



**LAKE HAVASU UNIFIED SCHOOL DISTRICT EMPLOYEE BENEFIT TRUST**  
**BOARD OF TRUSTEES – NOTICE OF TRUST MEETING**

**Monday, August 20, 2018 5:00 p.m.**  
**2200 Havasupai Blvd. – Governing Board Conference Room**  
**Lake Havasu, AZ 86403**

**MEMBERS OF THE LAKE HAVASU UNIFIED SCHOOL DISTRICT EMPLOYEE BENEFIT TRUST BOARD OF TRUSTEES WILL ATTEND EITHER IN PERSON OR BY TELEPHONE CONFERENCE CALL.**

The Board of Trustees (the "Board") of the Lake Havasu Unified School District Employee Benefit Trust (LHSEBT) may, by motion, recess into Executive Session for discussion and consultation with attorney(s) for the Board to receive legal advice on any item contained in this Agenda pursuant to ARS §38-431.03 (A)(3) or for discussion or consideration of records exempt by law from public inspection in accordance with ARS §38-431.03 (A)(2) on any item contained in this agenda.

**AGENDA**

- |   |                                    |
|---|------------------------------------|
| 1. Call to Order  | Marcia Cox, Chairperson            |
| 2. Roll Call  | Jaime Schulenberg, Trust Secretary |
| 3. Pledge to the Flag/Moment of Silence                                 | Marcia Cox, Chairperson            |
| 4. Call to the Public   | Marcia Cox, Chairperson            |
| 5. Discussion and Possible Action re Legal Counsel Request for Proposal | Jaime Schulenberg, ECA             |
| 6. Update on End to End Plan Review                                     | Erin Collins, ECA                  |
| 7. Discussion and Possible Action re Cerner Management Contract         | Erin Collins, ECA                  |
| 8. Future Agenda Items  | Marcia Cox, Chairperson            |
| 9. Future Meeting Dates: 09/13/18 @ 5:00pm                              | Marcia Cox, Chairperson            |
| 10. Adjourn   | Marcia Cox, Chairperson            |

**Note: Unless Otherwise Indicated, All Agenda Items Are Potential Action Items**

Pursuant to the Americans with Disabilities Act (ADA), LHSEBT endeavors to ensure the accessibility of all its programs, facilities and services to all persons with disabilities. If you need an accommodation for this meeting, please contact Michael Murray at (928) 505-6937. Requests should be made as early as possible to arrange the accommodation.

**PLEASE POST NO LATER THAN 5:00 P.M., FRIDAY, AUGUST 17, 2018**

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# **MEMORANDUM**

TO: **LHSEBT Trustees**

FROM: **ERIN P. COLLINS & ASSOCIATES, INC. (ECA)**  
Jaime Schulenberg, Sr. Account Manager

DATE: August 13, 2018

RE: Request for Proposals – Legal Counsel

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## **Background**

On May 11, 2018, Trustees voted to conduct a Request for Proposal (RFP) process for Legal Services which was drafted and distributed to interested vendors on July 11, 2018. The RFP requested quotes for September 01, 2018 through June 30, 2019, with four (4) subsequent annual renewals from July to June. A detailed list of legal experience and expertise required by LHSEBT was included in the RFP as well as a request for resumes of the professionals assigned to provide counsel to the Trust.

The following firms were sent the RFP in alphabetical order:

- 1) Cavanaugh Law Firm;
- 2) Fennemore Craig;
- 3) Gust Rosenfeld;
- 4) Jones, Skelton & Hochuli; and
- 5) Snell & Wilmer.

The following firms provided responses by the due date of August 02, 2018 at 3:00 p.m.

- 1) Gust Rosenfeld
- 2) Jones, Skelton & Hochuli

## **Evaluation**

A summary of our evaluation for your review and information is as follows:

## Firm Qualifications

Both of the firms responding met the expertise, experience and training requirements of the Trust and each indicated that they had the professional staff and support staff necessary to serve LHSEBT appropriately. I have attached a summary comparison of the responses as well as copies of both of the responses received.

## Responsiveness of the Proposal

Each of the respondents clearly stated an understanding of the scope of services requested by LHSEBT and presented their proposals in the order and format requested. Neither respondent indicated any deviation from the sample contract included with the RFP.

## Previous Experience of the Firm

Both of the respondents have experience with public schools, however Jones, Skelton & Hochuli demonstrated a broader understanding and experience with self-funded trusts. While Gust Rosenfeld serves as legal counsel for other public school trusts, according to their responses, their primary experience is in providing general legal services and bond counsel to school districts.

## Proposed Fees

Hourly rates for firm professionals were requested and are detailed on the attached spreadsheet of responses. It should be noted that the proposed rates in the Gust Rosenfeld response (page 15) do not match their Attachment A for Carrie O'Brien and Kyle Bate and we have not, at this time, requested clarification. Jones, Skelton & Hochuli specifically noted an understanding of the budget restraints on public entities/schools in his Fee Proposal.

## References

We have sent out written requests to active client references and will provide you with those responses during the meeting on August 20, 2018.

## **Attachments:**

Side by Side Summary Comparison of Responses  
Responses to RFP  
Copy of Original RFP

## **Summary and Recommendations**

Based ECA's review of the proposals received, ECA recommends LHSEBT retain the services of Jones, Skelton & Hochuli, PLC (JSH) effective September 01, 2018. While both of the firms clearly have the expertise to represent the Trust, JHS and specifically Michael Hensley, have extensive experience handling public entity/school self-funded trusts that was not noted in the Gust Rosenfeld response. Also noted is the fact that Mr. Hensley has been providing services to the Trust on an interim basis and is therefore familiar with the Trust's operations. In addition, the JSH hourly rates were less than those of Gust Rosenfeld.

If you have any questions between now and the date of the meeting, I can be reached at (928) 753-4700 ext. 302 or via email at [jaimes@ecollinsandassociates.com](mailto:jaimes@ecollinsandassociates.com).

