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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 10-11-540

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of April 18, 2011
 (Adoption Date)

TITLE: A RESOLUTION TO AUTHORIZE THE SOLE-SOURCE PURCHASE OF ONE (1) DRAFT COMMANDER 3000 PUMP TESTER FOR THE LAS CRUCES FIRE DEPARTMENT FOR THE AMOUNT OF \$66,906.80 PLUS SHIPPING AND TRAINING COST OF \$2,886; FOR A TOTAL PURCHASE PRICE OF \$69,792.80.

PURPOSE(S) OF ACTION:

To authorize the purchase of equipment for a cost in excess of \$50,000.

COUNCIL DISTRICT: ALL		
<u>Drafter/Staff Contact:</u> S. Nicole Williams	<u>Department/Section:</u> Finance/Grants	<u>Phone:</u> 575-541-2716
<u>City Manager Signature:</u> 		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On January 18, 2011, City Council accepted grant funds on behalf of the Las Cruces Fire Department (LCFD) in the amount of \$95,656 from the New Mexico Public Regulation Commission (NMPRC) for the purchase of a Pump Test Trailer, Flashover Trainer and other related items.

The City's Purchasing Department (Purchasing) has reviewed and approved the sole-source requisition request by the LCFD for the purchase of one (1) Draft Commander 3000 Pump Tester, Model DC1911-300AT, which is manufactured solely by Weis Fire & Safety Equipment Co., Inc. and is distributed solely by the same.

Purchasing negotiated costs and terms with the manufacturer to arrive at the discounted price of \$66,906.80 and the shipping cost (based on mileage) of \$2,886, which also includes training. Total cost for the purchase of the equipment is \$69,792.80.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Purchasing Manager's Request to Contract (PMRC).
3. Exhibit "B", New Mexico Public Regulation Commission Grant Award Notice letter.
4. Exhibit "C", Sole Source Purchase Authorization Memo with support documents.

(Continue on additional sheets as required)

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

Per Resolution 11-157 dated January 18, 2011; aforementioned grant funds were accepted and deposited into Fund 2500-Equipment Grants, Project Number 33009.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Equipment Grants	25167010-851200-33009	\$69,792.80	\$95,656	\$25,863.20	Additional items to meet grant award.

OPTIONS / ALTERNATIVES:

- Vote "Yes"; this will authorize the purchase of the firefighter training equipment and satisfy a portion of the grant award.
- Vote "No"; this will prevent the purchase of the equipment and may violate the terms of the grant.
- Vote to "Amend"; this could delay the expenditure of the grant funds and could affect the LCFD from receiving future NMPRC funding.
- Vote to "Table"; this option is not available, as grant funds have been accepted.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

- Resolution No. 11-157.

(Continue on additional sheets as required)

RESOLUTION NO. 10-11-540

A RESOLUTION TO AUTHORIZE THE SOLE-SOURCE PURCHASE OF ONE (1) DRAFT COMMANDER 3000 PUMP TESTER FOR THE LAS CRUCES FIRE DEPARTMENT FOR THE AMOUNT OF \$66,906.80 PLUS SHIPPING AND TRAINING COST OF \$2,886; FOR A TOTAL PURCHASE PRICE OF \$69,792.80.

The City Council is informed that:

WHEREAS, January 18, 2011, Council approved Resolution 11-157 to accept grant funds in the amount of \$95,656 from the New Mexico Public Regulation Commission (NMPRC) on behalf of the Las Cruces Fire Department (LCFD); and

WHEREAS, awarded funds were deposited into Fund 2500-Equipment Grants for the purchase of a Pump Test Trailer, Flashover Trainer; and

WHEREAS, the LCFD submitted a sole-source for the procurement of a Weis Fire & Safety Equipment Co., Inc., Draft Commander 3000 Pump Tester; and

WHEREAS, Purchasing negotiated costs and terms with the certified sole-source manufacturer to arrive at the discounted purchase price of \$66,906.80, and the shipping and training cost of \$2,886; for a total discounted purchase cost of \$69,792.80.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT Purchasing has reviewed LCFD's sole-source requisition request for the purchase of the Weis Fire & Safety Equipment Co., Inc., Draft Commander 3000 Pump Tester, Model DC1911-300AT.

