

RESOLUTION NO. 6414-2022

RESOLUTION AUTHORIZING AN AMENDMENT TO THE VEHICLE REPLACEMENT RESERVE FUND FOR
THE REPLACEMENT PURCHASE OF ONE TYPE 3 WILDLAND FIRE ENGINE
in the City of Sebastopol, Sonoma County, California

WHEREAS, the current 1996 International Type 3 Wildland Fire Engine was purchased used from the Marin County Fire Department on February 28, 2014, for a bid price of \$12,000; and

WHEREAS, the current Type 3 Wildland Fire Engine has more than served its purpose for the Volunteer Firefighters of the Sebastopol Fire Department; and

WHEREAS, the Fire Department continues to have mechanical issues with costly repairs; and

WHEREAS, Current mileage/odometer is 124,500 miles; and

WHEREAS, Recently, the City spent \$21,000.00 for repairs brought on by age and use; and

WHEREAS, the Fire Department had solicited 3 quotes to purchase the Type 3 Wildland Fire Engine; and

WHEREAS, that during the budget preparation of FY21-22, the Fire Department has a placeholder of \$40,000 in the approved budget account 124-31-02-5100; and

WHEREAS, the Fire Department is requesting an additional budget amendment of \$349,242 in the Vehicle Replacement Reserve Fund account 104-31-02-5100 to authorize the replacement purchase, including all necessary paperwork, for one Type 3 Wildland Fire Engine.

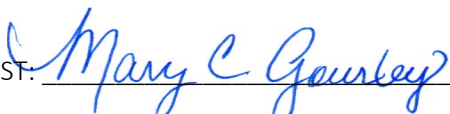
NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorize an amendment of \$349,242 in the Vehicle Replacement Reserve Fund and authorizes the City Manager to execute the replacement purchase, including all necessary paperwork, for one Type 3 Wildland Fire Engine

The above and foregoing Resolution was duly passed, approved, and adopted at a meeting by the City Council on the 15th day of March 2022, by the following vote:

VOTE:

Ayes: Councilmembers Glass, Gurney, Rich, Vice Mayor Hinton and Mayor Slayter
Noes: None
Absent: None
Abstain: None

APPROVED: 
Mayor Patrick Slayter

ATTEST: 
Mary Gourley, Assistant City Manager/City Clerk, MMC



Larry McLaughlin, City Attorney

February 3, 2022

Mr. Michael Elson, *Assistant Fire Chief*
Sebastopol Fire Department
7425 Bodega Avenue
Sebastopol, CA 95472

Dear Chief Elson:

I am enclosing our proposal for one (1) new BME Fire Trucks, LLC (BME) Model 34 Engine (CAL FIRE Tag-On). Based on your department's input, we have selected the *4X4 International Model HV507 SFA* chassis on which to base this proposal. Some of the noteworthy features you will find include:

- ✓ 360 horsepower Cummins L9 motor with an Allison EVS 3000 transmission
- ✓ 500 GPM Darley Model JMP two stage pump with 500-gallon water tank
- ✓ 150 GPM Darley 1.5 AGE auxiliary pump
- ✓ FoamPro 1600 single agent foam system

The cost of the unit described in this proposal is dependent on how the Department may choose to purchase it. As noted in the various options, BME deducts certain prepayment credits from the final invoice, depending on the selected purchasing option. Lease purchase options are available upon request which if elected, would allow you to take advantage of the **100% pre-payment pricing**. Lease purchases provide greater budget flexibility using customized repayment terms to meet the unique cash flow requirements of your organization. Please take a look at the information and figures enclosed.

The total price shown includes California Sales Tax at the rate of 9.25% and includes one (1) factory inspection trip as outlined in "Exhibit C". Price is based on delivery F.O.B. to the Sebastopol Fire Department at the address shown above.

