

**INVESTMENT ADVISOR AGREEMENT
MULTIPLE EMPLOYER OPEB/PENSION 115 TRUST**

This agreement (“Agreement”) is entered into between **Shuster Advisory Group, LLC** (“SHUSTER”), a California limited liability company, and **City of Indian Wells** (“EMPLOYER”) as further identified on Appendix A., as the responsible plan fiduciary for the plans as further identified in Appendix A, desires to engage SHUSTER to provide the services described in this Agreement according to the terms of this Agreement.

1. **Fiduciary Authority.** The account for which SHUSTER is providing investment advisory service is part of a multiple employer trust intended to qualify as a tax-exempt trust of a state or political subdivision thereof for an essential governmental function within the meaning of Section 115 of the Code and any regulations issued thereunder and the EMPLOYER has fiduciary authority with respect to the account for the employer.
2. **Term.** The term of this Agreement commences **[NEW DATE], 2023**, and continues until terminated in accordance with this Agreement.
3. **Services.** SHUSTER agrees to perform the Fiduciary Services described in Appendix B.
4. **Fees.**
 - (A) The compensation, direct and indirect, of SHUSTER for the performance of the Services is described in Appendix D.
5. **Fiduciary Status: Limitations on Functions.** EMPLOYER acknowledges that:
 - (A) In performing the Fiduciary Services, SHUSTER is acting as an investment fiduciary of the Plan and as a registered investment advisor under the Investment Advisers Act of 1940.
 - (B) In performing Fiduciary Services, SHUSTER does not act as, nor has SHUSTER agreed to assume the duties of, a trustee or the Plan Administrator, and SHUSTER has no discretion or responsibility to interpret the Plan documents, to determine eligibility or participation under the Plan, or to take any other action with respect to the management, administration or any other aspect of the Plan.
 - (C) SHUSTER does not provide legal or tax advice.
 - (D) Investments are subject to various market, political, currency, economic, and business risks, and may not always be profitable. As a result, SHUSTER does not and cannot guarantee financial results.
 - (E) SHUSTER may, by reason of performing services for other EMPLOYERS, from time to time acquire confidential information. EMPLOYER acknowledges and agrees that SHUSTER is unable to divulge to the EMPLOYER or any other party, or to act upon, any such confidential information with respect to its performance of this Agreement.
 - (F) SHUSTER is entitled to rely upon all information provided to SHUSTER (whether financial or otherwise) from reputable third parties or by EMPLOYER, EMPLOYER’s representatives or third-party service providers to EMPLOYER, the Plan or SHUSTER, without independent verification. EMPLOYER agrees to promptly notify SHUSTER in writing of any material change in the financial and other information provided to SHUSTER and to promptly provide any such additional information as may be reasonably requested by SHUSTER.

- (G) EMPLOYER understands that SHUSTER: (i) may perform other services for other clients, (ii) may charge a different fee for other clients, and (iii) may give advice and take action that is different for each client even when retirement plans are similar.
- (H) SHUSTER has no responsibility to provide any services related to assets not included in the SHUSTER investment portfolio or purchased directly by Client. Such assets shall be referred to collectively as “Excluded Assets.” The Excluded Assets shall be disregarded in determining the Fees payable to SHUSTER pursuant to this Agreement, and the Fees shall be calculated only on the remaining assets (the “Included Assets”).

6. **Representations of EMPLOYER.** EMPLOYER represents and warrants as follows:

- (A) It is the responsible plan fiduciary for the control and/or management of the assets of the Plan, and for the selection and monitoring of service providers for the Plan. SHUSTER is entitled to rely upon this statement until notified in writing to the contrary.
- (B) The person signing the Agreement on behalf of EMPLOYER has all necessary authority to do so.
- (C) The execution of this Agreement and the performance thereof is within the scope of the investment authority authorized by the governing instrument and/or applicable laws. The signatory on behalf of EMPLOYER represents that the execution of the Agreement has been duly authorized by appropriate action and agrees to provide such supporting documentation as may be reasonably required by SHUSTER.
- (D) The Plan and related Trust permit payment of fees out of Plan assets. EMPLOYER has determined that the fees charged by SHUSTER are reasonable and are the obligation of the Plan; however, if EMPLOYER desires, it may pay the fees directly, rather than with Plan assets.