## LHSEBT REQUEST FOR LEGAL SERVICES PROPOSAL - SUMMARY OF RESPONSES

FIRM	Gust Rosenfeld	Jones, Skelton & Hochuli, PLC
Include a profile of your firm	Founded in 1921; full-service law firm with wide variety of legal services including education law, etc.	Established in 1983 in Arizona; specializing in insurance matters, governmental law and labor, employment and employee benefit matters.
Identify each individual who will be assigned to the legal team and their assigned areas of responsibility and qualifications. Indicate if any individual or work is subcontracted. Include resumes for each individual listed.	Primary Contact: Carrie O'Brien, Associate and Jennifer MacLennan, Partner	Primary Contact: Michael E Hensley, Partner Other Attorneys are available to assist as necessary in their area of expertise. Gordon Lewis (Partner), Employment Law and Georgia Staton (Partner), Employment Litigation
Identify the Martindale rating of your firm and of the lead counsel who will be assigned to the Trust.	Jennifer MacLennan is rated AV Preeminent. No rating for Carrie O'Brien or firm	Michael E Hensley and Gordon Lewis are rated AV Preeminent and JSH firm is AV rated.
Provide at least three (3) client references (comparable in size and scope of services proposed) for whom you have provided legal services within the past 2 years.	Arizona School Board Insurance Trust Glendale Elementary School District Insurance Benefit Trust	Arizona Local Government EBT Rural Arizona Government Health Trust Cochise Combined Trust Schools Medical Trust
Please give detailed examples of your experience in drafting the following:  Trust and Intergovernmental agreements	Indicated they have negotiated, reviewed and/or drafted contracts and IGAs used by a benefit trust; no samples or documentation provided	Drafted and revised declaration of trust agreements and bylaws for over 10 self-funded governmental trusts; samples included with response

Vendor and supplier contracts	Routinely handles reviewing contracts for ASBAIT; no samplese or documentation provided	Amended or reviewed and provided advice on vendor agreements for over 20 years; samples included with response
Benefit Plan Document provisions	Have reviewed plan document provisions to assist clients in understanding benefits purchased	Mr. Hensley has over 20 years experience working with plan consultants and TPAs to draft and/or revise various provisions contained in SPD, HIPAA BAAs and SBCs
Please outline your experience providing training for Trustees of Arizona public entity self-insured Trusts. Of particular interest is training that is pertinent to employee benefit trusts.	Familiar with issues presented in self-insured concept and can provide relevant training, including OML, board member roles and concepts and meeting assistance	Spent years learning the laws trustees of self-funded employee benefits need to know and putting together training with practical examples including fiduciary duties, conflicts of interest, open meeting laws, HIPAA, claims appeal processes, etc.; samples included with response

<p>Please outline your working knowledge of the Accountable Care Act (Healthcare Reform), HIPAA, COBRA, FMLA and USERRA. Also include examples of training that you have done in these areas to Trustees and/or staff.</p>	<p>Extensive experience representing schools in personnel and employee-benefit matters. Includes practical application of nuances of AZ law related to leave requests, insurance issues, paid time off policies and more. Advised clients regarding effects of ACA, HIPAA, COBRA, FMLA and USERRA.</p>	<p>Spent time reviewing ACA legislation and regulations as they have been adopted, as well as IRS, HIPAA and Public Health Law provisions through which ACA implemented. Has provided both legal advice and training on the various aspects of the law.</p> <p>HIPAA - Has advised Trusts regarding those obligations under the law that apply to them; has also provided training regarding same.</p> <p>COBRA - Has advised and trained on COBRA.</p> <p>FMLA - Although not directly related to the employee benefit plan, from time to time has advised entities on the right to employee benefits, whether they can be terminated while on FMLA, etc.</p> <p>USERRA - Has advised on this issue but not done any training to date.</p>
<p>Demonstrate your experience in handling benefit claims litigation including bad faith issues</p>	<p>Understand litigation is an unfortunate reality so help clients develop strategies for an efficient resolution to disputes. Utilize a teamwork approach that enables lawyers to litigate any type of case.</p>	<p>Has litigated numerous employee benefit claim matters all the way through to the US Court of Appeals for the 9th Circuit. Has successfully defended matters through jury trials on the issue of bad faith.</p>
<p>Demonstrate your knowledge and experience with the following areas relevant to Arizona public entity self-insurance regulations:</p>		

Self-insurance law and regulation	Firm has advised employee benefit trusts regarding regulations applicable to all benefit trusts.	Has represented individual governmental entities, pools and schools that have formed self-insurance trusts pursuant to applicable state statutes, including knowledge of restrictions on investments, membership eligibility, provisions to wind-down a trust and specific statutory provisions on number of trustees, make-up of the Board, bonding requirements, procurement and retention of consultants.
Open meeting law	Lawyers in the Public Law group provide advice on OML and public records requests.	Has had to advise public entities and trusts that OML applies, what types of communications are permitted under OML, etc.
Fiduciary duties and liability	Well versed in the requirements applicable to public entities in maintaining fiscal responsibility.	Expert in the area of fiduciary obligations of trustees of a self-insured public entity health trust; regularly advises on and provides training in key duties of a fiduciary.
Procurement for professional and other services and products	Understanding of this area of law includes negotiating, reviewing and/or drafting many of the contracts and agreements used by Arizona's education-related clients and public entity clients.	Has assisted in the drafting of RFPs and in advising trustees on the selection of vendors.
Other relevant topics you wish to highlight		See Exhibit E in response; successfully convinced Auditor General that retiree benefits could be offered under the self-insurance regulatory statutes.

Provide a cost structure of hourly fees and any other charges as shown below. The Trust is requesting proposed fees for the following periods:		
September 01, 2018 thru June 30, 2019	Partners \$333 - \$342, Associates \$234 - \$247.50	Partners \$250, Associates \$195, Paralegal \$110
July 01, 2019 thru June 30, 2020	Rates adjusted annually, normally less than 5%	Partners \$255, Associates \$200 and Paralegals \$115
July 01, 2020 thru June 30, 2021	Rates adjusted annually, normally less than 5%	Partners \$260, Associates \$205 and Paralegals \$120
July 01, 2021 thru June 30, 2022	Rates adjusted annually, normally less than 5%	Not provided
July 01, 2022 thru June 30, 2023	Rates adjusted annually, normally less than 5%	Not provided

Please identify different rate structures for different types of legal services and representation (Partners, Associates, Paralegal, secretarial). Also, include pricing for the following, if applicable:

Partners	\$333 - \$342	\$250
Associates	\$234 - \$247.50	\$195
Paralegal	\$175.50 - \$189	\$110
Retainer	None required	None required
Legal Research	No charge	Actual Cost or \$4 per minute (Westlaw)
Service of Process	Actual cost	Actual Cost
Copies	In-House - \$.20 black and white / \$.60 color Outside - Actual cost	In-House \$.20 / Outside - Actual cost
Facsimile transmissions (incoming and outgoing)	\$1 1st page plus \$.10 each additional	\$1 per doc incoming / \$1 per page outgoing
Postage	Actual cost	Actual cost
Long distance telephone charges	No charge	Actual cost



Travel costs	IRS approved mileage and actual cost for transportation, lodging and meals	IRS approved mileage rate and actual cost for rental car, airline or hotel.
Other		

## **MEMORANDUM**

TO: **LHSEBT Trustees**

FROM: **ERIN P. COLLINS & ASSOCIATES, INC. (ECA)**  
Erin P. Collins, President

DATE: August 20, 2018

RE: End to End Review Update

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Attached is a copy of the End to End Review ECA provided to the Trust on December 6<sup>th</sup>, 2017. Also attached is a Power Point presentation summarizing key issues from the report and providing a current status on each. In addition, there are several slides identifying and discussing issues that will be coming before the Trust and District Governing Board in the coming months. Our intent in this item is to bring the existing and new Trustees up to speed on all of these items so we can come to common understandings and, ultimately, have the Trustees chart a common course forward. In the interest of time, I have not revisited every item or detail in the End to End Review. However, Jaime and I will be happy to address any issues in or resulting from the report as requested by the Trustees during the meeting.

If you have any questions between now and the date of the meeting, I can be reached at (928) 753-4700 ext. 300 or via email at [erinp@ecollinsandassociates.com](mailto:erinp@ecollinsandassociates.com).



# Lake Havasu Schools Employee Benefit Trust (LHSEBT)

**End to End Review Update**

August 20, 2018

# Background

- Erin P. Collins & Associates, Inc. (ECA) retained October 2017
  - Jaime Schulenberg, Senior Account Manager
  - Erin Collins, President
- Part of our proposal:
  - Completion of an End to End Review of the Trust's operations and finances
- Report issued December 6, 2017
  - Serves as a working document with items being completed and new ones added
- Today's presentation
  - Bring all Trustees up to speed on the issues identified and current status

# Financial Issues

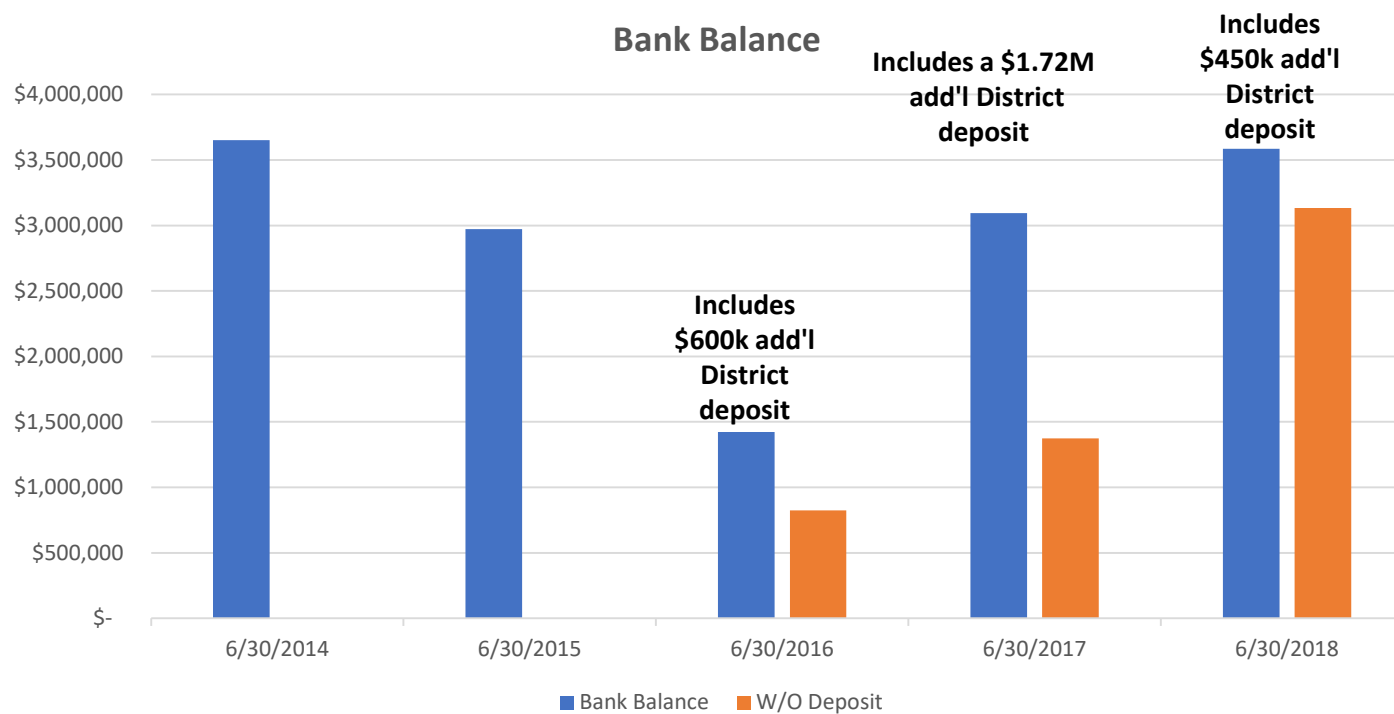
- Reporting

- Then: No single place where all Trust operations were reported in any meaningful way
  - Data points on expenses (claims, clinic operations, etc.) segregated and sometimes missing
    - Ex. Rx claims deducted from checking account but not integrated into Gilsbar report of claims expenses
    - Ex. Dental reports did not break out network leasing expenses from claims expenses
  - No measurement of experience or expenses against budgets
  - “Significant” audit finding triggered changes
- Now: All revenue and expenses compiled and reported in one monthly report vs. adopted budget
  - Emailed to Trustees and district Monthly
  - Reported at quarterly meetings of Trust

# Rate Setting

- Then:
  - Actuarially set?
  - Including ALL costs?
  - Reliant on subsidization from 301 money from State of AZ
- Significance?
  - Trust was underfunded and in a situation of declining balance
- Now:
  - Rates actuarially set and include all operating revenue and expenses
  - Funding gap remains and estimated to be in the vicinity of \$472,000 for 2018-19