(II)

THAT Purchasing received justification from LCFD for the sole-source procurement request and negotiated with the manufacturer for the best possible total purchase price of \$69,792.80.

(III)

THAT City Council authorizes the purchase of the Pump Tester for the amount of \$69,792.80.

(IV)

THAT City staff and officials are authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2011.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by _____

Seconded by _____

VOTE:

- Mayor Miyagishima: _____
- Councillor Silva: _____
- Councillor Connor: _____
- Councillor Pedroza: _____
- Councillor Small: _____
- Councillor Sorg: _____
- Councillor Thomas: _____

APPROVED AS TO FORM:



City Attorney

CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST TO CONTRACT

For Meeting of: April 18, 2011

Resolution No.: 10-11-540

Sole Source Contract Draft Commander 3000 Pump Tester

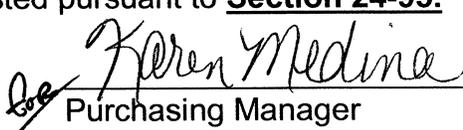
The Las Cruces City Council is provided the following information concerning this request:

SOLICITATION INFORMATION:

- | | |
|---|---|
| 1. Description of Bid: | Draft Commander 3000 Pump Tester |
| 2. Using Department: | Fire Department |
| 3. Current Award Recommendation To: | New Mexico Public Regulation Commission |
| 4. Total Award Amount: (includes shipping and training) | \$69,792.80 |
| 5. Contract Duration: | One Time Purchase |

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to purchase is hereby requested pursuant to **Section 24-95.**


4/1/11
 Purchasing Manager Date

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION OR PURCHASE ORDER NUMBER:	11102693
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NEW MEXICO PUBLIC REGULATION COMMISSION

COMMISSIONERS

DISTRICT 1 JASON MARKS
 DISTRICT 2 DAVID W. KING, CHAIRMAN
 DISTRICT 3 JEROME D. BLOCK, VICE CHAIRMAN
 DISTRICT 4 THERESA BECENTI-AGUILAR
 DISTRICT 5 SANDY JONES



P.O. Box 1269
 1120 Paseo de Peralta
 Santa Fe, NM 87504-1269

STATE FIRE MARSHAL DIVISION
 Room 413
 800-244-6702 (In-state only)
 (505) 476-0066
 Fax : (505) 476-0100

CHIEF OF STAFF

Michael A. Rivera

December 15, 2010

Mr. Robert Telles
 Las Cruces Finance Director
 PO Box 20000
 Las Cruces, NM 88004

Ref: New Mexico Fire Protection Grant Council Award Notice

Dear Mr. Telles:

Congratulations! Your grant application on behalf of the Las Cruces Fire Department for a Pump Test Trailer, Flashover Trainer has been approved. A payment voucher in the amount of \$95,656.00 for the purchase of the approved requested item is being processed and will be delivered to your office for deposit.

The bid specifications for the approved equipment shall meet the requirements of the latest Editions of NFPA 1911 ¹⁹⁰¹ and must be reviewed and approved by this office before March 1, 2011 and prior to encumbering any funds.

The deadline to encumber the money by contract with the vendor is May 1, 2011. If the bid amount exceeds the awarded amount plus the 20% required matching amount, the additional cost shall be the responsibility of the local government. If the specified equipment may be purchased for less than the grant amount plus the 20% matching amount, the remaining money shall be returned to the grant fund. All equipment purchased with grant funds must be inspected by this office upon receipt.

If further information is required, please contact Vernon Muller, Deputy Fire Marshal, Fire Service Bureau at (505) 476-0174.

