

Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.org.



AGENDA
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
Council Chambers, 305 West Third Street
April 22, 2025
Regular Meeting - 5:00 PM to 6:30 PM

Zoom details to call-in for public comment during a meeting:

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 815 4745 5571
3. Passcode: 218885

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom call-in steps listed above. Once the presiding officer calls for public speakers, press *9 to raise your hand to inform the City Clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room. Press *6 when asked to unmute. Listen to the instructions provided virtually on the phone while on hold in the zoom waiting room. Please note that there is a slight time delay when viewing the meeting via television.

IN ACCORDANCE WITH ASSEMBLY BILL 2449, MEMBERS OF THE LEGISLATIVE BODY MAY MEET IN-PERSON OR REMOTELY. TO PARTICIPATE REMOTELY VISIT WWW.OXNARD.ORG.

To find out how you may provide public comment, please refer to the instructions below or at www.https://www.oxnard.org/city-meetings/.

The public may view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at Youtube.com/oxnardnews. Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

*Please see the link for the Measure M pre-recorded presentation video for each item listed on this agenda.

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.
2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING
 - a. Submit a request to speak remotely by 3 p.m. on the day of the meeting by using the form available at www.oxnard.org/citymeetings.
 - b. Submit an email to cityclerk@oxnard.org by 3 p.m. on the day of the meeting (indicate the agenda item number in the subject line). All email correspondence will be forwarded to the legislative body prior to the start of the meeting and made part of the legislative record.
 - c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.
3. PROVIDING PUBLIC COMMENTS REMOTELY DURING THE MEETING
 - a. Follow Zoom details listed above.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item Time Estimates include: (Minutes for Presentation + Council Discussion + Public Comment)

- b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public may register or otherwise be recognized for the purpose of providing public comment.

Please review the Zoom instructions on the registration page to help ensure there are no technical difficulties during your comments and help you understand public comment procedures using Zoom. Detailed participation instructions can be found at www.oxnard.org/city-meetings.

In the event of a disruption which prevents a legislative body of the City of Oxnard from broadcasting a meeting using a call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comment using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on a meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. However, if any of the broadcast options are disrupted, but any of the other broadcast options is still available to the public, the legislative body may take further action on items appearing on a meeting agenda without waiting for the disrupted broadcast option(s) to be restored.

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

Consideration of Teleconference Participation pursuant to Assembly Bill 2449.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. After 30 minutes, if all speakers have not had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing.

C. CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Finance and Governance Committee approve the minutes of the March 11, 25 and April 8, 2025 regular meeting as presented.

Contact: Luly Lopez, (805) 385-7805

D. REPORTS

1. Finance Department

SUBJECT: Update on the Financial Corrective Action Plan (CAP) for Closing Past Audit Findings. (10 minutes)

RECOMMENDATION: That the Finance and Governance Committee receive an update on the Financial Corrective Action Plan (FCAP) for closing past audit findings and recommend staff forward the presentation to City Council.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/6-oCm0l3P5A>

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

2. Finance Department

SUBJECT: 2024 Single Audit Report. (15 minutes)

RECOMMENDATION: That the Finance and Governance Committee receive the 2024 Single Audit Report from the audit firm Eadie + Payne, and give authorization to forward the presentation to City Council.

(Eadie + Payne Presentation will be live upon consultant's request).

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

3. Finance Department

SUBJECT: Third Amendment with Paymentus for Credit Card Merchant Services. (10 minutes)

RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council approve and authorize the Mayor to execute the Third Amendment to the agreement with Paymentus (9046-20-CT), for credit card merchant services, extending the term of agreement to December 31, 2027 and increasing the contract amount by \$702,000 for a not-to-exceed contract amount of \$1,783,720.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/CL-WXO6UkR8>

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

4. Finance Department

SUBJECT: Agreement with Tyler Technologies, Inc. for Credit Card Merchant Services. (10 minutes)

RECOMMENDATION: That the Finance and Governance Committee recommends that the City Council approve and authorize the Mayor to execute a five-year agreement with Tyler Technologies, Inc. (A-8584) for credit card merchant services.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/6nz0oXBBFkA>

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

5. Finance Department

SUBJECT: Establishing a Section 115 Trusts for OPEB and Pension Liabilities. (10 minutes)

RECOMMENDATION: That the Finance and Governance Committee recommend the City Council to:

1. Adopt a resolution establishing a Section 115 Trust for OPEB and Pension liabilities; and
2. Authorize the City Manager to execute agreements with the Trust Administrator, Custodian, and Trustee to create a 115 Trust accounts for the funding of future OPEB and Pension liabilities.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/tFn2Gq-S7l8>

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

E. ITEMS FOR FUTURE AGENDAS

F. ADJOURNMENT



**FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT**

**CONSENT AGENDA
AGENDA ITEM NO. C.1**

DATE: April 22, 2025

TO: Finance & Governance Committee

FROM: Luly Lopez, City Clerk, (805) 385-7805, luly.lopez@oxnard.org

SUBJECT: Approval of Minutes.

RECOMMENDATION

That the Finance and Governance Committee approve the minutes of the March 11, 25 and April 8, 2025 regular meeting as presented.

BACKGROUND

Approval of minutes.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Luly Lopez, City Clerk

ATTACHMENTS

1. Minutes of Finance and Governance Committee for March 11 2025
2. Minutes of Finance and Governance Committee for March 25 2025
3. Minutes of Finance and Governance Committee for April 8 2025

MINUTES
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
March 11, 2025

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 5:02 p.m., Chair Luis Mc Arthur called to order the regular meeting of the Oxnard City Council Finance and Governance Committee in the City Hall Council Chambers at 305 West Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Chair Luis Mc Arthur, Member Gabriela Rodriguez and Member Aaron Starr were present.

Member Rodriguez led the pledge of allegiance.

Staff members present were Alexander Nguyen, City Manager; Eric Sonstegard, Assistant City Manager; Stephen Fischer, City Attorney; Javier Chagoyen-Lázaro, Chief Financial Officer; Joe Pearson, II, Planning Manager and Lourdes A. López, City Clerk.

Consideration of Teleconference Participation pursuant to Assembly Bill 2449.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Ray Blattel (compensation) and Diego Magaña (mininature).

C. CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Finance & Governance Committee approve the minutes of the February 25, 2025 regular meeting as presented.

No public comments were received.

It was moved by Member Rodriguez, seconded by Chair Mc Arthur, to approve the Information/Consent item as presented. VOTE: Rodriguez, Mc Arthur, and Starr voted in favor; the motion passed 3-0.

D. REPORTS

1. Finance Department

SUBJECT: FY 2023-24 Annual Comprehensive Financial Report and Summary Presentation. (10 minutes)

RECOMMENDATION: That the Finance and Governance Committee receive, and recommend that staff proceed to the full City Council with, the FY 23-24 Annual Comprehensive Financial Report (ACFR) and summary presentation from the City's external financial auditors, Eadie + Payne, LLP.

Javier Chagoyen-Lázaro, Chief Financial Officer introduced Brandon Ferrell of

Eadie & Payne LLP, who gave a report. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Chair Mc Arthur, seconded by Member Rodriguez, to approve the recommended action as presented. VOTE: Mc Arthur, Rodriguez, and Starr voted in favor; the motion passed 3-0.

2. Community Development Department

SUBJECT: Planning Commission Stipend Discussion. (20 minutes)

RECOMMENDATION: That the Finance and Governance Committee:

1. Determine whether to recommend to the City Council the provision of a monetary stipend for members of the Planning Commission in recognition of their service; and
2. If the Committee recommends a stipend, provide specific recommendations to the City Council regarding the details of the stipend, such as the amount and whether it should be paid on a monthly basis or per meeting attended.

Joe Pearson, II, Planning Manager was available to answer the committee's questions. Public comments were received from Planning Commissioner Chair Ronald Arruejo and Vice Chair Vincent Stewart.

Discussion ensued among the Committee and staff.

It was moved by Chair Mc Arthur to compensate Planning Commissioners \$150 per meeting with attendance required, seconded by Member Rodriguez, to approve the recommended action as presented. VOTE: Mc Arthur and Rodriguez voted in favor; the motion passed 2-1 with Member Starr voting no.

3. City Attorney Department

SUBJECT: Committee Bylaws Revision. (10 minutes)

RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council adopt a resolution amending the bylaws for City Council committees.

Stephen Fischer, City Attorney was available to answer the committee's questions. No public comments were received. Discussion ensued among the Committee and staff.

It was moved by Member Starr and seconded by Member Rodriguez to approve the recommendation with amendment to include an exception review that all receive and file items bypass Committee and go straight to City Council. VOTE: Starr, Mc Arthur and Rodriguez voted in favor; the motion passed 3-0.

It was moved by Member Starr, seconded by Member Rodriguez, to call the question on the motion as amended. VOTE: Starr, Rodriguez, and Mc Arthur voted in favor; the motion passed 3-0.

E. ITEMS FOR FUTURE AGENDAS

No requests were made.

F. ADJOURNMENT

There being no further business on the agenda, and without objection, Chair Mc Arthur adjourned the meeting at 6:07 p.m.

LOURDES A. LÓPEZ
City Clerk

LUIS MC ARTHUR
Mayor

MINUTES
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
March 25, 2025

Because there were no items requiring consideration on this date, there was no regular meeting.

LOURDES A. LÓPEZ
City Clerk

LUIS MC ARTHUR
Chair

MINUTES
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
April 8, 2025

Because there were no items requiring consideration on this date, there was no regular meeting.

LOURDES A. LÓPEZ
City Clerk

LUIS MC ARTHUR
Chair



FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.1

DATE: April 22, 2025

TO: Finance & Governance Committee

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400,
javier.chagoyenlazaro@oxnard.org

SUBJECT: Update on the Financial Corrective Action Plan (CAP) for Closing Past Audit Findings. (10 minutes)

RECOMMENDATION

That the Finance and Governance Committee receive an update on the Financial Corrective Action Plan (FCAP) for closing past audit findings and recommend staff forward the presentation to City Council.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/6-oCm0l3P5A>

BACKGROUND

The City's annual audit for FY 2014-15 produced 111 single-audit findings. These findings primarily concerned the City's policies and procedures (or lack thereof) for accounting and financial management. Between fiscal year 2016 through the fiscal year ended June 30, 2018, the City's annual audits continued to identify new findings in the double digits. For FY 2019-20, there was one additional audit finding, for Information Technology General Controls, which was communicated to City Council via a separate confidential written report due to its sensitive nature. For FY 2020-21, there was one new finding for accounting and financial management, but only two earlier audit findings remained unresolved, and there were no material weaknesses. For FY 2021-22, there were no new findings for accounting and financial management; only two prior findings remained unresolved. FY 2021-22 was the third year in a row where the City had no material weaknesses. For FY 2022-23, there were no new findings for accounting and financial management (for the second year in a row); only one prior finding remained unresolved. For FY 2023-24, the single audit identified four new compliance findings for accounting and financial management: two findings that are significant deficiencies in internal control over major federal programs and two findings related to noncompliance with grant requirements. The one prior finding remains unresolved. FY 2023-24 is the fifth year in a row where the City has no material weaknesses. Below is a table summarizing audit finding history.

History of Findings by Fiscal Year	A # of New Findings	B # of Repeat Findings	C = (A+B) + Prior Year C Total # of Findings
FY 2014-15	111	0	111
FY 2015-16	5	0	116
FY 2016-17	10	9	135
FY 2017-18	24	13	172
FY 2018-19	8	3	183
FY 2019-20	1	0	184
FY 2020-21	1	1	186
FY 2021-22	0	0	186
FY 2022-23	0	0	186
FY 2023-24	4	0	190

In order to correct the various accounting and financial management audit findings, the City was required to produce a Financial Corrective Action Plan, or FCAP. This plan, updated annually, addresses all unresolved findings, and the steps and timeline to correct them. Staff created a detailed audit scorecard, and began presenting it to the Finance & Governance Committee, and to City Council, every six months. During the last FCAP update, the Finance Department proposed that the FCAP Update change from twice a year to once a year.

DISCUSSION

As reported in our last update to the Finance and Governance Committee in December 2024 (and in January 2025 to City Council as a receive and file update), only one finding remained outstanding and the City had no new findings for two consecutive years. The City continued to make progress on the corrective actions for the remaining finding related to the Information Technology General Controls and the City Council continues to receive updates on the IT General Controls finding through separate confidential reports.

Since the last update, the City's Fiscal Year 2023-24 Single Audit identified four new grant compliance findings. Two findings are significant deficiencies in internal control over major federal programs and two findings are related to noncompliance with grant requirements. For finding rating definitions, please see table below.

Two significant deficiencies were identified related to the Housing Department's compliance with Community Development Block Grants/Entitlement Grants (CDBG) requirements: (1) lack of appropriate controls over program income and (2) lack of appropriate controls over grant reporting.

Two findings of noncompliance were identified related to the Fire Department's compliance with Staffing for Adequate Fire and Emergency Response Grants (SAFER) requirements: (1) delays in grant reporting and (2) instances of lack of supervisor timesheet approval.

Both the Housing Department and the Fire Department have committed to Corrective Actions Plans to remediate the findings. These Corrective Action Plans are on track to be completed by June 30, 2025.

Overall, the City has improved accounting and financial compliance, resulting in no material weaknesses for five consecutive years.

Finding Rating	Definition
Material Weakness	A material weakness in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.
Significant Deficiency	A significant deficiency in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.
Non-compliance	Non-compliance refers to an organization's failure to adhere to applicable laws, regulations, and program requirements related to federal awards, as outlined in the Uniform Guidance.
Best Practice	A best practice refers to matters that are opportunities for strengthening internal controls and/or operating efficiency.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Jennifer Hiraoka, Senior Manager Internal Controls

ATTACHMENTS

1. Update on the Financial Corrective Action Plan (FCAP) for Closing Past Audit Findings Presentation

UPDATE ON THE FINANCIAL CORRECTIVE ACTION PLAN (FCAP) FOR CLOSING PAST AUDIT FINDINGS

Presentation to Finance and Governance Committee

Jennifer Hiraoka, Senior Manager Internal Controls

April 22, 2025

That the Finance & Governance Committee receive an update on the Financial Corrective Action Plan (FCAP) for closing past audit findings and recommend staff forward the presentation to City Council.

- Status of Financial Corrective Action Plan
- Continued progress

Complete – Auditors have tested and determined that corrective action for the finding has been effectively implemented

To Be Tested – Policies and Procedures (P&P) approved (if applicable), training completed and corrective action ready for auditors to test during the next single audit

P&P Draft – P&P drafted but not yet approved by CFO and/or training not yet provided.

In Progress – Staff has taken steps towards implementation, but not yet drafted P&P or completed training

Not Started – Staff has not initiated mitigations, implemented resolutions or provided training

Passed/No Longer Required – Staff disagrees with the finding and/or auditors have determined corrective action is no longer required

FY 2024 SINGLE AUDIT RESULTED IN FOUR ADDITIONAL FINDINGS, ONE PREVIOUS FINDING REMAINS UNRESOLVED – NO MATERIAL WEAKNESSES

5

FINDINGS STATUS (2015-2024) (as of April '25)	MATERIAL WEAKNESS	SIGNIFICANT DEFICIENCY	Non- Compliance	Best Practice	TOTAL
TOTAL Findings	72	80	19	19	190
<i>Repeat Findings</i>	<i>(7)</i>	<i>(12)</i>	<i>(4)</i>	<i>(4)</i>	<i>(27)</i>
TOTAL Unique Findings	65	68	15	15	163
COMPLETE	63	62	7	12	144
Passed / No Longer Required	2	3	6	3	14
TO BE TESTED	0	0	0	0	0
P&P DRAFT	0	0	0	0	0
IN PROGRESS	0	1	2	0	3
NOT STARTED	0	2	0	0	2
TOTAL Unresolved Findings	0	3	2	0	5

FY 2024 SINGLE AUDIT RESULTED IN NO
MATERIAL WEAKNESSES!
Fifth year in a row!



Finding Rating	Definition
Material Weakness	A material weakness in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.
Significant Deficiency	A significant deficiency in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that <i>is less severe than a material weakness in internal control over compliance</i> , yet important enough to merit attention by those charged with governance.
Non-compliance	Non-compliance refers to an organization's failure to adhere to applicable laws, regulations, and program requirements related to federal awards, as outlined in the Uniform Guidance.
Best Practice	A best practice refers to matters that are opportunities for strengthening internal controls and/or operating efficiency.

Four (4) Findings Identified During FY 24 Single Audit:

Two Significant Deficiencies -

- Lack of appropriate controls over program income - Community Development Block Grants/Entitlement Grants [Housing Department] – Not Started
- Lack of appropriate controls over grant reporting - Community Development Block Grants/Entitlement Grants [Housing Department] – Not Started

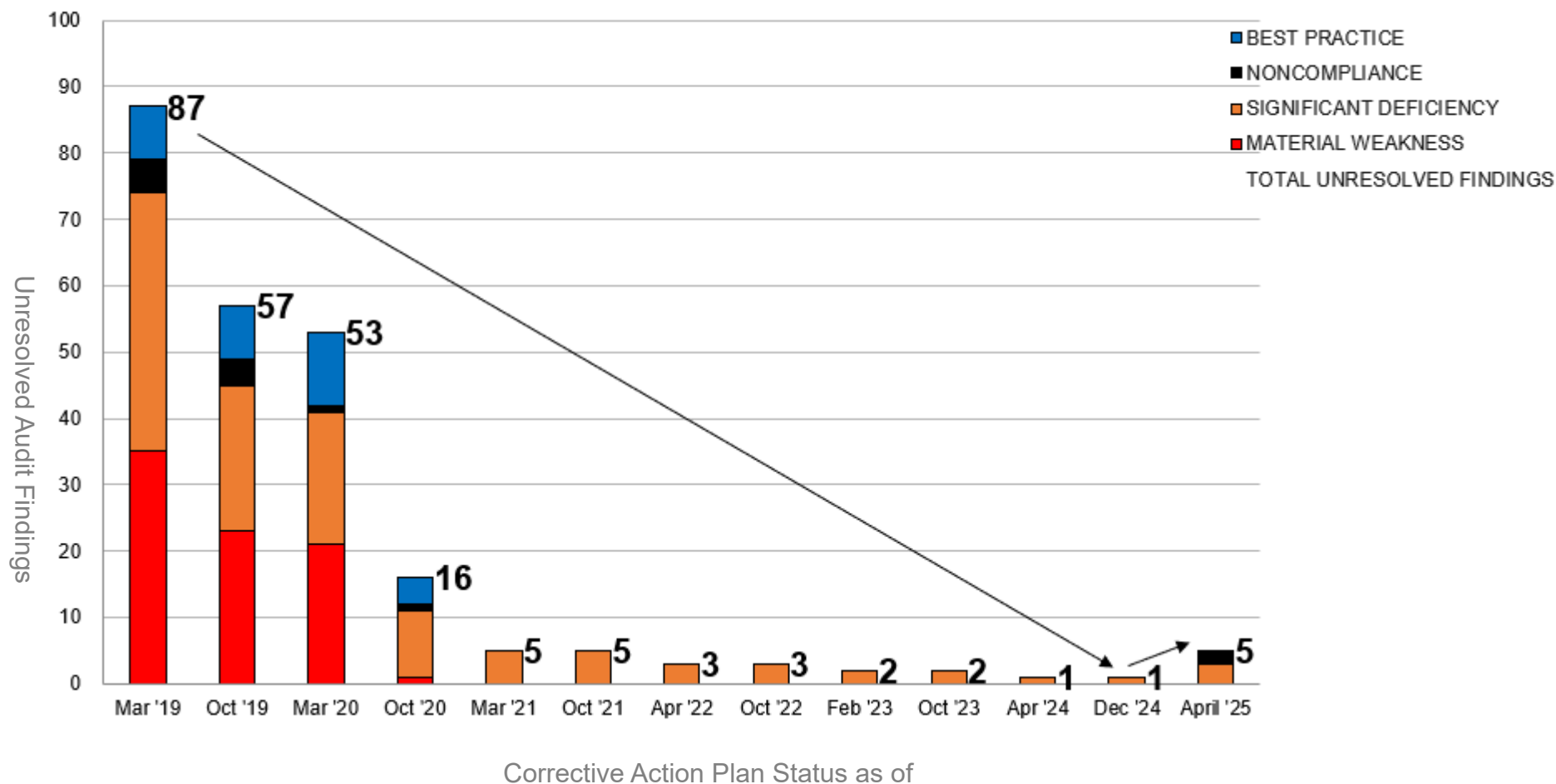
Two Noncompliance –

- Delays in grant reporting - Staffing for Adequate Fire and Emergency Response (SAFER) Grants [Fire Department] – In Progress
- Instances of lack of supervisor timesheet approval - Staffing for Adequate Fire and Emergency Response (SAFER) Grants [Fire Department] – In Progress

Prior Audit Finding:

- Information Technology (IT) General Controls [IT Department] – City Council continues to receive updates via separate confidential reports – In Progress

COUNT OF UNRESOLVED* FINDINGS 2015-2025



*Includes all unique findings excluding "Complete" or "Passed/No Longer Required" status



- Going forward –
 - Implementation of Corrective Action Plans for findings recently identified by June 30, 2025
 - Next update in early 2026



Questions?





FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.2

DATE: April 22, 2025

TO: Finance & Governance Committee

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400,
javier.chagoyenlazaro@oxnard.org

SUBJECT: 2024 Single Audit Report. (15 minutes)

RECOMMENDATION

That the Finance and Governance Committee receive the 2024 Single Audit Report from the audit firm Eadie + Payne, and give authorization to forward the presentation to City Council.

(Eadie + Payne Presentation will be live upon consultant's request).

BACKGROUND

The Single Audit is a rigorous, organization-wide audit of the City's grant funded programs that expend \$750,000 or more of Federal grants or assistance. The objective of the Single Audit is to provide assurance to federal government as to the management and use of such funds by the City. The audit is performed by the City's independent auditor, Eadie + Payne, LLP, and the report is issued annually showing the City of Oxnard's expenditures of Federal awards. Eadie + Payne, LLP will present its audit opinion of the City of Oxnard Single Audit Report for fiscal year ending June 30, 2024.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Beth Vo, Assistant Chief Financial Officer

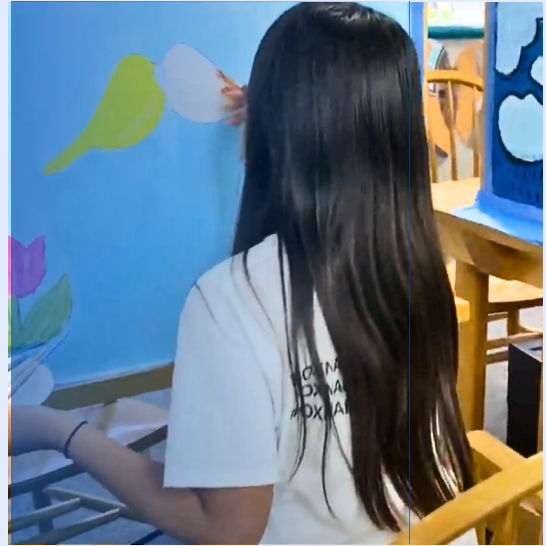
ATTACHMENTS

1. 2024 Single Audit Report
2. Presentation



Single Audit Report

Fiscal Year Ended **June 30, 2024**



CITY OF OXNARD
CONTENTS
JUNE 30, 2024

	PAGE
Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	1
Independent Auditor's Report on Compliance for Each Major Program; Report on Internal Control over Compliance in Accordance with Uniform Guidance; and Report on the Schedule of Expenditures of Federal Awards Required by the Uniform Guidance	3
Schedule of Expenditures of Federal Awards and Schedule of Findings and Questioned Costs	
Schedule of Expenditures of Federal Awards	8
Notes to the Schedule of Expenditures of Federal Awards	11
Schedule of Findings and Questioned Costs	12



 3880 Lemon St., Ste. 300
Riverside, CA 92501

 P.O. Box 1529
Riverside, CA 92502-1529

 951-241-7800

 www.eadiepaynellp.com

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

The Honorable City Council
City of Oxnard
Oxnard, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (*Government Auditing Standards*), the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Oxnard, California (City) as of and for the year ended June 30, 2024, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated March 3, 2025. Our report includes a reference to other auditors who audited the financial statements of Oxnard Housing Authority, as described in our report on the City's basic financial statements. This report does not include the results of the other auditors' testing of internal control over financial reporting or compliance and other matters that are reported on separately by those auditors.

Report on Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of This Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Eadie and Payne, LLP

Riverside, California

March 3, 2025



 3880 Lemon St., Ste. 300
Riverside, CA 92501

 P.O. Box 1529
Riverside, CA 92502-1529

 951-241-7800

 www.eadiepaynellp.com

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR
EACH MAJOR PROGRAM; REPORT ON INTERNAL CONTROL OVER
COMPLIANCE IN ACCORDANCE WITH UNIFORM GUIDANCE; AND REPORT ON THE
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS REQUIRED BY
THE UNIFORM GUIDANCE**

The Honorable City Council
City of Oxnard
Oxnard, California

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited City of Oxnard's (City) compliance with the types of compliance requirements identified as subject to audit in the *OMB Compliance Supplement* that could have a direct and material effect on each of the City's major federal programs for the year ended June 30, 2024. The City's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

The City's basic financial statements include the operations of the Oxnard Housing Authority, which expended \$38,412,230 in federal awards which is not included in the City's schedule of expenditures of federal awards during the year ended June 30, 2024. Our audit, described below, did not include the operations of the Oxnard Housing Authority, because it engaged other auditors to perform an audit in accordance with the Uniform Guidance.

