

VERSION 1.0

March 15, 2023



BOARD OF DIRECTORS MEETING

March 15, 2023

SUPERSTITION FIRE & MEDICAL DISTRICT BOARD

KATHLEEN CHAMBERLAIN, BOARD CHAIRMAN

CONNIE VAN DRIEL, BOARD CLERK

JEFF CROSS, BOARD DIRECTOR

JASON MOELLER, BOARD DIRECTOR

SHAWN KURIAN, BOARD DIRECTOR



Superstition Fire & Medical District

Serving the Communities of Apache Junction and Gold Canyon since 1955

Phone | (480) 982-4440

Website | sfmd.az.gov

BOARD OF DIRECTORS MEETING AGENDA FOR March 15, 2023

Call in Phone Number: 480-646-1864

Access Pin: 1234

The Superstition Fire & Medical District will hold a meeting on Wednesday, March 15, 2023. 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 is open to the public and will begin at 5:30 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 board meeting. 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. Review and approval of the February 2023 financial reports and bank reconciliations.**
- 2. Recognition of employee performance, achievements, and special recognition for community members.**
- 3. 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 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.
- 4. Consideration and possible approval of all consent agenda items listed below:**
 - A. Board Meeting Minutes from February 15, 2023
 - B. Engagement Letter with Kutak Rock LLP for Transport Services Legal services
- 5. Discussion and review of Budget planning, and approval of the Tax Rates to be used in preparing the Preliminary Budget for Fiscal Year 2023/2024.**
- 6. Discussion and possible approval of Policies: 1015 Outside Employment, 1021 Fit for Duty, 1022 Physical Fitness and 1055 PSPRS Post DROP Employment Extension.**

Administration Office
565 North Idaho Road
Apache Junction, AZ 85119

Regional Training Center
3700 East 16th Avenue
Apache Junction, AZ 85119

Fleet Services
1455 East 18th Avenue
Apache Junction, AZ 85119

7. Reports.

Senior Leadership Team (SLT):

Fire Chief John Whitney
Assistant Chief Brian Read
Transportation Services Director Billy Warren
Assistant Chief Richard Mooney
Administrative Services Director Anna Butel
Finance Director Roger Wood
Captain John Walka

8. Possible vote to go into Executive Session for personnel matters pursuant to A.R.S. § 38-431.03(A)(1) and legal advice pursuant to A.R.S. § 38-431.03(A)(3) and possible instructions to legal counsel pursuant to A.R.S. § 38-431.03(A)(4) re: Fire Chief John Whitney's employment contract.

9. Public Session. Discussion and possible revision to the Fire Chief's employment contract.

10. New Business / Future Agenda Items

11. Announcements and Document Signing

12. Adjourn

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: March 9, 2023

At: 1500 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 24-hours before the Board Meeting.

Agenda Item Title

Review and approval of the February 2023 financial reports and bank reconciliations.

Submitted By

Finance Director Roger Wood

Background/Discussion

The District's accounting department staff prepares the monthly financial reports. The District's annual budget, which is adopted by the Board each June for the following fiscal year (July 1 – June 30), is formatted to mirror the monthly financial statements. The financial reports provide the Board with a monthly recap of expenditures and revenues, along with year-to-date account balance information.

In compliance with A.R.S. §48-807(O), the following reports have been added to the monthly financial statements packet:

1. **Cash Flow – All Governmental Funds.**

The Cash Flow report consists of the combined cash balances of all District Funds. These balances include the General (100), Transport Services (150), Capital Projects (200), Special Revenue (400), Debt Principal (500), and Debt Interest (600) Funds. The Cash Flow report is updated monthly with the actual revenues deposited into and actual expenditures disbursed from the District's cash accounts. It is important to note the revenues and expenditures are reported on a Cash Basis. This report is generated to demonstrate that the fire District maintains sufficient cash available to satisfy the projected expenditures budgeted over the course of the fiscal year.

2. **Fund Account Bank Reconciliations.**

The reconciliation of each of the District's Fund Cash Accounts (General (100), Transport Services (150), Capital Projects (200), Special Revenue (400), Debt Principal (500), and Debt Interest (600) Funds) between the Pinal County Treasurer's monthly bank statement and the District's Fund balance sheet report is provided. To signify Board approval of the monthly financial statements and bank reconciliations, the Board Chairman is requested to sign the attached Letter of Acceptance which will be kept on file at the District.

Financial Impact(s)/Budget Line Item

N/A

Enclosure(s)

*Monthly Financials provided under separate cover

Recommended Motion

"Motion to approve the February 2023 financial reports and bank reconciliations."



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Superstition Fire & Medical District
Governing Board Acceptance of Fire District's
Financial Statements and Bank Reconciliations

Pursuant to A.R.S. §48-807, by the signature(s) below, the Governing Board of the Superstition Fire & Medical District attests to the review and approval of the following financial report(s) of the fire district for the month of **February 2023**:

1. Financial Statement
2. Bank Reconciliations
 - a. General (100) Fund
 - b. Transport Services (150) Fund
 - c. Capital Projects (200) Fund
 - d. Special Projects (400) Fund
 - e. Debt Principle (500) Fund
 - f. Debt Interest (600) Fund

Kathleen Chamberlain, Board Chair

Date



February 2023

Governing Board Meeting – March 15, 2023

Agenda Item: 2

Agenda Item Title

Recognition of employee performance, achievements, and special recognition for community members.

Submitted By

Fire Chief John Whitney

Assistant Chief Brian Read

Assistant Chief Richard Mooney

Background/Discussion

This is a recurring monthly item to provide the Board with information concerning superior employee performance, achievements, and special recognition for community members.

March Service Anniversaries

11 Years of Service:

Captain / Paramedic **Ryan Ledbetter**

Captain / Paramedic **Dan Elliott**

Captain **Bryan Heun**

Captain / Paramedic **Lance Frawley**

Engineer / Paramedic **Matt Perez**

Engineer / Paramedic **Adam Rodriguez**

Firefighter **Wayne Emerson**

Firefighter / Paramedic **Ryan Philips**

Firefighter / Paramedic **Brian Garten**

3 Year of Service:

Paramedic **Justin Elliott**



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Governing Board Meeting – March 15, 2023

Agenda Item: 3

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



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Governing Board Meeting – March 15, 2023

Agenda Item: 4

Agenda Item Title

Consideration and possible approval of all consent agenda items as listed below:

- A. Board Meeting Minutes from February 15, 2023 – **Appendix A**
- B. Engagement Letter Agreement with Kutak Rock LLP for Transport Services legal services
- **Appendix B**

Background/Discussion

The consent agenda allows the Board of Directors (BOD) to consider contracts, purchases, and other routine administrative matters having authorized funding within the current fiscal year budget as a single decision. Items may be withdrawn from the consent agenda and discussed separately upon request by any member of the BOD or staff. Information for each consent agenda item and corresponding supporting document is within the packet.

Recommended Motion

“Motion to approve the consent agenda items for March 15, 2023.”



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Governing Board Meeting – March 15, 2023

Agenda Item: 5

Agenda Item Title

Discussion and review of Budget planning, and approval of the Tax Rates to be used in preparing the Preliminary Budget for Fiscal Year 2023 / 2024.

Submitted By

Fire Chief John Whitney

Finance Director Roger Wood

Background/Discussion

A high level overview of the current plans for Fiscal Year 2023 / 2024 budget that includes options for accomplishing a range of strategic compensation & benefits and operational initiatives by fund will be provided for Board discussion and potential direction.

The Board will be asked to set the Tax Rates for Fiscal Year 2023/ 2024 for planning purposes.

Financial Impact(s)/Budget Line Item

NA

Enclosure(s)

A copy of the presentation will be presented to the Board of Directors at the Board Meeting.

