

**OPERATING AGREEMENT  
BETWEEN CALIFORNIA STATE UNIVERSITY  
AND CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION  
(July 1, 2017-June 30, 2022)**

This agreement is made and entered into by and between the Trustees of the California State University by their duly qualified Chancellor (CSU) and the California State University, Fresno Foundation (Auxiliary) serving California State University, Fresno (Campus). The term of this agreement shall be from July 1, 2017 through June 30, 2022 unless sooner terminated as herein provided, or unless extended with the written approval of the CSU.

**1. PURPOSE**

The purpose of this agreement is to set forth the terms and conditions under which Auxiliary may operate as an auxiliary organization pursuant to California Education Code §89900 et seq. and California Code of Regulations (CCR) Title 5, § 42400 et seq. In entering this agreement, CSU finds that certain functions important to its mission are more effectively accomplished by the use of an auxiliary organization rather than by the Campus under the usual state procedures.

**2. PRIMARY FUNCTION(S) OF THE AUXILIARY**

In consideration of receiving recognition as an official CSU auxiliary organization, Auxiliary agrees, for the period covered by this agreement, that the primary function(s), which the Auxiliary is to manage, operate or administer is/are:

- ☐ Student Body Organization
- ☐ Student Union
- ☐ Housing
- ☒ Philanthropic
- ☒ Externally Funded Projects
- ☐ Real Property Acquisition / Real Property Development
- ☐ Commercial
- ☒ Research, Workshops, Institutes, Conferences

In carrying out the above, the Auxiliary engages in the following functions authorized by, CCR tit.5, §42500, which are activities essential and integral to the educational mission of the University:

1. Loans, scholarships, grants-in-aids, stipends, and related financial assistance;
2. Externally funded projects including research, workshops, conferences, and institutes<sup>1</sup>;
3. Instructionally-related programs and activities, including agriculture, athletics, radio and television stations, newspapers, films, transportation, printing and other instructionally-related programs and activities;
4. Gifts, bequests, devises, endowments, trusts and similar funds;
5. Public relations, fundraising, fund management, and similar development programs; and
6. Acquisition, development, sale, and transfer of real and personal property including financing transactions related to these activities.

Auxiliary agrees to receive and apply exclusively the funds and properties coming into its possession toward furthering these purposes for the benefit of CSU and the Campus. Auxiliary further agrees that it shall not perform any of the functions listed in CCR tit.5, §42500 unless the function has been specifically assigned in this operating agreement with the Campus. Prior to initiating any additional functions, Auxiliary understands and agrees that CSU and Auxiliary must amend this agreement in accordance with Section 21, *Amendment*.

### **3. CAMPUS OVERSIGHT AND OPERATIONAL REVIEW**

The responsibility and authority of the Campus president regarding auxiliary organizations is set forth in CCR tit.5, §42402, which requires that auxiliary organizations operate in conformity with CSU and Campus policies. The Campus President has been delegated authority by the CSU Board of Trustees (Standing Orders §VI) to carry out all necessary functions for the operation of the Campus. The operations and activities of Auxiliary under this agreement shall be integrated with Campus operations and policies and shall be overseen by the campus Chief Financial Officer (CFO) or designee so as to assure compliance with objectives stated in CCR tit.5, §42401.

The Campus shall review Auxiliary to ensure that the written operating agreement is current and that the activities of Auxiliary are in compliance with this agreement at least every five (5) years from the date the operating agreement is executed and at least every five years thereafter. Confirmation that this review has been conducted will consist of either an updated operating agreement, or a letter from the Campus CFO or designee to the Campus President with a copy to the Chancellor's Office, certifying that the review has been conducted. As part of these periodic reviews, the Campus President should examine

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<sup>1</sup> If "Externally Funded Projects" is listed, your operating agreement must also include italicized language in Section 16 and Attachment 4 for Campus Designation of Authority to Auxiliary re: *Administration of Grants and Contracts*.

the need for each auxiliary and look at the efficiency of the auxiliary operation and administration.

Auxiliary agrees to assist the Campus CFO or designee in carrying out the compliance and operational reviews required by applicable CSU Executive Orders and related policies.

