

James Wilbanks, Ph.D.  
Retirement Administrator



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MENDOCINO COUNTY  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: November 2, 2016  
To: Board of Retirement  
From: James Wilbanks, Retirement Administrator  
Subject: Fiduciary Liability Insurance Coverage

The MCERA Board has purchased fiduciary liability insurance (FLI) coverage since 2006. The coverage provides financial protection of MCERA fiduciaries against potential legal liability arising from serving as a trust fiduciary. FLI is not required, but the Board has previously determined there is value to the organization in having such coverage.

Attached is a proposal from Alliant Insurance Services, Inc. for renewal of the MCERA FLI policy. This year, the broker has offered three options to MCERA with different levels of aggregate limit of liability. Option I is similar to the current coverage with a \$5 M liability limit. Option II has a \$7.5 M liability limit while Option III has a \$10 M limit.

As one would expect, higher liability limits come with higher premiums. The annual premium for Option I is \$41,454. Premiums for Options II and III are \$50,465 and \$57,168 respectively. The following table summarizes the proposed options available.

Proposed Fiduciary Liability Insurance		
Option	Aggregate Limit of Liability	Annual Premium
I	\$5,000,000	\$41,454
II	\$7,500,000	\$50,465
III	\$10,000,000	\$57,168

I recommend the Board provide direction on the desired coverage level and make adjustments to the amended FY-2017 budget as needed.



**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
FIDUCIARY LIABILITY INSURANCE PROGRAM (FLIP)  
2016-2017 INSURANCE PROPOSAL  
REVISED**

<b>INSURANCE COMPANY:</b>	<b><u>PRESENT</u></b>	<b><u>PROPOSED</u></b>																																		
	<b>RLI Insurance Company</b>	<b>RLI Insurance Company</b>																																		
<b>A.M. BEST GUIDE RATING:*</b>	A+ (Superior), Financial Size Category: XI (\$750 Million to \$1 Billion), <i>as of June 4, 2015</i>	A+ (Superior), Financial Size Category: XI (\$750 Million to \$1 Billion), <i>as of September 23, 2016</i>																																		
<b>STANDARD &amp; POOR'S RATING:*</b>	A+ (Strong), <i>pulled on September 30, 2015</i>	A+ (Strong), <i>pulled on October 7, 2016</i>																																		
<b>CALIFORNIA STATUS:</b>	Admitted	Admitted																																		
<b>INSURED PLANS:</b>	Mendocino County Employees' Retirement Association and any Employee Benefit Plan sponsored solely thereby	Mendocino County Employees' Retirement Association and any Employee Benefit Plan sponsored solely thereby																																		
<b>COVERAGE TERM:</b>	November 29, 2015 to November 29, 2016	November 29, 2016 to November 29, 2017																																		
<b>PRIOR OR PENDING DATE:</b>	November 29, 2006	November 29, 2006																																		
<b>COVERAGE:</b>	Governmental Plans Fiduciary Liability – <b>Claims-Made Form</b> Form Number: GEF100 (4/11) GEF101 (4/11)	Governmental Plans Fiduciary Liability – <b>Claims-Made Form</b> Form Number: GEF100 (4/11) GEF101 (4/11)																																		
<b>LIMITS:</b>	<table border="0"> <tr> <td style="vertical-align: top;"><b>OPTION I</b></td> <td>\$5,000,000</td> <td>Aggregate Limit of Liability (including Defense Costs)</td> </tr> <tr> <td></td> <td>\$ 500,000</td> <td>Sublimit of Liability for (VCP) Voluntary Compliance Program Compliance Fees</td> </tr> <tr> <td></td> <td>\$1,500,000</td> <td>HIPAA Sublimit</td> </tr> <tr> <td></td> <td>\$ 250,000</td> <td>HITECH Sublimit</td> </tr> <tr> <td></td> <td>\$ 250,000</td> <td>Tax Penalty Sublimit</td> </tr> <tr> <td></td> <td>\$ 250,000</td> <td>Penalty Coverage (Health Care Reform Laws) Sublimit</td> </tr> </table>	<b>OPTION I</b>	\$5,000,000	Aggregate Limit of Liability (including Defense Costs)		\$ 500,000	Sublimit of Liability for (VCP) Voluntary Compliance Program Compliance Fees		\$1,500,000	HIPAA Sublimit		\$ 250,000	HITECH Sublimit		\$ 250,000	Tax Penalty Sublimit		\$ 250,000	Penalty Coverage (Health Care Reform Laws) Sublimit	<table border="0"> <tr> <td>\$ 5,000,000</td> <td>Aggregate Limit of Liability (including Defense Costs)</td> </tr> <tr> <td>\$ 500,000</td> <td>Sublimit of Liability for (VCP) Voluntary Compliance Program Compliance Fees</td> </tr> <tr> <td>\$ 1,500,000</td> <td>HIPAA Sublimit</td> </tr> <tr> <td><b>\$ 1,500,000</b></td> <td><b>HITECH Sublimit</b></td> </tr> <tr> <td>\$ 250,000</td> <td>Tax Penalty Sublimit</td> </tr> <tr> <td>\$ 250,000</td> <td>Penalty Coverage (Health Care Reform Laws) Sublimit</td> </tr> <tr> <td><b>\$ 1,000,000</b></td> <td><b>Settlor Sublimit</b></td> </tr> <tr> <td><b>\$ 250,000</b></td> <td><b>Section 502(c) Pension Protection Act</b></td> </tr> </table>	\$ 5,000,000	Aggregate Limit of Liability (including Defense Costs)	\$ 500,000	Sublimit of Liability for (VCP) Voluntary Compliance Program Compliance Fees	\$ 1,500,000	HIPAA Sublimit	<b>\$ 1,500,000</b>	<b>HITECH Sublimit</b>	\$ 250,000	Tax Penalty Sublimit	\$ 250,000	Penalty Coverage (Health Care Reform Laws) Sublimit	<b>\$ 1,000,000</b>	<b>Settlor Sublimit</b>	<b>\$ 250,000</b>	<b>Section 502(c) Pension Protection Act</b>
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\*See last page for additional information