In our opinion, the City complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2024.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the City and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of the City's compliance with the compliance requirements referred to above.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to the City's federal programs.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the City's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the City's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the City's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the City's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

Other Matters

The results of our auditing procedures disclosed instances of noncompliance which are required to be reported in accordance with the Uniform Guidance and which are described in the accompanying schedule of findings and questioned costs as items 2024-001 through 2024-004. Our opinion on each major federal program is not modified with respect to these matters.

Government Auditing Standards requires the auditor to perform limited procedures on the City's response to the noncompliance findings identified in our compliance audit described in the accompanying schedule of findings and questioned costs. The City response was not subjected to the other auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control over Compliance

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, as discussed below, we did identify certain deficiencies in internal control over compliance that we consider to be significant deficiencies.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We consider the deficiencies in internal control over compliance described in the accompanying schedule of findings and questioned costs as items 2024-001 and 2024-002 to be significant deficiencies.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

Government Auditing Standards requires the auditor to perform limited procedures on the City's response to the internal control over compliance findings identified in our compliance audit described in the accompanying schedule of findings and questioned costs. The City's response was not subjected to the other auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City as of and for the year ended June 30, 2024, and the related notes to the financial statements, which collectively comprise the City's basic financial statements. We issued our report thereon dated March 3, 2025, which contained unmodified opinions on those financial statements. Our audit was performed for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements.

The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

Eadie and Payne, LLP

Riverside, California

March 24, 2025, except for our report on the Schedule of Expenditures of Federal Awards, for which the date is March 3, 2025.

**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
AND
SCHEDULE OF FINDINGS AND QUESTIONED COSTS**

CITY OF OXNARD
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2024

Federal Grantor/Pass-through Grantor/Program Title	Federal Assistance Listing Number	Program Identification Number	Total Program Expenditures	Total Amount Provided to Subrecipients
U.S. Department of Housing and Urban Development				
CDBG - Entitlement Grants Cluster				
<i>Direct Program</i>				
Community Development Block Grants/Entitlement Grants	14.218	B-17-MC-06-0534	\$ (64,579)	\$ -
		B-19-MC-06-0534	21,209	-
		B-22-MC-06-0534	1,357,099	1,357,099
		B-23-MC-06-0534	3,691,253	3,142,852
COVID-19 Community Development Block Grants CARES Act	14.218	B-20-MW-06-0534	223,088	62,957
Total CDBG - Entitlement Grants Cluster			5,228,070	4,562,908
<i>Direct Program</i>				
Emergency Solutions Grants Program	14.231	E-22-MC-06-0534	138,477	129,875
		E-23-MC-06-0534	93,201	93,201
COVID-19 Emergency Solutions Grants - CARES Act	14.231	E-20-MW-06-0534	425,265	424,022
			656,944	647,098
<i>Direct Program</i>				
HOME Investment Partnership Program	14.239	M22-MC060526	614,786	14,786
HOME Investment Partnership Program - Home ARP	14.239	M21-MC060526	8,392	-
HOME Investment Partnership Program	14.239	M23-MC060526	2,931	-
			626,109	14,786
Total U.S. Department of Housing and Urban Development			6,511,123	5,224,792
U.S. Department of Homeland Security				
<i>Passed through the County of Ventura</i>				
FY 2021 Homeland Security Grant Program -USAR	97.067	21-SHSP-OUF-10	41,132	-
FY 2021 Homeland Security Grant Program -CERT	97.067	21-SHSP-9c	2,746	-
FY 2022 Homeland Security Grant Program -CERT	97.067	22-SHSP-OUF-5b	7,000	-
FY 2022 Homeland Security Grant Program - Hazmat FTIR	97.067	22-SHSP-OUF-9	100,000	-
			150,878	-
<i>Passed through the County of Ventura</i>				
EMPG22 Emergency Management Grant	97.042	EMPG22	36,393	-
<i>Passed through the California Office of Emergency Services</i>				
FEMA - Hazard Mitigation Grant - Central Trunk Sanitary Sewer Reconstruction	97.039	HMGP #4407-431-079R	(45,349)	-
HMGP#4353-195-49R Police Station Emergency Back Up Generator Project	97.039	HMGP #4353-195-49R	450	-
FEMA - Hazard Mitigation Grant - OWTP Generator	97.039	HMGP #4353-189-036R	842,707	-
			797,808	-
<i>Passed through the County of Ventura</i>				
FEMA-Assistance to Firefighters Grant FY22 Thermal Imaging Cameras	97.044	20FG02473	44,692	-
FEMA-Assistance to Firefighters Grant FY22 ACCDs	97.044	EMW-2022-FG-05063	132,109	-
FEMA-Assistance to Firefighters Grant FY22 - HAZMAT Training	97.044	EMW-2022-FG-03878	72,914	-
			249,715	-
<i>Passed through City of Fillmore</i>				
FEMA-Assistance to Firefighters Grant FY21 - Wildland Hose, PPE and Equipment	97.044	EMW-2021-FG-07646	60,885	-
<i>Direct Program</i>				
FEMA-Assistance to Firefighters Grant FY19	97.044	EMW-2019-FG-09826	(7,346)	-
FEMA-Fire Prevention & Safety Grant FY20 (FP&S Smoke)	97.044	EMW-2020-FP-00777	152,731	-
FEMA-Assistance to Firefighters Grant FY21	97.044	EMW-2021-FG-07031	29,532	-
FEMA-Assistance to Firefighters Grant FY22	97.044	EMW-2022-FG-04821	211,828	-
FEMA-Assistance to Firefighters Grant FY22 USAR	97.044	EMW-2022-FG-04892	73,161	-
FEMA-Assistance to Firefighters Grant FY20 Medic/Wellness	97.044	EMW-2020-FG-13213	220,765	-
			680,671	-
			991,271	-
<i>Direct Program</i>				
FEMA-Staffing for Adequate Fire and Emergency Response FY20	97.083	EMW-2020-FF-01126	444,203	-
SAFER-Staffing for Adequate Fire & Emergency Response Grant FY2021	97.083	EMW-2021-FF-01664	742,511	-
			1,186,714	-
Total U.S. Department of Homeland Security			3,163,064	-

See accompanying notes to Schedule of Expenditures of Federal Awards and Independent Auditor's Report on Compliance for Each Major Program; Report on Internal Control over Compliance; and Report on the Schedule of Expenditures of Federal Awards required by the Uniform Guidance.

CITY OF OXNARD
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

Federal Grantor/Pass-through Grantor/Program Title	Federal Assistance Listing Number	Program Identification Number	Total Program Expenditures	Total Amount Provided to Subrecipients
U.S. Department of Justice				
<i>Direct Program</i>				
Equitable Sharing Program	16.922	CA0560400-NCIC	67,080	-
<i>Passed through the County of Ventura</i>				
Ventura County Sheriff's Office FY22 Transformation Works (JAG)	16.738	BSCC 1223-23	184,489	-
<i>Direct Program</i>				
FY18 Edward Byrne Justice Assistance Grant (JAG)	16.738	2018-DJ-BX-0852	4,985	-
FY19 Edward Byrne Justice Assistance Grant (JAG)	16.738	2019-DJ-BX-0688	43,468	37,740
FY20 Edward Byrne Justice Assistance Grant (JAG)	16.738	2020-DJ-BX-0781	49,239	33,094
FY21 Edward Byrne Justice Assistance Grant (JAG)	16.738	15PBJA-21-GG-01244-JAGX	57,335	10,409
FY22 Edward Byrne Justice Assistance Grant (JAG)	16.738	15PBJA-22-GG-02263-JAGX	10,173	9,156
FY23 Edward Byrne Justice Assistance Grant (JAG)	16.738	15PBJA-23-GG-03171-JAGX	5,766	-
			170,966	90,399
			355,455	90,399
<i>Passed through the County of Ventura Sheriff Department</i>				
FY21 National Sexual Assault Kit Initiative (SAKI)	16.833	15PBJA-21-GG-04347-SAKI	20,985	-
Total U.S. Department of Justice			443,520	90,399
U.S. Department of Transportation				
Highway Planning and Construction Cluster				
<i>Passed through the State of California Department of Transportation</i>				
Northside Vta Blvd. Between Balboa & Rose Avenue	20.205	CML-5129 (078)	425,912	-
Traffic Signal Various Locations	20.205	HSIPL 5129 (093)	1,196,564	-
City Wide Signal Mod	20.205	HSIPL 5129 (095)	(33,189)	-
Bicycle Facilities in Northeast Specific Plan	20.205	CML-086	354	-
Channel Island Blvd over Mandalay Bay - Bridge	20.205	BHLS-5129(069)	257,004	-
Channel Island Blvd over Edison Canal - Bridge	20.205	BHLS-5129(070)	2,412,987	-
Traffic Operations / Maintenance	20.205	CRALNI-109	1,000	-
Total Highway Planning and Construction Cluster			4,260,632	-
Highway Safety Cluster				
<i>Passed through the State of California Office of Traffic Safety</i>				
OTS Selective Traffic Enforcement Program FY23	20.600	PT23136	42,844	-
OTS Selective Traffic Enforcement Program FY24	20.600	PT24139	111,425	-
Total Highway Safety Cluster			154,269	-
Minimum Penalties for Repeat Offenders for Driving While Intoxicated				
<i>Passed through the State of California Office of Traffic Safety</i>				
Department of Alcohol Beverage Control ABC/OTS	20.608	22OTS110	3,815	-
Department of Alcohol Beverage Control ABC/OTS	20.608	24OTS113	14,336	-
OTS Selective Traffic Enforcement Program FY23	20.608	PT23136	97,710	-
OTS Selective Traffic Enforcement Program FY24	20.608	PT24139	271,302	-
			387,163	-
Total U.S. Department of Transportation			4,802,064	-
Corporation for National and Community Service				
<i>Direct Program</i>				
Retired and Senior Volunteer Program FY23-24	94.002	19SRPCA007	38,126	-
Retired and Senior Volunteer Program FY24-25	94.002	19SRPCA007	10,842	-
			48,968	-
Total Corporation for National and Community Service			48,968	-

See accompanying notes to Schedule of Expenditures of Federal Awards and Independent Auditor's Report on Compliance for Each Major Program; Report on Internal Control over Compliance; and Report on the Schedule of Expenditures of Federal Awards required by the Uniform Guidance.

CITY OF OXNARD
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

Federal Grantor/Pass-through Grantor/Program Title	Federal Assistance Listing Number	Program Identification Number	Total Program Expenditures	Total Amount Provided to Subrecipients
U.S. Department of Health and Human Services				
Aging Cluster				
<i>Passed through the County of Ventura Area Agency on Aging</i>				
Special Programs for the Aging, Senior Nutrition Services	93.045	3500FY23-05	151,977	-
Total U.S. Department of Health and Human Services			<u>151,977</u>	<u>-</u>
U.S. Department of Treasury				
Direct				
COVID-19 - Coronavirus State and Local Fiscal Recovery Funds	21.027	N/A	10,201,436	667,338
<i>Passed through California Water Resources Control Board</i>				
Coronavirus State & Local Fiscal Recovery-Wastewater Arrearage Payment Program	21.027	CA5610007-01	193,256	-
Coronavirus State & Local Fiscal Recovery Funds-Water Arrearage Payment Program	21.027	CA5610007-01	198,705	-
			<u>391,961</u>	<u>-</u>
Total U.S. Department of the Treasury			<u>10,593,397</u>	<u>667,338</u>
U.S. Environmental Protection Agency				
Direct Program				
Solid Waste Management Assistance Grants	66.808	98T18001	156,878	-
Oxnard Water Transmission Line Project - C2226	66.202	98T67101	436,065	-
			<u>592,943</u>	<u>-</u>
Total U.S. Department of Protection Agency			<u>592,943</u>	<u>-</u>
Total Direct Program			19,459,901	5,982,529
Total Pass Through			<u>6,847,155</u>	<u>-</u>
TOTAL EXPENDITURES OF FEDERAL AWARDS			<u>\$ 26,307,056</u>	<u>\$ 5,982,529</u>

See accompanying notes to Schedule of Expenditures of Federal Awards and Independent Auditor's Report on Compliance for Each Major Program; Report on Internal Control over Compliance; and Report on the Schedule of Expenditures of Federal Awards required by the Uniform Guidance.

CITY OF OXNARD

NOTES TO THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

FOR THE YEAR ENDED JUNE 30, 2024

1. **BASIS OF PRESENTATION**
- The accompanying schedule of expenditures of Federal awards (Schedule) includes the Federal award activity of City of Oxnard (City) under programs of the Federal government for the year ended June 30, 2024. The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (the Uniform Guidance). Because the Schedule presents only a selected portion of the operations of the City, it is not intended to and does not present the financial position, changes in net assets, or cash flows of the City. It does not include the Federal award activity of Oxnard Housing Authority, a blended component unit of the City, which expended \$38,412,230 in Federal awards.
2. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**
- Expenditures reported on the Schedule are reported on the modified accrual basis of accounting. Such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement.
3. **INDIRECT COST RATE**
- The City has not elected to use the 10% de minimis indirect cost rate.
4. **FEDERALLY-FUNDED LOANS**
- The City administers loans, primarily forgivable loans, made from funds provided by the following Federal programs for the year ended June 30, 2024:

Federal Programs	Loans Outstanding
Community Development Block Grants (Assistance Listing #14.218)	\$ 4,911,700
HOME Investment Partnership Program (Assistance Listing #14.239)	10,765,991

CITY OF OXNARD
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
 FOR THE YEAR ENDED JUNE 30, 2024

SUMMARY OF AUDITOR'S RESULTS

Financial Statements

Type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP:

Unmodified

Internal control over financial reporting:

- Material weaknesses identified? Yes x No
- Significant deficiencies identified? Yes x None reported

Noncompliance material to financial statements noted:

 Yes x No

Federal Awards

Internal control over major programs:

- Material weaknesses identified? Yes x No
- Significant deficiencies identified? x Yes None reported

Type of auditor's report issued on compliance for major programs:

Unmodified

Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)?

 x Yes No

Identification of major programs:

CFDA No.	Name of Federal Program or Cluster
21.027	COVID-19 - Coronavirus State and Local Fiscal Recovery Funds
14.218	Community Development Block Grants/Entitlement Grants
97.083	Staffing for Adequate Fire and Emergency Response

Dollar threshold used to distinguish between type A and type B programs:

\$750,000

Auditee qualified as low-risk auditee?

 x Yes No

CITY OF OXNARD
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

INDEX

CURRENT YEAR

MAJOR FEDERAL AWARD PROGRAMS

Community Development Block Grants/Entitlement Grants

Program Income	2024-001
Late Filing of Reports	2024-002

Staffing for Adequate Fire & Emergency Response

Late Filing of Reports	2024-003
Lack of Timesheet Approval	2024-004

FINANCIAL STATEMENTS

None

PRIOR YEAR

FINANCIAL STATEMENTS

Information Technology General Controls	2020-001
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CITY OF OXNARD
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

CURRENT YEAR FINDINGS AND QUESTIONED COSTS – MAJOR PROGRAMS

2024-001 – Program Income (SD, NC)

Federal Program Title:	Community Development Block Grants/Entitlements Grants
Federal Catalog Number:	14.218
Federal Agency:	U.S. Department of Housing and Urban Development
Category of Finding:	Program Income

Criteria: Office of Management and Budget (OMB) 2 CFR Part 200, Subpart D, Section 200.307(a), requires that Program income must be expended prior to requesting additional Federal funds. Program income exceeding amounts specified in the Federal award may be added to or deducted from the total allowable costs in accordance with the terms and conditions of the Federal award.

Condition: During our audit, it was noted that the City recorded part of the program income as deferred revenue rather than recognizing the full amount upon receiving the gross income earned and generated by CDBG loan activity

Cause: Lack of appropriate controls over program income.

Effect or Potential Effect: Failure to properly report and manage program income could result in non-compliance with federal regulations, potential repayment of misused funds, and could jeopardize future funding opportunities. Furthermore, the mismanagement of program income could lead to inaccurate financial reporting and a lack of accountability in the program's financial operations.

Questioned Cost: \$152,065

Context: Program income is still in the process of being reconciled for prior and current year. It appears that the current personnel have a misunderstanding regarding the recording and use of program income.

Repeat of a Prior-Year Finding: No.

Recommendation: We recommend the City to implement a comprehensive program income tracking and reporting system that ensures compliance with federal regulations. The system should include detailed procedures for documenting income generated, ensuring the funds are allocated to the proper grant or project, and reporting the income accurately in accordance with grant terms. Regular training should also be provided to staff responsible for grant management to ensure adherence to federal guidelines and the organization's internal controls.

Management Response and Corrective Action Plan

City's Response: The City is aware of the OMB 2 CFR Part 200 regulations that pertain to program income and will improve its internal controls to ensure compliance with federal regulations.

Corrective Action Plan: The City will improve its internal controls by implementing a new policy and procedures that will require staff training and outline detailed procedures for complying with program income regulations. The policy will: (1) require staff to annually participate in HUD trainings related to program income, (2) require staff to immediately deposit and reconcile program income upon receipt, (3) require staff to prepare a monthly program income report and (4) require management to review the program income report to ensure program income is applied to eligible expenses prior to drawing down grant funds.

Planned Implementation Date: March 25, 2025

Responsible Person(s): Albert Ramirez, Assistant Director; Denise Ledesma, Grants Coordinator; and Adrienne Sarreal, Analyst.

CITY OF OXNARD
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

2024-002 – Late Filing of Reports (SD, NC)

Federal Program Title:	Community Development Block Grants/Entitlements Grants
Federal Catalog Number:	14.218
Federal Agency:	U.S. Department of Housing and Urban Development
Category of Finding:	Reporting

Criteria: Pursuant to the OMB 2 CFR Part 200, Appendix XI, Compliance Supplement May 2024, Part 4 – 14.218 Community Development Block Grants/Entitlements Grants (page 4-14.218-25 & 26), the Cash on Hand Quarterly Report, must be submitted to the grantee’s HUD local field office within 30 days after the end of the reporting period.

Under the requirements of the Federal Funding Accountability and Transparency Act (Pub. L. No. 109-282), as amended by Section 6202 of Pub. L. No. 110-252, hereafter referred as the “Transparency Act” that are codified in 2 CFR Part 170, recipients (i.e., direct recipients) of grants or cooperative agreements are required to report first-tier subawards of \$30,000 or more to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). The recipient must also report a subaward if a modification increases the Federal funding to an amount that equals or exceeds \$30,000. All reported subawards should reflect the total amount of the subaward. For subaward information, report no later than the end of the month following the month in which the subaward was issued. (For example, if the subaward was made on November 7, 2025, the subaward must be reported by no later than December 31, 2025).

Condition: The City failed to submit all of the Fiscal Year 2024 Cash on Hand Quarterly Reports within the required 30-day period following each reporting quarter until February 2025. The City did not submit subaward information for subrecipients receiving federal funds of \$30,000 or more from the City to the FSRS until February 2025. These reports were due by the end of the month following the issuance of each subaward. Additionally, staff responsible for financial reporting were not adequately trained on the specific requirements for reporting under federal grants, which contributed to the late submission of the reports.

Cause: Lack of appropriate control over reporting.

Effect or Potential Effect: Noncompliance may result in suspension, termination, or disallowance of grant funds, and delay or withhold of future grant payments.

Questioned Cost: None.

Repeat of a Prior-Year Finding: No.

Recommendation: We recommend that the City develop and implement policies and procedures for completeness and timely submission of reports. This may include:

1. Thoroughly review the reporting requirements each year for any possible updates, substitutions, or missing reports, and document the process, including the preparer and reviewer.
2. Prepare a listing of subaward agreements, including details such as the subrecipient, original and amended amounts, execution date (i.e., when it becomes legally binding), reporting date, name of the person who submitted the report, name of the person who reviewed the report, etc., for each program to identify and track the reporting of subaward information.
3. Staff responsible for financial reporting should receive specific training on federal reporting requirements to ensure accuracy and compliance.

(MW) – Material Weakness (SD) – Significant Deficiency (NC) – Noncompliance

Management Response and Corrective Action Plan

City's Response: The City is aware of the OMB 2 CFR Part 200 regulations that pertain to Cash on Hand Report and Federal Funding Accountability and Transparency Act (FFATA) reporting.

With respect to the Cash on Hand Report, staff reviewed the published HUD guidance but needed further clarification to properly complete the report. Staff reached out to our HUD Representative and received clarification. Staff has all the information needed to properly complete the report and plan to submit the report quarterly as required.

With respect to the FFATA Reporting, staff inadvertently thought the report was due annually, rather than monthly.

Corrective Action Plan: The City will improve its internal controls by implementing a new policy and procedures that will: (1) require staff to annually participate in HUD trainings related to federal grant reporting, (2) require management and staff to meet monthly to discuss and track federal reporting requirements and review a listing of subaward agreements and (3) require staff to submit the Cash on Hand Report quarterly and the FFATA Report monthly.

Planned Implementation Date: March 25, 2025

Responsible Person(s): Albert Ramirez, Assistant Director; Denise Ledesma, Grants Coordinator; and Adrienne Sarreal, Analyst.

CITY OF OXNARD
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

2024-003 – Late Filing of Reports (NC)

Federal Program Title:	Staffing for Adequate Fire & Emergency Response
Federal Catalog Number:	97.083
Federal Agency:	U.S. Department of Homeland Security
Category of Finding:	Reporting

Criteria: According to Notice of Funding Opportunity (NOFO) Fiscal Year 2023 Staffing for Adequate Fire and Emergency Response (SAFER) Grant program, recipients are required to submit semi-annual Federal Financial Reports and Program Performance Reports within 30 days after the end of each reporting period.

Condition: The City submitted the Performance Progress Report for the period of January 2024 to June 2024 one day late, and the Federal Financial Report for the period of July 2023 to December 2023 three months late.

Cause: The primary cause of the delayed financial reporting was the unexpected turnover of key staff members responsible for financial reporting. The City did not have sufficient backup procedures in place to ensure a smooth transition or proper training for new personnel in time to meet reporting deadlines. This lack of continuity resulted in delays in financial data preparation.

Effect or Potential Effect: The delays in financial reporting may lead to non-compliance with federal reporting requirements. This could impact the City's standing with the funding agency, potentially affecting future funding opportunities

Questioned Cost: None.

Repeat of a Prior-Year Finding: No.

Recommendation: We recommend the City to establish a contingency plan to address staff turnover, including cross-training key personnel and maintaining detailed documentation of financial reporting processes. The City should also implement a standardized handoff procedure to ensure that incoming staff are adequately trained and have access to the necessary resources to continue the reporting function without disruption.

Management Response and Corrective Action Plan

City's Response: As noted in the auditor findings, the late filings for Safer Grant Reporting in Fiscal Year 2024 were due to turnover in the department's grant administrator position and the redistribution of work responsibilities. The slight delays in the reporting did not produce any notice of non-compliance or draw-down withholdings by the Grantor. The Department has completed the redistribution of work responsibilities and now has a dedicated grant administrator and management oversight.

Corrective Action Plan: The department will develop a contingency plan and training procedures to ensure continuity of grant procedures and a review process to ensure reporting accuracy.

Planned Implementation Date: June 30, 2025

Responsible Person(s): Rose Rodarte and Francine Gutierrez

CITY OF OXNARD
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

2024-004 – Lack of Timesheet Approval (NC)

Federal Program Title:	Staffing for Adequate Fire & Emergency Response
Federal Catalog Number:	97.083
Federal Agency:	U.S. Department of Homeland Security
Category of Finding:	Activities Allowed/Unallowed

Criteria: According to 2 CFR 200.430, employees working on federally funded projects are required to submit timesheets that accurately reflect the time spent on the project. These timesheets must be approved by a responsible supervisor to ensure that the reported hours are accurate, reasonable, and properly allocated. Additionally, organizations must establish and maintain effective internal controls to ensure compliance with timekeeping and payroll procedures.

Condition: During the audit, it was found that the City's time roster report approval process was not consistently followed. We selected four pay periods for testing. In two of these periods, the time roster reports were not properly reviewed and approved by a battalion chief supervisor before submission for payroll processing. These time roster reports were automatically approved by the system to meet payroll processing deadlines, bypassing the required supervisory review.

Cause: The failure to adhere to the time roster report approval process was due to a lack of oversight and insufficient enforcement of internal control procedures.

Effect or Potential Effect: The lack of proper time roster approval creates a risk of inaccuracies in the allocation of payroll costs to federal grants, which could result in non-compliance with federal regulations. Additionally, failure to follow the required process could lead to improper charging of labor costs, potentially jeopardizing the City's eligibility for future funding and risking the disallowance of grant-related costs.

Questioned Cost: None.

Repeat of a Prior-Year Finding: No.

Recommendation: We recommend the City to strengthen its internal controls related to time roster report approval. Specifically, a formal time roster report approval process should be implemented that includes clear guidelines for timely approval by supervisors. The City should also establish a tracking system to ensure that time roster report is approved before submission for payroll processing. Regular training for staff and supervisors on the importance of accurate timekeeping and approval procedures should be conducted to reinforce compliance with federal grant requirements.

Management Response and Corrective Action Plan

City's Response: The City uses Telestaff to maintain Fire employees' work schedules and as the system of record for payroll timekeeping. The audit identified several rosters that were not finalized (approved) by the Duty Chief before the conclusion of their shift and were auto-finalized by the system. Going forward, the City will ensure that the finalization process by the Duty Chief, which essentially serves to confirm that the time and attendance as reflected in Telestaff is what was actually worked, is adhered to. Oxnard Fire Department Policy 1005 requires that the Duty Chief review and approve the roster at the conclusion of their shift to verify the accuracy of the roster for payroll processing.

In instances where overtime related to late relief is in unapproved status (depicted with an asterisk in the system), the Duty Chief will ensure the late relief is approved before finalizing the daily roster.

After the roster is finalized (approved) by the Duty Chief, the timekeeper reviews the roster for the appropriate general ledger account(s), paycode(s), and project coding to ensure proper accounting of payroll costs. If the Duty Chief has not finalized the roster by 0800, the timekeeper will inform the Department Assistant Chiefs to initiate completion of the task.

