

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
8	01/24/11	Open	Action	01/14/11

Subject: Authorization for General Manager/CEO to Execute Necessary CalPERS Agreements to Perform OPEB Liability Study Data Extract.

## ISSUE

Whether or not to grant the General Manager/CEO authority to execute CalPERS Agreements necessary to perform OPEB liability study data extract.

## RECOMMENDED ACTION

Adopt Resolution No. 11-01-\_\_\_\_\_, Granting Authority to the General Manager/CEO to Execute CalPERS Agreements Necessary to Perform OPEB Liability Study Data Extract.

## FISCAL IMPACT

There is no fiscal impact associated with this action.

## DISCUSSION

Under the GASB 45 rules, RT is required to prepare a bi-annual OPEB (Other Post Employment Benefits) liability study. The data that results from the liability study ensures that RT is accruing its OPEB liability correctly and funding its current California Employee Benefit Trust (CERBT) at required levels.

In June 2010, RT moved all employees associated with the bi-annual OPEB liability study into CalPERS benefit programs. In accordance with that move, all current benefit data must be extracted from the CalPERS ACES (Automated Communications Exchange System) database. In order to complete the data extract, RT must enter into two required CalPERS Agreements: "GASB 45 Data Extract Request and Non-Disclosure Agreement" (Attachment A) and "GASB 45 Data Extract Receiving Party Sending Electronic Information Agreement" (Attachment B). The execution of such agreements was not anticipated and therefore was not covered by the authority granted to the General Manager/CEO in April 2010 when the RT Board adopted the resolution moving employees into the CalPers program.

Staff recommends the Board grant authority to the General Manager/CEO to execute the necessary CalPERS agreements to complete the required OPEB liability study and associated data extract from the CalPERS ACES system.

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Approved:

Presented:

FINAL 1/18/11

General Manager/CEO

Director, Human Resources

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**GASB 45 DATA EXTRACT REQUEST &  
NON-DISCLOSURE AGREEMENT**

To request an extract of participant data to be used to create an actuarial valuation of other post-employment benefits, complete this form and mail to:

GASB 45 Data Extract  
CalPERS  
CORE/CERBT  
P.O. Box 942709  
Sacramento, CA 94229-2709

You will be provided with data for the participants of the medical plan for which the employer has contracted through CalPERS.

The extract contains the following:

- One file for those actively employed by the agency and their dependents
- One file for those that retired from the agency and their dependents
- Both files contain information on those who have waived participation in the medical benefit plan, to the extent the information is contained in our systems.

The information is as of the day the participant extract was performed. The extract date is included as part of the data file name. For example, if the file name for the active member is "GASBACTIVE\_E0018\_A000\_D121806.txt", then the participant information is as of Dec 18, 2006.

This data was not checked for accuracy and CalPERS cannot certify that this data is free of errors. If the data is intended to be used for purposes of calculating liabilities to be reported under GASB 45, then the employer or the actuarial firm performing the calculations should review the data for validity prior to performing any calculations.

This Request and mutual Confidentiality and Non-Disclosure Agreement is made effective as of (date) \_\_\_\_\_, by and between the California Public Employees' Retirement System ("CalPERS"), with its principal place of business at Lincoln Plaza, 400 "P" Street, Sacramento, CA. 95814, and

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("Business Partner") with its principal place of business at

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(Known collectively as the "Parties").

1. **Purpose.** Business Partner, in order to comply with Governmental Accounting Standards Board Statement No. 45, has a need to be provided data for the participants of the medical plan for which the business partner contracted through CalPERS. To the extent that either Party requires or is permitted access to Critical System Information or Confidential Information in the possession of the other Party to perform those services, such access will be granted subject to the conditions set forth below