Recommended Motion

"Motion to approve the tax rate of \$3.47 per hundred dollars of secondary valuation for District operations, and \$0.125 special assessment related to the 2018 JPMorgan Chase Refinancing Bond for development of the Tentative Budget for Fiscal Year 2023 / 2024."



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Governing Board Meeting – March 15, 2023

Agenda Item: #6

Agenda Item Title

Discussion and possible approval of Policies: 1015 Outside Employment, 1021 Fit for Duty, 1022 Physical Fitness and 1055 PSPRS Post DROP Employment Extension.

Submitted By

John Whitney, Fire Chief

Anna Butel, Administrative Services Director

Background/Discussion

SFMD has revised policies 1015 Outside Employment, 1021 Fit for Duty, and 1022 Physical Fitness and added 1055 PSPRS Post DROP Employment Extension. These four policies have been revised by SLT, Labor Management, and the policy committee.

Merged 1021 Wellness & Fitness program and 1054 Fit for Duty and removed 1054 Fit for Duty.

Financial Impact(s)/Budget Line Item

N/A

Enclosure(s)

1015 Outside Employment

1021 Fit for Duty

1022 Physical Fitness

1055 PSPRS Post DROP Employment Extension

Recommended Motion

"Motion to approve policies: 1015 Outside Employment, 1021 Fit for Duty, 1022 Physical Fitness and 1055 PSPRS Post DROP Employment Extension."



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Policy 1015 – Outside Employment

Last Revision: 03/15/2023

1. PURPOSE

The purpose of this policy is to establish guidelines to be followed by any Superstition Fire & Medical District members considering outside employment.

2. POLICY

It is the policy of the Superstition Fire & Medical District to allow members to engage in employment outside of their primary employment with the District, dependent on approval from the Fire Chief, or designee. Approval of any outside employment depends on the determination that the outside employment:

- Is not in conflict with the member's duties with the District;
- Does not discredit the District;
- Does not impact the duties, functions, and responsibilities of the District to the community and its citizens.

Employees who wish to engage in outside employment are required to request and obtain approval from their supervisor, Assistant Chief, or Director before beginning outside employment.

Members engaging in outside employment:

- Are prohibited from using any district equipment or resources in the course of, or for the benefit of, any outside employment; including access to official records or databases of the District or other agencies;
- Shall not represent the District while performing outside employment;
- Shall not use their position with the District to the advantage of their outside employment.

3. RESPONSIBILITIES

All District employees are responsible for complying with this Policy.

The approvals of initial requests for outside employment and for the continuation of outside employment are to be routed through the employee's supervisor to the appropriate Assistant Chief or Division Director. Approval for outside employment may be revoked by the employee's Assistant Chief or Division Director if the outside employment is negatively affecting the performance of district job responsibilities.

4. PROCEDURES

1. Any employee wanting to engage in outside employment must complete and sign a Request for Approval of Outside Employment and forward it to their supervisor.
2. Supervisors review all requests for compliance with this policy and assure that all fields on the request form are thoroughly completed. If the request meets the criteria outlined in this policy, the supervisor signs and dates the request and forwards it for review and approval by the appropriate Assistant Chief/Division Director.
3. Assistant Chiefs or Division Directors review all requests for compliance with this policy. If the request is approved, the Assistant Chief or Division Director signs and dates the request and forwards the original form to the Human Resource Manager.
4. The Human Resource Manager provides a copy of the approved or unapproved request to the employee.
5. The Human Resource Manager will ensure it is entered into the employee's personnel file.
6. Employee is responsible for reporting any changes to the original outside employment request or additional outside employment on another request. Signed approvals are also required for any changes in outside employment, such as the nature of work or hours required per week.
7. An employee, who has previously obtained approval for outside employment, must complete a request annually, at evaluation time, even if there has been no change to the outside employment since the previous approval.
8. An employee who transfers from one division to another must make their supervisor aware of their outside employment.
9. If the outside employment is denied by an Assistant Chief/Division Director, it can be appealed to the Fire Chief.

Policy 1021 – Fit for Duty

Last Revision: 03/15/2023

1. PURPOSE AND SCOPE

This policy addresses fit-for-duty expectations of SFMD for currently employed PSPRS public safety members. This policy does not apply to new Firefighter Recruits' pre-employment medical examination processes.

2. POLICY

All PSPRS public safety members must be medically cleared to be fit for duty following a fit-for-duty medical examination. This requirement remains in effect while employed with SFMD.

All sworn members shall have an annual fit-for-duty medical examination. Medical examination specifics should be established by a qualified healthcare professional. The components of the fit-for-duty medical examination are outlined in Appendix A.

All members must be medically cleared to be fit for duty following a medical examination due to injury or extended absence.

Additional fit-for-duty examinations may be necessary, and required, given the individual circumstances of each member, and in situations when a member is returning to work after a significant period of absence (typically six (6) months or greater), or a significant injury.. Inability to meet the fit-for-duty standards may result in a temporary reassignment, retraining, and/or the employee being removed from active duty, up to separation from employment..

3. PROCEDURE

3.1 MEDICAL EXAM

A designated Physician will make an individual assessment of each member and form a medical opinion on whether that member can safely perform the essential functions of their job. Based on the medical evaluation, the physician may request additional assessments and/or information before determining whether the member is medically cleared for duty.

If the Physician has sufficient reason to determine that a member may not be able to safely perform the essential functions of their job, that member will be removed from their full duty assignment and temporarily placed in a modified work assignment based on the Physician's identified work restrictions. The District will make a concerted effort to assist the member with improving their health and fitness and make reasonable accommodations so that the member can safely return to a full duty work assignment. Return to a full duty work assignment is contingent upon receiving medical clearance from the Physician.

3.2 MEDICAL EXAM RESULTS AND DOCUMENTATION

Following completion of the medical exam and, if needed, other required fit-for-duty medical evaluations, the Physician will send a Medical Tracking/Work Status Report to Human Resources identifying the member's status as one of the following:

1. Medically cleared for duty
2. Temporarily cleared for duty pending further information
3. Not medically cleared for duty

Each member will have the opportunity to review their Medical Tracking/Work Status Report.

Medically Cleared for Duty:

Member meets minimal health and fit-for-duty parameters; no medical follow-up is needed.

Temporarily Cleared for Duty Pending Further Information:

The physician has temporarily cleared the member as fit-for-duty pending further medical information and follow-up, but removal from full duty is not required. The Physician may make recommendations and refer the member for additional medical testing to further assess and evaluate the member's ability to safely perform the essential functions of their job. The time frames established by the Physician for any follow-up medical evaluations or submittal of any additional medical information must be met. Failure to meet follow-up medical evaluation time frames may result in reassignment to a Transitional Duty position until cleared by the Physician.

In these cases, the District will select the necessary medical providers and cover the costs of required additional medical information or follow-up. However, the District will not cover any other costs incurred by the member in voluntarily obtaining and releasing medical information and/or test results from the member's medical provider(s) as permitted in Appendix A.

The Fire Chief will decide whether the member has been medically cleared for duty following receipt of the requested medical information. Additionally, the Fire Chief may continue the member on a Temporarily Cleared for Duty status while requesting additional medical information or follow-up if the information provided is insufficient for the Fire Chief to reasonably make a final decision.

Not Medically Cleared for Duty:

The Physician has determined that the member has health issues that make it unsafe for the member to perform the essential functions of their job. A member who is Not Medically Cleared for Duty must be removed from full duty assignment status while Human Resources engages in an interactive process to determine whether any reasonable accommodations can be made to allow the member to safely meet and perform the essential functions of their job.

The Physician may provide the member with a mandatory referral for medical or fitness follow-up. The member must comply with all prescribed follow-up appointments and assessments within the time frame established by the Physician performing the assessment, as set forth above.

These referrals are not punitive, but rather rehabilitative and preventative, to safely return the member to full duty status. The member may be assigned to a Transitional Duty assignment pending release to full duty.

