



Agenda Item 6c

March 16, 2015

ITEM NAME: Revision of the Responsible Contractor Program Policy and Integration of the Legacy Policy

PROGRAM: Targeted Investment Programs

ITEM TYPE: Policy & Delegation – Action

RECOMMENDATION

Approve amendments to the Statement of Investment Policy for the Responsible Contractor Program (RCP Policy or Policy) including the incorporation of the Neutrality Trial RCP Policy into the RCP Policy and repeal of the Neutrality Trial RCP Policy. The revised Policy Statement is provided as Attachment 1 and the Neutrality Trial RCP Policy to be repealed as Attachment 2.

EXECUTIVE SUMMARY

CalPERS has a deep interest in the condition of workers employed by CalPERS and investment managers at its Real Estate and Infrastructure investments. CalPERS through the RCP Policy supports and encourages fair wages and benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles. CalPERS believes that an adequately compensated and trained worker delivers a higher quality product and service. In an effort to further improve the Responsible Contractor Program, staff initiated a Policy revision effort that culminates in this agenda item.

At the December 2013 Investment Committee meeting, the Board requested staff initiate a RCP Policy review process. Staff worked with labor representatives, investment managers, the Board's real estate consultant, fiduciary counsel, and Investment and Legal Office staff to discuss the Policy and suggestions identified by labor representatives. After a twelve month review, staff brought analysis and recommendations to the December 2014 Investment Committee for initial review.

As an outcome of that 2014 meeting, staff has incorporated the suggested policy revisions into the RCP Policy, and based on further exploration of key issues, is now recommending incorporating additional changes into the RCP Policies. In total, staff's recommended revisions to the Policy include:

- Core managers will be subject to heightened neutrality requirements consistent with the successful Neutrality Trial Program (NTP)
- Selected non-core Real Estate and Infrastructure managers will be subject to a new NTP

- Neutrality Trial RCP Policy will be incorporated into the RCP Policy such that all RCP-related requirements are located in a single policy document. The stand-alone Neutrality Trial RCP Policy will be repealed
- Certification of Responsible Contractor form will be clarified and strengthened
- Delegate definition will be clarified to include general contractors, resulting in clarification that bidding and notification requirements apply to general contractors
- The RCP Policy will reference CalPERS' Investment Beliefs
- The RCP Policy will be improved by other technical and clarifying edits including the addition of a table of contents.

The draft Policy represents a focused effort to have comprehensive responsible contracting Policy requirements without adverse effect on investment returns, access to investment opportunities, cost to administer the Policy, or access to responsible contractors. Staff will request managers who are subject to the RCP to report on their experience in implementing the Policy and the impact, if any, on CalPERS investments annually. The draft Policy is recommended by staff and consultants. Please see attachments for the redline version of the proposed revised RCP Policy, the Neutrality Trial RCP Policy to be repealed, and the Board's real estate consultant opinion letter.

STRATEGIC PLAN

This agenda item supports the CalPERS Strategic Plan goal to improve long-term pension and health benefit sustainability through actively managing business risks.

INVESTMENT BELIEFS

This agenda item supports CalPERS' Investment Belief 4 to create long-term value through effective management of financial, physical, and human capital. Effective management of human capital increases the likelihood that companies will perform over the long-term and manage risk effectively. This agenda item also supports Investment Belief 3 in which CalPERS' investment decisions may reflect wider stakeholder views, provided they are consistent with its fiduciary duty to members and beneficiaries.

BACKGROUND

The CalPERS RCP Policy was established in 1998. Since inception it has been revised several times, most recently, in a policy review and revision process initiated in 2009 and ending in 2012. This process resulted in the establishment of the first ever NTP in 2010, as well as comprehensive revisions to the RCP Policy that were approved by the Investment Committee in February 2012. The revised Policies established specific requirements related to neutrality, clarified and strengthened bidding notification, compliance and enforcement requirements, and significantly increased manager roles and responsibilities including making managers responsible for contractor compliance with the Policies.

In December 2013 staff presented the first annual report to the Investment Committee under the revised RCP Policy. In response to issues raised by labor representatives, the Investment Committee requested staff initiate a policy review to determine if additional revisions to the Policies were necessary. This process has required significant staff and consultant time and resources.

The policy review process began with a series of dialogues with labor representatives and external managers on the revised Policies. Staff held round table conversations with labor representatives and managers to discuss the issues raised by labor representatives and hear managers' views on the Policies. Staff also engaged with labor representatives and managers in individual conversations to discuss issues of concern. In general, labor representatives proposed a series of heightened policy requirements related to neutrality, bidding notification, compliance, and enforcement.

In order to receive consistent feedback from managers on the suggested policy revisions from the labor representatives, all Core and select non-core Real Estate and Infrastructure managers were surveyed anonymously on the current Policies and labor representatives suggestions. Through written comments, verbal conversations, and survey responses, managers have indicated the proposed amendments in the draft Policy should mitigate labor risk and not substantially impact their ability to compete in the marketplace.

CalPERS has a deep interest in the condition of workers employed by CalPERS and its managers and contractors, subject to fiduciary duty. Investment Office staff, in consultation with CalPERS' Legal Office staff, the Board's fiduciary counsel, and Pension Consulting Alliance, has carefully weighed these goals and responsibilities in crafting all policy recommendations.

ANALYSIS

In the December 2014 presentation to the Investment Committee, staff's recommendations fell into three categories: 1) suggested policy revisions; 2) areas for additional exploration; and 3) policy revisions not recommended by staff. Policy revisions not recommended by staff were analyzed and addressed fully at the December Investment Committee meeting. As an outcome of the December meeting, staff moved forward with implementing the suggested policy revisions, which are included in the attached revised Policy. These revisions include the following:

Suggested Policy Revisions

All of the items that staff recommended be included in the RCP Policy have been incorporated into the revised RCP Policy. They are:

Incorporate the NTP into the RCP

There has not been robust organizing activity during the trial period. However, based on input received from managers indicating the NTP has not had

significant impact on competition or cost. Staff incorporated the NTP provisions, as currently written, into the RCP Policy. Key elements of the heightened neutrality provisions include:

- CalPERS, Core managers, contractors and subcontractors are required to remain neutral in the event of an attempt to organize workers
- Neutrality provisions apply to service contracts over \$100,000
- Professional services and construction contracts are exempt
- Managers may grant themselves exemptions under certain circumstances outlined under the Policy
- All exemptions must be reported to CalPERS' staff within specified period of time

Amend the RCP to include a table of contents

This revision will make the Policy more navigable for stakeholders.

Amend the RCP to reference the Investment Beliefs

The RCP policy is consistent with the Investment Beliefs, and has been revised to state such.

Areas for additional exploration

Staff also performed analysis on areas identified for further exploration. This analysis included dialogue with managers and labor representatives and requests for comments to further explore the issues. As a result of this process, additional revisions to the Policy are recommended including:

Extend the NTP to select non-core Real Estate and Infrastructure managers

In order to determine the impacts, if any, of requiring neutrality for select non-core Real Estate and Infrastructure managers and their assets, staff recommends implementation of a new NTP mandating neutrality of non-core Real Estate and Infrastructure managers, their contractors and subcontractors regarding service contracts. Key elements of the new non-core NTP would include the heightened neutrality provisions that apply to core managers. In addition:

- The new NTP would apply, on a voluntary basis, to the following non-core Real Estate and Infrastructure funds:
 - CIM's 301 Capital Mall, LP
 - Hines HC Green Development Fund, LP
 - AGI Resmark Partners Housing Fund, LLC
 - CIM Infrastructure Fund
 - Harbert Gulf Pacific Power, LLP
 - UBS Golden State Matterhorn, LLC

- Contracts would become eligible for the NTP when they are executed or amended on or after the effective date of the new NTP
- The new NTP would be effective July 1, 2015 – June 30, 2017

Enhanced and strengthened the Responsible Contractor Certification form

Staff worked with managers and labor representatives to add additional requirements to the Responsible Contractor Certification form. The improvements will provide managers with additional information on a contractor's responsible status. Managers have provided feedback that the revised Responsible Contractor Certification is unlikely to impact the number of contractors bidding or costs. Proposed revisions include:

- Contractors will be required to answer additional and enhanced questions on wages and benefits provided to workers
- Questions will be added to the certification focused on complaints stemming from labor and environmental law violations and criminal convictions related to awarding or performing government contracts
- Managers will receive more information about contractor status from the enhanced and strengthened Responsible Contractor Certification form
- The voluntary Responsible Contractor Worksheet will be eliminated

Clarify the role of general contractors in the Policy

Language clarifying the role of General Contractors as Delegates has been added to the Policy.

Review Manager reporting requirements under the Policy

Staff reviewed the current manager reporting requirements under the Policy and determined they are addressed sufficiently under the current Policy. However, staff will continue to engage with managers on providing detailed and robust information in their Annual RCP Reports.

The Annual Report on Managers' Responsibilities has been reformatted and changed to clarify that substantive and detailed information on bidding and notification is required annually. The Annual Report templates are updated annually, and thus are not part of the RCP Policy.

During the 14-month Policy review process, staff engaged with labor representatives and Real Estate and Infrastructure managers on the Policy generally, bidding and notification, general contractors, 30-day notice, and hiring of Responsible Contractors. This dialogue contributed to the suggested revisions, and has afforded staff opportunity to engage with managers on the intent and implementation of the Policy. With respect to providing notice on bidding opportunities, staff has continued to encourage all Core managers and several non-core managers to reach out to

LiUNA to engage on bidding opportunities under the current Policy. Staff has encouraged LiUNA and managers to communicate directly with one another on issues of concern to try to find common ground.

To date, this engagement has resulted in managers increasing their communication with LiUNA, establishing on-going dialogue on current and future bidding opportunities, as well as attempting to secure competitive bids from LiUNA signatories. Based on the initial outcomes from this engagement, staff believes this process to be positive and productive.

Should the Investment Committee approve the proposed draft Policy, the Policy will go into effect July 1, 2015. This implementation date will allow investment managers time to establish processes needed to comply with the revised Policy, and aligns the effective date of the Policy with the beginning of the fiscal year reporting cycle.

Note: The heightened neutrality provisions for Core, the new NTP for non-core, and infrastructure managers, in Addendum A and B, are a result of merging the RCP and NTP policies. Although Addendums A and B appear new in redline, this is the result of merging the two policies.

BUDGET AND FISCAL IMPACTS

There are costs associated with the Policy revision process and the administration and compliance with the Policy going forward.

During Fiscal Year 2013-2014, the approximate Investment Office cost to support the RCP Policies and engage on labor issues was \$270,000 (which included staff costs of \$176,000 and consultant services of \$94,000). Staff anticipates that costs for administering the Policy will rise should the current level of engagement and Policy revision continue.

Managers reported varying costs to implement and administer the Policy, ranging from \$5,000 to \$175,000 annually. Variation is primarily due to differences in total assets under management and number of RCP contracts of each manager. Approval of the revised Policy may result in increased cost to implement and administer the Policy. This is due to non-core managers being subject to a new NTP, and any additional administrative burden that may be placed on all managers as a result of the enhanced Responsible Contractor Certification process. Staff will track and report meaningful cost impacts to the Investment Committee.

BENEFITS/RISKS

The Policy encourages positive labor relationships, and is consistent with CalPERS reputation as a responsible investor. Labor risk is mitigated by reducing the likelihood of strikes, demonstrations and other labor actions related to the provision of construction and services in CalPERS-owned assets. The time and cost to administer

the Policy should be balanced by the mitigation of labor and reputational risk. As such, the Policy contributes to the Real Estate and Infrastructure Units' abilities to secure appropriate risk adjusted investment returns.

The proposed revised RCP Policy strengthens and enhances the Policy by incorporating the current NTP into the Policy for Core managers, launching a new NTP aimed at selected non-core Real Estate and Infrastructure managers, and strengthening the Responsible Contractor Certification process to help managers more accurately determine responsible contractor status.

While CalPERS investment managers have expressed willingness to proceed under the proposed Policy; they have also expressed concern that if additional requirements are imposed they may not be able to meet their core obligations to CalPERS. The Policy is, and always has been clear that fiduciary obligations are first and foremost. Staff will request investment managers to report on their experience in implementing the Policy and the impact, if any, it has on CalPERS investments.

ATTACHMENTS

Attachment 1 – Proposed Revised RCP Policy

Attachment 2 – Repealed Neutrality Trial Policy

Attachment 3 – Pension Consulting Alliance Opinion Letter

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CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATEMENT OF INVESTMENT POLICY
FOR
RESPONSIBLE CONTRACTOR PROGRAM

RESPONSIBLE CONTRACTOR PROGRAM

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CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

STATEMENT OF INVESTMENT POLICY

**FOR
RESPONSIBLE CONTRACTOR PROGRAM**

February 13, 2012 [Revision approval date TBD]

This Policy is effective ~~immediately upon adoption~~ July 1, 2015 and supersedes all previous Responsible Contractor policies for parties subject to this Policy.

I. PURPOSE

This document sets forth the investment policy ("the Policy") of the Responsible Contractor Program (~~the "the Program" or "RCP"~~). The design of this Policy is intended to ensure that contractors, investors, managers, consultants, or other participants selected by the California Public Employees' Retirement System ("CalPERS") take prudent and careful action while managing the Program. Additionally, use of this Policy provides assurance that there is sufficient flexibility in controlling investment risks and returns while using contractors.

This Policy, as of July 1, 2015, is consistent with CalPERS Statement of Investment Beliefs, as adopted October 14, 2013. CalPERS Statement of Investment Beliefs provides context for CalPERS actions, reflects CalPERS values, and acknowledges CalPERS responsibility to sustain its ability to pay benefits for generations. The Investment Beliefs can be found at <http://www.calpers.ca.gov/eip-docs/about/pubs/calpers-beliefs.pdf>.

II. INTRODUCTION

CalPERS has a deep interest in the condition of workers employed by CalPERS and its Managers and Delegates (as defined in the next section). CalPERS, through the Policy set forth in this document, supports and encourages fair wages and benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on CalPERS real estate and infrastructure investments.

CalPERS endorses small business development, market competition, and control of operating costs. CalPERS supports many of the ideals espoused by labor unions and encourages participation by labor unions and their signatory contractors in the development and management of CalPERS real estate and infrastructure investments. CalPERS believes that an adequately compensated and trained worker delivers a higher quality product and service. The Policy includes provisions for transition, monitoring, and enforcement.

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III. DEFINITIONS

Capitalized terms used in this Policy have the following meanings for purposes of this Policy:

- A. **Board** – The CalPERS Board of Administration or the committee thereof to which the Board has delegated the function in question.
- B. **CalPERS** – The California Public Employees' Retirement System.
- C. **Delegate** – A person or entity that a Manager or other Delegate retains (other than pursuant to an Exempt Contract) to provide services with respect to an RCP Investment, such as general contractors, contractors, and subcontractors. When a Delegate hires another Delegate, the latter is the former's "Sub-Delegate-" (see Definition M. below). For example, the general partner of a partnership that owns an office building that is an RCP Investment normally would be the Manager. The Property Manager that the Manager hires to manage the building would be a Delegate. In turn, if that Delegate hires another firm, e.g., a janitorial services company, to provide services with respect to the property, the janitorial services company would be the Property Manager's Sub-Delegate (see definition of Sub-Delegate below). Delegates and Sub-Delegates are collectively referred to as "Delegates" in this Policy unless the context indicates otherwise. Any person or entity in such a delegation chain that performs services pursuant to an Exempt Contract would not be a Delegate or Sub-Delegate with respect to those services, nor would any person or entity it retains or subcontracts with to provide those services.
- D. **Exempt Contract** – An RCP Investment-related construction or property services contract (1) for professional services (e.g., architect, legal, or engineering services) or (2) for less than \$100,000. This threshold amount is applied both at the contract level and the subcontract level. For example, a \$1 million maintenance contract normally would not be an Exempt Contract, but a \$40,000 subcontract under it would be an Exempt Contract. Incremental contract amounts shall not be used to circumvent the threshold amount to create an Exempt Contract or subcontract under this Policy. Any contract in effect when a property first becomes an RCP Investment also shall be an Exempt Contract, but this exemption shall lapse at the end of the contract's term (including any extensions the contract permitted before the investment became an RCP Investment).
- E. **Fiduciary Duty Requirement** – The duty of the CalPERS Board, Staff, and Managers to be loyal and prudent, and achieve a competitive return, as set forth in Section IV.A.-C. To the extent a Delegate has been delegated the discretion to make business decisions affecting RCP

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Investments, CalPERS expects the Delegate or Sub-Delegate to make prudent business decisions.

