



Memorandum

TO: JENNIFER SCHEMBRI
DIRECTOR OF EMPLOYEE
RELATIONS AND HUMAN RESOURCES

FROM: Miguel Bernal

**SUBJECT: DEFERRED COMPENSATION
FIDUCIARY LIABILITY
INSURANCE RENEWAL**

DATE: June 12, 2023

Approved *Rick Brunseau*

Date June 12, 2023

RECOMMENDATION

Approve renewal of the City of San José Deferred Compensation (457 Plan) and Part-Time, Temporary, Contract (PTC) Deferred Compensation Plans fiduciary liability insurance including fiduciary dishonesty coverage offered by Hudson Insurance Company (Hudson), the incumbent carrier, for the period from June 30, 2023, to June 30, 2024 with a \$5 million aggregate limit, a \$25,000 retention, except a \$250,000 retention for Class Action Claims, for a net premium of \$37,250.90¹ plus a broker fee allocation of \$750 for a total program cost of \$38,000.90.

BACKGROUND

The City of San José (City) purchases fiduciary liability insurance coverage for the City's 457 and PTC Deferred Compensation Plans (Plans). The purpose of the insurance is to protect the City and the Plans' Committee from legal liability. The coverage is designed to respond to claims from plan participants or regulating agencies alleging a breach of fiduciary duty in either the management or administration of the Plans. In 2022, the City extended the fiduciary liability to add fiduciary dishonesty coverage, which covers exposures such as employee dishonesty, forgery or alteration, computer and funds transfer fraud, and payment instruction fraud. The current policy provided by Hudson Insurance Company, the plans' insurer since 2014, expires on June 30, 2023.

The City's insurance broker, Alliant Insurance Services, Inc., (Alliant), worked with the Finance and Human Resources departments to gather and prepare the necessary information needed by incumbent insurer and other interested markets. No application was required for this year's renewal.

¹ Net premium represents the gross premium quoted by Hudson less credit for the retail commission to Alliant as the City has a fee arrangement with Alliant.

ANALYSIS

The marketplace for fiduciary liability insurance has improved over the past year. Despite conflicting positive and negative risk developments and some carriers remaining wary, a few carriers with increased appetites are leading to improved market conditions. Expansion of the previously limited market for primary fiduciary liability insurance has led to the expectation of more flat renewals. Overall, policyholders with sponsored plan assets greater than \$500 million are seeing premium increases in the range of flat to 30%². Class action retentions remain mostly in the seven-figure range, typically between \$1 million and \$2.5 million.

Alliant approached and requested quotes from a total of eleven markets, including established carriers such as Axis Specialty Insurance Company, Travelers Insurance Company, and Allied World Assurance Company. Like in prior years, Hudson, the incumbent carrier, offered the only firm quote on the primary policy. The remaining markets declined to quote, indicating that they either could not be competitive on pricing or with respect to the coverage terms and conditions.

Despite initial indications of a 3% to 5% premium increase, Hudson ultimately provided a fiduciary liability quote for a \$5 million aggregate limit subject to a \$25,000 retention, except a \$250,000 retention for Class Action Claims, for an annual net premium of \$35,530.90. Hudson's quote also included a fiduciary dishonesty coverage extension for a \$500,000 aggregate limit subject to a \$5,000 retention for an incremental premium of \$1,720.00. Hudson's renewal quote reflects a flat premium relative to the expiring policy. Alliant continues to believe that the policy is well-priced for insurance programs covering plans with over \$1 billion in sponsored plan assets³. Policy terms and conditions, including the fiduciary dishonesty coverage, are consistent with the expiring policy as the City was able to maintain the current \$250,000 retention applicable to Class Action Claims.

Finance obtained benchmark information from Alliant on the limits of liability purchased by other Alliant public agency clients with Deferred Compensation Plans. As noted in Appendix B, the self-insured retentions in the City's program are consistent with other Alliant public agency clients; however, Alliant public agency clients with sponsored plan assets greater than \$1 billion purchase at least \$10 million in aggregate limits.

Following the review of the proposal from Hudson, Finance recommends continuation of the expiring program with the incumbent carrier. Hudson continues to hold a financial strength rating with A.M. Best & Company (Best) of A, Size Category XV, indicating that they hold over \$2 billion in policyholder surplus. Best affirmed a "Stable" outlook for Hudson on June 23, 2022.

The total program cost includes a broker fee allocation in the amount of \$750.00. The City compensates Alliant through a fixed fee agreement and the charge represents the cost allocation for Alliant to place the policy.

² Willis Towers Watson Insurance Marketplace Realities 2023 Spring Update

³ The City's insurance submission reflected sponsored plan assets of \$1,240,659,885 as of March 31, 2022.

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COORDINATION

This report was prepared by the Finance Department in coordination with the Human Resources Department and the City Attorney's Office.

/s/
Miguel Bernal
Risk Manager, Finance Department

For questions, please contact Miguel Bernal, Risk Manager, at Miguel.Bernal@sanjoseca.gov or (408) 975-1438.

ATTACHMENTS

Appendix A: Year-Over-Year Cost Comparison

Appendix B: Limits and Retentions Benchmarking with Other Alliant Public Agency Clients

Appendix C: Quotes and Coverage Outline

Appendix A: Year-Over-Year (YOY) Cost Comparison

Carrier	Coverage	Plans	Aggregate Limits¹	Retention²	21-22 Net Premium	22-23 Net Premium	\$ Change YOY	% Change YOY	Broker Fee Allocation	Total Program Cost
Hudson Insurance Company	Fiduciary Liability	PTC and 457 Plans	\$5,000,000	\$25,000	\$35,530.90	\$35,530.90	\$0.00	0.0%	\$750.00	\$36,280.90
Hudson Insurance Company	Fiduciary Dishonesty	PTC and 457 Plans	\$500,000	\$5,000	\$1,720.00	\$1,720.00	\$0.00	0.0%	Included	\$1,720.00

(1) Other sub-limits apply

(2) Fiduciary Liability coverage contains a separate retention of \$250,000 for Class Action Claims

Appendix B: Limits Benchmarking with Other Alliant Public Agency Clients¹

Plan Type	Assets	Limit	Self-Insured Retention	Self-Insured Retention for Class Action Claims
Deferred Compensation Plan 1	\$236,995,033	\$10,000,000	\$50,000	\$1,500,000
Deferred Compensation Plan 2	\$242,862,877	\$5,000,000	\$25,000	\$200,000
Deferred Compensation Plan 3	\$275,248,186	\$5,000,000	\$25,000	\$200,000
Deferred Compensation Plan 4 ²	\$308,940,344	\$5,000,000	\$1,000,000	\$1,000,000
Deferred Compensation Plan 5	\$377,523,395	\$5,000,000	\$50,000	\$250,000
Deferred Compensation Plan 6	\$400,022,938	\$5,000,000	\$50,000	\$1,500,000
Deferred Compensation Plan 7	\$495,511,265	\$5,000,000	\$50,000	\$250,000
Deferred Compensation Plan 8	\$1,038,861,975	\$10,000,000	\$75,000	\$250,000
Deferred Compensation Plan 9	\$1,223,102,122	\$20,000,000	\$50,000	\$250,000
City of San Jose 457 Plan	\$1,240,659,885	\$5,000,000	\$25,000	\$250,000
Deferred Compensation Plan 10	\$1,317,390,669	\$10,000,000	\$50,000	\$500,000

(1) Alliant Public Agency clients represent Cities and Counties in California

(2) The Self-Insured Retention for Deferred Compensation Plan 4 is \$1 million and there is no separate retention for Class Action Claims