



*Office of Retirement Services*  
 Federated City Employees' Retirement System  
 Police and Fire Department Retirement Plan

February 23, 2021

To: Police and Fire Department Retirement Plan Trustees

Subject: Fiduciary Insurance Waiver of Recourse Fees

Dear Trustee:

The Police and Fire Department Retirement Plan (“Plan”) has completed the renewal process for the Plan’s Primary, Excess and Side A Fiduciary Insurance policies for the period of March 30, 2021 through March 30, 2022, which covers both the Police and Fire Department Retirement Plan and the San Jose Police and Fire Retiree Healthcare Trust Funds. In an effort to reduce insurance cost, staff worked with the insurance broker to obtain the lowest rates available that will provide the coverage needed. However, due to the decline in funding ratio for the pension plan and lower investment returns, the total premium increased by 17.1% from \$183,000 to \$214,000 with the mostly the same carriers (Hudson – prior year was Chubb, AIG/National Union and Euclid/Hudson). The Plan currently holds primary, excess and excess Side A fiduciary insurance policies for \$10 million, \$5 million and \$10 million, respectively, with a \$100,000 per claim deductible.

The excess Side A policy was added five years ago per Counsel’s recommendation. Side A DIC (“Difference in Conditions”) coverage insures the individual board and key staff members that, even for non-indemnifiable claims (as defined by the insurer), insurance will drop down to the first dollar of expenses or liability and cover them. Right now, the main policy insures the retirement fund that if a claim is made against the fund, or if a claim is made against an individual that the fund has to indemnify, that insurance will cover those costs/claims, above the deductible (“retention”). Side A coverage is additional coverage that kicks in at the first dollar (i.e. no retention) if a claim is made against an individual, and provides coverage while the fund is deciding whether to cover or deny coverage, or in any event if the primary insurer does not provide coverage. The additional protection is generally not expensive but gives considerable peace of mind to individual board and staff members.

The CEO only has authority to renew the policies without going to the Board for approval if the premium increases by 5% or less. The amount of \$212,000 was included in the budget for fiduciary insurance, which is close to the actual premium amount. Staff had expected premiums to increase based on what has been trending.

Police and Fire Department Plan  
Fiduciary Insurance Waiver of Recourse Fees  
02/23/21  
Page 2

The policies also contain Trustee waiver of recourse coverage that protects the individual Trustees from the insurance carrier's recourse against them for claims of breach of fiduciary duties. The policies require that the annual waiver of recourse premiums of \$75, (\$25 per policy – Primary, Excess and Excess Side A), is to be paid by the Trustees and cannot be paid by the Plan.

For this coverage, please make the **\$75.00** payment payable to the City of San Jose, Police and Fire Department Retirement Plan and remit by **May 31, 2021**, attention to:

Accounting Department  
Office of Retirement Services  
1737 North First Street, Suite 600  
San Jose, CA 95112

Please note that the payment from each Trustee must be from his or her personal account and **cannot** be paid or reimbursed by any other person or organization.

Please contact me via e-mail at [benjie.chua-foy@sanjoseca.gov](mailto:benjie.chua-foy@sanjoseca.gov), if you have any questions or should require further attention.

Regards,



Benjie Chua Foy  
Accounting Division Manager