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Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
STATE OF IDAHO

In the Matter of:

CITY OF CALDWELL EMPLOYEE
BENEFIT PLAN TRUST

Idaho Registration No. 3926

Docket No. 18-3382-17

**ORDER ADOPTING REPORT
OF EXAMINATION AS OF
SEPTEMBER 30, 2016**

The State of Idaho, Department of Insurance (“Department”), having conducted an examination of the affairs, transactions, accounts, records, and assets of City of Caldwell Employee Benefit Plan Trust (“Caldwell Trust”), pursuant to Idaho Code §§ 41-4013 and 41-219(1) and (5), as incorporated and made applicable by Idaho Code § 41-4021, hereby alleges the following facts that constitute a basis for issuance of an order, pursuant to Idaho Code § 41-227(5)(a), adopting the Report of Examination of City of Caldwell Employee Benefit Plan Trust as of September 30, 2016 (“Report”), as filed.

FINDINGS OF FACT

1. Caldwell Trust is an Idaho-domiciled self-funded health care plan, which was duly

registered with the Department on November 4, 2008, under Registration No. 3926.

2. The Department completed an examination of Caldwell Trust pursuant to Idaho Code §§ 41-4013 and 41-219(1) and (5) on or about November 1, 2017. The Department's findings are set forth in the Report.

3. Pursuant to Idaho Code § 41-227(4), a copy of the Report, verified under oath by the Department's examiner-in-charge, was filed with the Department on November 1, 2017, and a copy was transmitted to Caldwell Trust on the same date. A copy of the verified Report is attached hereto as Exhibit A.

4. On or about November 2, 2017, the Department received a Waiver signed by ElJay Waite and Monica Jones, Trustees of Caldwell Trust. By execution of such Waiver, a copy of which is attached hereto as Exhibit B, Caldwell Trust consented to the immediate entry of a final order by the Director of the Department ("Director") adopting the Report without any modifications; waived its right to make a written submission or rebuttal to the Report; and waived its right to request a hearing and to seek reconsideration or appeal from the Director's final order.

5. No written submissions or rebuttals with respect to any matters contained in the Report were received by the Department from Caldwell Trust.

CONCLUSIONS OF LAW

6. Idaho Code § 41-227(5)(a) provides that "[w]ithin thirty (30) days of the end of the period allowed for the receipt of written submissions or rebuttals, the director shall fully consider and review the report, together with any written submissions or rebuttals and relevant portions of the examiner's work papers" and shall enter an order adopting the report of examination as filed or with modifications or corrections.

7. Having fully considered the Report, the Director of the Department ("Director")

concludes that, during the period covered by the Report, Caldwell Trust met the minimum surplus requirements set forth in Idaho Code § 41-4010(3).

ORDER

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED that the Report of Examination of City of Caldwell Employee Benefit Plan Trust as of September 30, 2016, is hereby ADOPTED as filed, pursuant to Idaho Code § 41-227(5)(a).

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-227(8), that the adopted Report is a public record and shall not be subject to the exemptions from disclosure provided in chapter 1, title 74, Idaho Code.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-227(6)(a), that, within thirty (30) days of the issuance of the adopted Report, Caldwell Trust shall file with the Department's Company Activities Bureau Chief affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report and related orders.

IT IS SO ORDERED.

DATED this 20 day of November, 2017.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

NOTIFICATION OF RIGHTS

This Order constitutes a final order of the Director. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Director will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See*, Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order; or (b) an order denying a petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See*, Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 27th day of November, 2017, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXAMINATION AS OF SEPTEMBER 30, 2016, to be served upon the following by the designated means:

City of Caldwell Employee Benefit Plan Trust
ElJay Waite, Chairman of the Board of Trustees
411 Blain Street
Caldwell, ID 83605-3619
ewaite@cityofcaldwell.com

