

RESOLUTION NO. 2011-138

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING THE FISCAL YEAR 2011-12 BUDGET, ALLOCATING FUNDS
AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR
OPTIONS WITH CREATIVE BUS SALES FOR FOUR PARATRANSIT BUSES, IN AN
AMOUNT NOT-TO-EXCEED \$310,000 AND ACCEPTING INSURANCE PROCEEDS
FROM MV TRANSPORTATION, INC. FOR DAMAGE TO TWO CITY VEHICLES**

WHEREAS, the City of Elk Grove has received \$70,000 in settlement funds from MV Transportation, Inc. for accident subrogation; and

WHEREAS, the City of Elk Grove has been allocated \$240,000 in Public Transit Account funds; and

WHEREAS, Transit staff has identified valid contracts for paratransit buses from Creative Bus Sales; and

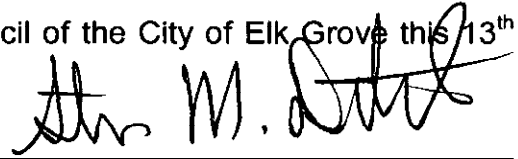
WHEREAS, the procurement is compliant with both the Federal Transit Administration procurement practices and the City's Purchasing Code, Elk Grove Municipal Code Chapter 3.42, which will allow the City to meet our fleet needs to deliver transit services to the residents of Elk Grove; and

WHEREAS, the City's Transit System Manager and Facilities and Fleet Manager will visit the Creative Bus Sales factory prior to delivery to inspect the vehicles in accordance with Federal Transit Administration (FTA) Best Practices and complete the required Buy America certifications.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby amends the Fiscal Year 2011-12 Budget, allocates funds and authorizes the City Manager to execute the Contract attached as Exhibit A and incorporated herein by this reference in substantially the same form as attached exercising the options with Creative Bus Sales for four paratransit buses in an amount not-to-exceed \$310,000.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of Elk Grove accepts the insurance proceeds from MV Transportation, Inc. for damage to two City vehicles.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 13th day of July, 2011.



STEVEN M. DETRICK, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


SUSAN COCHRAN, CITY ATTORNEY



CONTRACT

CREATIVE BUS SALES – SELLER

THIS CONTRACT (“Contract”) is made and entered into between City of Elk Grove, a Municipal Corporation (“City”) and Creative Bus Sales, Inc., a California Corporation (“Seller”), and hereby acknowledges the agreement entered into between Seller and the California Association for Coordinated Transportation (“CalACT”) including: CalACT-MBTA Vehicle Purchasing Cooperative Agreement (MBTA Contract #09-02-CBS1 dated June 23, 2010), the Request for Proposal #09-02 dated November 2009, and the corresponding Cooperative Letter of Assignment dated July 1, 2011 (“Agreement”).

WHEREAS, the City has the authority to utilize cooperative purchasing agreements pursuant to the Elk Grove Municipal Code Chapter 3.42;

WHEREAS, CalACT has procured desirable services with Seller for the purchase of four (4) Class C, El Dorado Aerotect 240 cutaways; and

WHEREAS, the City will purchase those four (4) Class C, El Dorado Aerotect 240 cutaways from Seller utilizing a cooperative purchasing agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, City and Seller agree to as follows:

1. Seller has previously entered into the Agreement with CalACT, a true and correct copy of the Agreement is incorporated herein by this reference and is on file with City’s City Clerk. The City and Seller shall be bound by all terms and conditions of the Agreement, except as modified by this Contract. In the event of any inconsistency between this Contract and the Agreement, this Contract shall control.
2. Purchase of Buses. Seller agrees to sell to City and City agrees to purchase from Seller four (4) Class C, El Dorado Aerotect 240 cutaways as further described herein.
3. Compensation. The Seller shall be paid upon acceptance by City of each of the four (4) buses, for the actual fees, costs and expenses required and expended, and approved by the City, but in no event shall total compensation for all four (4) buses exceed Three Hundred Ten

Thousand Dollars and No Cents (\$310,000.00) without City's prior written approval, signed by the City Manager.

4. Technical Summary. Exhibit A, attached hereto and incorporated herein by reference, contains the technical summary for the four bus options acquired from the CalACT Agreement ("Technical Summary"). Seller, at its sole cost and expense shall equip each of the four (4) buses purchased under this Contract with each of the items listed on the Technical Summary.

5. Indemnification. To the fullest extent permitted by law, Seller shall indemnify, protect, defend, and hold harmless City, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the Contract, the Agreement and the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this Contract on the part of Seller, except such loss or damage which was caused by the sole negligence, or willful misconduct of the City. The provisions of this section shall survive termination or suspension of this Contract.