# Bank Balance Through 06/30/18







# 2018-19 Budget - Expenses

	Emp	Emp + Sp	Emp + Child	Emp + Children	Emp + Fam	Annual Budget	% of Total
<b>CLAIM FUNDS</b>						<b>\$ 4,571,912.04</b>	<b>71.73%</b>
Medical/Rx (Gold Plan) - Actives	\$ 472.30	\$ 961.13	\$ 838.72	\$ 1,149.15	\$ 1,511.94	\$ 3,912,311.40	
Medical/Rx (Gold Plan) - Retirees	\$ 472.30	\$ 961.13	\$ 838.72	\$ 1,149.15	\$ 1,511.94	\$ 239,626.08	
Medical/Rx (Silver/Retirees Plan)	\$ 398.98	\$ 829.19	\$ 721.47	\$ 995.17	\$ 1,314.01	\$ 38,676.84	
Clinic Labs	\$ 16.98	\$ 16.98	\$ 16.98	\$ 16.98	\$ 16.98	\$ 101,064.96	
Clinic Rx	\$ 11.93	\$ 11.93	\$ 11.93	\$ 11.93	\$ 11.93	\$ 71,007.36	
Dental	\$ 22.61	\$ 46.88	\$ 39.34	\$ 61.11	\$ 85.38	\$ 209,225.40	
Vision	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>INSURANCE/REINSURANCE</b>						<b>\$ 619,302.00</b>	<b>9.72%</b>
Med/Rx Specific Stop-Loss (American Fidelity)	\$ 52.51	\$ 104.60	\$ 92.58	\$ 92.58	\$ 157.11	\$ 446,533.44	
Med/Rx Aggregate Stop-Loss (American Fidelity)	\$ 2.87	\$ 2.87	\$ 2.87	\$ 2.87	\$ 2.87	\$ 17,082.24	
Vision (United Health Care)	\$ 5.18	\$ 10.35	\$ 9.41	\$ 9.41	\$ 16.94	\$ 43,669.68	
Life Insurance (Guardian)	\$ 18.82	\$ 18.82	\$ 18.82	\$ 18.82	\$ 18.82	\$ 112,016.64	
<b>CLAIM ADMINISTRATION</b>						<b>\$ 240,490.44</b>	<b>3.77%</b>
TPA Medical (Gilsbar)	\$ 17.90	\$ 17.90	\$ 17.90	\$ 17.90	\$ 17.90	\$ 106,540.80	
TPA COBRA (Gilsbar)	\$ 1.60	\$ 1.60	\$ 1.60	\$ 1.60	\$ 1.60	\$ 9,523.20	
PBM (CVS Caremark/Wisconsin Rx)	\$ 0.47	\$ 0.47	\$ 0.47	\$ 0.47	\$ 0.47	\$ 2,797.44	
TPA Dental (Ameritas)	\$ 3.25	\$ 3.25	\$ 3.25	\$ 3.25	\$ 3.25	\$ 19,773.00	
TPA Vision	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TPA FSA (Gilsbar)	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 672.00	
Medical PPO (BCBSAZ)	\$ 15.00	\$ 15.00	\$ 15.00	\$ 15.00	\$ 15.00	\$ 89,280.00	
Medical UR (American Health Group)	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 11,904.00	
<b>GENERAL OPERATING</b>						<b>\$ 942,380.16</b>	<b>14.78%</b>
Consultant (Dave Stewart/American Healthcare Plans)						\$ -	
Broker/Consultant (ECA)	\$ 12.10	\$ 12.10	\$ 12.10	\$ 12.10	\$ 12.10	\$ 72,019.20	
Cerner Management Fee	\$ 111.34	\$ 111.34	\$ 111.34	\$ 111.34	\$ 111.34	\$ 662,695.68	
Clinic Operating Expenses	\$ 14.40	\$ 14.40	\$ 14.40	\$ 14.40	\$ 14.40	\$ 85,708.80	
Wellness Programs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Actuary (Cheiron)	\$ 2.11	\$ 2.11	\$ 2.11	\$ 2.11	\$ 2.11	\$ 12,558.72	
Actuary (Cheiron) - GASB	\$ 2.95	\$ 2.95	\$ 2.95	\$ 2.95	\$ 2.95	\$ 17,558.40	
Accountant (GDK CPA LLC)	\$ 0.61	\$ 0.61	\$ 0.61	\$ 0.61	\$ 0.61	\$ 3,630.72	
Auditor (Heinfeld Meech)	\$ 1.01	\$ 1.01	\$ 1.01	\$ 1.01	\$ 1.01	\$ 6,011.52	
Legal (Cavanagh Law Firm)	\$ 2.04	\$ 2.04	\$ 2.04	\$ 2.04	\$ 2.04	\$ 12,142.08	
PCORI Fees	\$ 0.34	\$ 0.34	\$ 0.34	\$ 0.34	\$ 0.34	\$ 2,023.68	
General Admin Expenses	\$ 11.43	\$ 11.43	\$ 11.43	\$ 11.43	\$ 11.43	\$ 68,031.36	
<b>GRAND TOTAL BUDGET</b>						<b>\$ 6,374,084.64</b>	<b>100.00%</b>

# Other Significant Financial Issues

- Banking and Investment Services
  - Morgan Stanley drops out unexpectedly in mid-October
  - Replaced by Wells Fargo and Claremont Capital
- Incurred but Not Paid (IBNP) Liabilities
  - Not previously calculated
    - Will now be reported at fiscal year end
- Retiree Liabilities
  - Valuation as of 7/1/15 - \$11,366,258 (GASB 45)
    - Undervalued?
  - Current valuation being recalculated under GASB 75 standard

# Management Controls - Then

- Public Meeting Issues
  - Meeting not held per Arizona Open Meeting Law (OML) until 2016
- Trustee Education
  - None
- Vendor Contracts
  - Not uniformly aligned with plan years
  - No clear process of drafting, review, approval, signature, monitoring and/or storage

# Management Controls - Now

- Meetings held per Arizona OML
  - Trustee packets sent out a week ahead
- Trustee Education (pending selection of legal counsel)
  - Fiduciary Liability
  - HIPAA Confidentiality
  - Conflict of Interest
  - Other?

