

CITY OF PITTSBURGH OTHER POST EMPLOYMENT BENEFITS TRUST  
FUND ANSWERS TO QUESTIONS ON REQUEST FOR PROPOSALS ON  
CUSTODIAL AND INVESTMENT SERVICES

The City of Pittsburgh Other Post Employment Benefits Trust Fund (“OPEB Fund”) has received certain questions with regard to the Request for Proposals dated September 19, 2024 for Custodial and Investment Services. The questions received and the answers thereto are provided below.

Question:

The RFP states that “the OPEB Fund is searching for a qualified candidate to act as custodian of the OPEB Fund and to provide investment advice to the Board of Trustees of the OPEB Fund”. Would the City consider a proposal for a full service solution to support and alleviate some fiduciary and administrative duties of the OPEB Trust Fund including the following services: investment advisory services, trust administration, corporate trustee and custodial services, state/IRS compliance, trust document management, audit, reporting, and actuarial support from a provider that administers over 500 Section 115 trusts across the country?

Answer:

On the services listed, the OPEB Fund would consider a proposal for investment advisory services and custodial services. We have other providers, personnel and officials for the other services listed.

Question:

Does the City/Board of Trustees currently utilize a Section 115 Trust for the OPEB Trust Fund? If so, please confirm the total assets within the trust as well as a copy of the Trust Agreement for the trust.

Answer:

A copy of the Trust Agreement is attached to these answers. The total assets as of September 30, 2024 are \$43,015,665.

Question:

Can the City provide a copy of the standard professional services contract for review?

Answer:

The City is not the other party to the agreement that would be consummated. The other party would be the OPEB Fund. A copy of the current contract for the investment advisor/custodian is attached to these answers.

Question:

Can the City provide a copy of the MWDBE/Veteran-Owned/LGBTQIA+ Solicitation and Commitment Form for completion?

Answer:

Again, the City will not be a party to the agreement. The OPEB Fund does not have such a form referenced in the question. The information requested on Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) is listed as item 10 on page 6 of the RFP.

Question:

Please confirm where to submit the electronic submission. There are a few different methods mentioned throughout including:

<https://secure.procurenow.com/portal/pittsburghpa>, the Beacon website, and directly to Frederick N. Frank, at [ffrank@f-gbp.com](mailto:ffrank@f-gbp.com).

Answer:

The electronic submission is to be made to the OPEB Fund's Solicitor Frederick N. Frank, at [ffrank@f-gbp.com](mailto:ffrank@f-gbp.com) as noted in Section 6 (a) on page 5 of the RFP. No other electronic submission is referenced in the RFP.

Question:

Page 6 of the PDF notes "All proposals must be submitted electronically. No proposal shall be accepted in person, by U.S. Mail, by private courier service, via oral or email communication, telephone or fax transmission" but page 8 says "Submit ten (10) written copies of your Proposal in a sealed package". Please confirm if physical copies are needed.

Answer:

Per the RFP, Section 6 (a) at page 6, ten (10) written physical copies are to be submitted.

Question:

Confirm the number of references needed. Page 10 of the PDF asks for three references while the questionnaire (Attachment 2) asks for five.

Answer:

There is no request for references on page 10. Five references are to be provided with Attachment 2.

Question:

On page 4 you indicate: “The OPEB Fund is searching for a qualified candidate to act as custodian of the OPEB Fund and to provide investment advice to the Board of Trustees of the OPEB Fund.” By “advice,” do you mean non-discretionary investment advice typically provided by a broker dealer or do you mean discretionary investment management provided by a Registered Investment Advisor/bank investment manager? Or something else?

Answer:

The OPEB Fund is searching for an investment advisor who would provide discretionary investment management.

Question:

Would you consider a proposal for custodial services that does not include investment advice?

Answer:

The response must include investment advice. The OPEB Fund would consider a proposal where the provider would delegate custodial services to another provider. If such a proposal is being made, details will have to be provided for the other custodial provider including experience and five references.

Question:

What is the current asset size of the OPEB Trust?

Answer:

As noted above, the fair market value of the assets as of September 30, 2024 is \$43,015,665.

Question:

Working on the City of Pittsburgh Other Post Employment Benefit Trust Fund RFP for Fund Custodial and Investment Services, [w]e'd like to clarify the goals below and how they factor into the proposal/ scoring of it. Thank you!

Answer:

The goals are clearly stated at section 10, page 6 of the RFP. The OPEB Fund does not “score” the responses. The totality of the response is considered and no section receives a specific number/percentage on the response.

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OTHER POST EMPLOYMENT BENEFIT FIRST AMENDED TRUST AGREEMENT

by and among

CITY of PITTSBURGH, PENNSYLVANIA

and

THE TRUSTEES OF THE OTHER POST EMPLOYMENT BENEFIT TRUST FUND

Dated November 7, 2012

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OTHER POST EMPLOYMENT BENEFIT FIRST AMENDED TRUST AGREEMENT

This First Amended Trust Agreement is made this 7th day of November, 2012 ("Agreement"), between City of Pittsburgh, Pennsylvania ("Employer") and the Trustees of the Other Post Employment Benefit Trust Fund (together with any successor trustees hereunder, "Trustees");

WITNESSETH:

WHEREAS, Employer and Trustees entered into a Trust Agreement dated May 2, 2012, which provided in Section VIII(a) that it may be amended;

WHEREAS, Employer and Trustees wish to make certain amendments to the Trust Agreement dated May 2, 2012;

WHEREAS, it is the agreement of Employer and Trustees that this First Amended Trust Agreement shall supersede the Trust Agreement dated May 2, 2012;

WHEREAS, Employer wishes to provide for retiree health benefits and other post employment benefits other than pension benefits ("Benefits") for employees and other participants (all collectively referred to herein as "Beneficiaries") as and to the extent provided in Employer's benefit plans identified in Exhibit A to this Agreement, as amended or supplemented from time to time ("Plans") and as described in Section I below; and

