P.O. BOX 1570

# TOWN OF WEST YELLOWSTONE
## MONTANA

PHONE: 406-646-7795
FAX: 406-646-7511

info@townofwestyellowstone.com

PURCHASE ORDER

Date 6-3-14

Ship Via

Order No. 006214

Department Public Works

TO: Universal Blower Pac. Inc

ADDRESS: 440 Park 32 West Drive
Nobleville, IN 46062-9252

PLEASE FURNISH THE TOWN OF WEST YELLOWSTONE WITH:

| Quantity | Description |
|---|---|
| 3 | New Gaemdra Blowers |
| | |
| | |
| | |
| | |

Authorized By

Estimated Cost $ 8,500.00

Requested By:

VENDOR COPY - White OFFICE COPY - Canary

P.O. BOX 1570

# TOWN OF WEST YELLOWSTONE
## MONTANA

PHONE: 406-646-7795
FAX: 406-646-7511

info@townofwestyellowstone.com

PURCHASE ORDER

Date 6-3-14

Ship Via

Order No. 006213

Department Public Works

TO: Sabol & Rice, Inc

ADDRESS: 1834 South 900 West
SLC, Ut 84125-0957

PLEASE FURNISH THE TOWN OF WEST YELLOWSTONE WITH:

| Quantity | Description |
|---|---|
| 1 | Sutorbilt blower Model Rim 5 |
| | |
| | |
| | |
| | |

Authorized By

Estimated Cost $ 14,000.00

Requested By:

VENDOR COPY - White OFFICE COPY - Canary

UNIVERSAL BLOWER PAC, INC

The Original Manufacturer

# QUOTE

| | |
|---|---|
| To: West Yellowstone Public Works | From: Mandy Gutfranski |
| Attn: Dan Hoskins | Pages: 1 |
| Phone: | Date: June, 03 2014 |
| Email: | Re: U40603-G1 West Yellowstone |

| Item | Description | Quantity | Unit Price | Extended Price |
|---|---|---|---|---|
| 1 | Estimated repair of GAEMDRA, Standard Overhaul-Subject to inspection (3 weeks) | 1 | $1400.00 | $1400.00 |
| 2 | New, GAEMDRA, Qty 1-Stock | 1 | $2,748.00 | $2,748.00 |
| 3 | New, GAEMDRA, Qty 3 Purchased-Stock | 3 | $2610.60 | $7831.80 |
| | | | | |

Quote validity: 30 Days
Minimum order of $50

Availability: TBD
**Freight not included**

Ask about our other products and services:

- ✓ Positive Displacement (Rotary Lobe) Blowers
- ✓ Centrifugal Blowers
- ✓ Fans
- ✓ Blower Packages
- ✓ Regenerative Blowers
- ✓ Rotary Vane Blowers
- ✓ Blower and Airlock Repair
- ✓ Airlocks
- ✓ Filters
- ✓ Belts
- ✓ Oil and Grease
- ✓ Air Audits
- ✓ Energy Audits

440 Park 32 West Drive | Noblesville, IN 46062-9252 | PH 317-773-7256 | FX 317-776-5086
Website: www.universalblowerpac.com Email: sales@universalblowerpac.com

Sabol and Rice, Inc.

INDUSTRIAL, WATER & WASTE WATER DIVISION
SALES AND SERVICE
PHONE (801)973-2300 FAX (801)978-4260
1834 SOUTH 900 WEST
PO. BOX 25957 SALT LAKE CITY, UTAH 84125-0957

**TO:** **Town of West Yellowstone**

**6/3/2014**
**TERMS: Net 30 days**
**FREIGHT: FOB Salt Lake City**

**We are pleased to quote on the following equipment for your consideration.**

**1- Sutorbilt blower model GAEMDRA. Bare replacement pump.**
**$2630.00**

**If 3 are purchased together $2500.00 ea.**
**Allow 2 to 3 weeks for delivery.**

**Bldg 2 blower**

**1- Roots 418RAM bare blower $7491.00**
**If 2 are purchased together $7,236.00**

**Allow 4 weeks for delivery.**

* Plus Installation

**No state or local taxes included**
**This quote is valid for 30 days from above date**
**Sincerely,**

**Greg Hood**

Greg

June 2, 2014

TO: West Yellowstone Town Council ***By Hand***

FROM: Police Chief, Gordon Berger

RE: Response To Sheriff Gootkin Letter of May 16, 2014

Honorable Members of the West Yellowstone Town Council:

