City has caused soil within the Excavation Area to be evaluated for potential use as fill in connection with the Fire Station Project;

WHEREAS, in exchange for the Soil, as defined below, the City and District desire that the City provide consideration equal to the value of the Soil through a cash payment to the District upon the terms and conditions set forth herein;

WHEREAS, the Parties are public agencies authorized to cooperate pursuant to the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801 et seq.;

WHEREAS, the City Council of the City approved this Agreement by appropriate official action on _____, 2026; and

WHEREAS, the Board of Education of the District approved the disposition of the Soil and this Agreement at a regular meeting held on Oct. 5, 2026, by an affirmative recorded vote of at least two-thirds of all members of the Board of Education.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to establish the terms under which the City may enter upon the Excavation Area, excavate and remove certain soil for use in connection with the Fire Station Project, restore the Excavation Area following excavation, and provide the District consideration based upon the agreed value of the Soil removed as provided herein.
2. Excavation Area. The Excavation Area shall consist only of the portion of District property generally depicted on Exhibit A and more particularly identified, staked, marked, or otherwise approved in writing by the Parties before excavation begins. Exhibit A is intended only to depict the general location of the Excavation Area and shall not establish the precise horizontal or vertical limits of excavation. Before excavation begins, the Parties shall approve the anticipated excavation limits, access route, approximate excavation depths, and anticipated final grading configuration. Such

approval may be reflected on a site plan, grading plan, field staking, or other written documentation mutually acceptable to the Parties. The City shall not knowingly excavate outside the approved Excavation Area or materially exceed the approved excavation depths without the District's prior written approval.

3. Temporary Access. The District grants the City and the City's employees, agents, engineers, consultants, and contractors a temporary, nonexclusive license to enter the Excavation Area and such agreed access areas as are reasonably necessary to: (a) inspect, survey, sample, and test soil; (b) excavate, load, and remove Soil; (c) operate trucks and construction equipment reasonably necessary for such activities; (d) perform restoration; and (e) perform other activities reasonably necessary to carry out this Agreement. The temporary access rights granted under this Section are limited to the purposes of this Agreement and do not create or convey a permanent easement or other permanent interest in District property.

4. Soil Suitability. For purposes of this Agreement, "Soil" means soil excavated from the Excavation Area and actually removed from District property by or on behalf of the City for use in connection with the Fire Station Project, excluding soil or other material that is stockpiled and ultimately returned to the Excavation Area as part of restoration. The City shall be solely responsible for determining whether soil excavated from the Excavation Area is suitable for use in connection with the Fire Station Project, including any sampling, testing, processing, moisture conditioning, or other measures necessary for the City's intended use. The District makes no representation or warranty regarding the quantity, quality, condition, composition, or suitability of the Soil for any particular purpose. The City may strip, segregate, and stockpile surface soils or other materials as reasonably necessary to access Soil suitable for the City's intended use. To the extent reasonably practicable, sufficient surface soil shall be preserved or otherwise provided for restoration of the Excavation Area. The City shall bear the costs of sampling, testing, evaluating, conditioning, and otherwise determining the suitability of Soil for the City's intended use. If suspected contaminated material, buried debris, an unknown utility, or other materially unexpected condition is encountered, the City shall suspend excavation in the affected area and notify the District. The Parties shall determine how to proceed before excavation resumes in the affected area.

5. Quantity of Soil. The Parties presently estimate that approximately 17,000 cubic yards of Soil will be removed from the Excavation Area. The foregoing quantity is an estimate only. The final quantity used for purposes of calculating the consideration under this Agreement shall be the actual net quantity of Soil removed from District property, determined by the General Contractor. Unless otherwise approved in writing by the District, the City shall not remove more than approximately 17,000 cubic yards of Soil. Nothing in this Agreement requires the City to remove any minimum quantity of Soil.