WHEREAS, Employer and Trustees are mandated under City of Pittsburgh Ordinance No. of 1 of 2012 to establish a trust ("Trust"), which will be an entity separate from Employer, with the intent that (1) the income of the Trust will be exempt from federal and state income tax (under Internal Revenue Code Section 115 with respect to federal income tax); (2) transfers to the Trust will not be taxable to Beneficiaries; (3) the Trust will qualify for purposes of Governmental Accounting Standards Board Statement 45 ("GASB 45"); and (4) all assets of the Trust are and will be irrevocably dedicated to, and shall be used for the exclusive purpose of, providing for payments of Benefits to or for the benefit of Beneficiaries and for paying expenses of administering the Trust, and will not be available to any creditors of Employer; and

WHEREAS, Trustees are willing to accept the Trust; and

WHEREAS, the Trust is an entity separate from Employer for the exclusive benefit of the Beneficiaries and not of Employer; and

WHEREAS, the indicia of ownership of Trust assets shall be held by Trustees at all times and the Trust assets shall not be considered funds or assets of Employer for any purpose; and

WHEREAS, Employer is a second class city of the Commonwealth of Pennsylvania, being therefore a political subdivision the income of which is exempt from federal income tax under Internal Revenue Code Section 115; and

WHEREAS, Trustees have all requisite powers and capabilities to act as Trustees and administer the Trust as set forth in this Agreement; and

NOW, THEREFORE, Employer hereby irrevocably establishes the Trust with Trustees to be held, administered, and distributed by Trustees as provided in this Agreement, Employer and Trustees agree as follows:

**Section I. Exhibits.**

The following Exhibits are attached hereto and by this reference incorporated herein and made a part hereof.

(a) Exhibit A to this Agreement contains a description of the Plans and defines the terms "Beneficiaries," "Plans" and "Benefits," as used in the preamble to this Agreement.

(b) Exhibit B to this Agreement describes Employer's initial contribution to the Trust.

(c) Exhibit C to this Agreement is a copy of the Investment Policy Statement delivered by Employer at the time of execution of this Agreement.

(d) Exhibit D to this Agreement contains a definition of Permitted Investments.

**Section II. General Trust Provisions.**

(a) The Trust is irrevocable.

(b) The principal of the Trust, together with any earnings thereon, shall be held by Trustees separate and apart from any assets of Employer. All Trust assets and all income thereon are irrevocably dedicated to, and shall be used for the exclusive purpose of, making payments of Benefits to or for the benefit of Beneficiaries and for paying expenses of administering the Trust. At no time will any Trust assets be used for, or diverted to, any other purposes.

(c) Trustees shall have exclusive right, title and interest in and to the assets of the Trust. Neither Employer nor any entity associated with Employer shall have any legal or equitable interest in the Trust or assets of the Trust.

(d) Assets held in the Trust are not subject to claims of creditors of the Employer or the Plans.

(e) Beneficiaries shall have no preferred claim, lien, or encumbrance of any kind on, or security interest in, or any beneficial interest in any particular assets of the

Trust. Beneficiaries shall be entitled to receive payments of assets of the Trust only when, as and if determined by Trustees in accordance with this Agreement.

(f) Except to the extent allowed by law, the expectation of any Beneficiary to receive any Benefits is not subject to attachment or garnishment or other legal process by any creditor of any such Beneficiary, nor shall any Beneficiary have the right to alienate, anticipate, commute, pledge, encumber or assign any Benefit until the same shall have been paid.

(g) In its sole discretion, Employer from time to time and at any time may make or cause to be made additional contributions of cash or other assets to the Trust, from employer contributions, employee contributions or any other source. Neither Trustees nor any Beneficiary shall have any right to compel such additional contributions. All such contributions and all income thereon are irrevocably dedicated to, and shall be used for the exclusive purpose of, making payments of Benefits to or for the benefit of Beneficiaries and for paying expenses of administering the Trust.

(h) Trustees shall not be responsible for enforcing the payment of any contributions to the Trust.

(i) Trustees shall retain an investment advisor ("Investment Advisor") who shall advise Trustees with respect to the investment of Trust assets.

(j) No Beneficiary shall be deemed a third-party beneficiary of this Agreement, nor shall 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.

(k) Employer intends that the assets of this Trust are to be taken into account for purposes of GASB 45. Contributions to the Trust may constitute all or part of Employer's Annual Required Contribution as defined by GASB 45 or of Employer's unfunded accrued liability for Benefits.

(l) Benefit payments from the Trust are neither general nor special obligations of Employer. Trust assets are the only assets irrevocably dedicated to the payment of Benefits under the Trust. Payment of Benefits from the Trust is not backed by Employer's full faith and credit or by its taxing power. No Beneficiary may compel the exercise of Employer's taxing power.

(m) In no event shall Employer be liable hereunder. Distributions from the Trust do not constitute debts of Employer nor are they legal or equitable pledges, charges, liens or encumbrances upon or Employer's property, income, or other assets.

### **Section III. Payments from Trust.**

(a) Trustees shall determine the amount of Benefits payable under the Plans and shall have exclusive authority and responsibility to determine the amount of such



Benefits to be paid out of the assets of the Trust and the amount which shall be paid to each Beneficiary or to any insurer or other provider of Benefits under the Plans.

(b) Nothing contained in the Trust or any Plan shall constitute a guarantee that Trust assets will be sufficient to pay any Benefit to any Beneficiary.

(c) Trustees are authorized to disburse amounts from the Trust to pay the expenses of administering the Trust.

#### **Section IV. Investments.**

(a) Trust assets shall be invested only in permitted investments as described in Exhibit D ("Permitted Investments"). Trustees shall have full power and authority to invest and reinvest Trust assets in any Permitted Investments.

(b) Transactions involving Permitted Investments which require execution through a broker shall be executed through such broker or brokers as Investment Advisor shall select. The indicia of ownership of Trust assets shall be held by Trustees at all times.

(c) Trustees shall retain a custodian ("Custodian") who shall hold the assets of the Trust, including any income earned thereon. The Custodian may also serve as Investment Advisor. Any entity affiliated with Custodian may act as broker or dealer to execute transactions, including the purchase of securities directly distributed, underwritten or issued by an entity affiliated with Custodian, at standard commission rates, mark-ups or concessions, and may provide related investment services with respect to the Trust.