The purpose of this letter is to respond to Sheriff's Gootkin's letter of May 16, 2014 ("Letter"). I prepared this letter with the assistance of counsel.

I. **Preliminary Comments**.

The overwhelming majority of Sheriff Gootkin's allegations, masquerading as "Findings," are either demonstrably false or taken out of context. I address his allegations below. I do agree, however, that challenges exist within the West Yellowstone Police Department (like most, if not all Police Departments) and that morale within the Department has deteriorated since officers filed their overtime lawsuit against the Town. The existing challenges are not the result of failed leadership that will miraculously resolve themselves with my termination, which is the clear goal of Sheriff's Gootkin's Letter and his public appearance before this Council. Given time, and this Council's support, I can resolve the legitimate issues that exist in the Department, issues I have been working to resolve for over two years due to lack of adequate manpower.

## II. Background.

As many of you know, I have been a sworn Police Officer for over 30 years, with the vast majority of that time spent on the streets of West Yellowstone. I enjoy my job and take the responsibilities of a police officer and police Chief seriously. I have received all required training, certifications and possess all qualifications necessary to be a Montana Police Officer.

My background allows me to understand the challenges facing police officers on a daily basis, including the unique challenges presented by working in the Town of West Yellowstone presents. Above all, and based upon my many years as a law enforcement officer, ensuring the safety and proper training of officers under my command is my number one priority. For this reason, allegations that my officers do not have the necessary training available to do their jobs is a serious charge and one that deserves this response. I address them in the order presented by Sheriff Gootkin.

## III. Discussion.

### A. Field Training Allegations.

A fundamental problem with Sheriff Gootkin's May 16, "Findings," as Sheriff Gootkin concedes, is that there are no State standards applicable to Police Officer training:

> "Our [Gallatin County] FTEP [Field Traning Evaluation Program] averages 14 weeks. However, there is no Peace Officer Standards and Training (POST) requirement establishing this to my knowledge.

Gootkin Letter, p. 1 (emphasis added). The absence of applicable standards pervades Mr. Gootkin's letter and thus, on its face, renders his "findings" not merely suspect, but fundamentally flawed. [1] *See, also* Rural and Small-Town Enforcement (police), http://what-when-how.com/police-science/rural-and-small-

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[1] Article 18, p. 13 of the contract between the Town and the Police Union, the "Employer shall provide proper training. . . ."

town-law-enforcement-police/ ("Rural and small-town police have been little studied and are poorly understood.")

Sheriff Gootkin claims that I advised that the West Yellowstone PD FTEP is 8 weeks and adopted from the City of Billings. That is false. I advised Mr. Gootkin that my training was 8 weeks and I spent 1 week in Billings and the instructor in Billings advised that there was not minimum standard, with classes ranging from 8 to 12 weeks. After returning from my training in 1994 the police chief in West Yellowstone adopted 8 weeks as the standard for this community.

Turning now to the balance of his "bullet points" under FTEP, Officers of the West Yellowstone PD are provided a minimum of 8 weeks of FTEP training. This training may not be, and typically is not, in one setting, but must be woven into the day-to-day functioning of our police department. Where, as here, the police department is small, scheduling training can present challenges, particularly if the department is short-handed due to vacations, illness or other absences from work or simply because we are understaffed, in general. Thus, it is understandable that officers may have felt training was, at times, "rushed." However, as Officer Gootkin's report concedes, that feeling was only "if they were <u>needed</u> to work on shift." Gootkin Letter, page 2 (emphasis added). A recent Department of Justice Study makes clear this very point:

> The department's training needs will affect both the budget and day-to-day operations. Often, *police budgets do not adequately account for the time that officers need for the training that enables them to stay current with law changes, acquire specialized skills, or maintain certifications in areas such as firearms, CPR, impact weapons, and hazardous materials requirements*. The time required for this training is not spent on patrol; therefore, will training occur during scheduled work hours or on an overtime basis? Managing work schedules is a challenge for any department. . . ."