Medical conditions or medical findings that are deemed Workers Compensation or arise following the fit-for-duty evaluation will be addressed on a case-by-case and individual basis.

3.3 DISCLOSURE OF MEDICAL INFORMATION

The District requires access to fit-for-duty medical examination information in order to properly evaluate whether or not the member can safely perform their duties, or whether they require reasonable accommodation. For this reason, the information and documents obtained, created and submitted during fit-for-duty medical examinations is not for the purposes of medical treatment, but rather to allow SFMD to make an appropriate evaluation regarding the employee's work status.

However, some medical providers may consider information related to fit-for-duty medical examinations to be confidential and protected information. In these cases, the member may be requested to sign a Health Insurance Portability and Accountability Act (HIPPA) release or other consent or acknowledgment form. Agreeing to the release of necessary fit-for-duty medical examination information to the District, its agents, and contractors, including possible additional District-contracted physicians, and acknowledging that the member is presenting for the evaluation at the request of their employer rather than as a patient.

Because the District must have the ability to access medical information related to fit-for-duty medical examinations of its members, employment is conditioned upon the member's full cooperation in participating in the fit-for-duty medical examinations. This includes completing and signing any necessary questionnaire forms, consent forms, acknowledgment forms, and release forms related to the fit-for-duty medical examinations.

In all cases, the Fire Chief will access and retrieve as little medical information about a member as is reasonably necessary and will treat this information in a highly sensitive manner. As a matter of routine process, only the Medical Tracking/Work Status Report form will be sent to the Fire Chief. The Fire Chief will review no additional information unless additional information is needed to make an evaluation and/or decision about the member's fit-for-duty status and work clearance.

4. RESPONSIBILITIES

4.1 MEMBER'S RESPONSIBILITY

Each member is responsible for maintaining their own medical and physical fitness in order to perform the essential functions of their job effectively. The essential functions and duties are explained in the member's job description. Members are required to participate in authorized physical training as part of their work routine.

For 56-hour assigned personnel, the District's expectation is that 90 minutes of each 24-hour shift will be devoted to physical training. This includes a warm-up, primary activity, cool down, and clean-up (shower, etc.). The following members, regardless of assignment (40-hour or 56-hour), are required to receive fit-for-duty clearance following the annual firefighter medical examination:

- Fire Chief
- Assistant Chief
- Deputy Chief
- Division Chief
- Battalion Chief
- Captain
- Engineer
- Firefighter

4.2 SUPERVISOR'S RESPONSIBILITY

Supervisors are responsible for ensuring that all members who are required to pass a fit-for-duty medical examination participate in on-duty physical training. Participation in on-duty physical training is mandatory; however, individuals may select the type of physical training most beneficial to them in accordance with the Daily Physical Training Guideline listed in Policy 1022 – Physical Fitness.

Supervisors are also responsible for evaluating all members' ability to effectively perform the essential functions of their job during training, minimum company and individual standards evaluations, and actual incidents.

Supervisors are required to notify their chain of command if any member consistently demonstrates difficulty performing any of the essential functions of their job.

4.3 HUMAN RESOURCES' RESPONSIBILITY

The Human Resources Department will partner with the Battalion Chief in communicating and administering Policy 1021 – Fit-for-Duty, as well as tracking each member's attendance at their annual fit-for-duty appointment.

In particular, Human Resources will be involved in cases where a medical condition is identified that could affect a member's ability to safely perform the essential functions of their job. This effort may include a review of medical records, arranging for additional medical reviews or testing, Transitional Duty assignments and, when necessary, making a determination as to whether or not reasonable job accommodations can be provided.

Policy 1021 – Fit for Duty

APPENDIX A: MEDICAL EXAMS

Firefighter Annual Physical – Medically Fit-for-Duty MINIMUM Requirements

The following elements of a medical exam meet all OSHA standards and medical screening and surveillance requirements for firefighters as well as aligning with NFPA 1582.

1. **Respiratory Questionnaire and Medical History** – (*Respirator Questionnaire as defined in 1910.134 App. C and OSHA 1910.120(f)*) – Special emphasis on symptoms related to the handling of hazardous substances and known health hazards to assess fitness for duty, including the ability to wear required PPE, specifically SCBA, under hazardous conditions (i.e., temperature extremes) that may be expected at the worksite. History should include current exposures and be compared with baseline data. **No genetic or family medical history shall be requested.**
2. **Physical examination** – (*1910.120(f)(ii), referenced OSHA Guidance Manual for Hazardous Waste Site Activities, Chapter 5*)
 - a. Vital signs, height, weight, temperature, pulse, and blood pressure
 - b. Inspect head, eyes, ears, nose, and throat
 - c. Neck
 - d. Cardiovascular: (Inspection, auscultation, percussion, palpation, and risk stratification for atherosclerotic cardiovascular disease)
 - e. Pulmonary: (Inspection, auscultation, percussion, and palpation)
 - f. Gastrointestinal: (Inspection, auscultation, percussion, and palpation)
 - g. Genitourinary System
 - h. Skin
 - i. Lymph Nodes
 - j. Neurological: (General assessment of major cranial/peripheral nerves [motor, sensory, reflexes])
 - k. Musculoskeletal: (Assessment of overall range of motion of all joints)

3. **Vision Test** – (referenced OSHA Guidance Manual for Hazardous Waste Site Activities, chapter 5) Vision test should measure refraction, depth perception, and color vision. Vision quality is essential to safety, the accurate reading of instruments and labels, the avoidance of physical hazards, and for appropriate response to color-coded labels and signals.
4. **Audiogram** – (*OSHA 29 CFR 1910.95 – Hearing and Conservation*) Tests should be performed at 500, 1000, 2000, 3000, 4000, 5000, and 6000 hertz per tone, in an approved booth.
5. **Labs** – (*OSHA 29 CFR 1910.120(f)(ii)*, referenced *OSHA Guidance Manual for Hazardous Waste Site Activities, Chapter 5*)
 - a. CBC – Complete Blood Count
 - b. Comprehensive Metabolic Panel – a broad medical screening tool which checks kidney function, liver function, and electrolyte and fluid balance. A good test for surveillance due to exposures.
 - c. Lipid Panel
 - d. Urinalysis – Urine test indicates normal metabolic function and/or toxic substances and other possible health issues
 - e. Thyroid Panel
 - f. Vitamin D
 - g. GGT – Gamma-glutamyl transpeptidase
 - h. Hs-CRP – High sensitivity C-reactive protein
 - i. HgA 1c – Hemoglobin A 1c
6. **Infectious Disease Prevention** – (*OSHA Blood Borne Pathogen Standard CFR 1910.1030*)
 - a. PPD Skin test – tuberculosis screening test
 - b. Vaccination – as needed or following occupational exposure
 - i. Hepatitis B
7. **Tests to Determine Ability to Perform while Wearing Protective Equipment** – (*1910.120(f)(ii)*, referenced *OSHA Guidance Manual for Hazardous Waste Site Activities, Chapter 5*) Required tests determine an employee's capacity to perform while wearing protective equipment.
 - a. Pulmonary Function Test – (*OSHA CFR 1910.134*) Measurement should include FEV₁, FVC, and FEV₁ – to – FVC ratio.
 - b. Cardiopulmonary Exercise Test with Electrocardiogram – measurement used to obtain VO₂ to access the cardiovascular, pulmonary, and muscular systems.
8. **Chest X-ray** – (*OSHA CFR 1910.134 and CFR 1910.120(f)*, referenced *OSHA Guidance Manual for Hazardous Waste Site Activities, Chapter 5*) – Posterior/anterior chest view every four years or as indicated by Physician. Not be repeated more than once a year.

9. **Low Dose Computed Tomography** – CT Scan is required for members with more than 15 years of service.

