



# BUILDING ACCESS AND EQUALITY

## PRINCIPLES FOR INVESTING IN CONSTRUCTION CAREERS

APRIL 2019

JOBS **WITH** JUSTICE EDUCATION FUND

*“It is important for this next frontier of work to talk to our asset managers and the portfolio companies that are in the real estate portfolio. . . I don’t want us to have a stewardship mentality, I want us to have an impact for justice mentality.”*

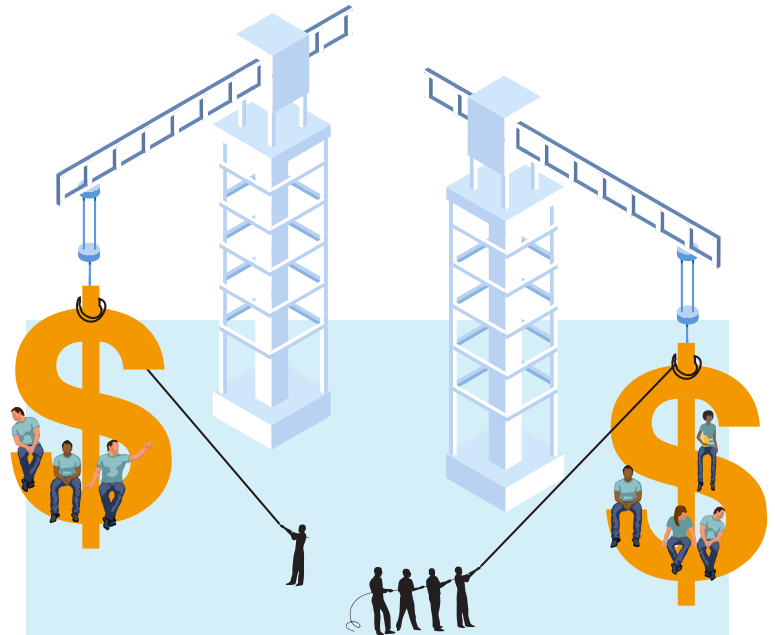
—Darren Walker, President, The Ford Foundation, speaking at the “Foundations Investing in Construction Careers” event, Ford Foundation Center for Social Justice, February 2019

### I. Foundations have the power to leverage billions of dollars in real estate and infrastructure investments in support of their missions

Foundations and other impact investors are increasingly responding to concerns about economic exclusion and deepening inequality by adopting race and gender lenses aimed at building a more inclusive economy. There is a unique opportunity for these investors to address these issues by expanding access to quality construction careers to those who have been historically excluded.

Since the late 1990s, pension trustees have leveraged their assets by establishing investment principles that favor fund managers and projects that have adopted responsible contracting policies. Today, funds with more than \$120 billion in assets under management invest in projects which provide fair wages and benefits, safe working conditions and training opportunities for employees.

But more can and should be done to assure that these high-quality jobs are open to all, particularly women and people of color who have historically been excluded from these career opportunities. Given the estimated \$30 billion that foundations annually invest in real estate, philanthropy is in a powerful position to influence and promote construction careers for women and people of color creating access to a proven pathway out of poverty and keeping wealth generated by a project in the local community.<sup>1</sup>



*LEFT SIDE – For more than two decades, public and private pension funds have leveraged billions of dollars in workers’ capital to support jobs with fair wages and benefits through responsible contractor policies.*

*RIGHT SIDE – By joining together with pension funds, foundation endowments could leverage even greater capital towards investing in quality construction careers and ensuring they are accessible to all.*

## Mission-related issues in construction



### Creating Pathways Out of Poverty and Into Housing Security

The construction sector can offer wealth generating, family-sustaining careers. The average wage for construction trades workers is \$26.56 per hour with union representation, 49% higher than the hourly wage for their non-union counterparts (\$17.84).<sup>2</sup> Workers represented by unions are also more likely to receive employment-based health insurance and participate in an employer-provided retirement plan.<sup>3</sup> With this level of wages and benefits, those in construction careers can reach housing security and even home ownership that address the missions of many foundations.