**GASB 45 DATA EXTRACT REQUEST &  
NON-DISCLOSURE AGREEMENT**

2. **Critical System Information (CSI)** means any information, technical data or know-how, including, but not limited to, that which is proprietary, or relates to systems, research, products, software, services, developments, inventions, processes, specifications, designs, drawings, diagrams, discoveries, engineering, marketing techniques and plans, documentation, customer information and names, intellectual property, market research, pricing information and policies, price lists, procedures, data, concepts, financial information and employee information disclosed by the Disclosing Party in demonstrative, written, electronic, graphic or machine readable form, labeled as critical system information, or if given orally, is confirmed in writing within five (5) working days as having been disclosed as CSI.
3. **Confidential Information (CI)** means information that is exempt from disclosure under the provisions of the Government Code section 20230, the California Public Records Act (Government Code sections 6250-6265), the Information Practices Act (Civil Code sections 1798-1798.78), or other applicable State or Federal Laws. All computerized files and related documents containing personal information, which could be linked to an individual, are considered "Confidential". For the purpose of this Agreement, personal information includes, but is not limited to: the name, social security number, physical description, home address, home telephone number, education, finances, employment or medical history of all current and former employees or members of CalPERS, and their respective beneficiaries and dependents.
4. **Use Limitations.** Each Party agrees not to use any CSI or CI of the other Party disclosed pursuant to this Agreement for its own use or for any purpose, except as set forth in Section 1, and except as otherwise required by law. The Disclosing Party will use reasonable efforts to disclose only information that the Receiving Party requires to accomplish the purposes described in Section 1. Any specific exemptions or limitations stated in the underlying contract or statement of work supercedes this section of the Agreement.
5. **Non-Disclosure.** Each Party agrees not to disclose CSI or CI to any third parties or to any of its employees except employees, or contractors who have signed non-disclosure agreements whose terms are equivalent to, or stricter than, the terms of this Agreement, who have a need to know CSI or CI for the purposes described in Section 1. Each of the Parties further agrees that it shall, as a minimum, use the same degree of care to protect the confidentiality of the CSI or CI disclosed under this Agreement that it uses to protect its own CSI or CI. Each of the Parties shall take all reasonable and necessary steps to prevent unauthorized disclosure of CSI or CI. Each Party agrees to promptly advise the other Party in writing of any misappropriation or misuse by any person of any CSI or CI disclosed under this Agreement of which it becomes aware.
6. **Return of Materials.** Any materials or documents which are furnished by the Disclosing Party, and all copies thereof, will be returned by the Receiving Party promptly following the earlier of (a) the termination of this Agreement, (b) receipt of a written request to return such information, or (c) the termination of the business relationship between the Parties. If both Parties agree that return or destruction of the materials or documents is not feasible, the Receiving Party will continue to extend the protections of this Agreement to all CSI and/or CI in

**GASB 45 DATA EXTRACT REQUEST & NON-DISCLOSURE AGREEMENT**

its possession and will limit further use of that information to those purposes that make the return or destruction of the information not feasible.

7. No License. No license is granted to either Party under any patents, copyrights, mask work rights or other proprietary rights by the disclosure of any information hereunder, nor is any warranty made as to such information.

8. Injunctive Relief. Each Party understands and agrees that, because of the unique nature of CSI or CI, the Disclosing Party will suffer immediate, irreparable harm in the event the Receiving Party fails to comply with any of its obligations under this Agreement, that monetary damages will be inadequate to compensate the Disclosing Party for such breach and that the Disclosing Party shall have the right to enforce this Agreement by injunctive or other equitable remedies.

9. Attorney's Fees; Jurisdiction. In the event of any litigation between the Parties, the prevailing Party shall be entitled to reasonable attorney's fees and all costs of proceedings incurred in enforcing this Agreement. The Parties agree that California is both the place of making and the place of performance of this Agreement and both Parties consent to jurisdiction in the State of California.

10. Term. This Agreement shall become effective as of the date written above and shall apply to CSI or CI received by the Parties prior to any termination of this Agreement and any information received prior to the date of this Agreement. This Agreement may be terminated by mutual agreement of the Parties in writing. The provisions of this Agreement shall apply to CSI or CI disclosed under this Agreement prior to termination and shall survive for a period of five (5) years from the date of this Agreement.

11. General. This Agreement sets forth the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes all other oral or written representations and understandings. The information, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of law rules. This Agreement may be amended or modified only in writing signed by the Parties. This Agreement may be executed in counterparts that together shall constitute one original. This Agreement shall not be constructed as a teaming agreement, joint venture or other business relationship. This Agreement shall be binding upon the successors and assigns of both Parties.

The undersigned represent and warrant that they have the authority to enter into this Agreement on behalf of the person, entity or corporation listed above their name.

CalPERS Information – completed by management	Date:
CalPERS Representative: John Swedensky	Phone: (916) 795-0835

1

Information  
Security Office

**GASB 45 DATA EXTRACT REQUEST &  
NON-DISCLOSURE AGREEMENT**

Representative Signature:

Division: Constituent Relations Office

Address: 400 Q Street

Sacramento, CA 95814

<b>Business Partner</b> Information - completed by representative		Date:
Employer Name:		Phone:
Employer Code:		
Representative Name:		
Representative Signature:		
Address:		
City:	State:	Zip:
Email Address:		
Send data extract via (choose one)	<input type="checkbox"/> email	<input type="checkbox"/> USPS

# CalPERS Information Security GASB 45 Data Extract Receiving Party Sending Electronic Information Agreement

## Statement of Roles and Responsibilities between CalPERS and Receiving Party

CalPERS shall continue to be the Data Owner of the electronic Information Assets being transferred unless CalPERS contractually releases ownership of the electronic Information Assets.

The Receiving Party shall be considered the External Data Custodian of those electronic Information Assets while in possession of the electronic Information Assets.

CalPERS and the Receiving Party shall have an executed CalPERS *Non-Disclosure Agreement* (PERS01A0023) or an equivalent provision in a current contract with CalPERS.

The Receiving Party shall, at a minimum, use the same degree of care to protect the confidentiality and integrity of the CalPERS' Information Assets that the Receiving Party uses to protect its own information assets.