☐ first class mail
☒ certified mail
☐ hand delivery
☒ email

Nathan Faragher
Bureau Chief, Company Activities
Idaho Department of Insurance
700 W. State Street, 3rd Floor
Boise, ID 83720-0043
nathan.faragher@doi.idaho.gov

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☒ email

Judy L. Geier
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☐ first class mail
☐ certified mail
☒ hand delivery
☐ email



DEPARTMENT OF INSURANCE

STATE OF IDAHO



REPORT OF EXAMINATION

Of

CITY OF CALDWELL EMPLOYEE BENEFIT PLAN TRUST
(Self-Funded Health Care Plan)

As of September 30, 2016



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Boise, Idaho
November 1, 2017

The Honorable Dean L. Cameron
Director, Department of Insurance
State of Idaho
700 West State Street
Boise, Idaho 83720

Dear Director,

Pursuant to your instructions, in compliance with Idaho Code §§ 41-219(1) and 41-4013(1), we have conducted an examination as of September 30, 2016, of the financial condition and corporate affairs of:

City of Caldwell Employee Benefit Plan Trust
411 Blaine Street
Caldwell, Idaho 83605-3619

hereinafter referred to as the "Trust" or "Plan," at its office in Caldwell, Idaho. The following Report of Examination is respectfully submitted.

SCOPE OF EXAMINATION

This examination covered the period October 1, 2010 through September 30, 2016 and included such prior transactions and any material transactions and/or events occurring subsequent to the examination date and noted during the course of this examination. The examination was conducted in accordance with Idaho Code §§ 41-219(1) and 41-4013(1). Verification and valuation of assets, liabilities, and net assets (surplus) and an analysis and review of such other accounts and records as appropriate to the examination were also performed. There was some reliance upon the Trust's independent auditor's and the consulting actuary's work in this examination.

A letter of representation attesting to the Trust's ownership of all assets and to the nonexistence of unrecorded liabilities or contingent liabilities was signed by and received from the trustee of the Plan.

Status of Prior Examination Findings

Our examination included a review to determine the current status of the one exception commented upon in our preceding Report of Examination, dated October 4th, 2011 which covered the period from November 4, 2008 to September 30, 2010. We determined that the Trust had partially addressed this exception. This exception will be further comment under "Conflict of Interest" in this report.

SUMMARY OF SIGNIFICANT FINDINGS

Our examination did not disclose any material adverse findings or any adjustments that impacted the Trust's reported surplus.

SUBSEQUENT EVENTS

Our examination included a review of the minutes of meetings of the Board of Trustees subsequent to the examination period in order to gain further understanding of the Trust's management and operations. We noted that the City of Caldwell infused three additional funds to the Trust (2014-2015, 2015-2016, and 2016-2017 plan years) as stated on page 2 of the November 30, 2016 financial statement. The planning and approval to request additional funds from the City of Caldwell were not recorded in the minutes. *(See comment A. under COMMENTS AND RECOMMENDATIONS)*

TRUST HISTORY

The City of Caldwell Employee Benefit Plan Trust (the Trust) was registered as a self-funded health care plan in Idaho effective November 4, 2008. On that date, the Idaho Department of Insurance issued a certification of registration (No. 3926) to the Trust under Title 41, chapter 40 of the Idaho Code. The Trust provides optional health care benefits to all full-time employees who regularly work at least 32 hours per week and their dependents as well as to retirees from the City of Caldwell. Coverage commences on the first day of the month following a thirty-day waiting period.

CORPORATE RECORDS

The meetings of the Board of Trustees were conducted on a quarterly basis for all the years under examination. According to the Trust Agreement with the City of Caldwell (Employer/Sponsor), the initial trustees include the human resources director and the finance director for the City of Caldwell. There has been no change during the period under examination. Items discussed during the meetings generally include acceptance and approval of financial statements, underwriting results, and changes in coverages and contributions (rates).

The Prior Examination Report as of September 30, 2010 was distributed to and reviewed by the Board of Trustees on October 24, 2011, in accordance with Idaho Code § 41-227(6)(a).

