

Introduced by: City Manager Nathan Mai-Lombardo

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO PURCHASE A PUMPER FROM SPARTAN EMERGENCY RESPONSE (THE COUNCIL FIND THAT AN EMERGENCY EXISTS AND DECLARES THAT PASSAGE OF THIS ORDINANCE IS NECESSARY FOR THE PRESERVATION OF THE WELFARE OF THE CITIZENS OF THE CITY OF BERKELEY.)**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:**

**Section 1.** The City Manager is hereby authorized to enter into and execute an agreement with Spartan Emergency Response and Community Leasing Partners to purchase a Legend Pumper.

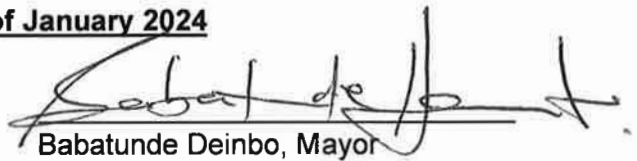
**Section 2.** This Ordinance shall be in full force and effect from and after the date of its passage.

**Section 3.** This Council does hereby find and declare that an emergency exists, which requires the immediate passage of this ordinance for the preservation of the welfare of the citizens of the City of Berkeley.


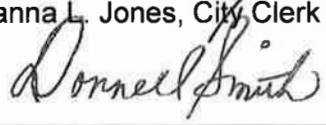
1st Reading this 22<sup>nd</sup> day of January 2024

2nd Reading this 22<sup>nd</sup> day of January 2024

3rd Reading, PASSED and APPROVED, this 22<sup>nd</sup> day of January 2024

  
Babatunde Deinbo, Mayor

ATTEST:

  
Deanna L. Jones, City Clerk  


Approved as to Form:  
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Williams	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilman Hoskins	Aye <input type="checkbox"/>	Nay <input checked="" type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Anthony	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilman Hindeleh	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman-at-Large Crawford-Graham	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Mayor Deinbo	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>

**Leo M. Ellebracht  
Company**

*Everything for  
Firefighting*

104 Mullach Court  
Suite 1028  
Wentzville, MO 63385

Telephone 636-332-6985

## SALES CONTRACT

THIS CONTRACT ("Contract") is made by and between Leo M. Ellebracht Company ("LME") and the **City of Berkeley** ("Customer"). This Contract will not become binding upon LME until it is executed by an officer of LME, and accepted by Spartan Emergency Response (Spartan), and the effective date of the Contract ("Effective Date") will be the date that Contract is accepted by Spartan. The parties hereby agree as follows:

- I. Subject to the terms of this Contract, LME shall represent Spartan to furnish, and the Customer shall purchase, the apparatus and equipment ("Apparatus and Equipment") described and in accordance with all material respects with the specifications ("Original Specifications") for Stock Unit 523023-01, S180 Pumper Model 3108-10.
- II. This Contract for Apparatus and Equipment conforms to all Federal Department of Transportation (DOT) and Environmental Protection Agency (EPA) rules and regulations and to all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus in effect as of the Effective Date, unless noted otherwise in the Original Specifications.
- III. The Apparatus and Equipment shall be ready for final inspection and delivery to LME from Spartan's ER LLC facility, within 7 days.
- IV. LME, as your authorized and competent Spartan sales and service representing company shall, upon request, provide and/or demonstrate to the Customer's employees the necessary instructions in the operation and handling of the Apparatus or Equipment sold with this contract.
- V. In exchange for the Apparatus and Equipment, Customer agrees to pay Leo M. Ellebracht Company, the sum of:

**Six Hundred Sixty Thousand Dollars      \$660,000.00**

("Purchase Price")

Net payment is due upon final inspection and acceptance at the Fire Department.

The Apparatus and Equipment shall NOT be placed in service prior to payment in full, NO EXCEPTIONS.