- F. **Manager** – A person or entity that directly contracts with CalPERS to manage or otherwise control an RCP Investment, such as an investment manager or the general partner of a partnership in which CalPERS directly invests.
- G. **Policy** – The policy set forth in this document, as amended from time to time. Except to the extent that the Staff determines otherwise, an amendment to this Policy made after a person or entity becomes a Manager shall apply to the Manager.
- H. **Property Manager** – A person or entity that manages the day-to-day operations of a building, including such things as leasing, tenant improvements, guard and janitorial services, or performs similar functions.
- I. **RCP Contract** – An RCP Investment-related contract (other than an Exempt Contract) for (a) building or construction-related services (including tenant improvements unless paid for by the tenant), and (b) property-related services (such as cleaning maintenance, security, food and beverage service, and other services provided within the property that are specific to the nature of that asset, e.g., senior living operations, hotel operations, transportation assets, hospitals, etc.).
- J. **RCP Investment** – An investment Section VI.A. designates as an RCP Investment, generally real estate and infrastructure investments more than 50% owned by CalPERS. Determination of an RCP Investment designation only will be made when CalPERS first contracts with the person or entity who would be the Manager, or when CalPERS subsequently enters into a new contract with the person or entity. For example, if CalPERS, at the time of the first contract, will not own more than 50% of a real estate or infrastructure investment, subsequent CalPERS investments in that real estate or infrastructure investment that cause it to be more than 50% CalPERS-owned will not make it an RCP Investment, nor cause the person or entity managing it to become a Manager.

If it is intended or reasonably foreseeable that an initial investment less than 50% CalPERS-owned will grow to a greater percentage, CalPERS and Manager will determine at the inception whether designating the investment as an RCP Investment is appropriate under the circumstances. Incremental increases in percentages of CalPERS ownership shall not be used to circumvent an RCP Investment designation.

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- K. **Responsible Contractor** – A business that pays workers a fair wage and a fair benefit (see Section VI.G.), as evidenced by payroll and employee records.
- L. **Staff** – The CalPERS Investment Office staff.
- M. **Sub-Delegate** – A person or entity retained by a Delegate or another Sub-Delegate (other than pursuant to an Exempt Contract) to provide services with respect to an RCP Investment. If a Sub-Delegate, in turn, subcontracts with another firm, the subcontractor would be the Sub-Delegate of the initial Sub-Delegate, and so on.

IV. PRINCIPAL REQUIREMENTS OF THE RESPONSIBLE CONTRACTOR PROGRAM POLICY

- A. **Duty of Loyalty** – Notwithstanding any other considerations, assets shall be managed for the exclusive benefit of CalPERS participants and beneficiaries. CalPERS and its Managers' duty to the participants and their beneficiaries shall take precedence over any other duty.
- B. **Prudence** – CalPERS and its Managers are charged with the fiduciary duty of exercising the care, skill, prudence, and diligence appropriate to the task.
- C. **Competitive Return** – To comply with duties of loyalty and prudence, all investments and services must be made and managed in a manner that produces a competitive risk-adjusted return.
- D. **Competitive Bidding** – Managers and Delegates shall select contractors and their subcontractors for RCP Contracts through a competitive bidding and selection process. The purpose of this provision is to encourage fair competition and to seek bids actively from all qualified sources within an area, particularly those identified as Responsible Contractors. See Section VI.F. and I. for more information on the competitive bidding requirements.
- E. **Local, State, and National Laws** – All Managers, Delegates and the contractors and subcontractors they hire, while performing services with respect to RCP Investments, shall observe all local, state, and national laws (including, by way of illustration, those pertaining to applicable licensing and permitting, insurance, withholding taxes, minimum wage, and health and occupational safety).
- F. **Delegation Requirement** – Managers must require their Delegates to comply with this Policy, and Delegates must require their Sub-Delegates to comply with this Policy. CalPERS will hold Managers responsible for Delegate noncompliance to the extent a Manager permits or causes a Delegate to violate this Policy or fails to take appropriate remedial action

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after learning of a violation. In a like manner, each Delegate is responsible for its Sub-Delegate's noncompliance with this Policy to the greatest extent reasonable and prudent in light of all circumstances and factors at that time.

V. SELECTION PREFERENCE OF A RESPONSIBLE CONTRACTOR

If the requirements in Section IV. are satisfied, CalPERS strongly prefers Managers and Delegates to hire Responsible Contractors to provide services to RCP Investments. As to non-RCP Investments, Staff shall give a strong preference to investment managers, advisors, partners and the equivalent that have internal responsible contractor policies that are consistent with this Policy, subject to the Fiduciary Duty Requirement.

VI. TRANSITION, ENFORCEMENT, MONITORING, AND ADMINISTRATION

- A. **RCP Investments** – This Policy shall only apply with respect to RCP Investments. An RCP Investment is (1) a real estate investment, or (2) an infrastructure investment to which the CalPERS infrastructure policy makes this Policy apply, in either case, including one owned by a business entity (such as a joint venture, limited liability company, or partnership), in which CalPERS owns a greater than 50% ownership interest (subject to the terms of Section III.J.) RCP Investments do not include any other types of investments, including commingled funds, opportunity funds, mezzanine debt, hybrid debt, international investments, indirect investments, specialty investments, and mortgage investments lacking equity features.

Housing Development Partnerships exempted from this Policy in the past shall remain exempt, but voluntary compliance is strongly recommended, subject to the Fiduciary Requirement, and bearing in mind that Responsible Contractor status is determined based on local market factors that include the nature of the project (e.g., residential or commercial) among other factors. Hence, for example, a contractor doing work on a single family housing project might still be a Responsible Contractor even though it pays lower wages than a Responsible Contractor in the area pays for commercial office building construction, if that is consistent with locally prevailing labor practices.

The practicality, schedule, and method of extending this Policy in the future beyond RCP Investments depends on factors that include the structure of the investment and the degree of control CalPERS can exercise.

When the Policy is not applicable by its terms, investment advisors, general partners, and other similar entities managing CalPERS real estate or infrastructure investments are encouraged to make a good faith effort to

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comply with the spirit of the policy, consistent with the Fiduciary Duty Requirement. Good faith efforts may include, but are not limited to, encouraging the use of and advocating for Responsible Contractors, supplying timely information on bidding opportunities to interested Responsible Contractors, and facilitating meetings with organized labor.

- B. **Notification** – CalPERS shall provide a copy of this Policy to all current and prospective Managers of RCP Investments.
- C. **Solicitation Documents** – Except for Exempt Contracts, all requests for proposal and invitations to bid relating to RCP Investments (including both those CalPERS issues for Managers and those Managers or Delegates issue for Delegates and Sub-Delegates, respectively) shall both describe the terms of this Policy (or include a copy of it) and include a copy of the Responsible Contractor Self-Certification Form (Appendix 1). Responses by bidders shall include information to assist CalPERS, the Manager, or Delegate (whichever is applicable) in evaluating a bid. CalPERS reserves the right to disclose the contents of the Self-Certification Form at its discretion or the discretion of the applicable Manager or Delegate. Disclosure also may be required by applicable law.
- D. **Contracts and Renewals** – Except for Exempt Contracts, all contracts that retain Managers, Delegates, and Sub-Delegates with respect to RCP Investments shall require compliance with this Policy. CalPERS will take compliance with this Policy into account in considering Manager contract renewals. The Staff will report non-compliance to the Board on a timely basis or at a minimum annually. Unless a Manager agrees to be bound by this Policy restatement, a contract entered into before the date this Policy restatement was adopted shall remain subject to the terms of the Policy in effect when the contract was entered into. The preceding sentence will apply to renewals pursuant to the contract's renewal provisions, but it will cease to apply if the contract is otherwise extended.
- E. **Responsibilities** – The responsibilities of the Staff, Managers, and Delegates, and the role of unions under this Policy are as follows:
 - 1. Staff responsibilities. The Staff shall have the following responsibilities:
 - a. Reviewing Managers' annual reports regarding compliance with the Policy.
 - b. Developing and maintaining Manager contact information and making it available to inquiring parties.

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- c. Developing and maintaining procedures sufficient to implement the Policy and to monitor Managers' and Delegates' compliance with the Policy.
- d. Reporting periodically to the Investment Committee on Managers' and Delegates' compliance with the Policy, making recommendations for, or taking, corrective or enforcement action as necessary, and describing any enforcement actions it has taken.

2. Manager responsibilities. Managers shall have the following responsibilities, the performance of which (but not the responsibility for which) they may delegate to, e.g., Property Managers:

- a. Communicating this Policy, and any written policy or procedures of the Manager relating to this Policy, to all of its Delegates.
- b. Maintaining written policies and procedures, including competitive bidding, and providing periodic employee training for implementing and complying with this Policy.
- c. Reviewing a list prepared by each Delegate of current and pending RCP Contracts.
- d. Maintaining a simplified bid summary for each RCP Contract. The summary shall identify the contract, number of bids submitted, the successful bidder, and its Responsible Contractor status.
- e. Monitoring and enforcing its and its Delegates' compliance with this Policy, including undertaking appropriate steps to correct or deal with violations, and to cause each Delegate to do the same with respect to its Sub-Delegates (see Section VI.H.)
- f. The Manager shall annually provide to Staff the Manager's Certificate of Compliance and Annual Report on Manager's Responsibilities in the form attached to this Policy as Appendix 3.
- g. The Manager shall notify (or cause a Delegate to notify) a national contact at trade/service unions (see Section VI E.4.b.) if the Manager is expanding RCP Investments into new areas so that trade/service unions can provide the

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Manager contact information of local trade councils and union halls in the market where expansion is occurring.

h. Any other responsibilities this Policy assigns to Managers.

3. Delegate responsibilities. Delegates (or Managers, to the extent they undertake these functions) shall have the following responsibilities:

a. Communicating this Policy in RCP Contract bid documents.

b. Communicating about the Policy to any interested party.

c. Ensuring there is a competitive bidding process for RCP Contracts, inclusive of potentially eligible Responsible Contractors.

d. Requiring that bidders for RCP Contracts provide the Delegate a Responsible Contractor self-certification on a form approved by CalPERS.

e. Preparing and sending to Managers a listing of current and pending RCP Contracts for each RCP Investments with which the Delegate is involved. The building trades and service trades and other potential bidders will have access to this list.

f. Providing Managers with a simplified bid summary for each RCP Contract.

g. Providing property level annual report information to Managers.

h. Maintaining documentation for successful bidders on RCP Contracts.

i. Seeking from trade unions/service unions input in the development of Responsible Contractor lists.

j. Maintaining a list of any interested Responsible Contractors and local trade councils and union halls in all markets in which the Policy is applicable. (Names, addresses and telephone numbers.)

k. Any other responsibilities this Policy assigns to Delegates.

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4. Union tasks. Trade unions/service unions are expected to undertake the following tasks:

- a. Delivering to Managers and Delegates lists of names and telephone numbers of Responsible Contractors.
- b. Providing a national contact person/address/e-mail address where current information and notifications of expansions into new areas can be sent.
- c. Providing contact information (address, e-mail address, phone number and contact person) of local trade councils and union halls in all markets in which this Policy is applicable to the Manager or Delegate.
- d. Referring interested and qualified Responsible Contractors to the Manager.
- e. Monitoring the local labor markets continually to update the lists.
- f. Providing technical input as appropriate.

F. **Outreach** – Managers must use reasonable methods to timely notify potential contractors of bidding opportunities for RCP Contracts. Managers and Delegates shall provide RCP Contract solicitation documents to any potential contractor who, has in writing, expressed an interest in bidding for the contract.

G. **Fair Wage, Fair Benefits, and Training** – The Policy avoids a narrow definition of “fair wage”, “fair benefits”, and “training” that might not be practical in all markets. Furthermore, the Policy does not require a “prevailing wage”, as defined by government surveys. Instead, the Policy looks to local practices concerning type of trade and type of project. The Policy recognizes that practices and labor market conditions vary across the country and that flexibility in its implementation is very important.

The definition of fair benefits generally includes, but is not limited to, employer-paid family health care coverage, pension benefits, and apprenticeship programs. What constitutes a fair wage and a fair benefit depends on the wages and benefits paid on comparable real estate or infrastructure projects. Fair wages and fair benefits are based upon local market factors, that include the nature of the project (e.g., residential or commercial and public or private), comparable job or trade classifications, and the scope and complexity of services provided.

In determining fair wages and fair benefits concerning a specific contract in a specific market, items that may be considered include local wage

RESPONSIBLE CONTRACTOR PROGRAM

practices, state laws, prevailing wages, labor market conditions, and other items.

In place of a prevailing wage standard, the Policy requires a broad outreach and competitive bidding program, as described in Sections IV.D. and VI. This program is premised upon the availability of a list of Responsible Contractors in every market in which CalPERS directly owns a property. While Managers and Delegates are responsible for gathering and analyzing information relevant in identifying and hiring a Responsible Contractor, compilation of this list does not depend solely on them. Instead, this Policy invites the various local trades to suggest contractors, which in their view, qualify as Responsible Contractors. Sources of information include local building and service trade councils, builders associations, and governments.

- H. **Annual Review and Data Forms** – Managers must file a Responsible Contractor annual report with CalPERS. Managers shall present summary data in a format described and approved by CalPERS (see Appendix 3.) They shall include evidence showing that they have made good faith efforts to monitor their Delegates for compliance with this Policy and undertaken appropriate steps to correct or deal with violations, and to cause each Delegate to do the same with respect to its Sub-Delegates.

The annual review shall determine whether each Manager or Delegate conducted a good faith outreach program and a competitive bidding process that includes Responsible Contractors. A Manager or Delegate will not be faulted merely because a Responsible Contractor does not respond to the invitation to bid. For each bidder, the Manager or Delegate is obliged to gather appropriate responsible contractor information and make a judgment concerning the principal requirements described in Section IV. CalPERS shall focus on a Manager's and its Delegates' overall pattern of conduct and not any one specific incident.

- I. **Competitive Bidding** – Managers and Delegates shall create a bidding process for RCP Contracts that includes notification and invitations to bid (see Section VI.F.) distributed to a broad spectrum of potential bidders, particularly those identified as Responsible Contractors. This process may include: electronic or paper advance bid notifications; and pre-bid meetings, if appropriate under the circumstances. This obligation will be deemed satisfied if bids are solicited on a publicly accessible web site, but CalPERS encourages Managers and Delegates using this approach to include a feature in their web sites permitting potential bidders to sign up for automatic e-mail notification of projects open for bidding.