The Receiving Party, at a minimum, must protect the electronic Information Assets with measures that include:

- Physical protections,
- Backup and recovery plans and processes,
- Operational recovery plans and processes,
- Change management controls, and
- Configuration management controls.

The Receiving Party, at a minimum, must protect the electronic Information Assets with identification and access control functions that include:

- Registration processes that define identities and profiles used for identification, authentication, and authorization;
- Authentication processes that validate the identities of entities requesting access to system resources; and,
- Access control processes that restrict an entity's access to only authorized resources.

The Receiving Party, at a minimum, must protect the electronic information assets with audit and accountability control functions that include:

- Information security event logging, collection, monitoring, reviewing, and storage;
- Processes for detection, analysis, and response to information security incidents and events; and,
- Mechanisms to protect security data and event logs from unauthorized access, modification, and/or deletion.

The Receiving Party agrees to notify CalPERS Information Security Office at 916-795-3706 of any information security incident, including the violation of the confidentiality, integrity, or proper use of the electronic Information Assets that become known to the Receiving Party. The Receiving Party agrees to make this notification promptly upon becoming aware of the information security incident; but in any event, not later than four days after becoming aware of the information security incident.

After notifying CalPERS of an information security incident, the Receiving Party agrees to cooperate (at the Receiving Party's expense) with CalPERS to remedy or limit the information security incident and effects of the information security incident. This cooperation must extend beyond the expiration or termination (for any reason) of this contracted agreement.

1

Information Security Office

# CalPERS Information Security GASB 45 Data Extract Receiving Party Sending Electronic Information Agreement

## Purpose of Information Transfer

Describe below the purpose of this Information Transfer.

Provide participant data extract for use in preparing accounting information, footnote disclosure, and supplementary information that may be required under Governmental Accounting Standards Board Statement Number 45 (GASB 45) applicable to other post employment benefits (OPEB) other than pensions.

## Description of Transmitted Information

Provide below a brief description of the information to be transmitted. Attach a detailed list of all data elements to be included in the file transfer.

The information contained in this extract is participant demographic data needed to create an OPEB actuarial report. Please see attached document showing the Data Extract layout for both active and retired employees.

## Disposal Method of Transmitted Information

Describe below how the Receiving Party shall to dispose of the transmitted CalPERS Information Assets.

This data will be used as a basis to develop a public agency actuarial report. It will be retained as a working paper to support the valuation result.

## Information Transfer Questions

Is Personal Information included in this Information Transfer? Yes  No

Is other information that is exempt from disclosure under the Public Records Act or other state or federal privacy law included in this Information Transfer? An example would be Protected Health Information (PHI)? Yes  No

## Information Transmittal Frequency and Duration

E-Mail Attachment

For the Method selected, please see Attachment.

Transmittal Frequency	Indicate below the frequency of this Information Transmittal.		
	<input type="checkbox"/> Weekly	<input type="checkbox"/> Semi-Annual	<input checked="" type="checkbox"/> Other (Please Specify Below)
	<input type="checkbox"/> Monthly	<input type="checkbox"/> Annual	Upon Employer Request. On average an employer will only request Data once per year

Transmittal Agreement Time Length	Indicate below the Transmittal Agreement Time Length (e.g., 1 year, 3 years, or indefinitely).	
	<input checked="" type="checkbox"/> One year or less- PEMHCA List/Agreement Updated Annually	
	<input type="checkbox"/> More than one year	Please Specify:

1

Information Security  
Office

**CalPERS Information Security  
GASB 45 Data Extract Receiving Party  
Sending Electronic Information Agreement**

Duration of Information Use by External Data Custodian	<p>Indicate below when the Receiving Party shall stop using the transmitted CalPERS Information Assets (this date must not be later than the Contract or SOW termination date if the information use is governed by a Contract).</p> <p>30 days default. Please provide justification if the file is to be retained longer than 30 days:</p> <p>This coincides with the Disposal Method of Transmitted Information in that the data is to be used and retained as a working paper to support the valuation results</p> <p>Required Stop End Date: N/A</p>
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**Receiving Party**

Telephone Number  (     )	E-Mail Address
Organization Name	Organization Business Address

**Affirmation Statement of Receiving Party**

I understand the roles and responsibilities specified in the *Statement of Roles and Responsibilities between CalPERS and Receiving Party* and shall implement them.

Signature of External Data Custodian	Title of External Data Custodian	Date Signed
Print Name of Signer		



RESOLUTION NO. 11-01-\_\_\_\_\_

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

January 24, 2011

**GRANTING AUTHORITY TO THE GENERAL MANAGER/CEO TO EXECUTE  
CALPERS AGREEMENTS NECESSARY TO PERFORM OPEB LIABILITY STUDY  
DATA EXTRACT**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE  
SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the General Manager/CEO is hereby authorized and directed to execute all  
agreements with CalPERS to ensure completion of the bi-annual OPEB liability study as  
required under Governmental Accounting Standards Board (GASB) rules.

\_\_\_\_\_  
DON NOTTOLI, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary