VERSION 1.0

BOARD OF DIRECTORS WORK SESSION

August 1, 2018

SUPERSTITION FIRE & MEDICAL DISTRICT BOARD

TODD HOUSE, BOARD CHAIRMAN

GENE GEHRT, BOARD CLERK

JEFF CROSS, BOARD DIRECTOR

JASON MOELLER, BOARD DIRECTOR

LARRY STRAND, BOARD DIRECTOR

Superstition Fire & Medical District

Board of Directors Work Session Agenda

August 1, 2018

Mission Statement

Preserve Life ~ Protect Property ~ Add Value to *OUR* Community

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PURSUANT TO A.R.S. §38.431.02

Notice is hereby given to the General Public that the Superstition Fire & Medical District Governing Board will hold a work session on **Wednesday, August 1, 2018**. The meeting will be held at the Superstition Fire & Medical District's Administrative Office, located at 565 N. Idaho Road, Apache Junction, Arizona. The meeting will be open to the public and will begin at 2:00 p.m. local time.

A. Call to Order
B. Pledge of Allegiance
C. Roll Call

The following agenda items are scheduled for discussion at the work session. The Governing Board may or may not decide to take action on any or all items. The order of the agenda items may or may not be taken in the order listed.

1. **Discussion on Policy 102.16: Earned Leave. (BOD #2018-08-01)**

2. **Discussion and possible revision of current Procurement Policy to address Contracts and to ensure all Contracts contain required ARS verbiage. (BOD #2018-08-02)**

3. **Discussion and possible approval of the purchase of Lexipol. (BOD #2018-08-03)**

4. **Discussion and possible approval of a 3-year agreement with TSI, Inc. for PortaCount calibration which is associated with the District's SCBA equipment. (BOD #2018-08-04)**

5. **Call to the Public. (BOD #2018-08-n/a)**
   A.R.S. §38-431.01(H) A public body may make an open call to the public during a public meeting, subject to reasonable time, place, and manner restrictions, to all individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter, or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

6. **Adjourn (BOD #2018-08-05)**

NOTICE: The Governing Board may go into executive session for the purpose of obtaining legal advice from the fire district's attorney(s) on any of the above agenda items pursuant to A.R.S. 38-431.03(A)(3).
One or more members of the governing board may attend the meeting telephonically.
Governing Board meeting agenda dated and posted (at least 24 hours before the scheduled meeting date and time):

Posted on July 26, 2018
At: 1730 Hours
By: Sherry Mueller

The Superstition Fire & Medical District (SFMD) Administrative Office Board Meeting Room is accessible to the handicapped. In compliance with the American with Disabilities Act (ADA), those with special needs, such as large-type face print or other reasonable accommodations may request those through the SFMD Administration Office (480-982-4440) at least twenty-four hours before the board meeting.

Governing Board WORK SESSION Meeting – August 1, 2018
Agenda Item: #1
BOD#: 2018-08-01

Agenda Item Title
Discussion and possible action regarding the District's Policy 102.16: Earned Leave.

Submitted By
Fire Chief Mike Farber

Background/Discussion
Staff and Labor would like the Board to consider changes to the current Earned Leave Policy.

Staff's and Labor's position is that changes in the District's current Earned Leave Policy regarding Sick Leave Payout and Minimum Vacation Usage will result in a greater perceived "value" by employees of their accrued sick leave leading to less sick usage and possibly less overtime cost, and save backfill overtime costs related to the minimum 72 vacation usage policy.

Financial Impact(s)/Budget Line Item
TBD

Enclosure(s)
District Policy 102.16: Earned Leave

Recommended Motion
"TBD"

Go To Item 2

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Administrative Policy	Series: 102	Volume I: Administrative Policy	
	102.16: Earned Leaves		
	Effective Date: 2005	Revision Date: July 2016	
	Approved by: Administrative Services		

Policy

Full-time, part-time, and contract employees are eligible for various types of leave as provided by the SFMD compensation and benefit plan. Leaves are provided by the SFMD as benefit to its employees for the purpose as specified within these rules.

A. Holiday Leave

The SFMD recognizes ten (10) annual holidays as indicated below:

New Year's Day	***Labor Day***
Civil Rights Day	***Columbus Day***
Presidents Day	***Veterans Day***
Memorial Day	***Thanksgiving Day***
Independence Day	***Christmas Day***

B. Holiday Pay for 56-hour employees

Full time 56-hour employees are provided additional compensation, equal to 12 hours of regular pay, when the employee works their normally scheduled shift on any of the 10 annual holidays listed above.

1. **Work Trades:**
   a. The employee requesting the work trade will receive the additional compensation.
   b. The employee accepting the work trade will not receive the additional compensation.

C. Observance of Holiday for 40-hour personnel

Monday-Thursday Schedule:

1. **Holidays occurring on a Friday or Saturday will be observed on the preceding Thursday.**
2. **Holidays occurring on a Sunday will be observed on the following Monday.**

D. Additional vacation leave (formerly "Floating Holiday")

1. **56-hour employees will receive an additional 24 hours of vacation leave at the beginning of each fiscal year.**
2. **40-hour employees will receive an additional 10 hours of vacation leave at the beginning of each fiscal year.**

SFMD employees must adhere to the "Minimum Vacation Leave" section of the "Vacation Leave Administration" policy shown below.

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Vacation Leave Administration *(updated March 2016)*

Vacation will be granted to all full-time employees under the following circumstances:

A. 56-Hour Employees

1. 56-hour employees will begin to accrue vacation leave from date of hire, and is available for use immediately after receiving their first paycheck.
    a. Emergency Vacation leave is available on a case by case basis and must be communicated with the employee's supervisor prior to use.
2. Employees must have enough accrued hours to cover the entire vacation leave requested.
3. Employees may not schedule vacation leave more than one-year in advance through Telestaff.
4. Employees may not schedule vacation leave based on hours they will accumulate in the future.
5. The vacation block requested must be available and the request should be made at the appropriate time prior to the start of shift/work day depending on the division the employee is assigned.

B. 40-Hour Employees

1. 40-hour employees will begin to accrue vacation leave from their date of hire and is available for use immediately after receiving their first paycheck.
    a. Emergency Vacation leave is available on a case by case basis and must be communicated with the employee's supervisor prior to use.
2. Employees must have enough accrued hours to cover the entire vacation leave requested.
3. Employees may not schedule vacation leave more than one-year in advance.
4. Employees may not schedule vacation leave based on hours they will accumulate in the future.
5. The vacation block requested must be available and the request should be made at the appropriate time prior to the start of shift/work day depending on the division the employee is assigned.

Vacation Leave Guidelines

A. 56-Hour employees

56-hour employees must request vacation leave, within Telestaff, at least 12 hours prior to the start of the requested leave.

1. If it becomes necessary to request vacation time after the 12 hours prior to the start of the requested leave, the employee must contact the BC for consideration and approval.
    a. It is the responsibility of the employee to ensure the vacation leave request is approved on Telestaff, does not have an asterisk (*), and does not exceed the maximum allowable number of personnel for vacation each shift day.
2. Three (3) shift personnel will be authorized to take vacation leave per shift day.
    a. The Battalion Chief will not count against any vacation leave positions.
    b. The CCU Captain will not count against the 3 authorized vacation positions per day. **This is a pilot program and will be reviewed as necessary**
    c. Employees on military leave will not count towards the 3 vacation positions

per day.

3. One (1) Transportation Services Personnel (TSP) will be authorized to take vacation leave per shift day. This spot is independent of other positions and specific only to TSP.
4. SFMD employees on uncompensated leave will not accrue vacation during those pay periods.

B. Vacation request with an Asterisk (*)

1. 56-hour employees may request vacation leave in excess of the three (3) personnel per shift day, but their request will have an asterisk (*) on Telestaff and will be considered to be on a waiting list.
2. Telestaff will time stamp the request. In the case of a cancellation of vacation leave, the employee with the earliest request will be granted the approved vacation leave.
3. The on-duty Battalion Chief, or designee, will update Telestaff and approve the vacation.
    a. It will be the employee's responsibility to notify the on-duty Battalion Chief of any vacation leave cancellations, in order to make any necessary changes or approvals to Telestaff.
4. Telestaff does not automatically approve vacation leave which has an asterisk (*) in the event of a vacation leave cancellation.
    a. It is possible that another employee could take approved (not asterisked) vacation leave while other personnel are on the waiting list. Please be courteous and use good communication when cancelling vacation.
    b. In the event of a vacation leave cancellation which is taken by another employee (not on waiting list), it may become necessary for the Battalion Chief or designee to evaluate the circumstances and determine the rightful employee in which to approve the vacation leave for.

It is important for the Battalion Chief and BSO to monitor the Telestaff roster often in order to anticipate these types of situations.

C. 40-Hour Employees

1. 40-hour civilian/public safety personnel must get supervisor approval for all vacation leave requests.
2. 40-hour civilian/public safety personnel must give at least 12-hour advance notice to their respective supervisor for any vacation leave request.
3. The SFMD employees on uncompensated leave will not accrue vacation during those pay periods.

Minimum Vacation Leave

A. 56-Hour Employees

1. 56-hour employees must schedule vacation leave in a minimum of a 4-hour block and .25 hour increments thereafter.
    a. Exception: hours taken between 1900 and 0700 must be taken as one block.
        i. Requests at or after 1900 hrs must be taken for the entire block.
        ii. Requests for vacation starting prior to 1900 hrs are held to 4 hr block minimum
2. 56-hours employees must use a minimum of 72 hours of scheduled vacation per fiscal

year.

a. If the employee is above the annual vacation leave cap (450 hrs.)
    i. Any unused hours will be subtracted from the hours eligible for an employee's Earned Leave Buy Out (ELBO).
b. If the employee is below the annual vacation leave cap (450 hrs.)
    i. Any unused hours will be subtracted from the employees accrued vacation leave.

