

GRANT PASS-THROUGH AGREEMENT BETWEEN THE CITY OF APACHE JUNCTION  
AND SUPERSTITION FIRE AND MEDICAL DISTRICT

THIS GRANT PASS-THROUGH AGREEMENT (the “Agreement”) is made as of the \_\_\_\_ day of \_\_\_\_\_ 2023, (“Execution Date”) by and between CITY OF APACHE JUNCTION, ARIZONA, an Arizona municipal corporation (“City”) and Superstition Fire and Medical District, a special taxing district (“SFMD”). City and SFMD are sometimes referred to herein collectively as the “Parties,” or individually as a “Party.”

RECITALS

A. SFMD is an A.R.S. Title 48 special taxing district which provides fire and medical services for SFMD area residents.

B. SFMD desires to utilize Gila River Indian Community (“GRIC”) funds for the purchase of an ambulance to be used in City and in other areas of SFMD boundaries.

C. GRIC desires to convey to City a portion of its annual 12% local revenue-sharing contribution required to be paid to local governments for the benefit of the general public in accordance with the Tribal-State Gaming Compact executed by and between GRIC and the State of Arizona in 2003, and pursuant to A.R.S. § 5-601.02, for disbursement by City as a pass-through to SFMD.

D. Mutual cooperation would result in SFMD’s obtaining pass-through assistance from City, which translates to general public savings.

E. The Parties have mutual interests in this project and wish to enter into this Agreement with certain terms and conditions.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual promises and covenants set forth herein, and for other consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Accuracy of the Recitals. The Parties hereby confirm the accuracy of the Recitals set forth above, which are incorporated herein by this reference.

2. Purpose. The purpose of this Agreement is to set forth the rights and responsibilities of the Parties with respect to the acceptance and distribution of the pass-through to SFMD.

3. Term. The Term of this Agreement is two calendar years from the Execution Date.

4. City's Obligations. City agrees to do all of the following:
  - a. Disburse the aforementioned GRIC pass-through to SFMD.
  - b. Receive copies of all reports and documents sent to GRIC by SFMD related to funded project.
5. SFMD's Obligations. SFMD agrees to do all of the following:
  - a. Hold harmless, defend and indemnify the City of Apache Junction, its elected officials, appointees, employees and agents against any claim or legal action brought by anyone challenging the use and disbursement of funds under this agreement.
  - b. Provide to the City a copy of all reports and documents sent to GRIC related to the expenditures under this agreement no later than 30 days after their submission to GRIC.
6. Funding Schedule. GRIC will deliver two payments of \$201,986.00 each for a total of \$403,972.00 to the City for disbursement to SFMD.
7. Indemnification. SFMD shall defend, indemnify and hold harmless City, its elected and appointed officers, officials, agents, and employees from and against any and all liability including but not limited to demands, claims, actions, fees, costs and expenses, including attorney and expert witness fees, arising from or connected with or alleged to have arisen from or connected with, relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of SFMD, its agents, employees, or any tier of SFMD's subcontractors in the performance of or challenge to this Agreement. SFMD's duty to defend, hold harmless and indemnify City, its special districts, elected and appointed officers, officials, agents, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by an SFMD's acts, errors, mistakes, omissions, misuse or unsubstantiated use of the GRIC funds, work or services in the performance of this Agreement including any employee of SFMD, any tier of SFMD's subcontractor or any other person for whose acts, errors, mistakes, omissions, misuse of funds, work or services SFMD may be legally liable.
8. Conflicts of Interest. The Parties acknowledge that this Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511.
9. Waiver. No waiver, whether written or tacit, of any remedy or provision of this Agreement shall be deemed to constitute a waiver of any other provision hereof or a permanent waiver of the provision concerned, unless otherwise stated in writing by the Party to be bound thereby.
10. Applicable Law and Venue. The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for

in this Agreement, shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The Parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county or for removal to federal court. In the event either Party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing Party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

11. Severability. City and SFMD each believe that the execution, delivery and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring City to do any act in violation of any applicable laws, including any constitutional provision, law, regulation, or city code), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by Applicable Laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

12. No Third Party Beneficiary Rights. The Parties agree that no third party rights attach to this agreement.

13. Notices. Except as otherwise required by law, any notice required or permitted under this Agreement shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Section:

If to City:

City of Apache Junction  
Attn: City Manager  
300 E. Superstition Blvd.  
Apache Junction, Arizona 85119  
Telephone: (480) 474-5066

If to SFMD:

Superstition Fire and Medical District  
Attn: Fire Chief  
565 North Idaho Road  
Apache Junction, Arizona 85119  
Telephone: (480) 982-4440

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

SUPERSTITION FIRE AND MEDICAL DISTRICT, an  
A.R.S. Title 48 special taxing district

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By: Kathleen Chamberlain  
Its: Board Chair

CITY OF APACHE JUNCTION, ARIZONA, an Arizona  
municipal corporation

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By: Walter "Chip" Wilson  
Its: Mayor

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Jennifer Pena, City Clerk

By: \_\_\_\_\_  
Connie Van Driel, SFMD Board Clerk