

SUMMARY OF PROPOSED REVISIONS TO THE BENEFITS TRUST DECLARATION

Title & Recitals

Summary of Revisions	Comments
<ul style="list-style-type: none"> • History of establishment of Benefits Trust summarized to be appropriate for a revised and restated declaration of trust • Eliminated unnecessary recitation of actions authorized by A.R.S. § 11-981 	<p>The title of “Revised and Restated Declaration of Trust for Maricopa County, Arizona Self-Insured Benefits Trust Fund,” and practice of having the County agree to the revised document is consistent with how the “Revised Restated” Risk Trust declaration was drafted and approved.</p> <p>Because the Benefits Trust was previously established and has been administered by the Trustees, the Trustees are parties to the Revised and Restated Declaration of Trust. Once approved by the Board of Supervisors, the Trustees should each sign the document to signify their acceptance of appointment as trustees under the new terms and conditions of the Declaration of Trust.</p>

Article 1. General Terms (n/k/a “Article 1: Definitions”)

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Eliminated unnecessary and/or duplicative definitions, including provisions concerning “Effective Date,” “Authorizing Action,” and “Conformity with Law” • Separated Definitions from section covering Purpose and Application of the Benefits Trust in order to streamline document and provide more user-friendly review and reference • Moved “Reservation of Authority” and “Entire Agreement” provisions to Article 10 	<p>Certain definitions were not needed or were addressed in the Recitals.</p> <p>The appointment of a Trust Administrator is not necessary given the duties and authority delegated as between the Trustees, Plan Administrator, Benefits Finance Manager, the County, and third parties. The Trustees direction of ministerial activities, such as noticing meetings and keeping and publishing minutes, may be performed with assistance by County staff.</p>

Article 2. The Benefits Trust Fund (n/k/a “Article 2: Purpose and Application of the Benefits Trust”)

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Moved sections 1.8 (equal opportunity) and 1.9 (procurement) to Article 2 • Updated Establishment of the Benefits Trust; duties of County Treasurer and holdings and investments; and Purpose provisions to be accurate • Moved Manner of Financing to revised Article 6, which covers contributions to and distributions from the Benefits Trust 	

Article 3. The Board of Trustees (n/k/a “Article 3: Organization and Operation of the Trustees”)

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Streamlined provisions governing organization and operation of the Trustees • Updated and simplified provisions regarding appointment and terms of service • Included in this Article (moved up from Article 8) provisions covering non-liability, exclusion, and indemnification of Trustees; eliminated duplicative provisions on this subject, and streamlined text • Added provision regarding Trustees’ obligation to seek legal advice; consistent with similar provision in the Risk Trust Declaration • Added sign posting to each provision to provide more user-friendly review and reference 	

Articles 4 and 5: Duties of the County; Duties of the Board of Trustees (n/k/a “Article 4: Powers and Duties of the Trustees”)

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Streamlined provisions outlining responsibilities and authority of Trustees • Updated responsibilities and authority of Trustees to reflect actual practice of and historical duties performed • Clarified standard to be applied to duty to determine funding levels and reserve requirements for the self-insured plans so there is a minimum threshold of estimated claims incurred but not reported • Clarified the responsibilities that are not the responsibility of the Trustees but rest with either the Board, County, or others • Moved provision covering day-to-day operations to Article 5 • Moved handling of contributions and funding of Benefits Trust to Article 6 • Eliminated provision regarding vacancies, which is covered in Article 3 • Increased the authority to settle actions, claims, or proceedings for the protection of the Benefits Trust from range of \$50,001 to \$100,000 to range of \$100,000 to \$200,000. • Added provision covering authority to recommend premium holidays, subsidies, and refunds, given past experience of the Trustees’ review and input on these items 	<p>Several provisions in the original Declaration of Benefits Trust held the Trustees responsible for duties carried out by the County, including Sections 5.2 (using of fund to administer, staff, manage and fund the Health and Welfare Program); 5.6 (employing professionals to provide services); 5.7 (causing staff to prepare financial statements for annual audit); 5.9 (maintaining annual report with the Clerk of the Board); 5.12 (ensuring that self-insured programs comply with the law); 5.16 (providing for investment of trust monies); 5.17 (making arrangement for payment of benefit claims); 5.18 (paying taxes, assessments, expenses, insurance premiums); 5.23 (causing the administrator to be provided with financial reports/statements).</p> <p>As discussed previously, based on survey of other trust documents of local government agencies, and based on past practice, the Plan Administrator develops the benefits plans, which are subject to the approval by the Board. Also, development of recommended premiums needed to support the self-insured plans is performed by the Finance Manager in consult with independent licensed actuaries familiar with the Benefits Plan and then presented to the Trustees for review and input. The Board has historically had final approval of total premiums, and solely determined what portion of premiums should be paid by Participants and what portion should be paid by the County. Revisions reflect this practice.</p>

Article 6. Standard of Care of Board of Trustees

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Eliminated recitation of standard of care for Trustees, as the provision was not necessary or consistent with the County’s Risk Trust declaration or other trust documents of local government agencies. Conflicts of interest are covered in Section 3.9 	

Article 7. Powers and Duties of Administrator (n/k/a “Article 5: Management of the Benefits Trust”)

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Updated and identified, where needed, responsibilities and authority for the administration and management of the Benefits Trust as between County staff, the Plan Administrator, and the Finance Manager • Increased delegated authority of Plan Administrator to compromise demands or claims for reimbursement of the cost of medical care and treatment up to \$100,000 less than the amount that the County or its authorized agent has demanded in reimbursement (previously \$50,000); and added authority of Plan Administrator to direct the prosecution of actions for the recovery of the cost of medical care and treatment paid under the Plan, after consulting with Trustees • Adds authority of Finance Manager to submit claims in class actions by similar self-insured plans; and to accept settlements of such submitted claims up to \$100,000, where the class action reaches a settlement approved by a court of law 	

***New* “Article 6: Contributions to and Distributions from the Benefits Trust”**

Summary of Revisions	Comments
<ul style="list-style-type: none"> • The “Manner of Financing” section has been moved to the new Article 6 • The new Article 6 covers contributions and distributions of the Benefits Trust, including the previous sections of 5.2, 5.13, 5.14, 5.15, 5.17, and 5.18, and has been drafted in a more practical, easy to understand fashion • An “Event of Underfunding” provision has been added to assure that the Benefits Trust will receive funding from the County in the event of underfunding (similar to the assurance provided by the County, in the Board’s approval of the last two premium holidays) 	

***New* “Article 7: Settlement Authority”**

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Moved reservation of authority to settle claims that is set forth in Schedule A to new Article 7 	

Article 8. Stop-Loss Insurance and Indemnification (n/k/a “Statutory Requirements”)

Summary of Revisions	Comments
<ul style="list-style-type: none"> • Addresses statutory requirements of stop-loss, audit, and risk management consultant/insurance administrator under single Article • Provisions covering non-liability, indemnification, and exclusion are now covered in new Article 3 	

Article 9. Dissolution and Termination

Summary of Revisions	Comments
<ul style="list-style-type: none"> • No change 	

Article 10. Miscellaneous

Summary of Revisions	Comments
<ul style="list-style-type: none">• Minor revisions to streamline previous miscellaneous provisions• “Reservation of Authority” and “Entire Agreement” provisions are now under Article 10	