




# CITY OF HUNTINGTON BEACH

Memorandum to City Council

**TO:** City Council  
Robin Estainslau, City Clerk

**FROM:** Bo Svendsbo, Captain 

**CC:** Chief Eric Parra

**DATE:** November 21, 2023

**SUBJECT:** Supplemental Communication for Item 10 (File # 23-1015) on the 11/21/23  
City Council Meeting Agenda

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This Supplemental Communication provides a copy of the fully executed Sale and Purchase Agreement between the City and Ferguson & Sons Construction (Ferguson). Ferguson has agreed to purchase the last remaining Notar police helicopter in the Department's inventory (N523HB, serial #LN105).

## SALE AND PURCHASE AGREEMENT

**THIS SALE AND PURCHASE AGREEMENT ("Agreement") is made and entered into effective the 9<sup>th</sup> day of November 2023 (the "Effective Date") by and between Ferguson & Sons Construction ("Purchaser") located at 5225 Butte Rd, Emmett Idaho, 83617 and – City of Huntington Beach, (Seller") whose address is 2000 Main Street, Huntington Beach CA 92648.**

Seller agrees to sell and the Purchaser agrees to purchase free of any and all liens or encumbrances the MD 500N Helicopter Serial Number Serial Number LN105 Registration Number N523HB (the "Helicopter"), including the avionics, accessories, log books, required documentation and other items of equipment installed and used in such helicopter.

- 1) **PURCHASE PRICE:** The purchase price shall be Five Hundred Thousand Dollars (\$500,000.00)
- 2) **Deposit:** The Purchaser shall wire a nonrefundable deposit in the amount of \$25,000.00 USD to AEROTitle Services, Oklahoma City, Oklahoma, Meagan Vincent ("Escrow Agent") on the 16<sup>th</sup> day of November 2023. The deposit shall be subject to the terms and conditions contained herein.
- 3) **Closing:** The closing of this Agreement (the "Closing") will be handled through escrow by AEROTitle Services, Oklahoma City, Oklahoma, Meagan Vincent ("Escrow Agent") and shall take place as soon as possible but no later than the 27<sup>th</sup> day of November 2023 (the "Closing Date"), unless the parties agree to a later date. At Closing Escrow Agent shall record and deliver copies of the bill of sale for the Helicopter to Purchaser and release to Seller the full amount of the Purchase Price. Purchaser and Seller shall share escrow fees equally.
- 4) **Sellers Obligations:**
  - a) Provide to Escrow Agent prior to closing a Bill of Sale for the Helicopter as required by Escrow Agent made out from the registered owner to the Purchaser.
  - b) Deposit with Escrow all other documents reasonably requested by Escrow Agent to complete the sale of the Helicopter and the transfer of title and registration to Purchaser.
  - c) Supply all available and necessary logbooks, certifications, certificates, historical records and required documentation for the Helicopter.
  - d) Provide Purchaser with a copy of documentation for any Supplemental Type Certificated equipment installed or included with the Helicopter.
  - e) The City of Huntington Beach will require for the purchaser to remove the police badges and "Huntington Beach Police Department," markings from the aircraft at their cost. This removal shall take place prior to the helicopter being displayed to the public, or prior to the purchaser selling of any helicopter part containing the listed markings.
- 5) **Purchasers Obligations:** Purchaser shall place the balance of funds \$475,000.00 (Four Hundred Seventy-Five Thousand Dollars) into Escrow Agent's account.
- 6) **Inspection:** Purchaser has conducted its physical inspection for the Helicopter at its current location in Huntington Beach, CA and waiver further inspections. Purchaser shall execute an Acceptance Report for the Helicopter and forward to Escrow Agent by E mail.
- 7) **Delivery:** The Seller shall deliver the Helicopter to Purchaser after the Closing at its current location in Huntington Beach, CA. Purchaser shall arrange for the packaging and shipment of the Helicopter to their desired location within a reasonable amount of time after closing. Purchaser is responsible for all fees related to the transportation of the Helicopter.

Purchaser shall be responsible for and shall pay any import duties, foreign taxes, license fees, state and local sales, use or other similar excise taxes which are incurred in connection with or which arise

out of the sale of the Helicopter to Purchaser. Purchaser hereby indemnifies and agrees to hold Seller harmless from and against the payment of any and all Transfer Taxes, including interest and penalties imposed thereon or as a result thereof, and any costs incurred by Seller.

