





## MERRIMACK FIRE RESCUE

432 Daniel Webster Highway  
Merrimack New Hampshire 03054  
603.424.3690 ♣ Fax 603.424.0603

**Fire Chief**  
Mark W. DiFronzo  
**Assistant Fire Chief**  
Richard N. Harris  
**Assistant Fire Chief**  
Shawn P. Brechtel

---

# Memo

**To:** Paul Micali, Town Manager  
**From:** Chief DiFronzo  
**CC:**  
**Re:** Fire Truck Purchase – Engine  
**Date:** April 13, 2023

Mr. Micali,

In reviewing the Capital Replacement Information the Town/Department is due to purchase an engine in 2024/2025.

Understanding the industry and delivery times the Department is taking a pro-active step to try and be consistent with apparatus replacement. The Department contacted the dealership that we have been working with to understand production and delivery times. The manufacturer is approximately 2 to 3 years in delivery of apparatus and price increases have occurred from when we purchased the engines in 2021. During our discussions, we also learned that there is a motor change within the industry. The motor we have spec'd out is expected to stop taking orders sometime in 2023. This new motor is expected to add an additional cost of approximately \$100,000 to the price of apparatus.

The costs for the Department to purchase, equip and outfit an engine comparable to the last purchase will be \$875,000.

With the production/delivery time up to 3 years away, it is imperative for the Town to place an order as soon as possible. Also, with the looming effects of a motor change adding additional costs, enhances the need to order now.

So that the Town/Department tries to meet the goals of the Capital Improvement Program, I am requesting the withdrawal of \$875,000.00 from the Capital Reserve Fund to purchase, equip and outfit an engine. According to the Finance Director, there would be enough in the account to cover the request.

If the Council approves of this request, there would be no payments required until delivery of the apparatus. By placing our order now, ensures us a spot in manufacture schedule and locks in the pricing.

If there are any questions, please feel free to let me know.

Sincerely,

Mark W. DiFronzo  
Fire Chief

Hi Paul,

The costs for new apparatus are as follows

Fire Truck = \$875,000.00

Ambulance = \$385,182.00

Attached is the quote for the Fire Truck order from Pierce. The cost of the truck is \$816,607.00. The remaining \$58,393.00 is to purchase hose, equipment, and radios for the truck. The current Engine 3 has been pretty much stripped of equipment for the other trucks. It also never had any radios purchased/installed. I am hoping that the \$58,393.00 will be enough to get us to (5) engines complete and in service.

I do not have documents from Professional Vehicles for the AEV Ambulance like we got from Allegiance/Pierce. The cost of the ambulance is \$279,285.00. The remaining \$105,897.00 is to purchase the Power Load stretcher system as well as the powered stretcher. (to replace them from a truck that will be around 10 years old) As well as other equipment that needs to be replaced.

Wasn't sure if you wanted this written up in "memo" form or not. . . . .

Let me know if you have any questions.

**Mark W. DiFronzo**  
**Chief of Department**  
**Merrimack Fire Rescue**  
[mdifronzo@merrimacknh.gov](mailto:mdifronzo@merrimacknh.gov)



**PURCHASE AGREEMENT**

This Purchase Agreement (together with all attachments referenced herein, the “Agreement”), made and entered into by and between Minuteman Fire and Rescue Apparatus, LLC. (DBA Allegiance Fire & Rescue) (“Dealer”), and Town of Merrimack a NH Municipality (“Customer”) and is effective as of the last date executed by both parties (the “Effective Date”).

- 1. Product.** Customer agrees to purchase the following product, as further described in the Dealer Proposal attached hereto as **Exhibit A** and incorporated herein (“**Product**”). The Product comes with all applicable manufacturers’ warranties from Pierce Manufacturing, Inc. (“**Pierce**”) and all makers of component parts or other equipment that is part of the Product. All such warranties are included in the Dealer Proposal and/or separately attached hereto as **Exhibit B**.
- 2. Purchase and Payment.** The Customer agrees to purchase the Product specified on Exhibit A for the total purchase price of **\$816,607.00** (“Purchase Price”). Prices are in U.S. funds.  
 In addition to the Purchase Price, Customer shall be responsible for paying for all added costs and expenses incurred by Dealer in the event that any state, federal or other regulatory agency (e.g. NFPA, DOT, EPA) requires any modifications to the Product. Dealer shall make reasonable efforts to advise the Customer of any such changes within a reasonable time and to provide Customer with documentation to support the required modifications.

Quantity	Description	Price Per Unit	Total Price
One (1)	Pierce ® Enforcer 1500 GPM Hale Medium	\$816,607.00	\$816,607.00
	Total		\$816,607.00

Payment is due upon delivery of product  
 The above amount reflects HGAC contract pricing.

Training Requirements: Standard

Other: 100% Performance Bond

- 3. Optional Product Changes.** Customer may request changes to the Product at any time by way of a written change order. Dealer will review the request and notify Customer of any resulting changes to the Purchase Price, Delivery dates or other terms of this Agreement that will result from the change order. Dealer may accept or reject the change order request. All change orders (including new pricing and delivery dates) must be signed by the parties to be effective.
- 4. Cancellation.** Customer may cancel this Agreement (or individual Units if the Product involves multiple Units in which event the cancellation fees are based on the portion of the Purchase Price for the subject Unit set forth in Section 1) prior to Delivery only by a written notice provided in accordance with Section 6. In such event, Customer shall pay Dealer the following cancellation fee as liquidated damages because actual damages would be difficult to ascertain and the following agreed upon fees are a reasonable estimate of actual damages: (a) 10% of the Purchase Price if cancellation occurs after Pierce enters the order for the Product on its computer system; (b) 20% of the Purchase Price if cancellation occurs after Pierce has completed draft Product drawings; and (c)

40% of the Purchase Price if cancellation occurs after Pierce makes any material requisition (i.e. orders material), plus an additional percentage as reasonably set by Dealer to account for additional costs and expenses incurred after material requisition, up to no more than 80% of the Purchase Price if cancellation occurs after substantial completion of the Product. Dealer shall have no obligation to mitigate damages. Customer hereby authorizes Dealer to deduct the cancellation fee from the Purchase Price being held by Dealer and return the remainder to Customer in exchange for a waiver and release of claims.