If appropriate under the circumstances, Managers and Delegates shall use a 30-day pre-bid notification procedure to maximize Responsible Contractor bidding opportunities.

RESPONSIBLE CONTRACTOR PROGRAM

Large numbers of bidders do not necessarily assure inclusion. Managers, Delegates, or Property Managers must take care in ensuring that bidders include potentially eligible Responsible Contractors. Managers, Delegates, or Property Managers may choose a reasonable number of contractors to invite to bid from the list of Responsible Contractors or other would-be bidders. Given the time and expense required to solicit and evaluate bids, it is not essential to invite all potential bidders.

Although the Policy does not require hiring union workers, Managers and Delegates must invite trade unions (through web site postings or other means) whose members work in the region where the work is to be performed to participate in the following:

1. Deliver to the Manager or Delegate lists of names and telephone numbers of Responsible Contractors and local trade councils and union halls in the region, including Responsible Contractors who expressed any interest in bidding.
2. Continually monitor the local markets, updating the lists.

Managers and Delegates shall maintain these lists supplied by the trade unions.

The review of the bids shall include consideration of loyalty, prudence, competitive risk-adjusted returns, and adherence to this Policy.

An extension permitted by the terms of an RCP Contract is not subject to the competitive bidding requirement this section imposes. However, a new RCP Contract with an existing contractor to replace an expiring contract is subject to this requirement unless the contractor was a Responsible Contractor under the expiring contract and will remain one under the new contract.

- J. **Neutrality** – CalPERS will itself remain neutral, and it supports Manager neutrality, in the event a labor organization lawfully attempts to organize workers providing construction, maintenance, operation, or services at an RCP Investment. To remain “neutral” means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this Policy obligates or prohibits Managers or Delegates from entering into private neutrality, labor peace or other lawful agreements with a labor organization seeking to represent or who currently represents workers at an RCP Investment.

Resolution of any inter-jurisdictional trade disputes shall be the responsibility of the unions (e.g., trades and the various state and national

RESPONSIBLE CONTRACTOR PROGRAM

building trades councils.)- This Policy does not call for any involvement by Managers or Delegates in inter-jurisdictional trade disputes.

Notwithstanding the foregoing, Core Real Estate Managers and their Delegates are required to remain neutral, subject to the terms and conditions set forth in Addendum A to this Policy with respect to agreements or amendments to agreements entered into on or after the effective date of this Policy. Selected Non-Core Real Estate Managers and Infrastructure Managers, and their respective Delegates, are subject to the terms and conditions set forth in Addendum B to this Policy.

- K. **Enforcement** – This Policy is an important CalPERS policy. The Board expects the Staff to diligently monitor Managers for compliance with the Policy, just as it expects Managers to diligently monitor their Delegates and Delegates their Sub-Delegates for compliance. If the Staff determines that a Manager has materially violated the Policy, either directly or by failing to take appropriate steps to prevent or remedy material Delegate Policy violations, the Staff is to consider all reasonably available remedies and implement any appropriate ones that it determines will best address the violation in a manner that satisfies the Staff's Fiduciary Duty Requirement, or recommend that the Board take such actions. For example, to the extent that CalPERS has the right to cancel its contract with a Manager that has violated this Policy, or to the extent the Manager has the right to cancel its contract with a Delegate that has violated this Policy or require a Delegate to cancel a contract with a Sub-Delegate that has violated this Policy, Staff may cancel the CalPERS contract with the Manager or request the Manager to secure cancellation of the Delegate or Sub-Delegate contract but only if doing so would not violate the Fiduciary Duty Requirement.

Unless a Manager promptly corrects a material Policy violation, the Staff shall place the non-complying Manager on a probation watch list. If the Manager does not modify this pattern of conduct, even after discussions with the Staff, CalPERS shall consider this pattern of conduct along with other information when it reviews the Manager for possible renewal. The key indicator is a pattern of conduct that is inconsistent with the provisions of the Policy.

CalPERS does not require that Managers or Delegates use any particular system for compliance. However, from time to time, the Staff may disseminate information and suggestions regarding efficient ways for complying with this Policy.

- L. **Complaints** – Formal complaint(s) may be submitted to CalPERS per the attached Complaint, Investigation and Dispute Resolution Process Regarding Potential Violations of the CalPERS Responsible Contractor Program Policy (Appendix 2).

RESPONSIBLE CONTRACTOR PROGRAM

Approved by the Policy Subcommittee	September 11, 1998
Approved by the Investment Committee	September 14, 1998
Revised by the Policy Subcommittee	September 12, 2003
Approved by the Investment Committee	October 14, 2003
Revised by the Policy Subcommittee	March 12, 2004
Approved by the Investment Committee	April 19, 2004

RESPONSIBLE CONTRACTOR PROGRAM

Revised by the Policy Subcommittee	March 11, 2005
Approved by the Investment Committee	April 18, 2005
Revised by the Policy Subcommittee	June 10, 2005
Approved by the Investment Committee	August 15, 2005
Revised by the Policy Subcommittee	March 17, 2008
Approved by the Investment Committee	April 21, 2008
Approved by the Investment Committee	February 13, 2012
<u>Approved by the Investment Committee</u>	<u>Date TBD</u>

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM A

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ADDENDUM A

NEUTRALITY REQUIREMENT FOR CORE REAL ESTATE MANAGERS

1. To whom the neutrality requirement applies. Notwithstanding the provisions of Section VI. J. of this Policy, neutrality is required as to employees of an employer subject to the RCP who provide maintenance, operation, or other property-related services (e.g., food services) at an RCP Investment managed by a Core Real Estate Manager, pursuant to an RCP Contract that is not an Exempt Contract. Neutrality is not required as to employees providing professional services (e.g., accounting or property management services) or construction services.

For example, if a Core Real Estate Manager's own employees provide maintenance services at an RCP Investment, the Manager would have to remain neutral if they attempt to organize.

Core Real Estate Managers shall secure compliance with the neutrality requirement by including the Model Delegate/Sub-Delegate Contract Rider attached hereto as Appendix 4 in their contracts with their Delegates and Sub-Delegates. Managers may add other provisions or make minor changes to the rider, in either case if they are not materially inconsistent with it. Neutrality exceptions or limitations may not be added to the rider.

2. When applied. A Core Real Estate Manager, and its Delegate, or Sub-Delegate, shall remain neutral at all times while it is subject to the neutrality requirement. However, prior to the commencement of any organizing efforts, a minor, unintentional violation of the neutrality requirement will not violate the RCP.
3. Notification of neutrality. A Core Real Estate Manager, its Delegate, or Sub-Delegate, shall notify employees with respect to whom the RCP requires it to remain neutral that it has agreed to be neutral, by providing the following notice to such employees in writing in any reasonable manner: "As required by our contract to provide [type of service] at [name of building], [name of contractor] has agreed to remain neutral if our employees who provide such services choose to join or form a union. This means that [name of contractor] will not do or say anything that either supports or opposes employee selection of a union."

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM A
PAGE 2 of 3**4. Neutrality requirement exceptions.**

- a. If at the time a contract is entered into, a Core Real Estate Manager, based on reasonable evidence, believes that requiring neutrality would materially adversely affect an RCP Investment (e.g., that its financial performance would suffer by more than the lesser of \$50,000 or a 10% increase in contract cost), the neutrality requirement shall not apply. An exception normally may be granted only after competitive bidding has failed to result in an acceptable bid because of the neutrality requirement. However, if it is virtually certain that competitive bidding would not produce an acceptable bid if neutrality were required, an exception may be granted without competitive bidding, e.g., when only one contractor could do the work because of proprietary software or equipment, and that contractor would not agree to neutrality. If a contract has been entered into requiring neutrality, but the Manager, based on reasonable evidence, believes that requirement should be waived for the reasons set forth in the preceding sentences, it may grant a neutrality exception.
- b. Within 30 days after granting a neutrality exception, the Manager shall send a written report to Staff explaining its decision. The form attached as Appendix 5 to this document shall be used for making such reports. Staff may revise this form as Staff deems appropriate. Staff shall prepare an analogous report for exceptions it grants. Subject to reasonable limitations established by Staff, copies of exception reports will be sent by e-mail to labor representatives and Managers that have asked to be included in an exception report e-mail group.
- c. If Staff, based on the information it obtains in these exception reports or otherwise, determines that a Manager has a practice of granting neutrality exceptions improperly (i.e., in a manner not permitted by the first paragraph of this section), it shall cancel the Manager's right to grant neutrality exceptions in the future. Thereafter, the Manager must request exceptions from the Staff, which shall be deemed granted unless rejected in writing by the Staff within two business days after receipt.
- d. Staff shall review neutrality exceptions for appropriateness, with the assistance of experts and consultants if Staff determines that would be helpful. Staff shall report on neutrality exceptions in its RCP Policy Annual Report or more frequently as the Investment Committee requests.

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM A
PAGE 3 of 3

5. Monitoring and enforcement. Each Core Real Estate Manager subject to the neutrality requirement shall make commercially reasonable, good faith efforts to prevent its Delegates and Sub-Delegates from violating the neutrality requirement, to remedy neutrality violations when possible, and to warn or discipline its Delegates and Sub-Delegates for neutrality violations as appropriate. These efforts may involve communicating with affected labor unions or seeking their participation in remedial efforts.
6. Unforeseen issues. If unforeseen issues arise in the implementation, administration, or evaluation of the neutrality requirement, the Investment Committee shall have the power to take any actions it determines to be appropriate to deal with or resolve those issues. If there is insufficient time to secure such Investment Committee action, Staff shall have the power to take any actions it determines to be appropriate to deal with or resolve unforeseen issues. Staff shall promptly report any such actions it takes to the Investment Committee.

RESPONSIBLE CONTRACTOR PROGRAM**APPENDIX 1**
PAGE 1 of 4**Appendix 1****CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**
CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS**Introduction**

The California Public Employees' Retirement System ("CalPERS") has a deep interest in the condition of workers employed by CalPERS and its Managers and Delegates. CalPERS, through the Statement of Investment Policy for the Responsible Contractor Program ("Responsible Contractor Program Policy"), supports and encourages fair wages and fair benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on CalPERS real estate and infrastructure investments.

A. GENERAL INFORMATION

<u>Company Name</u>	
<u>Address</u>	
<u>City</u>	
<u>Telephone Number</u>	<u>Email</u>
<u>Contractor's License #</u>	<u>Contractor License Expiration Date</u>

Please complete the following questions about your firm and the marketplace in which you operate. Refer to definitions on page 4 of this Appendix.

B. WAGES

1. Considering the wages paid by your competitors in this market, the nature of this project, and the size and scope of this contract, do you believe that your firm will pay local market wages to workers on this job? (Additional information may be provided below)
☐ YES ☐ NO

C. BENEFITS

1. For the workers on this job, will your firm provide access to health insurance? (Additional information such as percent of employees covered, employer contribution, individual or family coverage may be provided below)
☐ YES ☐ NO

RESPONSIBLE CONTRACTOR PROGRAM**APPENDIX 1**
PAGE 2 OF 4**C. BENEFITS (CONTINUED)**

2. For the workers on this job, will your firm provide access to a pension, 401(k), or a similar retirement savings or deferred compensation program? (Additional information such as type of plan, the percentage of workers covered, and employer contribution may be provided below)

☐ YES ☐ NO

3. For workers on this job, will your firm provide access to apprenticeship programs for skilled trades? (Additional information may be provided below)

☐ YES ☐ NO

4. Are there any other benefits that you will provide to the workers on this job such as paid vacation, sick leave, dental/vision/life, etc.? (Additional information such as types of benefits, percentage employer contribution, who is covered, and percentage of employees covered may be provided below)

☐ YES ☐ NO

5. Considering your answers above, the benefits your competitors in this market provide to their employees, the size and scope of this contract, and the nature of this project, do you believe your firm will provide benefits consistent with local market practices to the workers on this job? (Additional information may be provided below)

☐ YES ☐ NO

You may attach additional page(s) as necessary to provide complete documentation of responses.

RESPONSIBLE CONTRACTOR PROGRAM**APPENDIX 1****PAGE 3 OF 4****D. REGULATORY STATUS (attach additional pages if necessary)**

1. In the last 24 months, has your firm been fined, suffered an adverse judgment, incurred a penalty, been found in violation of, or had to change its employment policies because of violations of State or Federal labor laws, including but not limited to the National Labor Relations Act, Occupational Safety and Health Administration, the Civil Rights Act of 1964 (e. g., sexual harassment or discrimination violations), EPA, or Water or Air Quality Boards? If yes, please explain.

☐ YES ☐ NO

2. Are you aware of any pending complaints that have been filed with your firm or any agency enforcing labor or employment laws? If yes, please explain (an affirmative answer will not necessarily disqualify you from being the successful bidder, however it will be taken into account in determining Responsible Contractor status).

☐ YES ☐ NO

3. At any time during the last 24 months, has your firm or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract? If yes, please explain.

☐ YES ☐ NO

E. RESPONSIBLE CONTRACTOR STATUS (Refer to definitions on page 4 of this Appendix)

Please check **one** of the following boxes:

1. ☐ Meets all Responsible Contractor requirements.
2. ☐ Meets none of the Responsible Contractor requirements.
3. ☐ Meets certain of the Responsible Contractor requirements.

If you have checked the third box above, please provide an explanation below.

F. OWNER'S CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS

On behalf of the above-named company, the undersigned certifies that the information and response provided within pages 1 through 4 of this Appendix is complete and accurate as of this date, and he/she is aware that any intentionally misrepresented or falsified information may result in disqualification from future contracting opportunities.

Signature

Date

Name (please print)

Title

CalPERS reserves the right to disclose the contents of the Self-Certification Form at its discretion or the discretion of the applicable Manager or Delegate. Disclosure also may be required by applicable law.

RESPONSIBLE CONTRACTOR PROGRAM**APPENDIX 1
PAGE 4 OF 4****E. DEFINITIONS**

Responsible Contractor: A business that pays workers a fair wage and a fair benefit as evidenced by payroll and employee records. The definition of fair benefits includes, but is not limited to, employer paid family health care coverage, pension benefits, and apprenticeship programs.

Fair Wage, Fair Benefits, and Training: The Policy avoids a narrow definition of "fair wage", "fair benefits", and "training" that might not be practical in all markets. Furthermore, the Policy does not require a "prevailing wage", as defined by government surveys. Instead, the Policy looks to local practices concerning type of trade and type of project. The Policy recognizes that practices and labor market conditions vary across the country and that flexibility in its implementation is very important.

The definition of fair benefits generally includes, but is not limited to, employer-paid family health care coverage, pension benefits, and apprenticeship programs. What constitutes a fair wage and a fair benefit depends on the wages and benefits paid on comparable real estate or infrastructure projects. Fair wages and fair benefits are based upon local market factors, that include the nature of the project (e.g., residential or commercial and public or private), comparable job or trade classifications, and the scope and complexity of services provided.

In determining fair wages and fair benefits concerning a specific contract in a specific market, items that may be considered include local wage practices, state laws, prevailing wages, labor market conditions, and other items.

In place of a prevailing wage standard, the Policy requires a broad outreach and competitive bidding program, as described in Sections IV.D. and VI of the Policy. This program is premised upon the availability of a list of Responsible Contractors in every market in which CalPERS directly owns a property. While Managers and Delegates are responsible for gathering and analyzing information relevant in identifying and hiring a Responsible Contractor, compilation of this list does not depend solely on them. Instead, this Policy invites the various local trades to suggest contractors, which in their view, qualify as Responsible Contractors. Sources of information include local building and service trade councils, builders associations, and governments.