### Opening the Door to Greater Racial and Gender Justice

While construction jobs can be high-quality, too often these jobs are not accessible to women and people of color. Women comprise a mere 3.4% of trades occupations.<sup>4</sup> Three in ten women construction workers reported experiencing high levels of harassment on the job site, according to a recent survey.<sup>5</sup> Racial minorities (19% of the construction workforce) are overrepresented in lower paying occupations (e.g. laborer, roofer) and underrepresented in higher paying occupations (e.g. manager, electrician).<sup>6</sup> The 29 percent of the construction workforce that is Latinx is overrepresented in terms of construction fatalities (35 percent).<sup>7</sup>



### Expanding Training Programs and Career Ladders

Apprenticeship opens the door to well-paid stable construction careers for those who cannot afford college... Cooperative union-management apprentice training centers have trained three-quarters of the nation's apprentices at no cost to the students. Apprenticeship programs sponsored by unions outperform nonunion training programs both in terms of the enrollment and completion rates of women and people of color apprentices.<sup>8</sup>



### Offering Returning Citizens Skills That Help Them Restore Their Lives

For formerly incarcerated individuals, the construction sector is the most common source of work.<sup>9</sup> Expanding access to construction careers can mitigate the economic and racial injustices faced by communities impacted by mass incarceration. Given the shortage of skilled workers, along with efforts to address the lack of diversity, there is increasing interest by contractors and apprenticeship directors in recruiting judicial system-impacted individuals.



### Entrepreneurs of Color Broaden Community Wealth-Building

Construction company ownership is still largely white and male. Latinx-owned businesses are proportionally represented in the construction industry (16%) but they are underrepresented in terms of revenue (3.8%). Black-owned businesses comprise only 9.4 percent of firms and earn less than one percent of revenue.<sup>10</sup> However, the construction sector is well represented among the top 100 Black-owned businesses of 2018 as the sixth highest industry in terms of revenue, with contractor THOR ranking 11th overall.<sup>11</sup>

## Investors can adopt principles that build access and equality in construction

The following principles can help foundations advance mission goals such as combatting poverty, racial and gender inequality, and the effects of mass incarceration. Suggestions for implementation of the principles are also included below.



### Diversity

- Each construction project creates jobs and prospects for entering a promising career, whether through skilled trades, engineering, architecture, asset management or contracting. Diversity goals and/or an affirmative action plan (for private projects) should be attached to each project, ensuring that hiring reflects the racial and ethnic diversity of that local community, accounts for gender diversity, and/or remedies historical discrimination by gender and race in the construction field.
- Goals should be both achievable and aspirational. Goals for women's workforce participation in construction should be at least 10%. And a higher goal of 15-25% women should be strongly considered as it creates more demand for women in the local construction economy, even if it is not entirely met for the individual project.
- To achieve gender and racial diversity in the skilled trades, projects should require that 30% of the work hours are completed by apprentices. Registered apprenticeship programs offer diverse workers access to careers in construction and the ability to learn lifelong skills while working on projects.



### Economic Security

- In order to support local economies and families, construction projects should pay the local prevailing wage rates for skilled tradespeople.
- Jobs should include health benefits and retirement benefits, enabling tradespeople to retire earlier than white collar workers due to the physically taxing nature of the work.
- Employees must have the freedom to form and join unions without fear of retaliation by their employers.
- Employers must follow federal, state and local wage and hour, labor, civil rights, safety and health laws and pay into state workers' compensation systems.



### Safety

- Everyone on a worksite must undergo the OSHA 10-hour safety training and a training module on maintaining a respectful work environment.
- All worksites must remain free from harassment and bullying.
- Employees should also have protections allowing them to speak up about safety hazards, harassment and other poor worksite conditions without fear of reprisal.
- Contractors should hire workers who have accrued their skills through a registered apprenticeship program (or are currently part of one) to ensure their competence and thus the safety of the worksite.



### Accountability

Setting goals on construction projects is a fruitless exercise without strong mechanisms for enforcement. Principles should be embedded within contracts, requests for proposals, loan and grant agreements, and other formal processes to ensure they are implemented at all levels of a project, from initial investment to completion.



