

TRUST ADMINISTRATIVE SERVICES AGREEMENT

This agreement (“Agreement”) is made this ___ day of _____, 2023, by and between the CITY OF INDIAN WELLS (the “Employer”) and SHUSTER ADVISORY GROUP, LLC (the “Trust Administrator”).

WHEREAS, the Employer has adopted one or more plans, policies, or collective bargaining agreements (“Plans”) in order to provide other post-employment health and welfare benefits (other than pensions) (“OPEB”) or retirement benefits; and

WHEREAS, the Trust Administrator and Alta Trust Company (the “Trustee”) have entered into an agreement (the “Trust Agreement”) establishing the Multiple Employer OPEB/Pension 115 Trust (the “Trust”); and

WHEREAS, the Employer has adopted the Trust by executing the adoption agreement to which this Agreement is attached (the “Adoption Agreement”) in order to fund the OPEB and retirement benefits payable under the Plans; and

WHEREAS, the Employer wishes to retain the services of the Trust Administrator to administer the Employer’s account under the Trust (“Account”).

NOW THEREFORE, the Employer and the Trust Administrator hereby agree as follows:

Capitalized words not defined this document are defined in the Trust Agreement.

1. Trust Administrator Services

The Trust Administrator will provide the following services for the Employer’s Account:

1.1 Administrative Services

- A.** Instruct the custodian of the Account to make disbursements from the Employer’s Account at the direction of the Employer for the payment of OPEB or retirement benefits under the Employer’s Plans funded by the Account;
- B.** Verify custodian’s receipt of contributions made to the Account as informed by the Employer;
- C.** Provide the Employer after the end of each calendar quarter with an analysis of the performance of the investments of the Account and a statement of the changes in the investments made during such calendar quarter;
- D.** Provide annual statements of Trust accounts;
- E.** Instruct the custodian to disburse funds from the Account for the payment of the fees and expenses described in Section 2.1 and 3.2; and

- F. Coordinate such other actions with the Trustee and custodian of the Account as directed by the Plan Administrator that are within the scope of the Trust Administrator's duties under the Trust Agreement.
- G. The Trust Administrator will timely review each accounting provided by the Trustee and will timely address any deficiency or error.
- H. The Trust Administrator will give the Employer written notice of any proposed change of trustee for the Trust (including any successor trustee or merger of the Trustee with another trustee) at least 30 days before the change. A new Trustee must be approved by the Employer, which approval the Employer may grant at its discretion, but which may not be unreasonably withheld.

1.2 Investment Management Services

- A. Determine the asset allocation of investments in the Employer's Account ("Investment Strategy") based on information provided by the Employer or the Plan Administrator, including the anticipated amounts of cash required by the Plans for distributions and other expenses, and the appropriate risk tolerance for the Plans based on the Plans' asset-liability characteristics and the Employer's resources;
- B. Prepare a recommended policy statement of the Account's Investment Strategy acceptable to the Employer to the extent necessary to accomplish the Account's Investment Strategy ("Investment Policy Statement");
- C. Exercise its own discretion as an investment advisor and discretionary fiduciary to execute the Account's Investment Strategy by instructing the Trustee to buy and sell shares of investments permitted under the Trust in accordance with the Investment Policy Statement. The Trust Agreement states that the Trust Administrator may not "provide investment services with respect to the Trust" (§ 7.06). The Trust Administrator hereby represents and warrants that the restriction in section 7.06 of the Trust Agreement only applies to the Trust as a whole and does not to prevent the Trust Administrator from providing the services that are contemplated by this Agreement with respect to the Employer's Account, nor does the Trust Agreement prevent the Trust Administrator (Shuster) from providing the Fiduciary Services that are contemplated by the Investment Advisor Agreement between the Employer and the Trust Administrator;
- D. In consultation with the Employer, reassess and alter the Investment Strategy and Investment Policy Statement at least annually to the extent necessary to "rebalance" the Account investments; and
- E. Perform reviews at least annually of the performance of the investments held in the Account, add or reduce allocations to each investment or add or delete investments in its judgment (to the extent permitted under the Investment Policy Statement and the Trust), and promptly advise the Employer of any additions or deletions of Account investments.

2. Compensation

2.1 Fees. For all services provided by the Trust Administrator under this Agreement and the Trustee under the Trust Agreement, the following fees will apply:

Trust Administration Fees (This Agreement) ¹ :	0.02%
Trustee Fees (Trust Adoption Agreement) ² :	0.02%
Custodial Asset Based Fee (Custodial Agreement) ³ :	0.01%
Investment Advisory Fees (Investment Advisory Agmt.):	0.17%

Fees will be collected quarterly other than the Investment Advisory Fee which will be collected monthly.