See Policy for complete requirements of the Responsible Contractor Program Policy.

**APPENDIX 1
PAGE 1 of 4**

Appendix 1**Responsible Contractor Program Policy****CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS****GENERAL INFORMATION**

Company Name

Address

City

Telephone Number () _____ Fax Number () _____

Ownership Structure (Please check one)

☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Joint Venture ☐ Other _____

Description of Service(s) Provided

Contractor's License #

RESPONSIBLE CONTRACTOR STATUS (Refer to definitions on page 3 of this Appendix)

Please check one of the following boxes:

RESPONSIBLE CONTRACTOR PROGRAM

1. ☐ Meets all Responsible Contractor requirements

2. ☐ Meets none of the Responsible Contractor requirements

3. ☐ Meets certain of the Responsible Contractor requirements *(provide explanation below)*

If you have checked box 3 above, please provide an explanation below *(attach additional pages if necessary)*

Explanation: _____

4. In the last 18 months, has your firm been fined, suffered an adverse judgment, incurred a penalty, or had to change its employment policies because of violations of State or Federal labor laws, including but not limited to the National Labor Relations Act, Or the Civil Rights Act of 1964 (e. g., sexual harassment or discrimination violations)? If yes, please explain *(attach additional pages if necessary)*.

Explanation: _____

5. Are you aware of any pending complaints that have been filed with your firm or any agency enforcing labor or employment laws? If yes, please explain. (An affirmative answer will not necessarily disqualify you from being the successful bidder. It just will be a factor that will be taken into account in determining to whom the contract will be awarded.)

Explanation *(attach additional pages if necessary)*:

RESPONSIBLE CONTRACTOR PROGRAM

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OWNER'S CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS

On behalf of the above-named company, the undersigned certifies that the information and response provided herein are true, complete and accurate as of this date, and he/she is aware that any intentionally misrepresented or falsified information may result in disqualification from future contracting opportunities.

Signature _____ Date _____

Name (please print) _____ Title _____

This form was prepared for use with the Responsible Contractor Program Policy of CalPERS. Any contractor or subcontractor with a minimum contract size of \$100,000 should complete this form. CalPERS reserves the right to disclose the contents of this Self-Certification Form at its or its Manager's or Delegate's discretion.

RESPONSIBLE CONTRACTOR PROGRAM

APPENDIX 1**PAGE 3 of 4****INTRODUCTION: _____**

The California Public Employees' Retirement System ("CalPERS") has a deep interest in the condition of workers employed by CalPERS and its Managers and Delegates. CalPERS, through the Statement of Investment Policy for the Responsible Contractor Program ("Responsible Contractor Policy"), supports and encourages fair wages and fair benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on CalPERS real estate and infrastructure investments. CalPERS endorses small business development, market competition and control of operating costs. CalPERS supports many of the ideals espoused by labor unions and encourages participation by labor unions and their signatory contractors in the development and management of CalPERS real estate and infrastructure investments. CalPERS believes that an adequately compensated and trained worker delivers a higher quality product and service.

DEFINITION:

Responsible Contractor: A business that pays workers a fair wage and a fair benefit as evidenced by payroll and employee records. The definition of fair benefits includes, but is not limited to, employer paid family health care coverage, pension benefits, and apprenticeship programs. What constitutes a fair wage and a fair benefit depends on the wages and benefits paid on comparable real estate or infrastructure projects. Fair wages and fair benefits are based upon local market factors, that include the nature of the project (e.g. residential or commercial and public or private) comparable job or trade classifications, and the scope and complexity of services provided.

RESPONSIBLE CONTRACTOR PROGRAM

Appendix 1

Page 4 of 4

Responsible Contractor Worksheet

Company Name: _____

~~This Worksheet has been provided to assist you with answering questions on the Certification of Responsible Contractor Status form. The Responsible Contractor Program encourages fair wages and benefits, consistent with local market practices. Please take a few minutes to complete the following questions about your firm and the marketplace in which you operate.~~

Wages

1. ~~Considering the wages paid by your competitors in this market, the nature of this project, and the size and scope of this contract, do you believe that your firm will pay local market wages for the employees on this job?~~
☐ ~~YES~~ ☐ ~~NO~~

Benefits

1. ~~For the employees on this job, will your firm provide employer-paid health insurance for the employee or the employee and his or her family?~~
☐ ~~YES~~ ☐ ~~NO~~
2. ~~For the employees on this job, will your firm provide pension, 401(k), or a similar retirement savings or deferred compensation program?~~
☐ ~~YES~~ ☐ ~~NO~~
3. ~~For employees on this job, will your firm provide access to apprenticeship programs for skilled trades?~~
☐ ~~YES~~ ☐ ~~NO~~
4. ~~Are there any other benefits that you will provide to the employees on this job that you would like to describe (e.g. paid vacation, sick leave, etc.)? If so, please describe:~~

5. ~~Considering your answers above, the benefits your competitors in this market provide to their employees, the size and scope of this contract, and the nature of this project, do you believe your firm will provide benefits consistent with local market practices to the employees on this job?~~
☐ ~~YES~~ ☐ ~~NO~~

~~Please attach additional page(s) if you would like to elaborate on any of the answers you provided above.~~

Appendix 2

Complaint, Investigation and Dispute Resolution Process Regarding Potential Violations of the CalPERS Responsible Contractor Program Policy

All complaints must be in writing and sent to CalPERS at the following address:

**California Public Employees' Retirement System
Investment Office, Real Estate Unit
400 Q Street, Suite E4800
Sacramento, California 95814
Attention: Senior Investment Officer, Real Estate
Tel: 916-795-3400
Fax: 916-795-3965**

The following outlines the complaint, investigation and resolution process:

Step 1 - The complaining party contacts CalPERS Staff in writing, stating the complaint. The written complaint must document the specific allegation(s), the specific provision(s) in the RCP that is alleged to be violated, the property address, date, and parties involved. Please include any other information that may be pertinent to the matter.

Step 2 - Staff will log the written complaint into the Responsible Contractor Complaint/Concern Log. The Complaint/Concern Log is maintained by the Staff. After the written complaint has been filed and logged into the Responsible Contractor Complaint/Concern Log, the complaining party may request in writing a copy of that contractor's completed Self-Certification Form.

Step 3 - The Staff will contact the complaining party to gather additional information to fully understand the nature of the complaint(s). Also, upon receipt of a complaint, CalPERS may, in its discretion, disclose to the Manager or Delegate against which the complaint has been filed, the nature of the complaint, may provide a copy of the written complaint to the Manager or Delegate in question and may disclose the Delegate's Self-Certification Form to the complaining party.

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Step 4 - The Staff will work with the Manager that oversees the affected property (the subject of the complaint), to fully understand the matter. Such investigation may include, but not be limited to, determining whether the alleged conduct violates the RCP, reviewing payroll and employee records, Responsible Contractor certifications and the alleged violator's conduct. CalPERS will contact the complaining party before completion of the investigation process to make sure it fully understands the complaint and charges and to attempt to clear up any factual disputes.

Step 5 - Upon completion of the investigation, the Staff will issue a decision on the matter. If a violation of the RCP is deemed to have occurred, that finding will be communicated to the parties involved.

Step 6 - If the Staff deems it necessary, a meeting may also be arranged with the complaining party to address any other outstanding concerns or to better inform the complaining party on how it can be more pro-active in increasing Responsible Contractor bidding on CalPERS related contracts. Appropriate parties involved in the matter will be invited to attend the meeting, including: CalPERS real estate staff, CalPERS legal staff, the affected Manager and the complaining party.

RESPONSIBLE CONTRACTOR PROGRAM**APPENDIX 3****PAGE 1 of 1****Appendix 3****Manager's Certificate of Compliance and Annual Report
on Manager's Responsibilities** ~~Responsible Contractor Program ("RCP") Policy~~~~MANAGER'S CERTIFICATE OF COMPLIANCE AND Annual Report on Manager's Responsibilities~~**GENERAL INFORMATION**

Company Name	
Address	
City	
Telephone Number ()	Fax Number () Email Address

A. MANAGER'S CERTIFICATION OF COMPLIANCE WITH RESPONSIBLE CONTRACTOR POLICY

On behalf of the above-named company, I certify that for the fiscal year ending June 30, 20____, _____
(Manager's Name) and its Delegates and their Sub-Delegates (as defined in the Responsible Contractor Program Policy)
have complied, to the best of my knowledge, with the Responsible Contractor Policy and the neutrality requirements as
outlined in:

☐ Addendum A ☐ Addendum B ☐ Neither Addendum A nor Addendum B applies

Signature _____ Date _____

Name (please print) _____ Title _____

B. MANAGER'S ANNUAL REPORTING ON ADMINISTRATION OF RESPONSIBLE CONTRACTOR POLICY

Please provide the information called for on the Annual Report Form found at the following Internet site:
(<http://review.calpers.ca.gov/eip-docs/investments/policies/annual-report.xls>) and provide all information requested by
CalPERS.

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APPENDIX 4

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Appendix 4

Model Delegate/Sub-Delegate

Contract Rider

Agreeing to be Bound by Neutrality Requirement

RIDER #

TO CONTRACT DATED

BETWEEN

AND

(CONTRACTOR)

REQUIRING LABOR NEUTRALITY

Services under the contract identified above (Contract) will be provided with respect to real estate beneficially owned by the California Public Employees' Retirement System (CalPERS). CalPERS has established a Neutrality Requirement in connection with its Responsible Contractor Policy, requiring employer neutrality as to union or employee organizing efforts. By signing below, Contractor will be agreeing to be bound by the Neutrality Requirement. The provisions of the Neutrality Requirement that apply to Contractor are as follows:

1. Obligation to Remain Neutral

If a labor organization lawfully attempts to organize Contractor's or its subcontractor's employees providing maintenance, operation, or property-related services at CalPERS-owned real estate listed below (Responsible Contractor Program, or "RCP," Investments), or if such employees themselves attempt to organize, [Name of entity retaining Contractor] and all parties to any such subcontract shall remain "neutral," as explained in the next paragraph. Neutrality only is required as to employees who service an RCP Investment.

To remain "neutral" means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this rider obligates Contractor to or prohibits Contractor from entering into private neutrality, labor peace or other lawful agreements with a labor organization seeking to represent or who currently represents workers at an RCP Investment.

RESPONSIBLE CONTRACTOR PROGRAM**APPENDIX 4**
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Contractor shall notify employees with respect to whom it is to remain neutral that it has agreed to be neutral by providing the following notice to such employees in writing in any reasonable manner: "As required by our contract to provide [type of service] at [name of building], [name of contractor] has agreed to remain neutral if our employees who provide such services choose to join or form a union. This means that [name of contractor] will not do or say anything that either supports or opposes employee selection of a union."

Resolution of any inter-jurisdictional trade disputes shall be the responsibility of the unions (e.g., trades and the various state and national building trades councils). Subcontractor is not required to become involved in inter-jurisdictional trade disputes.

2. Obligation to Require Subcontractors to Agree to Similar Rider

If Contractor subcontracts any part of the Contract after signing this Rider, the subcontractor must agree to a rider similar to this one if the subcontract is worth at least \$100,000. Contact [name of Manager representative] at _____ for assistance in preparing an appropriate rider. If Contractor has already subcontracted part of this Contract and the subcontract is worth at least \$100,000, Subcontractor must promptly encourage its existing subcontractors to agree to such a rider. Contact [name of Manager representative] at _____ if Contractor believes that insisting on such a rider or enforcing such a rider will have adverse consequences.

3. RCP Investments

The RCP Investments at which Contractor will or may be performing services are:

- _____ [Insert list]
- _____ Any other investment [Name of entity retaining Contractor] designates in writing

4. Obligation to Provide Information

Contractor must provide information about the effects of requiring neutrality, as requested by [Name of entity retaining Contractor].

Agreed to this _____ day of _____, _____.

[NAME OF ENTITY RETAINING CONTRACTOR]

CONTRACTOR

RESPONSIBLE CONTRACTOR PROGRAM

APPENDIX 5
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Appendix 5

Neutrality Exception Report

A Manager subject to the Responsible Contractor Program ("RCP")'s Neutrality Requirement must file this form with CALPERS within 30 days after it grants a neutrality exception under Section 4.a of Addendum A.

1. **Manager's Name:**
2. **Person to Contact at Manager for More Information (include contact information):**
3. **Date neutrality exception granted:**
4. **Date report filed with CalPERS:**
5. **Affected property:**
6. **Delegate/Sub-delegate granted exception:**
7. **Excepted contract (include description of covered work):**
8. **Value of excepted contract:**
9. **Reason for granting exception (include reasonable evidence showing that requiring neutrality would materially adversely affect the investment (e.g., describe how its financial performance would suffer by more than the lesser of \$50,000 or a 10% increase in contract cost)):**
10. **Additional information CalPERS should consider:**

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM B
PAGE 1 OF 6

ADDENDUM B

NEUTRALITY TRIAL PROGRAM POLICY
FOR NON-CORE REAL ESTATE MANAGERS AND
INFRASTRUCTURE MANAGERS

This Neutrality Trial Program Policy is effective July 1, 2015 and will expire on June 30, 2017.

I. PURPOSE

This document establishes a special Neutrality Trial Program (NTP) to determine whether it would be appropriate to modify the Responsible Contractor Program (RCP) to require certain Managers, Delegates, and Sub-Delegates to remain neutral when employees or labor organizations seek to organize employees who provide certain services to CalPERS RCP Investments. The NTP supplements but does not supersede the RCP except to the extent it provides that selected Non-Core Real Estate Managers and Infrastructure Managers, and their respective Delegates, and Sub-Delegates participating in the NTP, agree to remain neutral with respect to such organizing efforts. Thus, for example, complaints about NTP violations should be made in accordance with the RCP's complaint procedures. Capitalized terms that are not defined elsewhere in the text of this document generally are defined in the RCP and in the NTP Section IV.

Before implementing the NTP, CalPERS conducted an extensive investigation to determine whether requiring neutrality would affect investment performance, but the evidence was insufficient to make such a determination for Non-Core Real Estate Managers and Infrastructure Managers with certainty. To further enhance CalPERS knowledge and understanding of these matters, CalPERS adopted the NTP to give it an opportunity to make such a determination with respect to a significant but limited number of its RCP Investments.

RESPONSIBLE CONTRACTOR PROGRAM**ADDENDUM B****PAGE 2 OF 6****II. NTP TERMS****A. Managers, Delegates, and Sub-Delegates Subject to the NTP –**

Because existing contracts generally prevent CalPERS from unilaterally requiring existing Managers to participate in the NTP, the NTP only applies to selected Non-Core Real Estate Managers and Infrastructure Managers who: (a) voluntarily agree to participate in the NTP; and (b) execute new contracts or amendments to existing contracts with Delegates or Sub-Delegates on or after the effective date of the NTP. Such Managers shall require their Delegates and Sub-Delegates subject to a new or amended contract on or after the NTP's effective date to agree to be bound by it, subject to the exceptions set forth in the NTP or the RCP (e.g., Exempt Contracts). Subject to those exceptions, such Managers shall encourage their then-existing Delegates and Sub-Delegates as of the NTP's effective date to voluntarily agree to be bound by the NTP. Exhibit B-I to this Policy is a rider form that subject Managers must use to secure a Delegate's or Sub-Delegate's agreement to be bound by the NTP. Managers may add other provisions or make minor changes to the rider, in either case if they are not materially inconsistent with it. Neutrality exceptions or limitations may not be added to the rider.

