

BILL NO.: 4904

ORDINANCE NO.: _____

Introduced by: City Manager Nathan Mai-Lombardo

AN ORDINANCE OF THE CITY OF BERKELEY, MISSOURI, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH SPARTAN EMERGENCY RESPONSE FOR A FIREFIGHTING APPARATUS

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 for a new firefighting apparatus to replace the flood damaged 2016 model year fire engine.

Section 2. The agreement will be attached and hereby incorporated herein and made a part of this ordinance, as if fully set out herein.

Section 3. This Ordinance shall be in full force and effect from and after its passage.

1st Reading this _____ day of _____ 2022

2nd Reading this _____ day of _____ 2022

3rd Reading, PASSED and APPROVED, this _____ **day of** _____ **2022**

Babatunde Deinbo, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Crawford-Graham	Aye ___	Nay ___	Absent ___	Abstain ___
Mayor Deinbo	Aye ___	Nay ___	Absent ___	Abstain ___

MEMORANDUM



TO: Honorable Mayor Babatunde Deinbo &
Honorable City Council Members

THRU: Nathan Mai-Lombardo, City Manager

FROM: Fire Chief James Linhardt, Berkeley Fire Department

DATE: November 1, 2022

SUBJECT: New firefighting apparatus to replace the flood damaged 2016 model year Fire Engine.

Recommendation: Based on the emergency nature of replacing the flood damaged firetruck to continue emergency services, the Fire Department recommends to purchase the New Pumper Fire Apparatus based on the quote received from the Leo Ellebracht Co. as an emergency purchase. The new fire engine will be custom built per the Berkeley Fire Department's needs and specifications and duplicate the recent apparatus that was delivered in 2020. The new pumper will be delivered within 415 calendar days from the contract approval date and a price of \$1,087,771.00. The purchase will be made thru the nationwide bidding process from Sourcewell which is similar to the state bid process but on a nationwide level. The city just recently used the process to purchase the new street sweeper.

Background: Berkeley Fire Department apparatus 3620 was caught in a flash flood during the historic flooding during the early morning hours of July 26th. The vehicle immediately shut down when the rising waters caused the engine to fail. The truck was consumed with 3+ feet of water within minutes. Fire personnel vacated the truck and notified the duty officer. After attempts to get the vehicle going by mechanics, the truck was towed to Firehouse #1. Several weeks of investigation by professional mechanics, insurance company and the manufacturer representatives the vehicle was deemed a total loss.

The insurance company will be paying a sum of \$441,786.85 for the loss, leaving a balance for the city to pay in the amount of \$645,984.20. If the City makes the prepayment for the pumper upon signing the contract it will net a discount of \$32,271.00 will bring the cost for the City down to \$613,713.20.

I am requesting assistance from FEMA based on the event being declared a federal disaster relief number DR-4665. I am requesting assistance on the balance on \$613,713.20 from FEMA and SEMA which I am hoping a major portion of that total to be reimbursed to the city.

National Fire Protection Association (NFPA) standard 1901 states that apparatus should remain in front line service for approximately 10 years then function in a reserve status for another 5-10 depending on the condition of the apparatus. This guideline was established due to the major advances in safety, reliability and operational effectiveness that are instituted in new apparatus during that time period.

The fire department has the legal right to specify the fire apparatus based on the following:

The Fire Department (for the remainder of this section referred to as the "specifier") chooses to exercise its Legal Right to Specify as determined by the U.S. Supreme Court's affirmation of the decision handed down in the case of Whitten Corp. vs. Paddock, by the U.S. District Court of Massachusetts, the First Federal District Court, which in effect states: 1) That as trained professionals, specifiers make informed judgments on products that they feel best serve their needs. Also, that proprietary specification (if chosen) DO NOT violate any antitrust laws. Technically, very few brands of material or equipment are exactly alike, and if the specifier wants to limit the specification to one source, he/she has the right to do so and enforce it. 2) Only the specifier has the responsibility and judgment for determining whether a proposed substitution is an "or equal". 3) That from start to finish in the purchasing process, only the specifier can ultimately decide if another desirable product is available in lieu of the specification. 4) Finally, that the courts concluded "the burden is on the supplier or manufacturer, who has NOT been specified, to convince the specifier that their product is equal for the purpose of a particular project". The specifier has determined that this product specification shall represent the product to which all offerings shall be compared. Due to the fact that firefighting is an ULTRAHAZARDOUS, UNAVOIDABLY

DANGEROUS activity, only trained Fire Department personnel with specific knowledge in the area of fire apparatus and equipment shall be allowed to make the final determining decision on the selection of the appropriate product to serve the Fire Department's needs.

Supporting Documents: See attached bid quote.

Potential Objection: None foreseen as adequate funds are available from the insurance payment and the projected funds that have been requested from FEMA under disaster relief and any other balance to come from the Fire Equipment fund.

Staff Reference: If you have any questions, please feel free to contact me at (314) 400.3602 or email Linhardt@ci.berkeley.mo.us.



REV GROUP



EMERGENCY RESPONSE

Brandon, SD | Charlotte, MI | Ephrata, PA | Snyder, NE

SPARTANER.COM

To Whom it May Concern,

Spartan Emergency Response and our brands Smeal and Ladder Tower are pleased to offer prepayment discount options to our customers on all new orders. Prepayment discounts are available at various rates dependent on the type of product that is ordered.

We are also pleased to share that we have recently improved our prepayment discount structure, giving departments more flexibility and opportunities to free up additional cash for equipment or upfits.

If you are interested in the prepayment options available to you, please contact your dealer representative for more information.

Thank you,

A handwritten signature in blue ink, appearing to read "Chris Wade".

Chris Wade
Director of Sales
Spartan Emergency Response
(cell) 404-245-4665



Brandon, SD | Charlotte, MI | Ephrata, PA | Snyder, NE
SPARTANER.COM

Vendor Contract #113021-RVG-4

October 28, 2022

City of Berkeley, MO
 Sourcewell Member ID #18176
 8425 Airport Rd.
 Berkeley, MO 63134-2005

We are pleased to offer to you a Smeal Custom Pumper on a Spartan Custom Chassis through the Sourcewell® Contract, based on the provided specifications and drawings.

MSRP	\$1,198,910
Sourcewell Discount	\$111,139
Discount Percentage	9.27%
Total Contract Price	\$1,087,771

The City can also get a discount for making payment at the time of order.

As an example a prepayment in the amount of \$1,014,745 would net a discount of \$32,271. This is the maximum prepayment that Smeal will accept.

A prepayment of \$495,693 would net a discount of \$15,371. This would be equivalent to paying for the chassis at the time or order.

This would be in addition to the Sourcewell discount off of the List Pricing.

If you have a specific number that the City wants to pay up front, let me know and I will quote accordingly.

Prices above do not include any Federal, State or local taxes.

We look forward to providing your agency with an industry leading apparatus. Our legacy of expertise means we build your apparatus from the ground up on a foundation ready to handle your specific response equipment and route needs. We strategically configure your apparatus design to represent the best possible mix of safety, speed, agility, ergonomics, and serviceability.