*OSHA CFR 1910.134 (e)(ii) and CFR 1910.120 (f)(ii)(B) Allowance for further testing is based on the discretion of the examining physician in order to make a medical determination of fit-for-duty and to determine if the employee is at an increased health risk from working in a hazardous environment or emergency response and from respirator use. These tests could include:

- Coronary Calcium Score Test
- Echocardiogram
- Further evaluation by a medical specialist
- Heavy Metal Screen

The Physician will need to be able to document in medical notes any reasoning behind further testing based on updated medical history, exposure level of hazardous material, and/or results from tests that could indicate chronic illness.

These components meet the need in determining a firefighter's Fitness for Duty and participation in a medical surveillance program, as required for this profession by OSHA.

Family medical history or genetic information shall not be requested from the firefighter being evaluated.

Age, race, or gender shall not be considered as the basis for any decision including but not limited to, ordering any test of the firefighter being evaluated.

The Physician shall make an independent medical assessment based upon a reasonable degree of medical certainty about whether the firefighter being evaluated can safely perform the essential functions of his or her job without posing a significant safety and health risk to themselves, other members, or civilians.

Employees with a pre-existing medical condition may submit personal medical records or recent test results for the Physician to consider when determining fit-for-duty status. These materials must be submitted to the Physician prior to or during the first fit-for-duty appointment. As part of this process, the member may be required to sign a release of medical information form that has been approved by the District. Also, the member should understand that medical records provided to the Physician may also be released to the District and are no longer the confidentially protected medical information of the employee.

Policy 1022 – Physical Fitness

Last Revision: 03/15/2023

1. PURPOSE AND SCOPE

The District provides on-duty time for physical fitness to assist personnel in achieving and maintaining optimal health and physical fitness. The purpose of this policy is to establish guidelines for physical fitness activities that are designed to prevent injuries while maintaining fitness. The ultimate goals of this policy are to:

- Meet the physical demands required on emergency responses;
- Reduce the risk of member injury or illness;
- Enhance the overall health, fitness, and safety of members.

2. PROCEDURE

Physical fitness activities should not interfere with primary job duties (e.g., emergency responses, public education, training activities, other responsibilities), nor should physical fitness activities delay an emergency response in any way.

The District retains the right to prohibit any physical fitness activity which, in its sole discretion, presents greater risks than benefits.

3. PHYSICAL FITNESS GUIDELINES

Physical fitness and conditioning activities should be designed to maintain or improve flexibility, muscular strength, endurance, and anaerobic and aerobic capacity. They should also correspond to the physical movement patterns required in the performance of firefighter duties. Activities may include, but are not limited to:

- Stretching
- Running, jogging, walking, or rowing
- Weight training (with spotter as needed)
- Stationary aerobic training (e.g., stair-climber, treadmill, stationary bicycle)
- Core strengthening
- Firefighter-specific activities (e.g., hose drag, simulated ventilation, dummy drag)
- Physical fitness activities as outlined in this policy and/or peer fitness trainers (PFTs)

3.1 SUPERVISOR'S RESPONSIBILITIES

It is the supervisor's responsibility to make a reasonable effort to provide 90 minutes of quality physical training (including recovery time) every on-duty day. Supervisors may request guidance from their chain of command.

1. Supervisors shall manage on-duty physical fitness activities while meeting the following responsibilities: Types of Physical Fitness Activities

When choosing physical training, the Supervisor shall select activities that are:

- Designed to maintain flexibility, balance, coordination, muscular strength, muscular endurance, and anaerobic/aerobic capacity
- Do not include activities such as any contact sport, swimming, or that require the use of a ball, racquet, paddle, stick, bat, club, flying disc, etc. Exceptions may be made based on Fire Chief approval
- Do not significantly or negatively impact turnout or response times based on the activity's nature, logistics, or location

2. Mission Readiness

During physical training, Supervisors MUST:

- Ensure each member is wearing the approved District physical training uniform
- Preserve crew integrity to assure immediate availability to respond to calls
- Remain in the first due response area or coordinate alternative coverage with the Battalion Chief's approval
- Project a professional image
- Ensure no more than two crews are training at one location at one time
- Permit only Fire District personnel to participate in crew physical training unless pre-approved by District Management
- Fire District physical training may not interfere with the public's use of any facility

3. Safety

Supervisors are responsible for ensuring that all physical training is conducted safely. The following safety issues should be considered:

- Allow sufficient time to warm up muscles prior to engaging in exercise for optimum performance and to reduce the risk of injury
- Make sure the crew is familiar with fitness equipment and training principles
- Assure appropriate clothing, including shoes and any other needed personal protective equipment, is worn and in good repair

- Select an appropriate time and location to perform the activity – a location designed specifically for the training is preferred
- Promote the use of sunscreen for outdoor training and encourage hydration before, during, and after training

3.2 NON-FIRE DISTRICT FACILITY USE

The District will provide fitness equipment at fire stations where practical. Crews assigned to stations with fitness facilities or adjacent District facilities may not use commercial or private facilities. Conduct while using commercial or public exercise facilities will conform to District professional conduct policies.

3.3 DAY-ASSIGNED STAFF PHYSICAL TRAINING

Non-sworn day-assigned staff may be allowed up to 60 minutes per day (to include travel, warm-up, primary activity, cool down, and shower) to perform physical training. Staff members will work with their supervisor to establish a physical training schedule.

Day-assigned staff should work together to ensure proper coverage is maintained and that all personnel have an opportunity to utilize this policy. District work assignments will take priority. All physical training must be structured and comply with the above-listed guidelines, safety, and conduct.

Policy 1055 – PSPRS Post-DROP Employment Extension

Issued: 3/15/2023

1. PURPOSE AND SCOPE

To provide Public Safety employees in the DROP program with the process and parameters for requesting an extension of the DROP participation period as provided under A.R.S. §§ 38-844.03, 38-844.05, and 38-844.10.

2. POLICY

Post-DROP extension requests are the sole responsibility of the employee.

- Employees are responsible for completing the application process to enter DROP through the Public Safety Personnel Retirement System and for providing Human Resources with a copy of their applications to enter or exit DROP.
- Employees currently in DROP are responsible for following the process outlined in this administrative regulation if they wish to extend employment an additional 24 months after their initial DROP participation period.
- The Fire Chief, or designee, is responsible for the approval process, in coordination with Human Resources, as outlined in this policy.
- Human Resources is responsible for updating internal DROP records.

3. PROCEDURE

Employees who entered into the DROP program prior to July 6, 2022, who are currently enrolled in the DROP program, and who wish to extend their employment up to an additional 24 months after their five (5) year initial DROP date expiration, may do so under the following guidelines:

1. The employee must submit a written memorandum to the Fire Chief requesting the extension within 60 days of the date of issuance of this policy. The employee must also provide a copy of the memorandum to Human Resources.
2. The extension request will be reviewed by the Fire Chief and Human Resources, based on the following criteria at least nine (9) months prior to the five (5) year initial DROP date expiration. An interview with the Fire Chief will be scheduled with the requesting employee to discuss the request.

If the employee's DROP date will occur in fewer than nine (9) months from the date of issuance of this policy, their request will be reviewed as soon as reasonably possible.

- a. Extension requests will be reviewed, with the following exceptions, which are considered automatic disqualifiers for an extension:
 - i. The position has been filled, and no vacancy exists.