B. Neutrality – If a labor organization lawfully attempts to organize a Manager's, Delegate's, or Sub-Delegate's employees, or if such employees themselves lawfully attempt to organize, their employer shall remain neutral, as set forth below. If that employer is a Delegate, the Manager that hired the Delegate also shall remain neutral. If that employer is a Sub-Delegate, the Delegate that hired the Sub-Delegate and the Manager that hired the Delegate also shall remain neutral.

Neutrality only is required as to employees of an employer subject to the NTP who provide maintenance, operation, or other property-related services (e.g., food services) at an RCP Investment pursuant to an RCP Contract that is not an Exempt Contract. Neutrality is not required as to employees providing professional services (e.g., accounting or property management services) or construction services.

For example, if a Manager's own employees provide maintenance services at an RCP Investment, the Manager would have to remain neutral if they attempt to organize.

A Manager, Delegate, or Sub-Delegate shall remain neutral at all times while it is subject to the neutrality requirement. However, prior to the

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM B**PAGE 3 OF 6**

commencement of any organizing efforts, a minor, unintentional violation of the neutrality requirement will not violate the NTP.

To remain “neutral” means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this policy obligates Managers or Delegates to enter, or prohibits them from entering, into private neutrality, labor peace or other lawful agreements with a labor organization representing or seeking to represent workers at a RCP Investment.

A Manager, Delegate, or Sub-Delegate shall notify employees with respect to whom the NTP requires it to remain neutral that it has agreed to be neutral, by providing the following notice to such employees in writing in any reasonable manner: “As required by our contract to provide [type of service] at [name of building], [name of contractor] has agreed to remain neutral if our employees who provide such services choose to join or form a union. This means that [name of contractor] will not do or say anything that either supports or opposes employee selection of a union.”

Resolution of any inter-jurisdictional trade disputes shall be the responsibility of the unions (e.g., trades and the various state and national building trades councils). This Policy does not call for any involvement by Managers, Delegates, or Sub-Delegates in inter-jurisdictional trade disputes.

- C. Neutrality Requirement Exceptions** – If at the time a contract is entered into, a Manager, based on reasonable evidence, believes that requiring neutrality would materially adversely affect an RCP Investment (e.g., that its financial performance would suffer by more than the lesser of \$50,000 or a 10% increase in contract cost), the neutrality requirement shall not apply. An exception normally may be granted only after competitive bidding has failed to result in an acceptable bid because of the neutrality requirement. However, if it is virtually certain that competitive bidding would not produce an acceptable bid if neutrality were required, an exception may be granted without competitive bidding, e.g., when only one contractor could do the work because of proprietary software or equipment, and that contractor would not agree to neutrality. If a contract has been entered into requiring neutrality, but the Manager, based on reasonable evidence, believes that requirement should be waived for the reasons set forth in the preceding sentences, it may grant a neutrality exception.

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM B**PAGE 4 OF 6**

Within 30 days after granting a neutrality exception, the Manager shall send a written report to Staff explaining its decision. The form attached as Exhibit B-II to this document shall be used for making such reports. Staff may revise this form as Staff deems appropriate. Staff shall prepare an analogous report for exceptions it grants. Subject to reasonable limitations established by Staff, copies of exception reports will be sent by e-mail to labor representatives and Managers that have asked to be included in an exception report e-mail group.

If Staff, based on the information it obtains in these exception reports or otherwise, determines that a Manager has a practice of granting neutrality exceptions improperly (i.e., in a manner not permitted by the first paragraph of this section), it shall cancel the Manager's right to grant neutrality exceptions in the future. Thereafter, the Manager must request exceptions from the Staff, which shall be deemed granted unless rejected in writing by the Staff within two business days after receipt.

Staff shall review neutrality exceptions for appropriateness, with the assistance of experts and consultants if Staff determines that would be helpful. Staff shall report on neutrality exceptions in its RCP Policy Annual Report or more frequently as the Investment Committee requests.

D. Safe Harbor – Because this is a trial program, Managers, Delegates, and Sub-Delegates will not be subject to termination for NTP violations unless they are flagrant, intentional, or repetitive. However, each Manager subject to the NTP shall make commercially reasonable, good faith efforts to prevent its Delegates and Sub-Delegates from violating the NTP, to remedy NTP violations when possible, and to warn or discipline Delegates and Sub-Delegates for NTP violations as appropriate. These efforts may involve communicating with affected labor unions or seeking their participation in remedial efforts.

E. Monitoring and Enforcing the NTP, and Reporting Results – Managers and their Delegates and Sub-Delegates subject to the NTP shall file written reports on NTP compliance and consequences on a form provided by Staff and at the time it prescribes, e.g., every six months. Among other things, this report shall require information as to (1) organizing efforts at RCP Investments, (2) how, if any, the NTP has affected investment performance of individual RCP Investments, (3) whether Delegates or Sub-Delegates who have agreed to neutrality have abandoned or threatened to abandon contracts when organizing efforts commenced or appeared imminent, and (4) suggestions for making the neutrality requirement more appropriate or effective.

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM B**PAGE 5 OF 6**

Approximately every six months, Staff will schedule meetings with Managers subject to the NTP and representatives of interested labor organizations to discuss NTP compliance and consequences. If significant NTP issues arise, Staff will notify the Board's Investment Committee and present recommendations for addressing those issues. The Staff will report on NTP compliance and consequences in the RCP Policy Annual Report.

In advance of these semi-annual meetings, CalPERS encourages unions that have an interest in the NTP to file written reports on their experiences under the NTP, how, if at all, it has affected CalPERS investments, and suggestions for making the neutrality requirement more appropriate or effective.

- F. Unforeseen Issues** – If unforeseen issues arise in the implementation, administration, or evaluation of the NTP, the Investment Committee shall have the power to take any actions it determines to be appropriate to deal with or resolve those issues. If there is insufficient time to secure such Investment Committee action, Staff shall have the power to take any actions it determines to be appropriate to deal with or resolve unforeseen issues. Staff shall promptly report any such actions it takes to the Investment Committee.

III. EVALUATING NTP RESULTS

As to each Affected RCP Investment in isolation, its Manager shall (as part of the reporting required by NTP Section II.E.) advise CalPERS whether neutrality resulted in (a) reasonably quantifiable differences in investment return, and what they were, (b) the same, greater, or lesser labor risks, and (c) reasonably non-quantifiable investment performance impacts that in the aggregate were positive, neutral, or negative.

Within 60 days after each reporting period and at the end of the NTP trial period, Staff shall determine how, if any, the NTP's neutrality requirement affected investment performance of each Affected RCP Investment, taking an allocable portion of Incremental Costs into account, affected labor risks, or otherwise affected the investment).

RESPONSIBLE CONTRACTOR PROGRAM

ADDENDUM B**PAGE 6 OF 6**

At the end of the NTP trial period, Staff will report back to the Investment Committee with recommendations for going forward.

If considered for permanent inclusion, Staff shall make recommendations to the Board's Investment Committee on modifying the RCP to include the NTP as to the appropriate (but not yet determined) universe of RCP Investments, along with appropriate monitoring and enforcement mechanisms, e.g., ones that will not materially increase Incremental Cost.

If the Staff determines before the end of the NTP trial period that the NTP will be a success or failure, Staff shall notify the Investment Committee and shall recommend, in the case of NTP success, the immediate extension of a neutrality requirement to the appropriate universe of RCP Investments, with appropriate monitoring and enforcement mechanisms or, in the event of NTP failure, the immediate termination of the NTP.

Determinations of success or failure will be made in accordance with these guidelines, as reasonably interpreted and supplemented by Staff.

IV. DEFINITIONS

Except as indicated below, capitalized terms used in this NTP shall have the same meaning as defined in the RCP.

A. **Affected RCP Investments** – RCP Investments with RCP Contracts subject to the NTP, subject to any sensible limitations the Staff may elect to establish. Managers and labor organizations will be asked to identify the Affected RCP Investments.

B. **Incremental Cost** – This is the cost of administering the NTP. It includes all NTP administration costs (including internal and external consulting, legal, and staff costs) that would not have been incurred under the basic RCP (Incremental Cost). It does not include (a) amounts already taken into account in determining Affected RCP Investments' return on investment, (b) the cost of establishing the NTP, (c) the cost of periodic stakeholder meetings and activities conducted pursuant to NTP Section II.E., and (d) the cost of analyzing its results or reporting on them to the Board or Board committees. Incremental Cost will include NTP enforcement costs.

RESPONSIBLE CONTRACTOR PROGRAM

EXHIBIT B-I
PAGE 1 OF 2

EXHIBIT B-I

MODEL DELEGATE/SUB-DELEGATE
CONTRACT RIDER
AGREEING TO BE BOUND BY NTP

RIDER #
TO CONTRACT DATED
BETWEEN _____ **AND**

(CONTRACTOR))
REQUIRING LABOR NEUTRALITY

Services under the contract identified above (Contract) will be provided with respect to real estate beneficially owned by the California Public Employees' Retirement System (CalPERS). CalPERS has established a Neutrality Trial Program (NTP) to determine the potential impact on investments of requiring employer neutrality as to union or employee organizing efforts. By signing below, Contractor will be agreeing to be bound by the NTP while it remains in effect. The provisions of the NTP that apply to Contractor are as follows:

1. Obligation to Remain Neutral

If a labor organization lawfully attempts to organize Contractor's or its subcontractor's employees providing maintenance, operation, or property-related services at CalPERS-owned real estate listed below (RCP Investments), or if such employees themselves attempt to organize, [Name of entity retaining Contractor] and all parties to any such subcontract shall remain "neutral," as explained in the next paragraph. Neutrality only is required as to employees who service an RCP Investment.

To remain "neutral" means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this rider obligates Contractor to or prohibits Contractor from entering into private neutrality, labor peace or other lawful agreements with a labor organization seeking to represent or who currently represents workers at a RCP Investment.

RESPONSIBLE CONTRACTOR PROGRAM

EXHIBIT B-1

PAGE 2 OF 2

Contractor shall notify employees with respect to whom it is to remain neutral that it has agreed to be neutral by providing the following notice to such employees in writing in any reasonable manner: "As required by our contract to provide [type of service] at [name of building], [name of contractor] has agreed to remain neutral if our employees who provide such services choose to join or form a union. This means that [name of contractor] will not do or say anything that either supports or opposes employee selection of a union."

Resolution of any inter-jurisdictional trade disputes shall be the responsibility of the unions (e.g., trades and the various state and national building trades councils). Subcontractor is not required to become involved in inter-jurisdictional trade disputes.

2. Obligation to Require Subcontractors to Agree to Similar Rider

If Contractor subcontracts any part of the Contract after signing this Rider, the subcontractor must agree to a rider similar to this one if the subcontract is worth at least \$100,000. Contact [name of Manager representative] at _____ for assistance in preparing an appropriate rider. If Contractor has already subcontracted part of this Contract and the subcontract is worth at least \$100,000, Subcontractor must promptly encourage its existing subcontractors to agree to such a rider. Contact [name of Manager representative] at _____ if Contractor believes that insisting on such a rider or enforcing such a rider will have adverse consequences.

3. RCP Investments

The RCP Investments at which Contractor will or may be performing services are:

- [Insert list]
- Any other investment [Name of entity retaining Contractor] designates in writing

4. Obligation to Provide Information

Contractor must provide information about the effects of requiring neutrality, as requested by [Name of entity retaining Contractor].

Agreed to this _____ day of _____, _____.

<u>[NAME OF ENTITY</u>	<u>CONTRACTOR</u>
<u>RETAINING CONTRACTOR]</u>	

RESPONSIBLE CONTRACTOR PROGRAM

EXHIBIT B-II

EXHIBIT B-II

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
NEUTRALITY TRIAL PROGRAM

NEUTRALITY EXCEPTION REPORT

A Manager participating in the Neutrality Trial Program must file this form with CalPERS within 30 days after it grants a neutrality exception under Section B.II.C. of the Neutrality Trial Program (Addendum B).

- 1. Manager's Name:**
- 2. Person to Contact at Manager for More Information (include contact information):**
- 3. Date neutrality exception granted:**
- 4. Date report filed with CalPERS:**
- 5. Affected property:**
- 6. Delegate/Sub-delegate granted exception:**
- 7. Excepted contract (include description of covered work):**
- 8. Value of excepted contract:**
- 9. Reason for granting exception (include reasonable evidence showing that requiring neutrality would materially adversely affect the investment (e.g., describe how its financial performance would suffer by more than the lesser of \$50,000 or a 10% increase in contract cost)):**
- 10. Additional information CalPERS should consider:**

~~CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATEMENT OF INVESTMENT POLICY
FOR
NEUTRALITY TRIAL RESPONSIBLE CONTRACTOR PROGRAM~~

~~February 16, 2010~~

~~This Policy is effective immediately upon adoption and supersedes all previous Responsible Contractor policies for parties subject to this Policy.~~

~~I. PURPOSE~~

~~This document sets forth the investment policy ("the Policy") for the Responsible Contractor Program ("the Program"). The design of this Policy ensures that contractors, investors, managers, consultants, or other participants selected by The California Public Employees' Retirement System ("CalPERS") take prudent and careful action while managing the Program. Additionally, use of this Policy provides assurance that there is sufficient flexibility in controlling investment risks and returns while using contractors.~~

~~II. INTRODUCTION~~

~~CalPERS has a deep interest in the condition of workers employed by CalPERS and its Managers and Delegates (as defined in the next section). CalPERS, through the Policy set forth in this document, supports and encourages fair wages and benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on CalPERS real estate and infrastructure investments.~~

~~CalPERS endorses small business development, market competition, and control of operating costs. CalPERS supports many of the ideals espoused by labor unions and encourages participation by labor unions and their signatory contractors in the development and management of CalPERS real estate and infrastructure investments. CalPERS believes that an adequately compensated and trained worker delivers a higher quality product and service. This Policy shall complement and in no manner detract from existing CalPERS policies regarding disabled veteran business enterprises. The Policy includes provisions for transition, monitoring, and enforcement. This Policy is consistent with the advice CalPERS has received from its own counsel, its fiduciary counsel, and other outside counsel.~~

~~III. DEFINITIONS~~

~~Capitalized terms used in this Policy have the following meanings for purposes of this Policy:~~

- ~~A. **Board** — The CalPERS Board of Administration or the committee thereof to which the Board has delegated the function in question.~~
- ~~B. **CalPERS** — The California Public Employees' Retirement System.~~
- ~~C. **Delegate/Sub-Delegate** — A person or entity that a Manager or other Delegate retains (other than pursuant to an Exempt Contract) to provide services with respect to an RCP Investment. When a Delegate hires another Delegate, the latter is the former's "Sub-Delegate." Delegates and Sub-Delegates are collectively referred to as "Delegates" in this Policy unless the context indicates otherwise. For example, the general partner of a partnership that owns an office building that is an RCP Investment normally would be the Manager. The Property Manager that the Manager hires to manage the building would be a Delegate. In turn, if that Delegate hires another firm, e.g., a janitorial services company, to provide services with respect to the property, the janitorial services company would be the Property Manager's Sub-Delegate. If that Sub-Delegate, in turn, subcontracts with another firm, the subcontractor would be the Sub-Delegate of the janitorial services firm, and so on. However, any person or entity in such a delegation chain that performs services pursuant to an Exempt Contract would not be a Delegate or Sub-Delegate with respect to those services, nor would any person or entity it retains or subcontracts with to provide those services.~~
- ~~D. **Exempt Contract** — An RCP Investment-related construction or property services contracts (1) for professional services (e.g., architect, legal, or engineering services) or (2) for less than \$100,000. This threshold is applied both at the contract level and the subcontract level. For example, a \$1 million maintenance contract normally would not be an Exempt Contract, but a \$40,000 subcontract under it would be an Exempt Contract. Any contract in effect when a property first becomes an RCP Investment also shall be an Exempt Contract, but this exemption shall lapse at the end of the contract's term (including any extensions the contract permitted before the investment became an RCP Investment).~~
- ~~E. **Fiduciary Duty Requirement** — The duty of the CalPERS Board, Staff, and Managers to be loyal and prudent, and achieve a competitive return, as set forth in Section IV.A. C. To the extent a Delegate has been delegated the discretion to make business decisions affecting RCP Investments, CalPERS expects the Delegate to make sensible business decisions.~~