B. 40-Hour Employees

1. 40-hour employees must use vacation leave in a minimum of a one (1) hour block and .25 hour increments thereafter.
2. 40-hour employees must use a minimum of 30 hours of vacation per fiscal year.
    a. If the employee is above the annual vacation leave cap (320 hrs)
        i. Any unused hours will be subtracted from the hours eligible for an employee's Earned Leave Buy-Out (ELBO).
    b. If the employee is below the annual vacation leave cap (320 hrs)
        i. Any unused hours will be subtracted from the employees accrued vacation leave.

Vacation Leave Lottery

A. 56-Hour Employees

1. SFMD has identified the following shift days that will be considered a "lottery".
    a. July 4th
    b. Thanksgiving
    c. Christmas Eve
    d. Christmas Day
2. Each January, each shift BC will administer a lottery based draw for each of the holidays which fall on their respective shift(s) during that calendar year.
3. If shift personnel wish to participate, they will be asked to submit an email to their BC with their request to be part of the lottery.
4. The BC should administer the lottery by the end of January or as soon as reasonably possible.
5. The BC will administer the lottery and communicate the results to the entire shift.
6. The BC will contact the Telestaff administrator to place those employees selected by the lottery into Telestaff as approved vacation leave.
7. A lottery list will be maintained by each BC in the case of a vacation leave cancellation or the staffing changes that result in a vacated vacation leave slot.

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Vacation Leave Accumulation & Accrual *(Updated November 2017)*

Months Service	Years Service	40-Hour Civilians		42-Hour Civilians		56-Hour Public Safety & Civilians	
		Hours Per Pay Period	Days Per Year	Hours Per Pay Period	Days Per Year	Hours Per Pay Period	Days Per Year
0-24	0-2	3.97	10.32	4.17	9.04	7.10	7.69
25-36	2-3	4.42	11.49	4.64	10.05	7.48	8.10
37-48	3-4	4.86	12.64	5.10	11.05	7.85	8.50
49-60	4-5	5.31	13.81	5.58	12.09	8.22	8.91
61-72	5-6	5.75	14.95	6.04	13.09	8.60	9.32
73-84	6-7	6.18	16.07	6.49	14.06	8.97	9.72
85-96	7-8	6.62	17.21	6.95	15.06	9.35	10.13
97-108	8-9	7.06	18.36	7.41	16.06	9.72	10.53
109-120	9-10	7.52	19.55	7.90	17.12	10.09	10.93
121-132	10-11	7.96	20.70	8.36	18.11	10.47	11.34
+132	11+	8.40	21.84	8.82	19.11	10.87	11.78

Board Approval:

Gene Gehrt, Board Clerk

November 15, 2017
Date

BOD #: 2017-11-04

Vacation Leave Caps & Earned Leave Buy-Out (ELBO)

56-Hour & 40-Hour Employees

1. The annual cap for accrued vacation leave for 56-hour public safety and civilian employee's hours is 450 hours.
2. The annual cap for accrued vacation leave for 40-hour civilian and public safety employees is 320 hours.
3. Earned Leave Buy-Out (ELBO) will be any vacation hours that are accrued in excess of the established caps.
4. Annual ELBO payouts for vacation leave will be calculated at the employee's current hourly rate as of June 15th each year. Payment of any approved ELBO will occur in the last paycheck of June each year.
5. Vacation leave may not be converted to a dollar amount.

Work Schedule Change

An employee transferred to a different work schedule (56hr vs 40hr) will accrue vacation according to the accrual rate based upon the new schedule.

Separation from Service Payment

Upon separation from service (resignation, termination, retirement) the employee shall be entitled to all accrued vacation leave, paid on an average of their last 5 years on their final paycheck. In case of death, payment shall be paid to the beneficiary or executor of the employee's estate.

Sick Leave (Revised April 2017)

Sick leave with pay is provided as a benefit in recognition that employees contract various illnesses from time-to-time and that their financial resources may be diminished in such instances if pay is discontinued. Moreover, coming to work sick may not be in the best interest of the employee or their fellow employees.

Sick Leave Administration

Sick leave will be granted to all full-time and part-time employees under the following conditions:

A. Earned paid sick time shall be provided to an employee by an employer for an employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;

B. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care;

C. Due to domestic violence, sexual violence, abuse or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

   1. Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual violence, abuse or stalking;
   2. Services from a domestic violence or sexual violence program or victim services organization;
   3. Psychological or other counseling;
   4. Relocation or taking steps to secure an existing home due to the domestic violence, sexual violence, abuse or stalking; or
   5. Legal services, including but not limited to preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual violence, abuse or stalking.

D. For purposes of this policy family member means:

   1. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;
   2. A biological, foster, step parent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;
   3. A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;
   4. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
   5. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

E. Any other reason authorized by Arizona law.

Sick Leave Reporting and Documentation

A. 56-hour employees will not be granted sick leave more than 24 hours prior to the start of a 24 hour shift.

B. 56-hour employees shall report sick leave in Telestaff no later than 0530 the morning of their shift. If the employee is unable to access Telestaff, the employee must contact the on-duty BC/BSO on the BC office phone at 480-982-1750 no later than 0530.

C. 40-hour employees shall notify their immediate supervisor no later than 30 minutes prior to work shift.

D. Sick employees are generally expected to remain at home unless they are hospitalized, visiting their doctor, or acting pursuant to a physician's instructions for care. Employees are prohibited from engaging in any other employment while on sick leave.

E. A medical release from a licensed physician may be required for sick leave absences that exceed three (3) or more consecutive work/shift days. The work release must be submitted to the Assistant Chief of Administrative Services or designee prior to the employees return to work and shall include the nature of the illness or injury, any treatment involved, and if the employee is fit to return to duty.

F. The physician's medical release must be approved by Assistant Chief of Administrative Services, or designee, before the employee may return to work. Medical expenses incurred for this visit are the responsibility of the employee.

G. New-hire probationary employees who must use sick leave anytime during their probationary year may be required to provide an explanation (of their reason for using sick leave) to their immediate supervisor in writing upon returning to work

H. New employees (less than two years employment) who suffer an unforeseen catastrophic or otherwise debilitating illness or injury that requires extensive use of sick leave beyond that which the employee has accumulated may be eligible for an advance in sick leave. Eligible employees must request this benefit through their chain of command. Every effort will be made to provide a reasonable accommodation to employees and each request will be handled on a case-by-case basis.

I. The Fire District reserves the right to require a physician's medical examination (at the Fire District's expense) to confirm an employee's illness/injury or their return to duty fitness. In order to be accountable for the health and welfare of all employees.

    1. 40-hour employees expecting to be on sick leave in excess of two (2) working days must notify their immediate supervisor and provide an estimated return to work date.
    2. 56-hour personnel expecting to be on sick leave in excess of two (2) 24-hour shifts must notify the on-duty BC or BSO on the battalion office phone, in addition to making the necessary changes in Telestaff.

Failure of the employee to follow the Sick Leave Reporting and Documentation procedure may result in the following:

A. First Offense

The employee will be considered absent without leave until he or she arrives at work. 56-hour employees will be assigned a "no pay" status in Telestaff for the period not worked until he or she arrives at work, up to a maximum of 24 hours.

56-hour employees who will potentially be absent without leave beyond the 24 hour maximum will be required to obtain an appropriate work-trade or submit for vacation leave to cover any remaining shift hours unless that person qualifies for sick leave in accordance

with this SOG.

40-hour employees will not be paid for absent time as FLSA non-exempt employees are only paid hours worked.

- First offense employees may also be placed in a corrective action plan, at management's discretion.

B. Second Offense in a 36-month period

The employee will be considered absent without leave until he or she arrives at work. 56-hour employees will be assigned a "no pay" status in Telestaff for the period not worked until he or she arrives at work, up to a maximum of 24 hours.

56-hour employees who will potentially be absent without leave beyond the 24 hour maximum will be required to obtain an appropriate work-trade or submit for vacation leave to cover any remaining shift hours unless that person qualifies for sick leave in accordance with this SOG.

40-hour employees will not be paid for absent time as FLSA non-exempt employees are only paid hours worked.

- The employee should also be subject to a written reprimand and/or progressive discipline when warranted.

C. Third Offense in a 36 month period

The employee will be considered absent without leave until he or she arrives at work. 56-hour employees will be assigned a "no pay" status in Telestaff for the period not worked until he or she arrives at work. 40-hour employees will not be paid for absent time as FLSA non-exempt employees are only paid for their hours worked.

- Employees should also receive a written reprimand and one (24 hr.) shift / (10 hr.) day suspension without pay, to be served as soon as possible. Hours counted previously as "no-pay" will not count toward this requirement. Additionally, the employee should be placed on a one-year disciplinary probation and subject to a "last chance agreement" and may be required to provide a medical release from a physician prior to returning to duty.

D. Fourth Offense in a 36 month period

The employee will be considered absent without leave until he or she arrives at work. 56-hour employees will be assigned a "no pay" status in Telestaff for the period not worked until he or she arrives at work. 40-hour employees will not be paid for absent time as FLSA non-exempt employees are only paid for their hours worked.

- An employee who violates this SOG a fourth time in a 36-month period will be placed on Administrative Leave with pay pending termination.

E. At the discretion of the Fire Chief, employees who exhibit a pervasive pattern of non-compliance with the *Sick Leave Reporting and Documentation* procedure that extends beyond the 36-month timeframe may also be considered a failure to adhere to the policy and therefore subject to any of the aforementioned consequences. Consideration should be given to the number, frequency and nature of the occurrences.

Sick Leave Abuse

The SFMD considers sick leave abuse to be a very serious situation/offense. Excessive sick leave use for example, may be indicative of serious underlying personal or emotional problems, requiring intervention from district leadership or trained peer support professionals. Other forms of sick leave

abuse have the potential to cause significant disruptions to District programs and operations and often result in elevated labor costs.

A. Supervisors are responsible for monitoring the sick time use of employees assigned to them on an on-going basis to ensure that each employee's sick leave usage is within acceptable parameters.