#### **4. OPERATIONAL COMPLIANCE**

Auxiliary agrees to maintain and operate its organization in accordance with all applicable laws, regulations and CSU and Campus rules, regulations and policies. Failure of Auxiliary to comply with any term of this agreement may result in the removal, suspension or probation of Auxiliary as an auxiliary organization in good standing. Such action by CSU may result in the limitation or removal of Auxiliary's right to utilize the CSU or campus name, resources and facilities (CCR tit.5, §42406).

#### **5. CONFLICT OF INTEREST**

No officer or employee of the CSU shall be appointed or employed by Auxiliary if such appointment or employment would be incompatible, inconsistent or in conflict with his or her duties as a CSU officer or employee.

Auxiliary has established and will maintain a conflict of interest policy. The Auxiliary's Conflict of Interest Policy is attached as **Attachment 1**.

#### **6. EXPENDITURES AUGMENTING CSU APPROPRIATIONS**

With respect to expenditures for public relations or other purposes which would serve to augment appropriations for CSU operations, Auxiliary may expend funds in such amount and for such purposes as are approved by Auxiliary's governing body. Auxiliary shall file, as **Attachment 2** to this agreement, a statement of Auxiliary's policy on accumulation and use of public relations funds. The statement shall include the policy and procedures for solicitation of funds, the purposes for which the funds may be used, the allowable expenditures and procedures of control.

#### **7. FISCAL AUDITS**

Auxiliary agrees to comply with CSU policy and the provisions of CCR tit.5, §42408, regarding fiscal audits. All fiscal audits shall be conducted by auditors meeting the guidelines established the Integrated CSU Administrative Manual (ICSUAM).

The Campus CFO shall annually review, and submit a written evaluation to the Chancellor's Office in accordance with Section 20, Notices, of the external audit firm selected by the Auxiliary. This review by the Campus CFO must be conducted prior to the Auxiliary engaging an external audit firm and annually thereafter. If the Auxiliary has not changed audit firms, and the audit firm was previously reviewed and received a satisfactory evaluation, a more limited review may be conducted and submitted.

## **8. USE OF NAME**

Campus agrees that Auxiliary may, in connection with its designated functions as a CSU auxiliary organization in good standing and this agreement, use the name of the Campus, the Campus logo, seal or other symbols and marks of the Campus, provided that Auxiliary clearly communicates that it is conducting business in its own name for the benefit of Campus. All correspondence, advertisements, and other communications by Auxiliary must clearly indicate that the communication is by and from Auxiliary and not by or from CSU or Campus.

Auxiliary shall use the name of Campus, logo, seal or other symbols or marks of Campus only in connection with services rendered for the benefit of Campus and in accordance with Campus guidance and direction furnished to Auxiliary by Campus and only if the nature and quality of the services with which the Campus name, logo, seal or other symbol or mark are used are satisfactory to the Campus or as specified by Campus.

Campus shall exercise control over and shall be the sole judge of whether Auxiliary has met or is meeting the standards of quality of the Campus for use of its name, logo, seal or other symbol or mark.

Auxiliary shall not delegate the authority to use the Campus name, logo, seal or other symbol or mark to any person or entity without the prior written approval of the Campus President or designee. Auxiliary shall cease using the Campus name, logo, seal or other symbol or mark upon expiration or termination of this agreement, or if Auxiliary ceases to be a CSU auxiliary organization in good standing, dissolves or disappears in a merger.

## **9. CHANGE OR MODIFICATION OF CORPORATE STATUS**

Auxiliary shall provide notice to the CSU upon any change in Auxiliary's legal, operational or tax status including but not limited to changes in its Articles of Incorporation, bylaws, tax status, bankruptcy, dissolution, merger, or change in name.

## **10. FAIR EMPLOYMENT PRACTICES**

In the performance of this agreement, and in accordance with California Government Code §12900 et. seq., Auxiliary shall not deny employment opportunities to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status. Auxiliary shall adopt employment procedures consistent with the policy statement on nondiscrimination and affirmative action in employment adopted by the CSU.

## **11. BACKGROUND CHECK POLICY COMPLIANCE**

In compliance with governing laws and CSU policy, Auxiliary shall confirm that background checks are completed for all new hires and for those independent contractors, consultants, outside entities, volunteers and existing employees in positions requiring background checks as set forth in CSU systemwide policy. Auxiliary will provide confirmation of completed and cleared background checks to the University President/Chancellor upon request, or as established by campus policy. (See HR 2016-08).

