

DEPARTMENT of PUBLIC WORKS

County of Lassen



LARRY MILLAR, Director
Public Works/Road/Transportation
County Engineer

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B-1
2017/387

November 14, 2017

TO: Board of Supervisors
FROM: Larry Millar, Director
SUBJECT: Equipment Surplus and Sale

RECOMMENDATION: That the Board of Supervisors 1) Authorize the Public Works/Road Department to proceed with the surplus and sale of various heavy equipment and vehicles 2) Authorize the Public Works Director to sign the Contract to Auction with Ritchie Bros. Auctioneers (America) Inc.

DISCUSSION: The Road Department would like to surplus the following equipment which is no longer needed, has been replaced, has reached its useful life, or is not feasible to upgrade to current CARB requirements:

1976 Caterpillar 950 Loader (S-7), S/N: 81J9855
1976 Ford F-7000 Dump Truck (TD-1), S/N: K70BVC17580
1984 Ford F-7000 Dump Truck (TD-12), S/N: 1FDXK70VOEVA27919
1948 Schromen Air Compressor (AC-2), S/N: N/A
1989 GMC Pick-up Truck (P-7), S/N: 2GTEC14K7K1560409
1989 GMC Pick-up Truck (P-28), S/N: 2GTEC14K4K1560318

In addition, we would like to surplus and sell the following miscellaneous items:

Colman Shaker Screen (doesn't fit any of our equipment)

We would like to surplus the noted equipment and enter into an Agreement with Ritchie Bros. Auctioneers (America) Inc. to sell. See attached "Contract to Auction." Ritchie Bros. Auctioneers are one of the leading auctioneers for used heavy equipment and trucks. They are able to sell equipment around the world and have over 40 auction sites throughout the country. Their auctions are advertised around the world and their auctions allow both on-site and on-line bidding. The County has been successful in using Ritchie Bros. in the past. We are hoping to be able to make their December 2017 public auction.

The Road Department looked into the possibility of selling the surplus equipment as scrap and/or by selling through an open bid process however the values we would be able to receive would be fractional of what we could expect to receive through Ritchie Bros. Auctioneers. We were successful again in negotiating the commission fee for Ritchie Bros. from 15% down to 11.5%.

Ritchie Bros. Auctioneers have estimated that our equipment would sell for approximately \$30,000 which would mean that the County would receive approximately \$25,000 in revenue.

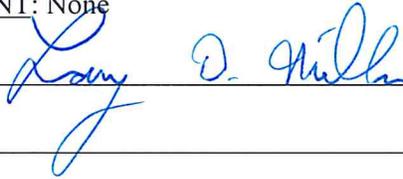
The Road Department anticipates utilizing the revenue received from the surplus and sell of this old equipment for the upgrading of its equipment fleet.

ALTERNATIVES: Not approve

FINANCIAL IMPACT: Anticipated revenue to the Road Department Operating Budget Fund 122-1221 in the estimated amount of \$25,000.

OTHER AGENCY INVOLVEMENT: None

DEPARTMENTAL APPROVAL:

A handwritten signature in blue ink, appearing to read "Larry D. Miller", is written over a horizontal line.

REVIEWED FOR AGENDA:



Ritchie Bros. Auctioneers (America) Inc.
4000 Pine Lake Road, Lincoln, NE USA 68516

402.421.3631 / rbauction.com

THIS CONTRACT TO AUCTION IS DATED AS OF (dd/mm/yyyy)