- ii. The employee is unable to perform the essential functions of the position with or without a reasonable accommodation or has been deemed unfit for duty by a qualified medical professional with no anticipated timeframe for a return to fitness for duty.
 - iii. The employee has received discipline within the one-year period immediately preceding the extension request review timeframe.
 - iv. The employee is currently on disciplinary probation or a performance improvement plan.
 - v. The employee is the subject of an ongoing criminal investigation or has been charged with a criminal offense.
 - vi. The employee is determined to have other substantial performance or conduct issues making them unsuitable for continued employment.
- b. Additionally, based on the financial status of the District, if it is deemed that an extension, or the total amount of extension requests, would unduly impact the financial stability of the organization, individual requests, or all requests, may be denied.
3. The employee will be notified in writing of the decision, which includes the approved extension length. If an extension is granted, it is the responsibility of the employee to notify the Public Safety Personnel Retirement System and complete any required paperwork or processes required by the system relating to the extension. A copy of the extension must also be provided by the employee to Human Resources.
4. Public Safety employees entering DROP after the issuance of this regulation must state their timeframe intention when entering DROP via a memorandum to the Fire Chief. A copy of the memorandum must also be provided by the employee to Human Resources.

Agenda Item Title

Reports

Background / Discussion

This item is for the fire chief and his staff to share information with the Board of items occurring within, or related to, the fire district. Any item shared is for information only. Upon request of the Board, any item shared during this agenda item may be moved to the agenda for future meetings. Board discussion, other than clarifying questions, cannot occur and no action, position, or direction may occur until the specific item is placed on the agenda.

- **Senior Leadership Team**
- **Labor**

Recommended Motion:

N/A



Go to Item 8

Go to Agenda

Governing Board Meeting – March 15, 2023

Agenda Item: 8

Agenda Item Title:

Possible vote to go into Executive Session for personnel matters pursuant to A.R.S. § 38-431.03(A)(1) and legal advice pursuant to A.R.S. § 38-431.03(A)(3) and possible instructions to legal counsel pursuant to A.R.S. § 38-431.03(A)(4) re: Fire Chief John Whitney's employment contract;

Submitted By:

Legal Counsel William Whittington

Background/Discussion:

Note: Executive Sessions are confidential pursuant to A.R.S. § 38-431.03(C).

Note: Legal action involving a final vote or decision shall not be taken at an executive session.

Financial Impact:

N/A

Enclosure(s):

N/A

Recommended Motion:

"Motion to go into Executive Session at (State Time) for personnel matters pursuant to A.R.S. § 38-431.03(A)(1) and legal advice pursuant to A.R.S. § 38-431.03(A)(3) and possible instructions to legal counsel pursuant to A.R.S. § 38-431.03(A)(4) re: Fire Chief John Whitney's employment contract;



Go to Item 9

Go to Agenda

Governing Board Meeting – May 18, 2022

Agenda Item: 9

Agenda Item Title

Public Session. Discussion and possible action regarding possible revision to Fire Chief's employment contract.

Submitted By

Legal Counsel William Whittington
Anna Butel, Administrative Services

Background / Discussion

This motion contemplates the possible adoption of an amendment to the employment agreement.

Financial Impact(s)/Budget Line Item

n/a

Enclosure(s)

n/a

Recommended Motion

TBD -



Go to Item 10

Go to Agenda

Governing Board Meeting – March 15, 2023

Agenda Item: 10

Agenda Item Title

New Business / Future Agenda Items

Financial Impact

N/A

Enclosure(s)

N/A

Recommended Motion:

"TBD"



Go to Item 11

Go to Agenda

Governing Board Meeting – March 15, 2023

Agenda Item: 11

Agenda Item Title

Announcements and Document Signing

Background / Discussion

The BOD and staff may share and discuss items to be placed on future BOD agendas.

Recommended Motion:

N/A



Go to Item 12

Go to Agenda

Governing Board Meeting – March 15, 2023

Agenda Item: 12

Agenda Item Title

Adjournment

Recommended Motion:

“Motion to adjourn the Board meeting.”



[Go to Agenda](#)

Appendix A

A. Board Meeting Minutes from February 15, 2023

Submitted By

Board Secretary Sherry Mueller

Background / Discussion

The board meeting minutes of the previous meeting(s) are provided for the BOD to approve. If the BOD would like to discuss the minutes, they may be removed from the consent agenda. After approval, minutes are signed by the Clerk of the Board and kept as the official public record.

Financial Impact/Budget Line Item

N/A

Enclosure(s)

February 15, 2023 Board Meeting Minutes





Superstition Fire & Medical District

Serving the Communities of Apache Junction and Gold Canyon since 1955

Phone | (480) 982-4440

Website | sfmd.az.gov

Governing Board Meeting Minutes

FEBRUARY 15, 2023

PURSUANT TO A.R.S. §38.431.02, NOTICE IS HEREBY GIVEN TO THE GENERAL PUBLIC THAT THE SUPERSTITION FIRE & MEDICAL DISTRICT GOVERNING BOARD OF DIRECTORS HELD A MEETING ON WEDNESDAY, FEBRUARY 15, 2023. THE MEETING WAS HELD AT THE SUPERSTITION FIRE & MEDICAL DISTRICT'S ADMINISTRATION OFFICE, 565 N. IDAHO ROAD, APACHE JUNCTION, ARIZONA.

[THIS MEETING WAS OPEN TO THE GENERAL PUBLIC AND BEGAN AT 5:30 PM.](#)

A. Call to Order

Chairman Chamberlain called the meeting to order at 5:30 PM.

B. Pledge of Allegiance

The Pledge of Allegiance led by Anna Butel

C. Roll Call

Board Members in attendance were Chairman Kathleen Chamberlain, Clerk Connie Van Driel, Director Jeff Cross, Director Jason Moeller. Director Shawn Kurian was not in attendance.

Senior Leadership Team in attendance were Fire Chief John Whitney, Assistant Chief Brian Read, Assistant Chief Richard Mooney, Transportation Services Director Billy Warren, Administrative Services Director Anna Butel, Finance Director Roger Wood, Chief Dave Pohlmann and Captain John Walka. Also in attendance was Sherry Mueller, Human Resources Generalist / Board Secretary and Attorney William Whittington

1. Review and approval of the January 2023 financial reports and bank reconciliations.

Motion by Director Moeller to approve the January 2023 financial reports and bank reconciliations.

Seconded by Clerk Van Driel

Vote 4 ayes, 0 nays, **MOTION PASSED.**

Administration Office
565 North Idaho Road
Apache Junction, AZ 85119

Regional Training Center
3700 East 16th Avenue
Apache Junction, AZ 85119

Fleet Services
1455 East 18th Avenue
Apache Junction, AZ 85119

2. **Recognition of employee performance, achievements, and special recognition for community members.**

February Service Anniversaries

23 Years of Service:

Fire Captain / Paramedic **Carlos Rivera**

14 Years of Service:

Fleet Services Manager **Vaughn Croshaw**

10 Years of Service:

Captain / Paramedic **Dave Endres**

Engineer **Monte Fuller**

Captain / Paramedic **Chris Furgeson**

3 Years of Service:

Firefighter / Paramedic **Matt Leon**

Paramedic **Ryan Markham**

1 Year of Service

Firefighter **David Tavares**

Firefighter **Max Gregor**

Firefighter **Haden Langenhorst**

Firefighter **Logan Garman**

Firefighter **Jordan Wilkes**

Firefighter **Erik Arbit**

Fire Ops 101 – Three Board Members attended Fire Ops 101 at the Mesa Fire Training Grounds.

3. **Call to the Public.**

None

4. **Consideration and possible approval of all consent agenda items listed below:**

- A. Board Meeting Minutes from January 18, 2023
- B. Renewal of Property / Casualty / Liability Insurance policy
- C. James Vincent Group Agreement
- D. Blues & Brews Art Festival Contract for Medical Services
- E. LPGA Drive on Championship Contract for Medical Services
- F. 8655 Reporting Agent Authorization

Motion by Director Cross to approve all consent agenda items for February 15, 2023.

Seconded by Director Moeller

Vote 4 ayes, 0 nays, MOTION PASSED

5. Discussion of the Comprehensive Annual Financial Report (CAFR) that documents the consolidated actuarial valuation results for the Arizona Public Safety Personnel Retirement System as of June 30, 2022.