- VI. Any applicable taxes not specified or noted above will be paid by Customer directly. If Customer claims exemption from any tax, Customer's applicable exemption certificate shall be provided with this contract, or your Tax ID number provided below to hold LME harmless from any such tax, interest or penalty which may at any time be assessed against LME.
- VII. Acceptance of Apparatus and Equipment shall occur after completion of a final inspection by a representative of Customer at a factory location of Spartan, completion of any discrepancy list,

and shipment of Apparatus and Equipment from Spartan's factory location. Upon completion of the final inspection and related discrepancy list, the Apparatus and Equipment shall be conclusively determined to be in full compliance with the terms of this Contract, less LME dealer up-fit items and loose equipment. LME will not surrender the title to or the Certificate of Origin for any Apparatus or Equipment or provide Customer with any other documentation regarding ownership of any Apparatus or Equipment until LME has received full payment of the Purchase Price (and taxes if applicable).

- VIII. Customer shall indemnify LME against, and hold LME, its agents, employees, officers and directors harmless from, any and all claims, actions, suits and proceedings, costs, expenses, damages and liabilities, whether based in negligence, tort, strict liability or otherwise, including attorney's fees and costs, arising out of, connected with, or resulting from this Contract or the Apparatus or Equipment, except to the extent such claims, action, suits and proceedings, costs, expenses, damages or liabilities arise from LME's breach of its obligations under this Contract.
- IX. LME or Spartan shall not be liable if performance failure arises out of causes beyond its reasonable control, which causes shall include without limitation acts of God, war, fires, floods, difficulty in procuring materials, equipment or tooling failure, freight embargoes, order of any court, strike, lockout, shortage of labor, failure or delays by suppliers or contractors, or legislative or governmental, or other, prohibitions or restrictions.
- X. Any order or contract resulting from this proposal shall be cancelable only under terms that will indemnify LME from loss.
- XI. The Apparatus and Equipment shall remain the property of LME until the entire Purchase Price for each item of Apparatus and Equipment has been paid. In case of a default in payment, LME may take full possession of the Apparatus and Equipment, or of the item or items upon which default has been made, and any payments that have been made shall be applied as payment for the use of the Apparatus and Equipment up to the date LME takes possession.
- XII. This Contract will only be binding on LME after it is signed and approved by the customer, Spartan, and an officer of LME. This Contract (which includes the other documents referenced in this Contract) embodies the entire agreement and understanding between the parties with respect to the subject matter of this Contract and supersede all prior oral or written agreements and understandings relating to the subject matter of this Contract. No statement, representation, warranty, covenant, or agreement of any kind not expressly set forth in this Contract shall affect, or be used to interpret, change, or restrict, the express terms and provisions of this Contract. This Contract cannot be altered or modified except by mutual written agreement signed by the parties. The Customer representative signing this Contract on Customer's behalf represents and warrants that he or she has the authority to sign this Contract and that all necessary action has been taken by Customer to authorize Customer's execution of and performance under this Contract.
- XIII. In the event that any court of competent jurisdiction shall determine that any provision, or any portion thereof, contained in this Contract shall be unenforceable in any respect, then the provision shall be deemed limited to the extent that the court deems it enforceable, and as so limited shall remain in full force and effect. In the event that the court shall deem any provision, or portion thereof, wholly unenforceable, the remaining provisions of this Contract shall nevertheless remain in full force and effect.

Key proposal documents referenced for above contract are:

- **One (1) Spartan ER S180 Stock Fire Apparatus as outlined below:**
  - a) **2024 Spartan S180 Fire Apparatus Model 3108-10, VIN# 4S9BCETB7RB559627**

This contract is agreed to by the parties as of the Effective Date.

Leo M. Ellebracht Company

Customer:

By: Marie Therese Dowald

By: 

Leo M. Ellebracht Company

Authorized Customer Signature

MARIE Therese Dowald

Nathan Mai-Lombardo

Print Name

Print Name

Title: President

Title: City Manager

Date: 1-22-2024

Date: 01-23-2024

Customer Tax I.D. Number

City of Berkeley

Authority's name as to appear on the vehicle title

8425 Airport Road

Berkeley, MO 63134-1909

Address as to appear on vehicle title

# Model 3108