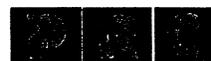
Sincerely,

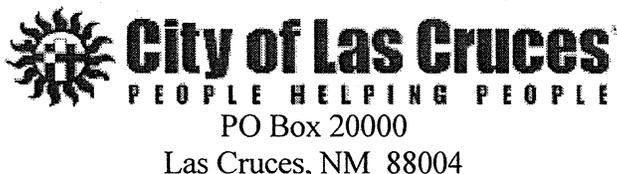
John C. Standefer
 State Fire Marshal

Sincerely,

Norma Jean Valdez
 Grant Council Chairwoman

xc: Chief
 Board of County Commissioners
 File





Memo

To: File

From: Todd Bensley, Buyer 

Date: 03/29/2011

Re: Sole Source, 10-11-540 Draft Commander 3000 Pump Tester, awarded to Weis Fire & Safety Equipment Co., Inc.

Per Sec. 24-95. Sole source procurement.

A contract may be awarded without competition when the purchasing manager determines in writing, after conducting a good-faith review of available sources, that there is only one source for the required supply, service, or construction item; or when it is likely that award to any other source would result in (a) substantial duplication of cost to the city that is not expected to be recovered through competition, or (b) unacceptable delays in fulfilling the city's requirement. The purchasing manager shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurement shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the items procured under each contract, and the identification number of each contract file.

After review of the requisition 11102693 and justification from the CLC Fire Department for the Draft Commander 3000 Pump Tester, awarded to Weis Fire & Safety Equipment Co., Inc.

In this case have found that this item is justified as sole-source procurement because;

- 1. The item; Draft Commander 3000 Pump Tester, Model DC1911-300AT, is manufactured solely by Weis Fire & Safety Equipment Co., Inc., and distributed solely by the same.**
- 2. A discount and explanation of pricing was requested from Mr. Mike Weis, President, who stated that:**
 - The pricing of \$66,906.80 is the best possible pricing and the shipping charge of \$2,886.00 is based on a mileage and includes training.**
 - Shipping terms are normally FOB Ship Point however after negotiation this has been changed to FOB Destination, to CLC Fire Station 1 at 201 East Picacho Ave., Las Cruces, NM.**
- 3. No additional discounts are available. This is this is the best possible pricing available for this item.**



**City of Las Cruces Purchasing Department
Request for Sole Source Determination**

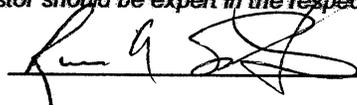
To: Purchasing Manager

ACKNOWLEDGEMENT

I am aware of the City's requirements for purchasing all items at the most competitive pricing and the criteria for justification for Single Source/Sole Brand purchasing. I have gathered the required technical information and have made a concerted effort to review comparable/equal equipment (e.g. market research). I have attached the pertinent documentation showing what market research was conducted to preclude other items from consideration.

Requestor: BC Russell Smith

(Note: The requestor is the individual requesting the purchase, not necessarily the person entering the requisition, the requestor should be expert in the respective field capable of supporting this request)

Signed:  Date: 3/4/2011

Requisition Number: 11102693

Recommended Sole Source Procurement with:

Company Name: Weis Fire & Safety Equipment Co., Inc.

Contact Name: Mike Weis

Address: P.O. Box 3467

City, State, Zip: Salina, KS, 67402-3467

Telephone: (888) 689-9347

Is the recommended company the manufacturer? yes no

Does the manufacturer sell the item(s) through distributors? yes no

Description of Product/Services: The product is a mobile fire pump tester. It is the only unit we have been able to find that allow us to pump test two apparatus at the same time. It is also the only unit which requires priming, which is part of the NFPA 1911 standard on pump testing.

Estimated Cost: \$69,793

City of Las Cruces Procurement Code

Sec. 24-95. Sole Source Procurement

A contract may be awarded without competition when the purchasing manager determines in writing, after conducting a good-faith review of available sources, that there is only one source for the required supply, service, or construction item; or when it is likely that award to any other source would result in:

- (1) Substantial duplication of cost to the city that is not expected to be recovered through competition; or
- (2) Unacceptable delays in fulfilling the city's requirement.

The purchasing manager may conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurement shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the items procured under each contract, and the identification number of each contract file.