Per A.R.S. §38-847(D)(7), the Local Board is “To receive and review the actuarial valuation of the system for its group of members.” This report is the consolidated result of the total fund for all of the Arizona PSPRS as of June 30, 2022.

The entire PSRPS Annual Comprehensive Annual Financial Report (CAFR) – June 30, 2022 can be accessed via the following link:

<https://www.psprs.com/investments--financials/annual-reports>

At the highest summary level, the report indicates the following key metrics for the consolidated PSPRS pension system:

- A. Funded percentage as of June 30, 2022 (page 12 of 152)
 - Tiers 1 & 2: 66.2%, up from 55.3%
 - Tier 3: 110.8, up from 106.6%
- B. PSPRS received a clean audit opinion from Clifton Larson Allen LLP, their external audit firm (page 20/152)

No Motion

6. Discussion regarding the annual actuarial valuation report as of June 30, 2022 for Superstition Fire & Medical District’s (148) participation in the Arizona Public Safety Personnel Retirement System (PSPRS).

This report is also to be received and reviewed per A.R.S. This report provides the annual actuarial valuation of the Superstition Fire & Medical District’s participation in the PSPRS as of June 30, 2022, and applies directly to SFMD, with our current benefits and liabilities. (See pages 4 and 5 of report)

#6. Continued:

Employer Contribution Rates	July 1, 2022	July 1, 2023	
SFMD Tier 1 & Tier 2 Contribution Rate			
Before Refi	35.56%	16.72%	-18.84%
After Refi	14.50%	16.72%	+2.22%
SFMD Tier 2 Defined Contribution Rate	4.00%	4.00%	
SFMD Tier 3			
Before Refi	31.00%	12.78%	-18.22%
After Refi	9.94%	12.78%	+2.84%
SFMD Tier 3 Defined Contribution Rate	3.00%	3.00%	
Employee Contribution Rates			
Tier 1 DB only	7.65%	7.65%	
Tier 2 DB + DC	11.65% + 3.0%	9.34% + 3.0%	
Tier 3 DB + DC (Hybrid)	9.94% + 3.0%	9.56% + 3.0%	
SFMD's Funded Status (pension and health insurance subsidy) – see page 9			
Tier 1 & 2	97.2%	+31.3%	
Tier 3	110.5% +3.2%		

The entire report can be accessed via the following link:

<https://misc.psprs.com/actuarials.aspx>

Use the Drop down windows to choose Superstition Fire and Medial Dis (PSPRS) (148) and Fiscal year 2022 to retrieve the full report.

No Motion

7. Discussion of the 2023/2024 Fire District Tax Abstract / Levy Limit Worksheet for Pinal and Maricopa counties, and its impact on the development of the Fiscal Year 2023 / 2024 Revenue Budget.

- Total District NAV: + \$32,357,454 (+ 6.61%)
- Tax Rates for Planning Purposes:
 - 100 Fund: \$3.47
 - Second year in a row below tax cap (\$3.50)
 - An additional \$500,000 targeted for 200 Fund
 - 500/600 Funds: \$0.125
- Total FY 2023/2024 Combined Tax Rate: \$3.595
 - Still below the FY 2021/2022 combined tax rate (\$3.63)
- SRP NAV will be available in early March

No Motion

8. Discussion and possible approval of Policies: 1008 Tuition Reimbursement, and 1051 Work Schedules.

SFMD has revised policies 1008 Tuition Reimbursement, and 1051 Work Schedules. These two policies have been revised by SLT, Labor Management, and the policy committee. Adjustments to the policies were to make process more clear for the workforce and management

Motion by Director Moeller to approve policies: 1008 Tuition Reimbursement, and 1051 Work Schedules.

Seconded by Director Cross and Clerk Van Driel

Vote 4 ayes, 0 nays, MOTION PASSED

9. Discussion and possible approval regarding the Assistance to Firefighters (AFG) grant.

The FEMA AFG grant opened on January 9, 2023, and closed on February 10, 2023. SFMD submitted on February 9th for vehicle acquisition. In anticipation of station 266 opening in the next few years, a new pumper will be necessary. Furthermore, there is a 2 to 3-year build time, with price increases occurring annually.

This grant has a 10% match that FEMA applies. SFMD budgets the match (\$83,978.91) in the 200 fund during the budget process. Federal grants are typically authored in one fiscal year and approved the following year, allowing for planning and funding purposes.

Please see the cost breakdown below.

Apparatus:

One Velocity Pumper EM744

Financial Impact(s)/Budget Line Item

SFMD 2022 Grant 200-70-72240-20	
Total Cost	\$923,768.00
Federal Share	\$839,789.09
SFMD Share (10% Match)	\$83,978.91

Motion by Director Moeller to place \$83,978.91 in the 200 fund for fiscal year 2023/24 as SFMD's share if the grant is awarded.

Seconded by Director Cross

Vote 4 ayes, 0 nays, MOTION PASSED

10. Senior Leadership Team Reports

Fire Chief Report

- AFDA Alternative Funding Legislative Group
- USFS Wildfire Presentation
- Benefits (NWFD), military, post-employment health plans, etc.
- Fire Ops 101
- Glendale Fire Assistant Chief Interviews
- Paramedic & Part-Time EMT Interviews
- Budget Preparation
- Policy, Policy, Policy
- AJ State of the City
- Lost Dutchman Days Parade

- Fire Ops 101 – Kudos:
 - Captains Walka, Frawley, Elliott and Fox
 - Engineer Perez
 - Chief Pohlmann
- EMS Standby
 - Firefighters Gallagher and Harmon
- E261
 - Captain Ledbetter, Engineer Schow and Firefighters Andrews and Garten

Emergency Services

- After Action Debrief with AJPD
- LPGA – Large Special Events Meeting – Pina County
- Staffing for all Special Events
- Fire Ops 101
- Training Committee Live Burn After Action

Significant Incidents:

- Single vehicle rollover resulting in 2 fatalities
- Residential Fire – Offensive attack transition to defensive attack
- Vehicle into a Structure

- Monthly Incident Call Volume

Training

- East Valley Recruit Academy 23-1
 - RTO Robson
 - Recruit Firefighter Chase Thompson
 - Recruit Firefighter Nolan Willoughby

- Regional Live Burn
- Thermal Imager Camera Training
- Driver Operator Training

- Monthly and Year-to-Date Training Hours

EMS

- Renaissance Festival – Set up and ongoing support
 - 47 points of contact
 - 3 transports
- Paramedic School Kick-off
- Observed the Waste Management Open Command and EMS support functions
- LIFEPAK15 Service Set-up
- Prep for Lost Dutchman Marathon Unified Command
- Support for Fire Ops 101

Transportation Services

- Training for new hire EMTs
- Conducted Paramedic and EMT Interviews
- Meeting with Digitech (billing company)
 - Review accounts receivables balance
 - Upcoming ambulance data collection project
 - Medicare signatures
- AZDHS released the automatic rate increase information for 2023
 - We will receive 3.95%
 - This will be in effect for commercial and private insurance on July 1st, and Medicaid on October 1st
 - This increase does not apply to Medicare
- Monthly Transportation Volume
- CON Compliance through January 2023

Support Services

- Fire Prevention
 - Plan Reviews - 9
 - Inspections - 12
 - Citizen Requests or Assistance - 3
 - Environmental Requests, Permits, Concerns & Knox Box Assistance – 13
- Community Risk Reduction
 - Community Events – 2
 - Fire Safety Presentations – 4
 - Car Seat Placements – 0
 - School Pub Ed Presentations – 3
 - AED / CCR Presentations - 12
- Special Events Meeting
- LEPC Meeting (Local Emergency Planning Committee)
- City Project Meeting (Superstition & Plaza)
- Pinal County LPGA Meeting

