



City Council Report

915 I Street, 1st Floor
Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2019-01233

September 10, 2019

Consent Item 20

Title: Property Receipt and Surplus Property Donation to Asian Resources, Inc.

Location: Citywide

Recommendation: Adopt a Resolution: 1) approving the acceptance of a bus from Sacramento Regional Transit; 2) approving the donation of the surplus bus to Asian Resources, Inc.; and 3) authorizing the City Manager or the City Manager's designee to: a) enter into a hold harmless agreement between the City of Sacramento and Asian Resources, Inc.; and b) to execute any other necessary documentation required to complete the property transfers.

Contact: Alison Kerstetter, Program Specialist, (916) 808-1163; Mark Stevens, Fleet Manager, (916) 808-5869, Department of Public Works

Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Agreements
- 3-Resolution

Description/Analysis

Issue Detail: The Department of Public Works, Fleet Management Division, is requesting authorization to accept a surplus bus from Sacramento Regional Transit. The City will then donate the surplus vehicle to Asian Resources, Inc. The bus will assist in transporting students and underserved youth to special events and field trips.

Policy Considerations: City Code Chapter 3.80.030 (F) provides that surplus personal property may be donated to any other public agency or charitable organization exempt under Section 501(c)(3) of the Internal Revenue Code by resolution of the City Council.

Economic Impacts: None

Environmental Considerations: None

Sustainability: Not Applicable

Commission/Committee Action: None

Rationale for Recommendation: The City of Sacramento received a request to accept a bus from Sacramento Regional Transit. The City will then donate the surplus bus to Asian Resources, Inc. (ARI). ARI is a non-profit corporation that serves and responds to the needs of low-income communities in Sacramento with limited English language skills. Regional Transit's Procurement Ordinance limits its ability to donate the vehicle directly to ARI. The surplus bus, a 2009 Ford Starcraft – Vehicle 2908 – VIN 1FD4E45S18DB57279, will be used for field trips and special events.

Financial Considerations: The salvage value of the surplus bus to be donated to ARI, in its current condition, is less than \$5,000, should the City sell the unit. This estimate has been provided by Sacramento Regional Transit.

Local Business Enterprise (LBE): Not applicable.

CONTRACT ROUTING SHEET

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, it is NOT part of the contract.

General Information (Required)

Original Contract # (supplements only): _____ Supplement/Addendum #: _____
 Assessor's Parcel Number(s): _____
 Contract Effective Date: 09/10/2019 Contract Expiration Date (if applicable): _____
 \$ Amount (Not to Exceed): \$ 0.00 Adjusted \$ Amount (+/-): _____
 Other Party: Sacramento Regional Transit
 Project Title: Agreement to Sell Bus
 Project #: _____ Bid/RFQ/RFP #: _____
 City Council Approval: YES if YES, Council File ID#: 2019-01233

Contract Processing Contacts

Department: Public Works Project Manager: Alison Kerstetter
 Contract Coordinator: Alison Kerstetter Email: akerstetter@cityofsacramento.org

Department Review and Routing

Accounting:

 (Signature) (Date)

Supervisor:

Alison Kerstetter Digitally signed by Alison Kerstetter Date: 2019.08.14 17:21:52 -07'00' 08/14/2019

Division Manager:

 (Signature) (Date)

Mark R Stevens Digitally signed by Mark R Stevens Date: 2019.08.15 07:14:14 -07'00' 08/15/2019

Other:

 (Signature) (Date)

 (Signature) (Date)

Special Instruction/Comments (i.e. recording requested, other agency signatures required, etc.)

Recording Requested

Other Party Signature Required

-----FOR CLERK & IT DEPARTMENTS ONLY – DO NOT WRITE BELOW THIS LINE-----

AGREEMENT TO SELL BUS

THIS AGREEMENT is entered into on 9/10/19, 2019, by and between **SACRAMENTO REGIONAL TRANSIT DISTRICT**, hereinafter referred to as "SacRT," and **CITY OF SACRAMENTO**, a municipal corporation, herein referred to as "CITY."

WITNESS

WHEREAS, SacRT has permanently removed a bus from service and declared it surplus; and

WHEREAS, CITY desires to purchase the surplus bus; and

WHEREAS, Section 2.104 of SacRT's Procurement Ordinance allows an exemption for public agencies from the public auction process for surplus property; and

WHEREAS, under the provisions of this Agreement, SacRT will receive compensation in an amount of \$1, which is the value of the bus.