Corrective Action Plan: The Department will conduct a formal review of its processes and policies to identify potential weaknesses in the payroll timekeeping and approval process, and will update its policies and procedures to align with the roles and responsibilities of those involved in rostering and timekeeping. The department has already taken corrective action to ensure that duty chiefs are finalizing the rosters before the end of their shift and making it the responsibility of the timekeeper to initiate action when finalization by the Duty Chiefs has not occurred so the timekeepers review process can be completed.

Planned Implementation Date: June 30, 2025

Responsible Person(s): Karsten Guthrie and Rose Rodarte

CITY OF OXNARD
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (Continued)
FOR THE YEAR ENDED JUNE 30, 2024

PRIOR YEAR FINDINGS AND QUESTIONED COSTS - FINANCIAL STATEMENTS

2020-001 – Information Technology (IT) General Controls (SD)

Criteria: IT general controls (ITGC) are basic controls applied to IT systems. The objectives of ITGC are to ensure the integrity of data and processes that the IT systems support. ITGC have a pervasive effect on the City's system of internal control over financial reporting.

Condition: We evaluated the design and implementation of ITGCs and noted 12 findings. We communicated such findings to the IT Department. Because those findings reveal vulnerabilities to, or otherwise increase the potential for an attack on, the information technology systems of the City, the details of the findings will not be published in this document. They will, however, be communicated to the City Council via a separate confidential written report.

Repeat of a Prior-Year Finding: 1 out of 12 were repeat findings as of FY24

Recommendation: Our recommendations will be communicated to the City Council via a separate confidential written report.

City's Response 2024: The City's corrective action plan will be communicated to the City Council via a separate confidential written report.

EP's Comment 2024: In progress

Single Audit Report for Fiscal Year Ended June 30, 2024

Finance & Governance Committee
April 22, 2025

CITY OF
OXNARD
CALIFORNIA

ep
LLP
EADIE PAYNE

AGENDA

- 1 Introduction
- 2 Schedule of Expenditures of Federal Awards (SEFA)
- 3 Major Program
- 4 Internal Control Findings
- 5 Non-Compliance Findings

• Single Audit Report

- Internal Control Report Required by *Government Auditing Standards*
- Report on Compliance for Each Major Program
- Report on Internal Control on Internal Control over Compliance
- Report on the Schedule of Expenditures of Federal Awards

Schedule of Expenditures of Federal Awards (SEFA)

2

- Total Expenditures \$26.31M
- Major Programs 3
- Total Programs 19

Major Programs

3

	Program	Total Program Expenditures	Provided to Subrecipients
1 Local Government Fiscal Recovery Fund (CSLFRF aka ARPA fund)	Direct from the U.S. Department of Treasury	\$ 10,201,436	\$ 667,338
	Passed through California Water Resources Control Board	391,961	-
	Total	10,593,397	667,338
2 Community Development Block Grants/Entitlement Grants Program (CDBG)	Direct from the U.S. Department of Housing and Urban Development	5,228,070	4,562,908
Staffing for Adequate Fire			
3 & Emergency Response (SAFER)	Direct from U.S. Department of Homeland Security	1,186,714	-
	Total Major Program	\$ 17,008,181	\$ 5,230,246

- **No internal control findings in FY2024**
- **Prior year findings**
 - Financial Statements – In Progress
 - 2020-001 Information Technology (IT) General Controls

Current year findings:

- **Community Development Block Grants (CDBG)**
 - Program Income 2024-001
 - Late Filing of Reports 2024-002
- **Staffing for Adequate Fire & Emergency Response (SAFER)**
 - Late Filing of Reports 2024-003
 - Lack of Timesheet Approval 2024-004

THANK YOU!

Brandon Ferrell

bferrell@eadiepaynellp.com

909.241.7814





FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.3

DATE: April 22, 2025

TO: Finance & Governance Committee

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400,
javier.chagoyenlazaro@oxnard.org

SUBJECT: Third Amendment with Paymentus for Credit Card Merchant Services. (10 minutes)

RECOMMENDATION

That the Finance and Governance Committee recommend that the City Council approve and authorize the Mayor to execute the Third Amendment to the agreement with Paymentus (9046-20-CT), for credit card merchant services, extending the term of agreement to December 31, 2027 and increasing the contract amount by \$702,000 for a not-to-exceed contract amount of \$1,783,720.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/CL-WXO6UkR8>

BACKGROUND

The City of Oxnard approved the use of credit cards to pay City Fees and bills in 2003. Processing credit card payments requires a payment gateway and a payment processor. A payment gateway is the technology that securely accepts and processes customer credit card information, encrypting it and sending it to a payment processor for authorization, enabling businesses to accept online and in-person payments. A payment processor, or credit card processor, is a company or service that facilitates electronic transactions between customers and businesses by processing and authorizing credit card, debit card, and other digital payment methods, ensuring funds are securely transferred.

On December 30, 2020 the City entered into a three-year agreement with Paymentus as payment gateway for credit card and debit card merchant services, after Bank of America communicated that it was stopping the credit card processing service. On December 21, 2021, City Council ratified the first amendment to the agreement with Paymentus, that added the function of credit card merchant processor to the scope of services. That first amendment to the agreement became effective in June 2022, after the configuration was completed, and continues for a period of 3 (three) years. .

On July 29, 2021, the City Council adopted Resolution No. 15,479. In this Resolution, the City was allowed to impose a fee (referred to as convenience fee, service fee, or processing fee interchangeably) of 2.35% per transaction whenever a customer uses credit card, debit card, or electronic check to pay for City Services. The fees were not implemented due to the City Council approving the recommendation of such fees with an amendment to not implement the fees until the local declarations of emergency related to COVID 19 was suspended. On February 20, 2024 the City Council adopted Resolution No. 15,672 allowing the City to pass on the processing fee charged by Paymentus to customers for the use of credit cards, debit cards and electronic

checks, and directing staff to implement the changes.

Paymentus supports credit card payments for utility billing, permits and business licensing related services. The City currently administers those services through the legacy software HTE.

The City has been working with credit card processing vendors and is ready to implement Resolution No. 15,672.

DISCUSSION

In December 2021, Paymentus became both the payment gateway and payment processor for utility billing, permits and business license services. The current agreement expires in June 2025.

At the beginning of the implementation of the City's ERP with Tyler Technologies, there was an understanding that Paymentus would be the partner for credit card payments processing after the full implementation of all the ERP modules. Unfortunately, that is not currently the case, and staff would recommend transitioning to merchant service processor that fully integrates with Tyler software, through a separate agenda item.

This proposed amendment would allow the City to continue to accept credit and debit card, and electronic check payments for utility billings, while the City is still using the legacy system for utility billing, and will be phased out after the implementation of the corresponding component of the Tyler ERP.

The proposed amendment establishes a convenience fee as indicated in the table below, and extends the agreement until December 31, 2027, to allow processing credit card payments through the transition to the new utility billing.

Payment Method	Payment Type	Paymentus Fee	Fee Model
Instant Payment Network™ All payment methods offered under IPN and digital wallets such as PayPal, Venmo, PayPal Credit, Apple Pay, Google Pay, PayPal CFS and others as offered by <u>Paymentus</u>	Utility	\$3.95 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
Credit, Debit Cards	Utility	\$3.95 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
ACH/eCheck	Utility	\$0.50 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
Chargebacks and Return Check Fee		\$9.95 per item	Client Fee

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

Under this agreement, and in line with Council direction provided in July 29, 2021, further updated on February 20, 2024 any processing fees payable to Paymentus for payment processing services, including the fees earned

by the credit card providers themselves (Visa / Mastercard) are charged by the payment processor directly to the individual or organization that chooses to make a payment using a credit / debit card or e-check. The only exception is that when customers choose to make a payment to their Utility Bills over the counter with a city staff.

The City cost share associated to this contract will be derived from utility billing payments made over the counter in the City's Service Center. Utility billing is anticipated to transition to Tyler Munis in the second part of calendar year 2027, and at that time the credit card payments related to utility billing will be processed through the agreement with Tyler Payments.

The requested amount for the Paymentus contract will be allocated per fiscal year as summarized in the table below.

	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28
7251623-53500 Utility Billing	\$60,000.00	\$257,000.00	\$257,000.00	\$125,500.00
TOTAL	\$60,000.00	\$257,000.00	\$257,000.00	\$128,500.00

Staff has estimated the annual amounts required for this contract based on the assumption that 30% of credit card payments related to utility billing will be made over the counter at the City's Service Center.

For FY 2024/25, the additional amount will be absorbed by the current budget, and in the future, it will be incorporated in the budget process.

Prepared by: Javier Chagoyen-Lazaro, Chief Financial Officer

ATTACHMENTS

1. Amendment # 3
2. Presentation

AMENDMENT NO. 3 TO MASTER SERVICES AGREEMENT

This Amendment No. 3 ("Amendment") amends the Master Services Agreement effective as of December 30, 2020 which was modified by Amending Agreement dated November 2, 2021 and Amendment No. 2 dated May 2, 2024 (collectively the "Agreement") between City of Oxnard, CA ("Client") with a principal place of business located at 214 South C Street, Oxnard, CA 93030 and Paymentus Corporation, a State of Delaware Corporation with a principal place of business at 11605 N. Community House Rd, Suite 300, Charlotte, North Carolina 28277 ("Paymentus"). Client and Paymentus are also referred to as "Party" and collectively as the "Parties." This Amendment is effective at the time of the last to sign of the Parties ("Amendment Effective Date").

STATEMENT OF PURPOSE

Client and Paymentus entered into the Agreement for electronic bill payment services;

The Parties agree to amend the Agreement to update the Paymentus Fee Schedule, revise exclusivity, and extend the term to December 31, 2027.

AGREEMENT

In consideration of mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Client and Paymentus agree as follows:

1. Amendment. The Agreement is hereby amended as of the Amendment Effective Date as follows:

1.1 Schedule A – Paymentus Fee Schedule ("Schedule A") of the Agreement is hereby deleted and the new Schedule A attached here to is substituted in lieu thereof.

1.2 The Parties agree to extend the term ("Term") of the Agreement to December 31, 2027 ("End Date"). Upon 180-days written notice, Client may terminate Services and the Agreement as of June 30, 2027 or the first day of any month thereafter prior to the End Date (such date the "Early Termination Date") and Client agrees to pay an early termination fee (the "Early Termination Fee") of \$50,000.00. If Client elects an Early Termination Date later than June 30, 2027, the Early Termination Fee will be reduced by \$8,000.00 for each month Client continues to use Paymentus prior to End Date. Any transactions processed after End Date will automatically renew this Agreement for an additional six (6) month period ("Renewal Term"). Any additional extensions requested of this Agreement will be for a minimum period of six (6) months.

1.3 Section 2.1 of the Agreement is hereby deleted and replaced with the following:

When selected on Schedule A, Paymentus will provide Users the opportunity to view and receive bills, make Payments using the payment methods provided under Schedule A and other payment methods and wallets as offered by Paymentus from time to time. The Payment methods and other services provided may be used within the channels described on Schedule A or on other websites or mobile/web apps or chatbots or voice assistants that are part of the Instant Payment Network™, (collectively referred to as the "Platform"). Paymentus will provide a mechanism by which Client may select channels and payment methods it wishes to offer Users. Paymentus will be the exclusive provider to Client of services included in the Services, with the exception of Non-Utility payments.

2. Miscellaneous:

- 2.1 This Amendment is binding and inures to the benefit of the Parties and their respective successors and assigns.
- 2.2 All other terms and conditions of the Agreement not modified by this Amendment remain in full force and effect.
- 2.3 This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their duly authorized representatives.

CITY OF OXNARD, CA

By: _____

Printed Name: _____

Title: _____

Date: _____

PAYMENTUS CORPORATION

By: _____

Printed Name: _____

Title: _____

Date: _____

Schedule A – Paymentus Fee Schedule

The Services will initially consist of the Services indicated in the following table. The Paymentus Fees (“Fees”) are specified below, and will be paid by the Client (“Client Fee”), unless Client designates as a User Fee (“User Fee”). Client directs Paymentus to implement the Fees set forth below:

Payment Method	Payment Type	Paymentus Fee	Fee Model
Instant Payment Network™ All payment methods offered under IPN and digital wallets such as PayPal, Venmo, PayPal Credit, Apple Pay, Google Pay, PayPal CFS and others as offered by Paymentus	Utility	\$3.95 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
Credit, Debit Cards	Utility	\$3.95 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
ACH/eCheck	Utility	\$0.50 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
Chargebacks and Return Check Fee		\$9.95 per item	Client Fee

Payment Type	Average Bill Amount	Maximum Payment Amount
Utility	\$200.00	\$5,000.00
Non-Utility	Varies	\$20,000.00

Client shall comply with all program rules, network rules and applicable laws in connection with Client’s assessment of the Fees set forth above. Multiple Payments may be made. Paymentus may apply different limits per Payment for User adoption or to mitigate risk.

City of Oxnard

Third Amendment with Paymentus for Credit Card Merchant Services

April 22, 2025

Finance and Governance Committee

Presented by:

Javier Chagoyen-Lazaro, City of
Oxnard

Chief Financial Officer

That Finance and Governance Committee recommends The City Council:

1. Approve and authorize the City Manager to execute the third amendment with Paymentus, for credit card merchant services, extending the term of agreement to December 31, 2027; and for an increase of the contract amount by \$702,000 for a not to exceed contract amount of \$ \$1,783,720.

- On December 30, 2020 the City entered into a three-year agreement with Paymentus as payment gateway for credit card and debit card merchant services, after Bank of America communicated that it was stopping the credit card processing service.
- On December 21, 2021, City Council ratified the first amendment to the agreement with Paymentus, that added the function of credit card merchant processor to the scope of services. That first amendment to the agreement became effective in June 2022, after the configuration was completed, and continues for a period of 3 (three) years.
- On July 29, 2021, the City Council adopted Resolution No. 15,479 which was allowed to impose a fee when a customer uses credit card, debit card or electronic check to pay for City services.
- On February 20, 2024 the City Council adopted Resolution No. 15,672 allowing the City to pass on the processing fee charged by Paymentus to customers for the use of credit cards, debit cards and electronic checks, and directing staff to implement the changes

- In December 2021, Paymentus became both the payment gateway and payment processor for utility billing, permits and business license services. The current agreement expires in June 2025.
- The proposed amendment establishes a convenience fee as indicated in the table below, and extends the agreement until December 31, 2027, to allow processing credit card payments through the transition to the new utility billing.

Payment Method	Payment Type	Paymentus Fee	Fee Model
Instant Payment Network™ All payment methods offered under IPN and digital wallets such as PayPal, Venmo, PayPal Credit, Apple Pay, Google Pay, PayPal CFS and others as offered by Paymentus	Utility	\$3.95 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
Credit, Debit Cards	Utility	\$3.95 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
ACH/eCheck	Utility	\$0.50 per Payment	User Fee
	Non-Utility	2.95% of the Payment Amount	
Chargebacks and Return Check Fee		\$9.95 per item	Client Fee

That Finance and Governance Committee recommends The City Council:

1. Approve and authorize the City Manager to execute the third amendment with Paymentus, for credit card merchant services, extending the term of agreement to December 31, 2027; and for an increase of the contract amount by \$702,000 for a not to exceed contract amount of \$ \$1,783,720.



Questions / Discussion



FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.4

DATE: April 22, 2025

TO: Finance & Governance Committee

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400,
javier.chagoyenlazaro@oxnard.org

SUBJECT: Agreement with Tyler Technologies, Inc. for Credit Card Merchant Services. (10 minutes)

RECOMMENDATION

That the Finance and Governance Committee recommends that the City Council approve and authorize the Mayor to execute a five-year agreement with Tyler Technologies, Inc. (A-8584) for credit card merchant services.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/6nz0oXBBFkA>

BACKGROUND

For many years the City has accepted payment for utility services, business licensing, parking and other fees / services via credit / debit card and e-check in addition to more traditional methods of payment. In order to offer payment by credit / debit card and e-Check, the city must maintain agreements with credit card processing companies who manage the transactions between the customer and city bank accounts. Paymentus is the current credit card merchant services provided for utility billing and billing and business licensing payments. On February 20, 2024, Staff informed Council of the need to contract with Tyler in order to continue to offer these payment services as the City continues to implement the Tyler Enterprise Resource Planning (ERP) software.

DISCUSSION

The City continues to implement new ERP software as part of the multi-year ERP project, with this new software owned and maintained by Tyler Technologies, Inc. The City was informed by Tyler in the last twelve months that they will cease to support the City's current payment processor, Paymentus, choosing instead to offer its customers with its own payment processing service that fully integrates with the Tyler software.

This agreement would initially enable the City to accept credit and debit card payments for the launching of the Tyler Enterprise Planning and Licensing (EPL) phase of the ERP project, anticipated to go live in summer 2025, and would allow a number of miscellaneous fees and charges invoiced via general billing in the City's main ERP system, such as special event permits, alcohol compliance fees, rental invoices, emergency response reimbursements and other miscellaneous items in a Payment Card Industry Data Security Standard (PCI) compliant manner as currently these fees can only be paid via cash or check. Furthermore, this agreement will ensure that the City is able to continue to offer these payment services with a fully integrated and supported

vendor when the City launches the Tyler Utility Billing module in late 2027.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

Under this agreement, and in line with Council direction provided in July 29, 2021, further updated on February 20, 2024 any processing fees payable to Tyler for payment processing services, including the fees earned by the credit card providers themselves (Visa / Mastercard) are charged by the payment processor directly to the individual or organization that chooses to make payment using credit / debit or e-check.

The timing of these customer charges will depend on when the City implements each of the remaining ERP phases and then interfaces with Tyler Payments to provide payment processing services. There are no plans to integrate Tyler Payments with the City's legacy systems.

When the City launches Tyler Enterprise Planning and Licensing (anticipated Summer 2025)

Customers who choose to pay for their business license, planning permit or general bill via credit / debit card will be charged a service fee of 3.75%, with a minimum charge of \$2.50.

e-Checks will be \$1.00 per transaction.

When the City launches Tyler Utility Billing (anticipated to be late 2027)

Customers who choose to pay their utility bill via credit / debit card will be charged a service fee of 2.95% of the transaction, with a minimum charge of \$2.50.

e-Checks will be \$1.00 per transaction.

This agreement does include pricing for two physical card processors (card readers) that may be purchased during the term of this agreement. There are sufficient appropriations within the City's operating budget to cover this minor expense. The City has already purchased card readers that will integrate with Tyler Payments, purchased under separate ERP agreement A-8767.

Prepared by: Javier Chagoyen-Lazaro, Chief Financial Officer

ATTACHMENTS

1. Tyler Payment Processing Agreement
2. Oxnard Payments Quote
3. Presentation

Payment Processing Agreement

This Payment Processing Agreement (this “Processing Agreement”) is made and entered into by and between Tyler Technologies, Inc., a Delaware corporation (“Tyler”), and the City of Oxnard, California (the “Merchant”).

1. ACKNOWLEDGEMENTS

- a. By executing this Processing Agreement, Merchant is contracting with Tyler to obtain Card processing services on Merchant’s behalf.
- b. Merchant acknowledges that Tyler contracts with a payment processor (a “Processor”), Members, and other third party providers to provide services under this Processing Agreement, and Merchant hereby consents to the use of such Processor, Members, and others to provide such services.
- c. To the extent elected in the Investment Summary attached hereto as Exhibit C, Tyler will provide Merchant with eCheck/ACH payment processing services for any eligible account as a turn-key solution or by presenting ACH Transactions in a NACHA Standard file submission to Merchant’s Originating Depository Financial Institution (ODFI) as agreed to in the Investment Summary. ACH Transactions and Card Transactions may collectively be referred to as “Transactions.”

2. MEMBER BANK AGREEMENT REQUIRED

- a. When Merchant’s customers pay Merchant through Tyler, Merchant may be the recipient of a Card funded payment. The organizations that operate these Card systems (such as Visa U.S.A., Inc. and MasterCard International Incorporated; collectively, the “Associations”) require that Merchant (i) enter into a direct contractual relationship with an entity that is a member of the Association and (ii) agree to comply with Association Rules as they pertain to applicable Card Transactions that Merchant submits through Tyler. If Merchant accepts American Express, then Merchant agrees that the terms of Exhibit A shall apply.
- b. Merchant shall complete an application with the Member with which Tyler has contracted and execute an agreement with such Member (the “Member Bank Agreement”). By executing a Member Bank Agreement, Merchant is fulfilling the Association Rule of entering into a direct contractual relationship with a Member, and Merchant agrees to comply with Association Rules as they pertain to Card Transactions Merchant submits for processing through the Tyler service.
- c. Merchant acknowledges that Tyler may have agreed to be responsible for some of Merchant’s obligations to a Member for such Transactions as set forth in the Member Bank Agreement. Member may debit the Merchant Bank Account for chargebacks, returns, refunds and other fees, however, in the event Member assesses any such chargeback, returns, refunds, or other fees to Tyler, Tyler may invoice the same to Merchant.

3. SETTLEMENT AND CHARGEBACKS

- a. Merchants Bank Account. In order to receive funds, Merchant must maintain a bank account (the “Merchant Bank Account”) at a bank that is a member of the Automated Clearing House (“ACH”) system and the Federal Reserve wire system. Merchant agrees not to close the Merchant Bank Account without giving Tyler at least thirty (30) days’ prior written notice and substituting another bank account. Merchant is solely liable for all fees and costs associated with Merchant Bank Account and for all overdrafts. Tyler shall not be liable for any delays in receipt of funds or errors in bank account entries caused by third parties, including but not limited to delays or errors by the Member Bank or payment processor to Merchant Bank Account.
- b. Settlement. Transactions shall be settled according to the terms of the Member Bank Agreement using the account(s) which are designated by Merchant.
- c. Chargebacks, Returns and Refunds. Chargebacks, returns and refunds paid for ACH Transactions shall be paid by Merchant in accordance with the Member Bank Agreement.
- d. Retrieval Requests. Merchant is required by the Associations to store original documentation, and to timely respond to Retrieval Requests, of each Transaction for at least six months from the date of the respective Transaction, and to retain copies of all such data for at least 18 months from the date of the respective Transaction. Merchant is responsible for any Chargebacks that result from Merchant’s failure to timely respond to Retrieval Requests for documentation relating to a Transaction.

4. FEES AND INVOICING

- a. Investment Summary. Merchant agrees to pay Tyler the fees set forth in or attached to the Investment Summary for services provided by Tyler and to which this Agreement is hyperlinked or attached. This may include fees for Payment Service Devices or other Equipment that Merchant has elected to purchase or rent as set forth on the Investment Summary. Fees for purchase will be invoiced upon shipment and Fees for rental will be invoiced annually in advance. All Fees due hereunder are due within 45 days of invoice. The terms and conditions of such purchase or rental are set forth on Exhibit B attached hereto and incorporated herein.
- b. Adjustments to Pricing. By giving written notice to Merchant, Tyler may change Merchant’s fees, charges and discounts resulting from (i) changes in Association fees (such as interchange, assessments and other charges); (ii) changes in pricing by any third party provider of a product or service used by Merchant; or (iii) other market adjustment. Such new prices shall be applicable as of the effective date established by the Association or third party provider, or as of any later date specified in Tyler’s notice to Merchant. In addition, Tyler may update pricing for rental of Equipment by giving written notice to Merchant at the end of any initial rental term or when such Equipment is upgraded to a newer model or replaced in accordance with the pricing set forth on Tyler’s then-current Investment Summary.
- c. Payment of Fees.
 - i. Online Payments. For payments that are initiated online, a convenience fee or service fee may be assessed to the Cardholder for each payment transaction that is paid electronically using a credit or debit card. Such convenience fee or service fee is set forth in the Investment Summary and will be charged at the time of the transaction to be

deposited directly into a Tyler bank account from which all fees associated with processing and settling the Card Transactions will be paid.

- ii. Over the Counter Payments. For payments that are initiated in your offices, a service fee may be assessed to the Cardholder for each payment transaction as set forth in the Investment Summary, and such fees will be charged at the time of the transaction to be deposited directly into a Tyler bank account from which all fees associated with processing and settling the transactions will be paid. For all other fees (e.g. hardware, maintenance, etc.), Tyler shall invoice Merchant as set forth in the Investment Summary. Each invoice shall state the total invoiced amount and shall be accompanied by a reasonably detailed itemization of fees. Following receipt of a properly submitted invoice, the Merchant shall pay amounts owing therein thirty (30) days in arrears.
- iii. eCheck/ACH Payments. In addition, Tyler shall be authorized to charge eCheck/ACH fees and other fees specified in an Investment Summary to the end user. Unless otherwise set forth in the Investment Summary, fees will be charged at the time of the transaction to be deposited directly into a Tyler bank account.

5. LICENSE

Tyler hereby grants Merchant a non-exclusive, revocable license to use the Tyler Intellectual Property (as defined in Section 1.c) for the limited purpose of performing under this Processing Agreement. Merchant shall at all times be responsible for compliance with applicable law and Association Rules. Unless otherwise provided in a separate agreement between Tyler and Merchant, any Intellectual Property or machinery provided by Tyler, but not developed by Tyler, is being licensed or purchased by Merchant directly from the manufacturer or developer of such machinery or Intellectual Property. Merchant acknowledges that the license granted herein is limited to Merchant's use exclusively and that Merchant does not have the right to sub-license any of the Intellectual Property in either their original or modified form. Merchant agrees that it shall not reverse-engineer, disassemble or decompile the Intellectual Property. Merchant shall not give any third party, except Merchant's employees, access to the Intellectual Property without Tyler's prior written consent.