**Alliant Insurance Services, Inc.**  
1301 Dove Street, Suite 200, Newport Beach CA 92660-2511 ♦ 949-756-0271  
Lic #0C36861 ♦ [www.alliant.com](http://www.alliant.com)



**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
FIDUCIARY LIABILITY INSURANCE PROGRAM (FLIP)  
2016-2017 INSURANCE PROPOSAL  
REVISED**

INSURANCE COMPANY:	<u>PRESENT</u>	<u>PROPOSED</u>
	RLI Insurance Company	RLI Insurance Company
<b>LIMITS:</b>	<b>OPTION II</b> Not applicable	\$ 7,500,000 Aggregate Limit of Liability (including Defense Costs)
<b>Continued</b>		\$ 500,000 Sublimit of Liability for (VCP) Voluntary Compliance Program Compliance Fees
		\$ 1,500,000 HIPAA Sublimit
		<b>\$ 1,500,000 HITECH Sublimit</b>
		\$ 250,000 Tax Penalty Sublimit
		\$ 250,000 Penalty Coverage (Health Care Reform Laws) Sublimit
		<b>\$ 1,000,000 Settlor Sublimit</b>
		<b>\$ 250,000 Section 502© Pension Protection Act</b>
	<b>RETENTION</b>	\$ 50,000 Indemnifiable
		\$ 0 Non-Indemnifiable
	<b>OPTION III</b> Not applicable	\$10,000,000 Aggregate Limit of Liability (including Defense Costs)
		\$ 500,000 Sublimit of Liability for (VCP) Voluntary Compliance Program Compliance Fees
		\$ 1,500,000 HIPAA Sublimit
		<b>\$ 1,500,000 HITECH Sublimit</b>
		\$ 250,000 Tax Penalty Sublimit
		\$ 250,000 Penalty Coverage (Health Care Reform Laws) Sublimit
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	<b>RETENTION</b>	\$ 50,000 Indemnifiable
		\$ 0 Non-Indemnifiable



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INSURANCE COMPANY:	<u>PRESENT</u> RLI Insurance Company	<u>PROPOSED</u> RLI Insurance Company
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**PROGRAM HIGHLIGHTS:**

- |  |                        |
|--|------------------------|
| <ul style="list-style-type: none"> <li>• Definition of Loss to include Punitive, Exemplary, and Multiplied Damages (where insurable) with Most Favorable Venue wording.</li> <li>• Definition of Insured Persons to include Employees of any Insured Plan.</li> <li>• Non Cancellable by Insurer other than for Non Payment of Premium.</li> <li>• Wrongful Act definition includes administrative duties; counseling employees, participants, and beneficiaries; handling of records; failure to comply with privacy provisions of HIPAA.</li> <li>• Notice/Claim Reporting Provision – notice required after General Council, Risk Manager or Trustee first learns of claim.</li> <li>• No Libel or Slander exclusion</li> <li>• Defense cost coverage for performance of managed care services with respect to selection of medical or health service providers.</li> <li>• Final Adjudication wording for conduct exclusions.</li> <li>• Employee Benefit Law defined to acknowledge Public Entity Risks not subject to ERISA</li> <li>• Modified Consent to Settle Clause to 80%/20%</li> <li>• Severability for all exclusions.</li> <li>• Spousal Extension amended to include Domestic Partner</li> <li>• Priority of Payments provision</li> <li>• Severability of Application.</li> <li>• Extended Reporting Period (Discovery Period) available for one to six years.</li> <li>• Automatic Coverage for COBRA Violations</li> </ul> | <p>Same as present</p> |
|--|------------------------|