CONTRACT TO AUCTION

1. The undersigned ("Owner") instructs Ritchie Bros. Auctioneers (America) Inc. ("Auctioneer") to sell, as its agent, the items set out in Section 6(h) below together with any additional items delivered to the site of the auction by Owner (the "Equipment") at an unreserved public auction to be held at **Dunnigan, California** on or about **04/12/2017** (dd/mm/yyyy) or at such other place or date as Auctioneer may, at its sole discretion deem appropriate.
2. Owner, Guarantor and Auctioneer agree that the terms and conditions of this Contract to Auction shall be those set out hereafter and by executing this Contract, Owner and Guarantor extend to Auctioneer the representations and warranties herein.
3. Owner shall deliver the Equipment, at Owner's cost, to the auction site (**5500 County Rd 99 W Dunnigan California 95937**) on or before **10/11/2017** (dd/mm/yyyy):
 - (a) in good operating condition, free of material defects except as disclosed to Auctioneer, with adequate fuel and batteries and starting at the key;
 - (b) free of hazardous materials other than normal operating fuels, oils, and lubricants;
 - (c) in a condition equivalent to or better than its condition when and if last viewed by Auctioneer's representative; and
 - (d) in compliance with all applicable environmental and/or safety rules and regulations.
4. Owner authorizes Auctioneer to supply such glass and parts and to carry out such welding, cleaning, sandblasting, painting and other refurbishing and incur expense for the moving, hauling and storage of the Equipment as Auctioneer at its sole discretion determines and all costs incurred plus a surcharge equal to 10% of such amount shall be at the expense of and paid by Owner, provided however, that the liability of Owner pursuant to this paragraph shall not exceed the sum **USD0.00**.
5. Owner authorizes Auctioneer to supply fuel, batteries and tire repair as Auctioneer determines necessary for the demonstration and sale of the Equipment and all costs incurred shall be at the expense of and paid by Owner.
6. Owner represents and warrants:
 - (a) the Equipment is, and on the date of the auction will be, owned by Owner free and clear of any and all registered and unregistered liens, security interests, tax or duty obligations or other encumbrances or contrary claims whatsoever, except as set out in Section 6(h) below;
 - (b) the Equipment is in good operating condition, free of material defects, except as disclosed to Auctioneer;
 - (c) Owner is solvent and has not made, nor is it aware of, any assignment, proposal or other proceeding for the benefit of its creditors;
 - (d) the description of the Equipment is accurately set forth in Section 6(h) below, and in the case of all motor vehicle Equipment, such Equipment has never been re-built, salvaged or glidered except as disclosed to Auctioneer;
 - (e) all odometer and hour meters on the Equipment reflect actual mileage or usage unless otherwise disclosed to Auctioneer in Section 6(h) below;
 - (f) the offering for sale, advertising or selling of the Equipment will not contravene or infringe upon any patent, copyright, trademark, agreement or similar right of any third party;
 - (g) Owner and its signatories are duly authorized to enter into this Contract; and
 - (h) complete and accurate description of the Equipment and any encumbrances and liens thereon or contrary interests therein are as follows:

#	Item Description — Year, Manufacturer, Model, Serial Number, Description, Event, Comes with, Owner Equipment ID	Encumbrance Holder (if none, state 'nil')	Amount Owing on Encumbrance
	See Attached Schedule A		

7. Owner agrees to pay Auctioneer an auction commission based on the gross sale price of the Equipment or any part thereof as follows:
 - (a) for any lot realizing more than **USD 2,500.00**, ~~15.00%~~ **11.50%**;
 - (b) for any lot realizing **USD 2,500.00** or less but with a minimum **USD 100.00** fee per lot, **25.00%**; and
 - (c) a **USD 65.00** document administration fee for each item of Equipment requiring title or registration documents.

Owner Initials	

8. Owner authorizes Auctioneer to:
 - (a) carry out title searches in respect of the Equipment at the expense of Owner, but in no case shall Auctioneer have a duty to conduct, nor be responsible for the results of any such title search; and
 - (b) contact creditors to determine amounts claimed against the Equipment.
9. Auctioneer shall carry out the auction in accordance with its usual procedures, and in particular may group various parts of the Equipment into such lots as it sees fit.
10. Auctioneer is constituted as an agent only of Owner and not a principal in the sale of the Equipment.
11. Neither Owner, nor any person, or corporation affiliated with, acting as agent for, or for the benefit of Owner shall bid on the Equipment at the auction; in the event Owner is in violation of this provision, the Equipment shall be deemed not sold, the provisions of Section 18 shall apply and in addition to any other remedies hereunder Owner shall pay to Auctioneer as commission upon resale, an amount equal to twenty percent (20%) of the bid price.
12. Owner shall deliver to Auctioneer ten (10) days prior to the date of the auction: all documents evidencing Owner's title to the Equipment, all documents required to transfer title to the Equipment to any purchaser, properly endorsed and, where ownership of the Equipment or any part thereof is capable of, or required to be, registered, all properly endorsed documents necessary to permit purchaser to register ownership. Owner acknowledges that without such documents the sale price of the Equipment is expected to be less than that obtained if the documents were provided. Should Auctioneer be required to purchase titles on Owner's behalf, Auctioneer shall be entitled to interest on advanced amounts at a rate of US Bank prime plus 2%. Owner nominates and appoints Auctioneer its true and lawful Attorney to sign, execute and deliver on its behalf all documents required to transfer title and permit registration of ownership of the Equipment by purchaser thereof in the event that such documents have not been delivered as required.
13. The Equipment shall remain at the sole risk of Owner until the happening of the events hereinafter described. Owner shall:
 - (a) be responsible for any loss or damage to the Equipment, other than loss or damage resulting solely from the negligence of Auctioneer or its employees, until the earliest of
 - (i) the removal of the Equipment from the auction site by the purchaser, or (ii) receipt by Owner of all proceeds from the sale of the Equipment; and
 - (b) insure the Equipment to its full insurable value against all perils so that in the event of damage to or destruction of the Equipment or any part thereof, all insurance proceeds shall be credited to the gross proceeds of the auction and payment made to Auctioneer forthwith for (i) commission, based on the fair market value as determined by Auctioneer of the damaged or destroyed Equipment immediately prior to such damage or destruction, (ii) repayment of all cash advances, if any, made by Auctioneer to or on behalf of Owner together with interest thereon, and (iii) reimbursement of all out-of-pocket costs for refurbishing or repairs done by Auctioneer prior to the