6. Title and Risk of Loss. Title, ownership, and risk of loss or damage of each of the six (6) buses shall remain with Seller until the buses purchased under this Contract are received, inspected and accepted by City's Transit System Manager or Facilities and Fleet Manager, in writing, after delivery.

AGREED to this _____ day of _____, 2011, by the parties as follows.

Approved as to form:

SELLER

By: _____
Attorney for Seller

By: _____

Approved as to form:

CITY OF ELK GROVE

By: _____
Susan Cochran, City Attorney

By: _____
Laura S. Gill, City Manager

Attest to:

Jason Lindgren, City Clerk

EXHIBIT A

**Technical Summary
(Continued on next page)**



Creative Bus Sales

13501 Benson Avenue · Chino, CA 91710 800.326.2877



El Dorado Bus Sales

29220 Pacific Street · Hayward, CA 94544 888.353.6287

CalACT / MBTA Cooperative Bid

Vehicle Type:	Class C (Ford) - El Droad National Aerotech 240	Commodity #:		
Contact:	Doug Scott	Type of Lift:	<input checked="" type="checkbox"/> Braun <input type="checkbox"/> Ricon	
Agency:	City of Elk Grove	Lift Location:	<input type="checkbox"/> Front <input checked="" type="checkbox"/> Rear	
Address:	8380 Laguna Palms Way	Seat Material D-90:	<input type="checkbox"/> Vinyl <input checked="" type="checkbox"/> Cloth <input type="checkbox"/> Repel	
City, State, Zip:	Elk Grove, Ca 95758	Seat Color:	Customer to Choose Color	
Phone:	916-627-3443 Office 916-207-4491 Cell	Reflective Stripes:	<input checked="" type="checkbox"/> Yes (2) 5" <input type="checkbox"/> No <input type="checkbox"/> Paint	
Fax:	916-627-4150	Stripe Color:	One White Stripe	
E-Mail:		Contract Equipment:		
Quantity:	Description	Price	Ext. Price	ADA
1	Class C (Ford) - El Droad National Aerotech 240	\$53,687.00	\$53,687.00	\$7,500.00
8	<Credit> Seat	-\$85.00	-\$680.00	
Caltrans Features				
1	Mor/Ryde Suspension	\$989.00	\$989.00	
1	(1) 5" Reflective Stripe	\$250.00	\$250.00	
1	Dialight - Exterior LED Lighting (All)	\$750.00	\$750.00	
1	Dialight - Interior LED Lighting (Passengers)	\$400.00	\$400.00	
1	11" Step Height - 15" Min Aisle Width - Docket 90 (Standard)	\$0.00	\$0.00	
Additional Available Options				
4	Freedman Folding Seat	\$975.00	\$3,900.00	\$3,900.00
1	34" - 36" Freedman Flip Seat	\$795.00	\$795.00	\$795.00
1	Roof Vent	\$495.00	\$495.00	
1	Raised Floor	\$650.00	\$650.00	\$650.00
2	Additional Mobility Aid Position (w/Tiedowns)	\$795.00	\$1,590.00	\$1,590.00
60	W/C Track Full Length \$18.00 Per Foot	\$18.00	\$1,080.00	
1	Two Way Radio Wire Prep	\$225.00	\$225.00	
1	Removable Diamond Floor Access Plate	\$100.00	\$100.00	
1	Locking Fuel Door W/Ignition Cut Off	\$335.00	\$335.00	
1	Upgraded A/C System (87,000 BTU's)	\$2,450.00	\$2,450.00	
1	RoadSpeed Limiter	\$975.00	\$975.00	
1	Sportworks Bike Rack Stainless Steel	\$2,275.00	\$2,275.00	
1	Ford Shop Manuals (One Set On CD)	\$158.33	\$158.33	
			Total	ADA
		Base Price	\$53,687.00	\$14,435.00
		Option Total	\$16,737.33	
		Document Prep Fee	\$55.00	
		Total	\$70,479.33	
		Non-Taxable	\$14,435.00	
		Taxable Amount	\$56,044.33	
Elk Grove	▼	Tax Total	\$4,903.88	8.750%
		Sub-Total	\$75,383.21	
		Procurement Fee 1.5%	\$1,057.19	
		DMV Estimated Fee	\$0.00	
		Tire Fee	\$12.25	
		Delivery	\$475.00	
		Total	\$76,927.65	
		Number of Units	4	
		Final Total	\$307,710.60	

City of Elk Grove

Revision 4

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2011-138**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)


I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on July 13, 2011 by the following vote:

AYES : **COUNCILMEMBERS:** *Detrick, Cooper, Davis, Hume*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN : **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *Scherman*



**Jason Lindgren, City Clerk
City of Elk Grove, California**