7. **Representation of SHUSTER.** SHUSTER represents and warrants as follows:

- (A) SHUSTER is registered as an investment adviser (“RIA”) under the Investment Advisers Act of 1940.
- (B) The person signing this agreement on behalf SHUSTER has the power and authority to enter into and perform this Agreement.
- (C) SHUSTER does and will continue to take reasonable steps to protect Private Participant Information and Plan Investment Data in its possession; however,
SHUSTER is not responsible for the assessment of systems and procedures of third parties for the protection of plan and participant data;
SHUSTER is not responsible for the actions by or the failure to act by EMPLOYER, by other service providers, or by Plan participants to protect Data; and
SHUSTER is not responsible for any Data breach or a violation of participant privacy rights (under the California Consumer Privacy Act or otherwise) unless said breach is the direct result of negligence, recklessness, or willful misconduct of an employee of SHUSTER.

8. **Standard of Care.** SHUSTER will perform the Fiduciary Services described in Appendix B to the Plan in accordance with the standard of care of the prudent man rule set forth in ERISA Section 404(a)(1)(B).

9. **Termination.** EMPLOYER may terminate this Agreement upon 90 days prior written notice to SHUSTER. SHUSTER may terminate this Agreement upon 90 days prior written notice to EMPLOYER. Such termination will not, however, affect the liabilities or obligations of the parties arising from transactions initiated prior to such termination, and such liabilities and obligations (together with the provisions of section 8, 17, and 18) shall survive any expiration or termination of this Agreement. Upon termination, SHUSTER will have no further obligation under this Agreement to act or advise EMPLOYER with respect to services under this Agreement.

10. **Hold Harmless.** SHUSTER shall hold EMPLOYER harmless from all damages, including expenses, arising from SHUSTER's breach of this Agreement, including, but not limited to, any unauthorized disclosure of confidential city information.
11. **Receipt of Disclosure and Consent to Electronic Delivery.** EMPLOYER acknowledges receipt and undertakes to review and consider the disclosures made by SHUSTER (including in this Agreement, the Form ADV Part 2 and SHUSTER Privacy Policy), in particular the portions related to services, compensation, and potential conflicts of interest, as well as the remainder of the disclosures concerning, among other matters, background information such as educational and business history, business practices such as the types of advisory services provided, the methods of securities analysis used, and the like.

Further, EMPLOYER consents to electronic delivery (via email or other generally accepted method) of current and future distributions of SHUSTER's Form ADV Part 2 and Privacy Policy. Consent to electronic delivery may be canceled at any time by sending a written request to SHUSTER.
12. **Notices.** Any and all notices required or permitted under this Agreement shall be in writing and shall be sufficient in all respects if (i) delivered personally, (ii) mailed by registered or certified mail, return receipt requested and postage prepaid, or (iii) sent via a nationally recognized overnight courier service to the EMPLOYER's address listed on Appendix A and SHUSTER's address, 155 N. Lake Ave, Ste. 500, Pasadena, CA 91101, or such other address as any party shall have designed by notice in writing to the other party.
13. **Assignability.** This Agreement is not assignable by either Party hereto without the prior written consent of the other Party.
14. **Effect.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, survivors, administrators and assigns.
15. **Entire Understanding and Modification.** This Agreement constitutes and contains the entire understanding between the parties and supersedes all prior oral or written statements dealing with the subject matter herein. This Agreement can be amended or modified by the written consent of the Parties.
16. **Severability.** If any one or more of the provisions of this Agreement shall, for any reason, be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be enforced as if such illegal or invalid provision had not been contained herein.
17. **Headings.** All headings used herein are for ease of reference only and in no way shall be construed as interpreting, decreasing or enlarging the provisions of this Agreement.
18. **Applicable Law; Venue.** The laws of the State of California shall govern this Agreement in all respects, including but not limited to the construction and enforcement thereof, unless otherwise preempted or superseded by federal law. Venue lies exclusively in the state and federal courts in Riverside County, California.
19. **Arbitration Agreement.** To the extent permitted by law, all controversies between EMPLOYER and SHUSTER, which may arise out of or relate to any of the services provided by SHUSTER under this Agreement, or the construction, performance or breach of this or any other Agreement between SHUSTER and EMPLOYER, whether entered into prior to, on or subsequent to the date hereof, shall be settled by binding arbitration in Indian Wells, Riverside County, California, under the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon any award rendered by the arbitrator(s) shall be final, and may be entered into any court having jurisdiction.
20. **Amendment Process.** The Agreement may be modified, by written agreement of both EMPLOYER and SHUSTER.

21. **Waiver of Limitation.** Nothing in this Agreement shall in any way constitute a waiver or limitation of any rights which EMPLOYER or Plan or any other party may have under federal or state securities laws.

This Agreement constitutes both an agreement between the parties and a disclosure statement. The Parties have caused this Agreement to be executed by their duly authorized officers as of the date set forth above. This Agreement shall not be binding on SHUSTER or the EMPLOYER until each has accepted it, in writing, as indicated by their signatures below.

