



City Council Report

915 I Street, 1st Floor
Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2019-00548

June 25, 2019

Consent Item 21

Title: Surplus Property Donation to American River College

Location: Citywide

Recommendation: Adopt a Resolution: 1) authorizing the donation of a surplus vehicle (2011 American LaFrance Condor Refuse Truck, Unit 11381) to American River College; and 2) authorizing the City Manager or City Manager's designee to execute any necessary documentation to complete the property transfer, including a hold harmless agreement.

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-Hold Harmless Agreement
- 3-Resolution

Description/Analysis

Issue Detail: The Department of Public Works, Fleet Management Division, has received a donation request from American River College (ARC) for a surplus vehicle to assist in training students in maintenance and repair of large trucks. ARC is a state-funded community college that provides higher education to over 30,000 students.

Policy Considerations: City Code Chapter 3.80.030 (F) provides that surplus personal property may be donated to any other public agency by resolution of the City Council.

Economic Impacts: None

Environmental Considerations: None

Sustainability: Not Applicable

Commission/Committee Action: None

Rationale for Recommendation: Unit 11381, a 2011 American LaFrance Condor Refuse Truck (VIN 5SXMNZDR8BR1A0978), with 83,877 miles, will be removed from service and is surplus to the City's needs. Providing ARC with opportunities to advance local training in maintenance and repair of large trucks serves the vocational needs of the region.

Financial Considerations: The salvage value of this vehicle, in its current condition, is approximately \$14,000, if the City were to sell the unit.

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: 06/25/2019 Contract Expiration Date (if applicable): _____
 \$ Amount (Not to Exceed): _____ Adjusted \$ Amount (+/-): _____
 Other Party: American River College
 Project Title: Surplus Donation to American River College - Refuse Truck
 Project #: _____ Bid/RFQ/RFP #: _____
 City Council Approval: YES if YES, Council File ID#: 2019-00548

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: 2019.05.20 07:01:15 -07'00' 05/20/2019

 (Signature) (Date)

Division Manager:

Mark R Stevens Digitally signed by Mark R Stevens DN: cn=Mark R Stevens, o=ca, email=mrstevens@cityofsacramento.org, c=US Date: 2019.05.20 07:22:13 -07'00' 05/20/2019

 (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 6/25/19 ("Effective Date"), by and between the CITY OF SACRAMENTO, a municipal corporation ("CITY"), and

American River College
4700 College Oak Drive, Sacramento, CA 95841

WHEREAS, American River College (hereinafter "ARC") 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:

- 2011 American LaFrance Condor Refuse Truck, VIN 5SXMNZDR8BR1A0978 ("Surplus Property")

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

TERMS

1. **Property.** The ARC 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 ARC.
2. **Exclusion of Warranties.** **THE CITY CONVEYS, AND THE ARC 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 ARC agrees that it was given full opportunity to inspect and examine the Surplus Property. The ARC's failure to inspect will not constitute grounds for any claim against the City.
3. **Hold Harmless.** The ARC 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 ARC 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 ARC, 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 ARC'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: Hector Barron _____

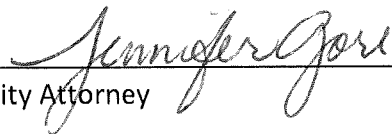
Title: Director, Department of Public Works _____

For: Howard Chan, City Manager

ATTEST:

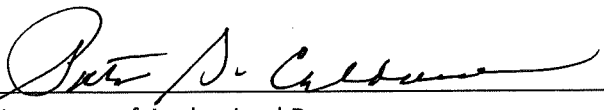
City Clerk

APPROVED AS TO FORM:



City Attorney

American River College



Signature of Authorized Person

Trish Calverell, Dean of Technical Education

Print Name and Title

Additional Signature of Authorized Person

Print Name and Title

RESOLUTION NO. 2019-

Adopted by the Sacramento City Council

June 25, 2019

APPROVAL TO DONATE ONE REFUSE TRUCK FROM THE CITY OF SACRAMENTO TO AMERICAN RIVER COLLEGE

BACKGROUND

- A. American River College is a state funded community college that provides higher education to over 30,000 students.
- B. The Department of Public Works, Fleet Management Division, has requested approval to donate one surplus vehicle (2011 American LaFrance Condor Refuse Truck, Unit 11381), no longer in service, to American River College.
- C. City Code Chapter 3.80.030 (F) provides that surplus personal property may be donated to any other public agency by resolution of the City Council.
- D. The donation to American River College will increase and improve vocational training opportunities to students in the region.

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

- Section 1. The donation of a surplus vehicle (2011 American LaFrance Condor Refuse Truck, unit 11381) to American River College is approved.
- Section 2. The City Manager or the City Manager's designee is hereby authorized to enter into a hold harmless agreement, in substantially the same form as attached hereto, between the City of Sacramento and American River College, and to execute any other documentation required to complete the donation.