SOLE SOURCE RATIONALE:

It is important to sufficiently address the major reason for conducting a sole source procurement by avoiding peripheral issues which detract from the main reason and reduce the credibility of the justification. The rationale must be clear and convincing by avoiding generalities and unsupported conclusions. **Please respond to the following:**

- A. Are there any other companies who can provide the product/service?
no
- B. Are there special conditions that are the basis for selecting the recommended company such as:
 - The required item(s) are proprietary to the Contractor,
 - A specific item is needed,
 - Item must be compatible or interchangeable with existing hardware,
 - Item is a spare or replacement hardware,
 - Item for the repair or modification of existing hardware, or
 - Item is for technical evaluation or test.

- It is not possible to obtain competition (i.e. only one source is capable of supplying the items or meeting the requirements). **In a brief explanation, provide supporting evidence for this conclusion; identify other sources considered with explanation of why they are not able to meet requirements.**

As the enclosed letter indicates, Weis Fire & Safety Equipment Co., Inc is the sole source for the Draft Commander 3000.

- There is a substantial technical risk in contracting with any other contractor that will result in an unacceptable course of action. **In a brief explanation, provide supporting evidence of other contractor's with relevant capabilities and emphasize their inability to overcome the substantial technical risks.**

The only other mobile pump tester we could find was the Draftmaster from Danko. It does not test the pump primer as required by NFPA 1911 have the remote test stand and does not have the capacity to test two units at the same time.

- For support services effort, there is no reasonable expectation that a meaningful cost or other improvement could be made in the incumbent contractor's performance (e.g. the chances of another firm winning a competition are clearly remote). **Please provide an explanation.**

LAW OFFICES OF
THOMPSON & THOMPSON
A PROFESSIONAL CORPORATION
310 4TH STREET, P.O. BOX 166
SCANDIA, KANSAS 66966-0166

JEFFREY L. THOMPSON
REGINE L. THOMPSON

E-MAIL [ttnckcn.com](mailto:jlthompson@ttnckcn.com)

TELEPHONE (785) 335-2248
FACSIMILE (785) 335-2502

October 7, 2009

To whom it may concern:

Our firm represents Weis Fire & Safety Equip. Co., Inc. of Salina, Kansas ("Weis"), in connection with its patent and trademark matters.

Weis is the manufacturer and sole source for the DRAFT COMMANDER® 3000 A/T Mobile Pump Lab. This product is believed to be the only product of its kind on the market today. This product is also Patent Pending at the U.S. Patent & Trademark Office. DRAFT COMMANDER is a registered trademark of Weis Fire & Safety Equip. Co., Inc.

Sincerely,



Jeffrey L. Thompson

JLT/sjs

UNITED STATES PATENT

Granted on November 9, 2010 to

Gary L. Weis

- INVENTOR -

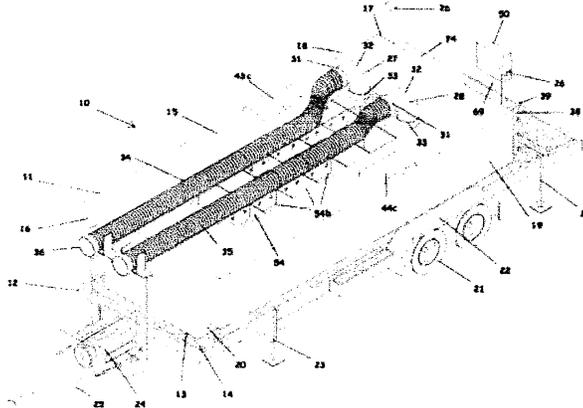
Patent No. US 7,827,860 B2

**DRAFT COMMANDER 3000®
MOBILE FIRE PUMP TESTING & TRAINING APPARATUS**

Gary L. Weis, Inventor
Weis Fire & Safety Equip. Co., Inc., Assignee

A pump testing apparatus includes a tank mounted on a mobile trailer for testing water pumps associated with fire fighting equipment. Two rotatable draft tubes extend into the tank for drawing water from the lower part of the tank through suction hoses connected to the pump being tested. Two inlet manifolds receive water discharged from the pump being tested and direct the water into respective flow stations that measure the water flow rate. The water is then dispersed back into the tank. The tank has a system of baffles to prevent cavitation of the water circulating through the tank. A cooling system is provided to cool the water within the tank to maintain a desired water temperature during pump testing. The cooling system includes a supply line having a cool water inlet for connecting to a source of cool water, and cool water outlets at spaced locations throughout the tank.

