

Meeting Date: 7/30/2013

Report Type: Consent

Report ID: 2013-00532

Title: Donation: Surplus Van to Fairytale Town, Inc.

Location: Citywide

Issue: The Department of General Services, Fleet Management Division, has received a request from Fairytale Town, Inc. to donate a vehicle that is surplus to the City's needs.

Recommendation: Pass a Resolution 1) authorizing the donation of a surplus 2000 Chevrolet Astro van (equipment number 8983) to Fairytale Town, Inc., a non-profit organization (Tax ID No. 94-1669088); 2) authorizing the City Manager or the City Manager's designee to execute an agreement to transfer the vehicle identified above to Fairytale Town, Inc.; and 3) authorizing the City Manager, or the City Manager's designee, to execute any additional documents and take any additional actions necessary to complete the transfer.

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

Presenter: None

Department: General Services

Division: Fleet Management Admin

Dept ID: 13001311

Attachments:

1-Description/Analysis

2-Resolution

3-Exhibit A

City Attorney Review

Approved as to Form
Kourtney Burdick
7/24/2013 9:58:55 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
6/27/2013 5:29:11 PM

Approvals/Acknowledgements

Department Director or Designee: Reina Schwartz - 7/9/2013 3:24:51 PM

Description/Analysis

Issue Detail: The Department of General Services, Fleet Management Division, has received a request from Fairytale Town, Inc., a 501(c)(3), to donate a surplus 2000 Chevrolet Astro van (equipment number 8983) to be used for maintenance activities at Fairytale Town.

Policy Considerations: The recommendations in this report are in accordance with City Code Chapter 3.80 regarding the disposition of surplus personal property.

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act (CEQA): In accordance with Section 15061(b)(3) of the CEQA Guidelines, no environmental review is necessary because the recommendations in this report involve the donation of surplus personal property, which can be seen with certainty to have no significant effect on the environment.

Sustainability: Not applicable

Commission/Committee Action: None

Rationale for Recommendation: The Department of General Services, Fleet Management Division, has received a request from Fairytale Town, Inc. to donate a surplus 2000 Chevrolet Astro van (equipment number 8983). This vehicle is surplus to the City's needs and, if not donated, would be offered for sale at public auction. Donating this vehicle will benefit both the City and Fairytale Town, Inc. by assisting in maintaining Fairytale Town.

Financial Considerations: Based on the condition of the subject vehicle and previous auction sales of similar vehicles, the estimated sales value of the surplus 2000 Chevrolet Astro van (equipment number 8983) is \$2,300. When surplus fleet equipment is sold, the general rule is that the sales proceeds are returned to the owning fund, which in this case is the Fleet Fund (Fund 6501).

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

RESOLUTION NO. 2013-XXXX

Adopted by the Sacramento City Council

July 30, 2013

DONATING A SURPLUS VEHICLE TO FAIRYTALE TOWN, INC.

BACKGROUND:

- A. The Department of General Services, Fleet Management Division, has received a request from Fairytale Town, Inc., a 501(c)(3), to donate a 2000 Chevrolet Astro van (equipment number 8983) that is surplus to the City's needs.
- B. In accordance with City Code Section 3.80.030(F), surplus 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.

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

- Section 1. Donating a surplus 2000 Chevrolet Astro van (equipment number 8983) to Fairytale Town, Inc., a non-profit organization (Tax ID No. 94-1669088) is hereby authorized.
- Section 2. The City Manager or the City Manager's designee is authorized to execute an agreement (Exhibit A) to transfer the vehicle identified above to Fairytale Town, Inc.
- Section 3. The City Manager or the City Manager's designee is authorized to execute any additional documents and take any additional actions necessary to complete the transfer.
- Section 4. Exhibit A is a part of this Resolution.



AGREEMENT



for City of Sacramento Surplus Property

Agreement Date: **July 30, 2013**

Performance Date: **August 15, 2013**

This agreement is entered into between the City of Sacramento ("City") and Fairytale Town, Inc. In consideration of the mutual promises set forth below, the parties agree as follows:

1. City agrees to convey to Fairytale Town, Inc. and assign to Fairytale Town, Inc. all City's right(s), title(s), and interest(s) in and to the following described property: **2000 Chevrolet Astro Van, Unit 8983 ("property")**.
2. All property conveyed 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 sell or donate the surplus property at its convenience, by any method it chooses, and without prior notice to Fairytale Town, Inc.
3. All property is conveyed F.O.B. City. Fairytale Town, Inc. is responsible for all costs and arrangements (including labor and materials) associated with dismantling, loading, transporting, and/or removing the surplus property from the City. Fairytale Town, Inc. assumes sole responsibility for safety in removing the property from the City.
4. Fairytale Town, Inc. shall comply with all federal, state, local, and OSHA regulations. Fairytale Town, Inc. shall comply with all rules which may be imposed by City from time to time.
5. City conveys this surplus 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. Fairytale Town, Inc. agrees that full opportunity was given to inspect and examine the property. Fairytale Town, Inc. 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.

7. Fairytale Town, Inc. 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 conveyance set forth in paragraph 1 hereof is exclusive of, and Fairytale Town, Inc. 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 surplus property conveyed hereunder.

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

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. Fairytale Town, Inc. 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 agreement. In the event that Fairytale Town, Inc. sells or transfers all or any portion of the surplus property contrary to the provisions of this paragraph, Fairytale Town, Inc. shall be liable for any act or omission of the transferee, and Fairytale Town, Inc. 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, Fairytale Town, Inc. 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 Fairytale Town, Inc., anyone directly or indirectly employed by Fairytale Town, Inc., or anyone for whose acts or omissions Fairytale Town, Inc. may be liable hereunder, in connection with or in any way related to the donation, 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. Fairytale Town, Inc., 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 the donation 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 or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release, Fairytale Town, Inc. 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 Fairytale Town, Inc. 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.

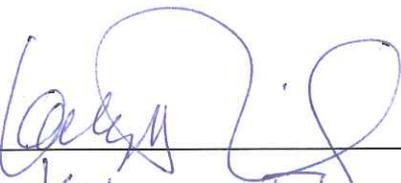
15. Fairytale Town, Inc. agrees to adhere to City's Insurance Provisions, attached to this agreement as Exhibit "A" and fully incorporated herein by this reference.

16. Enforcement of agreement. This agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued

by such courts.

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

Buyer: Fairytale Town Inc
Address: 3901 Land Park Dr, Sacramento CA 95822

Signature: 
Name/Title: Kathryn Fleming, Executive Director
(Please Print)

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

Signature: _____
Name/Title: Department of General Services

APPROVED AS TO FORM:

Kathryn C. Bondra
CITY ATTORNEY