### Sustainability

To ensure that women and people of color have access to the careers and wealth generated by the construction sector, an ecosystem of training programs, organizing and advocacy efforts, enforcement capacity, and asset management must exist in the surrounding community. Foundations can provide programmatic grants to organizations and programs that maintain the sustainability of this ecosystem.

### III. Implementation of principles

The following is a recommended set of steps towards advancing the principles:

#### 1. Conduct a diversity and quality jobs audit of your real estate and infrastructure investment portfolio

Every investment has an impact, whether intentional or not. When it comes to the diversity and quality of construction jobs funded by real estate and infrastructure investments, the impact is currently largely invisible. In conversations with real estate or infrastructure fund managers or project leaders, ask what percentage of work hours on construction projects are provided by women and people of color. Ask how much of the total labor cost is received by women and people of color. If they have a larger share of job hours than pay, this could be a sign that they are concentrated in lower-paying jobs.

#### 2. Integrate principles into real estate and infrastructure investments

More and more foundations are applying Environmental, Social, and Governance (ESG) criteria to their investment portfolios. While metrics and standards for environmental and governance standards have been well-established over the last two decades, social performance standards – including job quality and access to jobs standards – have lagged. With audit results as a baseline, move to establish standards that raise the participation of woman and people of color in construction projects. In conversations with potential co-investors, foundations can introduce the principles to encourage or require their use in a project. The principles can be an additional lens for investment selection.

- a. When foundations invest in a real estate or infrastructure project as a program-related investor (PRI), mission-related investor (MRI) or traditional investor and can influence the selection of the general contractor, the principles can be incorporated into RFPs, oral and written agreements with investees, deal documents and other contracts.
- b. If foundations invest through asset managers who have infrastructure or real estate funds, they can require those managers to adopt and implement the principles. Asset management firms can also be selected based on the diversity of their owners and staff and their presence in targeted communities.
- c. If foundations primarily work through investment advisors to manage investments, advisors can include questions on the principles in the due diligence questionnaires (DDQs) to determine which funds to invest in. See Appendix for examples.

#### 3. Develop systems for reporting and tracking outcomes

Once principles are integrated into investments through various means, foundations can set up systems to ensure that the outcomes they wish to see are being tracked and reported back to them. It is not onerous for projects to collect information on work hours by local residents, women and minorities, as well as the percentage of work that goes to women and minority-owned contractors. Many city and state agencies already require this on publicly funded projects.

# Appendix: Sample Language for Implementation of Principles Through Investments

## 1. Implementation via asset owners

### A. WK Kellogg Foundation (excerpts from program-related investment documents for Heritage Tower project)

Purpose of the Loan. The Lender and the Borrower agree that the purpose of the Loan is to fund the redevelopment of the Heritage Tower building in downtown Battle Creek, Michigan (the “Building”) into a mixed-use commercial/residential amenity that will be a catalyst for future residential and commercial growth (the “Project”), helping to build critical mass and restore vibrancy to the central business district by boosting employment in and around the downtown, creating opportunities for entrepreneurs, addressing an unmet demand for urban housing, and strengthening vulnerable neighbors around the city’s core, as more fully described in the Borrower’s proposal to the Lender dated December 15, 2017.

Impact metrics required to be reported annually under a program-related investment loan from the W.K. Kellogg Foundation to the City of Battle Creek, Michigan to fund the redevelopment of the historic Heritage Tower building in downtown Battle Creek into a mixed-use commercial/residential amenity that will be a catalyst for future residential and commercial growth, helping to build critical mass and restore vibrancy to the central business district by boosting employment in and around the downtown, creating opportunities for entrepreneurs, addressing an unmet demand for urban housing, and strengthening vulnerable neighbors around the city’s core.

#### Impact Metrics for Borrower’s Performance

The Borrower will report on the following impact metrics with respect to the Project:

1. Jobs created and retained, both overall and disaggregated by race, ethnicity, and gender.
2. Investments catalyzed in downtown Battle Creek
3. Additional tax revenue generated
4. Percentage of local (Calhoun County) and MWBE project labor and sourcing, reported separately and on a combined basis (goal of at least 50% local/MWBE labor and sourcing)

The borrower must report quarterly with financials and a short narrative of the work and the submit the spreadsheets and a more detailed narrative report.