NOW, THEREFORE, BE IT MUTUALLY AGREED AS FOLLOWS:

SACRT'S RESPONSIBILITIES

- 1. SacRT will sell 1 Starcraft bus, described below, to CITY on the terms and conditions set forth herein.

| VEHICLE NUMBER | VEHICLE IDENTIFICATION NO. |
|-----------------------|-----------------------------------|
| 2908 | 1FD4E45S18DB57279 |

CONDITION OF EQUIPMENT

CITY has made an independent investigation of the bus and is purchasing it in its present condition as-is/where-is, and without warranty by SacRT, either express or implied.

SacRT represents and warrants that the bus has reached the end of its useful life, as defined by applicable state and federal law, and no state or federal agency approval is required to dispose of the bus.

TRANSFER OF TITLE AND REGISTRATION

SacRT will sign and release the pink slip for the bus upon delivery. SacRT will retain the exempt plate for the bus, and CITY must register and pay any applicable registration fees due and payable to the California Department of Motor Vehicles for license and registration for the bus.

GENERAL CONDITIONS

1. This Agreement is effective as of the date first hereinabove appearing.
2. Notice is deemed to have been served when it is deposited in the United States mail certified and addressed as follows:

TO SacRT: Doug Cook
 VP, Operations
 Sacramento Regional Transit District
 PO Box 2110
 Sacramento CA 95812-2110

TO CITY: City of Sacramento
 Fleet Management
 Attn: Alison Kerstetter
 5730 24th Street, Building 1
 Sacramento, CA 95822

3. It is understood and agreed that CITY, including CITY's employees, are providing services as an independent contractor and that no relationship of employer/employee exists between the parties to this Agreement. It is further understood that the CITY is not a subgrantee pursuant to 49 CFR Part 18. SacRT represents and warrants that no state or federal grant requirements restrict the City's ability to use or dispose of the bus.
4. CITY and its employees have no interest and may not acquire any interest direct or indirect which will conflict in any manner or degree with performance of services required under this Agreement.
5. CITY certifies that any services provided pursuant to this Agreement will be without discrimination based on color, race, creed, national origin, religion, sex, age, or physical and mental handicap in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 Sub D, or as otherwise provided by state and federal law.
6. CITY and SacRT must observe and comply with all applicable federal, state and county statutes, ordinances, regulations, directives and laws and this Agreement is deemed to be executed within the State of California and construed with and governed by the laws of the State of California.
7. Except as provided hereto, no alteration or modification of the terms of this Agreement is valid unless made in writing and signed by both parties.
8. CITY must indemnify, hold harmless and defend SacRT, its officers, agents and employees from any and all claims, demands, damages, costs, expenses or liability costs including reasonable attorney fees, that arise out of, are alleged to arise out of, or are in any way connected with or incident to the CITY's performance under this Agreement.

SacRT must indemnify, hold harmless and defend CITY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses or liability costs including reasonable attorney fees, that arise out of any determination by any state or federal funding agency that the disposition of the bus to the CITY was inconsistent or contrary to state or federal law or regulations, or that the CITY's ability to utilize or dispose of the bus is subject to the approval of any state or federal agency or otherwise restricted by state or federal law or regulations.

The provisions of this section will survive the expiration, termination, or assignment of this Agreement.


9. This Agreement embodies the entire agreement of the parties in relation to the subject matter herein described, and no other agreement or understanding, verbal or otherwise, exists between the parties.
10. CITY and SacRT must maintain appropriate documentation and records relating to the transactions effected by this Agreement. SacRT will have access to such records for audit purposes for one year after final payment is made by CITY to SacRT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

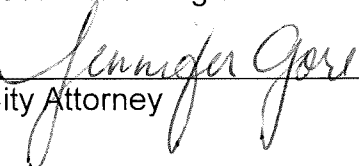
CITY OF SACRAMENTO

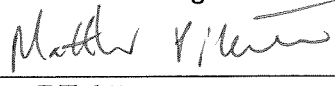
**SACRAMENTO REGIONAL
TRANSIT DISTRICT**

By: _____
Name: Ryan Moore
Title: Interim Director,
Department of Public Works

By: 
HENRY LI
General Manager/CEO

Approved as to Content:

Approved as to Legal Form:
By: 
City Attorney

Approved as to Legal Form:
By: 
SacRT Attorney

CONTRACT ROUTING SHEET

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, it is NOT part of the contract.