If your Department elects to purchase the proposed apparatus and would like to sign a Contract, please let me know and I will have one drafted and send it to you for signing. Or if you prefer to purchase the proposed apparatus with a Purchase Order (PO), please address it to the following:

Golden State Fire Apparatus Inc.
7400 Reese Road
Sacramento, CA 95828

This quote will be valid until March 19, 2022. We appreciate the opportunity to submit this information and look forward to going over any questions you might have. Let me know if there is anything else I can do and feel free to give me a call anytime. My cell number is (530) 351-2151 and thank you again.

Sincerely,



Jon Bauer
Sales Consultant



FIRE TRUCKS

**PRODUCT
PROPOSAL**

Exhibit "A"

PROPOSAL PREPARED FOR:

Sebastopol Fire Department
7425 Bodega Avenue
Sebastopol, CA 95472

Submitted Date:	February 16, 2022
Proposal Number:	50216-22A
Expiration Date:	March 19, 2022
Sales Consultant:	Jon Bauer

We hereby propose and agree to furnish, after your acceptance of this proposal and the proper execution by the SEBASTOPOL FIRE DEPARTMENT, hereinafter called "Customer" and an officer of Golden State Fire Apparatus, Inc., hereinafter called "GSFA", the following fire apparatus and equipment, hereinafter called "Product":

#	Description	Unit Price
A	One (1) BME Fire Trucks, LLC. 4X4 International Model 34 Engine (CAL FIRE Tag-On)	304,259.53
B	One (1) CalFIRE lettering & striping package (Spec #4210-3619_LTR R1)	873.34
C	One (1) CalFIRE equipment package (Spec # 4210-3619-EQ)	5,850.24
D	One (1) CalFIRE radio wiring package (Spec # 4210-3819_EQ R1 Section 2)	2,678.48
E	One (1) Automatic Vehicle Locator (AVL) package (Spec # 4210-3819EQ R1 Section 3)	1,749.18
F	One (1) Additional Customer Modifications	48,009.45
G	Discount For 100% Pre-Payment at Time of Order	(7,144.73)
H	SUBTOTAL	356,275.49
I	9.25% State Sales Tax	32,995.48
J	California Tire Fee	10.50
K	GRAND TOTAL	389,241.47

PROPOSAL SUMMARY

This proposal includes the following items in accordance with the specifications hereto attached:

- Fire apparatus and equipment
- Delivery to GSFA service center in Sacramento
- Final Delivery to Customer head quarters
- Demonstration and familiarization of the Product

PRODUCT COMPLETION

Product shall be built in accordance with the specifications hereto attached, delays due to acts of God, strikes, war, or intentional conflict, failures to obtain chassis, materials, unusual weather conditions or other causes beyond GSFA's control not preventing, within approximately **24.75 MONTHS** after receipt of this order and the acceptance thereof at our Sacramento, California office. Within thirty (30) calendar days after receipt of this order and acceptance thereof, GSFA shall submit to Customer a production schedule including tentative pre-construction conference, final inspection and final delivery dates.

DELIVERY LOCATION

Product shall be shipped in accordance with the specifications hereto attached and be delivered to you at **SEBASTOPOL, CALIFORNIA**. Proof of insurance must be demonstrated by the Customer to GSFA prior to transferring of the Product(s).

ACCEPTING THIS PROPOSAL

In the event Customer wishes to purchase the Product described in this Proposal and the attached specifications, then, prior to the expiration date listed on page 2 of this Proposal, Customer shall sign and return this Proposal. Thereafter, GSFA and Customer will endeavor to enter into a purchase agreement incorporating this Proposal and including additional terms (a "Purchase Agreement"). If Customer returns a signed copy of this Proposal alone, GSFA will send Customer its form of Purchase Agreement for Customer's review and signature. If Customer desires to use its standard form of purchase order as the Purchase Agreement, then Customer should return a signed copy of this Proposal along with a copy of such purchase order. All purchase orders shall be made out to GSFA. GSFA will review such purchase order and contact the Customer regarding any required revisions. Only upon a full execution of a Purchase Agreement shall GSFA and Customer be obligated to purchase and sell the Product set forth in this Proposal.