## **12. DISPOSITION OF ASSETS**

Attached hereto as **Attachment 3** is a copy of Auxiliary's Constitution or Articles of Incorporation (as applicable) which, in accordance with CCR tit.5, §42600, establishes that upon dissolution of Auxiliary, the net assets other than trust funds, shall be distributed to a successor approved by the President of California State University, Fresno and the Trustees of the California State University. Auxiliary agrees to maintain this provision as part of its Constitution or Articles of Incorporation. In the event Auxiliary should change this provision to make other dispositions possible, this agreement shall terminate as of the date immediately preceding the date such change becomes effective.

## **13. USE OF CAMPUS FACILITIES**

Auxiliary may use those facilities identified for its use in a lease agreement executed between Campus and Auxiliary. If this Operating Agreement terminates or expires and is not renewed within 30 days of the expiration, the lease automatically terminates, unless extended in writing by the parties.

Auxiliary and Campus may agree that Auxiliary may use specified Campus facilities and resources for research projects and for institutes, workshops, and conferences only when such use does not interfere with the instructional program of Campus and upon the written approval from appropriate Campus administrators with such specific delegated authority. Auxiliary shall reimburse Campus for costs of any such use.

## **14. CONTRACTS FOR CAMPUS SERVICES**

Auxiliary may contract with Campus for services to be performed by state employees for the benefit of Auxiliary. Any agreement must be documented in a written memorandum of understanding between Auxiliary and Campus. The memorandum of understanding shall among other things, specify the following: (a) full reimbursement to Campus for services performed by a state employee in accord with CCR tit.5, §42502(f); (b) Auxiliary must clearly identify the specific services to be provided by state employee, (c) Auxiliary must specify any performance measures used by Auxiliary to measure or evaluate the level of service; (d) Auxiliary must explicitly acknowledge that Auxiliary does not retain the right to hire, supervise or otherwise determine how to fulfill the obligations of the Campus to provide the specified services to Auxiliary.

## **15. DISPOSITION OF NET EARNINGS**

Auxiliary agrees to comply with CSU and Campus policy on expenditure of funds including, but not limited to, CSU guidelines for the disposition of revenues in excess of expenses and CSU policies on maintaining appropriate reserves. Cal. Educ. Code §89904; Executive Order 1059.

## **16. FINANCIAL CONTROLS**

Recovery of allowable and allocable indirect costs and maintenance and payment of operating expenses must comply with ICSUAM §13680. CCR tit. 5, §42502(g) and (h).

## **17. ACCEPTANCE, ADMINISTRATION, AND USE OF GIFTS**

Auxiliary agrees, if authorized to do so in Section 2 above, that it will accept and administer gifts, grants, contracts, scholarships, loan funds, fellowships, bequests, and devises in accordance with policies of CSU and Campus.

### **A. Authority to Accept Gifts**

If authorized, Auxiliary may evaluate and accept gifts, bequests and personal property on behalf of CSU. In acting pursuant to this delegation, due diligence shall be performed to ensure that all gifts accepted will aid in carrying out the CSU mission as specified in Education Code §§89720 and 66010.4(b).

Auxiliary agrees, before accepting gifts of real estate or gifts with any restrictive terms or conditions that impose an obligation on CSU or the State of California to expend resources in addition to the gift, to obtain written approval from the appropriate campus authority. Auxiliary agrees that it will not accept a gift that has any restriction that is unlawful.

Campus Designation of Authority to Auxiliary re: Administration of Grants and Contracts is attached as **Attachment 4**.

### **B. Reporting Standards**

Gifts shall be recorded in compliance with the Council for Advancement and Support of Education and California State University reporting standards and shall be reported to the Chancellor's Office on an annual basis in accordance with Education Code §89720.

## **18. INDEMNIFICATION**

Auxiliary agrees to indemnify, defend and save harmless the CSU, its officers, agents, employees and constituent campuses and the State of California, collectively "CSU indemnified parties" from any and all loss, damage, or liability that may be suffered or



incurred by CSU indemnified parties, caused by, arising out of, or in any way connected with the operation of Auxiliary as an auxiliary organization.

## **19. INSURANCE**

Auxiliary shall maintain insurance protecting the CSU and Campus as provided in this section. CSU's Systemwide Office of Risk Management shall establish minimum insurance requirements for auxiliaries, based on the insurance requirements in Technical Letter RM 2012-01 or its successor then in effect. Auxiliary agrees to maintain at least these minimum insurance requirements.