B. Superstition Fire & Medical will periodically conduct a review of sick leave use for all district employees. Excessive or repetitive patterns of use (e.g. used on specific days of the week, sick leave used in combination with other days off, leave used prior to retirement, etc.) may be indications of abuse.

C. Supervisors who identify the existence of a pattern of sick leave use and/or the contention that the alleged pattern indicates abuse are expected to counsel their employee, and if necessary, refer the issue up the chain of command.

D. Where the Fire Chief, or other supervisor, alleges the existence of a pattern of sick leave use and/or the contention that the alleged pattern indicates abuse, such members may be required to participate in a sick leave use meeting.

    1. 56-hour employees will meet with their direct supervisor and the Assistant Chief of Emergency Services, or Fire Chief's designee.
    2. 40-hour employees will meet with their direct supervisor and the Assistant Chief of Administrative Services, or Fire Chief's designee.

E. The purpose of these meetings is essentially an employee "welfare check", in other words, to better understand the conditions driving the excessive use of sick leave and to ensure the employee and/or their family are in an acceptable state of emotional and physical health. Moreover, this time may also be used to: educate employees regarding the proper use of sick leave; assist employees with applying for and using FMLA (when indicated); and educating the employee regarding potential consequences of continued episodes of excessive sick leave and/or sick leave abuse.

F. Because it is sometimes difficult to differentiate between appropriate use of sick leave and sick leave abuse, supervisors may be left to rely on their professional discretion or observations when making this determination. In other cases, metrics may be used to guide management in making the distinction between use and abuse. For instance, employees with greater than two (2) years of service that have a current sick leave balance less then twenty-five percent (25%) of their possible maximum, may be abusing sick leave and therefore required to participate in a sick leave use meeting.

G. Once a meeting has been held, if a justifiable reason for the sick leave balance is identified, the employee will not have to justify their sick leave use for that occurrence. However, if it is determined that the sick leave use was or may be considered sick leave abuse the employee may be placed on an Excessive Sick Leave Use Performance Improvement Plan (PIP).

H. Components of an Excessive Sick Leave Use Performance Improvement Plan may include: periodic meetings with the employee's supervisor and/or members of the employees chain of command; requirement to provide medical release, for their supervisors review, from a physician for any or all uses of sick leave during the timeframe stated in the PIP; being precluded from receiving overtime.

I. Failure by a supervisor to adequately address the issue of excessive sick leave use with their employee shall be considered a failure to perform his/her supervisory duties.

J. Failure to adhere to the Performance Improvement Plan, further occurrences of abuse or egregious incidents of abuse may be grounds for discipline, up to and including termination.

Duty to Act

Any employee becoming aware or having knowledge of misuse of sick leave should notify their immediate supervisor immediately. Subsequently, any supervisor receiving notification of a potential SOG violation should immediately report the notification to their direct supervisor.

Sick Leave Accumulation and Accrual *(Updated November 2017)*

A. 40-hour civilian and public safety employees will earn sick leave at rate of 4.64 hours per pay period.

B. 42-hour employees will earn sick leave at a rate of 4.87 hours per pay period.

C. 56-hour public safety employees will earn sick leave at a rate of 6.25 hours per pay period.

D. Effective July 1, 2017; Part-Time employees will accrue 1 hour of sick leave per each 30 hours worked.

E. During pay periods of uncompensated leave, such as no-pay situations, suspension or leave of absences, sick leave will not be accrued.

Board Approval:

Gene Gehrt, Board Clerk

November 15, 2017
Date

BOD #: 2017-11-04

Sick Leave Caps and Payouts

A. The annual cap for accrued sick leave for 56-hour public safety employee's hours is 1,460 hours.

B. The annual cap for accrued sick leave hours for 40-hour civilian and public safety employees is 1040 hours.

C. Annual board approved ELBO payouts for sick leave hours accrued over the established caps will be calculated at the employee's current hourly rate as of June 15th each year. Payment of any approved ELBO will occur in the last paycheck of June each year.

D. Board approved ELBO payouts for accrued sick leave below the cap, as of the employees official retirement date, will be paid at 50% of the individual's accrued total sick leave hours, with the employees hourly rate being calculated as the average hourly rate for the five years preceding the employees approved (official) retirement date.

E. Board approved ELBO payouts for accrued sick leave above the cap, as of the employees official retirement date, will be paid at 60% of the individual's accrued total sick leave hours, with the employees hourly rate being calculated as the average hourly rate for the five years preceding the employees approved (official) retirement date.

F. Retirement is defined as retiring from PSPRS or ASRS.

G. No accrued sick leave will be paid upon resignation or termination.

Leave Donation

This SOG establishes a program for the donation of accrued leave to employees who, due to a serious illness or injury to self or immediate family have used all accrued paid time off, need further time off, and work in a full-time capacity.

A. An employee can submit a request in writing to his/her supervisor to be placed in the Leave Donation Program when the employee has less than 40 combined hours remaining in all paid time off categories. Requests must then be forwarded to the appropriate Assistant Chief.

B. Any SFMD Assistant Chief or designee may approve the employees request to participate in the Leave Donation Program for an employee with the employee's verbal or written consent.

C. To qualify, employees must have an approved Family Medical Leave (FMLA) case, an FMLA case pending approval or other special medical circumstance.

D. If an FMLA case is denied the employee may, at the Fire Chief's discretion, be removed from the Leave Donation program.

E. When a qualified SFMD employee has exhausted all other leave, members of the SFMD may transfer their personal vacation or sick leave hours to the requesting employee.

F. Upon approval, the Assistant Chief of Administrative Services or designee will notify the organization by email that an employee has qualified for donated leave.

G. Employees wishing to donate leave must notify the Assistant Chief of Administrative Services in writing to authorize the donation of leave hours.

H. No more than fifty percent of the donating employee's leave may be gifted to another employee.

I. Eligible donations will remain confidential. However, a copy of the donor's request will be placed in their employee file.

J. An employee may not donate leave time to their immediate supervisor unless special circumstances exist that may be considered and authorized by the Fire Chief or designee.

K. Donations will be made hour for hour. For example, one (1) hour of donated leave will be debited from the donors account and credited to the receiving employees leave bank. All donated leave will be given in one (1) hour increments.

L. Upon returning to work, any unused donated leave shall be credited back to the donating employee(s).

M. The Fire Chief or designee may make exceptions for employees who do not meet the written criteria for enrollment in the donated leave program. Exceptions will be issued in writing and signed by the Fire Chief or designee.

Summary

The SFMD is committed to providing a competitive employee benefit package and paid sick leave is an important component of that. SFMD encourages and supports the use of sick leave when it meets the spirit and intent of this SOG. It also offers a market competitive program that rewards employees who responsibly manage sick leave accruals throughout their career.

The misuse and abuse of sick leave, or any of its related programs, may have serious implications to both the employee and the organization. For example, misuse and abuse of sick leave may result in

depleted staffing levels, diminished productivity, significant overtime costs, reduced training capacity, as well as adverse personnel actions such as corrective-action and discipline.

Governing Board WORK SESSION Meeting – August 1, 2018
Agenda Item: #2
BOD#: 2018-08-02

Agenda Item Title
Discussion and possible revision of current Procurement Policy to provide the Fire Chief with a specified level of authority to approve contracts and agreements.

Submitted By
Fire Chief Mike Farber

Background/Discussion
Current District Policy and practice is for all contracts and agreements, regardless of financial impact, be presented to the Governing Board for approval. Each agreement or contract that is presented to the Board is currently submitted to the District's outside counsel for review and approval.

Staff's position is that the current Policy / practice that all contracts and agreements, regardless of financial impact, must be approved by the Board is leading to significant delay in the implementation of agreements / contracts that are a small part of the District's annual costs. In addition, the cost of legal fees associated with legal review of every agreement/ contract, combined with significant Admin staff time facilitating the legal review, makes the approval of smaller contracts / agreements cost prohibitive.

Staff is recommending that the Board consider and approve providing the Fire Chief with the authority to approve contracts and/or agreements that are:

1. In aggregate over the term of the agreement or contract, valued at less than $15,000.
2. The materials and/or service being purchased was included in the annual fiscal budget.
3. The Fire Chief will communicate all contracts / agreements approved by the Fire Chief to the Board at the monthly Board meetings.

Financial Impact(s)/Budget Line Item
N/A

Enclosure(s)
SFMD Procurement of Supplies, Equipment, Materials and Services revised in June 2014

Recommended Motion
"Motion to authorize the Fire Chief with the authority to approve contracts and/or agreements valued at $15,000 in total financial cost, that the cost of the materials and/or service being purchased was included in the annual fiscal budget, and that the Fire Chief will report all contracts / agreements approved at the monthly Board meetings."

Go To Item 3

Go to Agenda

Policy	Policy:	Volume X: Board of Directors
	Subject: Procurement of Supplies, Equipment, Materials and Services	
	Effective Date:	Revision Date: June 2014
	Approved By: Board of Directors	

Purpose

Establishes policy and procedure for the procurement of supplies, equipment, materials and services necessary for the effective and efficient provision of services to the community and applies to all personnel directly or indirectly involved with the procurement of such supplies, equipment, materials or services for the Superstition Fire & Medical District (SFMD).

General

It is the fiduciary responsibility of SFMD's Board of Directors (BOD) to ensure that public funds are expended in such a manner that best benefits the public and the community. To accomplish this, the Fire Chief develops a budget document each fiscal year for BOD adoption. The budget document establishes the public policy of SFMD through the allocation of public funds. The Fire Chief is responsible to ensure that the expenditure of public funds throughout the fiscal year coincides with the BOD's public policy initiatives.

Policy

It is the policy of SFMD to ensure that all expenditures for the procurement of supplies, equipment, materials and services are authorized in the SFMD budget, properly encumbered and accounted for, and that a complete history of each expenditure transaction is established. Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of SFMD. Violation of these regulations and the policy shall carry such penalties as may be applicable under state laws and in accordance with SFMD personnel policies.