6. THIRD PARTY PROVIDERS

Tyler may, in its sole discretion, contract with alternate Members, payment processors or other third party providers to provide services under this Processing Agreement. In such event, Merchant shall reasonably cooperate with Tyler, including the execution of a new Member Bank Agreement by Merchant; provided, however, that if the terms and conditions of the new Member Bank Agreement are substantially different than Merchant's existing Member Bank Agreement, then Merchant shall have the right to terminate this Processing Agreement.

7. CONFIDENTIAL AND PROPRIETARY INFORMATION

- a. Protection of Tyler Confidential and Proprietary Information. Merchant shall not disclose, disseminate, transmit, publish, distribute, make available, or otherwise convey Tyler Confidential and Proprietary Information, and Merchant shall not use, make, sell, or otherwise exploit any such Tyler Confidential and Proprietary Information for any purpose other than the performance of this Processing Agreement, without Tyler's written consent, except: (a) as may be required by

law, regulation, judicial, or administrative process; or (b) as required in litigation pertaining to this Processing Agreement, provided that Tyler is given advance notice of such intended disclosure in order to permit it the opportunity to seek a protective order. Merchant shall ensure that all individuals assigned to perform services herein shall abide by the terms of this Section 7(a) and shall be responsible for breaches by such persons.

- b. Judicial Proceedings. If Merchant is requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to disclose any Tyler Confidential and Proprietary Information, Merchant shall provide Tyler with prompt written notice of such request or requirement so that Tyler may seek protective orders or other appropriate remedies and/or waive compliance with the provisions of this Processing Agreement. If, in the absence of a protective order or other remedy or the receipt of a waiver by Tyler, Merchant nonetheless is legally compelled to disclose Tyler Confidential and Proprietary Information to any court or tribunal or else would stand liable for contempt or suffer other censure or penalty, Merchant may, without liability herein, disclose to such court or tribunal only that portion of Tyler Confidential and Proprietary Information which the court requires to be disclosed, provided that Merchant uses reasonable efforts to preserve the confidentiality of Tyler Confidential and Proprietary Information, including, without limitation, by cooperating with Tyler to obtain an appropriate protective order or other reliable assurance that confidential treatment shall be accorded Tyler Confidential and Proprietary Information.
- c. Security of User IDs and Passwords. Merchant is solely responsible for maintaining the confidentiality of its user IDs and passwords and all activities that occur under Merchant's user IDs, even if fraudulent or not authorized by Merchant. Merchant acknowledges the heightened risk associated with access to its User IDs, passwords, transaction and account information (collectively, "Account Information"). Merchant represents and warrants that (i) Merchant will comply with applicable Association Rules and applicable law, (ii) Merchant will establish policies and procedures to protect such information in conformity with Association Rules and applicable law, including the storage and disclosure of such Account Information, (iii) Merchant will exercise reasonable care to prevent use or disclosure of Account Information. Merchant, and not Tyler, will be solely responsible for all activity, including all approvals, Transactions, chargebacks, returns and refunds processed, using Merchant's user IDs and passwords. If a forensic investigation is initiated by a Card Network, Member, Tyler or Tyler's Processor, then Merchant agrees to cooperate with such investigation until it is complete, including, without limitation, by providing logs related to its User IDs and passwords and Merchant's compliance with Association Rules and applicable law.

8. REPRESENTATIONS AND WARRANTIES

- a. No Actions, Suits, or Proceedings. There are no actions, suits, or proceedings, pending or, to the knowledge of Tyler, threatened, that shall have a material adverse effect on Tyler's ability to fulfill its obligations pursuant to or arising from this Processing Agreement.
- b. Compliance with Laws and PCI DSS. Tyler and Merchant shall comply in all material respects with applicable federal, state, and local statutes, laws, ordinances, rules, and regulations. Merchant shall comply with PCI DSS version 4.0 and any more current versions or amendments thereto,

including, without limitation, any relevant maintenance, inspection, scanning, remediation and training obligations set forth therein.

- c. Ownership. Tyler is a Delaware corporation that is listed for trading on the New York Stock Exchange.
- d. Certain Business Practices. Neither Tyler nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Processing Agreement by any federal department or agency. Tyler further represents and warrants that it is not listed on any local, state or federal consolidated list of debarred, suspended, and ineligible contractors and grantees.
- e. Equipment Manufacturer Warranties. Tyler will pass through to Merchant any applicable manufacturer warranties that apply to Equipment purchased by Merchant through this Agreement.
- f. Disclaimer of Implied Warranties. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS PROCESSING AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TYLER HEREBY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. LIMITATION OF LIABILITY

TYLER'S LIABILITY TO MERCHANT FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS PROCESSING AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO THE TOTAL FEES PAID TO TYLER UNDER THIS PROCESSING AGREEMENT (NET OF ASSOCIATION INTERCHANGE, ASSESSMENTS AND FINES) FOR THE SIX MONTHS PRIOR TO THE TIME THE LIABILITY AROSE.

WHILE BOTH PARTIES ACKNOWLEDGE THAT THIS IS AN AGREEMENT FOR SERVICES TO WHICH THE UNIFORM COMMERCIAL CODE DOES NOT APPLY, IN NO EVENT SHALL TYLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS, OR LOSS OF BUSINESS OR LOSS OF DATA ARISING OUT OF THIS PROCESSING AGREEMENT, IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGE.

10. INDEMNIFICATION

- a. Chargebacks and Refunds. Merchant acknowledges that Tyler has agreed to be responsible for some of Merchant's obligations to a Member for Transactions and Association Rules as set forth in the Member Bank Agreement. Member should debit the Merchant Account for chargebacks, returns, refunds, assessments, penalties and fines, and in the event Member assesses any such amounts to Tyler, including any amounts in excess of the balance of the Merchant Account, Tyler shall invoice the same to Merchant.
- b. Applicable Law and Interpretations: Merchant shall indemnify and hold harmless Tyler from and against any claim or action related to Merchant's violation of applicable law and/or Association

Rules including without limitation any election to apply custom fee structures or customer surcharges.

c. Intellectual Property.

- i. Tyler retains all ownership and copyright interest in and to any and all intellectual property, computer programs, related documentation, technology, know how and processes developed by Tyler and provided in connection with this Processing Agreement (collectively, the “Intellectual Property”),
 - ii. Notwithstanding any other provision of this Processing Agreement, if any claim is asserted, or action or proceeding brought against Merchant that alleges that all or any part of the Intellectual Property, in the form supplied, or modified by Tyler, or Merchant’s use thereof, infringes or misappropriates any United States intellectual property, intangible asset, or other proprietary right, title, or interest (including, without limitation, any copyright or patent or any trade secret right, title, or interest), or violates any other contract, license, grant, or other proprietary right of any third party, Merchant, upon its awareness, shall give Tyler prompt written notice thereof. Tyler shall defend, and hold Merchant harmless against, any such claim or action with counsel of Tyler’s choice and at Tyler’s expense and shall indemnify Merchant against any liability, damages, and costs resulting from such claim. Without waiving any rights pursuant to sovereign immunity, Merchant shall cooperate with and may monitor Tyler in the defense of any claim, action, or proceeding and shall, if appropriate, make employees available as Tyler may reasonably request with regard to such defense. This indemnity does not apply to the extent that such a claim is attributable to modifications to the Intellectual Property made by Merchant, or any third party pursuant to Merchant’s directions, or upon the unauthorized use of the Intellectual Property by Merchant.
- d. If the Intellectual Property becomes the subject of a claim of infringement or misappropriation of a copyright, patent, or trade secret or the violation of any other contractual or proprietary right of any third party, Tyler shall, at its sole cost and expense, select and provide one of the following remedies, which selection shall be in Tyler’s sole discretion: (a) promptly replace the Intellectual Property with a compatible, functionally equivalent, non-infringing system; or (b) promptly modify the Intellectual Property to make it non-infringing; or (c) promptly procure the right of Merchant to use the Intellectual Property as intended.

11. TAXES

- a. Tax Exempt Status. Merchant is a governmental tax-exempt entity and shall not be responsible for any taxes for any Licensed Property or services provided for herein, whether federal or state. The fees paid to Tyler pursuant to this Processing Agreement are inclusive of any applicable sales, use, personal property, or other taxes attributable to periods on or after the Effective Date of this Processing Agreement.
- b. Employee Tax Obligations. Each party accepts full and exclusive liability for the payment of any and all contributions or taxes for Social Security, Workers’ Compensation Insurance, Unemployment Insurance, or Retirement Benefits, Pensions, or annuities now or hereafter

imposed pursuant to or arising from any state or federal laws which are measured by the wages, salaries, or other remuneration pay to persons employed by such party for work performed under this Processing Agreement.

12. TERM, SUSPENSION, AND TERMINATION

- a. Term. The term of this Processing Agreement (the “Term”) shall commence on the Effective Date and shall continue in effect for three years unless otherwise set forth on an Investment Summary; provided, however, that at the end of such initial term, and on each subsequent anniversary of the Effective Date, the term shall automatically extend for an additional year unless either party provides, at least ninety (90) days prior to the end of the then current term, written notice that it does not wish to extend the term or otherwise terminates the agreement for Cause pursuant to Section 12(b). Notwithstanding the foregoing, Tyler may elect to cease providing payment processing services upon the termination or expiration of Tyler’s other agreement with Merchant to provide Tyler software or services.
- b. Termination for Cause. Either party may terminate this Processing Agreement for Cause, provided that such party follows the procedures set forth in this Section (b).
 - i. For purposes of this Section, “Cause” means either:
 - A. a material breach of this Processing Agreement, which has not been cured within ninety (90) days of the date such party receives written notice of such breach;
 - B. the failure by Merchant to timely pay when due any fees owed to Tyler pursuant to this Processing Agreement and any delinquent amounts remain outstanding for a period of thirty (30) days after Tyler provides written notice of its intent to terminate for failure to pay;
 - C. breach of Section 7; or
 - D. if Tyler becomes insolvent or bankrupt, or is the subject of any proceedings relating to its liquidation or insolvency or for the appointment of a receiver or similar officer for it, has a receiver of its assets or property appointed or makes an assignment for the benefit of all or substantially all of its creditors, or institutes or causes to be instituted any proceeding in bankruptcy or reorganization or rearrangement of its affairs.
 - ii. No party may terminate this Processing Agreement under Section 12 b(i)(A) unless it cooperates in good faith with the alleged breaching party during the cure period and complies in good faith with the dispute resolution procedures set forth in Section 13 following such period.
 - iii. In the event either party terminates this Processing Agreement pursuant to this Section (b), each party shall return all products, documentation, confidential information, and other information disclosed or otherwise delivered to the other party prior to such termination, all revocable licenses shall terminate.

- c. Survival. The following provisions shall survive after the Term of this Processing Agreement: 2(c); 3; 4(c); 7; 10; 11; 12; 13; 14; and 15.

13. DISPUTE RESOLUTION

Any dispute arising out of, or relating to, this Processing Agreement that cannot be resolved within five (5) Business Days shall be referred to the individual reasonably designated by Merchant and Tyler's representative assigned to Merchant's account ("Intermediary Dispute Level"). Any dispute that cannot be resolved in ten (10) Business Days at the Intermediary Dispute Level shall then be referred to Merchant's chief executive officer or other individual reasonably designated by Merchant and Tyler's applicable division President ("Executive Dispute Level"), at such time and location reasonably designated by the parties. Any negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of the applicable rules of evidence. For any dispute that the parties are unable to resolve through informal discussions or negotiations or pursuant to the dispute resolution and escalation procedures set forth in this Processing Agreement, the parties shall submit the matter to non-binding mediation prior to the commencement of any legal proceeding. The foregoing shall not apply to claims for equitable relief under Section 7.

14. MISCELLANEOUS

- a. Assignment. Neither party may assign this Processing Agreement or any of its respective rights or obligations herein to any third party without the express written consent of the other party, which consent shall not be unreasonably withheld.
- b. Cumulative Remedies. Except as specifically provided herein, no remedy made available herein is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy provided herein or available at law or in equity.
- c. Notices. Except as otherwise expressly specified herein, all notices, requests or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed, by certified or registered mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth on the signature page hereto, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) days following deposit in the mail. Notwithstanding the foregoing, notice shall be deemed delivered when provided in connection with billing or invoicing.
- d. Counterparts. This Processing Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- e. Waiver. The performance of any obligation required of a party herein may be waived only by a written waiver signed by the other party, which waiver shall be effective only with respect to the specific obligation described therein.
- f. Entire Agreement. This Processing Agreement constitutes the entire understanding and contract between Tyler and Merchant for payment processing services (as detailed in an Investment

Summary) and supersedes any and all prior or contemporaneous oral or written representations, contracts or communications with respect to the subject matter hereof.

- g. Amendment. This Processing Agreement shall not be modified, amended, or in any way altered except by an instrument in writing signed by the properly delegated authority of each party. All amendments or modifications of this Processing Agreement shall be binding upon the parties despite any lack of consideration.
- h. Severability of Provisions. In the event any provision hereof is found invalid or unenforceable pursuant to judicial decree, the remainder of this Processing Agreement shall remain valid and enforceable according to its terms.
- i. Relationship of Parties. The parties intend that the relationship between the parties created pursuant to or arising from this Processing Agreement is that of an independent contractor only. Neither party shall be considered an agent, representative, or employee of the other party for any purpose.
- j. Governing Law. Any dispute arising out of or relating to this Processing Agreement or the breach thereof shall be governed by the laws of the state of Merchant's domicile, without regard to or application of choice of law rules or principles.
- k. Audit. Tyler shall maintain complete and accurate records of all work performed pursuant to and arising out of this Processing Agreement. Merchant may, upon the written request, audit any and all records of Tyler relating to services provided herein. Merchant shall provide Tyler twenty-four hour notice of such audit or inspection. Tyler shall have the right to exclude from such inspection any Tyler Confidential and Proprietary Information not otherwise required to be provided to Merchant as a part of this Processing Agreement. Any such audit shall be conducted at Tyler's principal place of business during Tyler's normal business hours and at Merchant's sole expense.
- l. No Third Party Beneficiaries. Nothing in this Processing Agreement is intended to benefit, create any rights in, or otherwise vest any rights upon any third party.
- m. Contra Proferentem. The doctrine of contra proferentem shall not apply to this Processing Agreement. If an ambiguity exists in this Processing Agreement, or in a specific provision, neither the Agreement nor the provision shall be construed against the party who drafted the Agreement or provision.
- n. Force Majeure. No party to this Processing Agreement shall be liable for delay or failure in the performance of its contractual obligations arising from any one or more events that are beyond its reasonable control, including, without limitation, acts of God, war, terrorism, and riot. Upon such delay or failure affecting one party, that party shall notify the other party and use all reasonable efforts to cure or alleviate the cause of such delay or failure with a view to resuming performance of its contractual obligations as soon as practicable. Notwithstanding the foregoing, in every case the delay or failure to perform must be beyond the control and without the fault or negligence of the party claiming excusable delay. Any performance times pursuant to or arising from this Processing Agreement shall be considered extended for a period of time equivalent to

the time lost because of any delay that is excusable herein. This section does not excuse any party from payment obligations under this Processing Agreement.

- o. Equitable Relief. Each party covenants, represents, and warrants that any violation of this Processing Agreement by such party with respect to its respective obligations set forth in Section 7 shall cause irreparable injury to the other party and shall entitle the other party to extraordinary and equitable relief by a court of competent jurisdiction, including, without limitation, temporary restraining orders and preliminary and permanent injunctions, without the necessity of posting bond or security.

15. CERTAIN DEFINITIONS

- a. Association means a group of Card issuer banks or debit networks that facilitates the use of payment cards accepted under this Processing Agreement for processing, including, without limitation, Visa, U.S.A., Inc., MasterCard International, Inc., Discover Financial Services, LLC and other credit and debit card providers, debit network providers, gift card and other stored value and loyalty program providers. Associations also includes the Payment Card Industry Security Standards Council and the National Automated Clearinghouse Association.
- b. Association Rules means the bylaws, rules, and regulations, as they exist from time to time, of the Associations.
- c. Card or Payment Card means an account, or evidence of an account, authorized and established between a Cardholder and an Association, or representatives or members of an Association that Merchant accepts from Cardholders as payment for a good or service. Payment Instruments include, but are not limited to, credit and debit cards, stored value cards, loyalty cards, electronic gift cards, authorized account or access numbers, paper certificates and credit accounts.
- d. Cardholder means the person to whom a Card is issued or who is otherwise entitled to use a Card.
- e. Chargeback means a reversal of a Card sale Merchant previously presented pursuant to Association Rules.
- f. Member or Member Bank means an entity that is a member of the Associations.
- g. Investment Summary means a document listing the pricing associated with this Processing Agreement.
- h. Processing Agreement means this Payment Card Processing Agreement, including all exhibits attached hereto and to be attached throughout the Term of this Processing Agreement, all of which are incorporated by reference herein.
- i. Retrieval Request means a request for information by a Cardholder or Card issuer relating to a claim or complaint concerning a Card sale Merchant has made.
- j. Transaction means the evidence and electronic record of a sale or lease transaction representing payment by use of a Card, echeck/ACH, digital payment or of a return/refund/credit to a Cardholder or any other payor.

- k. Tyler Confidential and Proprietary Information means all information in any form relating to, used in, or arising out of Tyler's operations and held by, owned, licensed, or otherwise possessed by Tyler (whether held by, owned, licensed, possessed, or otherwise existing in, on or about Tyler's premises or Merchant's offices, residence(s), or facilities and regardless of how such information came into being, as well as regardless of who created, generated or gathered the information), including, without limitation, all information contained in, embodied in (in any media whatsoever) or relating to Tyler's inventions, ideas, creations, works of authorship, business documents, licenses, correspondence, operations, manuals, performance manuals, operating data, projections, bulletins, customer lists and data, sales data, cost data, profit data, financial statements, strategic planning data, financial planning data, designs, logos, proposed trademarks or service marks, test results, product or service literature, product or service concepts, process data, specification data, know how, software, databases, database layouts, design documents, release notes, algorithms, source code, screen shots, other research and development information and data, and Intellectual Property. Notwithstanding the foregoing, Tyler Confidential and Proprietary Information does not include information that: (a) becomes public other than as a result of a disclosure by Merchant in breach hereof; (b) becomes available to Merchant on a non-confidential basis from a source other than Tyler, which is not prohibited from disclosing such information by obligation to Tyler; (c) is known by Merchant prior to its receipt from Tyler without any obligation of confidentiality with respect thereto; or (d) is developed by Merchant independently of any disclosures made by Tyler.

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Oxnard, California

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A

American Express Sponsored Merchant Terms (“SMT”)

1. **Compliance.** If Merchant, also referred to herein as “Sponsored Merchant,” accepts American Express cards as a form of payment processed through Tyler’s electronic filing or electronic payment systems, Client agrees to do so in accordance with the terms and conditions of this SMT.
2. **Merchant Operating Guide.** Merchant agrees to comply with the terms and conditions of the American Express Merchant Operating Guide found at: www.americanexpress.com/merchantopguide. Such terms and conditions shall include, without limitation, provisions relating to: (i) trademarks and brand requirements; (ii) applicable laws; (iii) binding arbitration; and (iv), website display requirements.
3. **Re-directing Prohibited.** Merchant agrees it shall not process Transactions, or receive any payments, on behalf of (unless otherwise required by law) any other party.
4. **American Express Liability.** SPONSORED MERCHANT ACKNOWLEDGES AND AGREES THAT IN NO EVENT SHALL AMERICAN EXPRESS, ITS AFFILIATES, AGENTS, SUCCESSORS, OR ASSIGNS BE LIABLE TO SPONSORED MERCHANT FOR ANY DAMAGES, LOSSES, OR COSTS INCURRED, INCLUDING INCIDENTAL, INDIRECT, SPECULATIVE, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (WHETHER BASED ON CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, FRAUD, OR OTHERWISE, OR STATUTES, REGULATIONS, OR ANY OTHER THEORY), ARISING OUT OF OR IN CONNECTION WITH THIS SMT.
5. **Third-Party Beneficiaries.** Sponsored Merchant acknowledges and agrees that American Express has the right, but not the obligation, to the benefits of this SMT that will provide American Express the ability to enforce the terms of this SMT against the Sponsored Merchant. The Sponsored Merchant further acknowledges and agrees that it will not be deemed a beneficiary under any agreement between American Express and Tyler, and will not have the ability to make any claim or assert any right under such agreement between Tyler and American Express.
6. **Definitions.** Except as defined herein or otherwise required by the context herein, all defined terms used herein have the meaning ascribed to such terms as set forth in the Agreement between Tyler and Merchant or the American Express Merchant Operating Guide.

Exhibit B

Payment Service Devices/Equipment – Rental and Purchase

This Exhibit B is incorporated into that certain Payment Processing Agreement between Tyler and Merchant (the “Processing Agreement”).

1. TERMS APPLICABLE TO BOTH PURCHASE AND RENTAL OF EQUIPMENT

- a. Generally. Tyler will provide PCI-compliant Payment Service Devices as elected by Merchant and described in the Investment Summary and related equipment for rent or purchase during the term of this Agreement for the fees set forth in the Investment Summary.
- b. Shipping Timelines. Tyler shall ship newly-requested Payment Service Devices (and associated supplies, such as printers, cables, power supplies, mounting hardware or other equipment identified in an Investment Summary) (“Equipment”) to Merchants within (a) 14 calendar days of the request or (b) 14 calendar days prior to payment service commencement/go-live, whichever is later. Tyler shall ship failure-related replacement Equipment to Merchants within two (2) Business Days of a written request. Shipping timelines are subject to Payment Service Device availability by the applicable manufacturer or supplier and shall be extended until such devices become available.
- c. Delivery and Acceptance. Tyler will deliver the Equipment to the location designated by Merchant in the Investment Summary. If an address for delivery is not expressly designated in the Investment Summary, such Equipment will be delivered to Merchant’s address otherwise set forth in the Investment Summary. Merchant will be deemed to have accepted each piece of Equipment on the earlier of (i) when Merchant acknowledges receipt, and (ii) seven days after shipment of each such piece of Equipment, unless Tyler is notified earlier in writing by Merchant that the Equipment has not been received or is not functional.
- d. Rights and Restrictions. Tyler shall process payments received from Merchant’s Payment Service Devices provided by Tyler. Merchant acknowledges that the Payment Service Devices are embedded with proprietary encryption technology that will be injected by Tyler’s designee into the Payment Services Devices. Merchant agrees that all of Merchant’s over-the-counter transactions processed through a Tyler application will be required to use Payment Service Devices provided by Tyler. Merchant will maintain each Payment Service Device in its possession and will not permit any physical alteration or modification of any piece of Equipment. Each piece of Equipment will be used only in the ordinary course of Merchant’s business in connection with Tyler applications. The Equipment is not being sold or rented to the Merchant for home or personal use. Merchant acknowledges that the Equipment rented or purchased through this Exhibit may not be compatible with another processor’s systems. Merchant hereby grants Tyler a security interest in (i) all Equipment to secure payment of the purchase price, and (ii)

all Equipment to secure payment of the monthly rental payments. Merchant authorizes Tyler to file financing statements with respect to the Equipment in accordance with the Uniform Commercial Code, signed by Tyler directly or as Merchant's attorney-in-fact.

- e. Change Notice. Tyler shall provide thirty (30) calendar days written notice for Equipment changes that affect Merchants, which includes, without limitation, when Tyler will no longer support a Payment Service Device. Tyler will only be obligated to replace Equipment when a Payment Service Device is no longer capable of functioning or Tyler ends support of the specific make and model of the Equipment.

2. TERMS APPLICABLE ONLY TO EQUIPMENT PURCHASED

Tyler will sell to Merchant the Equipment identified in the Investment Summary, free and clear of all liens and encumbrances, except that any proprietary encryption technology included within the Payment Service Devices or any other Tyler Intellectual Property will be provided to you pursuant to the License set forth in Section 5 of the Agreement. Maintenance and repair of Merchant-purchased Equipment is the responsibility of Merchant, unless Merchant has purchased Tyler's maintenance services for Payment Service Devices.

3. TERMS APPLICABLE ONLY TO EQUIPMENT RENTAL

- a. Tyler will rent to Merchant the Equipment identified in the Investment Summary, as set forth herein. The rental period will commence when the Equipment is deemed accepted. At the end of the rental term identified in an Investment Summary or when the Agreement is terminated, Merchant will promptly return each piece of Equipment to Tyler at Merchant's cost, in the same condition as when received, ordinary wear and tear excepted, unless otherwise directed by Tyler. The rental period will terminate when Equipment is returned to Tyler at 840 West Long Lake Road, Detroit, Michigan 48098, Attention: Tyler Payments, or at an earlier date specified by Tyler in writing. The following information must be included within the shipping box: (i) Merchant name, complete address and phone number; (ii) name of person to contact if there are any questions; (iii) your Merchant account number; and (iv) serial number of the Equipment. Merchant will retain proof of delivery documents and the applicable serial number. For any piece of Equipment that is not returned to Tyler in accordance with this paragraph, Merchant will pay Tyler the greater of \$250.00 or the fair market value of such piece of Equipment as if it were in the condition described herein.
- b. Merchant will not assign its rights or obligations under this Exhibit, or pledge, lend, create a security interest in, incur any liens or encumbrances on, or sublease the Equipment to any other person or entity without Tyler's prior written consent. Any such assignment, delegation, sublease, pledge, security interest or lien in the absence of consent shall be void.
- c. The provisions of this Exhibit will survive the termination or expiration of the Agreement and continue until all rented Equipment is returned to Tyler or paid for.



Exhibit C

Investment Summary

The following Investment Summary details the software, products, and services to be delivered by us to you under the Processing Agreement. This Investment Summary is effective as of the Effective Date.