Auxiliary's participation in a coverage program of the California State University Risk Management Authority (CSURMA) shall fully comply with the insurance requirement for each type of required coverage (which may include but not be limited to, general liability, auto liability, directors and officers liability, fiduciary liability, professional liability, employer's liability, pollution liability, workers' compensation, fidelity, property and any other coverage necessary based on Auxiliary's operations). Auxiliary shall ensure that CSU and Campus are named as additional insured or loss payee as its interests may appear.

## **20. NOTICES**

All notices required to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed to all parties as provided below.

Notice to Auxiliary shall be addressed as follows:

California State University, Fresno Foundation  
Attention: Executive Director  
2771 E. Shaw Avenue  
Fresno, CA 93710

Notice to the CSU shall be addressed to:

Trustees of the California State University  
401 Golden Shore  
Long Beach, California 90802  
Attention: Director, Contract Services & Procurement

Notice to the Campus shall be addressed as follows:

Office of the President  
California State University, Fresno  
Haak Center, Library 4104  
5200 N. Barton Avenue  
Fresno, CA 93740

## **21. AMENDMENT**

This agreement may be amended only in writing signed by an authorized representative of all parties.

## **22. RECORDS**

Auxiliary shall maintain adequate records and shall submit periodic reports as required by CSU showing the operation and financial status of Auxiliary. The records and reports shall cover all activities of Auxiliary whether pursuant to this agreement or otherwise.

## **23. TERMINATION**

CSU may terminate this agreement upon Auxiliary's breach of or failure to comply with any term of this agreement by providing Auxiliary with a minimum of ninety (90) days' advance written notice. Auxiliary may use the ninety-day advance notice period to cure the breach. If, in the judgment of CSU, the breach has been cured, the termination notice will be cancelled.

## **24. REMEDIES UPON TERMINATION**

Termination by CSU of this agreement pursuant to Section 23, *Termination*, may result in Auxiliary's removal, suspension or probation as a CSU auxiliary in good standing, and loss of any right for Auxiliary to use the name, resources or facilities of CSU or any of its campuses.

Upon expiration of the term of this agreement, the parties shall have 30 days to enter into a new operating agreement which period may be extended by written mutual agreement.

## **25. SEVERABILITY**

If any section or provision of this Agreement is held illegal, unenforceable or in conflict with any law by a court of competent jurisdiction, such section or provision shall be deemed severed and the validity of the remainder of this Agreement shall not be affected thereby.

[Signatures follow on next page.]



IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

Approved: July 1, 2017

California State University, Fresno

By   
Joseph I. Castro, M.P.P., Ph.D.  
President

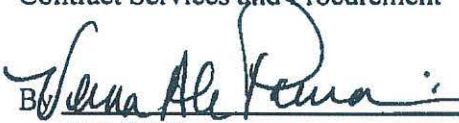
Executed on July 1, 2017

California State University, Fresno Foundation

By   
Deborah S. Adishian-Astone  
Executive Director

Executed on \_\_\_\_\_, 2017

California State University  
Office of the Chancellor  
Contract Services and Procurement

By   
Arun Casuba  
Chief Procurement Officer

**5. Making Fair Decisions**

When making a decision, taking action of a discretionary nature or resolving a grievance, which may adversely affect a person's rights, liberties, interests or legitimate expectations, the principles of procedural fairness must be applied. Specifically, persons affected must have the opportunity to respond to allegations or assertions made and to have a decision made without bias. Decisions must be based on considerations relevant to the matter at hand. Decisions may be accepted more readily if reasons are given.

**6. Staff Must Not Unfairly Discriminate**

Staff must treat other persons equitably, irrespective of gender, sexual orientation, race, disability, medical condition, cultural background, religion, marital status, age, or political conviction.

**7. Harassment Unacceptable**

Staff must not engage in conduct, which amounts to or may be perceived as sexual, racial, or gender-based harassment. Staff must not behave towards other persons in a manner, which may reasonably be perceived as intimidating, overbearing or unreasonable.

**8. Avoidance of Conflicts of Interest**

A. Staff must avoid conflicts between their personal financial interests and their staff responsibilities. In this regard, staff must refrain from participating in making decisions affecting personal financial interests, as well as in decisions affecting a spouse, relative, or one with whom the staff member has a close personal relationship.

