

COTTONWOOD HEIGHTS

RESOLUTION No. 2023-60

A RESOLUTION DECLARING CERTAIN POLICE RADIOS SURPLUS AND AUTHORIZING THEIR SALE TO TOWN OF ALTA

WHEREAS, §2.150.060 of the COTTONWOOD HEIGHTS CODE OF ORDINANCES (the “Code”) establishes the procedures for disposal by the city of Cottonwood Heights (the “City”) of its surplus property; and

WHEREAS, the City’s police department (“CHPD”) recently has ceased using its Motorola brand XTS 2500 handheld radios due to their incompatibility with the Utah Communications Agency (“UCA”) network following its recent comprehensive system upgrade; and

WHEREAS, consequently, based on CHPD’s request, the City’s finance director (the “Finance Director”) has informed the City’s city council (the “Council”) that the following-described radios (the “Radios”) are surplus property of the City as required by Code §2.150.060(C):

Motorola	XTS2500	205CJK3658
Motorola	XTS2500	205CJK3622
Motorola	XTS2500	205CJK3655
Motorola	XTS2500	205CJK3649
Motorola	XTS2500	205CJK3648
Motorola	XTS2500	205CJK3620
Motorola	XTS2500	205CJK3657
Motorola	XTS2500	205CJK3656
Motorola	XTS2500	205CJK3631
Motorola	XTS2500	205CJK3646
Motorola	XTS2500	205CJK3629
Motorola	XTS2500	205CJK3633
Motorola	XTS2500	205CJK3625
Motorola	XTS2500	205CJM5574
Motorola	XTS2500	205CJT0097; and

WHEREAS, CHPD’s chief has informed the Council that although the Radios now have no utility to CHPD, the Radios could enhance the public safety operations of the Town of Alta (“Alta”), which is adjacent to the City but is not part of UCA; and

WHEREAS, CHPD’s chief and the Finance Director therefore jointly have recommended that the Radios be sold to Alta for \$10 as authorized by, *inter alia*, UTAH CODE ANN. 11-2-214; and

WHEREAS, the Council met on 5 December 2023 to consider, among other things, (a) declaring the Radios surplus; and (b) approving the City’s sale of the Radios to Alta for \$10, conditioned on, *inter alia*, the joint execution and delivery by the City and Alta of a sale agreement

in the form attached hereto (the "Agreement"); and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to (a) declare the Radios surplus; and (b) approve the City's entry into the Agreement;

NOW THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council as follows:

1. The Radios are hereby declared to be surplus and no longer needed by the City; and
2. The Radios' fair value is hereby declared to be \$10; and
3. The City's entry into the Agreement is hereby approved, and the City's mayor and recorder are hereby authorized to execute and deliver the Agreement, following such modifications to the Agreement as the mayor, in consultation with the City's manager and attorney, may deem to be reasonable and in the City's best interest.

This Resolution, assigned no. 2023-60, shall take effect immediately upon passage.

PASSED AND APPROVED effective 5 December 2023.

ATTEST:

By:

Paula Melgar, Recorder



COTTONWOOD HEIGHTS CITY COUNCIL

By

Michael T. Weichers, Mayor

VOTING:

Michael T. Weichers	Yea ☒ Nay ☐
Matt Holton	Yea ☒ Nay ☐
J. Scott Bracken	Yea ☒ Nay ☐
Shawn E. Newell	Yea ☒ Nay ☐
Ellen Birrell	Yea ☒ Nay ☐

DEPOSITED in the office of the City Recorder on 5 December 2023.

RECORDED this 6 day of December 2023.

Sale Agreement

(Motorola Radios)

THIS SALE AGREEMENT (this “*Agreement*”) is made effective 5 December 2023 by **COTTONWOOD HEIGHTS**, a Utah municipality whose address is 2277 East Bengal Blvd., Cottonwood Heights, UT 84121 (“*Seller*”), and **TOWN OF ALTA**, a Utah town whose address is P.O. Box 8016, Alta, UT 84092 (“*Buyer*”).

RECITALS:

A. UTAH CODE ANN. 11-13-202 and other provisions of the Interlocal Cooperation Act (UTAH CODE ANN. 11-13-101 *et seq.*) (the “*Interlocal Act*”) provide that any two or more public agencies may enter into an agreement with one another for joint or cooperative action.

B. Seller and Buyer are public agencies for purposes of the Interlocal Act.

C. Seller owns the following Motorola brand XTS 2500 handheld radios (the “*Radios*”) and has declared the Radios as surplus property of Seller due to their incompatibility with the Utah Communications Agency (“*UCA*”) network following its recent comprehensive system upgrade:

Motorola	XTS2500	205CJK3658
Motorola	XTS2500	205CJK3622
Motorola	XTS2500	205CJK3655
Motorola	XTS2500	205CJK3649
Motorola	XTS2500	205CJK3648
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Motorola	XTS2500	205CJK3629
Motorola	XTS2500	205CJK3633
Motorola	XTS2500	205CJK3625
Motorola	XTS2500	205CJM5574
Motorola	XTS2500	205CJT0097.

D. Buyer, which is not part of UCA, desires to acquire the Radios to enhance its public safety operations, and Seller desires to assist Buyer’s efforts to so enhance its public safety operations by selling the Radios to Buyer for \$10 as authorized by, *inter alia*, UTAH CODE ANN. 11-2-214.

E. The parties desire to memorialize their agreement concerning such matters and have determined that their entry into this Agreement is mutually beneficial.