(d) Trustees are authorized and empowered:

(1) To invest and reinvest Trust assets, together with the income therefrom, in Permitted Investments.

(2) To maintain accounts at, execute transactions through, and lend on an adequately secured basis stocks, bonds or other securities to, any brokerage firm including any firm that is an affiliate of Trustees.

(3) To vote upon or tender any stocks, bonds or other securities and to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options of which Trustees receive actual notice, and to make any payments incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and to delegate discretionary powers and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held in the Trust.

(4) To deposit or invest any part of the assets of the Trust in savings accounts or certificates of deposit or other deposits in a bank or savings and loan association or other depository institution, including Custodian or any of its affiliates.

(5) To invest and reinvest any Trust assets in one or more collective investment funds.

(6) To hold, manage and control all investment property forming part of the Trust.

(7) To take such actions as may be necessary or desirable to protect the Trust from losses.

(8) To settle, compromise or abandon all claims and demands in favor of or against the Trust.

(9) To designate and engage the services of such agents, representatives, advisers, counsel and accountants, any of whom may be an affiliate of Custodian or a person who renders services to such an affiliate and, as part of its expenses under this Agreement, to pay their reasonable expenses and compensation.

(10) To hold in cash such portion of the Trust assets as is pending investment, or payment of expenses, or the distribution of Benefits.

(11) Any portion of the Trust assets pending investment will be held in an interest-bearing money market account, and all interest or other earnings on such assets will be deposited in the Trust.

(12) To make, execute and deliver, as Trustees any instruments in writing necessary or appropriate for the accomplishment of any powers listed in this Agreement.

(13) To exercise all of the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under the laws of the Pennsylvania so that the powers conferred upon Trustees herein shall not be in limitation of any authority conferred by law or under this Agreement, but shall be in addition thereto; provided that such powers satisfy applicable requirements of the laws of the Pennsylvania.

(14) Generally to do all other acts which Trustees deem necessary or appropriate for the protection of the Trust.

**Section V. Trust Accounting.**

(a) Trustees shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions, including such specific records as shall be agreed upon in writing between Employer and Trustees.

(b) Within 60 days following the close of each calendar quarter (and within 60 days after removal or resignation of one or more Trustees), Trustees shall deliver to Employer a written account of the Trust during such calendar quarter (or during the period from the close of the last preceding calendar quarter to the date of such removal or resignation), setting forth all deposits, investments, receipts, disbursements and other transactions effected by it, including a description of transfers made and income received by the Trust, all securities and investments purchased or sold with the cost or net proceeds of such purchases or sales (accrued interest paid or receivable being shown separately), all disbursements for the payment of Benefits, administrative expenses or other costs paid from the Trust, and showing all cash, securities and other property held in the Trust at the end of such calendar quarter or as of the date of such removal or resignation, as the case may be.

(c) All securities shall be valued at fair market value as of the date of valuation, as determined by Trustees on the basis of such available information as Trustees may deem reasonable, subject to such smoothing method (for actuarial valuation purposes) that averages returns over a period of years that may be adopted by Employer and submitted in writing to Trustees.

**Section VI. Standard of Care and Indemnification.**

(a) All Trust assets and all income thereon shall be used for the exclusive purpose of providing for the payments of Benefits to or for the benefit of Beneficiaries and for paying expenses of administering the Trust. Trustees, the Custodian and the Investment Advisor, when making, selling or otherwise managing investments of the funds, shall discharge their duties with respect to the investment of the funds (1) solely in the interest of, and for the exclusive purposes of making payments of Benefits to or for the benefit of Beneficiaries, maximizing the amount available for providing Benefits, minimizing Employer contributions thereto, and paying expenses of administering the Trust; and (2) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, and (3) shall diversify the investments of the Trust assets so as to minimize the risk of loss and to maximize the rate of return, in accordance with the Investment Policy Statement, Exhibit C.

(b) To the extent permitted by law, Employer, from its own funds and not from any assets of the Trust, shall indemnify Trustees ("Indemnified Trustee Party") against, and shall hold them harmless from, any loss, claims, liability, and expense, including cost of defense and reasonable attorneys' fees (collectively, "damages") imposed upon or incurred at any time by any Indemnified Trustee Party by reason of or in connection with the performance of Trustee's services under this Agreement, except

to the extent such damages resulted from such Trustee's performance (or non-performance) of his or her duties under this Agreement in a manner that constitutes negligence, willful misconduct or breach of the standard of care articulated in Section VI (a) hereof.

(c) The indemnification obligations provided for in this Agreement shall survive the termination of this Agreement.

**Section VII. Resignation and Removal of a Trustee.**

(a) If the current individual serving in the capacity of Trustee resigns or is discharged from the Employer, the person succeeding him or her under such employment title shall automatically serve as Trustee. Any such successor shall succeed to all rights, duties, and responsibilities of the former Trustee under this Trust and the terminated Trustee shall be deemed discharged of all duties under this Trust and responsibilities for the Trust.

**Section VIII. Amendment, Merger, Transfer or Termination.**

(a) The Trust may be amended at any time in writing by Employer and Trustees; provided, however, that no amendment may alter Trustees' obligations under this Agreement without Trustees' written approval, no amendment may render the Trust "revocable," and no amendment may adversely affect the status of the Trust as described in the fifth Whereas clause of this Agreement.

(b) The Trust and this Agreement may be terminated at any time in writing by Employer; provided that the termination does not render the Trust "revocable" or adversely affect retroactively the status of the Trust as described in the fifth Whereas clause to this Agreement. Upon termination of the Trust, Trust assets shall be paid out at the direction of Trustees in the following order of priority: (1) to the payment of reasonable administrative expenses (including taxes and termination costs) of the Trust; (2) to the payment of Benefits currently payable under the Plans; (3) to a Qualified Trust; and (4) if and only to the extent not required for such purposes at the time thereafter, to or as directed by Employer. Except as provided in the preceding clause (4), no part of the Trust assets shall revert to Employer.