B. Education Code Standards. Foundation board members are held to strict Education Code financial interest standards relating to contracts or other transactions entered into by the board between the Foundation and a board member. The following transactions are *impermissible*:

- Any board transaction, other than an employment contract, directly between the Foundation and a board member.
- Any board transaction between the Foundation and a partnership or unincorporated association in which a board member is a partner, owner, or holder, directly or indirectly, of a proprietorship interest.
- Any board transaction between the Foundation and a for-profit corporation in which the board member is the owner or holder, directly or indirectly, of 5% or more of the outstanding common stock.

The following transactions are permissible IF the financial interest is disclosed or known to the board and noted in the minutes AND the board thereafter authorizes, approves, or ratifies the transaction in good faith by a vote sufficient for the purpose without counting the financially interested member(s') vote(s) AND the transaction is just and reasonable as to the Foundation at the time it is authorized or approved:

- Board transactions between the Foundation and a for-profit corporation in which a board member is the owner or holder, directly or indirectly, of less than 5% of the outstanding common stock.
- Board transactions between the Foundation and a for-profit corporation on whose governing body a board member serves as a director and is the owner or holder, directly or indirectly, of less than 5% of the outstanding common stock.
- Board transactions between the Foundation and a nonprofit corporation on whose governing body a board member serves as a director.

- C. Corporations Code Standards. For Foundation transactions not involving board action, board members must stay within Corporations Code "self-dealing" rules and be alert to material financial interests.

Generally, permissible transactions of this type are:

- Setting compensation for directors;
- Transactions that are part of the Foundation's public or charitable purpose and that the corporation approves in good faith and without unjustified favoritism, even if one or more directors or their families benefit as part of a class of persons intended to benefit from the program; and
- Transactions of which the interested director has no actual knowledge and which do not exceed the lesser of 1% of the gross receipts of the Foundation for the preceding fiscal year, or \$100,000.

Otherwise, if a Foundation transaction involves a material financial interest of a board member, then the transaction shall be subject to authorization or approval by the board. Such authorization or approval shall be in accordance with the following standards, based upon whether the transaction has been consummated or not:

1. If prior to the consummation of the transaction the following occurs –
  - a. The Attorney General approves the transaction, or

- b. The board takes the following action after reasonable investigation of the material facts of the transaction and the interested board member's interest in the transaction:
  - Determines that the corporation entered into the transaction for its own benefit;
  - Determines that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances;
  - Determines that the transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction; **and**
  - Authorizes or approves the transaction by a good faith vote of a majority of the directors then in office, without counting the vote of interested director(s).

- 2. If after the consummation of the transaction, the following occurs:
  - a. The Attorney General approves the transaction, or
  - b. The board takes the following action after reasonable investigation of the material facts of the transaction and the interested board member's interest in the transaction:
    - Determines that a committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in section 8(C)(1)(b) above;
    - Determines that it was not reasonably practicable to obtain board approval prior to entering into the transaction; **and**
    - Ratifies the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director(s).

- D. Foundation board and Staff have an absolute duty to disclose actual or potential conflicts of interest and all material facts related thereto, and shall disclose at least annually in writing any interests that could give rise to a potential conflict of interest under written procedures approved by the board.
- E. It is unlawful for a board member to utilize any Foundation information, not a matter of public record, received by reason of board membership, for personal pecuniary gain, regardless of whether or not the person is a board member when the gain is realized.

Staff members are prohibited from using nonpublic Foundation information obtained in the course of staff duties, for personal pecuniary gain, regardless of whether at the time the gain is realized the person is a staff member.

## **9. Receipt of Gifts**

Staff must not ask for or encourage the giving of any form of gift or benefit in connection with the performance of their duties. Receipt of gifts can be perceived as an inducement to act in a particular way, thus creating a real or apparent conflict of interest. However, a staff member may, of course, give or accept an

ATTACHMENT 3

CERTIFICATE OF AMENDMENT OF  
ARTICLES OF INCORPORATION

The undersigned certify that:


1. They are the Chair and Secretary, respectively, of **CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION**, a California corporation.
2. Article XII of the Articles of Incorporation of this corporation is amended to read as follows:

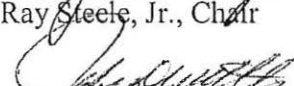
Upon dissolution of this corporation, net assets, other than trust funds, shall be distributed to a successor approved by the President of California State University, Fresno and by the Chancellor. Any nongovernmental successor shall be a nonprofit organization organized and operated exclusively for charitable or educational purposes meeting the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986.