5. **Delivery, Inspection and Acceptance.** Due to global supply chain constraints, any delivery date contained herein is a good faith estimate as of the date of this order/contract, and merely an approximation based on current information. Delivery updates will be made available, and a final firm delivery date will be provided as soon as possible. Delivery of the Product is scheduled to be within 550-594 working days of the Effective Date, F.O.B. Merrimack Fire Rescue, NH Merrimack, NH. Risk of loss shall pass to Customer upon Delivery. Upon Delivery, Customer shall have ten (10) business days within which to inspect the Product and, in the event of substantial non-conformance, to furnish Dealer with detailed written notice sufficient to permit Dealer to evaluate any such non-conformance. Absent timely receipt of such notice of non-conformance, the Product shall be deemed in conformance and accepted by Customer. Time is of the essence with respect to such notice. Any Product not in substantial conformance shall be remedied by Dealer by putting Pierce on written notice of such non-conformance.
6. **Notices.** All notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by either hand delivery (notice deemed delivered upon receipt) or by registered, overnight mail (notice deemed delivered one business day after mailing):

**Dealer:**

Allegiance Fire & Rescue  
2181 Providence Highway  
Walpole, Massachusetts 02081  
Fax: 508-216-6368

**Customer:**

Town of Merrimack  
Merrimack Fire Rescue, NH  
432 Daniel Webster Hwy  
Merrimack, NH 03054-3614

7. **Warranty Disclaimer.** The Product comes with the warranties referred to in Section 1. Dealer itself provides no warranties whatsoever. TO BE CLEAR, NEITHER DEALER NOR, ITS AFFILIATES, AGENTS OR REPRESENTATIVES, MAKE ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCTS OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. STATEMENTS MADE BY SALES REPRESENTATIVES OR IN PROMOTIONAL MATERIALS DO NOT CONSTITUTE WARRANTIES.
8. **Force Majeure.** Dealer shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond Dealer's control which make Dealer's performance impracticable, including but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, pandemics or public health emergencies, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy or terrorism, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work.
9. **Indemnity.** Customer shall indemnify, defend and hold harmless the Dealer and all of its officers, directors, employees, representatives, agents and subcontractors, from and against any and all claims, costs, judgments, liability, loss, damage, attorneys' fees or expenses of any kind or nature whatsoever (including, but without limitation, relating to personal injury or death) caused by, resulting from, arising out of or occurring directly or indirectly in connection with Customer's purchase, operation, ownership, installation or use of Product (and/or any part of the Product such as attachments or apparatus). In the event of any claim, Customer shall engage



counsel for Dealer and Dealer shall allow Customer to direct the defense of such claim with counsel of Customer's choosing. Customer shall make good faith efforts to have Dealer dismissed from any lawsuit and shall otherwise not settle any such claim or alleged claim without first obtaining Dealer's written consent, which consent shall not be unreasonably withheld.

10. **Independent Contractors.** The relationship of the parties established under this Agreement is that of independent contractors and neither party is a partner, employee, agent, or joint venturers of or with the other.
11. **Entire Agreement / Amendments.** This Agreement (including Exhibits) contains the entire agreement between the parties regarding the Product. No representations, promises, agreements, or understandings, written or oral not contained herein shall be of any force or effect. This Agreement may only be amended or modified by a written agreement signed by both parties.
12. **Assignment.** Neither party may assign its rights and obligations under this Agreement unless it has obtained the prior written approval of the other party; provided, however, that Dealer may assign this Agreement as part of a public offering or the sale or transfer of all or substantially all of its assets.
13. **Severability.** The invalidity or un-enforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.
14. **No Waiver of Rights.** No waiver of any provision of this Agreement shall be enforceable unless in writing and signed by the waiving party. No waiver of any provision shall affect the validity or enforceability of any other provision.
15. **Governing Law / Jurisdiction.** Without regard to any conflict of law provisions, this Agreement is to be governed by and under the laws of the State of New Hampshire. The parties agree that any claim concerning this Agreement must be filed and adjudicated in state or federal courts located in the State of New Hampshire and such courts shall be the sole and exclusive venue for the adjudication of all claims under this Agreement. The parties hereby consent to personal and subject matter jurisdiction within the State of New Hampshire.
16. **Counterparts / Electronic Signatures.** This Agreement may be executed in one or more counterparts. The exchange of signed copies of this Agreement by facsimile or via .pdf by email will constitute effective execution and delivery of this Agreement and may be used in the lieu of the original Agreement for all purposes.

Accepted and agreed to:

**Dealer: Allegiance Fire & Rescue**

**Customer: Town of Merrimack**

Name: William O'Connor

Name: \_\_\_\_\_

Title: Vice President

Title: \_\_\_\_\_

Date: Mar 23, 2023

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_