

**Meeting Date: 5/28/2013**

**Report Type:** Consent

**Report ID:** 2013-00393

**Title: Sale of Surplus Front Loading Refuse Truck**

**Location:** Citywide

**Issue:** City Council approval is required to sell a surplus Refuse Truck to another public agency because the sales price exceeds \$100,000.

**Recommendation:** Pass a Motion authorizing the City Manager or the City Manager's designee to execute an agreement for the sale of a surplus front loading refuse truck (equipment number 11453) to the University of California, Davis in the amount of \$225,000.

**Contact:** Keith Leech, Fleet Manager, (916) 808-5869, General Services Department

**Presenter:** None

**Department:** General Services

**Division:** Fleet Management Admin

**Dept ID:** 13001311

**Attachments:**

1-Description/Analysis

2-Signed Agreement/Contract

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**City Attorney Review**

Approved as to Form  
Kourtney Burdick  
5/20/2013 11:10:26 AM

**City Treasurer Review**

Reviewed for Impact on Cash and Debt  
Russell Fehr  
5/8/2013 11:50:33 AM

**Approvals/Acknowledgements**

Department Director or Designee: Reina Schwartz - 5/16/2013 1:43:58 PM

## Description/Analysis

**Issue Detail:** Effective October 1, 2012, the Solid Waste and Recycling Division no longer provides commercial solid waste and recycling collection services, rendering certain equipment to be surplus to the needs of the division. The University of California (UC) Davis has agreed to purchase one of the Solid Waste and Recycling Division's surplus front loading refuse trucks (equipment number 11453) in the amount of \$225,000.

**Policy Considerations:** The recommendation in this report is in accordance with City Code Chapter 3.80 regarding the disposition of surplus personal property, and City Code Chapter 3.04 regarding income or expenditures of \$100,000 or more.

**Economic Impacts:** None

### Environmental Considerations:

**California Environmental Quality Act (CEQA):** No environmental review is necessary because the recommendation in this report involves the administrative activity of selling surplus personal property and is not considered to be a project in accordance with Section 15378(b)(2) of the CEQA Guidelines.

**Sustainability:** Not applicable

**Commission/Committee Action:** None

**Rationale for Recommendation:** Effective October 1, 2012, the Solid Waste and Recycling Division no longer provides commercial solid waste and recycling collection services, rendering certain equipment to be surplus to the needs of the division. UC Davis has agreed to purchase one of the Solid Waste and Recycling Division's surplus front loading refuse trucks (equipment number 11453) in the amount of \$225,000.

**Financial Considerations:** Fleet Management staff researched the sales price of comparable equipment through the Property Room, the City's surplus property auctioneer, and determined that an expected sales price for the surplus front loading refuse truck is in the range of \$200,000 - \$250,000. The refuse truck could be sold at auction through the Property Room, rather than directly to UC Davis, but doing so would require that the City pay a 12.5 percent handling fee plus administrative costs. Even if the surplus refuse truck sold at the high end of the expected sales range the City would receive net sales proceeds that would be less than the \$225,000 sales price agreed to with UC Davis. The sales proceeds will be credited to the Solid Waste (Fund 6007).

**Emerging Small Business Development (ESBD):** No goods or services are being purchased as a result of this report.



## PURCHASE AGREEMENT



for City of Sacramento property located at:

2812 Meadowview Road  
Sacramento, CA 95832

(hereafter "City site")

Agreement Date: May 21, 2012

Performance Date:

This purchase agreement is entered into between the City of Sacramento (hereafter the "City"), and Regents of the University of California, Davis (hereafter the "Buyer");

1. For and in consideration of the Buyer's payment of \$ 225,000.00, payable to City in the form of cash, certified check, cashier's check, money order or wire transfer and upon the terms and conditions set forth herein, City agrees to sell to Buyer and assign to Buyer all City's right(s), title(s), and interest(s) in and to the following described property: Autocar front loading refuse truck (hereafter "property"). Such payment shall be received by City prior to any dismantling, loading, transporting or removing of the property from the City site by Buyer.
2. All property sold hereunder shall be removed from the City site by the performance date shown above. In the event the property is not so removed, City shall have the unconditional right to resell the property at its convenience, by any method of sale it chooses, and without prior notice to Buyer. In the event of a resale, Buyer shall pay City for any costs or damages incurred by City due to Buyer's failure to remove the property from the City site by the performance date. City will refund only that portion of Buyer's payment that is equal to the amount, if any, received by City upon resale of the property, less any associated resale cost and/or cost incurred by City due to Buyer not removing the property by the performance date.
3. All property is sold F.O.B. City site. The Buyer is responsible for all costs and arrangements (including labor and materials) associated with dismantling, loading, transporting, and removing the property from the City site. Buyer assumes sole responsibility for safety in securing the load(s).
4. Buyer shall comply with all federal, state, local, and OSHA regulations. While on the City site, Buyer shall comply with all rules which may be imposed by City from time to time.