3. The foregoing amendment of Articles of Incorporation has been duly approved by the board of governors.
4. The corporation has no members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: September 20, 2012

  
\_\_\_\_\_  
Ray Steele, Jr., Chair

  
\_\_\_\_\_  
John D. Welty, Secretary

A0647989

**CERTIFICATE OF AMENDMENT AND RESTATEMENT OF**  
**ARTICLES OF INCORPORATION OF THE**  
**CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION**

**ENDORSED - FILED**  
In the office of the Secretary of State  
of the State of California

**JUL 18 2006**

The undersigned certify that:

1. They are the Chairman of the Board and Secretary, respectively, of the CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION, a California nonprofit corporation.
2. The Articles of Incorporation of this corporation are amended and restated to read in full as follows:

**I**

The name of this corporation is the CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION.

**II**

This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public purposes.

**III**

The corporation is formed and shall be operated exclusively to receive, hold, invest and administer property and to make expenditures to or for the benefit of California State University, Fresno.

**IV**

The primary purposes for which this corporation is formed are: To promote and assist the educational services of California State University, Fresno, by making expenditures for any one or more of the normally accepted functions of California State University, Fresno, including but not limited to: expenditures for acquisition and maintenance of real property comprising part of the campus area, the erection or participation in the erection of university buildings, scholarships, libraries, student loans, faculty and program development, the acquisition and maintenance of equipment and furnishings used for or in conjunction with normally



accepted functions of California State University, Fresno, and the administering of research projects, workshops, institutes and conferences for the purpose of furthering the educational objectives of California State University, Fresno.

## V

The general powers and purposes for which this corporation is formed are:

- (a) To solicit gifts of, to receive by gift, devise or bequest, to purchase or to otherwise acquire real and personal property of every kind and nature, including shares of stock, bonds, and securities of other corporations, and to hold, own, manage and administer the same;
- (b) To act as trustee under any trust incidental to the purposes of this corporation, and to receive, hold, administer and expend funds and property subject to such trust;
- (c) To sell, assign, convey, exchange, lease as lessor or lessee, mortgage, encumber, transfer upon trust, or otherwise dispose of all property, real or personal, and to lend money;
- (d) To invest and reinvest funds of this corporation in real or personal property of every kind and nature, including bonds, corporate common or preferred stocks, or securities of any type or character;
- (e) To borrow money, contract debts, guarantee the payment of indebtedness, and issue bonds, notes and debentures, and secure the payment or performance of its obligations;
- (f) To make contracts and to do all other acts necessary or expedient for the administration of the affairs and attainment of the purposes of this corporation; and
- (g) In order to accomplish any of the above purposes, to own, lease and/or operate facilities and properties, adapted to the purposes above set forth and to engage in any activity incidental to the accomplishment of the purposes above set forth.

## VI

This corporation does not contemplate the distribution of gains, profits or dividends to the members thereof; and no part of the

earnings of this corporation shall inure to the benefit of any private member or individual. Therefore, the corporation shall not:

- (a) lend any part of its income or corpus without the receipt of adequate security and a reasonable rate of interest, to;
- (b) pay any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;
- (c) make any part of its services available on a preferential basis, to;
- (d) make any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;
- (e) sell any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or
- (f) engage in any other transaction which results in a substantial diversion of its income or corpus to:

a person who has made a substantial contribution to this corporation; the brothers, sisters, spouse, ancestors, or lineal descendants of an individual who has made a substantial contribution to this corporation; or a corporation controlled by such person through the ownership, directly or indirectly, of fifty per centum (50%) or more of the total combined voting power of all classes of stock entitled to vote or fifty per centum (50%) or more of the total value of shares of all classes of stock of the corporation.

## VII

This corporation shall not carry on propaganda, or otherwise attempt to influence legislation, nor shall any of its funds be used to support or oppose any political issue or candidate.

## VIII

The county in this State where the principal office for the transaction of the business of this corporation is located is Fresno County.

## IX

The corporation shall have no members.

