



FLEET PURCHASE AGREEMENT
FOR SUTPHEN FIRE APPARATUS

THIS AGREEMENT made and entered into this 11th day of June 2025 by and between THE SUTPHEN CORPORATION, an Ohio Corporation, of Dublin, Ohio, hereinafter called "SUTPHEN" and the CITY OF CAPE CORAL of Cape Coral, FL, hereinafter called "PURCHASER" or "CITY", sets forth the terms whereby Purchaser agrees to purchase a fire apparatus from Sutphen pursuant to the terms contained herein.

- PURCHASE:** Purchaser desires to enter a long-term contract for the supply of Automotive Fire Apparatus based on a predetermined Schedule shown below. The estimated timeframe for placing orders and issuing a Purchase Order is approximately 12 months prior to the expected delivery date at which time a production number will be assigned.

To ensure alignment with production and delivery timelines, we may adjust the order schedule as needed based on evolving lead times and other relevant factors. We will keep you informed of any modifications and provide updates as soon as they become available.

Apparatus	Order Month	Delivery
SPH100 Platform	Oct-2027	Oct 2028
Monarch Engine	Oct-2027	Oct 2028
Monarch Engine	Oct-2027	Oct 2028
Monarch Engine	Oct-2028	Oct 2029
Monarch Engine	Oct-2028	Oct 2029
Monarch Engine	Oct-2028	Oct 2029
Monarch Engine	Oct 2029	Oct 2030
SL100 Ladder	Oct-2030	Oct 2031
Monarch Engine	Oct-2030	Oct 2031
Monarch Engine	Oct-2031	Oct 2032
SL100 Ladder	Oct-2031	Oct 2032
SL100 Ladder	Oct-2031	Oct 2032

2. **PURCHASE PRICE:** Pricing will be based on the Manufacturer's Suggested Retail Price (MSRP) in effect at the time the order is placed. Upon receipt of the proposal outlining the purchase price, the Purchaser must issue and ensure receipt of a corresponding purchase order by Sutphen Corporation within thirty (30) calendar days of the proposal date. The final purchase price may be subject to negotiation but will be no less than the current MSRP, and may be adjusted based on market conditions, factory capacity, or any applicable federal, state, or local laws or regulations that impact manufacturing costs.

Changes to National Fire Protection Association ("NFPA") 1900, Environmental Protection Agency ("EPA") or changes legislated by Federal, State or Local Governments or changes in part availability or vendor relationships that impact the cost to manufacture the truck may incur additional charges which shall be borne by the purchaser. These may include but are not limited to changes that affect the major vendors of the fire apparatus industry such as pump manufacturers; seat manufacturers, electrical power supplies (generators) and powertrain (engine & transmission). Sutphen shall provide written notice to the Purchaser as soon as it reasonably believes any provision may be invoked. Sutphen shall provide, upon written request, documentation of such changes and increases.

Any such changes shall be documented in a change order carried out by both Sutphen and Purchaser.

3. **PAYMENT:** Final payment shall be made at the time of delivery of completed apparatus. Sutphen will provide early payment discount incentives at the time of execution of each individual project.

Florida's "Local Government Prompt Payment Act". Should payment be delayed, Sutphen reserves the right to charge interest at the rate of one percent (1%) per month, beginning on the day after payment is due.

4. **FINAL COMPLETION:** The apparatus and equipment being purchased shall be produced as shown in Section 1, provided that such delivery dates shall be automatically extended for delays beyond Sutphen's control, including, without limitation, strikes, labor disputes, riots, civil unrest, pandemics, war or other military actions, sabotage, government regulations or controls, fire or other casualty, or inability to obtain materials or services. If such delay occurs, Sutphen shall give notice of delay to Purchaser. The purchaser shall not be entitled to any discount or reduction in price for such a delay and Sutphen shall not be liable for any damages (compensatory, incidental, consequential or otherwise) related to such a delay.
5. **MANUFACTURER'S CERTIFICATE OF ORIGIN:** Delivery, payment, and transfer of the Manufacturer's Certificate of Origin (MCO) shall take place at Sutphen during final inspection, or upon payment in full in accordance with the terms of this Agreement. Sutphen reserves the right to withhold delivery of the MCO until payment in full is received. If Purchaser requires any third-party equipment mounting, the apparatus shall be moved to the third-party facility by the dealer or Purchaser for such mounting. Such third-party work shall not delay or offset payment to Sutphen.