### B. New York City Employees’ Retirement System (NYCERS) (excerpts from Responsible Contractor Policy<sup>10</sup>)

NYCERS has a deep interest in the condition of workers employed by its managers, contractors and subcontractors. NYCERS endorses small business development, market competition and control of operating costs. Consistent with the ideals espoused by labor unions and other advocates for workers’ rights, the System believes that a diverse, adequately compensated, and trained workforce delivers a higher quality product and service, thereby providing the System with a better opportunity for long-term security of its investments, along with a better opportunity for long-term growth and investment return. Adequate compensation includes fair wages and benefits, including healthcare and retirement plans. The System encourages contract issuers to provide unionized contractors with the opportunity to bid on projects.

“Applicable Investments” are domestic equity investments (and associated advisor or partner and subcontractor contracts and bids arising out of those investments) in the private real estate and private infrastructure asset classes, including partnerships, joint ventures and direct investments entered into after

the effective date of this Policy. This Policy, in its entirety, shall apply to all Applicable Investments where NYCERS, whether singly or when its holdings aggregated with those of any other New York City pension system that has adopted a similar Responsible Contractor Policy (collectively, “NYCRS”), owns a greater than 50% ownership interest. For those Applicable Investments in which the aggregate holdings of the NYCRS are less than or equal to a 50% ownership interest, only Articles I through VII shall apply, although the System strongly encourages all managers to comply with the entire policy.

**The System supports and strongly encourages:**

- A.** The use of qualified contractors certified as Minority and Women-Owned Business Enterprises (“M/WBES”) by New York City’s Department of Small Business Services or otherwise certified as M/WBES by a governmental entity in the local market in which the contractor operates.
- B.** A position of neutrality in the event there is a legitimate attempt by a labor organization to organize workers employed in the construction, maintenance, operation, or services at a System-owned property or asset in an Applicable Investment, and strongly encourages managers, property or asset managers and contractors to similarly take a position of neutrality in such an event....
- C.** The provision of employer-paid safety training by contractors to ensure that all employees have the skills and legal certifications necessary to perform assigned work safely.
- D.** A competitive bidding and selection process when retaining contractors and subcontractors unaffiliated with a building manager to provide construction, maintenance and services. The purpose of this provision is to encourage fair competition and to actively seek bids from all qualified sources within an area, including those identified as Responsible Contractors
- E.** Fair Wage, Fair Benefits, and Training  
In determining “fair wages” and “fair benefits” (as required in Section III) concerning a specific contract in a specific market, items that may be considered include existing 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 Section I below.

**C. California Public Employees’ Retirement System (CalPERS)** (excerpts from Responsible Contractor Policy<sup>11</sup>)

**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.) ...Housing Development Partnerships exempted from this Policy in the past shall remain exempt, but voluntary compliance is strongly recommended...

**Fair Wage, Fair Benefits, and Training**

...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...

### **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...

### **D. Los Angeles Metro Transit** (excerpt from Construction Careers Policy<sup>12</sup>)

Though arising from their role in procurement, rather than finance, the Los Angeles Metro Transit’s female participation score card could be adapted for use as an investor tool:

All contractors working on Metro construction projects covered by the PLA and a Construction Careers Policy will be required to comply with certain targeted hiring requirements. The PLA requires 40% participation of construction workers residing in economically disadvantaged areas, 10% participation of disadvantaged workers, and a 20% participation of apprentices.

### **Female Participation Score Card**

The Metro Board voted to create a score card system to highlight those contractors who meet and exceed the Executive Order 11246 female utilization goal of 6.9% on Metro Construction projects.

A minimum of 20% of total work hours on each project will be performed by apprentices, but the hours performed by apprentices in each individual craft shall not exceed the ratio to journeyman established by the applicable craft union’s Division of Apprenticeship Standards (DAS) approved apprenticeship standards. Local Targeted Workers will perform 50% of all apprenticeship hours worked on the Project.

## **2. Implementation via investment consultants & asset managers**

### **A. Segal Marco Advisors** (excerpts from its due diligence questionnaire for asset managers)

- Has your firm adopted a written Responsible Contractor Policy (RCP)? If so, please furnish a copy and the effective date of the policy.
- How does your firm monitor compliance with the RCP?
- If your firm has adopted an RCP and leases property, do tenant leases include the RCP as a condition of the lease for tenant improvements?
- Do you have any collectively bargained employees?