MANAGEMENT AND CONTROL

Effective April 1, 2008, the City of Caldwell (Employer/Sponsor) entered into a trust agreement with the Trust. The purposes of the Trust as stated in the agreement includes: (1) to receive, in advance, all contributions to the Plan; (2) to hold, manage, invest and reinvest the Trust's property and all income from the property; and (3) to make distributions from the Trust Fund in such amounts and to such person or persons as the Plan Administrator shall direct to provide for medical, dental, pharmacy and vision expenses incurred by Plan Participants. The trustees shall serve without compensation. Any action taken by the trustees shall be taken by a majority vote of the trustees.

Trustees

The following persons were members of the Board of Trustees at September 30, 2016:

<u>Name and Business Address</u>	<u>Principal Occupation</u>
----------------------------------	-----------------------------

ElJay Waite
Caldwell, Idaho

Finance Director
City of Caldwell

Monica Jones
Caldwell, Idaho

Human Resources Director
City of Caldwell

Conflict of Interest

In compliance with Idaho Code § 41-4015, each trustee has begun completing a conflict of interest statement in 2014. However, only two statements were completed for the three year period from 2014 to 2016. *(See comment B. under COMMENTS AND RECOMMENDATIONS)*

CONTRACTS AND AGREEMENTS

The Trust had the following agreement in effect at September 30, 2016:

Trust Agreement

For a discussion of the trust agreement details, please go to earlier heading titled “Management and Control.”

Administrative Services Agreement with Regence Blueshield of Idaho

This service agreement became effective on October 1, 2013 and is automatically renewed for successive 12 month periods until cancelled by either party. In this agreement, Regence Blueshield of Idaho (Regence) agrees to provide general administrative services and claims processing services to the Trust. In brief, the administrative services agreement provides for the following services:

General Administrative Services

- Answer Participants’ inquiries regarding eligibility, benefits, status of benefit payments, complaints and requests for forms
- Assist in the development and design of benefit revisions, additions and extensions
- Assist with the enrollment of Participants
- Maintain eligibility files
- Issue identification cards to Participants
- Initiate reasonable overpayment, subrogation and similar right of reimbursement recovery effort
- Provide Plan Sponsor with access to employer reporting platform
- Provide Participants with access to Participating Providers

- Prepare disclosures of creditable coverage for Participants as necessary to comply with HIPPA.

Claims Processing Services

- Issue benefit payments and denials, along with explanations of benefits to Participants.

Stop Loss Agreement

The stop loss agreement became effective on October 1, 2013 and is automatically renewed for successive 12 month periods until cancelled by either party. In this agreement, Regence Blueshield of Idaho (Regence) agrees to provide the following stop loss coverage to the Trust:

- **Specific Stop Loss Coverage:**
Regence will reimburse the Trust for the amounts of paid claims that exceed the specific stop loss deductible of \$75,000.
- **Aggregate Stop Loss Coverage:**
Regence will reimburse the Trust for the total net paid claims that exceed the minimum aggregate stop loss attachment point (90%) up to an aggregate stop loss limit of \$2 million.

Administrative Services Agreement with Delta Dental of Idaho

The Trust entered into an administrative services agreement with Delta Dental of Idaho (Delta Dental) with the effective dates from October 1, 2015 through September 30, 2017. In this agreement, Delta Dental agreed to provide the following services to the Trust:

- Initial adjudication, processing and payment of claims
- Assisting the Trust with establishing underwriting standards for its dental plan
- To make no payments for any services rendered to a person who is not eligible for dental benefits
- Providing all customer service functions for the Participants
- Enlist dentists in sufficient number to ensure an adequate choice of dentists
- To require each participating dentist to render all dental treatment according to the standards of the dental profession
- To make payments for dental services provided to participants and eligible dependents
- Generate reports for the Trust as requested
- Maintaining adequate books and records of all transactions to the services provided by Delta Dental.

