

RESOLUTION 2023-029

PASSED: MARCH 13, 2023

AUTHORIZING THE PURCHASE AND EQUIPPING OF 75 MOTOROLA APX 7000 PORTABLE RADIOS FROM THE CITY OF ELGIN FOR THE DEKALB FIRE DEPARTMENT IN THE AMOUNT OF \$112,500 USING GROUND EMERGENCY MEDICAL TRANSPORTATION (GEMT) FUNDING (FUND 130).

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the City's Fire Chief recommends the purchase of 75 Motorola APX7000xe Portable Radios from the City of Elgin for \$112,500.00; and

WHEREAS, the City's corporate authorities find that approving the purchase of 75 Motorola APX7000xe Portable Radios from the City of Elgin for \$112,500.00 is in the City's best interests for the protection of the public health, safety and welfare; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The City's corporate authorities approve, authorize, and direct the City Manager to enter into the agreement with the City of Elgin, in a form that is acceptable to the City Manager, to purchase 75 Motorola APX7000xe Portable Radios for \$112,500.00.

SECTION 2: This resolution and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such resolution should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent this resolution is inconsistent with any non-preemptive state law, this resolution shall supersede state law in that regard within its jurisdiction.

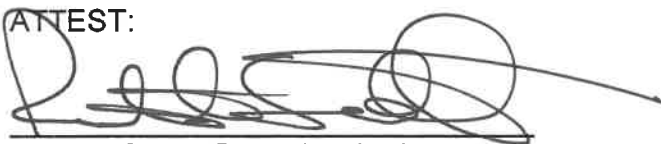
SECTION 3: This resolution shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 13th day of March 2023 and approved by me as Mayor on the same day. Passed by an 8-0 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None.




COHEN BARNES, Mayor

ATTEST:



Ruth A. Scott, Executive Assistant

Re 2023-029

SALES AGREEMENT

THIS AGREEMENT is hereby made and entered into this 26th day of April, 2023, by and between the City of Elgin, Illinois, a municipal corporation (hereinafter referred to as "City of Elgin" or "Seller") and the City of DeKalb, Illinois, a municipal corporation, (hereinafter referred to as "City of DeKalb" or "Buyer").

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby mutually acknowledged, the parties hereto hereby agree as follows:

1. **PURCHASE.** City of DeKalb shall purchase, and City of Elgin shall sell the goods consisting of the seventy-five (75) used Motorola Model APX7000XE radios identified in Attachment A, attached hereto and made a part hereof (hereinafter referred to as a "Surplus Radio" and collectively as the "Surplus Radios"). A Surplus Radio consists of one radio, one lapel microphone, one battery and one charger. The City of DeKalb shall be responsible for all programming and all associated costs to operate on the StarCom system.

2. **LAW/VENUE.** This agreement is subject to and governed by the laws of the State of Illinois. City of DeKalb agrees that service by first class U.S. mail to 164 E. Lincoln Highway, DeKalb, IL 60115 shall constitute effective service. Both parties hereto waive any rights to a jury.

3. **NO MODIFICATION.** There shall be no modification of this agreement, except in writing and executed with the same formalities as the original.

4. **MERGER.** This agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this agreement shall supersede all previous communications, representations or agreements, either verbal, written or implied between the parties hereto.

5. **SEVERABILITY.** The terms of this agreement shall be severable. In the event any of the terms or the provisions of this agreement are deemed to be void or otherwise unenforceable for any reason, the remainder of this agreement shall remain in full force and effect.

6. **EXECUTION.** This agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same agreement. For the purposes of executing this agreement, any signed copy of this agreement transmitted by fax, e-mail or other electronic means shall be treated in all manner and respects as an original document. The signature of any party on a copy of this agreement transmitted by fax machine, or e-mail, or other electronic means shall be considered for these purposes as an original signature and shall have the same legal effect as an original signature. Any such faxed, e-mailed or other electronically transmitted copy of this agreement shall be considered to have the same binding legal effect as an original document. At the request of either party any electronically transmitted correct copy of this agreement shall be re-executed by the parties in an original form. No party to this agreement shall raise the use of fax machine or e-mail as a defense to this agreement and shall forever waive such defense.

7. **PAYMENT.** City of DeKalb shall pay \$1,500 for each Surplus Radio for the total sum of \$112,500 prior to pickup of Surplus Radios.

8. **DELIVERY.** City of DeKalb shall pickup the Surplus Radios at the City's designated location on or before May 1, 2023.

9. **DISCLAIMER OF WARRANTY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SURPLUS RADIOS INCLUDING THE RADIOS AND ALL EQUIPMENT BEING CONVEYED WITH SUCH RADIO, ARE BEING SOLD AND TRANSFERRED ON AN "AS IS" BASIS AND "WITH ALL FAULTS" AND CITY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND (WHETHER EXPRESS, IMPLIED OR STATUTORY), INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THAT DEFECTS IN THE SURPLUS RADIOS WILL BE CORRECTED.