## B. AFL-CIO Building Investment Trust (excerpts from Statement of Union Building Policies<sup>13</sup>)

### 1. Purpose of Labor Policies

These Labor Policies are designed to (i) benefit the Trust's investments by promoting positive labor relations and labor productivity and minimizing and possible costs associated with labor disputes over properties in which the Trust invests and (ii) to produce various collateral benefits important to its union movement investors with the respect to the creation of union jobs and the assurance of organizing rights for employees. These labor policies are subject to compliance with the Trust's fiduciary duties...

The Trust's principle objective in making real estate investments is to generate competitive risk-adjusted returns by seeking income and capital appreciation while protecting participants' capital. Through the implementation of the Labor Policies set forth below, the Trust invests in projects built with union labor that stimulate union job creation and economic growth in communities across America, while maintaining a low-risk profile and achieving competitive returns.

## C. Ullico Infrastructure Fund (excerpts from Responsible Contracting Policy<sup>14</sup>)

The Manager of the ULLICO Infrastructure Fund L.P. ("The Fund") is committed to the responsible pursuit of attractive risk-adjusted returns for the Fund's investors. Consistent with this commitment is the belief that the use of union labor in the construction, maintenance and operation of Investments offers the benefit of a workforce which is:

- Highly trained;
- Productive;
- Motivated; and
- Stable

The Manager believes that the use of a unionized workforce adds value to the Fund's Investments by ensuring a higher quality product, better value and service, and workplace harmony.

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1. According to a Council on Foundations survey, private foundations invest three percent of their endowments in private real estate, while community foundations invest one percent. Applying this ratio to the nearly \$900 billion in endowment assets, it's likely that foundations are investing over \$30 billion in real estate. Foundation Center, "Aggregate Fiscal Data of Foundations in the U.S., 2015."
  2. Center for Construction Research and Training, "Construction Chart Book," 6th Edition, 2018.
  3. Ibid.
  4. Hegewisch, Ariane. "Women Gain Jobs in Construction Trades but Remain Underrepresented in the Field," Institute for Women's Policy Research, March 2019.
  5. Hegewisch, Ariane and Brigid O'Farrell. "Women in Construction and the Economic Recovery: Results from 2013 IWPR Trades-women Survey," Institute for Women's Policy Research, August 2014.
  6. Center for Construction Research and Training, Ibid,
  7. U.S. Bureau of Labor Statistics, "Fatal Occupational Injuries Incurred by Hispanic or Latino Workers in 2015."
  8. See Economic Policy Institute (2017), University of Massachusetts Boston (2008), and Michigan Building Trades Council (2017).
  9. Journal of Correctional Education (1974-) Vol. 57, No. 4 (December 2006), pp. 297-311 (15 pages); Holzer, Harry et al. "How willing are employers to hire ex-offenders?", Focus Vol. 23, No. 2, Summer 2004.
  10. Construction Chart Book, 2018.
  11. Black Enterprise, "2018 BE 100s"
  12. New York City Employees' Retirement System, 2017. "Statement of Investment Policy for Responsible Contractor Policy," accessed at <[https://comptroller.nyc.gov/wp-content/uploads/2017/09/RCP-Final-052317\\_NYCERS.pdf](https://comptroller.nyc.gov/wp-content/uploads/2017/09/RCP-Final-052317_NYCERS.pdf)>
  13. California Public Employees Retirement System. 2015. "Statement of Investment Policy for Responsible Contractor Program," July. Accessed at: <<https://www.calpers.ca.gov/docs/policy-responsible-contractor-2015.pdf>>
  14. Los Angeles Metro. "Construction Careers Policy". Accessed at <<https://www.metro.net/about/placcp/>>
  15. AFL-CIO Building Investment Trust. "Statement on Union Labor Policies." On file with Jobs With Justice Education Fund.
  16. ULLICO Infrastructure Fund. "Responsible Contractor Policy." On file with Jobs With Justice Education Fund.