(c) Neither employer nor any entity related to it shall have any beneficial interest in the Trust or receive any amounts upon termination of the Trust.

(d) The Trust shall remain in existence until all assets have been distributed.

(e) Upon termination of the Trust, Trustees shall 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.

**Section IX. Miscellaneous.**

(a) The Trust shall be governed by, and interpreted in a manner consistent with, the laws of the Commonwealth of Pennsylvania and, to the extent applicable, the Internal Revenue Code.

(b) Trustees shall not be responsible for any contributions, costs, Benefits, distributions, acts or omissions of Employer.

(c) Each party to this Agreement represents and warrants that the person or persons signing this Agreement on behalf of such party is authorized and empowered to sign and deliver this Agreement for such party.

(d) Employer shall notify Trustees in a separate writing of the person or persons, by office or other position of employment, who are authorized to act on behalf of Employer in all matters relating to the Trust.

(e) In the event any provision of this Agreement is held to be invalid for any reason, the Employer and Trustees shall endeavor to amend this Agreement to give effect to the original intent of this Agreement, it being an integrated Agreement.

(f) This Agreement may be executed in any number of counterparts, each of which shall be considered as an original.

(g) If there is any conflict between the Plans and this Agreement, this Agreement shall control.

(h) All communications under this Agreement shall be in writing and shall 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 Employer:** City of Pittsburgh  
Office of the Mayor  
City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

**If to Trustees:** City of Pittsburgh  
Finance Director  
City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

City of Pittsburgh  
Office of the Solicitor  
City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

City of Pittsburgh  
Director, Department of Personnel and Civil Service  
City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

City of Pittsburgh  
Office of the City Controller  
City-County Building  
414 Grant Street  
Pittsburgh, PA 15219


City of Pittsburgh  
President, City Council  
c/o City Clerk's Office  
City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

**IN WITNESS WHEREOF**, the parties have caused this First Amended Trust Agreement to be executed as of the date first above written:

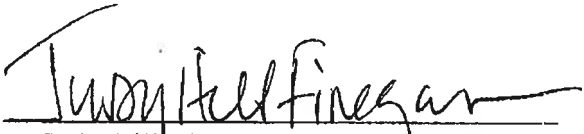
CITY OF PITTSBURGH:

By:   
Name: Luke Ravenstahl  
Title: Mayor

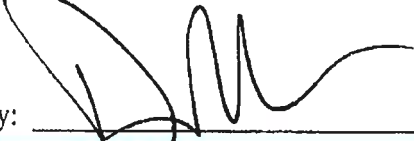
TRUSTEE:

By:   
Name: Scott Kunka  
Title: Finance Director

TRUSTEE:

By:   
Name: Judy Hill Finegan  
Title: Director, Department of Personnel and  
Civil Service

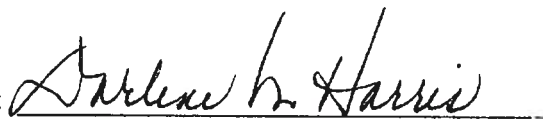
TRUSTEE:

By:   
Name: Daniel Regan  
Title: Solicitor

TRUSTEE:

By:   
Name: Michael Lamb  
Title: City Controller

TRUSTEE:

By:   
Name: Darlene Harris  
Title: President, City Council

## CUSTODY AND INVESTMENT ADVISORY AGREEMENT

THIS AGREEMENT is made and entered into as of August 1, 2014 by and between the BOARD OF TRUSTEES (hereinafter referred to as the "Trustees") of the CITY OF PITTSBURGH OTHER POST EMPLOYMENT BENEFIT TRUST FUND (hereinafter referred to as the "OPEB Fund"), and FIFTH THIRD BANK, a national banking association (hereinafter referred to as "Fifth Third").

### WITNESSETH:

WHEREAS, the City of Pittsburgh (hereinafter referred to as the "City"), pursuant to Ordinance 1 of 2012 ("the Ordinance"), has established an employee benefit plan known as the "Other Post Employment Benefit Plan" (hereinafter referred to as the "OPEB Plan") for the benefit of its eligible employees; and

WHEREAS, the Ordinance authorized the establishment of the OPEB Fund to hold, invest, and administer the assets of the OPEB Plan; and

WHEREAS, the Ordinance authorized the Trustees to contract for custodial and investment advisory services for the OPEB Fund; and

WHEREAS, the Trustees wish to retain Fifth Third to provide custodial and investment advisory services with respect to the OPEB Fund; and

NOW, THEREFORE, for valuable consideration and intending to be legally bound, the Trustees and Fifth Third do hereby agree as follows:



**ARTICLE ONE  
THE TRUST FUND**

1.1 Establishment and Custody of the Trust The City has established a trust fund, consisting of such sums of money and other property as has been or as shall from time to time be paid or delivered to the Trustees in accordance with the provisions of the OPEB Plan. All such money and property and all earnings and profits thereon, less any losses and disbursements made from time to time as authorized herein, shall constitute and be known as the OPEB Fund, which shall be held by Fifth Third for safekeeping, for handling, and for disbursement in accordance with the provisions of this Agreement.

**ARTICLE TWO  
FIDUCIARY RESPONSIBILITIES**

2.1 City The City shall have the sole responsibility for making its contributions under the OPEB Plan. Fifth Third shall have no right or duty to require payment of any contribution, or to inquire into the amount or method of determining the amount of any contribution, and shall be accountable only for funds and property actually received by it.

2.2 Trustees The Trustees shall have the exclusive authority to control and manage the operation and administration of the OPEB Fund; to establish a funding method and policy consistent with the OPEB Plan's objectives, as may be appropriate from time to time; to direct Fifth Third to make disbursements from the OPEB Fund; and to manage and direct the investment of the OPEB Fund's assets.

Fifth Third shall have no responsibility or duties whatsoever in respect to the administration of the OPEB Plan, other than as set forth herein or mutually agreed upon in writing.