TERMS AND CONDITIONS


The following Terms and Conditions are hereby made part of this Proposal:

- 1. Payment Terms (100% Pre-Payment at Time of Order)** – Customer shall pay the amount listed on page one of this Proposal, which includes: (i) the total price for the Product (the "Purchase Price"), (ii) the estimated state sales tax on the Product, and (iii) the California tire fee (together with the Purchase Price and estimated state sales tax, the "Grand Total") within fifteen (15) calendar days from the date on which the Purchase Agreement is fully executed. The proposed delivery timeframe for the Product, which is outlined on page one of this Proposal, shall not begin until full payment of the Grand Total is received. In the event Customer does not pay GSFA the Grand Total in the timeframe set forth in this Section 1, GSFA may, in its sole discretion, cancel the Purchase Agreement entered into between the parties.
- 2. Multiple Unit Purchase** – If the Purchase Price includes pricing for multiple units, the price stated on this Proposal shall only be valid if the quantity of Products being proposed are purchased at the same time, pursuant to the same Purchase Agreement.
- 3. Stock / Demo Units** – If applicable, any stock/demo units, including those identified by this Proposal, are available for sale on an as-is, first-come and first served-basis. Regardless of this Proposal, the first Customer to enter into a Purchase Agreement identifying any such stock/demo units shall obtain said units.
- 4. Order Changes** – The Customer may request that GSFA incorporate a change to the Product or the Specifications for the Product by delivering a written change order to GSFA, which shall include a description of the proposed change sufficient to permit GSFA to evaluate the feasibility of such change (a "Change Order"). GSFA will provide Customer a written response (a "Response") stating (i) whether GSFA will accommodate such Change Order (which GSFA may decide in its sole and absolute discretion) and (ii) the terms of the modification to the order, including any increase or decrease in the Purchase Price resulting from such Change Order, and any effect on production scheduling or Delivery resulting from such Change Order. Customer shall have seven (7) days after receipt of the Response to notify GSFA as to whether Customer desires to make the changes GSFA has approved in the Response. In the event Customer counter-signs GSFA's Response, Customer shall pay the increase (or be refunded the decrease) in the Purchase Price prior to final delivery to Customer location.
- 5. Force Majeure** – GSFA shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond GSFA's and manufacturer's control and which make GSFA's performance impracticable, including but not limited to wars, insurrections, strikes, riots, fires, storms, floods, 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.
- 6. Cancellation/Termination** – In the event Customer and GSFA enter into a Purchase Agreement and Customer thereafter cancels or terminates the Purchase Agreement, GSFA will charge a cancellation fee as follows: (a) 10% of the Purchase Price after order is accepted and entered by GSFA; (b) 20% of the Purchase Price after completion of the pre-construction phase of the order process; and (c) 50% of the Purchase Price after the requisition of any materials or commencement of any manufacturing or assembly of the Product by either GSFA or the manufacturer of the Product. The tier of cancellation fee applicable to any cancellation shall be in the sole and absolute discretion of GSFA.
- 7. State Sales Tax** – Customer shall be responsible for the cost of state sales tax associated with, or attributable to the Product. The taxes owed by Customer for the Product is subject to adjustment for the applicable state sales tax rate in effect when the Product is delivered to the Customer. Therefore, the sales tax will be increased or decreased at the time of delivery if a change in the sales tax rate has occurred, in which case Customer shall pay GSFA (or be refunded by GSFA) the applicable change in sales tax.
- 8. Proposal Expiration** – After the Expiration Date shown on page one of this Proposal, Customer shall require GSFA's written consent to accept this Proposal.
- 9. Governing Law** – This Proposal is to be governed by and under the laws of the state of California.

Thank you for providing Golden State Fire Apparatus, Inc. with the opportunity to provide this proposal. If you have any questions regarding the options presented or need additional options, please contact me.

Sincerely,

Jon Bauer
Golden State Fire Apparatus, Inc.

I,  Larry McLaughlin, City Manager
authorized representative of SEBASTOPOL FIRE DEPARTMENT agrees to purchase the proposed Product(s) and agree to the terms and conditions of this proposal and the specifications hereto attached.