10. **TRANSFER OF TITLE/RISK.** Transfer of title, and risk of loss shall pass to the City of DeKalb upon delivery of the goods.

11. **RELATIONSHIP BETWEEN THE PARTIES.** This Agreement shall not be construed so as to create a joint venture, partnership, employment or other agency relationship between the parties hereto.

12. **WAIVER.** Neither party hereto shall be responsible for any consequential, indirect, punitive or incidental damages for any reason whatsoever. Any delay or failure to enforce any rights by either party arising out of or pursuant to this Agreement shall not constitute, and shall not be construed as, a waiver of any such rights.

13. **LIMITATION OF ACTIONS.** The City of DeKalb shall not be entitled to, and hereby waives, any and all rights that it might have to file suit or bring any cause of action or claim for damages against the City of Elgin and/or its affiliates, officers, employees, agents, attorneys, boards and commissions of any nature whatsoever and in whatsoever forum after four (4) years from the date of this Agreement.

14. **NO WAIVER OF IMMUNITIES OR RIGHTS.** This agreement is not intended and shall not be construed to alter, limit, or constitute a waiver of any of the civil immunities afforded the City of Elgin and/or its officials, officers, employees and/or agents pursuant to the Local Governmental and Governmental Employees Tort Immunity Act at 745 ILCS 10/1-101, et seq., as amended, the Emergency Telephone System Act at 50 ILCS 750/0.01 et seq., as amended, and/or as otherwise provided by law, it being agreed that all the civil immunities as set forth in such Acts, as amended, and/or as otherwise provided by law shall fully apply to any claims asserted or which might be asserted against the City of Elgin and/or its respective officials, officers, employees and/or agents as a result of this agreement or any actions of the Parties pursuant to this agreement.

15. **NO SPECIAL OR OTHER DUTY.** No special duties or obligations are intended and shall not be deemed or construed to be created by this agreement. Notwithstanding anything to the contrary in this agreement, it is agreed and understood that no third party beneficiaries are intended or shall be construed to be created by the provisions of this agreement and it is the intention of the parties hereto that no action may be commenced by any person or entity against the City of Elgin and/or its respective officials, officers, employees, agents and/or other related persons or entities for monetary damages for any alleged breach or failure to provide services described in this agreement. The provisions of this section shall survive any expiration and/or termination of this agreement.

The person signing this Agreement certifies that s/he has been authorized by the Buyer to commit the Buyer contractually and has been authorized to execute this Agreement on its behalf.

IN WITNESS WHEREOF, the parties have hereto set their hands the day and year first above written.

CITY OF DEKALB

Bill Hickens
Print Name

[Signature]
Signature

City Manager
Title

CITY OF ELGIN

[Signature]
Richard G. Kozal, City Manager

Attest:

[Signature]
City Clerk

ATTACHMENT A

APX7000XE 7/800 - VHF Portable Radio 2023 Used Condition Inventory

	Serial #
	DEKALB FD
1	562CNZ5981
2	562CNZ5594
3	562CNZ5595
4	562CNZ5597
5	562CNZ5598
6	562CNZ5599
7	562CNZ5600
8	562CNZ5603
9	562CNZ5604
10	562CNZ5605
11	562CNZ5606
12	562CNZ5608
13	562CNZ5610
14	562CNZ5612
15	562CNZ5614
16	562CNZ5615
17	562CNZ5616
18	562CNZ5617
19	562CNZ5623
20	562CNZ5625
21	562CNZ5626
22	562CNZ5629
23	562CNZ5632
24	562CNZ5633
25	562CNZ5636
26	562CNZ5639
27	562CNZ5640
28	562CNZ5642
29	562CNZ5643
30	562CNZ5644
31	562CNZ5645
32	562CNZ5651
33	562CNZ5652
34	562CNZ5653
35	562CNZ5654
36	562CNZ5656
37	562CNZ5657
38	562CNZ5659

	Serial #
	DEKALB FD
39	562CNZ5666
40	562CNZ5668
41	562CNZ5671
42	562CNZ5673
43	562CNZ5678
44	562CNZ5680
45	562CNZ5681
46	562CNZ5683
47	562CNZ5686
48	562CNZ5688
49	562CNZ5689
50	562CNZ5690
51	562CNZ5692
52	562CNZ5693
53	562CNZ5694
54	562CNZ5695
55	562CNZ5698
56	562CNZ5699
57	562CNZ5703
58	562CNZ5704
59	562CNZ5706
60	562CNZ5707
61	562CNZ5711
62	562CNZ5713
63	562CNZ5714
64	562CNZ5715
65	562CNZ5716
66	562CNZ5717
67	562CNZ5718
68	562CNZ5722
69	562CNZ5723
70	562CNZ5726
71	562CNZ5738
72	562CNZ5739
73	562CNZ5744
74	562CNZ5746
75	562CNZ5747