## X

- (a) The board of directors of this corporation shall be known and described as the Board of Governors and the directors of this corporation shall be known and described as Governors.
- (b) The number of Governors, their qualifications, powers, duties, tenure of office, and the manner in which they shall be selected, shall be as stated in the Bylaws of the Corporation.

## XI

This corporation shall have perpetual existence.

## XII

Upon dissolution of this corporation, net assets, other than trust funds, shall be distributed to a successor approved by the President of California State University, Fresno and the Trustees of the California State University. Any nongovernmental successor shall be a nonprofit organization organized and operated exclusively for charitable or educational purposes meeting the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986.

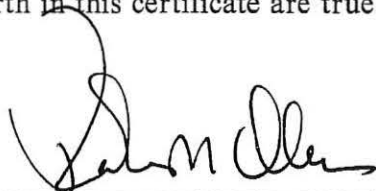
## XIII

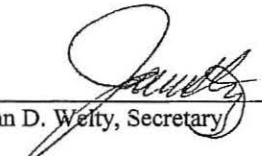
This corporation elects to be governed by all of the provisions of the Nonprofit Corporation Law effective January 1, 1980, not otherwise applicable to it under Parts 2 and 5 of Division 2 of Title 1 of the Corporations Code of the State of California.

- 3. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the Board of Governors.
- 4. The corporation has no members.

We certify under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: 6/30/06

  
Robert H. Oliver, Chairman of the Board of Governors

  
John D. Welty, Secretary



# CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION

## ATTACHMENT 2

Policy No. 2005

### Community Relations Policy

This policy is applicable to the following auxiliary corporations:

- ☐ Agricultural Foundation
- ☐ Association
- ☐ Associated Students, Inc.
- ☐ Athletic Corporation
- ☒ Foundation
- ☐ Programs for Children

#### REVISION RECORD

Date	Type	Approval Authority
6/3/10	Revision	Approved by Board of Governors
3/20/14	Revision	Approved by Board of Governors
9/23/16	Revision	Approved by Board of Governors

#### DOCUMENT CONTROL

Document Control Number:  
Policy 2005

Next Review Date:  
February 2019

Responsible Position(s):

  
Deborah S. Adishian-Astone  
Executive Director

  
Keith Kompsi  
Director, Foundation Financial Services

## **PURPOSE**

The purpose of this policy is to ensure that expenditures submitted to the Foundation for Community Relations expenses are made in accordance with ICSUAM Policy 1301.00 and Section 9.2.1 of the "Compilation of Policies and Procedures for California State University Auxiliary Organizations", California Code of Regulations, Title 5, Division 5, Section 41600, 41601; California Education Code Sections 66600, 89030, 89035, 89044; HR 96-11.

Expenditures must fall within the educational mission of the CSU as defined by the respective statutes, Board of Trustees policy, and campus policy. Expenditures must not be made which are specifically prohibited for auxiliary organizations either by statute, Board of Trustees policy, and campus policy. An auxiliary shall not expend funds for goods and services on behalf of a campus and arrange in some way to be compensated for the expenditure by the campus if circumvention of CSU policy or procedure would occur.

## **STATEMENT OF POLICY**

Each auxiliary organization shall maintain documentation for expenditures consistent with good business practice, and in keeping with applicable documentation standards required by Federal, State and local governments. Good business practice includes documentation procedures adequate to allow the efficient annual fiscal audit. Each auxiliary organization shall also provide special documentation to assure expenditures are made consistent with the constraints attached to certain sources of funds.

1. Where funds are received for research and grants or educational projects, or are held as trust or agency funds, documentation must be maintained as required by the entity providing the funds.
2. In the administration of restricted funds such as gifts, etc. the auxiliary organization must maintain adequate documentation to be able to demonstrate that the expenditures are made in a manner consistent with the restrictive conditions.

## **REGULATIONS**

In accordance with the above policy, allowable Foundation expenditures may include, but are not limited to:

1. Membership and participation in the activities of community groups, including but not limited to service clubs and community-wide organizations of leading citizens in education, business, government, industry, and agriculture, which serve the needs of the campus community.