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**ENDORSEMENTS & EXCLUSIONS (Including but not limited to):**

- Failure to collect Contributions Exclusion
- Return of Contributions Exclusion
- Bodily Injury, Mental Anguish, Emotional Distress, Sickness, Disease or Death and Property Damage Exclusion
- Contractual Liability Exclusion
- Illegal Profit Exclusion
- Discrimination Except for Employee Benefit Law Exclusion
- Known Prior Acts Exclusion
- Pollution Exclusion
- Workers Compensation, Unemployment Insurance, Social Security or Disability Benefits Laws Exclusion
- Deliberate Fraudulent or Dishonest Acts Exclusion
- Amend Definition of Administration to include determining and calculation of benefits

Same as present *except for:*

- Amend Definition of Administration
- Amend Definition of Claim
- Amend Definition of Defense Expenses
- Amend Definition of Employee Benefit Law
- Amend Definition of Insured
- Amend Definition of Insured Person
- Amend Definition of Loss
- Amend Definition of Wrongful Act
- Amend Bodily Injury Exclusion
- Amend Personal Profit Exclusion
- Amend Prior Notice Exclusion
- Delete Pollution Exclusion
- Amend Fraud Exclusion
- Amend Exclusion Severability
- Amend Conditions- Defense Coverage
- Amend Conditions- Acquisition or Creation of Another Plan
- Amend Conditions- Representations; Severability
- Amend Conditions- Subrogation and Waiver of Recourse
- Amend Penalty Coverage Endorsement
- HITECH Sublimit increased to \$1,500,000
- Section 502(c) Pension Protection Act \$250,000 sublimit
- Settlers Sublimit of \$1,000,000 with a \$50,000 SIR
- Amend Written Contract Exclusion Endorsement
- Amend Definition of Non-Indemnifiable Loss
- Amend Section 9. Defense Coverage Endorsement
- Amend Pending or Prior Litigation Exclusion 6.c.
- Approved Outside Counsel endorsement- Nossaman, LLP- Agreed rates
  - Partner- \$505
  - Senior Counsel- \$396
  - Junior Associates- \$300 to \$390
  - Paralegal- \$145

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<b>INSURANCE COMPANY:</b>	<b><u>PRESENT</u></b> RLI Insurance Company	<b><u>PROPOSED</u></b> RLI Insurance Company
<b>EXTENDED REPORTING PERIOD:</b>	<ul style="list-style-type: none"> <li>• 12 months for 100% of the annual premium</li> <li>• 24 months for 175% of the annual premium</li> <li>• 36 months for 200% of the annual premium</li> </ul>	<ul style="list-style-type: none"> <li>• 12 months for 100% of the annual premium</li> <li>• 24 months for 175% of the annual premium</li> <li>• 36 months for 200% of the annual premium</li> </ul>
<b>PREMIUM:</b>	<p><b>OPTION I</b> \$39,485 Annual Premium</p> <p><b>OPTION II</b> Not applicable</p> <p><b>OPTION III</b> Not applicable</p>	<p>\$41,454 Annual Premium</p> <p>\$50,465 Annual Premium</p> <p>\$57,168 Annual Premium</p>
<b>WAIVER OF RECOURSE:</b>	\$100 flat (included in premium above)	\$100 flat (included in premium above)
<b>QUOTE VALID UNTIL:</b>	No longer applicable	November 29, 2016
<b>CONDITIONS:</b>	No longer applicable	<ul style="list-style-type: none"> <li>• Payment due within 15 days of binding</li> <li>• 25% Minimum Earned Premium</li> </ul>
<b>BINDING CONDITIONS:</b>	No longer applicable	Written request to bind coverage



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**DATE PREPARED:** October 21, 2016

**BROKER:** **ALLIANT INSURANCE SERVICES, INC.**

Rennetta Poncy, First Vice President  
Mariana C. Salyer, CSAC EIA Program Specialist

**ALLIANT DISCLOSURE**

This proposal of insurance is provided as a matter of convenience and information only. All information included in this proposal, including but not limited to personal and real property values, locations, operations, products, data, automobile schedules, financial data and loss experience, is based on facts and representations supplied to Alliant Insurance Services, Inc. by you. This proposal does not reflect any independent study or investigation by Alliant Insurance Services, Inc. or its agents and employees.