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Sales Quotation For:

City of Oxnard
c
Oxnard CA 93030-5730

Shipping Address:

Quoted By: Karen Grosset
Quote Expiration: 08/25/25
Quote Name: City of Oxnard - ERP/EPL - Payments
Quote Description: Passing Model

Payments

	List Price	Service %	Min	Basis Points	Rate	Cap	POS	Online	IVR
Payments - Payer Card Cost - Service Fees									
Enterprise ERP Payments									
General Billing		2.95%	\$ 2.50				X	X	X
Utility Billing		2.95%	\$ 2.50				X	X	X
Enterprise Permitting & Licensing Payments									
Community Development (Permitting)		3.75%	\$ 2.50				X	X	
Community Development (Planning)		3.75%	\$ 2.50				X	X	
Payments - Other Fees									
Enterprise ERP									
Credit Card Chargebacks	\$ 15.00								
eCheck Rejects	\$ 5.00								
Payer eCheck Cost	\$ 1.00								

2023-432786-M0F7Y0

CONFIDENTIAL

Page 1

Enterprise Permitting & Licensing	
Credit Card Chargebacks	\$ 15.00
eCheck Rejects	\$ 5.00
Payer eCheck Cost	\$ 1.00

Payer Card Cost Per card transaction with Visa, MasterCard, Discover, and American Express.

IVR Cost Additional \$0.50 per transaction on top of Card and eCheck Fee.

Payer eCheck Cost Per electronic check transaction.

eCheck Rejects When an eCheck transaction comes back as declined (e.g bounced check)

Credit Card Chargebacks If a card payer disputes a transaction at the card issuing bank (e.g. stolen card)

Payments Your use of Payments and any related items included on this order is subject to the terms found at: <https://www.tylertech.com/terms/payment-card-processing-agreement>. By signing this order or the agreement in which it is included, you agree you have read, understand, and agree to such terms. Please see attached Payments fee schedule.

3rd Party Hardware, Software and Services

Description	Qty	Unit Price	Discount	Unit Total	Total Price	Maint/SaaS	Unit Discount	Maint/SaaS Total
Payments Lane 7000 Terminal Purchase	2	\$ 529.00	\$ 0.00	\$ 0.00	\$ 1,058.00	\$ 0.00	\$ 0.00	\$ 0.00
Payments PCI Service Fee (Per Device)	2	\$ 0.00	\$ 0.00	\$ 0.00	\$ 180.00	\$ 0.00	\$ 0.00	\$ 360.00
TOTAL					\$ 1,058.00			\$ 360.00

Summary

Total Tyler License Fees	One Time Fees	Recurring Fees
	\$ 0.00	\$ 0.00
Total SaaS	\$ 0.00	\$ 0.00
Total Tyler Services	\$ 0.00	\$ 0.00

2023-432786-M0F7Y0

CONFIDENTIAL

Total Third-Party Hardware, Software, Services	\$ 1,058.00	\$ 360.00
Summary Total	\$ 1,058.00	\$ 360.00
Contract Total	\$ 1,418.00	

Client’s purchase of the items listed above is subject to the Comments below
 Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held
 For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O.#: _____

All Primary values quoted in US Dollars

Comments

Tyler’s quote contains estimates of the amount of services needed, based on our preliminary understanding of the scope, level of engagement, and timeline as defined in the Statement of Work (SOW) for your project. The actual amount of services required may vary, based on these factors.

Tyler’s pricing is based on the scope of proposed products and services contracted from Tyler. Should portions of the scope of products or services be altered by the Client, Tyler reserves the right to adjust prices for the remaining scope accordingly.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler’s then-current Business Travel Policy.

Tyler’s prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely but can be done onsite upon request at an additional cost.

In the event Client cancels services less than four (4) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

The Implementation Hours included in this quote assume a work split effort of 0% Client and 0% Tyler.

Implementation Hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

Fees for year one of hardware maintenance will be invoiced as of the first day of the calendar month following the date the hardware is delivered and may be prorated to end coterminous with the Annual Support Maintenance term. Subsequent annual hardware maintenance fees shall be invoiced together with the Annual Support Maintenance term in accordance with the terms of the Agreement.

City of Oxnard Agreement with Tyler Technologies, Inc. for Credit Card Merchant Services April 22, 2025

Finance and Governance Committee

Presented by:

Javier Chagoyen-Lazaro, City of
Oxnard

Chief Financial Officer

That Finance and Governance Committee recommends The City Council approve and authorize the Major to execute a five-year agreement with Tyler Technologies, Inc. for credit card merchant services.

- The City accepts payments for utility services, business licensing, parking and other fees /services via credit/debit card and e-checks.
- Paymentus is the current credit card merchant services provided for utility billing and billing and business licensing payments.
- On February 20, 2024, Staff informed Council of the need to contract with Tyler in order to continue to offer these payment services as the City continues to implement the Tyler Enterprise Resource Planning (ERP) software.

- The City continues to implement new ERP software as part of the multi-year ERP project, with this new software owned and maintained by Tyler Technologies, Inc.
- Tyler Technologies will cease to support the City's current payment processor, Paymentus.
- Tyler Technologies offer its own payment processing services through Tyler Payments.
- This agreement would initially enable the City to accept credit and debit card payments for the launching of the Tyler Enterprise Planning and Licensing (EPL) phase of the ERP project, and expand the payment method to other services provided by City.
- Following City Council direction, the processing fees will be paid directly to the payment processor by the individual or organization that chooses to make payment using credit/debit card or e-check.

- When the City launches Tyler Enterprise Planning and Licensing (anticipated Summer 2025)
 - Customers who choose to pay for their business license, planning permit or general bill will be charged a service fee of 3.75%, with a minimum charge of \$2.50.
 - e-Checks will be \$1.00 per transaction.
- When the City launches Tyler Utility Billing (anticipated late 2027)
 - Customers who choose to pay their utility bill via credit / debit card will be charged a service fee of 2.95% of the transaction, with a minimum charge of \$2.50.
 - e-Checks will be \$1.00 per transaction.

That Finance and Governance Committee recommends The City Council approve and authorize the Major to execute a five-year agreement with Tyler Technologies, Inc. for credit card merchant services.



Questions / Discussion



FINANCE AND GOVERNANCE COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.5

DATE: April 22, 2025

TO: Finance & Governance Committee

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400,
javier.chagoyenlazaro@oxnard.org

SUBJECT: Establishing a Section 115 Trusts for OPEB and Pension Liabilities. (10 minutes)

RECOMMENDATION

That the Finance and Governance Committee recommend the City Council to:

1. Adopt a resolution establishing a Section 115 Trust for OPEB and Pension liabilities; and
2. Authorize the City Manager to execute agreements with the Trust Administrator, Custodian, and Trustee to create a 115 Trust accounts for the funding of future OPEB and Pension liabilities.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/tFn2Gq-S7l8>

BACKGROUND

The City provides full-time employees with a defined benefit pension through the California Public Employee's Retirement System (CalPERS) and pays other post-employment benefits (OPEB) to certain retirees or a group of retirees for health care costs. Most agencies "pay-as-you-go", meaning that annually, they try to estimate these costs (using actuarial firms) and budget for the expense. CalPERS has significantly changed the methodology for calculating the Annual Required Contributions (ARC) in regard to amortizing the Unfunded Actuarial Accrued Liability (UAAL). Until recently, the only option for reducing the UAAL was to commit additional funds to CalPERS, subject to the same CalPERS investment returns. Furthermore, funds deposited with CalPERS are not accessible to the City for other pension expenses. The increased need to fund the requirement of CalPERS as well as the increasing number of retirees receiving health and other benefits is putting fiscal pressure on the City. As the retiree population grows, the cost of retiree benefit costs also grows proportionately. With a pay as you go basis, there are no assets to offset liabilities that accumulate over the working lifetime of employees. As a result, agencies face rising unfunded pension liability ("UAL") and retiree medical costs. A Section 115 Trust is a prudent approach to funding for the future expenses and protecting the City's assets.

Establishing a Section 115 Trust to prefund pension and OPEB obligations is a best practice recommended by the Government Finance Officers Association (GFOA). Some of the benefits that a Section 115 Trust program can provide for agencies include utilizing these trusts as a budget stabilization tool, improving the Agencies' overall credit rating, an opportunity to earn higher investment returns, and decrease risks through diversification of plan assets using different asset management approaches. Additionally, given Governmental Accounting Standards Board (GASB) Statement, GASB No. 75, which requires that public agencies recognize

OPEB liabilities on their balance sheet, establishing a trust will allow the City to recognize the assets set aside to reduce its UAL.

Assets in a 115 Trust are irrevocably committed for the government function specified in the applicable trust agreement. Additionally, monies held in such trusts can be invested in accordance with the rules governing those trusts, which are different than the investment rules for the City's pooled investments. Investment restrictions that apply to the general fund of an Agency (CA Government Code 53601) do not apply to the assets held in an Irrevocable Section 115 Trust, thus allowing for more flexibility in the investment strategy. Setting aside funds in a Section 115 Trust can potentially earn a higher rate of return than funds invested within 53601 guidelines.

On June 18, 2024, the City Council adopted the FY 2024-25 budget that includes the appropriation of \$20 million of surplus funds for the paydown of the long-term pension debt.

On September 3, 2024, the City Council approved the implementation of the plan for long term debt reduction for pension and OPEB that includes the creation of the 115 trusts for pension and OEPB with funding of \$2.5 million each.

DISCUSSION

On August 26, 2024, the City issued RFP #25-09 for Establishment, Administration, and Management services of Section 115 Trusts for Pension and OPEB.

Staff's evaluation process concluded that the program offered by Shuster Advisory Group, LLC provides the greatest flexibility of investment options and the most competitive fees for the comprehensive services the City will receive.

Shuster Advisory Group, LLC (Shuster) is an independent investment advisory firm and fiduciary. They provide governmental and institutional retirement plan consulting services as well as private wealth management. Shuster is a SEC-Registered Investment Advisor with over \$7 billion in assets under management serving the unique needs of over 100 municipalities, special districts and public agencies. They offer exceptional services, including compliance oversight, fiduciary support, and investment management. Shuster serves as fiduciary to plan investments and provides investment selection, monitoring and management. Shuster does not co-mingle client assets and provides a transparent platform and daily valuation. Shuster will provide ten investment strategies that combine both active and passive (index) investment solutions to take advantage of the optimum mix of investments from both an investment return and cost perspective. If desired, Shuster will also provide a custom portfolio at no additional cost. Within the Shuster Section 115 program: Shuster provides trust administration, consultant, and investment advisor functions; Charles Schwab Trust Bank provides trust custodian services; and Alta Trust Company provides directed trustee services.

A total combined fee of 17 basis points (0.17%) of each plan's portfolio (with an annual maximum Trustee fee of \$5,000 per plan, a minimum annual Custody fee of \$400 per plan, and the Administration fee that converts to a flat dollar after the end of the third contract year) will be netted against investment earnings and allocated to each trust account based on their investment balance.

As stated above, Shuster will provide ten investment strategy options that combine both active and passive (index) investment solutions to take advantage of the optimum mix of investments from both an investment return and cost perspective and if desired by the City, Shuster will also provide a custom portfolio at no additional cost.

A Section 115 Trust provides the City the opportunity for additional earnings alpha above what the City could return using the traditional investment vehicles allowed by the Code, resulting in projected positive future fiscal impacts. There is no cost for account setup, and no fees are charged until assets are received by the custodian.

Shuster is the same firm that took over fiduciary responsibilities of the employee's 457(b) deferred compensation and 401(a) plans in September of 2018. Shuster entered into the public retirement plan sector after analyzing the sector and realizing that cities and agencies were being underserved and over-charged for their retirement plans, directly impacting the supplemental retirement savings of the city employees. Hiring Shuster resulted in employees, participants, and retirees realizing significant savings on the fees of those accounts as well as access to an enhanced institutional investment menu.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

Contributions to the trusts for fiscal year 2024-25 are budgeted in the General Fund under 1011001 General Non-Departmental-51220 Discretionary contributions.

Prepared by: Javier Chagoyen-Lazaro, Chief Financial Officer

ATTACHMENTS

1. DRAFT Resolution
2. Multiple Employer OPEB Pension 115 Trust - FULLY EXECUTED (1)
3. DRAFT PENSION Trust Adoption Agreement
4. DRAFT PENSION Oxnard Administrative Services Agreement
5. DRAFT PENSION Oxnard Investment Advisor Agmt
6. DRAFT OPEB Trust Adoption Agreement
7. DRAFT OPEB Oxnard Administrative Services Agreement
8. DRAFT OPEB Oxnard Investment Advisor Agmt
9. Presentation

RESOLUTION NO. XXXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF OXNARD APPROVING THE ADOPTION OF THE
MULTIPLE EMPLOYER OPEB/PENSION 115 TRUSTS
ADMINISTERED BY SHUSTER ADVISORY GROUP, LLC**

WHEREAS, the Governmental Accounting Standards Board (GASB) revised its accounting rules, referred to as GASB 75, to require local governments to recognize, cost and disclose future obligations for providing Other Post-Employment Benefits (OPEB); and

WHEREAS, the City of Oxnard (City) provides OPEB to eligible employees and retirees in the form of retiree health care coverage as defined in applicable memorandums of understanding and pay plans; and

WHEREAS, the City provides pension benefits to eligible employees and retirees as a participant in the California Public Employees Retirement System (CalPERS) as defined in applicable memorandums of understanding and pay plans; and

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

WHEREAS, the 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 thereunder, and the trust 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 IRC section 115; and

WHEREAS, all qualified assets held in the Trust will be irrevocably dedicated to prefunding the City's OPEB and pension obligations; and

WHEREAS, the City's adoption and operation of the Multiple Employer OPEB/Pension 115 Trust (Section 115 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 Section 115 Trust; and

WHEREAS, the City's funding of the Section 115 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 Section 115 Trust; and

WHEREAS, Shuster has set forth an Investment Policy Statement for the Section 115 Trust to ensure fiduciaries involved in the plan take prudent and careful action to maintain the investment portfolios, goals, and objectives while maintaining liquidity and risk tolerance.

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE, FIND, DETERMINE, AND DECLARE AS FOLLOWS:

SECTION 1. The City Council hereby adopts the Multiple Employer OPEB/Pension 115 Trusts available through Shuster, effective May 6, 2025.

SECTION 2. The City Council hereby authorizes the appointment of Alta Trust Company as Trustee and Charles Schwab Trust Bank as custodian of the assets; and

SECTION 3. The City Council hereby appoints the City Manager, or his/her successor or his/her designee as the City's Plan Administrator for the Section 115 Trust.

SECTION 4. The City's Plan 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 Section 115 Trust and to maintain compliance of 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 Section 115 Trust.

PASSED AND ADOPTED this 6th day of May 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Luis Mc Arthur, Mayor

ATTEST:

APPROVED AS TO FORM:

Lourdes A. Lopez, City Clerk

Stephen M. Fischer, City Attorney

MULTIPLE EMPLOYER OPEB/PENSION 115 TRUST

**FOR ADOPTION BY EMPLOYERS THAT ARE STATES OR LOCAL
GOVERNMENTS OR OTHER POLITICAL SUBDIVISIONS THEREOF**

TABLE OF CONTENTS

	Page
ARTICLE I. Definitions	1
ARTICLE II. Establishment and Purpose of the Trust.....	4
2.01 Establishment.....	4
2.02 Purpose	4
2.03 Exclusive Benefit.....	4
2.04 No Diversion.....	5
2.05 Superseding Effect of the Trust Agreement	5
ARTICLE III. Acceptance of, Contributions to, Distributions from Trust	5
3.01 Acceptance of Trust.....	5
3.02 Contributions and Transfers	5
3.03 Distributions	6
ARTICLE IV. Trustee	7
4.01 Trustee Powers.....	7
4.02 Authority of Trustee	9
4.03 Power to Do All Necessary Acts	9
4.04 Action by the Trustee.....	9
4.05 Consultation with Counsel and Accountant	9
4.06 Returns, Reports, and Information.....	10
4.07 Acts of Prior Trustees	10
4.08 Plan Assets Not Held in Trustee's Trust.....	10
ARTICLE V. Trust Administrator.....	10
5.01 Powers and Duties of the Trust Administrator	10
5.02 Reliance	11
5.03 Trust Administrator not Custodian of Trust Assets	11
5.04 Registered Investment Advisor.....	11
5.05 Investment Advice to Other Clients	11
5.06 Trust Administrator Separate from Employer and Trustee	11
5.07 Recordkeeping	12
5.08 Disclosure Statement	12

ARTICLE VI. Trustee and Trust Administrator.....	12
6.01 Standard of Conduct and Liabilities of Fiduciaries.	12
6.02 Trustee Indemnification of Trust Administrator.....	12
6.03 Trust Administrator Indemnification of Trustee.....	13
6.04 Survival of Indemnifications	13
ARTICLE VII. Investments.....	13
7.01 Trustee	13
7.02 Trust Administrator	13
7.03 Investment Direction	14
7.04 Reliance	14
7.05 Broker Executed Investments.....	14
7.06 Affiliated Broker/Dealers	14
7.07 Quarterly Reports.....	14
ARTICLE VIII. The Plan Administrator and the Employer	15
8.01 Action by the Plan Administrator	15
8.02 Reliance	15
ARTICLE IX. Accounts and Records	15
9.01 Records	15
9.02 Accounting.....	15
9.03 Accounts	16
ARTICLE X. Fees and Expenses	17
10.01 Expenses of Administration.....	17
10.02 Authorization with Respect to Taxes.....	17
ARTICLE XI. Resignation or Removal of Trustee	18
11.01 Resignation	18
11.02 Removal.....	18
11.03 Appointment of Successor Trustee	18
11.04 Transfer of Assets to Successor Trustee	18
11.05 Terminating Trustee's Accounting	19
11.06 Changes in Organization of Trustee	19
11.07 Trust Administrator Bankruptcy	19
ARTICLE XII. Resignation or Removal of Trust Administrator.....	20
12.01 Resignation	20

12.02	Removal.....	20
12.03	Designation of Successor Trust Administrator.....	20
12.04	Designation of Successor Trustee.....	20
12.05	Compensation Pending Appointment of Successor.....	20
12.06	Merger, Conversion, Consolidation or Sale of Trust Administrator	20
12.07	Successor Trust Administrator; No Duty to Investigate.....	21
ARTICLE XIII. Amendment of Trust		21
ARTICLE XIV. Participation.....		21
14.01	Eligibility	21
14.02	Commencement of Participation	21
14.03	Termination of Participation.....	21
14.04	Termination of Employer's Account	22
14.05	Reversion.	23
ARTICLE XV. Termination of Trust		23
15.01	Termination of Trust Fund.....	23
15.02	Liquidation of Trust.....	23
ARTICLE XVI. Miscellaneous		24
16.01	Applicable Law.....	24
16.02	Evidence	24
16.03	Notices	24
16.04	Limitation on Claims	24
16.05	Severability of Provisions.....	25
16.06	Construction of Trust Agreement	25
16.07	Spendthrift Provisions	25
16.08	Title of Trust Assets.....	25
16.09	Rights Determined from Entire Instrument	26
16.10	Waiver.....	26
16.11	Word Usage	26
16.12	Assignment	26
16.13	Force Majeure	26
16.14	Complete Agreement.....	26
16.15	Taxes.....	26
16.16	Data.....	27

16.17 Confidentiality27

16.18 USA Patriot Act Notification.....28

16.19 Execution in Counterparts29

AGREEMENT

This agreement, which establishes the Multiple Employer OPEB/Pension 115 Trust (“Trust Agreement”), is entered into by and between Shuster Advisory Group, LLC (“Trust Administrator”) and Alta Trust Company (“Trustee”) effective as of October 1, 2021.

ARTICLE I. Definitions

For purposes of the Trust Agreement, the following terms have the meanings indicated below:

1.01 Account

“Account” is defined in Section 9.03.

1.02 Adoption Agreement

“Adoption Agreement” means the written instrument by which the Employer adopts and participates in the Trust in accordance with this Trust Agreement, and by which the Employer makes certain elections relating to its participation in the Trust.

1.03 Beneficiary

“Beneficiary” means any person entitled to receive benefits under the Employer’s OPEB Plan or Pension Plan.

1.04 Code

“Code” means the Internal Revenue Code of 1986, as amended from time to time. References to any section of the Code shall include any successor provision thereto.

1.05 Combined Account

“Combined Account” is defined in Section 9.03.

1.06 Confidential Information

“Confidential Information” means the information specified in Section 16.17, proprietary information of the parties to this Trust Agreement, including but not limited to, their inventions, confidential information, know-how, trade secrets, business affairs, prospect lists, product designs, product plans, business strategies, finances, and fee structures.

1.07 Employer

“Employer” means each public agency that executes the Adoption Agreement, thereby becoming a participating agency in the Trust. Such agency must be a state, a political subdivision of a state, or an entity whose income is excludible from gross income under Section 115 of the

Code. Only an entity described in the preceding sentence may become a participating employer in the Trust.

1.08 Force Majeure

“Force Majeure” means a cause or event outside the reasonable control of the parties or that could not be avoided by the exercise of due care, including, without limitation: strikes, lockouts or other acts of workmen; fire, flood, earthquake, element of nature, pandemic or acts of God; governmental restrictions or court order; war, riot, civil disorders, rebellions or revolutions; public utility, telephonic, electrical or network failure; accidents; acts of terrorism; third party non-performance (except for non-performance by a party’s employees, subcontractors, agents, representatives and/or affiliates); or unusual trading activity or disruption of trading on any exchange; or any other event that would constitute a force majeure.

1.09 Instruction(s)

“Instruction(s)” means any written or electronic direction given to the Trustee by the Employer, Plan Administrator, or Trust Administrator in a form and manner required or accepted by the Trustee. Subject to the preceding sentence, the Trustee may recognize standing requests, directions, or requisitions as Instructions.

1.10 OPEB

“OPEB” means post-employment health and welfare benefits (other than pensions) provided by the Employer under an OPEB Plan to Beneficiaries, including medical, dental, vision, life insurance, long-term care and other similar benefits.

1.11 OPEB Account

“OPEB Account” is defined in Section 9.03.

1.12 OPEB Obligation

“OPEB Obligation” means the Employer’s obligation to provide OPEB under the Employer’s OPEB Plan, including the direct costs of the OPEB and the expenses associated with providing the OPEB.

1.13 OPEB Plan

“OPEB Plan” means the policies, collective bargaining agreement, or other arrangements under which a Beneficiary is entitled to receive OPEB, but only if the policy, agreement, or other arrangement is specified by the Employer in the Adoption Agreement.

1.14 Pension Account

“Pension Account” is defined in Section 9.03.

1.15 Pension Obligation

“Pension Obligation” means the Employer’s obligation to contribute to the qualified trust of the Employer’s Pension Plan and to pay the expenses associated with providing benefits under the Pension Plan. For this purpose, “qualified trust” means a trust that is qualified under Section 401(a) of the Code and that funds retirement benefits provided under the Pension Plan. A qualified trust is separate from this Trust and will not be considered part of this Trust for any purpose.

1.16 Pension Plan

“Pension Plan” means one or more defined-benefit plans, each of which is (i) qualified under Section 401(a) of the Code, (ii) sponsored by the Employer in order to provide retirement benefits to Beneficiaries, including but not limited to a stand-alone plan maintained solely by the Employer or a multiple-employer or multiemployer plan in which the Employer participates along with one or more other employers, (iii) partly or wholly funded by the Employer’s contributions, and (iv) specified by the Employer in the Adoption Agreement.

1.17 Person

“Person” means an individual, committee of individuals, partnership, limited liability partnership, joint venture, corporation, limited liability corporation, political subdivision, non-profit or not-for-profit organization, trust, estate, unincorporated organization, association or employee organization.

1.18 Plan Administrator

“Plan Administrator” means the Person, appointed by the Employer, with the plenary authority over the Employer’s Account. The Employer must, in the Adoption Agreement, and at any other time specified by the Trustee and the Trust Administrator, certify in writing to the Trustee and the Trust Administrator the name and specimen signature(s) of the Plan Administrator; no appointment or delegation under this Section 1.18 will be effective without that certification. If no Plan Administrator is appointed, the Employer will be the Plan Administrator.

1.19 Trust

“Trust” means the Multiple Employer OPEB/Pension 115 Trust, the legal entity established by the Trust Agreement to hold, invest, and disburse funds to and for the benefit of Beneficiaries.

1.20 Trust Administrative Services Agreement

“Trust Administrative Services Agreement” means the agreement in the form attached to each Adoption Agreement and executed between the Employer and the Trust Administrator which authorizes the Trust Administrator to administer the Employer’s Account.

1.21 Trust Administrator

“Trust Administrator” means Shuster Advisory Group, LLC or any successor thereof designated by the Employers under Article XII.

1.22 Trust Agreement

“Trust Agreement” or “Agreement” means this Multiple Employer OPEB/Pension 115 Trust between the Trustee and the Trust Administrator.

1.23 Trust Fund

“Trust Fund” means all assets of whatsoever kind or nature from time to time held by the Trustee pursuant to this Trust Agreement, without distinction as to income and principal.

1.24 Trustee

“Trustee” means Alta Trust Company and any duly appointed additional or successor Trustee or Trustees acting hereunder.

ARTICLE II. Establishment and Purpose of the Trust

2.01 Establishment

The Trust will become effective upon the initial contribution of money or other property acceptable to the Trustee in its sole discretion to an Employer’s Account under the Trust.

2.02 Purpose

The Trust is a multiple-employer trust arrangement established and maintained for the sole purposes of holding the assets used to fund Employers’ OPEB Obligations and Pension Obligations, and for paying each Employer’s reasonable, allocable expenses of administering the Trust. As such, the Trust is divided into separate Accounts to hold the assets of each participating Employer. Consistent with its purpose, the Trust is 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.

