

**CITY OF BETHLEHEM, PENNSYLVANIA
DEPARTMENT OF POLICE**

	INTER-DEPARTMENTAL MEMORANDUM	
	TO:	Adam Waldron, President City Council
	FROM:	Mark DiLuzio, Chief of Police 
	DATE:	November 22, 2019
	RE:	Purchase of Duty Handgun by Retiring Officers

Bethlehem Police Officer, Sergeant Jonathan Desiderio, is currently honorably retiring after serving the City of Bethlehem.

As in many police departments across the country, and as in the past, retiring Police Officers were able to purchase their used duty weapon upon retiring honorably. Officers purchase their duty firearm at fair market value and according to Third Class City Code regulations.

The attached Resolutions and Agreements cover the necessary paperwork that they City needs to complete this purchase of duty weapons by the Police Officers that carried and utilized them during their years of service.

Thank You.

MAD#223

AGREEMENT

THIS AGREEMENT, dated as of the _____ day of _____, 2019, by and between the

CITY OF BETHLEHEM, a municipal corporation being a City of the Third Class, subject to the Optional Third Class City Charter Law, organized and existing under the laws of the Commonwealth of Pennsylvania, with principal administrative offices at City Hall, 10 E. Church Street, Bethlehem, PA 18018 (hereinafter referred to as “City”), party of the first part;

and

Jonathan Desiderio, an adult individual residing in Northampton County, PA (hereinafter referred to as “Retiree”).

WITNESSETH:

WHEREAS, Retiree has recently retired or is concurrently retiring from employment as a police officer for the City of Bethlehem;

WHEREAS, prior to this date of this Agreement City provided a handgun to Retiree at City’s expense to provide protection for members of the public, first responders, including other police officers, and Retiree during the course and scope of Retiree’s employment and other authorized purposes;

WHEREAS, Retiree desires to purchase the handgun formerly used by Retiree during the course and scope of his employment with City;

WHEREAS, under the Third Class City Code, to wit. 11 PaCS §12402.1(c)(1), “[n]o personal property of the city shall be disposed of, by sale or otherwise, except upon approval of council by resolution.”

WHEREAS, the Third Class City Code, to wit. §12402.1(c)(3), further provides that “[i]f council estimates the sale value to be less than \$1,000, council may sell the property, in whole or in part, for the best price or prices obtainable.”

WHEREAS, the parties have reached an agreement for the sale price of the handgun previously assigned by City to Retiree as an active police officer at which City will sell, and Retiree will buy, such handgun from City on the occasion of Retiree’s retirement.

WHEREAS, such sale is the most economical method for proceeding in light of the risks of selling weapons and the costs and delays of performing and managing the results of background checks on any potential buyer.

WHEREAS, the transfer of such handgun from City to Retiree must and shall be completed in accordance with all applicable laws and regulations.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. All of the foregoing "WHEREAS" clauses are incorporated herein as through fully set forth at length.

2. For and in consideration of the payment of \$300.00 by Retiree to City, and the parties' compliance with the terms and conditions of this Agreement, City does hereby sell, and Retiree does hereby purchase that certain handgun which had been assigned by City to Retiree for employment-related and other authorized uses and which can be described as follows:

a. Manufacturer:	GLOCK
b. Model:	MODEL # 19
c. Serial number:	YGX-913

3. The parties, shall work cooperatively to ensure compliance with all applicable laws and regulations governing the transfer of handguns as may be relevant to the transaction contemplated by this Agreement.

4. This Agreement shall be executed before Retiree delivers the purchase price funds to City. Upon receipt of such funds, City shall deliver the handgun to Retiree in accordance with any applicable transfer laws and regulations.

5. "AS IS" CONDITION. Retiree, as buyer, acknowledges that he/she had ample opportunity to inspect the handgun prior to, and as of, the signing of this Agreement and accepts the handgun "as is" and with any and all known or unknown faults or deficiencies. This Agreement shall not be recorded in the Office of the Recorder of Deeds or in any other office or place of public record.