SIGNATURE: 
TITLE: Sales Rep DATE: 2/3/22

PURCHASE AGREEMENT

This Purchase Agreement (together with all attachments referenced herein, the "Agreement"), is made and entered into by and between Golden State Fire Apparatus Inc., a California corporation ("GSFA"), and SEBASTOPOL FIRE DEPARTMENT ("Customer").

1. Product Proposal. Prior to entering into this Agreement, GSFA and Customer entered into a product proposal (the "Proposal"), which is attached hereto as Exhibit A and incorporated herein by reference. All of the provisions, terms, and conditions contained in the Proposal are incorporated into this Agreement, and any capitalized terms used in this Agreement but not expressly defined in this Agreement shall have the meanings ascribed to them in the Proposal. The provisions contained in the body of this Agreement are intended to supplement the terms and conditions contained in the Proposal.

2. Definitions.

- a. "**Product**" means the fire apparatus and any associated equipment listed on Exhibit A, attached hereto, and further described in the Specifications.
- b. "**Specifications**" means the specifications for the Product, which are set forth in Exhibit B, attached hereto.
- c. "**Delivery**" means the delivery of the Product to Customer by GSFA, as set forth in Section 9(a) of this Agreement.
- d. "**Acceptance**" means Customer's receipt of the Product, subject to the inspection provisions contained in Section 9 of this Agreement.

3. Purpose. This Agreement sets forth the terms and conditions of GSFA's sale of the Product to the Customer.

4. Term of Agreement. This Agreement will become effective on the date it is signed by both Customer and GSFA ("Effective Date") and, unless earlier terminated pursuant to the terms of this Agreement, it will terminate upon payment in full of the Purchase Price and Customer's Acceptance of the Product.

5. Purchase and Payment. The Customer agrees to purchase the Product specified on Exhibit A for the price shown on Exhibit A (the "Purchase Price") and pursuant to the payment terms set forth in Exhibit A.

6. Confirmation and Delivery Date. Within fourteen (14) days after the Effective Date, GSFA will provide Customer with a written confirmation (the "Confirmation Notice") of the order, a job order number, and the date on which GSFA will deliver the Product to Customer (the "Delivery Date") in accordance with Section 9 below.

7. Changes Required by New Standards. The Purchase Price shall be subject to increase in the event any governmental entity or trade association, including, but not limited to, the NFPA, DOT, and EPA, issues new regulations which pertain to the Product. GSFA shall promptly notify Customer when it becomes aware of any potential or required change in regulations that would impact the product purchased. In the event of any such change in the regulations, GSFA shall send Customer an invoice for any change to the Purchase Price, which, to the extent practicable, shall itemize any such price increases. The invoice will specify a commercially reasonable date by which Customer must pay the increase in the Purchase Price, subject to Customer's right to terminate as set forth in Exhibit A.

8. Order Changes. The Customer may request that GSFA incorporate a change to the Product or the Specifications for the Product by delivering a written change order to GSFA, which shall include a description of the proposed change sufficient to permit GSFA to evaluate the feasibility of such change (a "Change Order"). GSFA will provide Customer a written response (a "Response") stating (i) whether GSFA will accommodate such Change Order (which GSFA may decide in its sole and absolute discretion) and (ii) the terms of the modification to the order, including any increase or decrease in the Purchase Price resulting from such Change Order, a commercially reasonable date on which any increase in the Purchase Price must be paid, and any effect on production scheduling or Delivery resulting from such Change Order. Customer shall have seven (7) days after receipt of the Response to notify GSFA as to whether Customer desires to make the changes GSFA has approved in the Response. In the event Customer counter-signs GSFA's Response, Customer shall pay the increase (or be refunded the decrease) in the Purchase Price by the date specified in the Response.