### **ARTICLE THREE ADMINISTRATIVE POWERS OF THE TRUSTEES**

3.1 Administrative Powers of the Trustees With respect to all assets held hereunder, the Trustees have all of the powers, rights, and privileges conferred upon trustees under the Pennsylvania Municipal Investment Act, 20 Pa.C.S. § 7301 *et seq.*, and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 *et seq.*, or as the same may be subsequently modified or amended, to the extent such laws are not preempted by federal law, and the power to do all acts, take all proceedings, and execute all rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary to administer the OPEB Fund and to carry out the purposes of this Trust.

### **ARTICLE FOUR POWERS AND RESPONSIBILITIES OF FIFTH THIRD, AS CUSTODIAN**

4.1 Deposit of OPEB Fund Assets with Custodian The Trustees have deposited and will deposit with Fifth Third certain cash or other financial instruments and other property, including the proceeds of and earnings, if any, on such assets that the Trustees have not directed be disbursed from the OPEB Fund, to hold and safely keep the same, together with any other property hereafter deposited by the Trustees, for and on behalf of the Trustees, or to place the same in the custody of a national

registered securities depository (clearing corporation) selected by Fifth Third, issuing the necessary receipts therefor and to so keep the same separate and apart from the general assets of Fifth Third and subject to the terms, conditions, and powers hereinafter set forth, which shall remain in force until receipt by Fifth Third of written revocation or amendment thereof by the Trustees or their successors. In no event shall Fifth Third be authorized to withdraw any funds from the OPEB Fund, except to pay Fifth Third's fees as provided for in this Agreement. Fifth Third will not have any responsibility to maintain separate records for individual beneficiary accounts of which Trustees are fiduciary and for which securities or other financial assets have been deposited with Fifth Third. It is understood that no such individual beneficiary accounts will be established under this Agreement. Fifth Third will maintain accurate and complete records of all deposits received by it in respect of the OPEB Fund, all assets and investments purchased or sold in the OPEB Fund, all income received or accrued thereon, and all disbursements made from the OPEB Fund.

4.2 Receipt and Payment of Income Fifth Third shall receive and account for all interest, dividends, profits, and income received from the OPEB Fund and shall pay out of such income the costs and expenses incurred in the collection of income.

4.3 Miscellaneous Administrative Responsibilities Unless the Chairman of the Board of the Trustees direct otherwise, the OPEB Fund shall be held in the name of the OPEB Fund or in the nominee name of any national registered securities

depository it has selected. For any mutual fund assets of the OPEB Fund, Fifth Third shall maintain its accounts under this Agreement solely in the name of the OPEB Fund, but it may authorize a mutual fund transfer agent to hold mutual fund assets in the name of Fifth Third's nominee, on the condition that Fifth Third shall be fully liable to the OPEB Fund for any loss to the OPEB Fund resulting from the action of the nominee to the same extent as if that action had been taken by Fifth Third under this Agreement. Fifth Third may collect the principal of matured or called securities without instructions of the Chairman of the Board of the Trustees, but shall, in each such case, forthwith inform the Chairman of the Board of the Trustees of such transactions. In addition:

(a) Fifth Third shall not vote any stock or take any other action regarding securities, except in accordance with the Chairman of the Board of the Trustees' instructions. Fifth Third or its designee will forward all proxies to the Chairman of the Board of Trustees or his/her designee so that said proxies can be executed by the Chairman or his/her designee. Fifth Third shall forward to the Chairman any information or mailings as it deems appropriate.

(b) Fifth Third shall not release any information about the identity of the Trustees to any company who has issued securities which are held in the OPEB Fund for shareholder communications matters without the authorization of the Chairman of the Board of the Trustees.

(c) The Trustees shall direct Fifth Third with respect to participation in, and the filing, status, or resolution of, class action lawsuits and the distribution of proceeds of the U.S. Securities and Exchange Commission's enforcement actions pursuant to the Fair Funds for Investors provisions of the Sarbanes-Oxley Act of 2002 ("Fair Funds Distributions") associated with the assets of the OPEB Fund, notice of which is actually received by Fifth Third and delivered to the Chairman. Fifth Third shall be under no obligation to incur legal cost or expenses with respect to any such class action lawsuits, or Fair Funds Distribution matters. Fifth Third, as part of its custodial duties, shall file standard claim forms received for class actions with respect to securities owned by the OPEB Fund based on direction that it receives from the Trustees, which may be a standing instruction. Trustees acknowledge that Fifth Third will be bound by any judgment, order, injunction, or other legal process served upon Fifth Third with respect to the OPEB Fund assets in Fifth Third's custody, and that Fifth Third will comply with any such legal process, legal notice, or court order it receives if Fifth Third determines, in its reasonable judgment, that such legal process, legal notice, or court order is legally binding on it. Unless prohibited by law, Fifth Third shall promptly advise Trustees of the receipt of any such judgment, order, injunction or other legal process served upon Fifth Third pertaining to the OPEB Fund assets in Fifth Third's custody.

4.4 Directions All directions by the Trustees to Fifth Third shall be in writing over the signature of the Chairman of the Board of the Trustees or any person authorized by the Trustees, and Fifth Third shall be entitled to rely on the most recent instructions from the Chairman of the Board of the Trustees as to the identity of such authorized person(s) (“Authorized Person”). The Trustees shall provide written direction to Fifth Third of any change to any individual who is an Authorized Person. Written directions by the Chairman of the Board of the Trustees to Fifth Third for purposes of this Agreement shall be over the signature of any person authorized by the Chairman of the Board of the Trustees. Where the Chairman of the Board of the Trustees’ instruction is required, Fifth Third will be required to act only upon such direction or any instruction, prior approval, or revocation (“Instruction”) received in writing by the officers assigned primary responsibility for the account (“Account Administrator”). For the purposes of this Agreement, facsimile transmission, telex, electronic mail and other forms of electronic communication from the Chairman or other authorized party or parties, shall be deemed to be “in writing” or “written over the signature of the Chairman.” Fifth Third may rely upon any such written communication which it reasonably and in good faith believes to be genuine and to have been signed or presented by the Chairman or such other Authorized Person(s), which Authorized Persons are set forth in Addendum A hereto. Upon receipt of written instructions from an Authorized Person, Fifth Third shall sell sufficient securities to ensure there are sufficient liquid funds to pay the obligations of the

OPEB Fund. Further, upon receipt of written instructions from an Authorized Person, Fifth Third shall pay the specified obligations of the OPEB Fund.