The
United
States
of
America



The Director of the Patent and Trademark Office has received an application for a patent for a new and useful invention. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law. Therefore, this

United States Patent

Grants to the person or persons having title to this patent the right to exclude others from making, using, selling or importing the invention throughout the United States of America for the term of fourteen years, subject to the payment of maintenance fees as provided by law.



James W. Dudas

Director of the United States Patent and Trademark Office

Brenda Moore

Attest

03/30/2011 13:18
toddb

City of Las Cruces, NM

PG 1
rqentpst

REQUISITION

11102693-00 FY 2011

BILL TO

P. O. BOX 20000
ATTN: DISBURSEMENTS

LAS CRUCES , NM 88004

VENDOR

WEIS FIRE & SAFETY EQUIPMENT CO INC
111 E PACIFIC AVE

SALINA, KS 67401

SHIP TO

201 E PICACHO AVE.
ATTN: FIRE STATION 1

LAS CRUCES, NM 88001

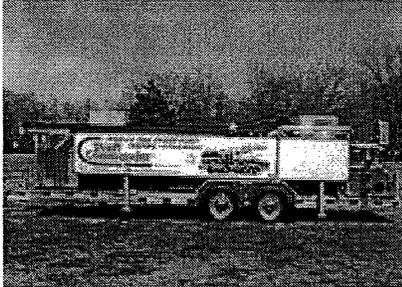
Tel# 785-825-9527
Fax# 785-825-9538

Delivery Reference
MARYHELEN SARABIA 575-528-406

DATE ORDERED	VENDOR NUMBER	DATE REQUIRED	FREIGHT METHOD/TERMS	DEPARTMENT/LOCATION
02/07/11	004040	02/08/11	FOB DEST PPA/NET30	EMERGENCY SERVICES

LN	DESCRIPTION	QTY	UOM	UNIT PRICE	NET PRICE
001	DRAFT COMMANDER 3000 PUMP TESTER, MODEL #DC1911-3000AT AS PER ATTACHED SPECIFICATIONS. TERMS ARE AS PER GSA CONTRACT NO. GS-30F-0050V.	1.00	Each	66906.800	66,906.80
002	SHIPPING CHARGES	1.00	Each	2886.000	2,886.00
	REQ TOTAL				69,792.80

** END OF REPORT - Generated by Todd Bensley **



[Enlarge/More Views >>](#)

\$66,906.80 EA

sold and shipped by
**WEIS FIRE & SAFETY EQUIP.
CO., INC.**

[visit contractor's website](#)

DRAFT COMMANDER 3000 A/T

Mfr Part No.: DRAFT COMMANDER 3000 A/T
Manufacturer: WEIS FIRE & SAFETY
Contract No.: GS-30F-0050V (ends: Aug 23, 2014)
MAS Schedule/SIN: 23V/190 05
Warranty: 1 YR
Made In: UNITED STATES OF AMERICA
Weight: 6000.000 LB

• Desc

324L X 102.75W (IN), The Draft Commander 3000 A/T is a unique environmental friendly mobile fire apparatus testing and training unit. The Draft Commander allows you to perform a true pump test from draft creating a suction lift requiring the use of a primer as per NFPA1911-2007 Edition. This service test is done by working from a suction lift throughout the test. Flowing clean clear water as per NFPA-1911 up to 3000 GPM and with the means of testing your fire truck at your desired location, at any time, and various seasons of the year. In fact, the Draft Commander 3000 can perform a pump test on two trucks simultaneously. The Draft Commander offers a cost effective means of complying with annual pump test requirements as defined by ISO and the National Fire Protection Association. The Draft Commander offers many other functions beside fire pump testing such



Water Conserving Item



American Recovery and Reinvestment Act of 2009

Fax: 785-825-9538
111 E. Pacific Avenue,
P.O. Box 3467
Salina, Ks. 67402-3467
Email: Dave.s@weisfiresafety.com
www.weisfiresafety.com