- ~~F. **Manager** — A person or entity that directly contracts with CalPERS to manage or otherwise control an RCP Investment, such as an investment manager or the general partner of a partnership in which CalPERS directly invests.~~
- ~~G. **Policy** — The policy set forth in this document, as amended from time to time. Except to the extent that the Staff determines otherwise, an amendment to this Policy made after a person or entity becomes a Manager shall apply to the Manager.~~
- ~~H. **Property Manager** — A person or entity that manages the day-to-day operations of a building, including such things as leasing, tenant improvements, guard and janitorial services, or performs similar functions.~~
- ~~I. **RCP Contract** — An RCP Investment-related contract (other than an Exempt Contract) for (a) building or construction-related services (including tenant improvements unless paid for by the tenant), and (b) property-related services (such as cleaning maintenance, security, food and beverage service, and other services provided within the property that are specific to the nature of that asset, e.g., senior living operations, hotel operations, transportation assets, hospitals, etc.).~~
- ~~J. **RCP Investment** — An investment Section VI.A. designates as an RCP Investment, generally real estate and infrastructure investments more than 50 percent owned by CalPERS. RCP Investment determinations only will be made when CalPERS first contracts with the person or entity who would be the Manager, or when CalPERS subsequently enters into a new contract with the person or entity. For example, if CalPERS, at the time of the first contract, will not own more than 50% of a real estate or infrastructure investment, subsequent CalPERS investments in that real estate or infrastructure investment that cause it to be more than 50% CalPERS-owned will not make it an RCP Investment, nor cause the person or entity managing it to become a Manager.~~
- ~~K. **Responsible Contractor** — A business that pays workers a fair wage and a fair benefit (see Section VI.G.), as evidenced by payroll and employee records, and that complies with the CalPERS Disabled Veteran Business Enterprise policy.~~
- ~~L. **Staff** — The CalPERS Investment Office staff.~~

~~IV. **PRINCIPAL REQUIREMENTS OF THE NEUTRALITY TRIAL RESPONSIBLE CONTRACTOR PROGRAM POLICY**~~

- ~~A. **Duty of Loyalty** — Notwithstanding any other considerations, assets shall be managed for the exclusive benefit of CalPERS participants and~~

~~beneficiaries. CalPERS and its Managers' duty to the participants and their beneficiaries shall take precedence over any other duty.~~

- ~~B. **Prudence** — CalPERS and its Managers are charged with the fiduciary duty of exercising the care, skill, prudence, and diligence appropriate to the task.~~
- ~~C. **Competitive Return** — To comply with duties of loyalty and prudence, all investments and services must be made and managed in a manner that produces a competitive risk-adjusted return.~~
- ~~D. **Competitive Bidding** — Managers and Delegates shall select contractors and their subcontractors for RCP Contracts through a competitive bidding and selection process. The purpose of this provision is to encourage fair competition and to seek bids actively from all qualified sources within an area, particularly those identified as Responsible Contractors. See Section VI.I. for more information on the competitive bidding requirement.~~
- ~~E. **Local, State, and National Laws** — All Managers, Delegates and the contractors and subcontractors they hire, while performing services with respect to RCP Investments, shall observe all local, state, and national laws (including, by way of illustration, those pertaining to insurance, withholding taxes, minimum wage, and health and occupational safety).~~
- ~~F. **Disabled Veteran Business Enterprise (DVBE) Policy** — Managers must adhere to the CalPERS Disabled Veteran Business Enterprise policy to the extent their agreements with CalPERS require them to do so.~~
- ~~G. **Delegation Requirement** — Managers must require their Delegates to comply with this Policy, and Delegates must require their Sub-Delegates to comply with this Policy. CalPERS will hold Managers responsible for Delegate noncompliance to the extent a Manager permits or causes a Delegate to violate this Policy or fails to take appropriate remedial action after learning of a violation. In a like manner, each Delegate is responsible for its Sub-Delegate's noncompliance with this Policy to the greatest extent reasonable and prudent in light of all circumstances and factors at that time.~~

~~V. **SELECTION PREFERENCE OF A RESPONSIBLE CONTRACTOR**~~

~~If the requirements in Section IV. are satisfied, CalPERS strongly prefers Managers and Delegates to hire Responsible Contractors to provide services to RCP Investments. As to non-RCP Investments, Staff shall give a strong preference to investment managers, advisors, partners and the equivalent that have internal responsible contractor policies that are consistent with this Policy, subject to the Fiduciary Duty Requirement.~~

~~VI. TRANSITION, ENFORCEMENT, MONITORING, AND ADMINISTRATION~~

~~A. **RCP Investments** — This Policy shall only apply with respect to RCP Investments. An RCP Investment is (1) a real estate investment, or (2) an infrastructure investment to which the CalPERS infrastructure policy makes this Policy apply, in either case, including one owned by a business entity (such as a joint venture, limited liability company, or partnership), in which CalPERS owns a greater than 50% ownership interest. RCP Investments do not include any other types of investments, including commingled funds, opportunity funds, mezzanine debt, hybrid debt, international investments, indirect investments, specialty investments, and mortgage investments lacking equity features.~~

~~Housing Development Partnerships exempted from this Policy in the past shall remain exempt, but voluntary compliance is strongly recommended, subject to the Fiduciary Requirement. and bearing in mind that Responsible Contractor status is determined based on local market factors that include the nature of the project (e.g., residential or commercial) among other factors. Hence, for example, a contractor doing work on a single family housing project might still be a Responsible Contractor even though it pays lower wages than a Responsible Contractor in the area pays for commercial office building construction, if that is consistent with locally prevailing labor practices.~~

~~The practicality, schedule, and method of extending this Policy in the future beyond RCP Investments depends on factors that include the structure of the investment and the degree of control CalPERS can exercise.~~

~~When the Policy is not applicable by its terms, investment advisors, general partners, and other similar entities managing CalPERS real estate or infrastructure investments are encouraged to make a good faith effort to comply with the spirit of the policy, consistent with the Fiduciary Duty Requirement. Good faith efforts may include, but are not limited to, encouraging the use of and advocating for Responsible Contractors, supplying timely information on bidding opportunities to interested Responsible Contractors, and facilitating meetings with organized labor.~~

~~B. **Notification** — CalPERS shall provide a copy of this Policy to all current and prospective Managers of RCP Investments.~~

~~C. **Solicitation Documents** — Except for Exempt Contracts, all requests for proposal and invitations to bid relating to RCP Investments (including both those CalPERS issues for Managers and those Managers or Delegates issue for Delegates) shall both describe the terms of this Policy (or include a copy of it) and include a copy of the Responsible Contractor Self-~~

~~Certification Form (Appendix 1). Responses by bidders shall include information to assist CalPERS, the Manager, or Delegate (whichever is applicable) in evaluating a bid. CalPERS reserves the right to disclose the contents of the Self-Certification Form at its discretion or the discretion of the applicable Manager or Delegate. Disclosure also may be required by applicable law.~~

~~D. **Contracts and Renewals** — Except for Exempt Contracts, all contracts that retain Managers or Delegates with respect to RCP Investments shall require compliance with this Policy. CalPERS will take compliance with this Policy into account in considering contract renewals. The Staff will report non-compliance to the Board on a timely basis or at a minimum annually. Unless a Manager agrees to be bound by this Policy restatement, a contract entered into before the date this Policy restatement was adopted shall remain subject to the terms of the Policy in effect when the contract was entered into. The preceding sentence will apply to renewals pursuant to the contract's renewal provisions, but it will cease to apply if the contract is otherwise extended.~~

~~E. **Responsibilities** — The responsibilities of the Staff, Managers, and Delegates, and the role of unions under this Policy are as follows:~~

~~1. The Staff shall have the following responsibilities:~~

- ~~a. Reviewing Managers' annual reports regarding compliance with the Policy.~~
- ~~b. Developing and maintaining Manager contact information and making it available to inquiring parties.~~
- ~~c. Reporting periodically to the Investment Committee on Managers' and Delegates' compliance with the Policy, making recommendations for, or taking, corrective or enforcement action as necessary, and describing any enforcement actions it has taken.~~

~~2. Managers shall have the following responsibilities; the performance of which (but not the responsibility for which) they may delegate to, e.g., Property Managers:~~

- ~~a. Communicating the Policy to all Delegates.~~
- ~~b. Reviewing a list prepared by each Delegate of current and pending RCP Contracts.~~

- ~~c. Maintaining a simplified bid summary for each RCP Contract. The summary shall identify the contract, the successful bidder, and its Responsible Contractor status.~~
- ~~d. Providing an annual report to the Staff, describing its and its Delegates' efforts to comply with this Policy.~~
- ~~e. Monitoring and enforcing the Policy as to its Delegates, including the investigation of potential violations.~~
- ~~f. The Manager shall sign and deliver, on its company's letterhead, an annual Certification stating the following:

"I certify that for the fiscal year ending June 30, 20XX _____ (Manager Name) and its Delegates and their Sub-Delegates (as defined in the Neutrality Trial Responsible Contractor Program Policy) have complied, to the best of my knowledge, with the Responsible Contractor Policy."~~
- ~~g. The Manager shall notify (or cause a Delegate to notify) a national contact at trade/service unions (see Section VI E.4.b.) if the Manager is expanding RCP Investments into new areas so that trade/service unions can provide the Manager contact information of local trade councils and union halls in the market where expansion is occurring.~~
- ~~h. Any other responsibilities this Policy assigns to Managers.~~
- ~~3. Delegates (or Managers, to the extent they undertake these functions) shall have the following responsibilities:~~
 - ~~a. Communicating this Policy in RCP Contract bid documents.~~
 - ~~b. Communicating about the Policy to any interested party.~~
 - ~~c. Ensuring there is a competitive bidding process for RCP Contracts, inclusive of potentially eligible Responsible Contractors.~~
 - ~~d. Requiring that bidders for RCP Contracts provide the Delegate a Responsible Contractor self-certification on a form approved by CalPERS.~~
 - ~~e. Preparing and sending to Managers a listing of current and pending RCP Contracts for each RCP Investments with~~

~~which the Delegate is involved. The building trades and service trades and other potential bidders will have access to this list.~~

~~f. Providing Managers with a simplified bid summary for each RCP Contract.~~

~~g. Providing property level annual report information to Managers.~~

~~h. Maintaining documentation for successful bidders on RCP Contracts.~~

~~i. Seeking from trade unions/service unions input in the development of Responsible Contractor lists.~~

~~j. Maintaining a list of any interested Responsible Contractors and local trade councils and union halls in all markets in which the Policy is applicable. (Names, addresses and telephone numbers).~~

~~k. Any other responsibilities this Policy assigns to Delegates.~~

~~4. Trade unions/service unions are expected to undertake the following tasks:~~

~~a. Delivering to Managers and Delegates lists of names and telephone numbers of Responsible Contractors.~~

~~b. Providing a national contact person/address/e-mail address where current information and notifications of expansions into new areas can be sent.~~

~~c. Providing contact information (address, e-mail address, phone number and contact person) of local trade councils and union halls in all markets in which this Policy is applicable to the Manager or Delegate.~~

~~d. Referring interested and qualified Responsible Contractors to the Manager.~~

~~e. Monitoring the local labor markets continually to update the lists.~~

~~f. Providing technical input as appropriate.~~

~~F. **Outreach** — Managers must use reasonable methods to timely notify potential contractors of bidding opportunities for RCP Contracts. Managers and Delegates shall provide RCP Contract solicitation documents to any potential contractor who, has in writing, expressed an interest in bidding for the contract.~~

~~G. **Fair Wage, Fair Benefits, and Training** — The Policy avoids a narrow definition of “fair wage”, “fair benefits”, and “training” that might not be practical in all markets. Furthermore, the Policy does not require a “prevailing wage”, as defined by government surveys. Instead, the Policy looks to local practices concerning type of trade and type of project. The Policy recognizes that practices and labor market conditions vary across the country and that flexibility in its implementation is very important.~~

~~The definition of fair benefits generally includes, but is not limited to, employer-paid family health care coverage, pension benefits, and apprenticeship programs. What constitutes a fair wage and a fair benefit depends on the wages and benefits paid on comparable real estate or infrastructure projects. Fair wages and fair benefits are based upon local market factors, that include the nature of the project (e.g., residential or commercial and public or private), comparable job or trade classifications, and the scope and complexity of services provided.~~

~~In determining fair wages and fair benefits concerning a specific contract in a specific market, items that may be considered include local wage practices, state laws, prevailing wages, labor market conditions, and other items.~~

~~In place of a prevailing wage standard, the Policy requires a broad outreach and competitive bidding program, as described in Sections IV. D, and VI. This program is premised upon the availability of a list of Responsible Contractors in every market in which CalPERS directly owns a property. While Managers and Delegates are responsible for gathering and analyzing information relevant in identifying and hiring a Responsible Contractor, compilation of this list does not depend solely on them. Instead, this Policy invites the various local trades to suggest contractors, which in their view, qualify as Responsible Contractors. Sources of information include local building and service trade councils, builders associations, and governments.~~

~~H. **Annual Review and Data Forms** — Managers must file a Responsible Contractor annual report with CalPERS. The annual review of Managers compliance with the Policy shall coincide with reviews of compliance with the CalPERS Disabled Veteran Business Enterprise policy, if applicable. Managers shall present summary data in a format described and approved by CalPERS. They shall include evidence showing that they~~

~~have made good faith efforts to monitor their Delegates for compliance with this Policy and undertaken appropriate steps to correct or deal with violations, and to cause each Delegate to do the same with respect to its Sub-Delegates.~~

~~The annual review shall determine whether each Manager or Delegate conducted a good faith outreach program and a competitive bidding process that includes Responsible Contractors. A Manager or Delegate will not be faulted merely because a Responsible Contractor does not respond to the invitation to bid. For each bidder, the Manager or Delegate is obliged to gather appropriate responsible contractor information and make a judgment concerning the principal requirements described in Section IV. CalPERS shall focus on a Manager's and its Delegates' overall pattern of conduct and not any one specific incident.~~

- ~~I. **Competitive Bidding** Managers and Delegates shall create a bidding process for RCP Contracts that includes notification and invitations to bid distributed to a broad spectrum of potential bidders, particularly those identified as Responsible Contractors. This obligation will be deemed satisfied if bids are solicited on a publicly accessible web site, but CalPERS encourages Managers and Delegates using this approach to include a feature in their web sites permitting potential bidders to sign up for automatic e-mail notification of projects open for bidding.~~

~~Large numbers of bidders do not necessarily assure inclusion. Property Managers must take care in ensuring that bidders include potentially eligible Responsible Contractors. Managers and Delegates may choose a reasonable number of contractors to invite to bid from the list of Responsible Contractors or other would-be bidders. Given the time and expense required to solicit and evaluate bids, it is not essential to invite all potential bidders.~~

~~Although the Policy does not require hiring union workers, Managers and Delegates must invite trade unions (through web site postings or other means) whose members work in the region where the work is to be performed to participate in the following:~~