1 - Will convert to a flat dollar fee after the end of contract year-3 based on the highest year-end balance of the first 3 contract years.

2 - Annual minimum fee per plan of \$500. Annual maximum fee per plan of \$5,000.

3 - Annual minimum fee per plan of \$400. Custodian may also charge fees related to non-standard assets, checks and wire fees outlined in the Custodial Agreement for the Plan.

The Trust Administrator will notify the Employer in writing of any change in the above fee amounts at least 60 days before the effective date of the change.

2.2 Fees for Additional Services. If and to the extent that the Employer requests the Trust Administrator to render services other than those described under this Agreement, such additional services will be compensated separately on terms to be agreed upon between the Trust Administrator and the Employer.

2.3 Pooled Investments. Assets invested by the Trust Administrator under the terms of this Agreement may from time to time be invested in individual securities, or in a proprietary money market mutual fund or local government investment pool (either, a "Pool"). Each Pool is a commingled fund managed by the Trust Administrator. Average daily net assets subject to the fees described in this section shall not take into account any funds invested in the Pool. Expenses of the Pool, including compensation for the Trust Administrator and the Pool custodian, are described in the relevant prospectus or information statement and are paid from the Pool.

3. Expenses

3.1 Furnishing of Administrative Services, Office Space, Equipment and Personnel. The Trust Administrator will furnish at its own expense all necessary administrative services, office space, equipment, clerical personnel, telephone and other communication facilities, investment advisory facilities, and executive and supervisory personnel required to perform the services under this Agreement, inclusive of reasonable costs required to attend meetings with the Employer.

3.2 Expenses of Employer's Account. Except as otherwise provided in this Agreement, Employer agrees to pay all expenses under the Trust incurred by (or allocable to) the Employer's Account including, without limitation, taxes, expenses (including front- or back-end charges) of an investment fund, fees and expenses of the Account's independent auditors and legal counsel, insurance premiums,

expenses of the Trustee, the keeping of books and accounts, and the allocable costs of the annual Trust accounting described in Section 9.02 of the Trust Agreement. The Trust Administrator will calculate expenses allocable to the Account on a pro-rata basis, or in any other reasonable and equitable manner determined by the Trust Administrator.

4. **Payment Terms.** At the end of each calendar month, the Trust Administrator will prepare and submit fees and expenses under this Agreement as described in Sections 2.1 and 3.2. Except to the extent that the Employer has elected in the Adoption Agreement to pay such fees and expenses, the Employer authorizes the Trust Administrator to charge such fees and expenses to the Employer's Account and authorizes and instructs the custodian to disburse funds from the Account for the payment of the fees and expenses. If the Employer has elected in the Adoption Agreement to pay such fees and expenses the Trust Administrator will prepare and submit monthly invoices to the Employer. If the Employer does not fully pay any invoice within 15 calendar days after the invoice's postmark, then the Employer hereby authorizes the Trust Administrator to charge the unpaid amount to the Account and instructs the custodian to disburse such amount from the Account for the payment of the fees and expenses. If sufficient funds are not available or cannot for any reason otherwise be disbursed from the Account, the Trust Administrator will notify the Employer, and the Employer will pay the unpaid amount to the Trust Administrator from other sources within 10 calendar days after receiving the notice.
5. **Registered Advisor; Duty of Care.** The Trust Administrator hereby represents it is a registered investment advisor under the Investment Advisers Act of 1940 and a discretionary fiduciary as defined under California law. The Trust Administrator will immediately notify the Employer if at any time during the term of this Agreement it is not so registered or if its registration is suspended. The Trust Administrator hereby acknowledges, and agrees, that it is a discretionary fiduciary with respect to the administration of the Trust and shall, at all times, exercise such discretion pursuant to the fiduciary standards of care set forth in Article XVI, Section 7 of the California Constitution and Sections 20150 to 20153 of the California Government Code, as applicable. The federal securities laws impose liabilities under certain circumstances on persons who are required to act in good faith. Nothing herein in any way constitutes a waiver or limitation of any rights which the Employer, the Trust, or the Trust Administrator may have under any federal securities laws. The Employer hereby authorizes the Trust Administrator to sign an Internal Revenue Service Form W-9 on behalf of the Employer and to deliver such form to broker-dealers or others from time to time as required in connection with securities transactions pursuant to this Agreement.
6. **Qualified Trust.** Trust Administrator represents and warrants that the Trust at all times satisfies the requirements of Section 115 of the Internal Revenue Code and that all assets held by the Trust qualify as "plan assets" that are irrevocably dedicated to the prefunding of OPEB and pension obligations.
7. **Trust Administrator's Other Clients.** The Employer understands that the Trust Administrator performs investment advisory services for various other clients which may include investment companies, commingled trust funds and/or individual portfolios. The Employer agrees that the Trust Administrator, in the exercise of its professional judgment, may give advice or take action with respect to any of its other clients which may differ from advice given or the timing or nature of action taken with respect to the Account. The Trust