Policy	Policy:	Volume X: Board of Directors
	Subject: Procurement of Supplies, Equipment, Materials and Services	
	Effective Date:	Revision Date: June 2014
	Approved By: Board of Directors	

Procedure

A. Authorized Personnel

1. Up to $2,999 – Budget Managers, Battalion Chiefs, Executive Assistants, Fleet Manager and Facilities Specialist
2. $3,000 - $4,999 – A combination of two (2) of the following: Fire Chief or Assistant Chief and Finance Manager approval
3. $5,000 - $24,999 – Three (3) Written Bids and a combination of two (2) of the following: Fire or Assistant Chief and Finance Manager approval
4. $25,000 and Greater – Three (3) Written Bids, a combination of two (2) of the following: Fire or Assistant Chief and Finance Manger approval **AND BOD Approval**

B. Purchase Order (PO) Methods

1. Standard PO – Regardless of dollar amount

   A PO must be completed for each procurement request.

   It is SFMD's intent that a PO be prepared completely with all required approval signatures prior to the purchase of goods or services. However, in instances where an item (goods or service) is needed for SFMD to protect the public, an approved PO can (and must) be submitted after the purchase has occurred. The buyer/purchaser is to ensure all applicable taxes and fees are included in the total amount of expenditure documented in the PO.

   Each purchase shall be made from the vendor offering the lowest ***responsible*** price quote. "Responsible" is defined as the best combination of price, warranty, locale, compatibility and/or cost of repair. On all purchases the buyer should take into consideration warranty, local businesses and workmanship. If the lowest bid isn't the best value for SFMD, the buyer is to bring forward supporting documentation as to why a higher bid should be considered.

   When using State Contracted vendors on items $5,000 or greater, still follow the three (3) written bid process. If a vendor comes in with a lower responsible quote, they can be used even though they are not State Contracted.

2. **Annual** PO

   An Annual PO is used for a procurement which is recurring, frequent, or monthly from a specific vendor during the fiscal year. An Annual PO

number will be issued by Accounting to the awarded vendor and will be utilized throughout the fiscal year. In June of each year, Accounting will create a list of all Annual PO's for the upcoming fiscal year for Department Head review and approval. This method does not preclude competitive quote and bid requirements. This method only applies to the procurement of supplies equipment, materials and services as described on the Annual PO(s).

3. **Contract** PO
   A Contract PO is used for the procurement of goods or services through competitive bidding for a specific term per the contract. A Contract PO number will be issued by Accounting for the awarded contract vendor/agency and will be utilized throughout the contract term date.

C. Waiver of Competition

Although competition may be waived pursuant to this section, the use of competition is required wherever practical. Competition (quotes/bids) may be waived for the following conditions:

- Government, State Contract & Inter-Governmental Agency Agreement **(Contract # and Agency must be on PO)**
- Single source procurement **(attach supporting information)**
- Emergency action **(explanation to Governing BOD within 72 hours)**
- Competition solicited with no offers
- Standardization/Compatibility requirements
- Education, training, experimental, developmental, research work
- Equipment already installed, connected, and in service, and it is determined advantageous to purchase equipment
- Items are subject to rapid price fluctuation or immediate acceptance **(attach supporting information)**

D. Other Means of Procuring Goods and Services

1. Credit Card
   The use of Credit Cards must follow all Procurement Policy guidelines as listed above. A PO must be prepared for all credit card purchases and all appropriate receipts must be provided to Accounting.

2. Expense Reimbursement
   Employees seeking reimbursement for required and authorized expenditures must:
   - Complete a SFMD Personal Expense Reimbursement Form.
   - Attach all receipt(s) to the form.
   - If mileage, a map with miles to and from must be attached.
   - Must have Department Head approval prior to submission to Accounting for payment.

   Expense reimbursement payments will be made at the amounts set by federal or state regulations. Expense reimbursement requests must be submitted within the fiscal year of expense.

LAW OFFICES
BOYLE, PECHARICH, CLINE, WHITTINGTON & STALLINGS, P.L.L.C.

Robert S. Pecharich
William R. Whittington
John C. Stallings
Donald C. Zavala, Jr.
Jonathan A. Millet

125 North Granite Street
Prescott, Arizona 86301
Telephone: (928) 445-0122
Facsimile: (928) 445-8021
www.prescottlawoffices.com

G. Eugene Neil
Bryon M. Ackerman
Nancy Hargiss–Tatlock
Stephen W. Polk
Hans N. Clugston, Of Counsel
James P. Boyle, Jr. (1913–2003)
Barry B. Cline (1938–2016)
Serving Arizona since 1950

May 8, 2018

Via Email
Mike Farber, Interim Fire Chief
565 N. Idaho Road
Apache Junction, AZ 85119
mike.farber@sfmd.az.gov

Re: Small Contract Addendums

Dear Chief Farber:

As a follow up to our discussion, please find enclosed 3 forms of small contract addendum (Small Construction Projects, Materials Vendors, and Professional Services). Typically, these can be used in conjunction with contracts of a lesser value (less than $15,000). They are intended to allow the District to enter into small contracts without the need to run everything by our office.

I recommend that we discuss them a bit after the next Board meeting.

Should you have any questions, please feel free to contact us.

Sincerely,

BOYLE, PECHARICH, CLINE,
WHITTINGTON & STALLINGS, P.L.L.C.

William R. Whittington

WRW/aro
Enclosure

ADDENDUM TO AGREEMENT

(MATERIALS VENDORS)

This Addendum, made and entered into effective this ___ day of _____, 201__, is added to that certain Agreement dated the _____ day of _____, 20___, by and between Superstition Fire & Medical District, a political subdivision of the state of Arizona (hereinafter "SFMD") and _____ (hereinafter "Vendor"), to include the following provisions, the same as if said provisions were contained in the body of said document.

1. Termination: SFMD may terminate this Agreement pursuant to the provisions of A.R.S. §38-511.

2. Non-Discrimination: Vendor warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. The Vendor shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, Genetic Information Nondiscrimination Act of 2008.

3. Non-appropriation: This Agreement shall be subject to available funding for SFMD, and nothing in this Agreement shall bind SFMD to payment for damages in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

4. Third Party Antitrust Violations: Vendor assigns to SFMD any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Vendor toward fulfillment of this Agreement.

5. Other Agreements: This Agreement in no way restricts either party from participating in similar activities with other public or private agencies, organizations, and individuals.

6. Limitations: Nothing in this Agreement shall be construed as limiting or expanding the statutory responsibilities of the parties.

7. Interpretation: This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto. This Agreement is the result of negotiations between, and has been reviewed by, each of the parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of, or against any one of, the parties hereto.

8. Governing Law: This Agreement shall be construed and interpreted under the laws of Arizona.

9. Arbitration: To the extent permitted, the parties agree to resolve any dispute arising out of this Agreement by arbitration, making use of the Uniform Rules of Arbitration as adopted by the State of Arizona.

The undersigned Vendor hereby certifies that it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of Israel.

This Addendum shall be effective on and from the day and year first above written. To the extent this Addendum conflicts with or is inconsistent with any term of the original Agreement referenced above, this Addendum shall control. In all other respects and manner, the original Agreement entered into by and between the parties shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Superstition Fire & Medical District this ___ day of _____, 201__.

SUPERSTITION FIRE & MEDICAL DISTRICT, a political subdivision of the State of Arizona

By: _____
Board Chair

ATTEST:

_____
Board Clerk

VENDOR

By: _____

Name: _____

Its: _____

ADDENDUM TO AGREEMENT

(SMALL CONSTRUCTION PROJECTS)

This Addendum, made and entered into effective this ___ day of _____, 201__, is added to that certain Agreement dated the ____ day of _____, 20___ between Superstition Fire & Medical District, a political subdivision of the state of Arizona (hereinafter "SFMD") and _____ _____ (hereinafter "Contractor"), to include the following provisions, the same as if said provisions were contained in the body of said document.

1. Termination: SFMD may terminate this Agreement pursuant to the provisions of A.R.S. §38-511.

2. Limits of Liability: Notwithstanding any provision or proposal to the contrary, the Contractor's liability shall not be limited to the amount of its fees, but instead the Contractor shall be liable for any damages as a result of Contractor's negligent acts or omissions."

3. Indemnification: To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless SFMD, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Agreement by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

4. Non-Discrimination: Contractor warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. The Contractor shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, Genetic Information Nondiscrimination Act of 2008.

5. Legal Arizona Workers Act Compliance: If applicable, Contractor is required to comply with A.R.S. §41-4401, and hereby warrants that it will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the requirements of A.R.S. §23-214(A) (together the "state and federal immigration laws"). Contractor further agrees to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

   A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the party who breaches may be subject to penalties up to and including termination of the Agreement.

   SFMD retains the legal right to inspect the papers of any contractor or subcontract employee working under the terms of the Agreement to ensure that the other party is complying with the warranties regarding compliance with the state and federal immigration laws.

6. Non-appropriation: This Agreement shall be subject to available funding for SFMD, and nothing in this Agreement shall bind SFMD to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

7. Third Party Antitrust Violations: Contractor assigns to SFMD any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Contractor toward fulfillment of this Agreement.

8. Other Agreements: This Agreement in no way restricts either party from participating in similar activities with other public or private agencies, organizations, and individuals.

9. Limitations: Nothing in this Agreement shall be construed as limiting or expanding the statutory responsibilities of the parties.

10. Relationships: In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing here in or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the District and the Contractor.

11. Interpretation: This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto. This Agreement is the result of negotiations between, and has been reviewed by, each of the parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of, or against any one of, the parties hereto.

12. Governing Law: This Agreement shall be construed and interpreted under the laws of Arizona.

13. Arbitration: To the extent permitted, the parties agree to resolve any dispute arising out of this Agreement by arbitration, making use of the Uniform Rules of Arbitration as adopted by the State of Arizona.