Spence, Webster and Connors, "*Guidelines for Starting and Operating a New Police Department*," at 35, U.S. Department of Justice, Office of Community Oriented Policing Services (emphasis added), available at: http://www.cops.usdoj.gov/Publications/e0506066GuidelinesFinal.pdf.

Second, West Yellowstone PD officers are allowed to attend and complete any training they deemed reasonably important for their job. If the officers need it, it is given. The issue, which Mr. Gootkin either fails to grasp or explain, is that training takes time, is often located many miles from Bozeman and we are a small department. Those are the realities of operating a police department in a small town located 90 miles from the nearest town of any size, and 180 miles from the law enforcement academy. As Chief, I need to try and balance my obligations of keeping a limited number of officers on the street for public safety purposes, with officer's rights to time off of work due to illness, vacation or other valid issues and the recognized need for continuing training and education in a remote location.

Turning now to Sergeant Frank, it is true that I designated him as the Field Training Officer and he has not received formal training as an FTO. However, Sheriff Gootkin does not identify a standard that applies to this appointment which I have violated. Moreover, Sergeant Frank has over 22 years of experienced and has extensive experience training other officers during that time. It is curious to note that Gallatin County Detective Pallach, Sergeant Stubblefield, and Sergeant Rudner – all formerly West Yellowstone Police Officers -- provided the same training as Sergeant Franks during their time as West Yellowstone Police Officers, although they did not have the "formal training" as an FTO. This was done without complaint or concern.

It is also important to note that, aside from any criteria governing this issue, I received training in 1994 as an FTO and Sergeant Frank works directly under my command. After working with Sergeant Frank, coupled with knowledge of his background, education, training and experience, I used my informed judgment that he serve as the FTO. I stand by that decision. In addition, as Sheriff Gootkin notes, the completion of each week of training requires not only Sergeant Frank's signature, but my signature as well. *See,* Gootkin letter, page 2, bullet point 5.

The next bullet point concerns the Town Manager and I will allow her to respond. I will say, however, that the Town Manager understands and supports my efforts to provide the necessary training for officers but she too must operate within the parameters of a small town in a remote location. To the best of my knowledge, none of the training requests denied by the Town Operations Manager involved training requests that I recommended.

If officers believe no explanations are provided, they need to take the initiative and ask why the request was denied. Indeed, improved communication within the Department is an issue that must be resolved. Effective communication is a two way street. I have advised all officers of this fact.

With respect to the next bullet point, concerning training documentation and bullet points, I am unclear what Mr. Gootkin is claiming. Again, there is no standard cited by him with respect to "training documentation" or case law. Regardless, and without a clear understanding of Mr. Gootkin's point, "tactics" and "case law" are always changing and we work to maintain current knowledge and understanding of these issues. For example, a few years ago the County Attorney's office would travel to West Yellowstone every year and put on a case law update program for our Department. The Gallatin County Attorney's office has not sent an attorney to West Yellowstone to provide this service for some time.

Yellowstone National Park sponsors tactic classes and when I am advised of those classes, I send as many officers as I can to attend. This has not occurred for several years, as I have not been advised of tactics classes, if any, and the records demonstrating officer training were either not properly prepared by Sergeant Stubblefield or destroyed by him. In either event, those records do not exist.

Mr. Gootkin states that the completion of each week of training requires the signature of Sergeant Frank and me. That is correct. Again, I am not sure of his point. Signing off on training allows me to supervise the training of officers under my command.