- damage or destruction.
14.
 - (a) Auctioneer may make payments on account of any registered or unregistered charges, liens, taxes or other interests claimed by any person or authority in respect of the Equipment, whether or not disclosed, in order to clear title to the Equipment, and
 - (b) Owner shall indemnify and save harmless Auctioneer and any purchasers of the Equipment against any and all loss, costs (including attorney's fees) or damages occasioned by such claims.
 15. Owner shall not withdraw the Equipment or any part thereof from the auction sale. If Owner is in breach of this provision, in addition to other damages which may be assessed, Owner shall pay to Auctioneer all amounts Auctioneer would otherwise be entitled to pursuant to Section 23 below, based upon the fair market value of the withdrawn Equipment (as determined by Auctioneer). If such breach occurs within 40 days of the auction it may damage Auctioneer's business reputation and customer relations and Auctioneer will not be made whole by monetary recompense. In such event Auctioneer may, at its sole option, apply for an order for specific performance and Owner waives all rights to object to such an application.
 16. Owner authorizes Auctioneer to operate the Equipment for purpose of demonstrating it at the auction.
 17. Owner shall defend, indemnify and save Auctioneer, its parents, subsidiaries and affiliates, and each of their officers, directors, shareholders, employees and agents, harmless against any and all claims, demands, suits, actions, causes of action, damages, costs or charges whatsoever arising from:
 - (a) any breach of the representations, warranties or covenants set out herein;
 - (b) hazardous materials associated with the Equipment or contamination resulting from any leakage, spills, or malfunction of the Equipment;
 - (c) deficiencies in the provision of documents required for the purpose of titling or registering any part of the Equipment by any purchaser thereof;
 - (d) any deficiency in compliance with EPA rules or regulations;
 - (e) any negligence, unlawful act, or willful misconduct of Owner in connection with this Contract; and
 - (f) any infringement of a patent, copyright, trademark, agreement or similar right of any third party caused by the offering for sale, advertising or sale of any part of the Equipment.
 18. Auctioneer may, if it deems necessary, re-auction any part of the Equipment not sold or not paid for at the auction and Owner hereby acknowledges that no monies shall be payable by Auctioneer in respect of any part of the Equipment until such part of the Equipment has been paid for in full by the purchaser thereof.
 19. The auction will be without reserve, the Equipment will be sold to the highest bidder and there will be no guarantee whatsoever by Auctioneer as to the gross proceeds to be realized from the sale of the Equipment.
 20. Owner will comply with all laws relating to the sale of the Equipment.
 21. Auctioneer shall have a lien and charge upon the Equipment and shall be entitled, in addition to all its rights under law, to seize and retain possession of the Equipment as security for, and/or sell the Equipment to recover, all sums owing to Auctioneer hereunder. Auctioneer shall have the right, at its sole option, to register such lien under any personal property security or other laws as may be in effect.
 22. Auctioneer may, at its sole discretion, in conjunction with the unreserved public auction, offer certain lots to registered bidders using its proprietary online bidding service, or through its silent "timed auction lot" system; however Auctioneer shall not be liable for any claims or costs arising from its decision to utilize such technologies or from its failure to do so.
 23. Owner irrevocably assigns to Auctioneer all amounts due pursuant to this Contract and Auctioneer shall apply all amounts collected from the sale of the Equipment as follows:
 - (a) as payment to, and reimbursement of, Auctioneer for those amounts allowed by this Contract;
 - (b) for payments to lien holders and others as allowed by Section 14 above;
 - (c) as payment to Auctioneer for outstanding amounts otherwise due and owing to Auctioneer, as a right of set-off, in connection with any purchases, deficiencies or services rendered by Auctioneer; and
 - (d) balance, if any, will be sent to Owner, on or before the **twenty-first (21st)** day following the auction.
 24. Auctioneer shall have the right, at its discretion, to:
 - (a) withdraw from this Contract and its obligations hereunder shall be unenforceable by Owner; or
 - (b) rescind the sale of the Equipment to a purchaser in whole or in part if there is insufficient equity in the Equipment to pay those amounts allowed by this Contract or Owner is in breach of any of its representations and warranties hereunder;