# Management Controls - Now

- Vendor Contracts
  - Aligned with fiscal year
  - Approved in public meetings
  - Subject to legal review
  - Signed by Trust Chairperson

# Other Significant Management and Operational Issues

- Fiduciary Liability Insurance
  - Then: No record of ever having been placed
  - Now: Policy in force
- Rx in Stop-Loss
  - Then: Excluded from prior years coverages
    - Cost fiscal year ended June 30, 2018 – \$313,095
  - Now: Rx in both specific and aggregate stop-loss for 2018-19 year
    - Premium cost differential – \$26,603 attributable to Rx\*
      - \*Rx Quote included some variations in coverage due to specific claims activity
- Electronic communications with Trustees
  - Then: Personal email accounts
  - Now: District email accounts

# Major Issues Going Forward

- Finances
  - Close gap on funding versus expenses
  - Move to accrual accounting
  - Calculate and clarify GASB liabilities
  - Calculate and book IBNP
  - Implement reconciliation processes with District staff
- Negotiating Void Vendor Contracts
  - Cerner Clinic
  - Gilsbar
  - American Health Group
  - Ameritas
  - BCBSAZ
  - Wisconsin/Rx – CVS/Caremark

# Major Issues Going Forward

- Cerner Clinic - Keep or Close?
  - In process of negotiations with 08/31/18 target date for completion
    - Keep?
      - Re-negotiate pricing and other terms of the contract
      - Bring back to Trustees for approval
    - Close?
      - Phase out operations by 12/31/18
      - Re-design benefits effective 01/01/19
  - Parallel process of pricing alternative benefit structures with actuary
    - Benefits through June 30, 2019
    - Offerings thereafter
- Meeting with District Governing Board in September



Questions?

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## **MEMORANDUM**

TO: **LHSEBT Trustees**

XC: Michael Murray, Director of Business Services  
Michael Schionning, FSA, MAAA - Cheiron

FROM: **ERIN P. COLLINS & ASSOCIATES, INC. (ECA)**  
Erin P. Collins, President

DATE: December 6, 2017

RE: End to End Review

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Attached for your review and consideration is the End to End Review included in ECA's original proposal to the Trust and incorporated in our resulting agreement for consulting services. This document is intended to bring together our initial findings and impressions based on our review of various significant elements of the Trust's operations since we were selected as consultant in mid-October. Due to the number of issues identified in the report, the availability and reliability of records and on-going reorganization of substantial elements of the Trust's operation (banking, investments, financial reporting, payment approval, etc.), this document should be considered a work in progress which will be subject to change as we move forward, perhaps including discovery of additional issues of material significance.

The End to End review identifies a substantial number of items of material importance to the Trust and its' operations. Many of these overlap into the District's operations (insurance, GASB liabilities, management and financial controls, etc.) since the Trust is essentially a statutory creation of the District. As is implicit in the body of the report, there is a substantial amount of work to be done to improve the Trust's operations. Our best guess at this time is that it will take twelve to eighteen months to address all of these issues. Of significant help is that the Trust appears to be in decent financial condition on a cash basis. That provides at least a measure of time to more fully identify its more recent performance and for the Trustees to chart its future course. It is our hope and intent that this document will bring many of the known issues to the attention of the Trustees in an organized and consolidated manner so as to inform and initiate the conversation on what that direction is to be.

Once Trustees have had an opportunity to review and digest the report, we can circle back and determine how you wish to proceed in terms of discussing its contents as a group and setting priorities going forward. In the meantime, please do not hesitate to call or email me with questions or concerns, or if you need additional information regarding this report. I can be reached at your convenience at 928.753.4700 x300 or [erinp@ecollinsandassociates.com](mailto:erinp@ecollinsandassociates.com).

# Lake Havasu Schools Employee Benefit Trust (LHSEBT)

## End-to-End Review

**PRESENTED BY:**

**ERIN P. COLLINS & ASSOCIATES, INC. (ECA)**

ERIN P. COLLINS, PRESIDENT

JAIME L. SCHULENBERG, SENIOR ACCOUNT MANAGER

DECEMBER 06, 2017

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## Trust Finances

### Claims Experience

The Claim Fund Account Report (CFAR) used to report claims and expenses for LHSEBT (“LHSEBT” or the “Trust”) is a fairly standard Gilsbar report which varies between clients to reflect expenses pertaining to their respective benefit offerings and operational structures. However, in the case of LHSEBT, the CFAR has a number of data or reporting deficiencies that will ultimately play into the rate-making process:

1. The CFAR reports from Gilsbar do not currently include the Prescription Drug (Rx) claims from the Wisconsin Rx/CVS-Caremark contract. These claims were reported through July of 2016, but do not appear in the CFAR after that date. Our belief is that the figure included in July 2016 is actually credited to June but appeared a month later due to a timing issue. Rx claims for the twelve (12) months ended June 30, 2016 averaged \$69,382 per month. Although Rx claims are debited monthly from the Trust’s checking account, we have not been able to reconcile them to the Wisconsin Rx/CVS-Caremark reports or determine the degree to which these figures were or were not included in the rates.
2. As regards Dental experience, the reports do not break out the claims experience from the expenses associated with network leasing and other services provided through the Trust’s agreement with Ameritas.
3. The claims experience for all self-funded benefits are recorded as expenses but, as with all other expense categories, are not then measured against an adopted budget to determine how well they are, or are not, running versus the projections made at the beginning of the plan/fiscal year.

ECA is currently working with each of the vendors above, as well as District staff, to remedy items 1 and 2 so that claims experience will be more accurately and completely reported going forward. As regards item 3, ECA is working to “back into” the in-force rates using the CFAR reports and other source documents in order to segregate, to the degree possible, the fixed and variable costs for the 2017-18 year. On a going forward basis, ECA’s reports will capture and separately report claims and fixed costs on both a monthly and year to date basis against the adopted budget.

