

RESOLUTION NO. 4219

A RESOLUTION APPROVING A SALES AGREEMENT BETWEEN THE CITY AND TARGET LOGISTICS MANAGEMENT, LLC, FOR PURCHASE OF TWO TRAILERS FOR USE AS FIRE DEPARTMENT HOUSING.

WHEREAS, the City of Miles City is expecting to receive funding from Trans-Canada for the purchase of two housing units to be used by Fire Department personnel as a result of the condemnation of portions of the City Fire Hall;

AND WHEREAS, the City wishes to secure the purchase of said housing units from Target Logistics Management, LLC, conditioned upon the receipt of the funding hereinbefore referenced;

NOW THEREFORE BE IT RESOLVED by the City Council of Miles City, Montana, as follows:

1. The Sales Agreement between the City and Target Logistics Management, LLC, attached hereto as Exhibit "A", and made a part hereof, which includes terms that said purchase is conditioned upon receipt of funding from Trans-Canada for the purchase of the same, is hereby approved and adopted by this Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Agreement on behalf of the City of Miles City and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A DULY CALLED MEETING THIS 11th DAY OF DECEMBER, 2018.



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

SALES AGREEMENT

<u>Buyer:</u>	City of Miles City Montana, a Montana municipality
<u>Seller:</u>	Target Logistics Management, LLC (Target Lodging) 2170 Buckthorne Place, Suite 440 The Woodlands, TX 77380
<u>Equipment:</u>	Two (2) 2-bedroom park model trailers (each unit is approx.. 396 sq. feet and contains a kitchen, living area, two bedrooms, one bathroom, as well as furniture and equipment (refrigerator, washer/dryer/TV/table & chairs/ bedroom furniture/dishes/cookware)
<u>Shipment and Installation:</u>	Seller prepare and ship the Buildings from current location (Williston, ND) to Miles City, MT. Seller will set/install both buildings at Mile City Fire Rescue, which shall include (i) installation on CMU foundation on asphalt parking lot near existing fire house (ABS and CMU blocks will be provided); (ii) installation of anchoring system; and (iii) installation of building skirting.
<u>Exclusions:</u>	Sewer / Water connections at Fire Department Electrical connections at Fire Department Engineering / Permit fees Utility Fees
<u>Place of Sale:</u>	Miles City Fire Rescue, 2800 Main St, Miles City, MT 59301
<u>Equipment Cost:</u>	Buildings, FF&E: \$ 60,000.00 Freight, Installation: \$12,810.00 <hr/> Total Price: \$72,810.00
<u>Date of Sale:</u>	The sale shall be deemed effective upon the occurrence of (1) Seller's delivery and installation of all the Equipment and (2) Seller's receipt of the Total Price above.

WHEREAS, Buyer desires to purchase and Seller desires to sell the Equipment listed above;

WHEREAS, Seller shall provide shipment and installation as provided above; and

To confirm this understanding, the parties hereto agree as follows:

CONDITIONS OF SALE:

1. Buyer's Obligation Purchase. Seller agrees that Buyer's obligation to purchase the Equipment and pay Seller under this Agreement is conditioned on Buyer receiving a donation from TransCanada in an amount sufficient to cover the amounts due to Seller hereunder. Buyer shall not be obligated to purchase the Equipment unless the foregoing donation is received by Buyer.

2. Title to Equipment: Seller hereby represents and warrants to Buyer that it has good and marketable title to the Equipment. The parties explicitly agree that title to the Equipment passes from Seller to Buyer only after Buyer has paid to Seller in good funds the Total Price. Documents of title, if any, related to the Equipment will be provided to Buyer within sixty (60) days after Seller has received Total Price.

3. CONDITION OF EQUIPMENT: The Equipment as described in this Agreement is being purchased in **USED** condition.

4. **EXCLUSIONS OF ALL WARRANTIES: AS ACKNOWLEDGED AND AGREED BY THE UNDERSIGNED BUYER, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND THAT THE SALE IS "AS IS" AND "WITH ALL FAULTS."** FURTHERMORE, SELLER IS PROVIDING **NO WARRANTIES AND MAKES NO REPRESENTATIONS WITH REGARD TO THE CONDITION OF THE SUBJECT EQUIPMENT.**

5. Risk of Loss: Further Liability: Following the sale of the Equipment, Buyer will have responsibility for all risk of loss or damage to the Equipment. In addition, Buyer hereby indemnifies Seller and agrees to save, defend and hold Seller harmless against all losses, damages, liability, costs and expenses (including attorney's fees), as a result of any actions, claims, or demands arising out of this Agreement or related to the Equipment.

6. Miscellaneous: (a) This Agreement is the only operative agreements between the parties with respect to their subject matter. With regard to the sale of the Equipment, this Agreement shall control and supersede any language contained in any other document, such as an invoice that may be provided solely as a convenience to Buyer. This Agreement may be amended only in writing and signed by a duly authorized representative of each party. (b) This Agreement shall be governed by and construed in accordance with the laws of the State of Montana. (c) Each party represents and warrants that this Agreement is valid and binding, is duly authorized by appropriate corporate action, and that the person signing below has authority to bind the respective party to the Agreement. (d) The parties hereby covenant and agree that Seller may rely on a telefacsimile or "PDF" signature of Buyer on this Agreement and/or any Amendment hereto. Any such signature shall be treated as an original signature for all purposes. The telefacsimile or PDF transmission by Buyer to Seller of this Agreement signed by Buyer shall be deemed to be the original Agreement for all purposes.

[signature page to follow]

BUYER:

CITY OF MILES CITY, MONTANA

By: 

Print Name: John Hansen

Title: Mayor

Date: 12-11-18

SELLER:

TARGET LOGISTICS MANAGEMENT, LLC (TARGET LODGING)

By: 

Print Name: Ryan Joyce

Title: VP and Assoc. Gen. Counsel

Date: 2/08/2019