Administrator has no obligation to purchase, sell or exchange any security for the Employer solely by reason of the fact that the Trust Administrator, its principals, affiliates, or employees may purchase, sell or exchange such security for the account of any other client or for itself or its own accounts.

- 8. Risk Acknowledgment.** The Trust Administrator does not guarantee the future performance of the Account or any specific level of performance, the success of any investment decision or strategy that the Trust Administrator may use, or the success of Trust Administrator's overall management of the Account. The Employer understands that discretionary investment decisions made for the Employer's Account by the Trust Administrator are subject to various markets, currencies, economic, political and business risks, and that those investment decisions will not always be profitable. The Employer understands that past performance does not necessarily predict future performance for the Account. The Trust Administrator will manage only the securities, cash and other investments held in Employer's Account and in making investment decisions for the Account, the Trust Administrator will not consider any other securities, cash or other investments owned by the Employer or any of the Plans. Neither the Trust Administrator nor its officers, directors, agents, employees, and affiliate shall be liable for any losses in the Account, or any loss, cost, indebtedness, or liabilities arising from the Trust Administrator's management of the investments in the Account (together, "Losses") except for any Losses that result from an act or omission of the Trust Administrator constituting a violation of law or an act or omission of the Trust Administrator constituting negligence, willful misfeasance, bad faith or reckless disregard of its obligations under this Agreement or as otherwise may be provided by law. The Trust Administrator is not responsible for any loss incurred by reason of any act or omission of the Employer, the custodian of the Account, a third party manager, any broker-dealer, or any other third party.
- 9. Term of Agreement.** This Agreement remains in effect until terminated by either party. The Employer may terminate this Agreement at any time by giving 90 days' written notice to the Trust Administrator. The Trust Administrator may terminate this Agreement at any time by giving 90 days' written notice to the Employer. Termination of this Agreement does not terminate the Trust.
- 10. Force Majeure.** The Trust Administrator has no liability for any losses arising out of the delays in performing or inability to perform the services which it renders under this Agreement which result from events beyond its control, including interruption of the business activities of the Trust Administrator or other financial institutions due to acts of God, acts of governmental authority, acts of war, terrorism, civil insurrection, riots, labor difficulties, or any action or inaction of any carrier or utility, or mechanical or other malfunction.
- 11. Disciplinary Actions.** The Trust Administrator will promptly notify the Employer if the Trust Administrator is found to have violated any state or federal securities law or regulation in any criminal action or civil suit in any state or federal court or in any disciplinary proceeding before the Securities and Exchange Commission or any other regulatory agency or department of the United States, any registered securities exchange, the Financial Industry Regulatory Authority, or any regulatory authority of any State based upon the performance of services as an investment advisor.

- 12. Confidentiality.** The Trust Administrator will not disclose any information relating to the Plans or the Account except to authorized officers of the Employer, the Plan Administrator the Trustee and third parties retained by the Trust Administrator to perform specific services within this Agreement without the Employer's consent. The Employer will not disclose any information relating the Trust to individuals other than authorized officers of the Employer and the Plan Administrator, or their respective designees, without the Trust Administrator's consent.
- 13. Independent Contractor.** The Trust Administrator, its employees, officers and representatives, will not be deemed to be employees, agents (except as to the purchase or sale of securities described in Section 1), partners, servants, and/or joint ventures of the Employer or the Account by virtue of this Agreement or any actions or services rendered under this Agreement.
- 14. Records.** The Trust Administrator will maintain appropriate records of all its activities hereunder. The Trust Administrator will use its best efforts to provide the Employer with a statement within 60 days following the end of each calendar quarter showing deposits, withdrawals, purchases and sales (or maturities) of investments, earnings received during the quarter, and the value of assets held on the last business day of the calendar quarter, all as provided for in the Trust Agreement, based on the information requested from and furnished to it by the Trustee.
- 15. Ownership of Reports and Documents.** The Trust Administrator acknowledges that the originals of all correspondence, documents, reports and records produced in the course of providing the services pursuant to this Agreement are the property of the Employer. In the event this Agreement is terminated, the Trust Administrator agrees to provide such originals to the Employer. The Trust Administrator will not furnish copies of any such correspondence, documents reports and records to any party other than the Employer or the Plan Administrator, or their respective designees, or third parties retained by the Trust Administrator to perform services under this Agreement without the Employer's consent. Notwithstanding the preceding provisions of this paragraph, the Trust Administrator is authorized to retain copies of any correspondence, documents, reports, and records to the extent needed to comply with applicable law, including but not limited to federal securities laws.
- 16. Trust Administrator's Disclosure Statement.** The Trust Administrator warrants that it has delivered to the Employer, at least 48 hours prior to the execution of this Agreement, the Trust Administrator's current Securities and Exchange Commission Form ADV, Part II, including, without limitation, Schedule H thereto (disclosure statement). The Employer acknowledges receipt of such disclosure statement at least 48 hours prior to the execution of this Agreement.
- 17. Amendment.** This Agreement shall not be changed, modified, terminated or discharged in whole or in part, except by an instrument in writing signed by both parties hereto, or their respective successors or assigns.
- 18. Successors and Assigns.** The provisions of this Agreement are binding on the Trust Administrator and its respective successors and assigns, provided, however, that the rights and obligations of the Trust Administrator may not be assigned without the Employer's consent.