General Information (Required)

Original Contract # (supplements only): _____ Supplement/Addendum #: _____
 Assessor's Parcel Number(s): _____
 Contract Effective Date: 09/10/2019 Contract Expiration Date (if applicable): _____
 \$ Amount (Not to Exceed): \$ 0.00 Adjusted \$ Amount (+/-): _____
 Other Party: Asian Resources, Inc
 Project Title: Hold Harmless Agreement - Property Donation
 Project #: _____ Bid/RFQ/RFP #: _____
 City Council Approval: YES if YES, Council File ID#: 2019-01233

Contract Processing Contacts

Department: Public Works Project Manager: Alison Kerstetter
 Contract Coordinator: Alison Kerstetter Email: akerstetter@cityofsacramento.org

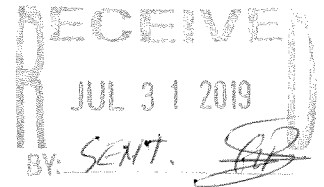
Department Review and Routing

| | | |
|--------------------------|---|------------|
| Accounting: | (Signature) | (Date) |
| Supervisor: | Alison Kerstetter <small>Digitally signed by Alison Kerstetter Date: 2019.08.14 17:18:56 -07'00'</small> | 08/14/2019 |
| Division Manager: | Mark R Stevens <small>Digitally signed by Mark R Stevens Date: 2019.08.15 07:13:41 -07'00'</small> | 08/15/2019 |
| | (Signature) | (Date) |
| Other: | (Signature) | (Date) |

Special Instruction/Comments (i.e. recording requested, other agency signatures required, etc.)

Recording Requested **Other Party Signature Required**

-----FOR CLERK & IT DEPARTMENTS ONLY – DO NOT WRITE BELOW THIS LINE-----



Hold Harmless Agreement

This **HOLD HARMLESS AGREEMENT** (this "Agreement") is made at Sacramento, California, as of 9/10/2019 ("Effective Date"), by and between the CITY OF SACRAMENTO, a municipal corporation ("CITY"), and

Asian Resources, Inc.
5100 El Paraiso Avenue, Sacramento, CA 95824

WHEREAS, Asian Resources, Inc. (hereinafter "ARI") desires to hold harmless the City from any claims and/or litigation arising out of the City's actions in connection with its donation of one surplus refuse truck, identified as:

- 2009 Ford Starcraft – Vehicle 2908 – VIN 1FD4E45S18DB57279 ("Surplus Property")

NOW THEREFORE, in consideration of the mutual covenants and conditions herein, the City and the ARI hereby agree as follows:

TERMS

1. **Property.** The ARI shall be responsible for, all taxes, levies, assessments, and the like arising out of, or in any way connected with, the transfer, dismantling, loading, transportation, removal, possession, or use of the Surplus Property conveyed hereunder. The Surplus Property conveyed hereunder shall be removed from the Meadowview Service Center (2812 Meadowview Road, Sacramento) within 30 days of approval by the City Council. In the event the Surplus Property is not so removed, the City shall have the unconditional right to sell or donate the Surplus Property at its convenience, by any method it chooses, and without prior notice to the ARI.
2. **Exclusion of Warranties.** THE CITY CONVEYS, AND THE ARI ACCEPTS, THIS SURPLUS PROPERTY "AS-IS." THE CITY MAKES NO GUARANTEE, WARRANTY, OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE CONDITION, QUANTITY, KIND, CHARACTER, QUALITY, WEIGHT, SIZE, OR DESCRIPTION, OR ITS MERCHANTABILITY, FITNESS FOR ANY USE OR PURPOSE, OR OTHER CHARACTERISTIC OF THE SURPLUS PROPERTY. The ARI agrees that it was given full opportunity to inspect and examine the Surplus Property. The ARI's failure to inspect will not constitute grounds for any claim against the City.
3. **Hold Harmless.** The ARI shall fully defend, indemnify, and hold harmless the City from any and all claims, lawsuits, demands, causes of action, liability, loss, damage and/or injury, of any kind whatsoever (including without limitation, all claims for monetary loss, property damage, equitable relief, personal injury and/or wrongful death), whether brought by an individual or other entity, or imposed by a court of law or by

administrative action of any federal, state, or local government body or agency, arising out of, in any way whatsoever, any acts, omissions, negligence, or willful misconduct on the part of the City, its officers, personnel, employees, agents, contractors, invitees, or volunteers. This indemnification applies to and includes, without limitation, the payment of all penalties, fines, judgements, awards, decrees, attorneys' fees, and related cost or expenses, and any reimbursement to the City for all legal fees, expenses, and cost incurred by it.