2.03 Exclusive Benefit

The Trust is irrevocable. The principal of the Trust, together with any earnings thereon, will be held in trust by the Trustee separate and apart from any assets of the Employer. Except as provided in Sections 9.03(b)(iii) and 14.04, all assets in each Account and all income thereon are irrevocably dedicated to, and will be used for the exclusive purpose of, making payments of OPEB Obligations or Pension Obligations, as applicable, under the OPEB Plan or Pension Plan for which the Account was established and for paying the reasonable expenses of the Employer’s participation in the Trust. At no time will the assets in any Employer’s Account be used for, or diverted to, any other purposes, including but not limited to payment of any other Employer’s OPEB Obligations or Pension Obligations.

2.04 No Diversion

Assets held in the Trust may not be used to satisfy claims of creditors of any Employer. No Beneficiary will be deemed a third-party beneficiary of this Agreement, nor will any Beneficiary have the right to compel any payment of any amount from the assets of the Trust or to enforce any duties of any party to or other entity referred to in this Agreement. Beneficiaries will not have any preferred claim, lien on, or security interest in, or any beneficial interest in any particular assets of the Trust. Beneficiaries will be entitled to receive payments of assets of the Trust only when, as, and if determined by the Employer in accordance with this Agreement. Except to the extent allowed by law, the Trust is not subject to attachment or garnishment or other legal process by any creditor of any such Beneficiary, nor will any Beneficiary have the right to alienate, anticipate, commute, pledge, encumber, or assign any Trust assets.

2.05 Superseding Effect of the Trust Agreement

To the extent there are any inconsistencies between this Trust Agreement and any provisions set forth in any Employer's OPEB Plan or Pension Plan, this Trust Agreement shall control, and its provisions shall supersede all other provisions in any such OPEB Plan or Pension Plan pertaining to the duties, responsibilities, obligations and liabilities of the Trustee. Under no circumstances shall the terms of any OPEB Plan or Pension Plan be interpreted as conferring any investment or administrative discretion on the Trustee.

ARTICLE III.

Acceptance of, Contributions to, Distributions from Trust

3.01 Acceptance of Trust

The Trustee, by affixing its signature to this Trust Agreement, accepts this Trust and agrees to act as the directed Trustee of the Trust according to the terms and conditions of this Trust Agreement, all of which the parties hereto agree, and to which the Employers and all Beneficiaries from time to time hereunder, and all those Persons claiming through or under any of them, shall be deemed to have agreed. Nothing contained in any OPEB Plan or Pension Plan, either expressly or by implication, shall be deemed to impose any powers, duties or responsibilities on the Trustee beyond those imposed by this Trust Agreement. The Trustee shall not have the authority to interpret any OPEB Plan or Pension Plan.

3.02 Contributions and Transfers

(a) **Account Assets.** Each Employer may at any time make (or cause to be made) contributions or transfers of cash or other assets acceptable to the Trustee to the Trust from any source. Neither the Trustee, the Trust Administrator, nor any Beneficiary will have any right to compel such contributions or transfers or any duty to determine whether any such contributions or transfers comply with the Employer's OPEB Plan or Pension Plan, as applicable. In addition, neither the Trustee nor the Trust Administrator is responsible for separately accounting of any contributions or transfers to the Trust or for determining the source of these amounts.

(b) **Acceptance of Contributions and Transfers.** All contributions or transfers received by the Trust, together with the income therefrom, any other increment thereon, and all

assets acquired by investment or reinvestment, shall be held, managed, and administered by the Trustee pursuant to the terms of this Trust Agreement without distinction between principal and income and without liability for the payment of interest thereon. The Trustee shall not be responsible for the collection of any contributions under or required by an OPEB Plan or Pension Plan, and the Trustee will have the responsibilities specified in this Trust Agreement only for amounts actually received by it hereunder. The Trustee shall have no power or duty to inquire whether the amount of any contributions or transfers delivered to it by an Employer is correct or complies with the terms of the OPEB Plan or Pension Plan.

3.03 Distributions

(a) Plan Administrator.

(i) Each Employer's Plan Administrator has the exclusive authority and responsibility to determine the extent to which amounts will be paid from the Employer's Account. Neither the Trust Administrator nor the Trustee will make or authorize disbursements or transfers from any Employer's Account without the explicit written direction from the Employer's Plan Administrator.

(ii) From time to time, the Plan Administrator (or the Trust Administrator, at the Plan Administrator's direction) may direct disbursements of amounts from the Employer's Combined Account for any purpose permitted under Section 3.03(a)(iii) or (iv).

(iii) Amounts under the Employer's OPEB Account may be disbursed to (A) the Plan Administrator for subsequent distribution to or for the benefit of the Employer's Beneficiaries, (B) any party providing services for the Employer's OPEB Plan, including but not limited to any insurer, third-party administrator, or other service provider, (C) the Employer's Beneficiaries themselves, or (D) the Employer as reimbursement for any OPEB Obligation amount paid or incurred by the Employer.

(iv) Amounts under the Employer's Pension Account may be disbursed to (A) the Pension Plan as contributions to the plan's qualified trust, (B) the Plan Administrator, for subsequent payment of the Employer's Pension Obligation, (C) any party providing services for the Employer's Pension Plan, including but not limited to any insurer, third-party administrator, or other service provider, or (D) the Employer as reimbursement for any Pension Obligation amount paid or incurred by the Employer.

(b) **Trustee Liability for Distributions Pursuant to Instructions.** The Trustee is not liable for any distribution made at the direction of the Plan Administrator or the Trust Administrator, and has no duty to make inquiry as to whether any such distribution is made pursuant to the provisions of the OPEB Plan or Pension Plan or any applicable law, or as to the effect of any such direction for tax purposes or otherwise. Likewise, the Trustee need not see to the application of any such distribution made to or for the benefit of a Beneficiary.

(c) **Limitations.** The Trustee shall neither be responsible for the adequacy of the Trust Fund to discharge any payments and liabilities under any OPEB Plan or Pension Plan, nor be required to make any distributions from an Employer's Account (or subaccount(s), as applicable)

in excess of the net realizable value of the Account's (or subaccount's assets) at the time of the distribution.

ARTICLE IV.

Trustee

4.01 Trustee Powers

If and to the extent directed by the Trust Administrator, the Trustee is authorized and empowered to do the following:

(a) To purchase or subscribe for securities or other property and to retain them in trust; to sell any securities or other property at any time held by it at either public or private sale for cash or other consideration or on credit at such time or times and on such terms and conditions as may be deemed appropriate; to exchange such securities or other property and to grant options for the purchase or exchange thereof, and to convey, partition or otherwise dispose of, with or without covenants, including covenants of warranty of title, any securities or other property free of all trusts; to charge the Trust for the cost of all securities purchased or received against a payment and to credit the Trust with the proceeds received from the securities sold or delivered against payment. For any trades not settled immediately upon placement, the Trustee shall have the right to sell securities from the Trust in a reasonably prudent fashion sufficient to recover any funds advanced;

(b) To oppose, or consent to and participate in, any plan of reorganization, consolidation, merger, combination or other similar plan; to oppose or to consent to any contract, lease, mortgage, purchase, sale or other action by any corporation pursuant to such plan, and to accept and retain any securities or other property issued under any such plan; to delegate discretionary power thereto and to pay and agree to pay part of its expenses and compensation and any assessments levied with respect to any such securities or other property so deposited;

(c) To assign, renew, extend or discharge or participate in the assignment, renewal, extension or discharge of any debt, mortgage or other lien, upon such terms, including a partial release, as may be deemed advisable by the Trustee, and to agree to a reduction in the rate of interest thereon or to any other modification or change in the terms thereof or of any guarantee pertaining thereto, in any manner and to any extent that may be deemed in the best interest of the Trust Fund; to waive any default, whether in the performance of any covenant or condition of any note, bond or mortgage or in the performance of any guarantee, or to enforce any such default in such manner and to such extent as may be deemed advisable; to exercise and enforce any and all rights of foreclosure and to exercise and enforce, in any action, suit or proceeding at law or in equity, any rights or remedies in respect of any debt, mortgage, lien or guarantee;

(d) To exercise all conversion and subscription rights pertaining to any securities or other property;

(e) Except as limited in Section 3.02(b), to collect and receive any and all moneys, securities or other property of whatsoever kind or nature due or owing or belonging to the Trust Fund and to give full discharge therefor;

(f) Upon the receipt of Instructions from the Trust Administrator, to exercise, personally or by general or limited power of attorney, any right, including the right to vote or grant proxies, discretionary or otherwise, appurtenant to any assets held by the Trust, and the right to participate in voting trusts with other stockholders. The Trust Administrator shall have responsibility for instructing the Trustee as to voting such shares and the tendering of such shares, by proxy or in person. In no event shall the Trustee be responsible for the voting or tendering of shares of securities held in the Trust or for ascertaining or monitoring whether or how proxies are voted or whether the proper number of proxies is received;

(g) To register any securities or other property held by it hereunder in the name of the Trustee or in the names of nominees with or without the addition of words indicating that such securities or other property are held in a fiduciary capacity, to take and hold the same unregistered or in form permitting transferability by delivery, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such securities or other property may be held in the name of the nominee of such depository with other securities deposited therein by other Persons, or to deposit or to arrange for the deposit of any securities or other property issued by the United States government, or any agency or instrumentality thereof, with a Federal Reserve bank, provided that the books and records of the Trustee shall at all times disclose that all such securities or other property are part of the Trust Fund;

(h) To settle, compromise or submit to arbitration, any claims, debts or damages due or owing to or from the Trust Fund; to commence or defend suits or legal proceedings whenever, in its judgment, any interest of the Trust Fund so requires, and to represent the Trust Fund in all suits or legal proceedings in any court of law or equity or before any other body or tribunal and to charge against the Trust Fund all reasonable expenses and attorney's fees in connection therewith;

(i) To borrow money for the purposes of the Trust Fund from others, excluding the Trustee in its corporate capacity and excluding any other party in interest;

(j) To invest and reinvest all or a part of the Trust Fund, in accordance with the Trust Administrator's Instructions, in any available investments and to dispose of all or any part of the securities or other property which may from time to time or at any time constitute the Trust Fund, in accordance with the Trust Administrator's Instructions;

(k) To register Trust Fund property in the Trustee's own name, in the name of a nominee or in bearer form, provided the Trustee's records and accounts show that such property is an asset of the Trust Fund;

(l) To exercise or dispose of any right it may have as the holder of any security, to convert the same into another security, to acquire any additional security or securities, to make any payments, to exchange any security, or to do any other act with reference thereto;

(m) To exchange any property for other property upon such terms and conditions as the Trustee may deem proper, and to give or receive money to effect equality in price;

(n) To deposit any security with any protective or reorganization committee, to delegate to that committee such power and authority as the Trustee may deem proper, and to agree

to pay out of the Trust Fund that portion of the expenses and compensation of that committee as the Trustee may deem proper;

(o) To hold that portion of the Trust Fund as necessary for ordinary administration, to transfer assets to another trust or fiduciary, pending investment Instructions, and to disburse funds in cash, without liability for interest, by depositing the same in any bank (including deposits that bear no interest or a reasonable rate of interest in a bank or similar financial institution supervised by the United States or a State, even where a bank or financial institution is the Trustee, subject to the rules and regulations governing such deposits, and without regard to the amount of any such deposit); and

(p) To retain insurance contracts that are guaranteed investment contracts.

4.02 Authority of Trustee

A third party dealing with the Trustee shall not make, or be required by any Person to make, any inquiry concerning the authority of the Trustee to take or omit any action but shall be fully protected in relying upon the certification of the Trustee that it has authority to take such proposed action. No Person dealing with the Trustee shall be required to follow the application by the Trustee of any moneys, securities or other property paid or delivered to the Trustee.

4.03 Power to Do All Necessary Acts

To the extent not inconsistent with the express provisions hereof, enumeration of any power herein shall not be by way of limitation, but shall be cumulative and construed as full and complete power in favor of the Trustee. In addition to the authority specifically herein granted, the Trustee shall have such power to do all acts as may be deemed necessary for full and complete management of the Trust Fund and appropriate to carry out the purposes of this Trust Fund, and shall further have all powers and authorities conferred on trustees by the laws of the State of South Dakota. Notwithstanding the foregoing, nothing in this Section shall impose on the Trustee any obligation or power to exercise discretion over the investment of assets of the Trust, the distribution of such assets or the interpretation of the OPEB Plan or Pension Plan.

4.04 Action by the Trustee

The Trustee may delegate ministerial acts, specifically including, but not limited to, the signing of checks, endorsement of stock certificates, production of statements and accountings provided for hereunder, execution of transfer instruments and any other document, and the signing of tax returns and governmental reports to be done by any agent of the Trustee, including without limitation, the custodian of the Trust assets.

4.05 Consultation with Counsel and Accountant

The Trustee may from time to time consult with counsel or an accountant who may also be counsel or an accountant for an Employer, and as long as the Trustee acts in conformity with the standards of Section 6.01, the opinion of such counsel or accountant with respect to legal matters or accounting matters, respectively, shall have full and complete authorization and protection in

respect of any action taken or suffered by the Trustee in good faith and in accordance with such opinion.

4.06 Returns, Reports, and Information

Except as set forth in a written agreement between the parties, the Plan Administrator shall be responsible for the preparation and filing of all returns, reports, and information required of the Trust or OPEB Plan or Pension Plan by law, including (as applicable) any information or tax returns. The Plan Administrator shall also be responsible for making any disclosures to Beneficiaries required by law regarding the relevant OPEB Plan or Pension Plan, benefits thereunder and the tax treatment of such benefits.

4.07 Acts of Prior Trustees

The assets of the Trust Fund or evidence of ownership shall be held by the Trustee under the terms of this Trust Agreement. If the assets represent amounts transferred from another trustee, the Trustee named hereunder shall not be responsible for any actions or inactions of prior fiduciaries, including the review of the propriety of any investment under the former trust; said review to be the responsibility of prior fiduciaries. The Trustee named hereunder shall not be required to examine or question in any way the administration of the Trust prior to its appointment.

4.08 Plan Assets Not Held in Trustee's Trust

The Trustee under this Trust Agreement has no duties or responsibilities for assets of an OPEB Plan or Pension Plan that are not held in this Trust.

ARTICLE V. Trust Administrator

5.01 Powers and Duties of the Trust Administrator

The Trust Administrator has sole discretion and authority to do any of the following:

- (a) At the direction of the Plan Administrator, direct distributions from the Employer's Account, including from any subaccount under the Account;
- (b) Direct distributions from the Employer's Account for the payment of the Trust Administrator's fees;
- (c) Direct the Trustee as to the investment and management of Trust assets; and
- (d) Such other acts as may be agreed to by the Employer and the Trust Administrator in the Trust Administrative Services Agreement or are necessary or appropriate to effect the intent of this Agreement.

5.02 Reliance

In the performance of its duties hereunder, the Trust Administrator is entitled to reasonably rely on, and is under no obligation to investigate Instructions or data received from the Plan Administrator, including whether the amount of contributions or transfers made to the Trust by the Employer comply with the Employer's OPEB Plan or Pension Plan. Accordingly, the Trust Administrator will not be liable for action or inaction that is caused directly or indirectly by erroneous or late Instructions or data furnished by the Plan Administrator.

5.03 Trust Administrator not Custodian of Trust Assets

The Trust Administrator shall not take possession of or act as custodian for the cash, securities or other assets of the Trust and shall have no responsibility in connection therewith.

5.04 Registered Investment Advisor

The Trust Administrator hereby represents that it is a registered investment advisor under the Investment Advisers Act of 1940. The Trust Administrator shall immediately notify every Employer and the Trustee if at any time during the term of this Agreement it is not so registered or if its registration is suspended. The Trust Administrator agrees to perform its duties and responsibilities under this Agreement with reasonable care as provided by law. The federal securities laws impose liabilities under certain circumstances on persons who are required to act in good faith. Nothing in this Agreement shall in any way constitute a waiver or limitation of any rights which the Employers, the Trust Administrator, or the Trustee may have under any federal securities laws.

5.05 Investment Advice to Other Clients

The Employers and the Trustee understand that the Trust Administrator performs investment advisory services for various other clients which may include investment companies, commingled trust funds and individual portfolios. The Employers and the Trustee agree that the Trust Administrator 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 Trust, so long as it is the policy and practice of the Trust Administrator, to the extent practical, to allocate investment opportunities to the Trust over a period of time on a fair and equitable basis relative to other clients. The Trust Administrator will not have any obligation to purchase, sell or exchange any security for the Trust 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 themselves.

5.06 Trust Administrator Separate from Employer and Trustee

The Trust Administrator, its employees, officers and representatives, shall not be deemed to be employees, agents, partners, servants, and/or joint ventures of any of the Employers or the Trustee by virtue of this Agreement or any actions or services rendered under this Agreement.

5.07 Recordkeeping

The Trust Administrator shall maintain appropriate records of all its activities hereunder.

5.08 Disclosure Statement

The Trust Administrator warrants that at least five business days before the execution of this Agreement, it has delivered to the Trustee the Trust Administrator's current Securities and Exchange Commission Form ADV, Part II. The Trustee hereby acknowledges receipt of the disclosure statement at least five business days before the execution of this Agreement.

ARTICLE VI. Trustee and Trust Administrator

6.01 Standard of Conduct and Liabilities of Fiduciaries

The Trustee, Trust Administrator, and any other fiduciary to the Trust will discharge their respective duties with respect to the Trust (i) solely in the interest of, and for the exclusive purposes of funding OPEB Obligations and Pension Obligations, maximizing the amount available for such funding, and paying reasonable expenses of administering the Trust, and (ii) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, or in accordance with such other standard as may, from time to time, be required by law, and in accordance with this Trust Agreement. The Trustee, Trust Administrator, and any other fiduciary to the Trust may not cause the Trust to engage in a transaction if it knows or should know that such transaction directly or indirectly may cause the Trust to no longer meet the requirements of Code Section 115 or other applicable law. The fiduciary standards reflected in this Section 6.01 apply to the parties hereunder according to and limited by the scope of such party's duties, as expressly described in this Trust Agreement. Neither the Trustee, Trust Administrator or other fiduciary shall have any obligation or liability with respect to a breach of this standard of conduct by another fiduciary hereunder unless such fiduciary knowingly participates in an act or omission by such other fiduciary, with knowledge that such act or omission constitutes a breach of this standard of care.

6.02 Trustee Indemnification of Trust Administrator

The Trustee, solely from its assets and not from the Trust assets, will indemnify the Trust Administrator and each of its affiliates against, and will hold them harmless from, any and all damages imposed upon or incurred by any of them by reason of, or in connection with the Trustee's or affiliate's performance (or non-performance) of its duties under this Agreement in a manner that constitutes willful misconduct or willful breach of the standard of care articulated in Section 6.01, except to the extent that such damages resulted from the Trust Administrator's or affiliate's performance (or non-performance) of its duties under this Agreement in a manner that constitutes willful misconduct or willful breach of the standard of care articulated in Section 6.01.

6.03 Trust Administrator Indemnification of Trustee

The Trust Administrator, solely from its assets and not from the Trust assets, will indemnify the Trustee and each of its affiliates against, and will hold them harmless from, any and all damages imposed upon or incurred by any of them by reason of, or in connection with the Trustee's and each of its affiliates' services under this Agreement, except to the extent that such damages resulted from the Trustee's or affiliate's performance (or non-performance) of its duties under this Agreement in a manner that constitutes willful misconduct or willful breach of the standard of care articulated in Section 6.01. The foregoing shall in no way limit or otherwise restrict any rights to indemnification which the Trust Administrator may have under any Adoption Agreement executed and delivered by the Trust Administrator and an Employer.

6.04 Survival of Indemnifications

The indemnification obligations set out in this Article VI will survive the termination of this Agreement.

ARTICLE VII. Investments

7.01 Trustee

The Trustee shall hold and administer Trust assets without distinction between principal and income.

7.02 Trust Administrator

(a) The Trust Administrator has exclusive authority and responsibility for the management and investment of Trust assets, and the Trustee is authorized and directed to comply with the written directions of the Trust Administrator concerning Trust assets. The Trust Administrator may, from time to time and in its sole discretion, allocate some or all of the cash in an Account at the end of each business day into a sweep investment fund managed by the Trust Administrator. Any amounts held in a sweep investment fund would typically be reallocated on the next business day. The Trust Administrator may not issue any such direction in violation of the terms of the Trust. The Trustee has no duty or authority to (i) review, question, approve or make inquiries as to any investment directions given pursuant to this Agreement, or (ii) determine whether investments directed by the Trust Administrator are in compliance with any applicable State laws.

(b) Each Employer hereby authorizes and directs the Trustee to pay for securities and receive payment from the sale of securities or other investment transactions arising out of Instructions of the Trust Administrator. All Instructions regarding the investment of the Trust Fund received by the Trustee from the Trust Administrator are deemed to have been authorized by the Employer.

7.03 Investment Direction

The Trust Administrator will direct the Trustee to invest the assets of each Employer's Account in any investments permitted under this Agreement.

7.04 Reliance

The Trustee may rely upon any certificate, notice, or other documentary confirmation or any Instruction issued or given by the Trust Administrator, which the Trustee reasonably believes to be genuine and to have been issued or given by the Trust Administrator. The Trustee will not be liable for the acts or omissions of the Trust Administrator or for reasonably following the Trust Administrator's Instructions. In addition, the Trustee has no duty or responsibility to take any action outside the scope of any Instruction from the Trust Administrator, or to refuse any such Instruction, unless the Trustee knows that such action or refusal would result in the Trustee itself committing a breach of fiduciary duty or participating in a breach of fiduciary duty by the Trust Administrator.

7.05 Broker Executed Investments

Transactions in investments that require execution through a broker will be executed through such broker or brokers as the Trust Administrator will select. The indicia of ownership of Trust assets will be held by the Trustee at all times, and the Trustee shall serve as sole custodian of Trust assets.

7.06 Affiliated Broker/Dealers

Neither the Trustee, the Trust Administrator, nor any affiliate of the Trustee or Trust Administrator will act as broker dealer to execute transactions, including the purchase of securities directly distributed, underwritten or issued by an affiliate of the Trustee, or otherwise provide investment services with respect to the Trust; provided, however, that the Trustee (or its affiliate) may provide ancillary non-advisory investment services with respect to the Trust, including investment of Trust assets in money market or stable value funds distributed, underwritten or issued by the Trustee (or its affiliate) to the extent these investments are permitted under this Agreement. The Trustee and the Trust Administrator will disclose any services or relationships to each Employer before the Employer's commencement of participation in the Trust and at least annually thereafter, and any such services will be provided at standard commission rates, mark-ups or concessions.

7.07 Quarterly Reports

The Trust Administrator will provide to each Employer a quarterly analysis of the performance of the investments of each Account. The asset information for such analysis will be supplied to Trust Administrator by the Trustee.

ARTICLE VIII.
The Plan Administrator and the Employer

8.01 Action by the Plan Administrator

The Trustee shall be fully protected in reasonably relying upon Instructions provided by the Employer, Plan Administrator, or Trust Administrator.

8.02 Reliance

(a) The Employer agrees that the Trustee may reasonably rely on Instructions from the Plan Administrator and the Trust Administrator, and the Employer agrees that the Trustee shall be under no duty to make an investigation with respect to any Instructions received from the Plan Administrator or the Trust Administrator.

(b) The Employer agrees that neither the Plan Administrator nor the Trust Administrator is an agent of the Trustee.

(c) The Employer may remove a Plan Administrator and designate a new representative at any time by written notice to the Trustee in a form satisfactory to the Trustee. The Employer will give the Trustee prompt written notice of any change in the identity or authority of the Plan Administrator. Removal of Person as Plan Administrator will not have the effect of canceling any Instruction that has been received by the Trustee from the removed Person prior to the date that notice of removal is received by the Trustee. Until written notice of such change is received, the Trustee may conclusively rely upon and be protected in acting on the latest identification provided to it without further inquiry or verification.

ARTICLE IX.
Accounts and Records

9.01 Records

(a) The Trustee shall maintain true, accurate, and detailed accounts of all investments, receipts, disbursements and other transactions hereunder. All accounts, books, and records relating thereto shall be open to inspection and may be audited from time to time by any person designated by the Trust Administrator during the Trustee's regular business hours as mutually agreed to in writing by the parties.

9.02 Accounting

(a) Within 60 days after the close of each calendar year, within 60 days after the removal or resignation of the Trustee, and from time to time as mutually agreed to by the Trust Administrator and the Trustee, the Trustee shall file an account with the Trust Administrator which shall show:

(i) The assets of the Trust Fund, as of the end of such period, and current value thereof; and

(ii) All investments, receipts, disbursements, and other transactions effected by it during such calendar year or other period for which such accounting is filed.

(b) The Trust Administrator may approve such accounting by notice of approval delivered to the Trustee or by failure to express objection to such accounting delivered to the Trustee within 90 days from the date upon which the accounting is delivered to the Trust Administrator. Upon the expiration of 90 days from the date of filing such account with the Trust Administrator or upon earlier specific approval thereof by the Trust Administrator, the Trustee, as between each Employer, the Plan Administrator and the Trustee, will forever released and discharged from all liability as to all items and matters included in such accounting as if settled by the decree of a court of competent jurisdiction, except with respect to any such action or transaction to which the Trust Administrator shall within such 90-day period, file written objections with the Trustee.

9.03 Accounts

(a) **Separate Accounts.** Upon the effective date of an Employer's participation in the Trust, the Trustee will establish a separate Account to which the Trustee will (i) credit all contributions or transfers from the Employer to the Trust and any income and gains attributable to those amounts, and (ii) debit all distributions, transfers from the Trust, and any losses and expenses attributable to those amounts. The Employer will have an interest only in the assets in the Employer's Account, and those assets will be available only to pay the Employer's OPEB Obligations and Pension Obligations and will not be available to pay any other Employer's obligations.