6. ASSIGNMENT. This agreement shall not be assigned or transferred by the Retiree without the written consent of City being first had and obtained. Subject to the said provision regarding assignment by Retiree, this agreement shall extend to and bind the heirs, executors, administrators and assigns of the respective parties hereto.

7. INCORPORATION OF PRIOR AGREEMENTS. This agreement contains the whole agreement between City and Retiree and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise, of any kind whatsoever.

8. MODIFICATION. This Agreement may not be modified or amended except in a duly authorized writing signed by both parties hereto.

9. INDEMNIFICATION. Retiree agrees to indemnify and save harmless the City against all costs, losses or damage, including payment of reasonable attorney fees, on account of any injury to persons (regardless of whether a party hereto or not) or property (regardless of whether owned by a party hereto or not) arising from or related to the possession, use and/or condition of the handgun at the time of or subsequent to the execution of this Agreement regardless of whether such possession, use or condition was lawful or in derogation of any laws, ordinances, regulations, orders, directives, standards, policies, recommendations, specifications and instructions promulgated by any and all governmental units, and/or the manufacturer.

10. PRESERVATION OF IMMUNITIES. Nothing in this Agreement shall be deemed to waive any rights or immunities arising out of any applicable governmental immunity laws and statutes.

11. SEVERABILITY. Should any provision hereof for any reason be held illegal or invalid, no other provision of this Agreement shall be affected; and this Agreement shall then be construed and enforced as if such illegal or invalid provision had not been contained herein.

12. HEADINGS. The headings in this Agreement are solely for convenience and shall have no effect in the legal interpretation of any provision hereof.

13. PENNSYLVANIA LAW, INTERPRETATION, JUDICIAL VENUE. This Agreement shall be construed according to, be subject to and be governed by the laws of the Commonwealth of Pennsylvania. Any and all disputes or disagreements arising from or related to this Agreement, including any interpretation hereof and any demands for legal, equitable or declaratory relief, shall be in the Court of Common Pleas of Northampton County, Pennsylvania.

14. INTERPRETATION. The parties do further recognize and agree that they have each been represented by, or had the opportunity to obtain the advice of, legal counsel prior to executing this Agreement and to the extent that either party chose not to seek further legal counseling relating to the provisions of this Agreement, do hereby waive any rights or claims that it was not fully aware of the provisions and legal effect of this Agreement. In furtherance thereof, Retiree does further waive any claim or contention that this Agreement should be construed against City on the basis that this Agreement was prepared by City and/or its Solicitor.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed and attested by its proper officers, pursuant to proper action of its governing body, all as of the day and year first above written.

Witness:

CITY OF BETHLEHEM

By: _____
City Controller

By: _____
Mayor

Witness:

RETIREE

By: _____

RESOLUTION NO. 2019-_____

Authorization to Sell Handgun to Retired Police Officer

BE IT RESOLVED by the Council of the City of Bethlehem that the Mayor and the Controller and/or such other City officials as deemed appropriate by the City Solicitor, are hereby authorized to execute an Agreement and such other agreements and documents as are deemed by the City Solicitor to be necessary and/or related thereto, to effectuate the transfer of the City-issued handgun assigned to the below-named retiring City Police Officer on the terms more particularly-described in the supporting Inter-Departmental Memorandum of the Chief of Police dated November 20, 2019, which this Council finds to be the best, reasonably obtainable price pursuant to 11 PaCS §12402.1(c)(3):

1. Name of Officer: Sergeant Jonathan Desiderio
2. Handgun Serial Number: Glock 19, # YGX-913
3. Price: \$300.00

Sponsored by: /s/ _____

/s/ _____

ADOPTED by Council this _____ day of _____.

/s/ _____
President of Council

ATTEST:

City Clerk