4. **Insurance.** The ARI shall provide:

- a. General Liability Insurance providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, arising out of activities performed by or on behalf of the ARI, with limits of not less than \$1,000,000 per occurrence.
- b. Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence. The policy shall provide coverage for owned, non-owned, and/or hired autos, as appropriate.
- c. Certificates of insurance and required endorsements evidencing the insurance required. The City, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds under the ARI's general liability and automobile coverage.

5. **Authority to Enter Agreement.** Each Party warrants that the individuals who have signed this Agreement have actual legal power, right, and authority to make this Agreement and bind each respective Party.

6. **Supplementation, Modification and Amendment.** No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

7. **Waiver.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

8. **Attorney's Fees and Costs.** If any legal action or other proceeding is brought in connection with this Agreement, the successful or prevailing Party, if any, shall be entitled to recover reasonable attorney's fees and other related costs, in addition to any other relief to which that Party is entitled. In the event of a dispute, the court or trier of

fact who presides over such legal action or proceeding is empowered to determine which Party, if any, is the prevailing party in accordance with this provision.

9. **Entire Agreement.** This Agreement contains the entire agreement between the Parties related to the matters specified herein and supersedes any prior oral or written agreements between the Parties related to such matters.
10. **Enforceability, Severability, and Reformation.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, constructed as so limited. The intent of the Parties is to provide as broad an indemnification as possible under California law, in the event that any aspect of this Agreement is deemed unenforceable, the court is empowered to modify this Agreement to give the broadest possible interpretation permitted under California law.
11. **Applicable Law.** This Agreement shall be governed exclusively by the laws of California, without regard to conflict of law provisions.
12. **Exclusive Venue and Jurisdiction.** Any lawsuit or legal proceeding arising out of or relating to this Agreement in any way whatsoever shall be exclusively brought and litigated in the federal or state courts of California in Sacramento County. Each Party expressly waives the right to challenge this jurisdiction and/or venue as improper on inconvenient. Each Party consents to the dismissal of any lawsuit that they bring in any other jurisdiction or venue.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO

A Municipal Corporation

By: _____

Print name: Ryan Moore _____

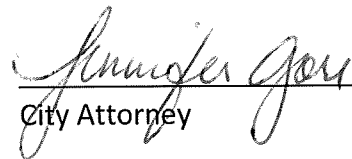
Title: Interim Director, Department of Public Works _____

For: Howard Chan, City Manager

ATTEST:

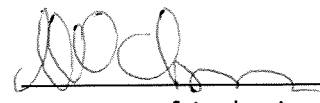
City Clerk

APPROVED AS TO FORM:




City Attorney

Asian Resources, Inc.



Signature of Authorized Person



Print Name and Title

Additional Signature of Authorized Person

Print Name and Title

RESOLUTION NO. 2019-

Adopted by the Sacramento City Council

September 10, 2019

APPROVAL TO ACCEPT AND DONATE ONE (1) SURPLUS BUS FROM THE CITY OF SACRAMENTO TO ASIAN RESOURCES, INC.

BACKGROUND

- A. The City of Sacramento Department of Public Works, Fleet Management Division will accept ownership of a surplus bus from Sacramento Regional Transit.
- B. The Department of Public Works, Fleet Management Division has requested approval to donate the 2009 Ford Starcraft – Vehicle 2908 – VIN 1FD4E45S18DB57279, the surplus bus, to Asian Resources, Inc.
- C. Asian Resources, Inc., is a non-profit organization that serves and responds to the needs low-income communities in Sacramento with limited English language skills.
- D. City Code Chapter 3.80.030 (F) provides that surplus personal property may be donated by resolution of the City Council.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The acceptance of a 2009 Ford Starcraft – Vehicle 2908 – VIN 1FD4E45S18DB57279, from Sacramento Regional Transit is hereby approved.
- Section 2. The donation of the surplus bus to Asian Resources, Inc., is hereby approved.
- Section 3. The City Manager or the City Manager’s designee is hereby authorized to enter into the attached hold harmless agreement between the City of Sacramento ("City") and Asian Resources, Inc. ("ARI") and to execute any other necessary documentation required to complete the property transfers referenced above.