### Rates, Rate-Making, Rate Adequacy and Fixed Versus Variable Cost Ratio

The exact method used in developing the current rates is unclear. It is also unclear as to whether, for the self-funded benefits offered through the LHSEBT, the 2017-18 rates are actuarially based and sufficient to cover both expected claims and fixed expenses without relying on 301 monies used to offset District contributions toward employee premiums. Issues in play here include:

1. The deficiencies in reporting noted in the Claims Experience section above.
2. The District currently utilizes “301” monies to offset a portion of its share of employee premiums for eligible certified staff. This subsidy, totaling \$1,275 per eligible certified staff member per year, is divided by three (\$425) and then included in the deposit of employer and employee premiums transferred to the Trust account. 301 funds total approximately \$318,750 per year (assuming \$1,275 times 250 eligible certified staff) Barring renewal of 301 funds, or replacement with some other funding source, 301 monies are reported by district staff to be temporary funds which are set to sunset on 12/31/2020, with some level of discussion at the State level regarding possible continuation of the subsidy after that date.
3. ECA is in the process of working to consolidate premium rates, revenue and expense data for the current and two prior plan years in an effort to better understand the Trust’s financial results for those periods. This will also allow us to:
  - a. Get a better idea of the adequacy or inadequacy of the current rates;

- b. Assess the impact of the potential loss of 301 money;
- c. Calculate a fixed cost ratio for the current offerings of the Trust; and
- d. Work with the Trustees and Cheiron to develop various strategies to align benefits and funding.

On a going-forward basis, and as envisioned in our response to the Trust's RFP, ECA recommends:

1. Claim funding factors for all self-funded benefits, including any changes to those benefits, be priced out by the Trust's actuary at levels expected to be sufficient to cover all claims expenses at a high level of confidence.
2. Expense components (factors) for all fixed costs be reduced to Per Employee Per Month (PEPM) and equivalent numbers for each successive tier of benefits and built into the rates in order to fully recognize all such costs in the premium structure of the Trust.
3. Premiums for insured products offered through the Trust, including at least Basic Life insurance and Vision, be added to the budget and accounted for as any other expense item.
4. All of the above be rolled into an annual budget approved by the Trustees in a public meeting and monitored by ECA, District staff and Trustees for month and year to date performance on an actual versus budget basis.

#### Banking and Investment Services

As the Trustees are aware, in mid-October Morgan Stanley, the Trust's previous banking and investment services provider, notified the Trust that it was electing to cancel its services effective October 31, 2017. This date has been extended through subsequent discussion between District staff and Morgan Stanley personnel to allow for a more orderly transition. In that vein, the services of Wells Fargo and Claremont Capital have been arranged for banking and investment services respectively. Final steps are underway as of the date of this writing to complete the opening of related accounts with both organizations and transfer associated and necessary balances to the new providers.

#### Cash Balances, Incurred But Not Paid (IBNP) and Retiree Liabilities

As of October 31, 2017, the Trust's bank accounts were reported to be as follows:

1. Checking Account - \$2,062,712.62
2. Investment Account - \$977,314.13

In addition, District staff had deposits totaling \$814,474.40 in a District safe pending the opening of a checking account at Wells Fargo to replace the Morgan Stanley (Morgan) accounts. This account was opened and the funds were deposited on 11/13/2017.

As regards Incurred But Not Paid (IBNP), ECA has not found any records indicating regular calculation of the involved amounts or their notation in the Trust's financial statements. This item will be addressed through the hiring of Cheiron as the Trust's consulting actuary with the valuations to be calculated starting with the plan year ending 06/30/2018.

As pertains to the District's liabilities associated with retiree benefits, the GASB 45 valuation as of June 30, 2015 included an unfunded Actuarial Present Value of Benefits as of that date identified as \$11,366,258. The next valuation is due to be calculated as of 06/30/2018 and will be completed in accordance with the revised standards under GASB 75.

## Financial Controls

Financial controls for the Trust appear to have improved in the last twelve to eighteen months due to a combination of factors including an adverse audit finding which resulted in the Trust retaining an outside CPA firm, Michael E. Bonney with GDK CPA, LLC, to compile financial reports. In addition, expense approval processes were transferred to District financial staff incidental to the selection of ECA as the new consultant. Some associated and additional steps that would further improve practices in this area include developing written procedures clearly identifying who at District staff levels has the authority and responsibility to:

1. Approve which expenses and forward them to Gilsbar for payment;
2. Transfer funds between the checking and investment accounts; and
3. Sign manual checks.

In addition, during our discussions with District staff, the suggestion was made to conduct an internal audit or reconciliation process related to benefit and tier assignment between what is shown (and being deducted for) in the District's payroll system and what is reflected in the various TPA and insurance vendors' systems. Benefits for which this should be done include at least:

1. Medical/Rx
2. Dental
3. Vision
4. Life Insurance

## **Financial Reporting**

### Revenue and Expense Tracking – Timely and Detailed

A review of CFARs for the current fiscal year to date and most recent two completed years uncovers anomalies in payment patterns caused by a number of factors including:

1. Failure to incorporate the Prescription Drug (Rx) claims from the Wisconsin Rx/CVS-Caremark as noted under item 1 of the Claims Experience of this report;
2. Late payment of vendors variously attributed to invoices not being timely approved and forwarded to Gilsbar and, conversely, vendor failures to properly credit payments to LHSEBT accounts;
3. Combining administrative and claims expenses into a single line item (such as has been noted with both Ameritas Dental and Clinic expenses); and
4. Normal timing differences.

These anomalies, taken together with the absence of a budget against which to track actual results and other issues raised in the **Trust Finances** section of this report, combine to make it particularly challenging to understand and track the Trust's performance, financial condition and liabilities on a real-time basis. ECA and District staff have already begun the process of clarifying authorities and processes to address these concerns on a going forward basis and will continue to do so until we are confident that expenses are being accurately and timely broken out, processed for payment and reported to the Trustees.

### Incurring But Not Paid (IBNP)

IBNP is an estimate of the dollar value of services that have been provided to beneficiaries (the claims have been incurred) but for which payment has yet to be made by the Trust (.but not paid). In addition to the claims costs, IBNP includes an administrative expense component to cover costs associated with

the potential shutting down of trusts such as LHSEBT. IBNP calculation is a standard element both to trust operations and to reporting of liabilities on sponsoring employers' financial statements. As mentioned in the Cash Balances, Incurred But Not Paid (IBNP) and Retiree Liabilities section of this report, ECA does not see evidence of IBNP having been calculated in the past and is therefore unclear as to whether the associated liabilities have been reflected in either the Trust's or district's financial reporting. Also as stated previously, the process of calculating and reporting IBNP for LHSEBT will be initiated with the June 30, 2018 plan year end.