(b) **Subaccounts.** Each Employer's Account contains up to three types of subaccounts (each of which may contain one or more subaccounts): a "Combined Account," "Pension Account," and "OPEB Account". Assets under the Combined Account are available to fund the Employer's Pension Obligations or OPEB Obligations and allocable expenses of participating in the Trust. Assets under the Employer's Pension Account are available only to fund the Employer's Pension Obligation and allocable expenses of participating in the Trust. Assets under the Employer's OPEB Account are available only to fund the Employer's OPEB Obligation and allocable expenses of participating in the Trust. Contributions or transfers to an Employer's Account will be allocated to the subaccounts as follows:

(i) Contributions and transfers received by the Trust on the Employer's behalf will be allocated to the Combined Account, Pension Account or OPEB Account, or any combination of these subaccounts, as directed by the Plan Administrator.

(ii) Any contributions or transfers for which the Plan Administrator does not provide allocation directions will be held in the Combined Account. The Plan Administrator may at any time direct the allocation of amounts in the Combined Account to either the Pension Account or the OPEB Account.

(iii) Once allocated to the Pension Account or the OPEB Account, amounts under the Trust may not subsequently be transferred to any other subaccount. Notwithstanding the preceding sentence, at the Plan Administrator's direction, the Trustee will reverse any allocation

to the Pension Account or OPEB Account and deposit the funds (together with allocable earnings and losses) in one or both of the other two subaccounts, but only if the Plan Administrator notifies the Trustee in writing within 30 days after the allocation that the allocation was due to mistake of fact and provides any other documentation required by the Trustee in its sole discretion.

ARTICLE X.

Fees and Expenses

10.01 Expenses of Administration

(a) **Generally.** Subject to Section 2.04, each Employer's Account will be charged for allocable Trustee Fees, Trust Administration Fees, and any other fees specified in the Trust Administrative Service Agreement. To the extent permitted in the Trust Administrative Service Agreement and Adoption Agreement, the Employer may elect in the Adoption Agreement to instead pay such fees from the Employer's assets.

(b) **Trust Administration Fees.** "Trust Administration Fees" means the fees of the applicable investment funds and the fees for all services of the Trust Administrator specified in the Trust Administrative Services Agreement. The Trust Administrator is authorized to instruct the Trustee to disburse funds from the Account for the payment of the Trust Administration Fees to the Trust Administrator to the extent not paid by the Employer or deducted from the gross earnings of the investment funds. If and to the extent that the Trustee requests that the Trust Administrator render services to the Trust other than those to be rendered by the Trust Administrator hereunder, such additional services will be compensated separately on terms to be agreed upon between the Trust Administrator and the Trustee.

(c) **Trustee Fees.** The Trustee will be paid compensation as provided in the Employer's Adoption Agreement. Such compensation may be paid by the Employer or, upon receipt of Instructions from the Trust Administrator, Employer, or Plan Administrator, may be deducted from the Trust Fund.

(d) **Expenses.**

(i) The Trustee is authorized to disburse funds from the Trust to pay all reasonable expenses of administering the Trust, including, without limitation, any taxes payable by the Trust, insurance premiums, and any fees and expenses of legal counsel, actuaries, and accountants providing services to the Trust.

(ii) The Trustee may charge the Trust for the cost of all securities purchased or received against a payment and credit the Trust with the proceeds received from the securities sold or delivered against the payment. For any trades not settled immediately upon placement, the Trustee shall have the right to sell securities from the Trust in a reasonably prudent fashion sufficient to recover any funds advanced.

10.02 Authorization with Respect to Taxes

The Trustee may execute, as trustee, any declarations or certificates pertaining to the Trust that may be required under any tax law(s) or governmental regulation(s) now or hereafter without

prior approval of the Employer. The Trustee shall notify the Plan Administrator of any tax levied upon or assessed against the Trust Fund of which the Trustee has knowledge. If the Trustee receives no Instructions from the Plan Administrator, the Trustee may pay the tax from the Trust Fund. If the Plan Administrator wishes to contest the tax assessment, it shall give appropriate and timely instructions to the Trustee. The Trustee shall not be required to bring any legal actions or proceedings to contest the validity of any tax assessments unless the Trustee has been indemnified to its satisfaction against loss or expense related to such actions or proceedings, including reasonable attorney's fees.

ARTICLE XI.

Resignation or Removal of Trustee

11.01 Resignation

The Trustee may resign at any time by giving at least 90 days' prior notice of such resignation to the Trust Administrator, or such shorter period as the Trust Administrator may agree to in writing.

11.02 Removal

(a) The Trust Administrator may remove the Trustee (or any successor trustee) upon 60 days' prior written notice to the Trustee, which notice may be waived in writing by the Trustee.

(b) Additionally, with approval of at least two-thirds of the participating Employers, the Employers may instruct the Trust Administrator in writing to remove the Trustee (or any successor trustee) upon 60 days' prior written notice to the Trustee, which notice may be waived in writing by the Trustee, and to replace the Trustee with a corporate Trustee satisfactory to the Trust Administrator in its sole judgment.

11.03 Appointment of Successor Trustee

(a) Upon notice of the Trustee's resignation or removal, the Trust Administrator shall promptly designate a successor corporate Trustee qualified to act as the Trustee of the Trust under applicable state law, such resignation or removal to be effective upon acceptance of appointment by such successor corporate Trustee.

(b) If the Trust Administrator does not designate a successor corporate Trustee, or if a successor corporate Trustee designated by the Trust Administrator has not accepted its appointment within 60 days after the Trustee gives notice of its resignation or receives notice of removal, either the Trustee (at the expense of the Trust) or the Trust Administrator (at its expense) may apply to any court of competent jurisdiction for appointment of a successor.

11.04 Transfer of Assets to Successor Trustee

Upon acceptance of such appointment by a successor Trustee, the Trustee shall assign, transfer, pay over and deliver the assets then constituting the Trust Fund to the successor Trustee. The Trustee is authorized, however, to reserve such reasonable sum of money, as to it may seem advisable, to provide for any sums chargeable against the Trust Fund for which it may be liable,

or for its fees and expenses in connection with the settlement of its account or otherwise, and any balance of such reserve remaining after payment of such fees and expenses shall be paid over to the successor Trustee. If the reserve is not sufficient for all amounts otherwise payable hereunder, the resigning or removed Trustee shall be entitled to reimbursement for any deficiency from the successor Trustee and the Employer, which shall be jointly and severally liable therefor. Each, successor Trustee shall succeed to the title of all securities or other property then held in the Trust Fund and vested in its predecessor without the signing or filing of any further instrument, but any resigning or removed Trustee shall execute all documents and do all acts necessary to vest such title of record in any successor Trustee. The terminating Trustee shall transfer all property of the Trust Fund then held by it to such successor Trustee. The terminating Trustee may require as a condition of making such transfer that the Employer provide the Trustee with an indemnification against any losses arising from the replacement of the Trustee.

11.05 Terminating Trustee's Accounting

Within 60 days after the transfer to the successor Trustee, the terminating Trustee shall provide the Trust Administrator with an accounting in the form and manner prescribed for the annual account by Article IX and the terminating Trustee shall be compensated for such accounting as specified in the relevant Adoption Agreements. Unless the Trust Administrator files written objections with the Trustee within 90 days after such account has been mailed or otherwise delivered, the account shall be deemed to have been approved by the Trust Administrator.

11.06 Changes in Organization of Trustee

Any corporation, banking association or trust company into which a corporate Trustee may be merged, converted or with which it may be consolidated, or any corporation, banking association, or trust company, resulting from any merger, reorganization or consolidation to which a corporate Trustee may be a party, or any corporation, banking association or trust company to which all or substantially all of the trust business of a corporate Trustee may be transferred shall be the successor of the corporate Trustee hereunder without the execution or filing of any instrument or the performance of any other act and with the same powers and duties as conferred upon the Trustee hereunder. In any such event, it shall not be necessary for the Trustee or any successor Trustee to give notice thereof to any person, and any requirements, statutory or otherwise, that notice shall be given is hereby waived.

11.07 Trust Administrator Bankruptcy

(a) If the Trust Administrator becomes insolvent, files for or becomes subject to bankruptcy or a similar proceeding in state or federal court, the Trust Administrator will notify the Trustee in writing as soon as possible. The notification will include confirmation of the Person (s) who will direct the Trustee.

(b) Notwithstanding any provision hereof to the contrary, in the case of bankruptcy, insolvency, or dissolution of the Trust Administrator, the Trustee will have the right to petition a court of competent jurisdiction to appoint a new Trustee, the costs of such action being payable from the Trust Fund.

(c) If the Trustee receives notice of the Trust Administrator's bankruptcy, insolvency or dissolution (either by the Trust Administrator or a court of competent jurisdiction), any fees and other expenses relating to the provision of services under this Trust Agreement (whether current or overdue) may be immediately deducted from the Trust Fund.

ARTICLE XII.

Resignation or Removal of Trust Administrator

12.01 Resignation

The Trust Administrator may resign at any time upon 90 days' prior written notice to each of the Employers, which notice may be waived in writing by the Employers.

12.02 Removal

With the approval of at least two-thirds of the participating Employers, the Employers may remove the Trust Administrator upon 90 days' prior written notice to the Trust Administrator and the Trustee, which notice may be waived by the Trust Administrator.

12.03 Designation of Successor Trust Administrator

Upon notice of the Trust Administrator's resignation, the Employers will promptly designate a successor Trust Administrator qualified to act as the Trust Administrator of the Trust under applicable state law, such resignation to be effective upon acceptance of appointment by such successor Trust Administrator. The Employers will not remove the Trust Administrator unless Employers have designated such a successor Trust Administrator who shall have agreed with Employers and the Trustee to act as the Trust Administrator under an agreement substantially similar to this Agreement.

12.04 Designation of Successor Trustee

Upon notice of the Trustee's resignation or removal, the Trust Administrator shall promptly designate a successor corporate Trustee qualified to act as the Trustee of the Trust under applicable state law, such resignation or removal to be effective upon acceptance of appointment by such successor corporate Trustee.

12.05 Compensation Pending Appointment of Successor

Until a successor Trust Administrator is appointed and assumes its duties as the Trust Administrator under this Agreement, the Trust Administrator shall be entitled to compensation for its services in accordance with Section 10.01(b).

12.06 Merger, Conversion, Consolidation or Sale of Trust Administrator

Any company into which the Trust Administrator may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trust Administrator may sell or transfer all or substantially all of its investment advisory business, shall be, with the prior

consent of Employers in the manner set forth in Section 14.03(b), the successor to such Trust Administrator.

12.07 Successor Trust Administrator; No Duty to Investigate

A successor corporate Trustee shall have no duty to audit or otherwise inquire into the acts or transactions of its predecessor.

ARTICLE XIII. Amendment of Trust

With the approval of at least two-thirds of the Employers then participating in the Trust, the Trust Administrator may amend the Trust; provided, however, that no amendment may: (a) cause any assets held in any Employer's Account to be used for or diverted to any purpose other than for the exclusive purposes of funding the Employer's OPEB Obligations or Pension Obligations, as applicable, or defraying the reasonable expenses of administering the Account; (b) eliminate the requirement that none of the assets held in any Employer's Account revert to the Employer prior to the satisfaction of all OPEB Obligations or Pension Obligations (as applicable) under the OPEB Plan or Pension Plan for which the Account was established; or (c) affect the Trustee's duties, responsibilities, rights, or liability or potential liability under this Trust Agreement, unless the Trustee provides advance written consent to such amendment.

ARTICLE XIV. Participation

14.01 Eligibility

Only public agencies may become participating Employers in the Trust. For this purpose, a public agency means a state, political subdivision of a state, or an entity whose income is excludible from gross income under Section 115 of the Code.

14.02 Commencement of Participation

A public agency may become a participating Employer in the Trust by furnishing the Trust Administrator with the following: (i) an executed Adoption Agreement, (ii) an executed Trust Administrative Services Agreement, (iii) a certified copy of a resolution, minutes, or other documentary evidence of the Employer's governing body approving the adoption of the Agreement, and (iv) any other documentation as the Trust Administrator may require. The public agency will become a participating Employer upon the Trust Administrator's written acceptance of the documents described in the preceding sentence.

14.03 Termination of Participation

(a) An Employer may elect in writing to withdraw from the Trust by filing such election with the Trust Administrator and the Trustee at least 30 days before the effective date of the withdrawal. As soon as administratively practicable after the effective date, the Trustee will segregate the withdrawing Employer's Account and transfer the assets in such Account to a trust established by agreement between the Employer and a successor trustee, but only if the Employer

certifies in writing to the Trust Administrator that the trust satisfies the requirements of Section 115 of the Code.

(b) In the event the Trust Administrator contemplates an assignment of this Agreement in connection with a change of control or otherwise (collectively, an “assignment”), the Trust Administrator will provide each Employer with written notice at least 60 days before the effective date of such assignment. Upon receipt of such notice, each Employer may elect to terminate participation and withdraw from the Trust at any point prior to the effective date of the assignment as set forth in the notice. If an Employer does not provide notice of its desire to terminate within the 60-day notice period, the Employer’s consent to the contemplated assignment will be implied.

(c) If the Employer has a Combined Account and both its Pension Obligation and OPEB Obligation have terminated, Section 14.04(b) will apply. If the Employer has an OPEB Account and its OPEB Obligation has terminated, Section 14.04(c) will apply. If the Employer has a Pension Account and its Pension Obligation has terminated, Section 14.04(d) will apply. An Employer’s Pension Obligation or OPEB Obligation will be deemed terminated for these purposes upon the Trust Administrator’s receipt of a certified copy of a resolution, minutes, or other documentary evidence of the Employer’s governing body approving of the respective termination.

(d) Each Employer agrees to immediately notify the Trust Administrator upon receipt of a determination from the Internal Revenue Service that has the effect of rendering the Employer’s Account ineligible for the tax exemption under Section 115 of the Code, such as any determination that the Employer is not a public agency. In such a case, as soon as administratively practicable after the Trust Administrator notifies the Trustee of the Internal Revenue Service’s determination, the Trustee will segregate and place the Employer’s Combined Account, OPEB Account, and Pension Account (as applicable) in a separate trust established for the exclusive purpose of funding the Employer’s OPEB and Pension Obligation, OPEB Obligation only, or Pension Obligation only, respectively.

14.04 Termination of Employer’s Account

(a) An Employer’s Account will automatically terminate upon the termination of the Employer’s participation in the Trust and the transfer of the assets in the Employer’s Account under Section 14.03.

(b) If an Employer has a Combined Account and maintains an OPEB Plan or Pension Plan, but not both, Section 14.04(b) or (c) (as applicable) will apply to the assets in the Combined Account. If the Employer maintains both an OPEB Plan and Pension Plan, the Trustee will continue to maintain, and will have all of the powers and duties under this Agreement with respect to, the Employer’s Combined Account until the Employer’s OPEB Obligation under its OPEB Plan and Pension Obligation under its Pension Plan are fully satisfied. Any assets remaining in the Employer’s Combined Account after both such obligations are fully satisfied will be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

(c) If an Employer’s OPEB Plan terminates, the Trustee will continue to maintain, and will have all of the powers and duties under this Agreement with respect to, the Employer’s OPEB

Account until the Employer's OPEB Obligation under its OPEB Plan is fully satisfied. Any assets remaining in the Employer's OPEB Account after its OPEB Obligation is fully satisfied will be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

(d) If an Employer's Pension Plan terminates, the Trustee will continue to maintain, and will have all of the powers and duties under this Agreement with respect to, the Employer's Pension Account until the Employer's Pension Obligation under its Pension Plan is fully satisfied. Any assets remaining in the Employer's Pension Account after its Pension Obligation is fully satisfied will be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

14.05 Reversion.

Neither the Trust Administrator nor the Employers nor any entity related to any of them will have any beneficial interest in the Trust or receive any amounts upon termination of the Trust or at any other time, except as provided in Sections 9.03(b)(iii) and 14.04.

ARTICLE XV. Termination of Trust

15.01 Termination of Trust Fund

The Trust may be terminated by the unanimous agreement of all Employers, which action must be in writing and delivered to the Trustee and Trust Administrator.

15.02 Liquidation of Trust

Upon termination of the Trust, the Trust will continue to exist, and the Trust Administrator and the Trustee will continue to have all powers provided in this Agreement as are necessary or desirable for the orderly liquidation and distribution of Trust assets in accordance with the provisions hereof until all Trust assets have been distributed. The Trustee will distribute assets remaining in each Employer's Account at the direction of the Trust Administrator in the following order of priority: (1) payment of reasonable administrative expenses (including taxes and termination costs) of the Trust, (2) payment of the OPEB Obligations and Pension Obligations currently payable under the Employer's OPEB Plan and Pension Plan, as applicable, and (3) payment to a trust that satisfies the requirements of Section 115 of the Code and any other applicable law. .

Until the final distribution of the Trust assets, the Trustee shall continue to have all the powers provided under this Trust Agreement that are necessary or desirable for the orderly liquidation and distribution of the Trust Fund. In no instance upon any termination or discontinuance and subsequent distribution may the Trust Fund or any part of it be used for, or diverted to, purposes other than those described in the preceding paragraph.

ARTICLE XVI.

Miscellaneous

16.01 Applicable Law

The powers and duties of the Trustee and all questions of interpretation, construction, operation, and effect of this Trust Agreement shall be governed by the laws of the State of South Dakota. All contributions to the Trustee shall be deemed to take place in the State of Colorado, and the Trustee shall be liable to account in the courts of that state.

16.02 Evidence

Evidence required of anyone under this Trust Agreement may be by certificate, affidavit, document, facsimile, E-mail or other form which the person acting in reliance thereon considers to be pertinent and reliable, and to be signed, made, or presented by the proper party.

16.03 Notices

All communications under this Agreement must be in writing and will be deemed to have been duly given (1) on the date of receipt if served personally or by confirmed facsimile or other similar communication; (2) on the first business day after sending if sent for guaranteed next day delivery by a next-day courier service; or (3) on the fourth business day after mailing if mailed to the party or parties to whom notice is to be given by registered or certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to an Employer:	At the address listed for such purpose on the Employer's Adoption Agreement
If to Trust Administrator:	Shuster Advisory Group, LLC 225 S. Lake Ave, #600 Pasadena, CA 91101 Attention: Mark Shuster, Managing Member
If to Trustee:	Alta Trust Company 9380 Station Street, Suite 450 Lone Tree, CO 80124 Attention: Adam Ponder, CEO

16.04 Limitation on Claims

No claim may be made by the Employer against the Trustee for any lost profits or any special, indirect or consequential damages in respect of any breach or wrongful conduct in any way related to this Trust Agreement. The preceding sentence does not apply to any losses suffered by the Employer's Account due to the Trustee's breach of the standard of care articulated in Section 6.01.

16.05 Severability of Provisions

Should any provision of this Trust Agreement be held invalid or illegal for any reason, such illegality or invalidity shall not affect the remaining provisions of this Trust Agreement, but shall be fully severable, and the Trust Agreement shall be construed and enforced as if such illegal or invalid provision had never been inserted herein.

16.06 Construction of Trust Agreement

If and whenever the Trustee be, in good faith, in doubt as to the proper construction or interpretation of this Trust Agreement, or any other question that may arise during the administration of the Trust herein created, the Trustee is authorized to resolve all such doubts and questions in such manner as it may deem proper, without the necessity of resorting to a court for construction or instructions, and all decisions so made shall be binding and conclusive on all persons ever interested hereunder. In addition, the Trustee may apply to the Plan Administrator for Instructions, directions, authorizations or information, and the Trustee may demand assurances satisfactory to it that any action that it is directed to take will not adversely affect the tax exemption of the Trust; provided, however, that no such assurances shall be required if, in the opinion of counsel (which counsel may also be counsel for the Employer), such action does not adversely affect the tax exemption of the Trust. This Trust Agreement shall be binding upon all persons who are ever entitled to such benefits hereunder, their heirs, executors, administrators and legal representatives, and upon all Employers and their successors, and upon the Trustee and its successors.

16.07 Spendthrift Provisions

No Beneficiary shall have any right to assign, transfer, appropriate, encumber, commute or anticipate his interest in the Trust Fund, or any payments to be made hereunder, and no benefits or payments, rights, or interests of any such person of any kind or nature, shall be in any way subject to any legal or equitable process or writ by way of levy, garnishment, execution or attachment for payment of any claim against any such person, nor shall any such person have any right of any kind whatsoever with respect to the Trust Fund, or any estate or interest therein, or with respect to any other property or rights, other than the right to receive such distributions as are lawfully made out of the Trust Fund, as and when the same, respectively, are due and payable, under the terms of this Trust Agreement. The Trustee shall not recognize any attempted alienation or encumbrance of the right or interest hereunder of any Beneficiary. Neither the Trust Fund nor any benefits hereunder shall be liable for or subject to the debts, contracts, liabilities, engagements, or torts of any person to whom such benefits or funds are payable, nor shall the Trust Fund or any benefits hereunder be considered an asset of such person in the event of his bankruptcy.

16.08 Title of Trust Assets

The legal and equitable title and ownership of all assets at any time constituting a part of the Trust Fund shall be and remain with the Trustee, and no Beneficiary will have any legal or equitable estate therein, save and except that a Beneficiary shall be entitled to receive distribution as and when lawfully made under the terms hereof. Notwithstanding anything to the contrary, the

Trust Fund will be held by the Trustee as title holder only. A Person (or Persons) other than the Trustee will hold custody or possession of the Trust Fund.

16.09 Rights Determined from Entire Instrument

This Trust Agreement embodies the entire agreement and understanding of the parties relating to the subject matter hereof. This Trust Agreement, for convenience only, has been divided into Articles and Sections, but the rights, powers, duties, privileges, and other legal relationships shall be determined from this Trust Agreement as an entirety and without regard to the division into Articles and Sections or to the headings prefixing such Sections.

16.10 Waiver

No waiver by either party of any failure or refusal to comply with an obligation hereunder shall be deemed a waiver of any other obligation hereunder or any subsequent failure or refusal to comply with any other obligation hereunder.

16.11 Word Usage

Whenever appropriate, words used in this Trust Agreement in the singular may mean the plural, the plural may mean the singular, and the masculine may mean the feminine. The words “herein,” “hereof,” “hereto” and “hereunder” shall refer to this Trust Agreement.

16.12 Assignment

This Trust Agreement, and any of the rights and obligations hereunder, may not be assigned by the Employer without the prior written consent of the other party, and such consent may be withheld in any such party’s sole discretion. The Trustee may assign this Trust Agreement in whole or in part, and any of its rights and obligations hereunder without the consent of the Employer, provided notice of such assignment is sent to the Employer at least 30 days prior to the effective date of any such assignment. All provisions in this Trust Agreement shall extend to and are binding upon the parties hereto and their respective successors and permitted assigns.

16.13 Force Majeure

The Trustee may delay the processing of any transaction provided for hereunder due to a Force Majeure.

16.14 Complete Agreement

This Trust Agreement and any schedule of fees provided to the Trustee by the Employer or the Plan Administrator embody the entire agreement and understanding of the parties relating to the subject matter hereof.

16.15 Taxes

The Employer shall bear all taxes (inclusive of sales and use taxes), duties, levies, and other similar charges (and any related interest and penalties), however designated, imposed as a result

of the receipt of services rendered under this Agreement, including but not limited to any tax which the Employer is required to withhold or deduct from payments to the Trustee, except:

(i) Any tax imposed upon the Trustee in a jurisdiction outside the United States if such tax is allowable as a credit against U.S. federal income taxes of Trustee; and

(ii) Any income tax imposed upon the Trustee by the United States or any governmental entity within the United States.

In order for the exception contained in (i) to apply, the Employer must furnish the Trustee with such evidence as may be required by the United States taxing authorities to establish that such tax has been paid so that the Trustee may claim the credit. The fees to be charged by the Trustee to the Employer under this Agreement, depending on the facts and circumstances of the particular tax jurisdiction, may include Value Added Tax ("VAT"), Goods and Services Tax ("GST") and other similar taxes (collectively, "VAT"). Where the Trustee is obligated to report and pay VAT with respect to services provided under this Agreement, the Employer agrees to be invoiced by the Trustee for the VAT at the applicable prevailing VAT rate.

16.16 Data

Notwithstanding anything in this Agreement to the contrary, aggregated and/or statistical data shall not be considered Confidential Information provided that any such data does not specifically identify any of Employer's confidential information. The Trustee may share the Employer's data, Personal Information and confidential information among the Trustee's related companies so long as the same protective provisions contained in Section 16.17 are followed by every entity to which disclosure is made.

16.17 Confidentiality

The Trustee and the Trust Administrator and each Employer (by execution of an Adoption Agreement) agree to the confidentiality requirements set forth in this Section 16.17. Each of Trustee and Trust Administrator anticipates that it may provide information to the other and to Employers regarding its operations and services that it deems to be confidential and that Employers may provide information they deem to be confidential, including personal information about Participants, to the Trustee and/or Trust Administrator. To the extent the Trustee, the Trust Administrator and Employers receive such information (a "Receiver") from another party (the "Provider"), each Receiver agrees to maintain any and all such information strictly confidential and shall not, without the Provider's prior written consent, disclose such information in any manner whatsoever, in whole or in part, and shall not duplicate, copy or reproduce such information in any manner whatsoever, except in accordance with the terms of this Agreement.

(a) Notwithstanding the preceding paragraph, the Receiver may use the Information as reasonably required to carry out the purposes of this Agreement and the information may be disclosed by the Receiver:

(i) To the employees, agents and consultants of the Employer (including the Plan Administrator) in connection with Receiver's performance or use of the services provided under this Agreement, as applicable;

(ii) To auditors, counsel, and other representatives of the Employer and Plan Administrator for the purpose of providing assistance to the Receiver in the ordinary course of Receiver's performance or use of the services, as applicable;

(iii) If legally obligated or compelled to disclose any of the information in order to perform its obligations or under a valid court or regulatory order; iv. If the information is publicly available prior to or subsequent to its disclosure to the Receiver;

(iv) If the Receiver can show that the information was in the possession of the Receiver, or any affiliate at the time of disclosure and was not acquired, directly or indirectly, under any obligation of confidentiality to the Provider; or

(v) If the information is independently acquired or developed by the Receiver without violation of its obligations hereunder.