Statement of Work Agreement with Mercer Health & Benefits, LLC

The Trust entered into a Statement of Work Agreement with Mercer Health & Benefits, LLC (Mercer) effective October 1, 2013. In this agreement, Mercer agreed to provide human resource, broker, and benefit consulting services to the Trust.

All service agreements between the Trust, third parties, and the renewal thereof, are authorized by the Mayor of the City of Caldwell and the Caldwell City Council by virtue of a resolution. The Trust's board meeting minutes did not reflect the review and approval of all service agreements within the years under examination. *(See comment C. under COMMENTS AND RECOMMENDATIONS)*

Our examination noted that the Plan does not have separate employees. All services, ministerial duties, and responsibilities incidental to the Plan's operations are conducted by the City of Caldwell. The City of Caldwell did not charge the Plan for the ministerial duties it performed for and in behalf of the Plan. There is no written agreement in place that defines the nature and scope of work, or describes the duties, responsibilities and compensation, if any, with the City of Caldwell for handling such ministerial functions for the Plan. *(See comment D. under COMMENTS AND RECOMMENDATIONS)*

FIDELITY BONDS AND OTHER INSURANCE

A fidelity bond policy for the protection of the Trust was maintained through the period under examination. The coverage provided on this policy met the requirements specified in Idaho Code § 41-4014(3).

The insurance company providing coverage to the Trust was licensed or otherwise authorized in the State of Idaho.

TERRITORY AND PLAN OF OPERATION

As previously reported, the Trust was registered with the Idaho Department of Insurance as a self-funded health care plan on November 4, 2008, under Title 41, Chapter 40, Idaho Code. In this connection, Certificate of Registration Number 3926 was granted to the Trust to operate in the State of Idaho. Operations of the Trust are performed at the City of Caldwell office at Caldwell, Idaho. Operations relating claims are handled by Regence Blueshield of Idaho and Delta Dental of Idaho.

The Trust currently provides medical, dental, pharmacy, and vision benefits to approximately 700 individuals. These individuals include employees, their dependents and COBRA eligible participants for the City of Caldwell.

GROWTH OF THE TRUST

The Trust's growth for the years indicated, as taken from the audited financial statements for the fiscal years 2011 and 2016 (September 30), is shown in the following schedule:

<u>Year</u>	<u>Assets</u>	<u>Liabilities</u>	<u>Net</u> <u>Assets/Surplus</u>	<u>Change in Net</u> <u>Asset/Surplus</u> <u>(deficit)</u>
2011	\$ 594,744	236,352	358,392	-339,876
2012	\$ 619,060	177,083	441,977	83,585
2013	\$ 868,757	226,329	642,428	200,451
2014	\$1,423,978	223,565	1,200,413	557,985
2015	\$1,288,462	298,295	990,167	-210,246
2016*	\$1,383,941	269,929	1,114,012	123,845

*As determined by Examination

BENEFIT PLANS AND RELATED PRACTICES

Benefit Plans

As previously mentioned, the Trust currently provides medical, dental, pharmacy and vision health care benefits to approximately 700 individuals. These individuals include employees, their dependents, and Cobra eligible participants. The Trust's benefit period is October 1st through September 30th.

The Trust provided a health plan that carried a \$300 per person (\$600 per family) deductible and an out of pocket limit of \$2,000 per person (\$4,000 per family) in the 2015-2016 plan year.

Complaints

The Trust has not maintained a complaint log in compliance with Idaho Code § 41-1330. The log should include information such as the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. It is recommended that the Trust work with its benefit consultant, Mercer Health & Benefits, LCC, and third party administrator, Regence Blueshield of Idaho, to construct a complaint log in compliance with the aforementioned code section.

Our examination noted that the Plan has not maintained a complete record of all the complaints it has received. *(See comment E. under COMMENTS AND RECOMMENDATIONS)*

Privacy Practices

In compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), the Trust through its third party administrator, Regence Blueshield of Idaho, sent out a notice of privacy practices to its members annually.