### GASB 75 Liabilities

As discussed in the Cash Balances, Incurred But Not Paid (IBNP) and Retiree Liabilities section of this report, the District's liabilities associated with retiree coverage included an unfunded Actuarial Present Value of Benefits identified as \$11,366,258 based on the June 30, 2015 GASB 45 valuation. GASB 75 takes effect for plan years beginning after June 15, 2017 and incorporates material changes in how these liabilities are calculated. These include:

1. Requiring the full liability to be recognized immediately on the District's balance sheet versus in a footnote on the financial statements and with only a portion of the liability passing through to the statements under GASB 45;
2. Providing a specific external index for use in setting the discount rate; and
3. Eliminating the triennial valuation option for small plans.

Taken together, these changes are likely to result in an increased impact of these liabilities on the District's financial statements as well as those of all other employers offering retiree medical benefits.

GASB 75 has some unique elements to be considered in terms of when the valuation is to be completed and whether it is better to do so on a 12/31 or 06/30 basis. Mike Schionning of Cheiron will work with ECA, District staff and the Trustees in determining which approach is best for the District and then complete the GASB 75 valuation.

### Management Controls

#### Trustee Education

Trustees of self-funded benefit plans such as LHSEBT operate in a highly regulated environment of often overlapping law and regulation in carrying out their responsibilities. To help in managing the risks associated with the work of the Trustees, ECA suggests engaging the Trust's legal counsel, or an appropriate alternative provider who is versed in these topics, to provide Trustee training on topics including:

1. Fiduciary Liability – This training will help Trustees understand their responsibilities to the plan as well as individual beneficiaries and taxpayers in the context of LHSEBT operations;
2. HIPAA Confidentiality – Trustees may periodically come into contact with specific and individually identifiable information, primarily through appeals. Training in this area will help Trustees to understand their responsibilities in handling this information and avoiding liability through inadvertent disclosures; and
3. Conflict of Interest – Small communities have their benefits as well as their challenges when dealing in fiduciary positions such as LHSEBT Trustee. Understanding opportunities for both appearance of and actual conflicts of interest may be particularly helpful to Trustees.



## Vendor Contracts

The current vendor contracts utilize various forms and renewal terms and at least two (Cerner Clinic and the clinic's lease) do not align with the Trust's plan or fiscal year. In addition, the language is inconsistent on material issues including (but not limited to) ownership of and LHSEBT (or its agents') access to the LHSEBT Trust-specific underlying data, vendor compensation, indemnification of the Trust, insurance requirements, non-collusion, governing law and venue for any legal actions arising under these agreements. Additionally, there is no clear practice of having contracts and their extensions reviewed by legal counsel for LHSEBT prior to their being acted upon in a public meeting by the Trust acting in its capacity as a governing body. In the case of the Clinic renewal, this lack of consistency in practice resulted in the renewal being signed outside of a Trust meeting by a Trustee using the title "Vice Chair," a title which does not exist. This act, combined with outstanding questions pertaining to the Clinic's operations in general, led to additional questions regarding the validity of the extension which are pending final resolution as of this writing. Beyond the Clinic contract, there is no discernable practice as to which services have or are to be awarded through competitive procurement processes and at what frequency. Finally, storage of the contracts has been accomplished in an inconsistent manner with some agreements and/or amendments held in the District office and others at the office of the consultant. LHSEBT utilizes a range of services and products in the course of its normal operations. Thus, exact uniformity is not a reality. However, a much greater degree of consistency is available and should be striven for in contracting. Among these are (in no particular order):

1. All contracts for both products and services should be held in the name of LHSEBT.
2. Prior to being presented to the Trust for consideration and adoption in a public meeting, all contracts should be reviewed by LHSEBT legal counsel, in consultation with ECA, to assure that issues ranging from venue and indemnification to compensation and non-collusion have been addressed to the satisfaction of counsel. All contracts so reviewed and approved should include appropriate counter-signature by counsel for the Trust documenting legal review. All contracts should be signed by the then-sitting Chairperson of the Trust as authorized through this process.
3. Compensation should be specified in the agreement and limited to those amounts and sources agreed to in the contract.
4. The term of the agreements should be set to align with either a plan or fiscal year as best meets the needs of the Trust. For example, contracts for products and services such as third-party claims administration, stop-loss, actuarial and the like are generally best aligned with the plan/fiscal year. In other cases, perhaps including the Trust consultant/broker, a calendar or other basis may be more in line with the needs and/or goals of the Trust.
5. Complete copies of originals of all agreements for products and services should be held at the District office, with copies in ECA's and Trust legal counsel's possession.
6. A process of re-contracting with existing vendors should be undertaken to address the issues identified here in revised agreements.
7. Going forward, Trustees may wish to consider developing guidelines on frequency of competitive RFP's for the various services to be procured by the Trust and the processes through which they are to be secured.

## **Trust Meetings, Agendas and Minutes**

ECA generally reviewed the agendas and minutes of the various meetings available on the District's website as well as some additional minutes provided by Trustee Cox. Our review was limited to assessing these items for indications of Trustee involvement in the LHSEBT's operations. That involvement is evident

in the discussions captured in the minutes. Having said that, we believe Trustee involvement can be strengthened and improved in several ways:

1. Implementing a requirement that backup materials for items to be considered by the Trust be provided to District personnel and distributed to the Trustees along with the agenda seven (7) calendar days ahead of the scheduled meeting date. This will provide Trustees time to review and formulate questions related to the item and supporting documentation.
2. Implementing the contract approval process described under the Vendor Contracts paragraph of the **Management Controls** section of this report.
3. Limiting the specificity of large case and similar materials and information discussed in open meetings to avoid situations that may inadvertently result in a specific individual being identified, along with their underlying medical conditions(s).

### **LHSEBT Health and Wellness Center (Cerner Clinic)**

Outside of Medical and Prescription drug claims, the Cerner Clinic (the “Clinic”) is the single largest on-going expense item financed through the LHSEBT. The Trustees have, since at least October of 2016, made an effort to compare the costs of services provided through the Clinic to generally comparable services provided through the Blue Cross Blue Shield of Arizona (BCBSAZ) Preferred Provider Organization (PPO) network. Specific items of interest to the Trustees include:

1. How does the cost of a visit at the Clinic compare to a similar visit through the BCBSAZ PPO network; and
2. For four (4) specific disease states previously identified in Cerner management reports (Diabetes, Obesity, High Blood Pressure and Hypocholesteremia), is there any indication that receiving care through the Clinic results in better medical outcomes and lower costs than treating these same conditions through the BCBSAZ PPO network.