5. City sells all of the property in an "as is" condition, and makes no guarantee, warranty, or representation, express or implied, as to quantity, kind, character, quality, condition, weight, size, or description of any property, its merchantability, its fitness for any use or purpose, or otherwise. Buyer agrees that full opportunity was given to inspect and examine the property. Buyer's failure to inspect will not constitute grounds for any claim against the City.

6. All weights offered, shown, or calculated in respect to the property, other than actual shipping weights, are estimated weights only. If the sale terms are on a weight basis, City's actual shipping weights shall govern over any estimated weights. If any estimated weight is offered, shown, or calculated, Buyer shall nevertheless accept City's actual shipping weight as the basis of full and complete delivery, and shall make payment in accordance therewith, if applicable.

7. Buyer understands and agrees that City will not be required to make available any documentation, reports, drawings, or instruction manuals of the property being sold.

8. The purchase price set forth in paragraph 1 hereof is exclusive of, and Buyer shall be responsible for, all taxes, levies, assessments, and the like arising out of, or in any way connected with, the sale, dismantling, loading, transportation, removal, possession, or use of the property sold hereunder.

9. If the property is, at City's discretion, loaded and held for payment, risk of loss shall pass to Buyer upon loading and all demurrage and other costs that may accrue in respect thereof will be paid by Buyer.

10. City shall be excused for any delay or failure in performance due to acts of God, war, riot, acts of civil or military authorities, fires, floods, accidents, strikes, differences with workers, delays in transportation, shortage of fuel, labor, or material, or any other circumstances or cause beyond the control of City in the reasonable conduct of business.

11. Buyer shall not sell or otherwise transfer all or any portion of the property without requiring the transferee to provide the City protection against liability from the sale or transfer of the property which is at least equivalent to that afforded City under this purchase agreement. In the event that Buyer sells or transfers all or any portion of the property contrary to the provisions of this paragraph, Buyer shall be liable for any act or omission of the transferee, and Buyer shall indemnify, defend and hold harmless the City hereunder to the same extent as if no such sale or transfer had taken place.

12. To the fullest extent allowed by law, the Buyer shall indemnify, defend, and hold harmless the City, its directors, officers, agents, and employees from and against all claims, actions, damages, losses, and expenses (including but not limited to attorneys' fees) arising by reason of any act or failure to act by Buyer, anyone directly or indirectly employed by Buyer, or anyone for whose acts or omissions Buyer may be liable hereunder, in connection with or in any way related to the sale, purchase, dismantling, loading, removal and/or transporting of any property hereunder. The aforesaid indemnity and hold harmless shall include any claims, actions, damages, losses and expenses arising from or related to any act or failure to act by any entity or person, including City, its officers, employees and agents, in connection with the inspection, repair, reconditioning, safety or condition of the property.

13. Buyer, for itself, its assigns, transferees, and successors, hereby waives and releases any and all claims of whatever sort or nature which may arise against City, its officers, employees, and agents, in connection with sale of the property hereunder. This waiver and release shall include any and all claims arising under Section 1542 of the California Civil Code, which provides that:

A general release does not extend to claims which a creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release, Buyer expressly acknowledges that this Agreement is intended to release and extinguish, without limitation, all claims for losses of any sort or nature arising hereunder which Buyer does not know or suspect to exist.

14. There are no understandings between the parties hereto as to the subject matter of this agreement other than as set forth herein. All previous communications about the subject matter of this agreement, either oral or written, are hereby abrogated and withdrawn, and this agreement constitutes the entire agreement between the parties. ~~No terms, conditions, understandings, or agreements purporting to modify or vary the terms of this document shall be binding unless hereafter made in writing and signed by both parties hereto.~~

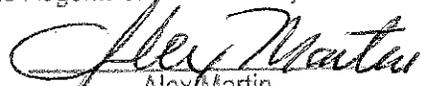
IN WITNESS WHEREOF, the undersigned have executed this bill of sale and agreement as of the agreement date first above written.

Buyer: University of California, Davis

Address: 1 Shields Ave.  
Davis, CA 95616

The Regents of the University of California

Signature:  
Name/Title:  
(Please Print)

  
Alex Martin  
Materiel Management

City of Sacramento  
Department: Procurement Services Division  
Address: 5730 - 24<sup>th</sup> Street, Bldg. 1  
Sacramento, CA 95822

Signature: \_\_\_\_\_  
Name/Title: Department of General Services

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**CITY ATTORNEY**