Finally, with respect to the training manual issue, this Department has never had a training manual since I began working here in 1986, and under various police chiefs and County Sheriffs. Officers are provided a copy of the Town Personnel Policy/Handbook, a copy of the Town of West Yellowstone Police Department manual, and they are issued a Montana Code Annotated manual for reference that the Montana Highway Patrol issues its officers.

In sum, training is very important and I work hard within the constraints of a small town department located in a remote setting. I encourage appropriate training that applies to doing their job in West Yellowstone, Montana. I also try my best to bring training to my officers as well and am looking to on-line resources

to assist in training as encouraged by the Department of Justice. *Cf.*, USDOJ, *Law Enforcement Technology – Are Small and Rural Agencies Equipped and Trained?* https://www.ncjrs.gov/pdffiles1/nij/204609.pdf

C. **Firearms.**

I am the primary instructor for firearms. I have been a certified firearms instructor since 1988. In February, 2012 I allowed my certification to lapse because I had certified staff who could provide the instruction services. When the certified staff left, I became recertified in October, 2013 and provide those services.

With respect to Officer McCoy, I did send him to the firearms instructor course in Bozeman. I sent him to Bozeman for this training because I needed a certified instructor. I intended to send two (2) officers (the other was not a probationary employee) but –again- due to the timing of the course, the scheduling of officers and other work demands, I was only able to send one officer, who happened to be Officer McCoy.

Turning now to the scenario or performance based allegations, Mr. Gootkin's allegation is false. Had he asked Deputy Stubblefield (since he was our firearms instructor before leaving for the Sheriff's office in Bozeman) he would know this. Our department uses scenario based qualifications, not as much as we should, but we use this training. We do the best that we can with limited staff.

Mr. Gootkin's statement that "probationary officers have worked for extended periods of time without qualifying on weapons" is an exaggeration. There has been only one (1) (not plural) probationary officer to whom this allegation applies and that incident occurred seven (7) years ago and it was remedied by Sergeant Stubblefield who was acting firearms instructor.

As it concerns firearms training and budget constraints, the Department (like other Departments) faces budget constraints. We have firearms training. However, we have been unable to purchase the amount of ammunition we normally carry due to chronic shortages in the industry. *See, e.g.* http://www.newsmax.com/US/homeland-security-ammo-shortage/2013/05/16/id/504901/ ("Homeland Security's Ammo Purchases Lead to Police Shortages"). As a result, we have looked for alternative training, like other

departments. *See, id.* ("What we've done is try and focus more on some other training we can do without shooting ammunition," Chief Sol Oberg with the Kaysville Department in Utah told the Salt Lake City Fox affiliate"). There was never a lack of training, only a shortage of ammunition that we carefully monitored.

Finally, Mr. Gootkin claims there has been only one training session within the last year – the "Big Fun Gun." That allegation is false. We had a training session in September 2013 and I arranged for the Big Fun Gun to assist the officers maintain their proficiency due to the fact that we are unable to shoot all winter like other agencies.

**D. Active Shooter.**

Last year we sent the officers to a new active shooter program set up by Sergeant Frank and Deputy Parker out of Big Sky. I sent all officers to this training, while I covered all shifts until they returned from the training. Before this program, we used active shooter training in West Yellowstone held at the West Yellowstone school and we used volunteers.

**E. Defensive Tactics.**

This is false. The National Park Service sponsors training programs and when advised of that training, I send as many officers as possible.

**F. Pepper Spray.**

I have not been able to locate an instructor to come to West Yellowstone for this training and have contacted Montana Law Enforcement Academy and they had no list of instructors to offer. My efforts in this regard continue.

**G. Tasers.**

Mr. Gootkin's description of this event is misleading. While I was away on vacation, Sergeant Stubblefield (without my consent or knowledge) obtained Tasers for the officers. When I returned Sergeant Stubblefield advised me of the Tasers and further advised that all officers received the necessary training. I proceeded to look for the training records and found none. Thus, I went to each

officer individually, and asked them if they recall the last time they were certified with the Taser and had any record of that certification. None of the officers could recall the last time they were certified. For that reason I immediately had them turn in their Tasers to avoid potential liability due to non-certification and advised the officers of that fact. The Tasers were reissued upon proper training and certification.