A G R E E M E N T:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. **Sale and Delivery of Radios.** Seller hereby **sells, assigns, transfers and conveys** ownership of the Radios to Buyer subject to the terms of this Agreement. **Seller's sale of the Radios hereunder is without any warranty whatsoever other than Seller's warranty that legal title to the Radios is conveyed hereunder free and clear of all liens and encumbrances.**

Section 2. **Purchase Price.** In exchange and as payment in full for the Radios and against delivery thereof, contemporaneously herewith Buyer shall pay to Seller the total sum of Ten Dollars (U.S. \$10.00) (the "*Purchase Price*") in cash or other immediately available funds.

Section 3. **Release of Seller.** For and in consideration of Seller's agreement to sell, assign, transfer and deliver ownership of the Radios to Buyer, Buyer hereby knowingly and voluntarily waives, releases and forever discharges Seller and its elected and appointed officers, agents, employees, representatives, assigns, contractors, insurers, attorneys and other related parties and successors-in-interest (collectively, "*Related Parties*") of and from any and all liabilities, claims, demands, damages, actions and causes of action, or suits at law or in equity, of whatsoever kind or nature, which Buyer may have or assert to have had, or now has or asserts to have, or hereafter may have or assert to have, arising from, based upon, or in any way relating to Buyer's ownership and use of the Radios on or after the date of this Agreement.

Section 4. **Indemnification.** Buyer shall indemnify, defend and hold Seller and its Related Parties harmless from and against any and all demands, damages, claims, suits, obligations, costs, expenses, debts and liabilities, known or unknown, suspected or unsuspected (including, but not limited to, costs of suit and reasonable attorneys' fees), arising from, based upon or related to Buyer's ownership and use of the Radios on or after the date of this Agreement.

Section 5. **Default; Remedies.** If any party fails to perform any of its obligations hereunder and such conditions are not cured within ten days after written notice thereof by the non-defaulting party, the defaulting party shall be in default, thereby entitling the non-defaulting party to proceed at law and in equity to enforce its rights under this Agreement.

Section 6. **Additional Interlocal Act Provisions.** In compliance with the requirements of the Interlocal Act and other applicable law:

(a) **No Separate Entity.** The parties agree that this Agreement does not create an interlocal entity.

(b) **Joint Board.** As required by UTAH CODE ANN. Section 11-13-207, the parties agree that the cooperative undertaking under this Agreement shall be administered by a joint board consisting of Buyer's mayor or designee and Seller's manager or designee. Any real or personal property used in the parties' cooperative undertaking herein shall be acquired, held, and disposed of in accordance with this Agreement.

(c) Financing and Joint Cooperative Undertaking and Establishing Budget. There is no financing of joint or cooperative undertaking and no budget shall be established or maintained.

(d) Attorney Review. This Agreement shall be reviewed as to proper form and compliance with applicable law by the authorized attorneys for the parties in accordance with UTAH CODE ANN. 11-13-202.5.

(e) Copies. Duly executed original counterparts of this Agreement shall be filed with the keeper of the records of each party pursuant to UTAH CODE ANN. 11-13-209.

Section 7. General Provisions. The following provisions are also integral parts of this Agreement:

(a) Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties.

(b) Captions. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(c) Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(d) Severability. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable, or invalid provision shall not affect the other provision of this Agreement.

(e) Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement.

(f) Amendment. This Agreement may not be modified except by an instrument in writing signed by the parties.

(g) Time of Essence. Time is of the essence in this Agreement.

(h) Interpretation. This Agreement shall be interpreted, construed, and enforced according to the substantive laws of the state of Utah.

(i) Notice. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received:

(i) Upon personal delivery or actual receipt thereof; or

(ii) Within three (3) days after such notice is deposited in the United

States mail, certified mail postage prepaid and addressed to the parties at their respective addresses.

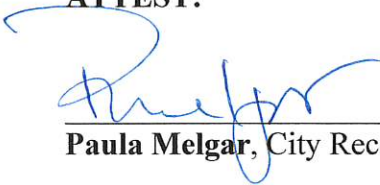
(j) Exhibits and Recitals. The Recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of the Agreement.

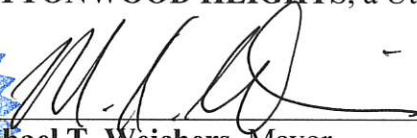
IN WITNESS WHEREOF, Seller, by resolution duly adopted by its city council, caused this Agreement to be signed by its mayor or designee and attested, and Buyer, by resolution of its town council, caused this Agreement to be signed by its mayor and attested.

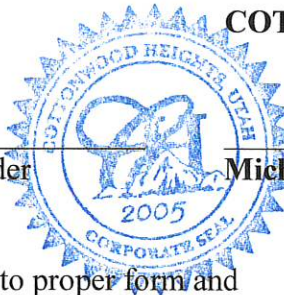
SELLER:

ATTEST:

COTTONWOOD HEIGHTS, a Utah municipality


Paula Melgar, City Recorder


Michael T. Weichers, Mayor



Approved and reviewed as to proper form and compliance with applicable law:

Wm. Shane Topham

Wm. Shane Topham,
Cottonwood Heights City Attorney
Date: 5 December 2023

BUYER:

ATTEST:

TOWN OF ALTA

_____, _____
Approved and reviewed as to proper form and compliance with applicable law:

Buyer's Attorney
Date: _____ 2023