

RESOLUTION NO. 2023____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, APPROVING THE ADOPTION OF THE MULTIPLE EMPLOYER OPEB/PENSION 115 TRUST ADMINISTERED BY SHUSTER ADVISORY GROUP, LLC

WHEREAS, Shuster Advisory Group, LLC (“Shuster”) has made available the Multiple Employer OPEB/Pension 115 Trust (Trust) for the purpose of pre-funding pension obligations and/or OPEB obligations; and

WHEREAS, the City of Indian Wells (“City”) is eligible to participate in a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as amended, and the Regulations issued there under, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS, Alta Trust Company satisfies the Trustee requirements under IRS section 115; and

WHEREAS, all qualified assets currently held in the City’s California Employers’ Retiree Benefit Trust (CERBT) are irrevocably dedicated to prefunding the City’s OPEB obligations; and

WHEREAS, the City’s adoption and operation of the Trust has no effect on any current or former employee’s entitlement to post-employment benefits; and

WHEREAS, the terms and conditions of post-employment benefit entitlement, if any, are governed by contracts separate from and independent of the Trust; and

WHEREAS, the City Council has prudently set aside funds for the OPEB liability; and

WHEREAS, the City’s funding of the Trust does not, and is not intended to, create any new vested right to any benefit nor strengthen any existing vested right; and

WHEREAS, the City reserves the right to make contributions, if any, to the Trust.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby adopts the Shuster Multiple Employer OPEB/Pension 115 Trust, effective September 7, 2023; and

SECTION 2. The City Council hereby authorizes the City Administrator to transfer up to \$7 million from the City of Indian Wells California Employers’ Retiree Benefit Trust (CERBT) Program to the Trust.

SECTION 3. The City Council hereby authorizes the appointment of Alta Trust Company as Trustee and Charles Schwab Trust Bank as custodian of the Trust and deposited

assets. The transfer of assets is contingent upon the acceptance of Alta Trust Company as Trustee and Charles Schwab Trust Bank as custodian; and

SECTION 4. Based on Shuster's representations and warranties in the Trust Administrative Services Agreement between the City and Shuster, the City Council certifies that the Trust satisfies the requirements of Section 115 of the Internal Revenue Code and that all assets held by that trust shall qualify as "plan assets" that are irrevocably dedicated to the prefunding of OPEB and Pension obligations; and

SECTION 5. The City Council hereby appoints the City Manager, or his/her successor, or his/her designee as the City's Administrator for the Trust; and

SECTION 6. The City's Administrator is hereby authorized to execute the legal and administrative documents on behalf of the City and to take whatever additional actions are necessary to maintain the City's participation in the Trust and to maintain compliance with any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the City's Trust.

SECTION 7. The City's Administrator is hereby authorized to transfer assets from the City of Indian Wells California Employers' Retiree Benefit Trust (CERBT) Program to the Trust.

SECTION 8. That said action was taken during a regular meeting of the Indian Wells City Council.

SECTION 9. The Mayor shall sign and the City Clerk shall certify the passage and adoption of this Resolution and thereupon the same shall take effect and be in force.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California at a regular meeting held on the 7th day of September 2023.

**DONNA GRIFFITH
MAYOR**

CERTIFICATION FOR RESOLUTION NO. 2023-__

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing was duly and regularly passed adopted at a regular meeting of the City Council of the City of Indian Wells on the 7th day of September 2023, by the following vote:

AYES:

NOES:

ATTEST:

APPROVED AS TO FORM:

ANGELICA AVILA
CITY CLERK

TODD LEISHMAN
CITY ATTORNEY