14. Insurance: The Contractor shall purchase (and maintain) from a company or companies lawfully authorized to do business in Arizona such insurance as will protect the Contractor and SFMD from claims set forth below which may arise out of or result from the Contractor's operations under the parties' Agreement and for which the Contractor or SFMD may be legally liable, whether such operations be by the Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them:

a. claims under Workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed; (the Contractor and all subcontractors of Contractor shall furnish to SFMD duly executed forms as prescribed by the Arizona Industrial Commission showing that Workmen's Compensation and Occupational Disease Insurance is in full force and effect);

b. claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

c. claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

d. claims for damages arising out of the employment with the Contractor;

e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;

f. claims for professional errors or omissions, where applicable;

g. claims for damages because of bodily injury or death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and

h. claims involving Contractor's obligations of indemnity under the parties' agreement.

The insurance required by this section shall be written in an amount of not less than $1,000,000 single claim and $2,000,000 aggregate limit of liability. SFMD shall be listed as an additionally named insured, as to items b-h above. The Contractor shall submit to SFMD a certificate evidencing such insurance coverage with the provision for SFMD to be given 30 days notice prior to cancellation or nonrenewal of the policy during the course of the project. Said insurance shall be maintained and in force during the life of the project anticipated in this Agreement and for at least six (6) months after the date of completion of the services anticipated under this Agreement.

The undersigned Vendor hereby certifies that it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of Israel.

This Addendum shall be effective on and from the day and year first above written. To the extent this Addendum conflicts with or is inconsistent with any term of the original Agreement referenced above, this Addendum shall control. In all other respects and manner, the original Agreement entered into by and between the parties shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Superstition Fire & Medical District this ___ day of _____, 201__.

SUPERSTITION FIRE & MEDICAL DISTRICT, a political subdivision of the State of Arizona

By: _____
Board Chair

ATTEST:

_____
Board Clerk

CONTRACTOR

By: _____

Name: _____

Its: _____

ADDENDUM TO AGREEMENT

(PROFESSIONAL SERVICES)

This Addendum, made and entered into effective this ___ day of _____, 201__, is added to that certain Agreement between Superstition Fire & Medical District a political subdivision of the state of Arizona (hereinafter "SFMD") and _____ (hereinafter "Vendor"), to include the following provisions, the same as if said provisions were contained in the body of said document.

1. Termination: SFMD may terminate this Agreement pursuant to the provisions of A.R.S. §38-511.

2. Limits of Liability: Notwithstanding any provision or proposal to the contrary, the Vendor's liability shall not be limited to the amount of its fees, but instead the Vendor shall be liable for any damages as a result of Vendor's breach of Agreement or negligent acts or omissions.

3. Indemnification: To the fullest extent permitted by law, Vendor shall defend, indemnify, and hold harmless SFMD, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Agreement by the Vendor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Vendor may be legally liable.

4. Non-Discrimination: Vendor warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. The Vendor shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and the Genetic Information Nondiscrimination Act of 2008.

5. Legal Arizona Workers Act Compliance: Vendor is required to comply with A.R.S. §41-4401, and hereby warrants that it will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the "state and federal immigration laws"). Vendor further agrees to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

   A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the party who breaches may be subject to penalties up to and including termination of the Agreement.

   SFMD retains the legal right to inspect the papers of any contractor or subcontract employee working under the terms of the Agreement to ensure that the other party is complying with the warranties regarding compliance with the state and federal immigration laws.

6. Non-appropriation: This Agreement shall be subject to available funding for SFMD, and nothing in this Agreement shall bind SFMD to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

7. Third Party Antitrust Violations: Vendor assigns to SFMD any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Vendor toward fulfillment of this Agreement.

8. Other Agreements: This Agreement in no way restricts either party from participating in similar activities with other public or private agencies, organizations, and individuals.

9. Limitations: Nothing in this Agreement shall be construed as limiting or expanding the statutory responsibilities of the parties.

10. Relationships: In the performance of the services described herein, the Vendor shall act solely as an independent contractor, and nothing here in or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the District and the Vendor.

11. Subcontracting: The Vendor may not assign this Agreement or subcontract to another party for performance of the terms and conditions hereof without the written consent of the SFMD, which shall not be unreasonably withheld.

12. Interpretation: This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto. This Agreement is the result of negotiations between, and has been reviewed by, each of the parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of, or against any one of, the parties hereto.

13. Governing Law: This Agreement shall be construed and interpreted under the laws of Arizona.

14. Arbitration: To the extent permitted, the parties agree to resolve any dispute arising out of this Agreement by arbitration, making use of the Uniform Rules of Arbitration as adopted by the State of Arizona.

15. Insurance: The Vendor shall purchase (and maintain) from a company or companies lawfully authorized to do business in Arizona such insurance as will protect the Vendor and SFMD from claims set forth below which may arise out of or result from the Vendor's operations under the parties' Agreement and for which the Vendor may be legally liable, whether such operations be by the Vendor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

    a. claims under Workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed; (the Vendor and all subcontractors of Vendor, on request shall furnish to SFMD duly executed forms as prescribed by the Arizona Industrial Commission showing that Workmen's Compensation and Occupational Disease Insurance is in full force and effect);

    b. claims for damages because of bodily injury, occupational sickness or disease, or death of the Vendor's employees;

    c. claims for damages because of bodily injury, sickness or disease, or death of any person other than the Vendor's employees, where attributable to Vendor's act or omission;

    d. claims for damages as a result of personal injury, whether or not arising out of the employment with the Vendor;

    e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;

    f. claims for professional errors or omissions;

    g. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and

    h. claims involving Vendor's obligations of indemnity under the parties' agreement.

The insurance required by this section shall be written in the amount of not less than $1,000,000 single claim and $2,000,000 aggregate limit of liability. SFMD shall be listed as an additionally named

insured, as to items b-f above. The Vendor shall submit to SFMD, if requested, a certificate evidencing such insurance coverage with the provision for SFMD to be given 30 days notice prior to cancellation or nonrenewal of the policy during the course of the project. Said insurance shall be maintained and in force during the life of the project and for at least six (6) months after the date of completion of the services anticipated under this Agreement.

16. Termination for Convenience: The SFMD reserves the right to terminate the Agreement, in whole or in part at any time, when in the best interests of the SFMD without penalty or recourse. Upon receipt of the written notice, the Vendor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the SFMD. In the event of termination under this paragraph, all documents, data and reports prepared by the Vendor under the Agreement shall become the property of and be delivered to the SFMD upon demand. The Vendor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

The undersigned Vendor hereby certifies that it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of Israel.

This Addendum shall be effective on and from the day and year first above written. To the extent this Addendum conflicts with or is inconsistent with any term of the original Agreement referenced above, this Addendum shall control. In all other respects and manner, the original Agreement entered into by and between the parties shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Superstition Fire & Medical District this ___ day of _____, 201__.

SUPERSTITION FIRE & MEDICAL DISTRICT, a political subdivision of the State of Arizona

By: _____
Board Chair

ATTEST:

_____
Board Clerk

VENDOR

By: _____

Name: _____

Its: _____

Governing Board WORK SESSION Meeting – August 1, 2018
Agenda Item: #3
BOD#: 2018-08-03

Agenda Item Title
Lexipol Purchase

Submitted By
Assistant Chief Rick Ochs

Background/Discussion
Lexipol is a Risk Management Solution that provides comprehensive, legally defensible, state – specific **policy and daily training for Fire agencies.** This includes regular policy updates in response to changing statutes, laws, regulations and best practices. Lexipol also includes web based daily training to key personnel up to date and compliant with our policies.

The Lexipol Software has been budgeted for in the 2018/2019 Fiscal Year budget.

SLT is seeking approval to purchase the software on July 1, 2018 contingent upon final budget approval, so that we may expedite the implementation process.

Financial Impact(s)/Budget Line Item

Annual Subscription Fee	$8,213.00
Implementation Fee	$6,950.00 (one time cost)
Total cost:	**$15,163.00**

Budget Line: 200-70-73520-15

Recommended Motion
"Motion to purchase the Lexipol Subscription"

Lexipol

PREDICTABLE IS PREVENTABLE®

AGREEMENT FOR USE OF SUBSCRIPTION MATERIAL

Agency's Name: **Superstition Fire & Medical District**

Agency's Address: **565 N. Idaho Rd.**

Apache Junction, AZ 85119

Attention: **Richard Ochs**

Lexipol's Address: 16755 Von Karman Avenue, Suite 250

Irvine CA 92606-4918

Attention: **Rosie Curran**

Effective Date: _____

(to be completed by Lexipol upon receipt of signed Agreement)

The Agreement for Use of Subscription Material is between Lexipol, LLC, a Delaware limited liability company ("***Lexipol***"), and the Agency identified above. The Agreement consists of (a) this cover sheet; (b) ***Exhibit A*** (Subscriptions Being Purchased and Subscription Fees) attached to this cover sheet (consisting of 1 page), and (c) ***Exhibit B*** (General Terms and Conditions) attached to this cover sheet (consisting of 5 pages). Capitalized terms that are used in Exhibit A and not defined therein shall have the respective meanings given to them in Exhibit B.