~~1. Deliver to the Manager of Delegate lists of names and telephone numbers of Responsible Contractors and local trade councils and union halls in the region, including Responsible Contractors who expressed any interest in bidding.~~

~~2. Continually monitor the local markets, updating the lists.~~

~~Managers and Delegates shall maintain these lists supplied by the trade unions.~~

~~The review of the bids shall include consideration of loyalty, prudence, and competitive risk-adjusted returns, compliance with the CalPERS Disabled Veteran Business Enterprise policy, and adherence to this Policy.~~

~~An extension permitted by the terms of an RCP Contract is not subject to the competitive bidding requirement this section imposes. However, a new RCP Contract with an existing contractor to replace an expiring contract is subject to this requirement unless the contractor was a Responsible Contractor under the expiring contract and will remain one under the new contract.~~

~~J. **Neutrality** CalPERS will itself remain neutral, and it supports Manager neutrality, in the event a labor organization lawfully attempts to organize workers providing construction, maintenance, operation, or services at a RCP Investment. To remain "neutral" means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this policy obligates or prohibits Managers or Delegates from entering into private neutrality, labor peace or other lawful agreements with a labor organization seeking to represent or who currently represents workers at a RCP Investment.~~

~~Appendix 3 requires Manager and Delegate neutrality in certain situations.~~

~~Resolution of any interjurisdictional trade disputes shall be the responsibility of the unions (e.g., trades and the various state and national building trades councils). This Policy does not call for any involvement by Managers or Delegates in interjurisdictional trade disputes.~~

~~K. **Enforcement** This Policy is an important CalPERS policy. The Board expects the Staff to diligently monitor Managers for compliance with the Policy, just as it expects Managers to diligently monitor their Delegates and Sub-Delegates for compliance. If the Staff determines that a Manager has materially violated the Policy, either directly or by failing to take appropriate steps to prevent or remedy material Delegate or Sub-Delegate~~

~~Policy violations, the Staff is to consider all reasonably available remedies and implement any appropriate ones that it determines will best address the violation in a manner that satisfies the Staff's Fiduciary Duty Requirement, or recommend that the Board take such actions. For example, to the extent that CalPERS has the right to cancel its contract with a Manager that has violated this Policy, or to the extent the Manager has the right to cancel its contract with a Delegate that has violated this Policy or require a Delegate to cancel a contract with a Sub-Delegate that has violated this Policy, Staff may cancel the CalPERS contract with the Manager or request the Manager to secure cancellation of the Delegate or Sub-Delegate contract but only if doing so would not violate the Fiduciary Duty Requirement.~~

~~Unless a Manager promptly corrects a material Policy violation, the Staff shall place the non-complying Manager on a probation watch list. If the Manager does not modify this pattern of conduct, even after discussions with the Staff, CalPERS shall consider this pattern of conduct along with other information when it reviews the Manager for possible renewal. The key indicator is a pattern of conduct that is inconsistent with the provisions of the Policy.~~

~~CalPERS does not require that Managers of Delegates use any particular system for compliance. However, from time to time, the Staff may disseminate information and suggestions regarding efficient ways for complying with this Policy.~~

- ~~L. **Complaints** Formal complaint(s) may be submitted to CalPERS per the attached Complaint, Investigation and Resolution Process Regarding Potential Violations of the CalPERS Neutrality Trial Responsible Contractor Program Policy (Appendix 2).~~

Responsible Contractor Program (RCP)

Approved by the Policy Subcommittee:	September 11, 1998
Approved by the Investment Committee:	September 14, 1998
Revised by the Policy Subcommittee:	September 12, 2003
Approved by the Investment Committee:	October 14, 2003
Revised by the Policy Subcommittee:	March 12, 2004
Approved by the Investment Committee:	April 19, 2004
Revised by the Policy Subcommittee:	March 11, 2005
Approved by the Investment Committee:	April 18, 2005
Revised by the Policy Subcommittee:	June 10, 2005
Approved by the Investment Committee:	August 15, 2005
Revised by the Policy Subcommittee:	March 17, 2008
Approved by the Investment Committee:	April 21, 2008

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The RCP Policy revised to incorporate the Neutrality Trial Responsible Contractor Program

Revised by Policy Subcommittee	June 15, 2009
Approved by the Investment Committee:	February 16, 2010
Trial Extended through June 30, 2013	
Approved by Investment Committee	August 15, 2011
Trial Extended through June 30, 2015	
Approved by Investment Committee	June 17, 2013

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**APPENDIX 1
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APPENDIX 1

NEUTRALITY TRIAL RESPONSIBLE CONTRACTOR PROGRAM POLICY

CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS

GENERAL INFORMATION

Company Name	
Address	
City	
Telephone Number ()	Fax Number ()
Ownership Structure (Please check one)	
☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Joint Venture ☐ Other	
Description of Service(s) Provided	
Contractor's License #	

RESPONSIBLE CONTRACTOR STATUS (Refer to definitions on reverse)

Please check one of the following boxes:

1. ☐ Meets all Responsible Contractor requirements

2. ☐ Meets none of the Responsible Contractor requirements

3. ☐ Meets certain of the Responsible Contractor requirements (provide explanation below)

If you have checked box 3 above, please provide an explanation below (attach additional pages if necessary).

Explanation: _____

4. In the last 18 months, has your firm been fined, suffered an adverse judgment, incurred a penalty, or had to change its employment policies because of violations of State or Federal labor laws, including but not limited to the National Labor Relations Act, or the Civil Rights Act of 1964 (e. g., sexual harassment or discrimination violations)? If yes, please explain (attach additional pages if necessary).

Explanation: _____

5. Are you aware of any pending complaints that have been filed with your firm or any agency enforcing labor or employment laws? If yes, please explain. (An affirmative answer will not necessarily disqualify you from being the successful bidder. It just will be a factor that will be taken into account in determining to whom the contract will be awarded.)

Explanation (attach additional pages if necessary): _____

TARGETED VENDOR STATUS (refer to definitions on reverse.)

Does your firm meet the definition of Service-Disabled Veteran Business Enterprise?	
☐ Yes ☐ No	

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NEUTRALITY TRIAL PROGRAM COMPLIANCE

Is your firm subject to the Neutrality Trial Program?

_____ Yes _____ No

If your firm is subject to Neutrality Trial Program, have you complied with it in all respects?

_____ Yes _____ No (if no, attach explanation)

OWNER'S CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS

On behalf of the above-named company, the undersigned certifies that the information and response provided herein are true, complete and accurate as of this date, and he/she is aware that any intentionally misrepresented or falsified information may result in disqualification from future contracting opportunities.

Signature _____ Date _____

Name (please print) _____ Title _____

This form was prepared for use with the Neutrality Trial Responsible Contractor Program Policy of CalPERS. Any contractor or subcontractor with a minimum contract size of \$100,000 should complete this form. CalPERS reserves the right to disclose the contents of this Self-Certification Form at its or its Manager's or Delegate's discretion.

INTRODUCTION: _____

~~The California Public Employees' Retirement System ("CalPERS") has a deep interest in the condition of workers employed by CalPERS and its Managers and Delegates. CalPERS, through the Statement of Investment Policy for the Neutrality Trial Responsible Contractor Program ("Responsible Contractor Policy"), supports and encourages fair wages and fair benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on CalPERS real estate and infrastructure investments. CalPERS endorses small business development, market competition and control of operating costs. CalPERS supports many of the ideals espoused by labor unions and encourages participation by labor unions and their signatory contractors in the development and management of CalPERS real estate and infrastructure investments. CalPERS believes that an adequately compensated and trained worker delivers a higher quality product and service. This policy is intended to complement and in no manner detract from existing CalPERS policies regarding Disabled Veteran Business Enterprises contract participation.~~

DEFINITIONS:

~~**Responsible Contractor:** A business that pays workers a fair wage and a fair benefit as evidenced by payroll and employee records and who complies with the CalPERS Disabled Veteran Business Enterprise policy. The definition of fair benefits includes, but is not limited to, employer paid family health care coverage, pension benefits, and apprenticeship programs. What constitutes a fair wage and a fair benefit depends on the wages and benefits paid on comparable real estate or infrastructure projects. Fair wages and fair benefits are based upon local market factors, that include the nature of the project (e.g. residential or commercial and public or private) comparable job or trade classifications, and the scope and complexity of services provided.~~

~~**Disabled Veteran Business Enterprise (DVBE) Policy:** CalPERS contractors shall make a good faith effort to comply with CalPERS annual contract participation goals by directing 3% of their CalPERS-related purchases of goods and services to Disabled Veteran Business Enterprises.~~

~~**Disabled Veteran Business Enterprise:** A business enterprise that is certified by the State of California, Office of Small Business & DVBE Services of the Department of General Services as meeting all of the following: (1) it is a business enterprise which is at least 51% owned by one or more Disabled Veterans, (2) the management and control of the daily business operations are controlled by one or more Disabled Veterans (the Disabled Veterans who exercise management and control are not required to be the same Disabled Veterans as the owners of the business concern), and (3) its home office is located in the United States and it is not a branch or subsidiary of a foreign corporation, foreign firm or other foreign-based business.~~

~~**Disabled Veteran:** A veteran of the military, naval or air services of the United States with a service-connected disability of at least 10 percent who is a resident of the State of California.~~

~~Appendix 2~~

~~Complaint, Investigation and Dispute Resolution Process Regarding Potential Violations of the CalPERS Neutrality Trial Responsible Contractor Program Policy~~

~~All complaints must be in writing and sent to CalPERS at the following address:~~

~~California Public Employees' Retirement System
Investment Office, Real Estate Unit
400 Q Street, Suite E4800
Sacramento, California 95814
Attention: Senior Investment Officer, Real Estate
Tel: 916-795-3400
Fax: 916-795-3965~~

~~The following outlines the complaint, investigation and resolution process:~~

~~**Step 1** – The complaining party contacts CalPERS Staff in writing, stating the complaint. The written complaint must document the specific allegation(s), the specific provision(s) in the RCP that is alleged to be violated, the property address, date, and parties involved. Please include any other information that may be pertinent to the matter.~~

~~**Step 2** – Staff will log the written complaint into the Responsible Contractor Complaint/Concern Log. The Complaint/Concern Log is maintained by the Staff. After the written complaint has been filed and logged into the Responsible Contractor Complaint/Concern Log, the complaining party may request in writing a copy of that contractor's completed Self-Certification Form.~~

~~**Step 3** – The Staff will contact the complaining party to gather additional information to fully understand the nature of the complaint(s). Also, upon receipt of a complaint, CalPERS may, in its discretion, disclose to the Manager or Delegate against which the complaint has been filed, the nature of the complaint, may provide a copy of the written complaint to the Manager or Delegate in question and may disclose the Delegate's Self-Certification Form to the complaining party.~~

~~**Step 4** – The Staff will work with the Manager that oversees the affected property (the subject of the complaint), to fully understand the matter. Such investigation may include, but not be limited to, determining whether the alleged conduct violates the RCP, and reviewing payroll and employee records, responsible contractor certifications and the alleged violator’s conduct. CalPERS will contact the complaining party before Completion of the investigation process to make sure it fully understands the complaint and charges and to attempt to clear up any factual disputes.~~

~~**Step 5** – Upon completion of the investigation, the Staff will issue a decision on the matter. If a violation of the RCP is deemed to have occurred, that finding will be communicated to the parties involved.~~

~~**Step 6** – If the Staff deems it necessary, a meeting may also be arranged with the complaining party to address any other outstanding concerns or to better inform the complaining party on how it can be more pro-active in increasing Responsible Contractor bidding on CalPERS related contracts. Appropriate parties involved in the matter will be invited to attend the meeting, including: CalPERS real estate staff, CalPERS legal staff, the affected Manager and the complaining party.~~

~~APPENDIX 3~~

~~CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATEMENT OF INVESTMENT POLICY
FOR
NEUTRALITY TRIAL RESPONSIBLE CONTRACTOR PROGRAM POLICY

NEUTRALITY TRIAL PROGRAM~~

~~June 17, 2013~~

~~This Policy is effective immediately upon adoption and will expire on June 30, 2015.~~

~~I. PURPOSE~~

~~This document establishes a special Neutrality Trial Program (NTP) to determine whether it would be appropriate to modify CalPERS Neutrality Trial Responsible Contractor Program (RCP) to require certain Managers, Delegates, and Sub-Delegates to remain neutral when employees or labor organizations seek to organize employees who provide certain services to CalPERS RCP Investments. The NTP supplements but does not supersede the RCP except to the extent it requires Core Real Estate Program Managers, Delegates, and Sub-Delegates participating in the NTP to remain neutral with respect to such organizing efforts. Thus, for example, complaints about NTP violations should be made in accordance with the RCP's complaint procedures. Capitalized terms that are not defined elsewhere in the text of this document generally are defined in NTP Section IV.~~

~~Before implementing the NTP, CalPERS conducted an extensive investigation to determine whether requiring neutrality would affect investment performance, but the evidence was insufficient to make such a determination with certainty. To further enhance CalPERS knowledge and understanding of these matters, CalPERS adopted the NTP to give it an opportunity to make such a determination with respect to a significant but limited number of its RCP Investments.~~

II. ~~NTP TERMS~~

A. ~~Managers, Delegates, and Sub-Delegates Subject to the NTP~~

~~Because existing contracts generally prevent CalPERS from unilaterally requiring existing Real Estate Program Managers to participate in the NTP, the NTP only applies to Core Real Estate Program Managers who (a) voluntarily agree to be bound by the NTP, or (b) are initially retained by CalPERS while the NTP is in effect. Such Managers shall require their Delegates and Sub-Delegates retained on or after the NTP's effective date to agree to be bound by it, subject to the exceptions set forth in the NTP (e.g., for Exempt Contracts). Subject to those NTP exceptions, Managers shall encourage their then-existing Delegates and Sub-Delegates as of the NTP's effective date to voluntarily agree to be bound by the NTP. Exhibit I to this Policy is a rider form that Managers must use to secure a Delegate's or Sub-Delegate's agreement to be bound by the NTP. Managers may add other provisions or make minor changes to the rider, in either case if they are not materially inconsistent with it. Neutrality exceptions or limitations may not be added to the rider.~~

B. ~~Neutrality~~ ~~If a labor organization lawfully attempts to organize a Manager's, Delegate's, or Sub-Delegate's employees, or if such employees themselves lawfully attempt to organize, their employer shall remain neutral, as set forth below. If that employer is a Delegate, the Manager that hired the Delegate also shall remain neutral. If that employer is a Sub-Delegate, the Delegate that hired the Sub-Delegate and the Manager that hired the Delegate also shall remain neutral.~~

~~Neutrality only is required as to employees of an employer subject to the NTP who provide maintenance, operation, or other property-related services (e.g., food services) at an RCP Investment pursuant to an RCP Contract that is not an Exempt Contract. Neutrality is not required as to employees providing professional services (e.g., accounting or property management services) or construction services.~~

~~For example, if a Manager's own employees provide maintenance services at an RCP Investment, the Manager would have to remain neutral if they attempt to organize. The Exempt Contract exception, by its own terms, would not apply.~~

~~A Manager, Delegate, or Sub-Delegate shall remain neutral at all times while it is subject to the neutrality requirement. However, prior to the commencement of any organizing efforts, a minor, unintentional violation of the neutrality requirement will not violate the NTP.~~

~~To remain "neutral" means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this policy obligates Managers or Delegates to enter, or prohibits them from entering, into private neutrality, labor peace or other lawful agreements with a labor organization representing or seeking to represent workers at a RCP Investment.~~