(b) Upon the termination of this Agreement for any reason, the parties shall return to each other, or destroy, any and all copies of information of the other in their possession, except for any copies reasonably required to maintain such party's customary archives or computer back-up procedures, and as otherwise required by applicable law, rule or regulation. Each party agrees that it will implement and maintain commercially reasonable measures to protect the security, confidentiality and integrity of nonpublic information and provide the Providers Employer with information regarding such security measures upon the reasonable request.

(c) A breach of any provision of Section 16.17 or of Section 16.18 of this Agreement may cause the Trustee irreparable injury and damage and therefore may be enjoined through injunctive proceedings, in addition to any other rights or remedies which may be available to such party, at law or in equity. Notwithstanding the provisions of Article VI, any proceeding brought by the Trustee to seek relief under this provision shall be brought in a federal or state court of competent jurisdiction in Los Angeles, California.

16.18 USA Patriot Act Notification

The following notification is provided to Employer pursuant to Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the Employer: When Employer opens an account, if the Employer is an individual, the Trustee will ask for the Employer's name, taxpayer identification number, residential address, date of birth, and other information that will allow the Trustee to identify Employer, and, if Employer is not an individual, Trustee will ask for the Employer's official name, taxpayer identification number, business address, and other information that will allow the Trustee to identify the Employer. The Trustee may also ask, if the Employer is an individual, to see a valid driver's license or other identifying documents, and, if the Employer is not an individual, to see the Employer's legal organizational documents or other identifying documents.

16.19 Execution in Counterparts

This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original and no other counterpart need be produced. Telephonic or electronic facsimile copies of original signatures, writings, or initials on this Trust Agreement shall be as valid as the original signatures, writings, or initials.

IN WITNESS WHEREOF, the parties have caused this Trust Agreement to be executed by their duly authorized officers effective as of the date and year first written above.

ALTA TRUST COMPANY
As Trustee


By _____

CEO
Title _____

10/1/2021
Date _____

SHUSTER ADVISORY GROUP, LLC,
As Trust Administrator


By Mark Shuster _____

Managing Partner
Title _____

9/29/21
Date _____

**ADOPTION AGREEMENT
FOR THE
MULTIPLE EMPLOYER PENSION 115 TRUST**

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
ARTICLE 1 EMPLOYER INFORMATION	1
ARTICLE 2 PLAN INFORMATION.....	1
ARTICLE 3 TRUST ADMINISTRATIVE SERVICES	2
ARTICLE 4 INVESTMENTS.....	2
ARTICLE 5 TRUST FEES AND EXPENSES	2
ARTICLE 6 REPRESENTATIONS AND WARRANTIES	2
ARTICLE 7 STANDARD OF CARE AND INDEMNIFICATION	3
ARTICLE 8 AMENDMENT	4
ARTICLE 9 NO GUARANTEE OF INVESTMENT RESULTS.....	4
ARTICLE 10 ADOPTION OF TRUST.....	4
EXHIBIT A.....	A-1
EXHIBIT B.....	B-1
EXHIBIT C	C-1

INTRODUCTION

By executing this Adoption Agreement, the Employer named in Article 1 of this Adoption Agreement hereby adopts and agrees to be bound by the terms of the Multiple Employer Pension 115 Trust (the "Trust"), a copy of which is attached as Exhibit A. To the extent there is a conflict between this Adoption Agreement and the Trust, the Trust will control. Unless otherwise specified below, initially capitalized terms used in this Adoption Agreement are defined in the Trust.

ARTICLE 1

EMPLOYER INFORMATION

1.1 Employer's Name, Address, and Telephone Number

(a) Name: City of Oxnard

(b) Address: 300 West Third Street, Oxnard CA 93030

(c) Telephone: 805-385-7457

1.2 Employer's Taxpayer Identification Number: 95-6000756

ARTICLE 2

PLAN INFORMATION

2.1 Plan Names:

OPEB Plan(s): N/A

Pension Plan(s): City of Oxnard Pension Stabilization Trust Account

(Each a "Plan" and collectively, the "Plans")

2.2 Employer-designated: Plan Administrator's Name, Title, Address, and Telephone Number:

(a) Title: Alexander Nguyen, City Manager

(b) Address: 300 West Third Street, Oxnard CA 93030

(c) Telephone: 805-385-7457

ARTICLE 3

TRUST ADMINISTRATIVE SERVICES

As a condition of the Employer's participation in the Trust, the Employer and the Trust Administrator have executed the Trust Administrative Services Agreement attached as Exhibit B.

ARTICLE 4

INVESTMENTS

The Employer hereby directs the Trust Administrator to direct the Trustee to invest the assets in the Employer's Account in accordance with the investment strategy and any investment policy mutually agreed to by the Employer and the Trust Administrator.

ARTICLE 5

TRUST FEES AND EXPENSES

- 5.1 Trustees Fee will be equal to **0.02%** (annual maximum fee per plan is \$5,000). Other fees, including Trust Administration Fees are specified in Section 2.1 of the Trust Administrative Services Agreement. Please refer to Section 2.1 of the Trust Administrative Services Agreement for further information about payment of fees and expenses.
- 5.2 Method of Payment. Unless the Employer otherwise elects below, the Trust Administration Fees (as defined in Section 10.01(b) of the Trust), Trustee Fees (as defined in Section 10.01(c) of the Trust), and any other reasonable fees and expenses of administering the Employer's Account will be paid from the Employer's Account. In lieu of payments from its Account, the Employer hereby elects to pay the following amounts:
- ☐ Trust Administration Fees
 - ☐ Trustee Fees
 - ☐ All expenses of the Employer's Account other than fees
 - ☐ Other (please insert description):

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

- 6.1 The Employer hereby represents and warrants that each of the following statements is true and correct to the best of its knowledge:

- (a) The Employer is a state, a political subdivision of a state or another public agency whose income is excludable from gross income under section 115 of the Code that is established and maintained under the laws of the [State/Commonwealth] of California.
- (b) The Employer has established and maintains one or more Plans the exclusive purpose of each is to provide retirement benefits to its former employees.
- (c) The exclusive purpose of the Employer's participation in the Trust is to fund the Pension Obligation under the Employer's Plans.
- (d) The Employer's participation in the Trust for the purpose of funding, as applicable, the Pension Obligation, under the Employer's Plans is authorized under the laws of the [State/Commonwealth] of California.
- (e) The Employer's Plans do not permit participants to direct or otherwise exercise in any manner, whether direct or indirect, control over the investment of their accounts or benefits accrued under the Plans.
- (f) The Employer has received copies, and has read and understands the terms, of the Trust.

ARTICLE 7

STANDARD OF CARE AND INDEMNIFICATION

- 7.1 Standard of Care. The Trustee and the Trust Administrator must discharge their duties in accordance with the standard of care set forth in Section 6.01 of the Trust.
- 7.2 Employer Indemnification of Trustee. The Employer, from its own funds and not from any assets of the Trust, agrees to indemnify the Trustee and each of its affiliates against, and will hold them harmless from, any and all loss, claims, liability, and expense, including cost of defense and reasonable attorneys' fees, imposed upon or incurred at any time by any of them by reason of or in connection with the performance of the Trustee's services under this Agreement, except to the extent such damages resulted from the Trustee's or affiliate's performance (or non-performance) of its duties under the Trust in a manner that constitutes willful misconduct or willful breach of the standard of care articulated in Section 6.01 of the Trust.
- 7.3 Employer Indemnification of Trust Administrator. Employer, from its own funds and not from any assets of the Trust, agrees to indemnify the Trust Administrator and each of its affiliates against, and will hold them harmless from, any and all damages imposed upon or incurred by any of them by reason of, or in connection with its services under the Trust or the Trust Administrative Services Agreement, except to the extent that such damages resulted from the Trust Administrator's or affiliate's performance (or non-performance) of its duties under the Trust or the Trust Administrative Services Agreement in a manner that constitutes willful misconduct or willful breach of the standard of care articulated in Section 6.01 of the Trust.

ARTICLE 8

AMENDMENT

The Employer understands and agrees that the Trust may be amended from time to time by the Trust Administrator with the approval of two-thirds of the Employers then participating in the Trust.

ARTICLE 9

NO GUARANTEE OF INVESTMENT RESULTS

The Employer understands and acknowledges that investments in the Trust involve risk and that there is no guarantee of investment performance or other performance of the Trust, including but not limited to custodians, depositories, or counterparties to investment strategies of the Trust.

ARTICLE 10

ADOPTION OF TRUST

By executing this Adoption Agreement, the Employer hereby adopts and agrees to be bound by the terms of the Trust and hereby approves, ratifies and confirms the appointment of Alta Trust Company as the Trustee and Shuster Advisory Group, LLC as the Trust Administrator as of the effective date of this Adoption Agreement. This Adoption Agreement and the Trust Agreement are effective on the 6th day of May, 2025 and expires on May 6, 2028, unless extended. The Employer shall have the option to extend the agreement for (2) two consecutive (1) one-year periods.

EMPLOYER:
CITY OF OXNARD
Agency Name

By: _____

Its: _____

Date: _____

ACCEPTED:
TRUST ADMINISTRATOR
SHUSTER ADVISORY GROUP, LLC

By: _____

Its: _____

Date: _____

ACCEPTED:

TRUSTEE
ALTA TRUST COMPANY

By: _____

Its: _____

Date: _____

By: _____

Its: _____

Date: _____

EXHIBIT A
TRUST

A-1

EXHIBIT B
TRUST ADMINISTRATIVE SERVICES AGREEMENT

B-1

EXHIBIT C

PLAN ADMINISTRATOR: SPECIMEN SIGNATURE

TRUST ADMINISTRATIVE SERVICES AGREEMENT

This agreement ("Agreement") is made this 6th day of May, 2025, by and between CITY OF OXNARD (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 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 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 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 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.

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. 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;
- 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.):	0.12%

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 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. 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 agrees to perform its duties and responsibilities under this Agreement with reasonable care. 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. **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.
7. **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 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 gross 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.
8. **Term of Agreement.** The term of this Agreement will commence 6 May, 2025 and expire on May 5, 2028, unless extended. The Employer shall have the option to extend the agreement for (2) two consecutive (1) one-year periods. Either party may terminate

this Agreement at any time by giving 60 days' written notice to the other party of its intent to terminate.

9. **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.
10. **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.
11. **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.
12. **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.
13. **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.
14. **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.

15. **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.
16. **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.
17. **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.
18. **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(l) 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. Any officer of the Trust Administrator has the authority to exercise any of the rights of the Trust Administrator under this Agreement.
19. **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 Oxnard
300 West Third Street
Oxnard, CA 93030
Attn: City Manager

Trust Administrator's Address:

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

- 20. 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 Los Angeles, 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 securities arbitration rules then in effect of the American Arbitration Association.
- 21. 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 state of California.
- 22. 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.
- 23. 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.
- 24. 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

By: _____

Its: _____

EMPLOYER
City of Oxnard

By: _____

Its: _____

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

This agreement (“Agreement”) is entered into between **Shuster Advisory Group, LLC** (“SHUSTER”), a California limited liability company, and **City of Oxnard** (“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 will commence May 6, 2025 and expire on May 6, 2028, unless extended. The EMPLOYER shall have the option to extend the agreement for (2) two consecutive (1) one-year periods.
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 C.
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 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 agrees to take reasonable steps to protect Private Participant Information and Plan Investment Data in its possession;
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;
SHUSTER shall have no liability in the event of a 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.** Either party may terminate this Agreement upon 30 days prior written notice to the other party. 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. **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.

11. **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.
12. **Assignability.** This Agreement is not assignable by either Party hereto without the prior written consent of the other Party.
13. **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.
14. **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.
15. **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.
16. **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.
17. **Applicable Law; Forum.** 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.
18. **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 Pasadena, Los Angeles 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.
19. **Amendment Process.** The Agreement may be modified, by written agreement of both EMPLOYER and SHUSTER.

20. **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 Oxnard	Tax ID# 95-6000756		
Plan Name 1 City of Oxnard Pension Stabilization Trust Account	Type of Plan ☐ OPEB Plan ☒ Pension Plan ☐ Other: _____		
Plan Name 2	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Plan Name 3	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Plan Name 4	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Plan Name 5	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Mailing Address 300 West Third Street	City Oxnard	State CA	Zip Code 93030
Phone 805-385-7457	Email (for purposes of notice/electronic delivery) alexander.nguyen@oxnard.org		
Legal Address (☒ 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 select the initial investment options within the Plan(s).
3. SHUSTER will periodically review the investments within the Plan(s) and shall be responsible for making additions/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 options. Reports to include: Market Overview, In-Depth Portfolio Summary, Plan Asset Allocation Analysis and Fund Performance Comparison to the Index.
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 0.12% (12 basis points) per annum, charged as 0.01% 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.

**ADOPTION AGREEMENT
FOR THE
MULTIPLE EMPLOYER OPEB 115 TRUST**

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
ARTICLE 1 EMPLOYER INFORMATION	1
ARTICLE 2 PLAN INFORMATION.....	1
ARTICLE 3 TRUST ADMINISTRATIVE SERVICES	2
ARTICLE 4 INVESTMENTS.....	2
ARTICLE 5 TRUST FEES AND EXPENSES	2
ARTICLE 6 REPRESENTATIONS AND WARRANTIES	2
ARTICLE 7 STANDARD OF CARE AND INDEMNIFICATION	3
ARTICLE 8 AMENDMENT	4
ARTICLE 9 NO GUARANTEE OF INVESTMENT RESULTS.....	4
ARTICLE 10 ADOPTION OF TRUST.....	4
EXHIBIT A.....	A-1
EXHIBIT B.....	B-1
EXHIBIT C	C-1

INTRODUCTION

By executing this Adoption Agreement, the Employer named in Article 1 of this Adoption Agreement hereby adopts and agrees to be bound by the terms of the Multiple Employer OPEB/Pension 115 Trust (the "Trust"), a copy of which is attached as Exhibit A. To the extent there is a conflict between this Adoption Agreement and the Trust, the Trust will control. Unless otherwise specified below, initially capitalized terms used in this Adoption Agreement are defined in the Trust.

ARTICLE 1

EMPLOYER INFORMATION

1.1 Employer's Name, Address, and Telephone Number

(a) Name: City of Oxnard

(b) Address: 300 West Third Street, Oxnard CA 93030

(c) Telephone: 805-385-7457

1.2 Employer's Taxpayer Identification Number: 95-6000756

ARTICLE 2

PLAN INFORMATION

2.1 Plan Names:

OPEB Plan(s): City of Oxnard OPEB Trust Account

Pension Plan(s): N/A

(Each a "Plan" and collectively, the "Plans")

2.2 Employer-designated: Plan Administrator's Name, Title, Address, and Telephone Number:

(a) Title: Alexander Nguyen, City Manager

(b) Address: 300 West Third Street, Oxnard CA 93030

(c) Telephone: 805-385-7457

ARTICLE 3

TRUST ADMINISTRATIVE SERVICES

As a condition of the Employer's participation in the Trust, the Employer and the Trust Administrator have executed the Trust Administrative Services Agreement attached as Exhibit B.

ARTICLE 4

INVESTMENTS

The Employer hereby directs the Trust Administrator to direct the Trustee to invest the assets in the Employer's Account in accordance with the investment strategy and any investment policy mutually agreed to by the Employer and the Trust Administrator.

ARTICLE 5

TRUST FEES AND EXPENSES

- 5.1 Trustees Fee will be equal to **0.02%** (annual maximum fee per plan is \$5,000). Other fees, including Trust Administration Fees are specified in Section 2.1 of the Trust Administrative Services Agreement. Please refer to Section 2.1 of the Trust Administrative Services Agreement for further information about payment of fees and expenses.
- 5.2 Method of Payment. Unless the Employer otherwise elects below, the Trust Administration Fees (as defined in Section 10.01(b) of the Trust), Trustee Fees (as defined in Section 10.01(c) of the Trust), and any other reasonable fees and expenses of administering the Employer's Account will be paid from the Employer's Account. In lieu of payments from its Account, the Employer hereby elects to pay the following amounts:

- ☐ Trust Administration Fees
- ☐ Trustee Fees
- ☐ All expenses of the Employer's Account other than fees
- ☐ Other (please insert description):

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

- 6.1 The Employer hereby represents and warrants that each of the following statements is true and correct to the best of its knowledge:

- (a) The Employer is a state, a political subdivision of a state or another public agency whose income is excludable from gross income under section 115 of the Code that is established and maintained under the laws of the [State/Commonwealth] of California.
- (b) The Employer has established and maintains one or more Plans the exclusive purpose of each is to provide OPEB or retirement benefits to its former employees.
- (c) The exclusive purpose of the Employer's participation in the Trust is to fund the Pension Obligation or OPEB Obligation, or both, under the Employer's Plans.
- (d) The Employer's participation in the Trust for the purpose of funding, as applicable, the Pension Obligation or OPEB Obligation, or both, under the Employer's Plans is authorized under the laws of the [State/Commonwealth] of California.
- (e) The Employer's Plans do not permit participants to direct or otherwise exercise in any manner, whether direct or indirect, control over the investment of their accounts or benefits accrued under the Plans.
- (f) The Employer has received copies, and has read and understands the terms, of the Trust.

ARTICLE 7

STANDARD OF CARE AND INDEMNIFICATION

- 7.1 Standard of Care. The Trustee and the Trust Administrator must discharge their duties in accordance with the standard of care set forth in Section 6.01 of the Trust.
- 7.2 Employer Indemnification of Trustee. The Employer, from its own funds and not from any assets of the Trust, agrees to indemnify the Trustee and each of its affiliates against, and will hold them harmless from, any and all loss, claims, liability, and expense, including cost of defense and reasonable attorneys' fees, imposed upon or incurred at any time by any of them by reason of or in connection with the performance of the Trustee's services under this Agreement, except to the extent such damages resulted from the Trustee's or affiliate's performance (or non-performance) of its duties under the Trust in a manner that constitutes willful misconduct or willful breach of the standard of care articulated in Section 6.01 of the Trust.
- 7.3 Employer Indemnification of Trust Administrator. Employer, from its own funds and not from any assets of the Trust, agrees to indemnify the Trust Administrator and each of its affiliates against, and will hold them harmless from, any and all damages imposed upon or incurred by any of them by reason of, or in connection with its services under the Trust or the Trust Administrative Services Agreement, except to the extent that such damages resulted from the Trust Administrator's or affiliate's performance (or non-performance) of its duties under the Trust or the Trust Administrative Services Agreement in a manner that constitutes willful misconduct or willful breach of the standard of care articulated in Section 6.01 of the Trust.

ARTICLE 8

AMENDMENT

The Employer understands and agrees that the Trust may be amended from time to time by the Trust Administrator with the approval of two-thirds of the Employers then participating in the Trust.

ARTICLE 9

NO GUARANTEE OF INVESTMENT RESULTS

The Employer understands and acknowledges that investments in the Trust involve risk and that there is no guarantee of investment performance or other performance of the Trust, including but not limited to custodians, depositories, or counterparties to investment strategies of the Trust.

ARTICLE 10

ADOPTION OF TRUST

By executing this Adoption Agreement, the Employer hereby adopts and agrees to be bound by the terms of the Trust and hereby approves, ratifies and confirms the appointment of Alta Trust Company as the Trustee and Shuster Advisory Group, LLC as the Trust Administrator as of the effective date of this Adoption Agreement. This Adoption Agreement and the Trust Agreement are effective on the 6th day of May, 2025 and expires on May 5, 2028, unless extended. The Employer shall have the option to extend the agreement for (2) two consecutive (1) one-year periods.

EMPLOYER

CITY OF OXNARD

Agency Name

By: _____

Its: _____

Date: _____

ACCEPTED:

TRUST ADMINISTRATOR

SHUSTER ADVISORY GROUP, LLC

By: _____

Its: _____

Date: _____

ACCEPTED:

TRUSTEE

ALTA TRUST COMPANY

By: _____

Its: _____

Date: _____

By: _____

Its: _____

Date: _____

EXHIBIT A
TRUST

A-1

EXHIBIT B
TRUST ADMINISTRATIVE SERVICES AGREEMENT

EXHIBIT C

PLAN ADMINISTRATOR: SPECIMEN SIGNATURE

TRUST ADMINISTRATIVE SERVICES AGREEMENT

This agreement ("Agreement") is made this 6th day of May, 2025, by and between CITY OF OXNARD (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"); and

WHEREAS, the Trust Administrator and Alta Trust Company (the "Trustee") have entered into an agreement (the "Trust Agreement") establishing the Multiple Employer OPEB 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 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 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.

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. 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;
- 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.):	0.12%

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 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. 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 agrees to perform its duties and responsibilities under this Agreement with reasonable care. 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. **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.
7. **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 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 gross 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.

8. **Term of Agreement.** The term of this Agreement will commence 06 May, 2025 and expire on May 5, 2028, unless extended. The Employer shall have the option to extend the agreement for (2) two consecutive (1) one-year periods. Either party may terminate this Agreement at any time by giving 60 days' written notice to the other party of its intent to terminate.
9. **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.
10. **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.
11. **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.
12. **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.
13. **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.
14. **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.

15. **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.
16. **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.
17. **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.
18. **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(l) 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. Any officer of the Trust Administrator has the authority to exercise any of the rights of the Trust Administrator under this Agreement.
19. **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 Oxnard
300 West Third Street
Oxnard, CA 93030
Attn: City Manager

Trust Administrator's Address:

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

20. **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 Los Angeles, 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 securities arbitration rules then in effect of the American Arbitration Association.
21. **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 state of California.
22. **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.
23. **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.
24. **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

By: _____

Its: _____

EMPLOYER
City of Oxnard

By: _____

Its: _____

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

This agreement (“Agreement”) is entered into between **Shuster Advisory Group, LLC** (“SHUSTER”), a California limited liability company, and **City of Oxnard** (“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 will commence May 6, 2025 and expire on May 5, 2028, unless extended. The EMPLOYER shall have the option to extend the agreement for (2) two consecutive (1) one-year periods.
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 C.
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 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 agrees to take reasonable steps to protect Private Participant Information and Plan Investment Data in its possession;
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;
SHUSTER shall have no liability in the event of a 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.** Either party may terminate this Agreement upon 30 days prior written notice to the other party. 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. **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.

11. **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.
12. **Assignability.** This Agreement is not assignable by either Party hereto without the prior written consent of the other Party.
13. **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.
14. **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.
15. **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.
16. **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.
17. **Applicable Law; Forum.** 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.
18. **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 Pasadena, Los Angeles 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.
19. **Amendment Process.** The Agreement may be modified, by written agreement of both EMPLOYER and SHUSTER.

20. **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 Oxnard	Tax ID# 95-6000756		
Plan Name 1 City of Oxnard OPEB Trust Account	Type of Plan ☒ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Plan Name 2	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Plan Name 3	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Plan Name 4	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Plan Name 5	Type of Plan ☐ OPEB Plan ☐ Pension Plan ☐ Other: _____		
Mailing Address 300 West Third Street	City Oxnard	State CA	Zip Code 93030
Phone 805-385-7457	Email (for purposes of notice/electronic delivery) alexander.nguyen@oxnard.org		
Legal Address (☒ 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 select the initial investment options within the Plan(s).
3. SHUSTER will periodically review the investments within the Plan(s) and shall be responsible for making additions/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 options. Reports to include: Market Overview, In-Depth Portfolio Summary, Plan Asset Allocation Analysis and Fund Performance Comparison to the Index.
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 0.12% (12 basis points) per annum, charged as 0.01% 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.

City of Oxnard Establishing Section 115 Trusts for Pension and OEPB Liabilities April 22, 2025

Finance and Governance Committee

Presented by:

Javier Chagoyen-Lazaro, City of
Oxnard

Chief Financial Officer

That Finance and Governance Committee recommends The City Council

1. Adopt a Resolution establishing a Section 115 Trusts for OPEB and Pension liabilities; and
2. Authorize the City Manager to execute agreements with the Trust Administrator, Custodian, and Trustee to create a 115 Trust accounts for the funding of future OPEB and Pension liabilities.

- The City provides full-time employees with a defined benefit pension through the California Public Employee's Retirement System (CalPERS) and pays other post-employment benefits (OPEB) to certain retirees or a group of retirees for health care costs.
- Establishing a Section 115 Trust to prefund pension and OPEB obligations is a best practice recommended by the Government Finance Officers Association (GFOA).
- Assets in a 115 Trust are irrevocably committed for the government function specified in the applicable trust agreement, and can be invested in accordance with the rules governing those trusts.
- On June 18, 2024, the City Council adopted the FY 2024-25 budget that includes the appropriation of \$20 million of surplus funds for the paydown of the long-term pension debt.
- On September 3, 2024, the City Council approved the implementation of the plan for long term debt reduction for pension and OPEB that includes the creation of the 115 trusts for pension and OEPEB with funding of \$2.5 million each.

- On August 26, 2024, the City issued RFP #25-09 for Establishment, Administration, and Management services of Section 115 Trusts for Pension and OPEB.
- Staff's evaluation process concluded that the program offered by Shuster Advisory Group, LLC provides the greatest flexibility of investment options and the most competitive fees for the comprehensive services the City will receive.
- The cost is a combined fee of 17 basis points (0.17%) netted against investment earnings and allocated to each trust account based on their investment balance.

That Finance and Governance Committee recommends The City Council

1. Adopt a Resolution establishing a Section 115 Trusts for OPEB and Pension liabilities; and
2. Authorize the City Manager to execute agreements with the Trust Administrator, Custodian, and Trustee to create a 115 Trust accounts for the funding of future OPEB and Pension liabilities.



Questions / Discussion