Answering these questions has been complicated and slowed by several factors specific to the Clinic’s operating approach, including:

1. Clinic management reports that the Clinic does not capture ICD-10 codes for visits, stating that it does not do so because the Clinic does not bill for its services. Rather, the Clinic captures data on an internal “Encounter” basis which identifies specific occurrences of care (“Encounters”) and then identifies “Services” provided during each encounter. Cerner management notes that a single encounter may result in multiple Services being provided, much as may occur through BCBSAZ PPO network providers.
2. Cerner has required that ECA execute a Non-Disclosure Agreement (NDA) prior to releasing LHSEBT data. The NDA presented was sufficiently broad in scope that LHSEBT legal counsel was requested to be consulted (by ECA) so as to ensure that the NDA did not interfere with ECA’s, and LHSEBT’s, ability to complete the cost comparisons in which the Trustees have expressed interest.

As of this writing, the cost comparisons related to per-clinic and the four specified disease states remain “on hold” pending a decision on the scope and applicability of the NDA requested by Cerner management and the receipt and review of clinic encounter and cost data.

In addition to above two items, ECA has identified the following for further exploration:

1. The Cerner Clinic bills the Trust separately for generic drugs dispensed at the Clinic as well as labs ordered through LabCorp during visits. ECA will seek to compare the costs associated with these

items to those available through the BCBSAZ PPO and the LHSEBT's prescription drug vendor (Wisconsin Rx/CVS-Caremark) respectively.

2. ECA has been advised that the current Broker has been responsible for contracting for various support services for the clinic. These include at least janitorial and landscaping services. ECA will discuss whether this is an optimal arrangement with both Cerner management and District administrative staff.

### **Other Significant Findings and Observations**

#### **Insurance Coverages for the Trust, Trustees and the Trust Board**

ECA worked with District staff to determine the extent of various forms of insurance coverage that typically are procured for operations of this nature. Our findings included that:

1. Commercial Crime coverage – This product provides coverage in instances of employee theft. We have been advised that the District's current coverage does not currently extend to the Trust but that it can be extended by endorsement at a limit of \$1.5 million.
2. Trustee/Fiduciary Liability coverage – We have been advised that the District's current policies exclude coverage for these exposures.
3. Property Coverage – We have recently become aware of a small policy covering Trust-owned equipment and improvements at the Cerner Clinic. ECA has questioned whether these exposures might be more appropriately, and at a lower cost, covered under the District's master policy.
4. Incidental Commercial General Liability and Automobile coverage – We have not yet received a reply on whether the Trust and Trustees are covered for these exposures.

ECA has been authorized to work with the District's insurance broker, NFP Insurance, to clarify and confirm the above and to also have NFP develop options to provide these coverages.

#### **Electronic Communication with Trustees**

Since being selected by the Trust as the LHSEBT's consultant in mid-October, ECA has made a point of communicating with various combinations of the Chairperson, Marcia Cox and the Board as a whole. Our intent in doing so has been to keep the Trustees apprised of our actions in completing this End-to-End Review as well as several significant undertakings that have occurred since then. Among these are replacing Morgan Stanley and working to complete the Cerner Clinic cost reviews discussed earlier in this report. While we believe this communication has been important, ECA also recognizes that under specific conditions, inadvertent violations of public meeting law can occur when taking advantage of the immediacy of modern communications. That being said, we would like to discuss with the Trustees, and Trust legal counsel, parameters for maintaining what we believe to be a valuable line of communication without inadvertently straying over the line on public meeting law.

#### **Rx Costs through Wisconsin Rx/CVS-Caremark**

ECA has been in contact with Wisconsin Rx/CVS-Caremark in an effort to gather information on contracted Rx costs to use in comparing them to two other contracts ECA has with PBM's operating in the Colorado River area. Wisconsin Rx/CVS Caremark has requested that ECA execute a Non-Disclosure Agreement (NDA) prior to releasing the needed information. We are in the process of negotiating the scope of the NDA with them so that we will be able to complete the work we envision. Conversations to date have been positive and we are hopeful of accomplishing our goal. If we are unable to come to terms on the scope of the NDA, we will seek guidance from the Trust and legal counsel prior to signing an NDA.

### LHSEBT Stop-Loss/Reinsurance

A particularly surprising discovery for us was that the current stop-loss contract does not include prescription drug costs in the contract. Thus, LHSEBT is essentially uninsured for these costs. Given the presence of known high-dollar Rx costs in the current year as well as the broader exposure high priced specialty medications carry, we feel compelled to advise the Trustees of what, to us, is a material deficiency in the structure of the Trust. We will both quote the addition of this coverage at renewal and contact the existing stop-loss carrier to see if they are willing, and it makes financial sense, to add this coverage mid-year.

### Current Consultant Compensation

As part of our process of identifying expenses for purposes of building a budget for the Trust, ECA has contacted various vendors and providers to determine whether any commissions, fees or overrides were presently being earmarked or paid to the incumbent broker. Thus far, two of those contacted, American Health Group (AHG) and Wisconsin Rx, have indicated that their current arrangements include compensation to the current broker. In the case of AHG, the amount is \$1.50 per employee per month (PEPM); in the case of Wisconsin Rx, it is \$.25 per prescription. Cerner, Gilsbar and Ameritas have all verbally stated they have no similar arrangements in place. We will contact the remaining vendors and incumbent broker to determine where and in what amounts any other such arrangements may be in place. Once we have that information, we will remove all such dollars effective 12/31/2017.

# **MEMORANDUM**

TO: **LHSEBT Trustees**

FROM: **ERIN P. COLLINS & ASSOCIATES, INC. (ECA)**  
Jaime Schulenberg, Sr. Account Manager

DATE: August 13, 2018

RE: Cerner Management Contract

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At the June 29, 2018 meeting, Trustees voted to ratify an agreement with Cerner regarding the H&W Clinic that provided 60 days to negotiate terms and conditions.

We met with Cerner staff and as of the date of this memo, are awaiting a proposal to bring forth to Trustees for consideration. As soon as we receive the proposal, we will forward for your review and information.

If you have any questions between now and the date of the meeting, I can be reached at (928) 753-4700 ext. 302 or via email at [jaimes@ecollinsandassociates.com](mailto:jaimes@ecollinsandassociates.com).