AGENCY	**LEXIPOL, LLC**
Signature: _____	Signature: _____
Print Name: _____	Print Name: Van Holland
Title: _____	Title: Chief Financial Officer
Date Signed: _____	Date Signed: _____

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Lexipol
PREDICTABLE IS PREVENTABLE

EXHIBIT A

SUBSCRIPTIONS BEING PURCHASED AND SUBSCRIPTION FEES

Agency is purchasing the following:

PRODUCT	TERM	PRICE
AZ Fire Subscription including Daily Training Bulletins	Annual	$ 9,126.00
High Influencer Discount	One Time	($ 913.00)
Procedural Shell for Volume II	Annual	$ 1,646.00
Procedural Shell for Volume II Discount	Annual	($ 1,646.00)
Support+ Implementation 100 hours 13900 value	OneTime Fee	$ 6,950.00
Total		**$ 15,163.00**

Pricing is based on

☐ Law Enforcement - No. of Authorized Sworn Officers _____ (insert #)

☐ Custody - No. of Beds _____ (insert #)

☑ Fire - No. of Authorized Staff 100 (insert #)

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Lexipol
PREDICTABLE IS PREVENTABLE

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. Definitions. For purposes of this Agreement, each of the following terms will have the meaning indicated in this Section:

1.1 Agency's Account. "***Agency's Account***" means the account by which Agency accesses the Subscription Materials.

1.2 Agreement. "***Agreement***" means (a) the cover sheet to which these General Terms and Conditions are attached, (b) Exhibit A (Subscriptions Being Purchased and Subscription Fees) attached to that cover sheet, and (c) these General Terms and Conditions.

1.3 Initial Term/Contract Year. ***"Initial Term"*** means the twelve-month period commencing on the Effective Date and "***Contract Year***" means each twelve-month period commencing on each anniversary of the Effective Date, except as may otherwise be modified by Section 2.1 Term below.

1.4 Derivative Work. "***Derivative Work***" means a work that is based on the Subscription Material or any portion thereof, such as a revision, modification, abridgement, condensation, expansion, or any other form in which the Subscription Material or any portion thereof may be recast, transformed, or adapted. For purposes of this Agreement, a Derivative Work also includes any compilation that incorporates any portion of the Subscription Material. Further, "***Derivative Work***" includes any work considered a "derivative work" under United States copyright law.

1.5 Effective Date. "***Effective Date***" means the date specified on the cover sheet to which these General Terms and Conditions are attached.

1.6 Subscription Materials. "***Subscription Materials***" means the policy manuals, supplemental policy publications, daily training bulletins and other materials provided by Lexipol to Agency from time to time during the term of this Agreement under the subscriptions purchased by Agency as specified in Exhibit A.

2. Term and Termination.

2.1 Term. This Agreement is effective upon the execution and delivery of this Agreement by both Lexipol and Agency, and shall continue in effect until the expiration of the Initial Term; provided, however, that the term of this Agreement will automatically be extended for successive one-year periods thereafter (each a Contract Year), unless either party gives written notice to the other party to the contrary not less than thirty (30) days prior to the expiration of the Initial Term or the then current Contract Year, as the case may be. Notwithstanding the foregoing, however, this Agreement will be subject to termination as provided in Section 2.2 below.

2.2 Termination. This Agreement may be terminated by either party, effective immediately, (a) in the event that the other party fails to discharge any obligation or remedy any default under this Agreement for a period of more than thirty (30) calendar days after it has been given written notice of such failure or default; or (b) in the event that the other party makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to the bankruptcy laws of any applicable jurisdiction.

2.3 Effect of Expiration or Termination. Upon the expiration or termination of this Agreement, all of the rights granted to Agency by this Agreement to the subscriptions identified on Exhibit

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A shall automatically terminate. The termination or expiration of this Agreement shall not, however, relieve either party from any obligation or liability that has accrued under this Agreement prior to the date of such termination or expiration. The right to terminate this Agreement pursuant to Section 2.2 above shall be in addition to, and not in lieu of, any other remedy, legal or equitable, to which the terminating party shall be entitled at law or in equity. The provisions of Sections 1 (Definitions), 4 (Copyright; Derivative Works; Lexipol's Ownership), 5 (Right to Use; Limitations on Use of Subscription Material and Derivative Works), 7 (Privacy Policy), 8 (Policy Adoption), 9 (Disclaimer of Liability), 10 (Limitation of Liability), 13 (Miscellaneous), and this Section 2.3 shall survive the expiration or termination of this Agreement for any reason whatsoever.

3. Subscription Fees, Etc.

3.1 Subscription Fee/Invoicing. Lexipol will invoice Agency at the commencement of the Subscription Service (Initial Term) and thirty (30) days prior to the date for each Contract Year (refer to 2.1 above). Agency will pay to Lexipol the subscription fee specified on Exhibit A within thirty (30) days following Agency's receipt of the invoice for such subscription and renewal fees. All invoices will be sent to Agency at the address for Agency specified on the cover sheet to which these General Terms and Conditions are attached. All payments will be made to Lexipol at the address for Lexipol specified on the cover sheet to which these General Terms and Conditions are attached. Lexipol reserves the right to increase pricing for subsequent Contract Years.

3.2 Taxes; Past Due Amounts. All amounts required to be paid under this Agreement, unless otherwise stated on Exhibit A, are exclusive of all taxes and similar fees now in force or enacted in the future imposed on the subscriptions purchased by Agency under this Agreement and/or delivery by Lexipol to Agency of Subscription Material, all of which Agency will be responsible for and will pay in full, except for taxes based on Lexipol's net income. In the event any amount owed by Agency is not paid when due, and such failure is not cured within ten (10) days after written notice thereof from Lexipol, then in addition to any other amount due, Agency shall pay a late payment charge on the overdue amount at a rate equal to the lower of (a) one percent (1%) per month, or (b) the highest rate permitted by applicable law.

4. Copyright; Derivative Works; Lexipol's Ownership. Agency acknowledges and agrees that the Subscription Material is a proprietary product of Lexipol, protected under U.S. copyright law, and that Lexipol reserves all rights not expressly granted in this Agreement. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants Agency the right to prepare Derivative Works, except as limited by the terms of this agreement; provided, however, that Agency acknowledges and agrees that Lexipol will be the sole owner of all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto, and Agency hereby assigns and transfers to Lexipol all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto. Agency will not remove from any copies of the Subscription Material provided by Lexipol to Agency any copyright notice or other proprietary notice of Lexipol appearing thereon, and shall include such copyright and other notices at the appropriate place on each copy of the Subscription Material and each copy of any Derivative Work made by or for Agency, in any form.

5. Right to Use; Limitations on Use of Subscription Material and Derivative Works.
Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants to Agency a perpetual, personal, fully paid-up, right to use, except as limited by the terms of this agreement the Subscription Material and any Derivative Works prepared by or for Agency, solely for the Agency's internal purposes. Agency will not use, copy, republish, lend, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means or medium, electronic or mechanical, or by any information storage and retrieval system, any Subscription Material or any Derivative Work prepared by or for Agency other than as expressly authorized by the immediately preceding sentence. Without limiting

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the generality of the foregoing, Agency will not import, upload, or otherwise make available any Subscription Material or any Derivative Work prepared by or for Agency into or onto any third party knowledge, document, or other content management system or service without Lexipol's prior written consent. The foregoing does not, however, prohibit or restrict Agency from providing Subscription Material or Derivative Works prepared by or for Agency pursuant to an order from a court or other governmental agency or other legal process, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, nor does it prohibit or restrict Agency from displaying the adopted/approved final policy document on a publicly accessible website for official Agency purposes, so long as Agency includes the appropriate copyright and other proprietary notices on such final policy document as required by Section 4 above.

6. **Account Security**. Agency is solely responsible for maintaining the confidentiality of Agency's user name(s) and password(s) and the security of Agency's Account. Agency will not permit access to Agency's Account, or use of Agency's user name(s) and/or password(s) by any person or entity other than authorized Agency personnel. Agency will immediately notify Lexipol in writing if Agency becomes aware that any person or entity other than authorized Agency personnel has used Agency's Account or Agency's user name(s) and/or password(s).

7. **Privacy Policy.** Lexipol will hold all information Agency provides in confidence unless required to provide information in accordance with an order from a court or other governmental agency or other legal process such as a Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request. Lexipol will use commercially reasonable efforts to ensure the security of information provided by Agency. Lexipol's system also uses Secure Socket Layer (SSL) Protocol for browsers supported by Lexipol application(s). SSL encrypts information as it travels between the Agency and Lexipol. However, Agency acknowledges and agrees that Internet data transmission is not always 100% secure and Lexipol does not warrant or guaranty that information Agency transmits utilizing the Lexipol system or online platform is 100% secure.

Agency acknowledges that Lexipol may provide view-only access and summary information (including but not limited to, status of number of policies developed or in development, percentage of staff reviews of developed policies, and percentage of DTBs taken) to the Agency's affiliated Risk Management Authority, Insurance Pool or Group, or Sponsoring Association, if they are actively funding their member Agencies' Subscription Fees.

8. **Policy Adoption**. Agency hereby acknowledges and agrees that any and all policies and Daily Training Bulletins (DTBs) included in the Subscription Material provided by Lexipol have been individually reviewed, customized and adopted by Agency for use by Agency. Agency further acknowledges and agrees that neither Lexipol nor any of its agents, employees or representatives shall be considered "policy makers" in any legal or other sense and that the chief executive of Agency will, for all purposes, be considered the "policy maker" with regard to each and every such policy and DTB.

9. **Disclaimer of Liability**. In developing the Subscription Materials, Lexipol has made a good faith effort to comply with all applicable statutes, case law and industry standards in effect at the time such Subscription Materials are provided to Agency. While Lexipol has made such a good faith effort, Agency acknowledges and agrees that Lexipol its officers, agents, managers, and employees will have no liability to Agency or any other person or entity arising from or related to the Subscription Materials, or any act or omission by Agency or its personnel pursuant to, or in reliance on, any of the Subscription Materials.

10. **Limitation of Liability.** Lexipol's cumulative liability to Agency and any other person or entity for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement or the use of any Subscription Materials shall not exceed the subscription fees actually paid to Lexipol for the use of the Subscription Materials under this Agreement during the twelve-month period immediately prior to the assertion of such claim, demand or action. In no event shall Lexipol be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits, even if Lexipol has

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been advised of the possibility of such damages. The limitations set forth in this Section shall apply whether Agency's claim is based on breach of contract, tort, strict liability, product liability or any other theory or cause of action.