ACCOUNTS AND RECORDS

General Accounting

The Trust's business and accounting records were maintained at the office of City of Caldwell. Claims data were maintained by its two claims services administrators, Regence Blueshield of Idaho and Delta Dental of Idaho.

Our examination noted that the Mayor of the City of Caldwell (Mayor) is not a trustee. However, signature cards for the Trust bank account stated that he is. The meeting minutes did not indicate that the Board passed a resolution authorizing the Mayor to sign on behalf of the Trust for the Trust's bank transactions. *(See comment F. under COMMENTS AND RECOMMENDATIONS)*

The Trust had \$1.4 million on deposit with US Bank National Association as of September 30, 2016. This amount is in excess of the FDIC insured amount (\$250,000). The City of Caldwell obtained a letter of credit from the same bank in the amount of \$9.5 million to cover the excess amounts on the Trust's account. The City of Caldwell was named beneficiary of the letter of credit and not the Trust. *(See comment G. under COMMENTS AND RECOMMENDATIONS)*

Independent Auditor

The annual independent audits of the Trust for the fiscal years (September 30) 2011 through 2016 were performed by EideBailly LLP, Boise, Idaho. In the auditor's opinion, the financial statements of the Trust present fairly the financial position of the Trust in accordance with accounting principles generally accepted in the United States of America. There was some reliance on the 2016 audit work papers in the examination of the Trust.

Actuarial Opinion

The Trust utilized the services of the actuary of Mercer Health & Benefits, LLC (Mercer) to project its incurred but not reported reserve at the end of each fiscal year. In compliance with

Idaho Code § 41-4011(3), an incurred but not reported (IBNR) letter issued by the actuary of Mercer had been sent to the Idaho Department of Insurance annually since 2014.

FINANCIAL STATEMENTS

The financial section of this report contains the following statements:

Statement of Net Assets as of September 30, 2016

Statement of Income, Expenses, and Changes in Net Assets for the Year Ended September 30, 2016

Reconciliation of Net Assets, September 30, 2011 through September 30, 2016

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Statement of Net Assets
As of September 30, 2016

<u>Assets</u>	<u>Per Trust</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Cash and cash equivalents	<u>\$1,383,941</u>	<u>\$ 0</u>	<u>\$1,383,941</u>
Total Assets	<u>\$1,383,941</u>	<u>\$ 0</u>	<u>\$1,383,941</u>
<u>Liabilities and Net Assets</u>			
Claims payable	\$ 63,929	\$ 0	\$ 63,929
Health claims incurred but not reported (Note 1)	<u>206,000</u>	<u>0</u>	<u>206,000</u>
Total Liabilities	<u>\$ 269,929</u>	<u>\$ 0</u>	<u>\$ 269,929</u>
Net Assets	<u>\$1,114,012</u>	<u>\$ 0</u>	<u>\$1,114,012</u>

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**Statement of Income, Expenses and Changes in Net Assets
For the Year Ended September 30, 2016**

	<u>Per Trust</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Contributions:			
Employer contributions	\$3,107,649	\$ 0	\$3,107,649
Plan member contributions	200,976	0	200,976
COBRA contributions	<u>19,606</u>	<u>0</u>	<u>19,606</u>
Total Contributions	\$3,328,231	0	\$3,328,231
 *Income from Rebates	 <u>7,569</u>	 <u>0</u>	 <u>7,569</u>
Total Income	<u>\$3,335,800</u>	<u>\$ 0</u>	<u>\$3,335,800</u>
 Expenses:			
Health claim benefits	\$2,588,981	\$ 0	\$2,588,981
Change in incurred but not reported	(25,566)	0	(25,566)
Administrative expenses	<u>648,540</u>	<u>0</u>	<u>648,540</u>
Total Expenses	<u>\$3,211,955</u>	<u>\$ 0</u>	<u>\$3,211,955</u>
 Increase in Net Assets	 <u>\$ 123,845</u>	 <u>\$ 0</u>	 <u>\$ 123,845</u>

_*Income from prescription rebates are recorded as and form part of Plan revenue when received.