**H. Patrol Vehicle Operations.**

With respect to this issue, 2009 was the last year that I or any officers participated in this training. I was never notified of any fee or of that training being offered again in West Yellowstone. If I was made aware of this, this training would have been paid for and the officers would have attended.

**I. Snowmobile Operations.**

I contacted the USFS concerning the training in West Yellowstone for snowmobiles, including the dates of the training sessions. Due to staff shortage and scheduling problems, I could not send anyone to that training. I advised the USFS Captain of the reason for our inability to attend.

**J. Medical/CPR.**

This office will pay for medical training. I brought a training program from a Bozeman organization to West Yellowstone that was open to ALL Town employees on the new CPR techniques. However, many officers decided not to attend. However, it is now mandatory and all training is paid by the Town.

**K. DUI/SFST/INTOX.**

To the extend this requires a response, I am working to bring advanced training to West Yellowstone, above and beyond the on-the-job training I believe they receive if they are properly doing their jobs when investigating and administering these tests as part of their training. Advanced SFST training is heavily in demand and when openings exist, I try and send every officers who do not have this training to attend. I tried to bring ARIDE training to West Yellowstone, but the officers declined, stating they did not need it. Changes to DUI laws are brought to the officers attention upon receipt of that knowledge.

L. **Investigations.**

Officer Gootkin's allegations on this point are unclear. Officers in my Department receive training on how to conduct an investigation to the point of filing a request for prosecution (RPF) and how to put a case file together. However, methodology is not the same as other Departments which are also unique to their Departments.

With respect to the requests for assistance, I have officers who do call for assistance and I have officers who do not call for assistance. Since the filing of the overtime lawsuit and my perceived lack of support for the officers who sued the town, communication has been an issue and their actions in this regard are in apparent retaliation for my actions. I have advised officers, over and over to call me or the new Sergeant, anytime, 24/7.

Cases are submitted to Sergeant Frank for "spelling errors AND content" and then returned to officers to correct all errors and if more investigation is needed that is noted also.

There is a protocol for officers from start to finish with respect to investigations and compilations of investigations for submission to the county attorney. Until recently it has always been the practice of this office to mail the RFPs to Bozeman, even prior to my appointment as Chief. It was brought to my attention, by one of my officers, who spoke to the county attorney's office that all felony cases will be submitted, in person, to that office on Thursdays and we follow that request.

Finally, with respect to the allegation that Sergeant Frank and I did not know what the current investigations were, at the time of his investigation, to the extent that was accurate it is the result of communication failures within the Department. The communication failures are the result of hostilities that arose out of the officer's lawsuit. During that time I was instructed by the Town's attorney and Operations Manager at the time not to take any action that could be viewed as retaliation by the officers and their attorneys. This in turn undermined my authority within the Department and contributed to an environment where subordination was unfortunately tolerated and allowed to take root. Sergeant Frank and I are in the process of remedying this problem by starting a program tracks the cases filed with the Town and County, and were making progress until this investigation was started.

In sum, like any Police Department, challenges exist within the West Yellowstone Police Department. Sheriff Gootkin's "investigation" is the most recent result of the overtime lawsuit and points out problems that I was aware of long before he appeared in West Yellowstone, including officer's lack of discipline, attitudes and retaliation.

I accept my share of responsibility for issues of communication within the department and town. However, it is a shared responsibility and I request your help in allowing me to do my job, free from the interference of third parties who prepare reports criticizing this department where there are no standards that apply to their allegations and are inaccurate, misleading and biased.

We are a small town police department in a remote location with unique challenges due to our location next to Yellowstone Park. I am a strong advocate of proper training of officers for public health and safety in this Community and an even stronger advocate for officer safety as I have done for the many years I have invested in this Community. It is, however, a community effort that requires not only the cooperation of the police officers, but your investment, understanding and support as well.

Sincerely,

Gordon Berger
Chief of Police