- WM Open Site Visit
- Fire Ops 101
- AJHS NJROTC Car Show

Administrative Services

- Crest Renewal Planning
- Northwest Fire / CBiz
- Military Members Meeting
- Nationwide PEHP
- FEMA – AFG Grant Vehicle Acquisition
- Fire Business Systems Training
- CLM and Agreements Training
- DEMA Received - \$57,521.06
- UKG Update
 - Core HR – Continue Implementation – Go live March 2023
 - Benefits – Working through benefit changes – Open enrollment will be in UKG Ready
 - Payroll – Continue Implementation – Go live July 2023
 - Time and Accruals – Continue Implementation
 - Integrations – Azure Active Directory, Health Equity, Nationwide Retirement, Aflac, TeleStaff
- Payroll Update
 - W2s
 - 1099s
 - Quarterly 941
 - Policy Changes
- Technology Update
 - Stations – Video Conference Upgrade – Complete
 - District-Wide Wireless Access Point Upgrade
All Stations and Admin – Complete
RTC and Fleet – Scheduled for February 16
 - Computer replacements scheduled for March
- Human Resources Update
 - Paramedic and EMT Interviews
 - Policy Review
 - Cross-training in Telestaff
 - Onboarding process enhancement
Driving Records
 - Hired new EMT

Financial Services

- Compliance Reporting
 - COP Bonds
 - JPMorgan Chase Bond
 - Pumper and tender capital leases
 - Ambulance leases
- Budget development for FY 2023/2024
 - Budget season for Staff and Budget Managers has started

11. New Business / Future Agenda Items

None

12. Announcements / Document Signing

Clerk Van Driel announced that on February 21st at 6:00 p.m., The BLM (Bureau of Land Management) will hold a meeting at the Elks Lodge to scope out the public to find out what they would like in the Hackamore / Goldfield region for future recreation. This will be a big change for the community. The BLM will also be looking at the unsheltered area and what is going to happen to those people. There will stations that you can go to and leave comments. On February 23rd at 6:00 p.m., there will be a virtual meeting regarding the same items. A virtual link is available.

13. Adjourn

Motion by Director Cross to adjourn the board meeting at 6:45 p.m.

Seconded by Director Moeller

Vote 4 ayes, 0 nays, MOTION PASSED

Governing Board Approval:

Board Clerk Connie Van Driel

Appendix B

B. Engagement Letter Agreement with Kutak Rock LLP for Transport Services legal services

Submitted By

Billy Warren, Transportation Services Director

Background/Discussion

Kathy Steadman has been the attorney of record for the District's Transportation Services division since the CON application process was first initiated in 2015. Ms. Steadman has left Coppersmith Brockelman law firm to join Kutak Rock law firm.

It is Staff's position that it is in the best interest of the District to retain Ms. Steadman as the Transport Services division attorney of record due to her institutional knowledge of SFMD and the tremendous assistance she has provided to-date.

No cost or liability is incurred by the Board approving the attached, rather the attached Engagement Letter is needed to ensure there is no ambiguity regarding the District's intent to retain Ms. Steadman as its attorney of record for the Transportation Services division. In the event Ms. Steadman's legal services are needed, the current applicable rates are outlined in the attached. Any significant cost associated with Transport Services legal services would be communicated to the Board prior to the activity and cost being incurred

Financial Impact(s)/Budget Line Item

N/A

Enclosure(s)

Kutak Rock Engagement Letter

Recommended Motion

"Motion to approve the Engagement Letter Agreement with Kutak Rock LLP for Transport Services legal services."



March 2, 2023

Via Email Only

John Whitney, Fire Chief
Superstition Fire & Medical District
565 North Idaho Road
Apache Junction, AZ 85119
John.Whitney@sfmd.az.gov

Re: **Legal Representation of Superstition Fire & Medical District**

Dear Chief Whitney:

Thank you for your interest in retaining Kutak Rock LLP (“Kutak”). We are extremely pleased to have the opportunity to work with you, and we look forward to providing quality and efficient legal services. This letter is to confirm in writing the scope and terms of the representation and to explain potential conflicts of interest before we begin this representation.

Please review this letter carefully. If it describes our respective responsibilities accurately, please sign the enclosed copy of this letter and return it to us promptly.

1. **Scope of Engagement.** You have asked us to provide legal services on issues to which you will agree in writing from time to time. For your part, we need you to provide us with the facts, documents, and access we will require to perform these services; to make decisions and determinations in a timely manner, so we can perform these services; to be available to assist us in the representation; and to fulfill your part of the bargain by paying our bills in accordance with the terms below.

2. **Conflicts.** You have asked us to represent you in connection with ground ambulance transport and certificate of necessity matters, and other matters as you agree to in writing from time-to-time. We ask that if you know of any people or business entities to which you might be adverse, please provide us with their names so we can enter them into our conflict system to alert us to the potential of any conflicts with either current or future clients of this firm.

3. **No Representation of Members or Affiliates.** In addition, we do not, and will not, represent your shareholders, members, partners, officers, directors, or employees (“Affiliates”), unless we have specifically accepted such representation in paragraph 1 above. Our representation of the entity does not give us access to, or cause us to represent, your Affiliates, nor access to confidential, privileged, or proprietary information of your Affiliates. Our existing and future

March 2, 2023

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clients may enter into negotiations or disputes with your Affiliates, and our representation of you will not disqualify us from representing our other clients in such matters.

We may need to seek conflict waivers from you, or from our existing clients, and we will abide by applicable rules of professional responsibility in doing so; for your part, we ask that you consider each future waiver request in good faith. Ultimately, if at any point you do not feel completely comfortable with our representation, we will cooperate fully in transferring your matters to new counsel.

3. Progress. Close cooperation and frequent communications improve our ability to assist and to complete our work. We will want to discuss with you or your designee the progress of this matter on a regular basis, and would ask that you call us promptly with any new or significant information that could affect our work. In addition, we have made it our practice to send our clients copies of significant correspondence or filings, so you may keep track of the matter's progress. If you have questions or concerns as we go along, please bring them up promptly so we can address them right away.

4. Fees and Costs. As you may know, the Rules of Professional Conduct governing the legal profession require that a lawyer's fee be reasonable. With that consideration in mind, the following sets forth our agreement with respect to fees and expenses in this matter, the payment of costs, the timing and content of billing statements, and the expended payment period.

a. *Fees Basis.* The rates below are set through at least December 31, 2023. As I deem appropriate, I might use other lawyers and paralegals to assist me, including but not limited to the following.

Kathy Steadman	\$450
Other Partners/Members	\$375 to \$450
Jon Schultz	\$400
Associate Rates	\$250 to \$350
Paralegal Rates	\$185 to \$220

We will not increase these rates for existing clients without first notifying you. Our firm often develops alternative billing arrangements with our clients, and we would be happy to discuss another type of billing with you for a particular project or future work.

b. *Advance Deposit Arrangement.* We typically require an advance deposit to handle new matters. We hold the advance deposit in our trust fund and apply it against the client's bill on a monthly basis as we render the services contemplated by this agreement. If the advance deposit has not been exhausted by the time that we complete the work that we have been authorized to do, we will return any balance to you. If the advance deposit is spent before our work is completed, we will either ask you to stay current in the payment of our monthly statements, or we

March 2, 2023

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will ask you to submit another advance deposit. In either case, we will send you monthly statements describing the services rendered, the amounts charged, and the status of your advance deposit, and we will expect them to be paid in a timely manner.