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Reconciliation of Changes in Net Assets
September 30, 2010 through September 30, 2016

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016*</u>
Net Assets, End of Previous year	\$698,178	\$358,392	\$441,977	\$642,428	\$1,200,413	\$ 990,167
Change in Net Assets	(339,786)	83,585	200,451	557,985	(210,246)	123,845
Net Assets, End of Current Year	\$358,392	\$441,977	\$642,428	\$1,200,413	\$ 990,167	\$1,114,012

*Per Examination

The Trust's sponsor, City of Caldwell infused additional funding to the Trust four times for a total of \$734,672 during the period under examination.

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NOTES TO FINANCIAL STATEMENTS

Note (1) – Health Claims Incurred But Not Reported (IBNR)	\$206,000
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The captioned liability established by the Trust's consulting actuary (Mercer) has been reviewed by the examiner. The methodology used by the actuary to project this reserve appears appropriate. The liability reported as of September 30, 2016 is reasonable.

SUMMARY

Idaho Code § 41-4010(7) requires the Trust fund to maintain the minimum surplus requirements at all times throughout the year. The Trust fund required additional employer contribution for plan year 2015-2016 on September 30, 2016 in the amount of \$150,000 in order to maintain the minimum surplus requirements. The results of this examination disclosed that as of September 30, 2016, the Trust had assets of \$1,381,941, liabilities of \$269,929 and net assets of \$1,114,012. It appears that the Trust has complied with the surplus requirement under Idaho Code § 41-4010(3).

SUMMARY OF RECOMMENDATIONS

A. Minutes of Meetings

Our examination included a review of the minutes of meetings of the Board of Trustees in order to gain an understanding of the Trust's management and operations. We noted that the City infused three additional funds to the Trust (2014-2015, 2015-2016, and 2016-2017 plan years) as stated on page 2 of the 11/30/16 statement. These additional funds were not recorded in the minutes.

Recommendation:

We recommend that all acts, resolutions, appointments, authorizations to transact, delegation of ministerial duties, or all other activities of the Board of Trustees pertaining to transactions and affairs of the Trust, be recorded accurately within minutes of the meetings of the Board of Trustees. Any actions taken outside of a meeting of the Board of Trustees shall be maintained in the records of the Board of Trustees in compliance with Idaho Code § 41-4011(1).

B. Conflicts of Interest

Idaho Code § 41-4015 provides for prohibited pecuniary interests in plan management. The Trustees had begun filling out the conflict of interest statements in 2014. However, only two conflict of interest statements, dated December 10, 2014 and April 11, 2016 were completed during this exam period.

The Plan does not have a procedure in place that required Trustees and other persons having responsibility for management of the plan to disclose prohibited pecuniary interests as enumerated under Idaho Code § 41-4015 and other conflicts of interest.

Recommendation:

We recommend that the Trustees implement a procedure which requires each individual having responsibility for the management of the Plan, including the Trustees, to fill out a conflict of interest statement annually to verify compliance with Idaho Code § 41-4015 and identify conflicts of interest along with outside fiduciary duties of a trustee. These statements should be reviewed by the Board of Trustees annually to ensure that any type of conflict is disclosed and that prohibited pecuniary interests are addressed and resolved.

C. Service Agreement Approval

All service agreements between the Trust, third parties, and the renewal thereof, are authorized by the Mayor of the City of Caldwell and the Caldwell City Council by virtue of a resolution. The Trust's board meeting minutes did not reflect the review and approval of all service agreements within the years under examination.

Pursuant to Idaho Code § 41-4007(5) The Trust fund of a self-funded plan shall have the authority ...to engage exclusively in transactions authorized or required by chapter 40, title 41. It is therefore the duty of the Trustees to approve the renewal of any agreement entered into by the Trust. Such approval shall be entered in the records of the Trust pursuant to Idaho Code § 41-4011 requiring the Trustees to cause full and accurate records and accounts to be entered and maintained during all times of the existence of the Trust covering all financial transactions and affairs of the trust fund.

