



# Self-Insurance Trust Fund Board Report

**Date:** February 8, 2016  
**To:** Self-Insurance Trust Fund Board  
**From:** Jim Smith, City Attorney  
Marc Steadman, Deputy City Attorney  
**Subject:** The Property and Public Liability Trust Fund

**Strategic  
Initiatives**



## **Purpose and Recommendation**

This report addresses 1) the financial viability of the Property and Public Liability Trust fund, 2) changes to the PPL trust document, and 3) the designation of an insurance broker for the PPL Trust fund.

## **PPL Finances**

State law authorizes cities to establish trust funds to cover the payment of claims, insurance costs and staff costs for property losses and liability claims – the PPL trust fund. A.R.S. § 11-981(A)(2).<sup>1</sup> The trust shall be administered by at least five trustees. A.R.S. § 11-981(B)(2). The City shall place money into the trust fund in an amount determined appropriate by the City Council. A.R.S. § 11-981 (B).

The City Attorney's Office manages expenditures from the PPL Trust fund. These include (1) payouts and defense costs of third-party claims/lawsuits filed against the City, (2) costs to staff the litigation team in the City Attorney's Office, and (3) insurance premiums.

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1. This statute also authorizes the establishment of the Employee Benefits Trust.

Exhibit 1 shows annual payouts and defense costs for claims/lawsuits resolved, and in (), the total number of claims/lawsuits resolved each year from FY08 to FY15. The variation in the annual payout depends primarily on whether any high exposure cases were resolved during the year. The average annual cost for claims/lawsuits from the PPL Fund is \$3M. Last year the City paid out \$335,000. We have budgeted \$3M for FY15/16, but through December 31, 2015, we have paid out only \$250,000.

The City's litigation team is comprised of three attorneys, two paralegals, two secretaries, and one claims adjuster. Each year, the City receives approximately 300 claims and 45 lawsuits. To reduce the costs of hiring outside lawyers, the City's litigation team defends the City and its employees in nearly all third-party liability claims and lawsuits. The cost to operate the litigation team was \$962,936 in FY14/15. Outside counsel costs for that year were \$84,816.

The City is covered by property insurance, liability insurance, cyber insurance, and aviation insurance. Insurance premiums are paid by the PPL Trust fund. The total insurance cost for FY14/15 was \$1,254,454, and annual insurance costs since 2007 are shown on Exhibit 2.

For liability claims against the City, the City is self-insured for \$3M. The excess insurance coverage kicks in after the City has paid \$3M on a claim, and the insurance covers the next \$50M in exposure.

### **Amendment to the Trust Document**

In December, 2015, the City Council revised the trust document for the PPL Trust. That document, Exhibit 3, is called the First Amended Restatement of Trust for the City of Mesa, Arizona, Self-Insurance Trust Funds. The City Council has now directed the City Manager to maintain a \$10,000,000 balance in the PPL Trust fund through transfers into the fund throughout the fiscal year. Council has reserved the right to modify that fund balance in the future if appropriate.

### **Designation of an Insurance Broker**

The statute that authorizes the PPL Trust requires the City to "designate a risk management consultant or insurance administrator." A.R.S. § 12-981 (B)(1). The City Attorney's Office opened a competitive process and selected Willis of Arizona as the PPL Trust fund insurance broker. Willis assists the City Attorney's Office in

determining appropriate insurance coverages, and in selecting, and negotiating with, insurance carriers.

The trust statute also requires that the license of the insurance administrator “shall be verified.” A.R.S. § 12-981 (B)(1). Attached as Exhibit 4 is the insurance license for Paula Bernal, the Willis representative who provides insurance broker services to the City.

### **Fiscal Impact**

The PPL Trust fund is funded by the City’s general fund. Any contribution to the PPL Trust fund directly impacts the City’s general fund.