

ORDINANCE NO. 6034

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AMENDING MESA CITY CODE TITLE 1 (ADMINISTRATIVE), CHAPTER 19 (CITY ATTORNEY), SECTION 1-19-3 (ADDITIONAL AUTHORITY) TO CODIFY AND CONTINUE THE AUTHORITY OF THE CITY ATTORNEY TO OBTAIN AND MODIFY THE CITY'S INSURANCE THROUGH THE PROPERTY AND PUBLIC LIABILITY TRUST FUND.

Whereas, annually in November, the City obtains insurance for the City of Mesa through the City of Mesa Property and Public Liability Trust Fund ("PPL Trust"), including property, liability, cyber risk, and aviation insurance; and the City contracts with an experienced, national insurance broker ("City's National Broker") to assist and represent the City in procuring and selecting such insurance.

Whereas, these insurance policies for municipalities generally can only be purchased on an annual basis with annual renewals.

Whereas, even with City's National Broker, obtaining such insurance has become more complex and challenging, and obtaining or renewing insurance occurs near the renewal period or at other times of the year when additional policies may be needed with short notice; and therefore, obtaining this type of insurance is a professional service as defined in Mesa City Code Title 1, Chapter 21.

Whereas, market conditions, including several carriers withdrawing from the market, increasing number of lawsuits, increasing litigation and settlement costs, inflation, and national disasters resulting in significant payouts, have made it very challenging for the City to obtain its insurance. Additionally, the excess liability market for municipalities will only provide quotes/indications for coverage near the end of the then-existing policy period. These conditions, among others, have resulted in the City needing to make decisions on very short notice, including regarding the amount of insurance to obtain, sometimes at or very near the renewal deadline.

Whereas, the City Council, on November 16, 2020, by Resolution No. 11602, and again on June 20, 2022, by Resolution No. 11888, recognized that due to the unprecedented difficulties in obtaining the City's insurance, the City, through the City Manager and City Attorney, may need to modify the City's insurance, including to modify the self-insured retention ("SIR") or reduce the amount of excess liability coverage, based on costs or availability and on very short notice.

Whereas, for all the reasons described above, the City Council, by Resolution Nos. 11602 and 11888, authorized the City Manager and City Attorney, through the City's National Broker and with funds from the PPL Trust, to obtain and enter into new insurance agreements for the benefit of the City, including property, liability, cyber risk, and aviation insurance coverages, and including the ability to change carriers, add additional insurance or excess layers of insurance, reduce the total insurance coverage layers or amount (e.g., reduce the excess liability coverage), modify coverage amounts, modify deductibles, and modify the City's SIR as appropriate, so long as the City Attorney provided periodic updates to the City Council on the amounts of insurance obtained and costs. The authority granted by Resolution No. 11888 expires on June 30, 2027.

Whereas, the factual realities of the insurance market upon which Resolution Nos. 11602 and 11888 are based still exist.

Whereas, the City Council therefore recognizes the continued need for the City Attorney, through the City's National Broker and with approval of the City Manager, to obtain and enter into new insurance agreements, change insurance carriers, add additional insurance or excess layers of insurance, reduce the total insurance coverage layers or amounts, and modify coverage amounts, deductibles, and the City's SIR, often with short notice.

Whereas, for the reasons stated herein and in Resolution Nos. 11602 and 11888, the City Council finds it is appropriate and in the best interests of the City to amend Mesa City Code Section 1-19-3 to codify and continue the authority granted to the City Attorney by Resolution Nos. 11602 and 11888, which includes the ability, through the City's National Broker and with approval of the City Manager, to obtain and enter into new insurance agreements, change insurance carriers, add additional insurance or excess layers of insurance, reduce the total insurance coverage layers or amounts, and modify coverage amounts, deductibles, and the City's SIR.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA:

Section 1: Mesa City Code Section 1-19-3 is amended as follows:

1-19-3: ADDITIONAL AUTHORITY

- (A) The City Attorney, on behalf of the City, is authorized to file, pursue, defend, appeal, settle, dismiss, and resolve any and all civil lawsuits and claims and criminal misdemeanor cases. The City Attorney shall provide advice and information about cases and appeals to Council at the request of, or when needed by, the Council.
- (B) **THE CITY ATTORNEY, THROUGH THE CITY'S CONTRACTED NATIONAL INSURANCE BROKER AND WITH APPROVAL OF THE CITY MANAGER, AND WITH FUNDS FROM THE CITY'S PROPERTY AND PUBLIC LIABILITY TRUST FUND, IS AUTHORIZED TO OBTAIN AND ENTER INTO NEW INSURANCE AGREEMENTS, CHANGE INSURANCE CARRIERS, ADD ADDITIONAL INSURANCE OR EXCESS LAYERS OF INSURANCE, REDUCE INSURANCE COVERAGE LAYERS OR AMOUNTS, MODIFY INSURANCE COVERAGE AMOUNTS, MODIFY INSURANCE DEDUCTIBLES, AND MODIFY THE CITY'S SELF-INSURED RETENTION. THE AUTHORIZATION OF THIS SECTION EXTENDS TO ALL INSURANCE COVERAGES OBTAINED WITH FUNDS FROM THE CITY'S PROPERTY AND PUBLIC LIABILITY TRUST FUND, INCLUDING PROPERTY, LIABILITY, CYBER RISK, AND AVIATION INSURANCE COVERAGES. THE CITY ATTORNEY SHALL ANNUALLY PROVIDE A REPORT TO THE SELF-INSURANCE PROGRAM BOARD OF TRUSTEES AND UPDATE THE CITY COUNCIL REGARDING THE CITY'S INSURANCE COVERAGES OBTAINED WITH FUNDS FROM THE CITY'S PROPERTY AND PUBLIC LIABILITY TRUST FUND.**

Section 2: Recitals. The recitals above are fully incorporated in this ordinance by reference, and each recital represents a finding of fact and determination made by the City Council.

Section 3: Amended Language. In section 1 of this ordinance that modifies the current language of the Mesa City Code, new language is shown in **BOLD ALL CAPS**.

Section 4: Effective Date. The effective date of this ordinance is thirty (30) days after its adoption.

Section 5: Severability. If any term, provision, section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid, unenforceable, or unconstitutional by the decision of a court of competent jurisdiction, the remaining portions of this ordinance will remain in effect.

Passed and adopted by the City Council of the City of Mesa on October 26, 2026.

Mark Freeman, Mayor

Attest:

Holly Moseley, City Clerk