Recommendation:

We recommend that the Trustees approve all the agreements including the renewal thereof between the Trust and other parties in compliance with Idaho Code §§ 41-4007(5) and 41-4011.

D. Service Agreement with Employer

Our examination noted that the Plan does not have separate employees. All services, ministerial duties, and responsibilities incidental to the Plan's operations are conducted by the City of Caldwell. The City of Caldwell did not charge the Plan for the ministerial duties it performed for and in behalf of the Plan. There is no written agreement in place that defines the nature and scope of work, or describes the duties, responsibilities and compensation, if any, with the City of Caldwell for handling such ministerial functions for the Plan.

Pursuant to Idaho Code § 41-4007(3) the trust fund of a self-funded plan shall have the authority... to contract in its own name. All such contracts shall be in writing and shall be signed by the trustee... (or) the contract may be so executed by one (1) trustee if so authorized by all trustees.

Recommendation:

We recommend that the Trust comply with Idaho Code § 41-4007(3) and execute one or more written services agreement with the City of Caldwell that details an explanation of the services to be provided, who will provide the services, and the fee (if any) or a statement that the Trust will be charged for any of those services. Furthermore, these service agreements should require all individuals handling receipts and disbursements for the trust fund to be covered under a dishonesty insurance policy or fidelity bond as prescribed in Idaho Code § 41-4014(3). Additionally, all agreements (and any subsequent amendments thereto) are to be submitted to the Department not less than 30 days before the effective date of such agreement (or amendment) in compliance with Idaho Code §§ 41-4005(2)(g) and 41-4004(2)(d).

E. Complaint Logs

Our examination noted that the Plan has not maintained a complete record of all the complaints it has received.

Idaho Code § 41-4021 requires all self-funded plans regulated under Title 41, Chapter 40 of Idaho Code to comply with other applicable provisions of Title 41, which includes provisions in Chapter 13 of Title 41, Idaho Code. For the purpose of these code sections cited in Idaho Code § 41-4021, with respect to self-funded plans, such plans shall be deemed to be "insurers."

Pursuant to Idaho Code § 41-1330 ...Every authorized insurer shall maintain a complete record of all the complaints...This record shall indicate ... the total number of complaints...the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this section, "complaint" shall mean any written communication primarily expressing a grievance.

Recommendation:

We recommend that the Plan maintain a complete record of all complaints it receives or that are passed on to it by its claims administrator or others. This record should indicate the total number of complaints, nature of each complaint, the disposition of these complaints, and the time it took to process each complaint going forward.

F. Access to Fiduciary Accounts

Our examination noted that the Mayor of the City of Caldwell, Mr. Garret Nancolas, is not a trustee. However, signature cards for the Trust bank account stated that he is. The meeting

minutes did not indicate that the Board passed any resolution authorizing Mr. Nancolas to sign on behalf of the Trust for the Trust's bank transactions.

Pursuant to Idaho Code § 41-4007(5), the trust fund of a self-funded plan shall have the authority... to engage exclusively in transactions authorized or required by chapter 40 of title 41, or reasonably incidental thereto.

Incidental to the duties required by chapter 40 is the duty to sign bank account transactions. Unless expressly delegated, the authority to engage exclusively in transactions reasonably incidental to the requirements in chapter 41 is retained by the Board of Trustees.

Recommendation:

We recommend that the Board of Trustees expressly authorize in writing the person(s) who are signatory to any of its bank accounts.

G. Excess Deposit

The Trust had \$1.4 million on deposit with US Bank National Association as of September 30, 2016. This amount is in excess of the FDIC insured amount (\$250,000). The City of Caldwell obtained a letter of credit from the same bank in the amount of \$9.5 million to cover the excess amounts on the Trust's account. The City of Caldwell was named beneficiary of the letter of credit and not the Trust.