**ARTICLE FIVE  
INVESTMENT POWER AND INVESTMENT PROCEDURES**

5.1 Investment Powers of the Trustees The Trustees are authorized, in their sole discretion, to make any investment as permitted by law, including, *inter alia*, under the Pennsylvania Municipal Investment Act, 20 Pa.C.S. § 7301 *et seq.*, and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 *et seq.* Fifth Third shall have no responsibility or duties whatsoever to determine if Trustee's investments are in compliance therewith.

5.2 Investment Procedures Fifth Third acknowledges receipt of the current Investment Policy and Guidelines of the OPEB Fund ("Guidelines"), which are attached as Addendum B. Fifth Third is acting as a discretionary investment manager and will make investment decisions that are consistent with the Guidelines or the written requirements provided to Fifth Third by the Trustees based on their investment powers in Section 5.1. The Chairman of the Board of Trustees shall notify Fifth Third as to the portion of the assets of the OPEB Fund available for investment. Fifth Third shall invest said portion available for investment consistent with the Guidelines. Fifth Third acknowledges that a substantial portion of the OPEB Fund assets have been invested by the prior investment advisor. Fifth Third may change the investments so long as all changes are consistent with the Guidelines.

Unless otherwise directed by the Chairman, Fifth Third will process security transactions through its trading facility or other trading facilities it selects.

5.3 Performance Evaluation On a quarterly basis, Fifth Third will calculate the rates of return for each component of the OPEB Fund's investments. Fifth Third will prepare monthly written reports that will include:

- (a) an analysis and summary of the most recent events in the financial markets;
- (b) an analysis of the allocation of OPEB Fund's investments across asset classes and changes in that allocation; and
- (c) a review of the investment results of all funds and asset classes in the context of their objectives and benchmarks, along with specific commentary on factors affecting performance.

5.4 Meetings Fifth Third will attend the Trustees' board meetings and such other meetings as may be requested by the Trustees, and meet with Trustees or their representatives at a minimum on a quarterly basis to discuss the investments.

5.5 General Advising Fifth Third will accommodate all reasonable requests for information or analysis of a general nature.

## **ARTICLE SIX PAYMENT OF COMPENSATION AND TAXES**

6.1 Compensation for Custodial Services Fifth Third shall receive as compensation for its custodial services under this Agreement from time to time, a



fee calculated by multiplying the aggregate closing value of the OPEB Fund assets as of the last business day of the relevant month, by 0.05% [5 b.p.] per annum, pro-rated for the actual number of days in such relevant monthly period plus any transaction and other fees as identified in Addendum C. Fifth Third shall calculate such custodial fee as of the last day of each month and submit to the Trustees an invoice or statement therefor, containing Fifth Third's determination of the closing value of the assets of the OPEB Fund as of the last day of such period. By way of example, if the aggregate value of the OPEB Fund's assets as of closing on the last business day of August is \$15,000,000, then the custodial fee for such period would be \$636.99, calculated as follows:

$$(\$15,000,000 \times 0.05\%) \times 31/365 = \$636.99$$

Fifth Third guarantees the preceding custodial fees and rates for a period of three years from the effective date of the execution of this Agreement. Such fees shall be payable from the OPEB Fund on the 15<sup>th</sup> day of the following month unless the City or the Trustees object to the invoice, in writing, prior to that day. In the event the custodial fee paid during the first twelve months of this agreement, and each twelve-month period thereafter, is less than Five Thousand dollars (\$5,000), excluding any transaction costs, the OPEB Fund shall pay Fifth Third the difference between the fees paid in the preceding twelve-month period and Five Thousand dollars (\$5,000) within thirty (30) days of the conclusion of the twelve-month period.

6.2 Compensation for Investment Advisory Services Fifth Third shall receive as compensation for its investment advisory services under this Agreement from time to time, a fee calculated by multiplying the aggregate closing value of the OPEB Fund assets as of the last business day of the relevant month, by 0.05% [5 b.p.] per annum, pro-rated for the actual number of days in such relevant monthly period. Fifth Third shall calculate such investment advisory fee as of the last day of each month, and shall submit to the Trustees an invoice or statement therefor, containing Fifth Third's determination of the closing value of the assets of the OPEB Fund as of the last business day of such period. By way of example, if the aggregate value of the OPEB Fund's assets as of closing on the last business day of the month of August is \$15,000,000, then the investment advisory fee for such month would be \$636.99, calculated as follows:

$$(\$15,000,000 \times 0.05\%) \times 31/365 = \$636.99$$

Such fees shall be payable from the OPEB Fund on the 15<sup>th</sup> day of the following month unless the City or the Trustees object to the invoice, in writing, prior to that day. In the event the investment advisory fee paid during the first twelve months of this agreement, and each twelve-month period thereafter, is less than Ten Thousand dollars (\$10,000), the OPEB Fund shall pay Fifth Third the difference between the fees paid in the preceding twelve-month period and Ten Thousand dollars (\$10,000) within thirty (30) days of the conclusion of the twelve-month period.

6.3 Taxes The OPEB Fund qualifies as an “Exempt Organization” within the meaning of Section 501(a) of the Internal Revenue Code of 1986, as amended, or under any comparable section of any future legislation which amends, supplements or supersedes said section, or as a governmental entity, and, until advised to the contrary, Fifth Third may assume that the OPEB Fund is so qualified and is not subject to federal income taxation.

## **ARTICLE SEVEN RECORDS AND ACCOUNTS**

7.1 Books, Records, and Accounts Fifth Third shall keep all records of all collections and disbursements of income and principal and purchases, sales and exchanges of securities throughout the year and shall prepare and submit to the Chairman of the Board of the Trustees monthly statements of principal and income and a detailed statement and list of securities held hereunder. Further, Fifth Third shall provide monthly statements to the Chairman of the Board of the Trustees reporting all security transactions.