- 8) **Title:** Seller represents and warrants that the Helicopter will be free and clear of all liens and encumbrances at the time of Closing. Transfer of title shall take place at Closing. Title to the Helicopter shall remain with Seller until the Purchase Price has been received by Seller.
- 9) **Insurance:** Risk of loss or damage to the helicopter shall pass to the Purchaser upon Closing.
- 10) **Warranties:** Purchaser is relying solely upon Purchaser's inspections as to the condition of the Helicopter and all other issues and matters relating to the Helicopter. Seller and Seller's agents are not making, have not made, and expressly disclaim any representations or warranties, expressed or implied, with respect to any aspect, feature or condition of the Helicopter including, without limitation, the suitability of the Helicopter for Purchaser's intended use. Purchaser shall independently verify all information and reports regarding any aspect, issue, matter, or feature of the Helicopter provided by Seller. Purchaser is purchasing the Helicopter in "As Is" condition with all faults, including both latent and patent defects.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE HELICOPTER IS HEREBY SOLD "AS IS" AND "WHERE IS." ALL OTHER WARRANTIES AND AGREEMENTS, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, ANY OBLIGATION OR LIABILITY OF SELLER, WITH RESPECT TO THE IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, AND ANY IMPLIED WARRANTY OF FITNESS, ACTUAL OR IMPUTED, OR OTHER LIABILITY OF SELLER FOR LOSS OF USE, REVENUE OR PROFIT WITH RESPECT TO THE OPERATION OF THE AIRCRAFT AND THE WORK THEREON, ARE HEREBY EXCLUDED AND DISCLAIMED. NO AGREEMENT EXTENDING THIS WARRANTY SHALL BE BINDING UPON SELLER UNLESS IN WRITING AND SIGNED BY ITS DULY AUTHORIZED OFFICER OR REPRESENTATIVE.

- 11) **Damage:** Should the helicopter be damaged at any time before closing, the Seller shall immediately advise the Purchaser in writing including full details of the damage and the time required to repair such damage. If the damage cannot be repaired or compensation arranged to the reasonable satisfaction of the Purchaser, then the Purchaser at its sole discretion has the right to cancel the Agreement in its entirety and the Deposit shall immediately be repaid in full to the Purchaser.
- 12) **Seller's Default:** If Seller should default hereunder, then upon the request of Purchaser, as Purchaser's sole remedy, all funds pursuant to this Agreement shall be returned to Purchaser and thereafter this Agreement shall be deemed null and void and of no effect whatsoever, and neither party shall have any further rights or remedies against each other in connection with this Agreement.
- 13) **Purchaser's Default:** If Purchaser defaults hereunder then the Seller shall retain the deposits and any advance payments as liquidated damages for default. Thereafter this Agreement shall be deemed null and void and of no effect whatsoever, and neither party shall have any further rights or remedies against each other in connection with this Agreement.
- 14) **Disputes:** All claims and disputes arising under or relating to the Agreement are to be settled by arbitration in the state of California.

15) **Notices:** All Notices shall be in writing and shall be directed as follows:

**Purchaser:** Ferguson & Sons Construction  
5225 Butte Rd  
Emmett ID, 83617  
208-941-2069  
Email: Jay@fergandsons.com

**Seller:** City Of Huntington Beach  
2000 Main Street  
Huntington Beach, California  
Attn: Chief Eric Parra  
Email: EParra@hbpd.org  
Phone: 714-536-5602

16) **Entire Agreement:** This Agreement constitutes the entire agreement between the parties hereto relating to the subject matter thereof. No modification of this Agreement shall be valid unless in writing and signed by each of the parties. For purposes of this transaction any signed document transmitted by FAX machine or email shall be treated in all manner and respects as an original signature. Any such document shall be considered to have the same binding legal effect as an original document.

17) **Effect of Validity:** If any Paragraph or any part thereof is determined to be void or unenforceable, such determination shall not affect the validity of any other Paragraph or the remaining portion of that Paragraph.

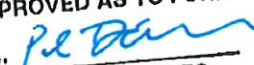
**In witness whereof,** the parties hereunto execute this Agreement the day and year first above written. Purchaser hereby acknowledges and agrees to the terms as specified in the above agreement. Seller will remove the "Helicopter" from the market immediately upon signing this agreement and confirmation is obtained for receipt of deposit in escrow.

Purchaser:

  
Ferguson & Sons Construction  
By: Jay Ferguson  
It's: Manager

Seller:

  
City of Huntington Beach  
By: Chief Eric Parra

APPROVED AS TO FORM  
By:   
MICHAEL E. GATES  
CITY ATTORNEY  
CITY OF HUNTINGTON BEACH