TOWN OF PALM BEACH

Office of Risk Management

MEMORANDUM

To: Investment Advisory Committee

Via: Bob Miracle, Deputy Town Manager- Finance and Administration

From: Karen Temme, Risk Manager

Re: Town of Palm Beach Investment Advisory Committee
Fiduciary Liability Insurance Renewal
Policy Period April 1, 2025 – April 1, 2026

Date: March 18, 2025

STAFF RECOMMENDATION

Staff are recommending that the Committee continue to purchase the Fiduciary Liability coverage and renew the policy with Hudson Insurance at a $2,000,000 limit of liability with a $10,000 deductible for an annual premium of $5,182.00

It is recommended that the Committee grant authority to Bob Miracle Deputy Town Manager – Finance & Administration, to approve the Fiduciary Liability coverage for the renewal date of April 1, 2026.

POLICY INFORMATION:

A Fiduciary Liability policy has been purchased by the Investment Advisory Committee since inception (March 5, 2008) at a $2,000,000 limit of liability.

Below, please find the Proposed Policy Coverage renewal and a 5-year coverage history:

Description	**Renewal Proposal 2025/2026**	Policy 2023/2024	Policy 2023/2024	Policy 2022/2023	Policy 2021/2020	Policy 2020/2019
Insurance Carrier	**Hudson**	Hudson	Hudson	Hudson	Hudson	Hudson

Limit each claim	**$2,000,000**	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000
Aggregate Limit	**$2,000,000**	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000
Deductible	**$10,000***	$10,000*	$10,000*	$0	$0	$0
Premium	**$5,182**	$5,182	$5,182	$5,031	$5,031	$5,031
A.M. Best Rating Financial Size Category	**A+ XV**	A+ XV	A XV	A XV	A XV	A XV

*Note: carrier began requiring a minimum $10,000 deductible in 2023.

Hudson Insurance Company has been upgraded to "A+" (Superior), financial size category XV ($2 billion or greater) by A.M. Best. Hudson is a wholly owned subsidiary of Odyssey Re Holdings Corp., with assets of $19.3 billion and $5.3 billion in shareholders' equity.

The Fiduciary Liability policy with Hudson provides the following scope of coverages:

- Full coverage for indemnifiable and non-indemnifiable claims;
- Broad definitions of insured, claim and wrongful act;
- A sublimit of defense coverage for non-fiduciary claims;
- Coverage for retainer fees and expenses of an Independent Fiduciary when necessary to meet fiduciary obligations;
- The unique combination of duty to defend with choice of counsel;
- Defense costs are limited and included within the policy limits;
- No hammer clause; (Def: an insurance policy clause that allows an insurer to compel the insured to settle a claim)
- Note: When comparing coverages with other carriers, Travelers governmental fiduciary policy typically includes (in their public entity endorsement) exclusions for funding of the plan and investments in governmental bonds. The Euclid Vanguard policy does not include these significant exclusions.

The Limits of Liability for this policy are as follows:

(a) **Aggregate Limit** – Aggregate limit of liability for all **Loss** under this policy, including **Claim Expenses**	$2,000,000
(b) **Trustee Claim Expenses Sublimit [defense of non-fiduciary claims]** – Aggregate limit of liability for all **Claims Expenses** in connection with **Claims** solely alleging **Wrongful Acts** as defined in Section II.R(3) of the policy (included within and not in addition to the maximum aggregate limit of liability above)	$500,000
(c) **Voluntary Compliance Program Expenditures Sublimit** – Aggregate limit of liability for all **Voluntary Compliance Program Expenditures** (included within and not in addition to the maximum aggregate limit of liability above)	$250,000
(d) **ERISA 502(c) Civil Penalties Sublimit** – Aggregate limit of liability for all **Loss** in the form of civil fines or any excise tax imposed pursuant to Section 502(c) of ERISA and the Pension Protection Act of 2006 (included within and not in addition to the maximum aggregate limit of liability above)	$250,000

(e) **HIPAA and HITECH Fines & Penalties Sublimit** – Aggregate limit of liability for all **Loss** in the form of civil fines and penalties imposed pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HITECH Act of 2009 (included within and not in addition to the maximum aggregate limit of liability above)	$1,500,000
(f) **PPACA Fines & Penalties Sublimit** – Aggregate limit of liability for all **Loss** in the form of civil fines and penalties imposed pursuant to the Patient Protection and Affordable Care Act (PPACA) (included within and not in addition to the maximum aggregate limit of liability above)	$250,000
(g) **Section 4975 Penalties Sublimit** – Aggregate limit of liability for all **Loss** in the form of excise taxes imposed pursuant to Section 4975 of the Internal Revenue Code (included within and not in addition to the maximum aggregate limit of liability above)	$250,000
(h) **ERISA Section 502(a)(3) Relief Sublimit** – Aggregate limit of liability for all **Loss** in the form of equitable relief imposed pursuant to Section 502(a)(3) of ERISA (included within and not in addition to the maximum aggregate limit of liability above)	Not applicable to governmental plans
(i) **Benefit Overpayment Sublimit –** Aggregate limit of liability for all benefit overpayments as defined in Section II.H(5) of the policy (included within and not in addition to the maximum aggregate limit of liability above)	$100,000
(j) **Cyber Essentials –** Aggregate limit of liability for **Content Restoration Expenditures** and **Crisis Notification Expenditures** as defined in Sections II.E and II.G of the policy (included within and not in addition to the maximum aggregate limit of liability above)	Not Applicable

GENERAL INFORMATION

The Fiduciary Liability coverage protects the assets of the Town, individual fiduciaries, administrators, trustees, and the plan. A fiduciary protected by this coverage includes any person who exercises any discretionary authority or control with respect to the management or administration of the Town's Investment Advisory Committee for the Health Insurance Trust or its assets.

The basic duties of a Fiduciary are as follows:

- ✓ Duty of Loyalty
  - » Exclusive benefit rule
- ✓ Duty of prudence.
- ✓ Duty to diversify investments.
- ✓ Duty to adhere to plan documents.

Examples of Claims:

- ✓ Imprudent Investments
- ✓ Failure to Monitor
- ✓ Conflict of Interest
- ✓ Improper Expenses/Ethics Violations

A breach of fiduciary duty occurs when the fiduciary acts in his or her own self-interest rather than in the best interests of those to whom they owe the duty.

Right to Indemnification for Elected and Appointed Officials

The Town Council adopted Ordinance Number 24-07 – Right to Indemnification for Elected and Appointed Officials on November 13, 2007. This Ordinance will provide additional protection while acting in the capacity as an elected and appointed official, outside the Fiduciary liability policy, if needed.

Mr. Terry Stubbs with Arthur J. Gallagher and myself will be attending the March 21, 2025, Investment Advisory Committee meeting should you have any questions.

Please feel free to contact me in advance of the meeting, to better assist in answering questions.

Thank you.

c: Mr. Terry Stubbs, Arthur J. Gallagher