~~A Manager, Delegate, or Sub-Delegate shall notify employees with respect to whom the NTP requires it to remain neutral that it has agreed to be neutral, by providing the following notice to such employees in writing in any reasonable manner: "As required by our contract to provide [type of service] at [name of building], [name of contractor] has agreed to remain neutral if our employees who provide such services choose to join or form a union. This means that [name of contractor] will not do or say anything that either supports or opposes employee selection of a union."~~

~~Resolution of any interjurisdictional trade disputes shall be the responsibility of the unions (e.g., trades and the various state and national building trades councils). This Policy does not call for any involvement by Managers, Delegates, or Sub-Delegates in interjurisdictional trade disputes.~~

- ~~C. **Neutrality Requirement Exceptions** — If at the time a contract is entered into, a Manager, based on reasonable evidence, believes that requiring neutrality would materially adversely affect an RCP Investment (e.g., that its financial performance would suffer by more than the lesser of \$50,000 or a 10% increase in contract cost), the neutrality requirement shall not apply. An exception normally may be granted only after competitive bidding has failed to result in an acceptable bid because of the neutrality requirement. However, if it is virtually certain that competitive bidding would not produce an acceptable bid if neutrality were required, an exception may be granted without competitive bidding, e.g., when only one contractor could do the work because of proprietary software or equipment, and that contractor would not agree to neutrality. If a contract has been entered into requiring neutrality, but the Manager, based on reasonable evidence, believes that requirement should be waived for the reasons set forth in the preceding sentences, it may grant a neutrality exception.~~

~~Within 30 days after granting a neutrality exception, the Manager shall send a written report to Staff explaining its decision. The form attached as Exhibit II to this document shall be used for making such reports. Staff may revise this form as Staff deems appropriate. Staff shall prepare an analogous report for exceptions it grants. Subject to reasonable limitations established by Staff, copies of exception reports will be sent by e-mail to labor representatives and Managers that have asked to be included in an exception report e-mail group.~~

~~If Staff, based on the information it obtains in these exception reports or otherwise, determines that a Manager has a practice of granting neutrality exceptions improperly (i.e., in a manner not permitted by the first paragraph of this section), it shall cancel the Manager's right to grant neutrality exceptions in the future. Thereafter, the Manager must request exceptions from the Staff, which shall be deemed granted unless rejected in writing by the Staff within two business days after receipt.~~

~~Staff shall review neutrality exceptions for appropriateness, with the assistance of experts and consultants if Staff determines that would be helpful. Staff shall report on neutrality exceptions in its RCP Policy Annual Report or more frequently as the Investment Policy Subcommittee requests.~~

~~D. **Safe Harbor** Because this is a trial program, Managers, Delegates, and Sub-Delegates will not be subject to termination for NTP violations unless they are flagrant, intentional, or repetitive. However, each Manager subject to the NTP shall make commercially reasonable, good faith efforts to prevent its Delegates and Sub-Delegates from violating the NTP, to remedy NTP violations when possible, and to warn or discipline Delegates and Sub-Delegates for NTP violations as appropriate. These efforts may involve communicating with affected labor unions or seeking their participation in remedial efforts.~~

~~E. **Monitoring and Enforcing the NTP, and Reporting Results** Managers and their Delegates and Sub-Delegates subject to the NTP shall file written reports on NTP compliance and consequences on a form provided by Staff and at the time it prescribes, e.g., every three months. Among other things, this report shall require information as to (1) organizing efforts at RCP Investments, (2) how, if any, the NTP has affected investment performance of individual RCP Investments, (3) whether Delegates or Sub-Delegates who have agreed to neutrality have abandoned or threatened to abandon contracts when organizing efforts~~

~~commenced or appeared imminent, and (4) suggestions for making the neutrality requirement more appropriate or effective.~~

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~~Approximately every six months, Staff will schedule a meeting with Managers subject to the NTP and representatives of interested labor organizations to discuss NTP compliance and consequences. If significant NTP issues arise, Staff will notify the Board's Investment Policy Subcommittee and present recommendations for addressing those issues. The Staff will report on NTP compliance and consequences in the RCP Policy Annual Report.~~

~~In advance of these semi-annual meetings, CalPERS encourages unions that have an interest in the NTP to file written reports on their experiences under the NTP, how, if at all, it has affected CalPERS investments, and suggestions for making the neutrality requirement more appropriate or effective.~~

~~F. **Underlying RCP** The RCP as set forth in the document adopted on February 16, 2010 shall apply to all entities subject to the NTP while the NTP is in effect. The RCP, as in effect before the NTP was adopted, shall not apply. If changes are made to that RCP, a Manager subject to the NTP may elect to have those new terms apply.~~

~~G. **Unforeseen Issues** If unforeseen issues arise in the implementation, administration, or evaluation of the NTP, the Investment Committee shall have the power to take any actions it determines to be appropriate to deal with or resolve those issues. If there is insufficient time to secure such Investment Committee action, Staff shall have the power to take any actions it determines to be appropriate to deal with or resolve unforeseen issues. Staff shall promptly report any such actions it takes to the Investment Committee.~~

~~III. **EVALUATING NTP RESULTS**~~

~~As to each Affected RCP Investment in isolation, its Manager shall (as part of the reporting required by NTP Section II.E.) advise CalPERS whether neutrality resulted in (a) reasonably quantifiable differences in investment return, and what they were, (b) the same, greater, or lesser labor risks, and (c) reasonably non-quantifiable investment performance impacts that in the aggregate were positive, neutral, or negative.~~

~~Within 60 days after each reporting period and at the end of the NTP's two-year trial period, Staff shall determine how, if any, the NTP's neutrality requirement affected investment performance of each Affected RCP Investment, taking an~~

~~allocable portion of Incremental Costs into account, affected labor risks, or otherwise affected the investment).~~

~~At the end of the NTP trial period, Staff will report back to the Investment Committee with recommendations for going forward.~~

~~If considered for permanent inclusion, Staff shall make recommendations to the Board's Investment Policy Subcommittee on modifying the RCP to include a neutrality requirement as to the appropriate (but not yet determined) universe of RCP Investments, along with appropriate monitoring and enforcement mechanisms, e.g., ones that will not materially increase Incremental Cost.~~

~~If the Staff determines before the end of the NTP's two-year trial period that the NTP will be a success or failure, Staff shall notify the Investment Policy Subcommittee and shall recommend, in the case of NTP success, the immediate extension of a neutrality requirement to the appropriate universe of RCP Investments, with appropriate monitoring and enforcement mechanisms or, in the event of NTP failure, the immediate termination of the NTP.~~

~~Determinations of success or failure will be made in accordance with these guidelines, as reasonably interpreted and supplemented by Staff.~~

~~IV. DEFINITIONS~~

~~A. **Affected RCP Investments** — RCP Investments with RCP Contracts subject to the NTP, subject to any sensible limitations the Staff may elect to establish. Managers and labor organizations will be asked to identify the Affected RCP Investments.~~

~~B. **Delegate/Sub-Delegate** — A person or entity that a Manager or other Delegate retains (other than pursuant to an Exempt Contract) to provide services with respect to an RCP Investment. When a Delegate hires another Delegate, the latter is the former's "Sub-Delegate." Delegates and Sub-Delegates are collectively referred to as "Delegates" in the NTP unless the context indicates otherwise. For example, the general partner of a partnership that owns an office building that is an RCP Investment normally would be the Manager. The property manager that the Manager hires to manage the building would be a Delegate. In turn, if that Delegate hires another firm, e.g., a janitorial services company, to provide services with respect to the property, the janitorial services company would be the property manager's Sub-Delegate. If that Sub-Delegate, in turn, subcontracts with another firm, the subcontractor would be the Sub-Delegate of the janitorial services firm, and so on. However, any person or entity in such a delegation chain that performs services pursuant to an Exempt Contract would not be a Delegate or Sub-Delegate with respect to those services, nor would any person or entity it retains or subcontracts with to provide those services.~~

APPENDIX 3
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- ~~C. **Exempt Contract** — An RCP Investment-related contract (1) for professional services (e.g., architect, legal, or engineering services) or (2) for less than \$100,000. This threshold is applied both at the contract level and the subcontract level. For example, a \$1 million maintenance contract normally would not be an Exempt Contract, but a \$40,000 subcontract under it would be an Exempt Contract. Neither the NTP nor the RCP shall apply to an Exempt Contract.~~
- ~~D. **Incremental Cost** — This is the cost of administering the NTP. It includes all NTP administration costs (including internal and external consulting, legal, and staff costs) that would not have been incurred under the basic RCP (Incremental Cost). It does not include (a) amounts already taken into account in determining Affected RCP Investments' return on investment, (b) the cost of establishing the NTP, (c) the cost of periodic stakeholder meetings and activities conducted pursuant to NTP Section II.E., and (d) the cost of analyzing its results or reporting on them to the Board or Board committees. Incremental Cost will include NTP enforcement costs.~~
- ~~E. **Manager** — A person or entity that directly contracts with CalPERS to manage or otherwise control an RCP Investment, such as an investment manager or the general partner of a partnership in which CalPERS directly invests.~~
- ~~F. **RCP Contract** — An RCP Investment-related contract (other than an Exempt Contract) for property-related services (such as cleaning maintenance, security, food and beverage service, and other services provided within the property that are specific to the nature of that asset, e.g., senior living operations, hotel operations, transportation assets, hospitals, etc.).~~
- ~~G. **RCP Investment** — An RCP Investment, as defined in RCP Section III.J.~~
- ~~H. **Staff** — The CalPERS Investment Office staff.~~

EXHIBIT I

**MODEL DELEGATE/SUB-DELEGATE
CONTRACT RIDER
AGREEING TO BE BOUND BY NTP**

RIDER # _____
TO CONTRACT DATED _____
BETWEEN _____ **AND** _____

(CONTRACTOR))
REQUIRING LABOR NEUTRALITY

Services under the contract identified above (Contract) will be provided with respect to real estate beneficially owned by the California Public Employees' Retirement System (CalPERS). CalPERS has established a Neutrality Trial Program (NTP) to determine the potential impact on investments of requiring employer neutrality as to union or employee organizing efforts. By signing below, Contractor will be agreeing to be bound by the NTP while it remains in effect. The provisions of the NTP that apply to Contractor are as follows:

1. Obligation to Remain Neutral

If a labor organization lawfully attempts to organize Contractor's or its subcontractor's employees providing maintenance, operation, or property-related services at CalPERS-owned real estate listed below (RCP Investments), or if such employees themselves attempt to organize, [Name of entity retaining Contractor] and all parties to any such subcontract shall remain "neutral," as explained in the next paragraph. Neutrality only is required as to employees who service an RCP Investment.

To remain "neutral" means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this rider obligates Contractor to or prohibits Contractor from entering into private neutrality, labor peace or other lawful agreements with a labor organization seeking to represent or who currently represents workers at a RCP Investment.

~~Contractor shall notify employees with respect to whom it is to remain neutral that it has agreed to be neutral by providing the following notice to such employees in writing in any reasonable manner: "As required by our contract to provide [type of service] at [name of building], [name of contractor] has agreed to remain neutral if our employees who provide such services choose to join or form a union. This means that [name of contractor] will not do or say anything that either supports or opposes employee selection of a union."~~

~~Resolution of any interjurisdictional trade disputes shall be the responsibility of the unions (e.g., trades and the various state and national building trades councils). Subcontractor is not required to become involved in interjurisdictional trade disputes.~~

~~2. Obligation to Require Subcontractors to Agree to Similar Rider~~

~~If Contractor subcontracts any part of the Contract after signing this Rider, the subcontractor must agree to a rider similar to this one if the subcontract is worth at least \$100,000. Contact [name of Manager representative] at ____ for assistance in preparing an appropriate rider. If Contractor has already subcontracted part of this Contract and the subcontract is worth at least \$100,000, Subcontractor must promptly encourage its existing subcontractors to agree to such a rider. Contact [name of Manager representative] at ____ if Contractor believes that insisting on such a rider or enforcing such a rider will have adverse consequences.~~

~~3. RCP Investments~~

~~The RCP Investments at which Contractor will or may be performing services are:~~

- ~~▪ [Insert list]~~
- ~~▪ Any other investment [Name of entity retaining Contractor] designates in writing~~

~~4. Obligation to Provide Information~~

~~Contractor must provide information about the effects of requiring neutrality, as requested by [Name of entity retaining Contractor].~~

~~Agreed to this ____ day of _____, _____.~~

[NAME OF ENTITY _____ CONTRACTOR
RETAINING CONTRACTOR]

EXHIBIT II

**~~CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
RCP NEUTRALITY TRIAL PROGRAM~~**

~~NEUTRALITY EXCEPTION REPORT~~

~~A Manager participating in the RCP Neutrality Trial Program must file this form with _____, at _____ within 30 days after it grants a neutrality exception under Section II.C. of the Neutrality Trial Program.~~

- ~~1. _____ Manager's Name:~~
- ~~2. _____ Person to Contact at Manager for More Information (include contact information):~~
- ~~3. _____ Date neutrality exception granted:~~
- ~~4. _____ Date report filed with CalPERS:~~
- ~~5. _____ Affected property:~~
- ~~6. _____ Delegate/Sub-delegate granted exception:~~
- ~~7. _____ Excepted contract (include description of covered work):~~
- ~~8. _____ Value of excepted contract:~~
- ~~9. _____ Reason for granting exception (include reasonable evidence showing that requiring neutrality would materially adversely affect the investment (e.g., describe how its financial performance would suffer by more than the lesser of \$50,000 or a 10% increase in contract cost)):~~
- ~~10. _____ Additional information CalPERS should consider:~~



February 25, 2015

Investment Committee
California Public Employees' Retirement System
Lincoln Plaza North, 400 Q Street
Sacramento, CA 95814

Dear Members of the Investment Committee:

In our capacity as Real Estate Consultant to the Board, Pension Consulting Alliance, Inc. ("PCA") reviewed the proposed revised language for the Responsible Contractor Program ("RCP") Policy and proposed disposition of the 2010 Neutrality Trial RCP ("NTRCP"). The proposed revisions:

- Incorporate the current NTRCP for Domestic Strategic Core Managers into the RCP Policy
- Launch a new NTRCP directed at Domestic Strategic non-core Managers and Infrastructure Managers
- Enhance and streamline the Responsible Contractor Certification such that it provides substantially more detail that managers may use to determine a contractor's status as a Responsible Contractor, including information concerning wages and benefits
- Add language to the Policy clarifying the role of General Contractors as Delegates
- Reference CalPERS Investment Beliefs
- Make the RCP Policy more accessible by adding a Table of Contents
- Leave intact the manager reporting requirements under the policy; reformat the requirements for substantive and detailed information on bidding and notification and clarify that this information is required annually for the Annual Report in Managers' Responsibilities (Because the Annual Report templates are updated annually, they are separate from the RCP Policy).

The current process of revision began in December 2013. The proposed revised policy was developed by staff in a highly collaborative, interactive team process that included board consultant, investment managers, labor representatives, and fiduciary counsel.

Based on our review of current and previous versions of the RCP Policy and other supporting documentation, PCA concurs with the proposed revised policy. PCA believes that the revisions strengthen the policy without risking adverse effects on CalPERS investment returns. In conjunction with the RCP policy review, PCA conducted a survey of CalPERS peers. The survey results indicate that CalPERS is a thought leader in the RCP policy arena.

Respectfully,

A handwritten signature in black ink, appearing to be "A. Emkin".

Allan Emkin, Managing Director