19. Designees. In accordance with Section 1.18 of the Trust Agreement, the Employer will certify to the Trust Administrator in writing the persons or entity with the plenary authority pursuant to applicable state law over the investment and management of the Employer's Plans or its designee ("Plan Administrator"). The Plan Administrator has the authority to act on behalf of, and to exercise any of the rights of, the Employer under this Agreement. In accordance with Section 6.1(I) of the Trust Agreement, the Trust Administrator may designate and engage the services of such agents, representatives, advisors, counsel, accountants and other third parties, including affiliates of the Trust Administrator, and delegate its authority to perform specified services under this Agreement to such third parties. Any such designee shall have the authority to perform the services delegated to it by the Trust Administrator. The Trust Administrator is liable for any negligence or wrongful conduct on the part of the Trust Administrator or of any of its designees. Any officer of the Trust Administrator has the authority to exercise any of the rights of the Trust Administrator under this Agreement.

20. Notice. Written notices required under this Agreement will be sent by regular mail, certified mail, overnight delivery or courier, and will be deemed given when received at the parties' respective addresses shown below. Either party must notify the other party in writing of a change in address.

Employer's Address:

City of Indian Wells
44-950 Eldorado Drive
Indian Wells, CA 92210
Attn: Finance Director

Trust Administrator's Address:

Shuster Advisory Group, LLC
155 N. Lake Ave, #500
Pasadena, CA 91101
Attn: Mark Shuster, Managing Member

21. Arbitration. The Employer understands and agrees that, to the extent permitted by law, all claims and disputes arising out of transactions or activities in connection with the Account, or construction, performance, or breach of this Agreement, will be determined by arbitrators sitting in Indian Wells, California, in accordance with the current rules then in effect of the American Arbitration Association. The arbitrators may allocate attorneys' fees and arbitration costs between parties. In this regard, the Employer understands that: (1) Arbitration is final and binding on the parties; (2) the parties are waiving their right to seek a judicial determination in court, including the right to jury trial; (3) pre-arbitration discovery is generally more limited than and different from court proceedings; (4) the arbitrators' award is not required to include factual findings or legal reasoning and any party's right to appeal or seek modification of rulings by the arbitrators is strictly limited; (5) the panel of arbitrators will typically include a minority of arbitrators who are in the securities industry; and (6) arbitration will be conducted according to the Commercial Arbitration Rules and related Supplementary Procedures for Securities Arbitration then in effect of the American Arbitration Association.

- 22. **Applicable Law.** This Agreement will be construed, enforced and administered according to the laws of the state of California, without regard to its conflicts of law principles. In the event that either party institutes legal proceedings against the other, venue will lie in any court of competent jurisdiction in the county of Riverside, in the state of California.
- 23. **Entire Agreement.** This Agreement, including exhibits and any other documents referenced herein, constitutes the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, and understandings, whether written or oral, with respect thereto.
- 24. **Severability.** If any provision of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Agreement will continue in full force and effect.
- 25. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed will be deemed to be a complete original and all of which together will constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized officers on the date set forth in the first paragraph of this Agreement.

TRUST ADMINISTRATOR
Shuster Advisory Group, LLC

EMPLOYER
City of Indian Wells

By: _____

By: _____

Its: _____

Its: _____