11. Non-Transferability. The subscriptions and rights to use the Subscription Material granted by this Agreement are personal to Agency and Agency shall not assign or otherwise transfer the same to any other person or entity.

12. Confidentiality. From time to time during the term of this Agreement, a party may be required to disclose information to the other party that is marked "confidential" or the like, or that is of such a type that the confidentiality thereof is reasonably apparent ("Confidential Information"). The receiving party will: (a) limit disclosure of any Confidential Information of the other party to the receiving party's directors, officers, employees, agents and other representatives (collectively "Representatives") who have a need to know such Confidential Information in connection with the business relationship between the parties to which this Agreement relates, and only for that purpose; (b) advise its Representatives of the confidential nature of the Confidential Information and of the obligations set forth in this Agreement and require such Representatives to keep the Confidential Information confidential and to use it only as permitted by this Agreement; (c) keep all Confidential Information confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information received by it to any third party (except as otherwise provided for herein). Notwithstanding the foregoing, however, a party may disclose Confidential Information of the other party pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, or similar method, provided that the party proposing to make any such disclosure will promptly notify, to the extent practicable, the other party in writing of such demand for disclosure so that the other party may, at its sole expense, seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Each party shall be responsible for any breach of this Section by any of such party's Representatives.

Miscellaneous.

13.1 Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.

13.2 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto and hereby expressly supersedes any and all prior written and oral agreements and understandings with respect to the subject matter hereof, including without limitation any and all agreements and understandings pertaining to the use of the Subscription Materials by Agency. No representation, promise, inducement, or statement of intention has been made by any party hereto that is not embodied in this Agreement. Terms and conditions set forth in any purchase order, or any other form or document of Agency, which are inconsistent with, or in addition to, the terms and conditions set forth in this Agreement, are hereby objected to and rejected in their entirety, regardless of when received, without further action or notification by Lexipol, and shall not be considered binding on Lexipol unless specifically agreed to in writing by it.

13.3 Headings. The captions and other headings contained in this Agreement are for convenience only and shall not be considered a part of or affect the construction and interpretation of any provision of this Agreement.

13.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

13.5 Amendment. No amendment, modification, or supplement to this Agreement shall be binding unless it is in writing and signed by the party sought to be bound thereby.

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13.6 Attorneys' Fees. If any action is brought by either party to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorneys' fees and expenses of litigation.

13.7 General Interpretation. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person or entity.

13.8 Notices. Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given by personal delivery, by certified mail, postage prepaid, or by recognized overnight delivery service to the appropriate party at the address of such party stated on the cover sheet to which these General Terms and Conditions are attached, or such other address as such party may indicate by a notice delivered to the other party in accordance with the terms of this Section. Alternatively, electronic mail or facsimile notice is acceptable when acknowledged by the receiving party.

13.9 Invalidity of Provisions. Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Further, if a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable, then the parties agree that the court should endeavor to give effect to the parties' intention as reflected in such provision to the maximum extent possible.

13.10 Waiver. Lexipol's failure to exercise, or delay in exercising, any right or remedy under any provision of this Agreement shall not constitute a waiver of such right or remedy.

End of General Terms and Conditions

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ADDENDUM TO LEXIPOL AGREEMENT

This Addendum, made and entered into effective this 1st day of August, 2018, is added to that certain Agreement between Superstition Fire & Medical District a political subdivision of the state of Arizona (hereinafter "SFMD") and Lexipol, LLC (hereinafter "Vendor"), to include the following provisions, the same as if said provisions were contained in the body of said document.

1. Termination: SFMD may terminate this Agreement pursuant to the provisions of A.R.S. §38-511.

2. Limits of Liability: Notwithstanding any provision or proposal to the contrary, the Vendor's liability shall not be limited to the amount of its fees, but instead the Vendor shall be liable for any damages as a result of Vendor's breach of Agreement or negligent acts or omissions.

3. Indemnification: To the fullest extent permitted by law, Vendor shall defend, indemnify, and hold harmless SFMD, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Agreement by the Vendor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Vendor may be legally liable.

4. Non-Discrimination: Vendor warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. The Vendor shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and the Genetic Information Nondiscrimination Act of 2008.

5. Legal Arizona Workers Act Compliance: Vendor is required to comply with A.R.S. §41-4401, and hereby warrants that it will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the "state and federal immigration laws"). Vendor further agrees to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

   A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the party who breaches may be subject to penalties up to and including termination of the Agreement.

   SFMD retains the legal right to inspect the papers of any contractor or subcontract employee working under the terms of the Agreement to ensure that the other party is complying with the warranties regarding compliance with the state and federal immigration laws.

6. Non-appropriation: This Agreement shall be subject to available funding for SFMD, and nothing in this Agreement shall bind SFMD to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

7. Third Party Antitrust Violations: Vendor assigns to SFMD any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Vendor toward fulfillment of this Agreement.

8. Other Agreements: This Agreement in no way restricts either party from participating in similar activities with other public or private agencies, organizations, and individuals.

9. Limitations: Nothing in this Agreement shall be construed as limiting or expanding the statutory responsibilities of the parties.

10. Relationships: In the performance of the services described herein, the Vendor shall act solely as an independent contractor, and nothing here in or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the District and the Vendor.

11. Subcontracting: The Vendor may not assign this Agreement or subcontract to another party for performance of the terms and conditions hereof without the written consent of the SFMD, which shall not be unreasonably withheld.

12. Interpretation: This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto. This Agreement is the result of negotiations between, and has been reviewed by, each of the parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of, or against any one of, the parties hereto.

13. Governing Law: This Agreement shall be construed and interpreted under the laws of Arizona.

14. Arbitration: To the extent permitted, the parties agree to resolve any dispute arising out of this Agreement by arbitration, making use of the Uniform Rules of Arbitration as adopted by the State of Arizona.

15. Insurance: The Vendor shall purchase (and maintain) from a company or companies lawfully authorized to do business in Arizona such insurance as will protect the Vendor and SFMD from claims set forth below which may arise out of or result from the Vendor's operations under the parties' Agreement and for which the Vendor may be legally liable, whether such operations be by the Vendor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

a. claims under Workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed; (the Vendor and all subcontractors of Vendor, on request shall furnish to SFMD duly executed forms as prescribed by the Arizona Industrial Commission showing that Workmen's Compensation and Occupational Disease Insurance is in full force and effect);

b. claims for damages because of bodily injury, occupational sickness or disease, or death of the Vendor's employees;

c. claims for damages because of bodily injury, sickness or disease, or death of any person other than the Vendor's employees, where attributable to Vendor's act or omission;

d. claims for damages as a result of personal injury, whether or not arising out of the employment with the Vendor;

e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;

f. claims for professional errors or omissions;

g. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and

h. claims involving Vendor's obligations of indemnity under the parties' agreement.

The insurance required by this section shall be written in the amount of not less than $1,000,000 single claim and $2,000,000 aggregate limit of liability. SFMD shall be listed as an additionally named insured, as to items b-f above. The Vendor shall submit to SFMD, if requested, a certificate evidencing such

insurance coverage with the provision for SFMD to be given 30 days notice prior to cancellation or nonrenewal of the policy during the course of the project. Said insurance shall be maintained and in force during the life of the project and for at least six (6) months after the date of completion of the services anticipated under this Agreement.

16. Termination for Convenience: The SFMD reserves the right to terminate the Agreement, in whole or in part at any time, when in the best interests of the SFMD without penalty or recourse. Upon receipt of the written notice, the Vendor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the SFMD. In the event of termination under this paragraph, all documents, data and reports prepared by the Vendor under the Agreement shall become the property of and be delivered to the SFMD upon demand. The Vendor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

The undersigned Vendor hereby certifies that it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of Israel.

This Addendum shall be effective on and from the day and year first above written. To the extent this Addendum conflicts with or is inconsistent with any term of the original Agreement referenced above, this Addendum shall control. In all other respects and manner, the original Agreement entered into by and between the parties shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Superstition Fire & Medical District this 1st day of August, 2018.

SUPERSTITION FIRE & MEDICAL DISTRICT, a political subdivision of the State of Arizona

By: _____
Board Chair

ATTEST:

_____
Board Clerk

VENDOR

By: _____

Name: _____

Its: _____

Governing Board WORK SESSION Meeting – August 1, 2018
Agenda Item: #4
BOD#: 2018-08-03

Agenda Item Title
Discussion and possible approval of a 3-year agreement with TSI, Inc. for PortaCount calibration which is associated with the District's SCBA equipment.

Submitted By
Assistant Chief Rick Ochs

Background/Discussion
TSI, Inc. is a sole source provider of calibration services of the District's PortaCount machine. The calibration is required annually by OSHA (Occupational Safety and Health Administration) and NIOSH (National Institute for Occupational Safety and Health) to ensure the proper fit of the District's SCBA and EMS masks.

By entering into a 3-year service agreement, the District will save 14.3% ($447.26).

The TSI, Inc. services has been budgeted for in the 2018/2019 Fiscal Year budget.

SLT is recommending the approval of the 3-year service agreement with TSI, Inc. for PortaCount calibration services.

NOTE: TSI, Inc. does not offer a "formal" agreement. The attached TSI, Inc. Quotation documents the services to be provided over the 3-year term of the agreement. Once the District provides them with an approved Purchase Order, they will send the District an invoice for payment.

Financial Impact(s)/Budget Line Item
3-Year cost $2,795.00 Budget Account: 100-40-62200-47 SCBA Testing & Calibration

Enclosure(s)
TSI, Inc. Quotation 20124919
Purchase Order #016074

Recommended Motion
"Motion to approve the purchase of a 3-year service agreement from TSI, Inc. for the calibration of the District's Porta count machine."