In the present case, we will not require an advance deposit from you.

c. *Costs and Expenses.* We will expect you to pay our out-of-pocket expenses on your behalf. We may charge clients for reasonable and usual long distance telephone calls, faxes, copying done in-house, or secretarial time. As to other outside costs, we generally find it easier and more efficient to advance funds on your behalf for minor costs and disbursements for outside services than to ask you to pay a succession of small invoices. We expect to make advances for invoices that do not exceed \$100. We will forward larger items, if any, to you to pay directly, and will try our best to confer with you in advance before obligating you to pay such larger items.

d. *Payment of Invoices.* Unless we have made other arrangements with you, our bills are due on receipt, and are considered past due 15 days after the date they bear. We reserve the right to add late charges at the rate of 1.5% per month on an invoice for which we have not received payment by the 30th day after the date it bears. We must reserve the right to decline to perform further services if any account is 45 days or more past due. Subject to our ethical and professional obligations, you agree that we may terminate our legal services and withdraw from this engagement in such event. You also agree that we may deduct undisputed amounts due us from any litigation or settlement proceeds belonging to you that come into our possession.

5. Business Associate Agreement. If your organization is a HIPAA covered entity or business associate, and if Kutak obtains protected health information (“PHI”) from your organization in connection with our legal representation, this letter will function as a Business Associate agreement, which will enable your organization to comply with the HIPAA Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subpart E (“Privacy Standards”), the HIPAA Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C (“Security Standards”), and the HIPAA Breach Notification Regulations, 45 C.F.R. Part 160 and Part 164, Subpart D (“Breach Notification Regulations”), as amended from time to time and at the applicable compliance dates. If Kutak does not obtain PHI in connection with our representation or is not considered your business associate under HIPAA, the terms of this Section will not apply.

a. *Use and Disclosure of Protected Health Information:* Kutak will use or disclose your organization’s PHI only for those purposes necessary to perform legal or other services (“Services”), as otherwise expressly permitted in this Agreement, or as required by law, and will not further use or disclose such PHI. Kutak agrees that anytime one of its subcontractors creates, receives, maintains, or transmits your PHI on behalf of Kutak, Kutak first will enter into a contract with such subcontractor that contains the same terms, conditions, restrictions, and requirements for the use and disclosure of PHI as contained in this Section. To the extent Kutak

March 2, 2023

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is to carry out one or more of your obligations under the Privacy Rule, Kutak will comply with the requirements of the Privacy Rule that apply to you in the performance of such obligations.

b. *KUTAK Use or Disclosure of Protected Health Information for Its Own Purposes:* Kutak may use or disclose PHI received from your organization for Kutak's management or administration or to carry out Kutak's legal responsibilities.

Kutak may disclose PHI received from your organization to a third party for such purposes only if:

(1) The disclosure is required by law; or

(2) KUTAK secures reasonable assurance from the receiving party that the receiving party will: (i) hold the PHI confidentially; (ii) use or disclose the PHI only as required by law or for the purposes for which it was disclosed to the recipient; and (iii) notify KUTAK of any breaches in the confidentiality of the PHI.

c. *Safeguards:* KUTAK will implement reasonable administrative, physical and technical safeguards to prevent use or disclosure of PHI received from your organization for purposes other than those permitted by this Agreement and to protect the confidentiality, integrity, and availability of the electronic PHI, if any, that KUTAK creates, receives, maintains, or transmits on behalf of your organization. KUTAK will comply with those provisions of the Security Rule that apply to KUTAK with respect to electronic PHI.

d. *Reports of Improper Use or Disclosure of Protected Health Information:* KUTAK will report to your organization any use or disclosure of PHI received from your organization, other than those uses or disclosures permitted by this Agreement. KUTAK also will report to your organization any security incident of which it becomes aware that affects electronic PHI, if any, that KUTAK creates, receives, maintains, or transmits on behalf of your organization. Finally, KUTAK will report to your organization any use or disclosure of Unsecured PHI that constitutes a Breach under the Breach Notification Regulations.

e. *Access to Protected Health Information:* Upon request, KUTAK will make available to you PHI in a Designated Record Set received from your organization that is in KUTAK's possession to respond to individual requests for access to PHI.

f. *Amendment of Protected Health Information:* Upon request, KUTAK will make available to you PHI in a Designated Records Set received from your organization that is in KUTAK's possession to respond to individual requests to amend PHI.

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g. *Accounting of Disclosures of Protected Health Information:* Upon request, KUTAK will make available to you information as is required for your organization to respond to individual requests for accounting of disclosures of PHI.

h. *Access to Books and Records:* KUTAK will make its internal practices, books, and records specifically relating to the use and disclosure of PHI received from your organization available to the Secretary of the Department of Health and Human Services to the extent required for determining your organization's compliance with the Privacy Standards. Notwithstanding this provision, no attorney-client, accountant-client or other legal privilege will be deemed waived by KUTAK or your organization as a result of this Agreement.

i. *Termination:* Your organization may terminate KUTAK's engagement if KUTAK violates a material term of this Section. Before termination, your organization will provide KUTAK with written notice of KUTAK's breach, and afford KUTAK at least thirty days to cure the breach. If KUTAK fails to cure the breach, your organization may terminate the engagement. Your organization will pay all fees and costs due up to termination.

j. *Return or Destruction of Protected Health Information upon Termination:* It will not be feasible for KUTAK to return or destroy PHI received from your organization immediately upon termination of the engagement because of our ethical obligations to keep complete client files. KUTAK thus agrees to follow the provisions of this Section for as long as it retains PHI received from your organization, and will limit any further use or disclosure of the PHI to those purposes allowed under this Section, until such time as KUTAK either returns or destroys the PHI received from your organization.

k. *Compliance with HITECH Act and Its Regulations:* KUTAK will comply with the requirements of Title XII, Subtitle D of the Health Information Technology for Economic and Clinical Health ("HITECH") Act, codified at 42 U.S.C. §§ 17921-17954, which are applicable to KUTAK, and will comply with all regulations issued by the Department of Health and Human Services to implement the HITECH Act, as of the date by which KUTAK is required to comply with the HITECH Act and its regulations.

l. *No Third-Party Beneficiaries:* Nothing in this Agreement will confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities.

m. *Terms.* Unless otherwise provided, all terms in this Section have the same meaning as provided under the Privacy Standards, the Security Standards, and the Breach Notification Regulations. The terms of this Section will be construed in light of any applicable interpretation or guidance on these regulations issued by the Department of Health and Human Services.

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n. *Compliance with 42 C.F.R. Part 2.* If the regulations at 42 C.F.R. Part 2 (the “Part 2” regulations) apply your organization, and if KUTAK obtains information protected by those regulations from your organization in connection with our legal representation, this letter will function as a written agreement with a Qualified Service Organization pursuant to 42 C.F.R. § 2.11, which will enable your organization to comply with 42 C.F.R. Part 2, as amended from time to time and at the applicable compliance dates. KUTAK acknowledges that in receiving, storing, processing or otherwise dealing with any patient records from your organization, it is fully bound by the regulations at 42 C.F.R. Part 2, and if necessary, will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by 42 C.F.R. Part 2. If KUTAK does not obtain information governed by 42 C.F.R. Part 2 in connection with our representation or is not considered your Qualified Service Organization under 42 C.F.R. Part 2, the terms of this subsection (n) will not apply.

6. Conflict of Interest. This Agreement is subject to cancellation under the conflicts of interest provisions of A.R.S. § 38-511.

Please sign and return a copy of this letter to us in order to confirm your agreement to these provisions. Call me directly with any questions.

We look forward to representing you. If you have any questions concerning these matters, please let me know promptly. If you ever wish to discuss any matter relating to our legal representation, please do not hesitate to call me.

Sincerely,

KUTAK ROCK LLP



Kathy A. Steadman

APPROVED AND AGREED TO—

SUPERSTITION FIRE & MEDICAL DISTRICT

By: _____

Title: _____ Date: _____

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ORGANIZATIONAL CONTACT FOR REPORTING UNDER
THE BUSINESS ASSOCIATE AGREEMENT (if applicable):

Name: Billy Warren

Position/Title: Transportation Services Director

Address/Zip: 565 N. Idaho Road
Apache Junction, AZ 85119

Phone number: 480-290-1375

Email: billy.warren@sfmd.az.gov

Fax: 480-982-0183