6. Value of Soil. The Parties agree that the Soil shall be valued at \$2.65 per cubic yard. Based on the estimated quantity set forth in Section 5, the estimated value of the Soil is \$45,050. Following completion of excavation, the Parties shall determine the actual quantity of Soil removed from the Excavation Area, and the actual value of the Soil (the "Soil Value") shall equal the actual quantity removed multiplied by the agreed value per cubic yard. The District shall not be responsible for any separate charge for excavation, loading, hauling, testing, grading, restoration, or other work performed by or on behalf of the City in connection with the removal of the Soil.

7. Consideration for Soil. In consideration for the Soil, the City shall pay the District a cash sum equal to the Soil Value. This payment shall be due after the final quantities of the soil have been verified, but no less than 120 days after the soil removal work has been completed. In no event shall the City's total obligation under this Section exceed the Soil Value.

8. Excavation and Construction Operations. Except as otherwise agreed in writing, the City shall be responsible, at its expense, for excavation, loading, hauling, testing, traffic control, erosion and sediment control, and restoration associated with removal of Soil. The City shall cause all excavation and related work to be performed in a reasonably safe and workmanlike manner and in compliance with applicable law, including applicable utility-location, excavation, environmental, stormwater, and permitting requirements. The City shall take reasonable precautions to avoid damage to District buildings, pavement, utilities, athletic facilities, landscaping, fencing, irrigation systems, and other improvements located outside the approved Excavation Area. Any physical damage to District property caused by the City's excavation or hauling operations, other than the agreed alteration of grades within the Excavation Area, shall be repaired by the City to substantially the condition existing immediately before the damage occurred. The District shall reasonably cooperate with the City concerning access and shall disclose to the City any known private utilities, irrigation facilities, underground improvements, or similar conditions within the Excavation Area that are not otherwise reasonably identifiable through ordinary utility-location procedures.

9. Restoration of Excavation Area. Following completion of the excavation and removal of Soil, the City shall, at its expense, restore the disturbed portions of the Excavation Area, including by regrading and reseeding such areas with Brome grass seed.

10. Ownership and Disposition of Property. The District retains ownership of the Excavation Area and all other District real property. Nothing herein conveys a permanent interest in District real estate. Soil actually excavated and removed from District property pursuant to this Agreement shall become the property of the City and may be transported, processed, and used by the City in connection with the Fire Station Project. Soil or other material stockpiled and returned to the Excavation Area as part of restoration shall remain District property. The Parties do not anticipate jointly acquiring or jointly owning any real or personal property under this Agreement. Upon termination or completion of this Agreement, each Party shall retain its own property, except that Soil previously removed by the City shall remain City property. The District represents that it owns the Excavation Area and has authority to permit the excavation, removal, and transfer of the Soil as contemplated by this Agreement.

11. Financing and Budget. No separate joint fund or joint budget is created by this Agreement. The City shall pay the Soil Value in accordance with Section 7 through its ordinary budgeting and accounting processes, and each Party shall otherwise be responsible for its own costs and expenses under this Agreement.

12. Administration. No separate legal or administrative entity is created by this Agreement. The City's and the District's designated administrators for purposes of this Agreement shall be:

Name/Title: Abbey L. Pascoe, Mayor

Name/Title: Cory Worrell, Superintendent

Contact Information: 402-786-2312
abbeyp@citywaverly.com

Contact Information: 402-786-2321
cory.worrell@district145.org

The designated administrators may coordinate scheduling, field staking, access, construction operations, measurement, accounting, inspection, and other day-to-day matters necessary to administer this Agreement. The administrators may approve nonmaterial operational details and field adjustments consistent with the purposes and economic terms of this Agreement. Any material amendment to the quantity, unit value, consideration structure, or material obligations of either Party shall require a written amendment approved as required by applicable law.

13. Contractors and Insurance. The City may perform its obligations through one or more contractors or subcontractors. The City shall require any contractor performing excavation, hauling,

or restoration work on District property to maintain insurance appropriate for the work being performed and consistent with the insurance requirements applicable to such contractor's work on the Fire Station Project.