6. **SUTPHEN WARRANTIES:** Sutphen warrants to Purchaser that all goods and services furnished hereunder will conform in all respects to the terms of this order, including any applicable change orders, drawings, specifications, or standards incorporated herein, and/or shall be free of defects in materials, workmanship, and free from such defects in design. In addition, Sutphen warrants that the goods and services, are suitable for and will perform in accordance with the purposes for which they were intended, for a period of one year from the Warranty Registration Date, unless an extended warranty is purchased.

Fire Apparatus come with a variety of warranties on various components used on a truck. Sutphen will provide a list of warranties prior to the purchase of each individual unit. These warranties will include but are necessarily limited to the following:

Cab Perforation Warranty
Body Warranty
Paint Warranty
Frame Rail Warranty
Water Tank Warranty
Engine Warranty
Transmission Warranty
Pump Warranty

7. **SHORTAGES AND OMISSIONS:** The apparatus shall be tested per NFPA #1900 at Sutphen's manufacturing facility. The purchaser agrees that the apparatus and equipment being purchased hereunder shall not be driven or used in any manner until it is paid for in full. In the event there are any shortages or omissions with the apparatus at time of completion, Purchaser may withhold a sum equivalent to the price of any such shortages as determined by Sutphen.
8. **DEFAULT:** In the case of any default in payment hereunder or in the payment on any notes, negotiable paper, obligations or other instruments issued by Purchaser, Sutphen may take full possession of the apparatus and equipment or of the piece or pieces upon which default has been made, and any payments that have been made theretofore shall be applied as rent in full for the use of the apparatus and equipment up to the date of taking possession by Sutphen.
9. **PURCHASER GUARANTEES:** With the signing of this agreement, Purchaser attests that it has the full power and legal authority to enter into this agreement and guarantees that funds for its purchase are available or in the process of collection.
10. **ACCEPTANCE:** This agreement shall not be binding until it is signed and approved by an officer of the Sutphen Corporation.

11. **TAXES, ETC.:** The purchase price provided for herein does not include any federal, state or local sales tax, duties, imposts, revenues, excise or other taxes which may hereafter be imposed by government authority or otherwise and which are made applicable to the apparatus or equipment covered by the agreement. In the event that any such taxes are subsequently imposed and become applicable, the purchase price herein shall be increased by the amount of such taxes and such sum shall be immediately paid by Purchaser to Sutphen. To the extent applicable, the prices and deliveries set forth herein are subject to the Defense Production Act.
12. **INSURANCE:** Sutphen shall provide insurance insuring the apparatus and equipment against loss by fire, theft, or collision and insuring against property damage and personal injury through the completion of the apparatus and transfer of the Manufacturer's Certificate of Origin.
13. **TERMINATION:**
Purchaser has the option to terminate the agreement with 30 days written notice. After the execution of a Purchase Order and Sutphen Proposal, Purchaser shall have no right to terminate the Purchase Order. Sutphen may, in its absolute and sole discretion, accept Purchaser's request to terminate the Purchase Order. In the event Sutphen accepts the Purchaser's request to terminate the Purchase Order, Sutphen may charge a cancellation fee. The following charge schedule based on costs incurred may be applied, at Sutphen's sole discretion: (a) 10% after purchase order is accepted by Sutphen; (b) 30% of the Purchase Price after production has commenced. The cancellation fee may increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Notwithstanding any other provision of this Agreement, the Customer's obligation to purchase trucks under this Agreement is contingent upon the availability of funds specifically appropriated for such purpose by the Customer's governing body or legislature. In the event that sufficient funds are not appropriated or otherwise legally available, the Customer shall provide Sutphen Corporation with prompt written notice. Any such termination shall apply only to the portion of the Agreement affected by the funding shortfall and shall not relieve the Customer of its obligation to pay for any fire apparatus already ordered. This termination shall not be deemed a breach or default by the Customer, provided the above conditions are met.
14. **GENERAL:** This agreement and the Sutphen Proposal provided herein take precedence over all previous negotiations, oral or written, and no representations or warranties are applicable except as specifically contained in this agreement or in the Sutphen Proposal. No alteration, modification, amendment or change of this Agreement shall be binding unless executed in writing by the parties. No waiver of any of the provisions of this Agreement shall be deemed a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. If a Purchase Order is also issued, this Agreement and the Sutphen Proposal Terms and Conditions shall supersede the terms in the Purchase Order where terms may be inconsistent. This Agreement may be signed in counterparts by the parties, each of which shall be deemed an original, but all of which together shall be deemed to