however, notwithstanding the foregoing, in the event the Equipment is sold, Owner shall pay to Auctioneer any deficiency arising in the event gross proceeds collected from the sale of the Equipment are insufficient to allow payment of those amounts.
 25. Should Auctioneer be required to participate in any action to either enforce the terms of this Contract or as a result of other activities of Owner, Auctioneer shall be entitled to recover all its costs including lawyer's fees.
 26. Owner authorizes Auctioneer to use Owner's name, trademark or logo in advertising the auction.
 27. Owner acknowledges that Auctioneer may charge purchasers an administrative fee based on the selling price of each lot.
 28. This Contract, which may be amended only in writing, constitutes the entire agreement and takes the place of prior contracts or understandings between the parties and inures to the benefit of and is binding upon their heirs, executors, administrators, successors and assigns.
 29. This Contract is subject to and governed by the laws of the State of Washington. Any disputes arising from or relating to this Contract shall be resolved in a court of competent jurisdiction in: (a) any jurisdiction in which either Owner or Guarantor has a place of business, assets, or agent for service of process; or (b) King County, Washington. The parties hereto irrevocably waive any right to object to the jurisdiction of such courts or to a trial by jury in any dispute arising from or relating to this Contract.
 30. Information provided in this Contract shall be retained by Auctioneer in accordance with its formal Privacy Statement, available at www.rbauction.com.
 31. This Contract may be executed by fax, PDF, or other electronic transmission and in counterpart, each of which when taken together shall be deemed to constitute an original and form part of the same document, and, upon acceptance by Auctioneer, be considered binding on both parties.
 32. Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Contract for failure or delay in fulfilling or performing any term of this Contract when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including but not limited to fires, strikes, floods, adverse weather that has the potential to injure persons or damage property, acts of war, terrorism, riot, or public disorder, acts of God, lawful acts of public authorities or electronic failures and internet service provider disruptions.
 33. Where there is more than one Owner under this Contract, any and all liabilities, obligations, covenants and duties set out herein shall be joint and several in nature.
 34. Any legal notice given hereunder shall be delivered by prepaid registered mail to the parties hereto at the address set out herein.
 35. The parties shall execute such further documents and do any and all such further things as may be necessary to implement and carry out the intent of this Contract.
 36. In consideration of Auctioneer agreeing to enter into this Contract, the undersigned Guarantor guarantees and agrees with Auctioneer to duly pay any monies which may become due by Owner to Auctioneer, to be bound by and duly perform and observe, punctually, each and every provision of this Contract; provided, however, that the liability of Guarantor shall not be affected by any extension of time, indulgence or any act whatsoever of Auctioneer done either with or without notice to Guarantor.

Owner Name:	Lassen County Public Works/Road Division				
Owner Address:	Street:	707 Nevada St Ste 4	City:	Susanville	
	State/Province:	CA	Country:	United States of America	Zip: 961303912
Authorized Person:	Larry Millar		Title:	Director	
Telephone:	1 (530) 251-8288		Fax:	1 (530) 251-2675	
E-mail:	lmillar@co.lassen.ca.us				
Signature:			Date Signed:	(dd/mm/yyyy)	

APPROVED AS TO FORM

OCT 22 2017



RITCHIE BROS. AUCTIONEERS (AMERICA) INC.			
Name:	AJ Hamre	Title:	Territory Manager
Signature:		Date Signed:	(dd/mm/yyyy)



Ritchie Bros. Auctioneers (America) Inc.
4000 Pine Lake Road, Lincoln, NE USA 68516

SCHEDULE A Part of a Contract to Auction

Owner's Name:

Lassen County Public Works/Road Division

Auction Site	Auction Location
Sacramento, CA, USA - Dec 4, 2017	Dunnigan, California

#	Item Description	Encumbrance Holder (if none, state 'nil')	Amount Owning on Encumbrance
1	Owner Equipment ID: F09 TD 12 Year: 1984 Manufacturer: Ford Model: F700 Machine Type: Dump Truck (T/A) S/N: 1EDXK74N5EVA52198 1FDXK70V0EVA27919	nil	
2	Owner Equipment ID: AC2 Year: 1948 Manufacturer: Schromen Machine Type: Air Compressor	nil	
3	Owner Equipment ID: S7 Year: 1976 Manufacturer: Caterpillar Model: 950 Machine Type: Wheel Loader S/N: 81J9855	nil	
4	Owner Equipment ID: TD1 Year: 1976 Manufacturer: Ford Model: F700 Machine Type: Dump Truck (T/A) S/N: K70BVC17580	nil	
5	Owner Equipment ID: P7 Year: 1989 Manufacturer: GMC Machine Type: Pickup S/N: 2GTEC14K7K1560409	nil	
6	Owner Equipment ID: P28 Year: 1989 Manufacturer: GMC Machine Type: Pickup S/N: 2GTEC14K4K1560318	nil	

Owner Initials	