7.2 Valuation As of the close of each calendar year, and at such other times as shall be required by the OPEB Plan, Fifth Third shall determine the fair market values of the assets of the OPEB Fund.

## **ARTICLE EIGHT AMENDMENT, TERM, TERMINATION, LIABILITY**

8.1 Amendment This Agreement may not be amended except by written Agreement executed by both parties, provided, however, that Fifth Third shall not

unreasonably withhold or delay its request for an amendment which does not affect the rights, duties, responsibilities, or immunities of Fifth Third.

8.2 Termination This Agreement may be terminated at any time by either party hereto, upon thirty (30) days' prior notice to the other party. However, the Trustees may withdraw assets in kind at any time without the necessity of thirty (30) days' written notice to Fifth Third, but with such reasonable notice as shall be consistent with Fifth Third's internal procedures. Notice of such termination shall be given to Fifth Third in writing, executed and acknowledged in the same form as this Agreement, together with a certified copy of the resolution of the Trustees authorizing such termination. Upon termination of this Agreement by whatsoever cause, Fifth Third shall deliver the assets of the OPEB Fund to the Trustees in accordance with the written directions of the Chairman of the Board of the Trustees. Fifth Third shall be indemnified and held harmless by the Trustees for following any written direction under this Article Eight, and Fifth Third shall have no duty to question any such direction.

8.3 Liability In performing hereunder, Fifth Third is acting solely on behalf of the Trustees, and no contractual or service relationship shall be deemed to be established hereby between Fifth Third and any other person, including, without limitation, any employees of the City of Pittsburgh. Trustees will hold harmless, indemnify, and defend Fifth Third, against losses, liabilities, claims, litigation, demands, suits, costs, disbursements, or expenses arising out of instructions given to

Fifth Third under this Agreement or actions taken by Fifth Third in compliance with instructions given to Fifth Third under this Agreement or otherwise following instructions of Chairman of the Board of Trustees hereunder, including reasonable attorneys' fees and disbursements, except to the extent the losses, liabilities, claims, litigation, demands, suits, costs, disbursements, or expenses are a direct result of Fifth Third's bad faith, negligence, or willful misconduct. Fifth Third shall not be liable to any person for any action or failure to act resulting from compliance with the direction or instructions of the Chairman of the Board of the Trustees.

#### **ARTICLE NINE MISCELLANEOUS**

9.1 Merger or Consolidation of the City In the event of the merger or consolidation of the City into another governmental body or other circumstances whereby a successor entity shall continue to carry on all or a substantial part of its functions and duties, and such successor shall elect to carry on the provisions of the OPEB Plan as therein provided, such successor shall be substituted upon the filing in writing of its election to do so with the Trustees.

9.2 Merger or Consolidation of Fifth Third Any corporation into which Fifth Third or any successor custodian may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which Fifth Third or any successor custodian may be a party, or any corporation to which all or substantially all the trust business of Fifth Third or any successor custodian may be

transferred, shall be the successor of Fifth Third without the filing of any instrument or performance of any further act before any court.

9.3 Applicable Law This Agreement shall be construed and enforced according to the laws of the Commonwealth of Pennsylvania and all of the provisions hereof shall be administered according to the laws of said Commonwealth, without reference to its provisions regarding conflicts of law, except to the extent such laws are superseded by any applicable federal law.

9.4 Construction of the Agreement Words used in the masculine include the feminine gender. Words used in the singular form or plural shall be constructed as if plural or singular, respectively, where they would so apply. Titles of articles and paragraphs are inserted for convenience and shall not affect the meaning or construction of this Agreement.

9.5 Counterparts This Agreement may be executed in one or more counterparts, each of which shall be considered an original but all of which shall be deemed to be one document.

9.6 IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Agreement to be executed by their respective duly authorized officers and attested this 23<sup>rd</sup> day of July 2014.

ATTEST:

BOARD OF TRUSTEES OF THE CITY  
OF PITTSBURGH OTHER POST  
EMPLOYMENT BENEFIT TRUST FUND

Kathleen E. Patton

By: [Signature]  
Title: Chairman

ATTEST:

FIFTH THIRD BANK

[Signature]

By: [Signature]  
STEPHANIE SPACCARELLI  
Title: Vice President, Director  
FTIS Operations &  
Product Management

## **EXHIBIT A**

### **DESCRIPTION OF OTHER POST EMPLOYMENT BENEFITS**

The Other Post Employment Benefit Trust Fund and Beneficiaries are set forth in the collective bargaining agreements between Employer and Firefighters Local No. 1, dated October 26, 2009 and between Employer and the Fraternal Order of Police, Fort Pitt Lodge No. 1, dated February 17, 2010, as amended from time to time by the parties thereto.



**EXHIBIT B**

**EMPLOYER'S INITIAL CONTRIBUTION**

Employer's initial contribution to the Trust of Two Million Seven Hundred Thousand Dollars (\$2,700,000) was deposited with Trustees on October 3, 2012.

## **EXHIBIT C**

### **Other Post Employment Benefits ("OPEB") Trust Fund Investment Policy**

The purpose of this Investment Policy Statement is to assist the OPEB Trustees (the "Trustees") of the City of Pittsburgh, Pennsylvania OPEB Trust (the "OPEB Trust") to more effectively plan, supervise, and monitor the investment activities of the OPEB Trust. This Policy Statement is meant to be a broad enumeration of purpose, investment objectives, and policies. A more detailed Investment Plan accompanies this Policy Statement which sets specific asset allocation.

The Trustees shall have exclusive control and management of the OPEB Trust and full power to invest the same, in accordance with this Policy Statement and accompanying Investment Plan, subject, however, to the exercise of that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of the OPEB Trust, considering the probable income to be derived therefrom as well as the probable safety of their capital. The Trustees' authority shall be subject to all the terms, conditions, limitations, and restrictions imposed by law upon the making of investments. Subject to those terms, conditions, limitations, and restrictions, the Trustees shall have the power to hold, purchase, sell, transfer, or dispose of any of the securities and investments in which any of the moneys in the OPEB Trust shall have been invested as well as of the proceeds of said investments, and of any moneys belonging to the OPEB Trust, subject in every case to meeting the standard of prudence discussed above.