9. Delivery, Inspection and Acceptance.

(a) Delivery. Delivery of the Product shall occur on or before the Delivery Date at the location listed in Exhibit A. Risk of loss shall pass to Customer upon Delivery. However, title to the Product shall only pass to Customer upon Delivery if Customer has then fully paid GSFA all amounts due hereunder. If Delivery occurs before Customer has fully paid all amounts due hereunder, Customer may not place the Product into service until all such amounts have been paid.

(b) Inspection and Acceptance. Upon Delivery, Customer shall have fifteen (15) days within which to inspect the Product for substantial conformance to the Specifications, and in the event of substantial non-conformance to the Specifications to furnish GSFA with written notice sufficient to permit GSFA to evaluate such non-conformance (“Notice of Nonconformance to Specifications”). Any Product not in substantial conformance to material Specifications shall be remedied by GSFA within thirty (30) days from the Notice of Nonconformance to Specifications. In the event GSFA does not receive a Notice of Nonconformance to Specifications within fifteen (15) days of Delivery, Product will be deemed to be in conformance with Specifications and accepted by Customer.

10. Manufacturer’s Statement of Origin. It is agreed that the manufacturer’s statement of origin (“MSO”) for the Product covered by this Agreement shall remain in the possession of GSFA until Customer has fully paid GSFA all amounts due for the Product and Delivery has occurred. In the event Delivery has occurred but Customer does not make timely payment, GSFA may take back possession of the Product, wherever located.

11. Notice. Any required or permitted 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 one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

GSFA:

Golden State Fire Apparatus Inc.
7400 Reese Road
Sacramento, CA 95828

Customer:

See Address in Exhibit A

12. Standard Warranty. Any applicable manufacturer warranties are attached hereto as Exhibit C and made a part hereof. Any additional warranties must be expressly approved in writing by GSFA.

a. Disclaimer. OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT, GSFA, ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES, DO NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCT PROVIDED HEREUNDER 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 CONSULTANTS OR IN PROMOTIONAL MATERIALS DO NOT CONSTITUTE WARRANTIES.

b. Exclusions of Incidental and Consequential Damages. In no event shall GSFA be liable for consequential, incidental or punitive damages incurred by Customer in connection with any matter arising out of or relating to this Agreement, or the breach thereof, regardless of whether such damages arise out of breach of warranty, contract, indemnity, whether resulting from non-delivery or from GSFA’s own negligence, or otherwise.

13. Indemnification of GSFA. Customer shall indemnify, defend, and hold harmless GSFA, its agents, servants, successors and assigns from and against all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatever nature (“Damages”) to the extent Damages arise out of Customer’s negligent use, storage, or operation of the Product following Delivery, regardless of where, how, and by whom operated. The indemnification and assumptions of liability and obligation herein provided shall continue in full force and effect notwithstanding the termination of this Agreement, whether by expiration of time, by operation of law or otherwise. This provision is not intended to constitute the exclusive remedy of the parties under this Agreement; the parties may seek indemnity from one another under other legal principals, whether based in equity or law, so long as they do not nullify or cancel the effects of this paragraph.

14. Force Majeure. GSFA shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond GSFA’s and manufacturer’s control and which make GSFA’s performance impracticable, including but not limited to wars, insurrections, strikes, riots, fires, storms, floods, 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.

15. Assignment. Neither party may assign its rights and obligations under this Agreement unless it has obtained the prior written approval of the other party.

16. Governing Law; Jurisdiction. Without regard to any conflict of laws provisions, this Agreement is to be governed by and under the laws of the state of California.

17. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original (including copies sent to a party by electronic transmission) as against the party signing such counterpart, but which together shall constitute one and the same instrument.

18. Entire Agreement; Amendments. This Agreement, including its exhibits, is the exclusive agreement between the parties for the Product. No change in, modification of, or revision of this Agreement shall be valid unless in writing and signed by GSFA's authorized representative.

Accepted and agreed to:

GSFA:

GOLDEN STATE FIRE APPARATUS INC.,
a California corporation

Name: _____

Title: _____

Dated: _____

CUSTOMER:



SEBASTOPOL FIRE DEPARTMENT

Name: Larry McLaughlin

Title: City Manager

Dated: March 16, 2022