EMPLOYER:

Shuster Advisory Group, LLC

Signature: _____

Signature: _____

Name: _____

Name: Mark Shuster

Title: _____

Title: Managing Member

Date: _____

Date: _____

*The EMPLOYER is signing this Agreement both as the employer that sponsors the Plan and as the fiduciary responsible for selecting the Plan's investments and engaging its service providers.

APPENDIX A – EMPLOYER/PLAN SPONSOR - PLAN INFORMATION

EMPLOYER/Plan Sponsor City of Indian Wells	Tax ID# XXXX		
Plan Name 1 City of Indian Wells OPEB Trust Account	Type of Plan <input checked="" type="checkbox"/> OPEB Plan <input type="checkbox"/> Pension Plan <input type="checkbox"/> Other: _____		
Plan Name 2 City of Indian Wells Pension Stabilization Trust Account	Type of Plan <input type="checkbox"/> OPEB Plan <input checked="" type="checkbox"/> Pension Plan <input type="checkbox"/> Other: _____		
Plan Name 3	Type of Plan <input type="checkbox"/> OPEB Plan <input type="checkbox"/> Pension Plan <input type="checkbox"/> Other: _____		
Plan Name 4	Type of Plan <input type="checkbox"/> OPEB Plan <input type="checkbox"/> Pension Plan <input type="checkbox"/> Other: _____		
Plan Name 5	Type of Plan <input type="checkbox"/> OPEB Plan <input type="checkbox"/> Pension Plan <input type="checkbox"/> Other: _____		
Mailing Address 44-950 Eldorado Drive	City Indian Wells	State CA	Zip Code 92210
Phone 760-346-2489	Email (for purposes of notice/electronic delivery) kmccarthy@indianwells.com		
Legal Address (<input checked="" type="checkbox"/> Same as Mailing Address)	City	State	Zip Code

APPENDIX B – FIDUCIARY SERVICES

SHUSTER will perform the following fiduciary services:

1. Development of an Investment Policy Statement (IPS). The IPS establishes the investment policies and objectives for the Plan(s) as well as the criteria and standards for selecting and monitoring the investments. The EMPLOYER shall have the ultimate responsibility and authority to establish such policies and objectives and to adopt the investment policy statement.
2. Consistent with the Investment Policy Statement, SHUSTER will exercise its discretion to independently select the investments within the Plan(s).
3. SHUSTER will continually monitor and review the investments within the Plan(s) and shall be responsible for exercising its independent discretion in managing the portfolio and making additions and deletions thereto.
4. SHUSTER will provide periodic investment advisory reports that document consistency of fund management and performance to the guidelines set forth in the IPS, and to make recommendations to maintain, or remove and replace investment policies and objectives in the IPS. Said recommendations may also include the use of alternative investments that may require execution of investment documents by the Employer. Reports to include: Market Overview, In-Depth Portfolio Summary, Plan Asset Allocation Analysis and Fund Performance Comparison to the Index. SHUSTER's recommendations under this paragraph do not relieve SHUSTER of its duty to exercise independent discretion in actively managing the portfolio in accordance with the IPS.
5. Meet with EMPLOYER on a periodic basis to discuss reports and recommendations.
6. Annually review the IPS with the EMPLOYER to ensure it continues to meet the EMPLOYER's needs.

LIMITATIONS ON FIDUCIARY SERVICES

SHUSTER shall not be responsible or liable for the recommendations of or services rendered by anyone other than SHUSTER. The ability to perform the above services is contingent upon the rules, policies, processes, and responsiveness to our requests for information of EMPLOYER, Plan Sponsor, Custodian, and Trustee.

APPENDIX C - FEE SCHEDULE

1. SHUSTER will not receive any other compensation, direct or indirect, for its services under this agreement. If SHUSTER receives any other compensation for Services, SHUSTER will disclose the amount of such compensation, the services provided for such compensation, the payer of such compensation, and a description of SHUSTER's arrangement with the payer to the EMPLOYER and will offset that compensation against its stated fees.
2. All fees are billed in arrears.
3. The initial fee will be the amount, prorated for the number of days included in the initial billing period from the effective payment start date.
4. If this Agreement is terminated prior to the end of a billing period, SHUSTER shall be entitled to a fee, prorated for the number of days in the billing period prior to the effective date of termination.
5. All fees will be due and payable within 30 days and are payable to "Shuster Advisory Group, LLC"
6. The annual fee for services shall be as follows:

Beginning with the effective date of this Agreement, the annual fee for service shall be 0.17% (17 basis points) per annum, charged as 0.0142% monthly to all included assets in each Plan as of the date of the calculation. Fees will be deducted from Plan assets and will be paid to SHUSTER by the Trust/Custodian for the Plan(s).

At SHUSTER's discretion the billing period described above may be adjusted to quarterly.