#### **Investment Objectives**

The primary investment objective of the OPEB Trust is to preserve and, over time, increase the inflation-adjusted value of the investable assets of the OPEB Trust. The second investment objective is to maximize, over the long-run, the total rate of return on investable assets, while assuming a level of risk consistent with prudent investment practices for such trust. All assets shall be subject to the same high level of prudence with regard to policy and procedure.

#### **Investment Policies**

##### **I. Trustees Investment Philosophy:**

The Trustees recognize that risk and volatility are present to some degree with all types of investments. However, aggregate portfolio risk can be minimized through diversification by asset class, and position limits. Acceptable marketability/liquidity levels will be maintained to meet forecasted cash needs.

## II. Asset Allocation Policy

The asset allocation policies shall seek to produce a net, inflation adjusted, positive total return. The asset allocation policy shall be consistent with the investment objectives of the plan and based on the capital market assumptions as amended from time to time.

Normal asset allocation for the Long Term Assets shall be allocated as follows: 60% equity and 40% fixed income, with a variation of 10% above or below these targets for each classification.

Changes in the variation around the target allocations will be made by Trustees.

## III. Investment Policy

The policy to be followed shall be consistent with the investment objectives and philosophy of the plan. The policies will conform to the stated target allocations and should accommodate all those events and occurrences considered reasonable and probable. The following Policies pertain primarily to individually managed accounts. Pooled vehicles including mutual funds and bank trusts may be used so long as they generally follow similar guidelines as those outlined below. The Trustees acknowledge that pooled vehicles are governed by Prospectus or other offering documents and are therefore likely to deviate somewhat from the specific rules listed below.

### A. Policies Applying to Cash Management

1. The average maturity must not exceed six months.
2. In general, cash management will be accomplished by employing a collective or money market fund which is highly diversified and restricted to investments grading and above securities.

### B. Policies Applying to Fixed Income Investments

1. Investments shall include Federal Government and Agency issues and corporate issues having a Standard and Poor's rating of BBB to AAA or a Moody's rating of Baa to Aaa with the exception that up to 20% of fixed income assets may be allocated to high yield fixed-income securities. The target S&P credit rating of the aggregate portfolio shall be A or better.
2. The fixed-income portfolio shall be diversified between different sectors (Governments, Agencies, Corporates, Sovereign and other foreign debt) and different issues within each sector, convertibles and non-U.S. securities may also be included. With the exception of Federal Government and Agency obligations, no one issue will comprise more than 10 percent of the aggregate fixed-income portfolio without the Board's prior approval.

3. A minimum of \$50,000,000 outstanding principal amount in each debt issue will be required to assure stable, current income and marketability.

#### C. Policies Applying to Equity Investments

1. Industry and company investments shall be based upon demonstrable analysis of prospects for above-average return over a three to five-year period.
2. Investments shall be made in companies with securities which have sufficient market capitalization to enjoy a high degree of liquidity. No more than 5% (at time of investment) of the equities of the plan shall be invested in securities of issuers having a record of less than three years of operating history.
3. The investment portfolio should be diversified as to equity holdings and styles. Concentration in any single industry and in any company shall not exceed 25 percent and 5 percent, respectively, of the market value of the aggregate OPEB Trust assets at the time of investment. The purpose of this diversification is to provide reasonable assurances that no single security or class of securities will have a disproportionate impact on the total portfolio. Further, equity style diversification may include international (non-U.S.) components in both developed and emerging markets. The international equity allocation may be up to 30% of the plan's equity assets. The emerging markets allocation will not exceed 50% of the total international equity allocation.

#### D. Permitted Investments

1. Permitted Investments shall be those investments permitted under 20 Pa. C.S.A. § 7301 *et seq.*, setting forth authorized investments for a municipal pension or retirement plan.
2. In individually managed equity portfolios, there shall be no investment in companies with more than ten employees in Northern Ireland that are not signatories of the McBride Principles based on information from the IRRC or alternative sources.

#### Investment Strategy and Advisor Evaluation

The Trustees are authorized to engage, evaluate and replace the investment advisor to fulfill the asset allocation and style diversification needs of the OPEB Trust.

By such action the Trustees expect to have the benefit of expertise in investment management, which will benefit the OPEB Trust's long-term asset growth. This strategy is designed to encourage the pursuit of longer-term objectives rather than short-term or

ad hoc decisions. The Trustees will have discretion with regard to individual asset selection although portfolio variability over time should be minimized through prudent diversification, both among individual assets and by asset class.

The Trustees will review portfolio time-weighted returns versus stock and bond indices. Over a typical market cycle of three to five years, the investments are expected to outperform the broad market indices (i.e., S&P 500, Barclay's Intermediate Government/Corporate Index, etc.). Quarterly performance results will be reviewed by the Trustees with annual performance delivered to the Controller and City Council. Benchmarks for portfolio performance review are subject to review at the inception of each asset's selection; however some general benchmarks are as follows:

Large Cap Domestic Equities	S&P 500 Index
Small Cap Equities	Russell 2000
Non-U.S. Developed Markets Equities	Morgan Stanley EAFE
Non-U.S. Emerging Markets Equities	Morgan Stanley EMI
Aggregate Domestic Bonds	Barclay's Aggregate
Cash	90 Day T-Bill

#### Investment Policy Review

The Investment Policy/Statement will be reviewed at least annually by the Trustees and all material changes to the Statement will be approved by the Trustees.

## **EXHIBIT D**

### **DEFINITION OF PERMITTED INVESTMENTS**

Permitted Investments shall be those investments permitted under 20 Pa. C.S.A. § 7301 *et seq.*, setting forth authorized investments for a municipal pension or retirement plan.

Trustees shall consider the duration of the Other Post Employment Benefit liabilities, cash flow needs, actuarial data, along with the safety of principal, liquidity, and return characteristics of the Other Post Employment Benefit Trust.