be one and the same Agreement. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto.

15. **GOVERNS:** This Agreement shall be governed and controlled as to interpretation, enforcement, validity, construction, effect and in all other respects by the laws, statutes and decisions of the State of Florida. Exclusive jurisdiction and venue for any litigation at all related to this in the Lee County Florida Court of Common Pleas, and the parties hereto consent and submit to the general jurisdiction of this court. All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by Sutphen, Purchaser, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed and attested by its duly authorized representatives, effective as of the date below when accepted at Sutphen Corporations offices.

**SALES REPRESENTATIVE OF
THE SUTPHEN CORPORATION**

By _____
Sales Representative

Accepted at offices of:
The Sutphen Corporation
6450 Eiterman Rd.
Dublin, Ohio 43016

By Shelby Sutphen Chambers
Title President
Date 5-21-25

By: [Signature] 5-21-2025
[Signature] Aleksandr Boksner
City Attorney

PURCHASER

City of Cape Coral

By [Signature] /ME
Title City Manager

Date 6/11/2025

By Kimberly Bunn
Title City Clerk

Date 6/11/2025

SUPPLEMENTAL TERMS & CONDITIONS

These Supplemental Terms and Conditions, effective as of March 28, 2025, amend and supplement the existing Fleet Purchase Agreement for Sutphen Fire Apparatus and apply to the purchase of Sutphen Fire Apparatus in addition to the original terms. These terms clarify and/or adding specific provisions, as outlined below, which are incorporated into the agreement.

ARTICLES

1. **ANNUAL APPROPRIATION**

The City's performance and obligation to pay under this contract is contingent upon annual an appropriation by the City Council.

2. **PUBLIC RECORDS**

The CITY is a public agency subject to Chapter 119, Florida Statutes. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICABILITY OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, AT (239) 574-0411, ctyclk@capecoral.gov, City of Cape Coral, 1015 Cultural Park Boulevard, Cape Coral, FL 33990.**

The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

Keep and maintain public records required by the public agency to perform the service;

Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;

Ensure that public records that are exempt or confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the CITY;

Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the

contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

4. IMMIGRATION AFFIDAVIT CERTIFICATION AND E-VERIFY VALIDATION:

As a condition precedent to entering into this CONTRACT and in compliance with The Immigration and Nationality Act (INA), 8 U.S.C. Section 1324a(e) Section 274A(e) and Florida Statute State Section §448.095, Contractor or Consultant and their subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021. The Employment Verification System (E-Verify) is operated by the Department of Homeland Security in partnership with the Social Security Administration.

A public agency must require in any contract that the contractor, and any subcontractor thereof, register with and use the E-Verify system to verify the work authorization status of all new employees of the contractor or subcontractor. A public agency or a contractor or subcontractor thereof may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

Contractor must include E-Verify Memorandum of Understanding (MOU) Verification document.

5. PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS IN GOVERNMENT CONTRACTING:

In accordance with Florida Statute 287.06701 the City may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor. An awarding body may not give preference to a vendor based on the vendor's social, political, or ideological interests.

6. SCRUTINIZED COMPANIES LIST:

Pursuant to 287.135 Florida Statute, s. 215.4725 and s. 215.473, A Company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency (state) or local governmental entity for goods or services of:

- a. Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or
- b. One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
 1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to s. 215.473; or
 2. Is engaged in business operations in Cuba or Syria.

7. **HUMAN TRAFFICKING:**

Pursuant to Florida Statute 787.06, when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in F.S. 787.06.