500 Cardigan Road
Shoreview, MN 55126
USA
EIN 41-0843524

Tel:(800)680-1220
Fax:(651)490-3824
Web:www.TSI.com
Email:answers@TSI.com

Quotation

Quote Contact
BARB DUFFEL
Tel: 480-982-4440 **Fax:** 480-982-0183
Email: barb.duffel@sfmd.az.gov

Bill-To-Party
Superstition Fire & Medical District
1455 E 18th Ave
Apache Junction AZ 85119

Ship-To-Party
Superstition Fire & Medical District
1455 E 18th Ave
Apache Junction AZ 85119

Quotation Number	20124919
Quotation Date	07/09/2018
Customer No	5485444
Cust. Ref.	BARB DUFFEL
Incoterms	2010 CPT: Prepay & Add Consignee's Premises
Payment Term	SUBJECT TO CREDIT APPROVAL
Valid To	08/31/2018
Currency	USD
Method of Payment	PO, Visa, Amex, Mastercard
Make PO Out To	TSI Inc.

Reference Quote number when submitting PO

Item	Material/Description	Quantity	Unit Price	Amount
1	CLC3-8038	1.00 EA	2,795.00	2,795.00
	Pre-Paid Cal Contract; 3-Yr, 8038			
	QualityGuard Calibration Contracts are for "Clean and Calibration" only. This is not for use with Warranty Service or when Repair Service is deemed necessary by the TSI Service Group. All Service Contracts will be valid from the date of instrument shipment for new products, and the purchase order date for existing products. The Service Contract is linked to the serial number of the instrument. This Calibration Contract is non-transferrable, no other instrument serial numbers will be accepted for service.			
	SN 8038141701			

Sub Total	2,795.00
Total Amount	2,795.00

These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. Government or as otherwise authorized by U.S. law and regulations.

This Quotation is subject to the warranties, disclaimers and all other terms and conditions set forth by TSI Inc. and incorporated by reference and to no others. Seller reserves the right to change prices effective on any new orders, provided Seller notifies in writing those with currently valid Quotations prior to any order being placed. This quotation shall become an agreement binding upon the Buyer and Seller when accepted by the Buyer and subsequently accepted by an authorized representative of the Seller at the Seller's home office and thereupon shall constitute the entire agreement between the parties.

Pamela Wittig
TSI Incorporated Date 07/09/2018

TSI Terms and Conditions apply and are incorporated by reference. See http://www.tsi.com/tc.pdf
For payment terms, complete credit application at http://www.tsi.com/credit-app/

ADDENDUM TO TSI, INC. SERVICE AGREEEMENT

This Addendum, made and entered into effective this 1st day of August, 2018, is added to that certain Agreement between Superstition Fire & Medical District a political subdivision of the state of Arizona (hereinafter "SFMD") and TSI (hereinafter "Vendor"), to include the following provisions, the same as if said provisions were contained in the body of said document.

1. Termination: SFMD may terminate this Agreement pursuant to the provisions of A.R.S. §38-511.

2. Limits of Liability: Notwithstanding any provision or proposal to the contrary, the Vendor's liability shall not be limited to the amount of its fees, but instead the Vendor shall be liable for any damages as a result of Vendor's breach of Agreement or negligent acts or omissions.

3. Indemnification: To the fullest extent permitted by law, Vendor shall defend, indemnify, and hold harmless SFMD, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Agreement by the Vendor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Vendor may be legally liable.

4. Non-Discrimination: Vendor warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. The Vendor shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and the Genetic Information Nondiscrimination Act of 2008.

5. Legal Arizona Workers Act Compliance: Vendor is required to comply with A.R.S. §41-4401, and hereby warrants that it will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the "state and federal immigration laws"). Vendor further agrees to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

   A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the party who breaches may be subject to penalties up to and including termination of the Agreement.

   SFMD retains the legal right to inspect the papers of any contractor or subcontract employee working under the terms of the Agreement to ensure that the other party is complying with the warranties regarding compliance with the state and federal immigration laws.

6. Non-appropriation: This Agreement shall be subject to available funding for SFMD, and nothing in this Agreement shall bind SFMD to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

7. Third Party Antitrust Violations: Vendor assigns to SFMD any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Vendor toward fulfillment of this Agreement.

8. Other Agreements: This Agreement in no way restricts either party from participating in similar activities with other public or private agencies, organizations, and individuals.

9. Limitations: Nothing in this Agreement shall be construed as limiting or expanding the statutory responsibilities of the parties.

10. Relationships: In the performance of the services described herein, the Vendor shall act solely as an independent contractor, and nothing here in or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the District and the Vendor.

11. Subcontracting: The Vendor may not assign this Agreement or subcontract to another party for performance of the terms and conditions hereof without the written consent of the SFMD, which shall not be unreasonably withheld.

12. Interpretation: This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto. This Agreement is the result of negotiations between, and has been reviewed by, each of the parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of, or against any one of, the parties hereto.

13. Governing Law: This Agreement shall be construed and interpreted under the laws of Arizona.

14. Arbitration: To the extent permitted, the parties agree to resolve any dispute arising out of this Agreement by arbitration, making use of the Uniform Rules of Arbitration as adopted by the State of Arizona.

15. Insurance: The Vendor shall purchase (and maintain) from a company or companies lawfully authorized to do business in Arizona such insurance as will protect the Vendor and SFMD from claims set forth below which may arise out of or result from the Vendor's operations under the parties' Agreement and for which the Vendor may be legally liable, whether such operations be by the Vendor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

    a. claims under Workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed; (the Vendor and all subcontractors of Vendor, on request shall furnish to SFMD duly executed forms as prescribed by the Arizona Industrial Commission showing that Workmen's Compensation and Occupational Disease Insurance is in full force and effect);

    b. claims for damages because of bodily injury, occupational sickness or disease, or death of the Vendor's employees;

    c. claims for damages because of bodily injury, sickness or disease, or death of any person other than the Vendor's employees, where attributable to Vendor's act or omission;

    d. claims for damages as a result of personal injury, whether or not arising out of the employment with the Vendor;

    e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;

    f. claims for professional errors or omissions;

    g. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and

    h. claims involving Vendor's obligations of indemnity under the parties' agreement.

    The insurance required by this section shall be written in the amount of not less than $1,000,000 single claim and $2,000,000 aggregate limit of liability. SFMD shall be listed as an additionally named

insured, as to items b-f above. The Vendor shall submit to SFMD, if requested, a certificate evidencing such insurance coverage with the provision for SFMD to be given 30 days notice prior to cancellation or nonrenewal of the policy during the course of the project. Said insurance shall be maintained and in force during the life of the project and for at least six (6) months after the date of completion of the services anticipated under this Agreement.

16. Termination for Convenience: The SFMD reserves the right to terminate the Agreement, in whole or in part at any time, when in the best interests of the SFMD without penalty or recourse. Upon receipt of the written notice, the Vendor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the SFMD. In the event of termination under this paragraph, all documents, data and reports prepared by the Vendor under the Agreement shall become the property of and be delivered to the SFMD upon demand. The Vendor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

The undersigned Vendor hereby certifies that it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of Israel.

This Addendum shall be effective on and from the day and year first above written. To the extent this Addendum conflicts with or is inconsistent with any term of the original Agreement referenced above, this Addendum shall control. In all other respects and manner, the original Agreement entered into by and between the parties shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED by the Governing Board of the Superstition Fire & Medical District this ___ day of _____, 2018.

SUPERSTITION FIRE & MEDICAL DISTRICT, a political subdivision of the State of Arizona

By: _____
Board Chair

ATTEST:

_____
Board Clerk

VENDOR

By: _____

Name: _____

Its: _____

Superstition Fire & Medical District

Purchase Order

565 North Idaho Rd. Apache Junction, AZ 85119-4014
Phone: (480) 982-4440 Fax: (480) 982-0183

Date: July 19, 2018

TO: TSI Incorporated
SDS 12-0764
P O Box 86
Minneapolis, MN 55486-0764

Vendor ID: TSII

Purchase Order # : **016074**

Requisition # : 15,183

Buyer:FMM
Created by:BAD
Created Date:7/19/2018
Updated by:BAD
Updated Date:7/19/2018

Ship To: Support Services
1455 E 18th Av
Apache Junction, AZ 85219

Page # : 1

Order Description: 3 YR Calibration Service

Line	AJFD Product #	Description	GL Acct #	Quantity	Unit Price	Amount
1	SCBACALIB	18/19 Calibration	100406220047	1.00	$931.6600	$931.66
2	SCBACALIB	19/20 Calibration	100406220047	1.00	$931.6700	$931.67
3	SCBACALIB	20/21 Calibration	100406220047	1.00	$931.6700	$931.67

Roger Ward

Important Conditions

1. Invoice in Duplicate
2. If price(s) are higher than specified, do not ship, advise us.
3. Do not ship or render any service prior to specified date, unless noted.
4. Goods subject to our inspection on arrival, not withstanding prior payment to obtain cash discount.
5. Goods rejected due to inferior quality or workmanship will be returned to you with charge for transportation both ways, and are not to be replaced except upon receipt of replacement PO from us.
6. Orders not shipped on date specified may be cancelled by us.
7. If these conditions are not acceptable, please advise us on receipt of the orders and before you make any shipment.

TOTAL **$2,795.00**

Purchasing Manager

Fire Chief

Governing Board Meeting – August 1, 2018
Agenda Item: #5
BOD#: 2018-08-N/A

Agenda Item Title
Call to the Public

A.R.S. §38-431.01(H)
A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body.

At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda.

However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

Background / Discussion
Call to the Public is provided so citizens may address the public body (Governing Board) with matters concerning the fire district. Arizona public meeting law provides that the public body may discuss, consider, or decide only matters listed on the agenda and other matters related thereto. Since the public body will generally not know what specific matters may be raised at call to the public, they will be unable to act until the matter is placed on a subsequent meeting agenda (at the Board's discretion). The Board may also direct staff to follow up on the issue with the citizen.

Scheduled
None

Governing Board Meeting – August 1, 2018
Agenda Item: #6
BOD#: 2018-08-05

Agenda Item Title
Adjournment

Recommended Motion:
"Motion to adjourn the Board meeting."

Go to Agenda