Pursuant to Idaho Code § 41-4009(1)(e), the trustee may invest trust funds available for that purpose in... deposits, savings accounts, and share accounts in chartered banks and savings and loan associations located in the United States. An investment in any one (1) such institution may not be in excess of the amount covered by applicable deposit, savings, and share account insurance, unless otherwise authorized by the director.

The Trust has not been authorized by the Director to invest in any one institution in excess of the amount covered by applicable deposit, savings, and share accounts.

Recommendation:

We recommend that the Trust comply with Idaho Code § 41-4009(1)(e). The Trust may either diversify the account or secure additional insurance for deposit in excess of the FDIC insured amount.

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ACKNOWLEDGEMENT

The undersigned acknowledges the assistance and cooperation of the employees of City of Caldwell in conducting the examination.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kelvin Ko", with a horizontal line underneath it.

Kelvin Ko, CFE
Senior Insurance Examiner
State of Idaho
Department of Insurance

AFFIDAVIT OF EXAMINER

State of Idaho
Ada County

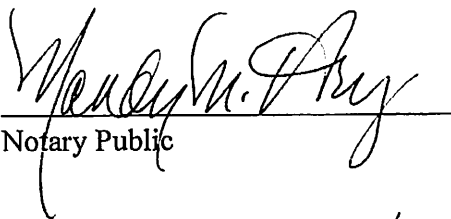
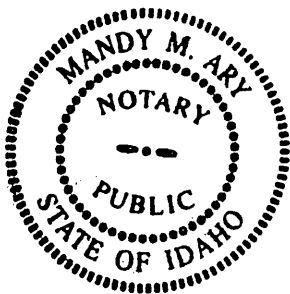
Kelvin Ko, being duly sworn, deposes and says that he is a duly appointed Examiner for the Department of Insurance of the State of Idaho, that he has made an examination of the affairs and financial condition of *City of Caldwell Employee Benefit Plan Trust* for the period from October 1, 2010 through September 30, 2016, that the information contained in the report consisting of the foregoing pages is true and correct to the best of his knowledge and belief; and that any conclusions and recommendations contained in this report are based on the facts disclosed in the information.



Kelvin Ko, CFE

On behalf of Idaho Department of Insurance

Subscribe and sworn to before me the 1st day of November, 2017, at Boise, Idaho



Notary Public

My Commission Expires: 7/24/2018

C.L. "BUTCH" OTTER
Governor

State of Idaho
DEPARTMENT OF INSURANCE

700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Phone (208)334-4250
Fax (208)334-4398
Website: <http://www.doi.idaho.gov>

DEAN L. CAMERON
Director

WAIVER

In the matter of the Report of Examination as of September 30, 2016, of the:

CITY OF CALDWELL EMPLOYEE BENEFIT PLAN TRUST
411 Blaine Street
Caldwell, ID 83605

By executing this Waiver, the Company hereby acknowledges receipt of the above-described examination report, verified as of the 1st day of November 2017, and by this Waiver hereby consents to the immediate entry of a final order by the Director of the Department of Insurance adopting said report without any modifications.

By executing this Waiver, the Company also hereby waives:

1. its right to examine the report for up to thirty (30) days as provided in Idaho Code section 41-227(4),
2. its right to make a written submission or rebuttal to the report prior to entry of a final order as provided in Idaho Code section 41-227(4) and (5),
3. any right to request a hearing under Idaho Code sections 41-227(5) and (6), 41-232(2)(b), or elsewhere in the Idaho Code, and
4. any right to seek reconsideration and appeal from the Director's order adopting the report as provided by section 41-227(6), Idaho Code, or elsewhere in the Idaho Code.

Dated this 2ND day of November, 2015 7

CITY OF CALDWELL EMPLOYEE BENEFIT PLAN TRUST

Eljay Waite Monica Jones
Name (print)

Eljay Waite Monica Jones
Name (signature)

Trustee Trustee
Title

Equal Opportunity Employer