14. Responsibility and Governmental Immunity. Each Party shall remain responsible for the acts and omissions of its own officers, employees, and agents to the extent provided by applicable law. Nothing in this Agreement is intended to constitute, nor shall it be construed as, a waiver by either Party of any defense, immunity, limitation of liability, or other protection available under the Nebraska Political Subdivisions Tort Claims Act or other applicable law. Nothing in this Agreement requires either Party to indemnify the other Party to an extent prohibited by applicable law.

15. Duration and Termination. This Agreement shall commence on the Effective Date and shall remain in effect until the earlier of: (a) completion of excavation and restoration, together with full satisfaction of the City's obligation to provide consideration for the Soil in accordance with Section 7; or (b) termination in accordance with this Section. After excavation begins, this Agreement may be terminated by mutual written agreement of the Parties or by either Party following a material breach by the other Party that remains uncured for thirty (30) days after written notice describing the breach. Termination shall not relieve the City of its obligations to make the Excavation Area safe, complete required restoration of areas already disturbed, repair damage caused by the City's work, or provide the consideration attributable to Soil already removed in accordance with Section 7. Any accounting or payment obligations accrued before termination shall also survive.

16. Records. Each Party shall maintain such records as are reasonably necessary to document its performance under this Agreement. Records concerning the measured quantity of Soil, calculation of the Soil Value, and cash payments made to the District shall be made reasonably available to the other Party upon request.

17. Compliance With Law and Governmental Approvals. Each Party's obligations under this Agreement are subject to all approvals required by applicable law. The Parties shall take such actions and make such filings or reports concerning this Agreement as may be required by the Nebraska Interlocal Cooperation Act or other applicable law.

18. No Third-Party Beneficiaries. This Agreement is entered into solely for the benefit of the City and the District. Nothing herein is intended to create any right or benefit in any contractor, consultant, student, or other third party.

19. No Assignment. Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party, except that the City may engage contractors, subcontractors, engineers, consultants, and other agents to perform work contemplated by this Agreement without such consent.

20. Notices. Any formal notice required under this Agreement shall be delivered personally, by nationally recognized overnight delivery service, or by United States mail to the following addresses, or to such other address as a Party may designate by notice:

If to the City:

City of Waverly, Nebraska
Attn: City Administrator
PO Box 427
14130 Lancashire Street
Waverly, Nebraska 68462

If to the District:

Waverly School District 145
Attn: Cory Worsell
14511 Heywood Street
P.O. Box 426
Waverly, Nebraska 68462

With a copy to:

Mark A. Fahleson
Rembolt Ludtke, LLP
1128 Lincoln Mall, Suite 300
Lincoln, NE 68508

21. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

22. Entire Agreement; Amendments. This Agreement, together with its exhibits, constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes prior oral or written discussions concerning such subject matter. This Agreement may be amended only by a written instrument executed and approved by the Parties as required by applicable law.

23. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in effect to the fullest extent permitted by law.

24. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together constitute one instrument. Signatures transmitted or applied electronically may be treated as originals to the extent permitted by law.

Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF WAVERLY, NEBRASKA

By: _____
Name: Abbey L. Pascoe
Title: Mayor

WAVERLY SCHOOL DISTRICT 145

By: 
Name: Cory Worrell
Title: Superintendent

EXHIBIT A

EXCAVATION AREA

[Attach map depicting the general location of the Excavation Area.]

The area depicted on this Exhibit A is intended to identify the general location of the Excavation Area only and does not establish the precise horizontal or vertical limits of excavation. The actual excavation limits shall be established and approved in accordance with Section 2 of the Agreement.

4922-3475-1958, v. 1

Geotechnical Addendum Letter

Fire Station | Waverly, Nebraska

Terracon Project No. A3255046



Exploration Plan – Borrow Area 2026