Please be advised that this proposal is also expressly conditioned on there being no material change in the risk between the date of this proposal and the inception date of the proposed policy (including the occurrence of any claim or notice of circumstances that may give rise to a claim under any policy which the policy being proposed is a renewal or replacement). In the event of such change of risk, the insurer may, at its sole discretion, modify, or withdraw this proposal whether or not this offer has already been accepted.

This proposal is not confirmation of insurance and does not add to, extend, amend, change, or alter any coverage in any actual policy of insurance you may have. All existing policy terms, conditions, exclusions, and limitations apply. For specific information regarding your insurance coverage, please refer to the policy itself. Alliant Insurance Services, Inc. will not be liable for any claims arising from or related to information included in or omitted from this proposal of insurance

Alliant embraces a policy of transparency with respect to its compensation from insurance transactions. Details on our compensation policy, including the types of income that Alliant may earn on a placement, are available on our website at [www.alliant.com](http://www.alliant.com). For a copy of our policy or for any inquiries regarding compensation issues pertaining to your account you may also contact us at: Alliant Insurance Services, Inc., Attention: General Counsel, 701 B Street, 6th Floor, San Diego, CA 92101.

Analyzing insurers' over-all performance and financial strength is a task that requires specialized skills and in-depth technical understanding of all aspects of insurance company finances and operations. Insurance brokerages such as Alliant Insurance typically rely upon rating agencies for this type of market analysis. Both A.M. Best and Standard and Poor's have been industry leaders in this area for many decades, utilizing a combination of quantitative and qualitative analysis of the information available in formulating their ratings.

A.M. Best has an extensive database of nearly 6,000 Life/Health, Property Casualty and International companies. You can visit them at [www.ambest.com](http://www.ambest.com). For additional information regarding insurer financial strength ratings visit Standard and Poor's website at [www.standardandpoors.com](http://www.standardandpoors.com).

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Our goal is to procure insurance for you with underwriters possessing the financial strength to perform. Alliant does not, however, guarantee the solvency of any underwriters with which insurance or reinsurance is placed and maintains no responsibility for any loss or damage arising from the financial failure or insolvency of any insurer. We encourage you to review the publicly available information collected to enable you to make an informed decision to accept or reject a particular underwriter. To learn more about companies doing business in your state, visit the Department of Insurance website for that state.

**THIS IS A CLAIMS MADE POLICY**

This claims-made policy contains a requirement stating that this policy applies only to any claim first made against the Insured and reported to the insurer during the policy period or applicable extended reporting period. Claims must be submitted to the insurer during the policy period, or applicable extended reporting period, as required pursuant to the Claims/Loss Notification Clause within the policy in order for coverage to apply. Late reporting or failure to report pursuant to the policy's requirements could result in a disclaimer of coverage by the insurer.

**CLAIMS REPORTING NOTICE**

Your policy will come with specific claim reporting requirements. Please make sure you understand these obligations. Contact your Alliant Service Team with any questions.

**NY REGULATION 194 DISCLOSURE**

Alliant Insurance Services, Inc. is an insurance producer licensed by the State of New York. Insurance producers are authorized by their license to confer with insurance purchasers about the benefits, terms and conditions of insurance contracts; to offer advice concerning the substantive benefits of particular insurance contracts; to sell insurance; and to obtain insurance for purchasers. The role of the producer in any particular transaction typically involves one or more of these activities. Compensation will be paid to the producer, based on the insurance contract the producer sells. Depending on the insurer(s) and insurance contract(s) the purchaser selects, compensation will be paid by the insurer(s) selling the insurance contract or by another third party. Such compensation may vary depending on a number of factors, including the insurance contract(s) and the insurer(s) the purchaser selects. In some cases, other factors such as the volume of business a producer provides to an insurer or the profitability of insurance contracts a producer provides to an insurer also may affect compensation. The insurance purchaser may obtain information about compensation expected to be received by the producer based in whole or in part on the sale of insurance to the purchaser, and (if applicable) compensation expected to be received based in whole or in part on any alternative quotes presented to the purchaser by the producer, by requesting such information from the producer.

**FATCA DISCLOSURE**

**IMPORTANT NOTICE** - The Foreign Account Tax Compliance Act (FATCA) requires the notification of certain financial accounts to the United States Internal Revenue Service. Alliant does not provide tax advice so please contact your tax consultant for your obligation regarding FATCA.

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