2. Official University programs/activities that promote students, faculty, and staff; professional development; and/or donor cultivation and stewardship. Such activities may include, but are not limited to campus receptions, public ceremonies, auxiliary board and advisory committee meetings.
3. Membership and participation in the activities of community groups and local non-profit organizations which promotes the engagement of the University with the community.
4. Hospitality includes the provision for meals, catered events, promotional materials, gifts, and travel expenses for official guests of the University or Foundation. Hospitality also includes expenses for activities that promote the University or Foundation to the public with the expectation of benefits/goodwill accruing directly or indirectly to University or Foundation.
5. Awards in recognition of service or achievement directly benefiting the University or Foundation. Cash/check awards to University or Foundation employees are subject to payroll taxes and withholding. Non-cash awards (watches, clocks, pens, etc.) are non-taxable if the award is \$400.00 or less. Any awards greater than \$400.00 are taxable.
6. Gifts given or bestowed upon an individual, group, or entity with the expectation of benefit/goodwill accruing to the University or Foundation.
7. Promotional materials distributed to promote the name and brand of the University or the Foundation.
8. Employee relations for events such as employee recognition, service award, or retirement gatherings.
9. Business related meals, when it is necessary for employees to conduct official University or Foundation business during a meal.
10. Official activities that promote student, faculty, and staff recruitment, morale, and/or develop and maintain effective community relations. Such activities may include, but are not limited to campus receptions, public ceremonies, advisory committee meetings, and any academic programs of the University. Typical expenditures for these activities include the cost of meetings, conferences, catering, speaker fees, etc.

11. This policy provides the means for appropriate participation in bona fide activities by the spouse or significant other of an officer, employee, or other delegate of the University or Foundation where such participation is reasonably intended to achieve the community relations objectives of the University or Foundation.
12. Flower purchases for official University or Foundation functions such as commencement, award ceremonies, seminars, and other official campus events. Additionally, flowers may be purchased for funeral arrangements, get well wishes, and birth announcements for employees, retired employees or donors/community members. Monetary contributions to a non-profit charity or research or educational organization is permitted in lieu of flowers.

No reimbursement shall be allowed for the following expenses:

- Employee birthday, baby shower, wedding, wedding anniversary, etc.
- Tuxedo or other clothing rental.
- Political contributions, except for capital outlay bonds supported by the California State University Board of Trustees and authorized by the University President.
- Daily reimbursement of lunches would not be considered ordinary, reasonable and necessary.
- Amounts that are unreasonable given the circumstances in which the expenses were incurred and/or the benefit they provided to the Foundation or University.
- Membership or participation in organizations that discriminate based on race, color, religion, national origin, ancestry, age, gender, sexual orientation, marital status, veteran status, or disability.

A Community Relations Authorization form must be approved by the authorized account signer. Signature stamps are not acceptable. The account signer approving the authorization is responsible to ascertain the necessity and reasonableness of the authorization and that adequate documentation is attached to support the authorization. Account signers may not approve authorizations payable to themselves. Account signers may not approve authorizations payable to their supervisor. Community Relations Authorization forms shall be submitted within 30 days of the date the expense was incurred. The following information is required to be provided upon request for payment:

- **Purpose** – Be specific regarding the business purpose for the expenditure and the business benefit expected to be gained as a result of the expenditure. Generic statements such as “promotes positive relations”, “community relations” or “employee relations” are not acceptable.
- **Relationship** - Names of the persons included, their employer and occupation or title that shows their business relationship to the University/Foundation. When a donor’s name needs to be kept confidential, indicate as either “confidential” or “anonymous” donor.
- **Receipts** – Original receipts are required that include the amount, date, place and description of the expenditure. In cases where receipts cannot be obtained or have been lost, a statement to that effect should be made and attached to the authorization.
- **Highest Position Responsible for Payment** – The highest ranking University/auxiliary employee in attendance at a business related meal is deemed to be responsible for making the payment to the vendor and he/she will subsequently seek approval to be reimbursed with approval from their immediate supervisor, if allowable per policy.

## PURPOSE

The purpose of this policy is to ensure that expenditures submitted to the Foundation for Community Relations expenses are made in accordance with ICSUAM Policy 1301.00 and Section 9.2.1 of the "Compilation of Policies and Procedures for California State University Auxiliary Organizations", California Code of Regulations, Title 5, Division 5, Section 41600, 41601; California Education Code Sections 66600, 89030, 89035, 89044; HR 96-11.

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ATTACHMENT 3

CERTIFICATE OF AMENDMENT OF  
ARTICLES OF INCORPORATION

The undersigned certify that:

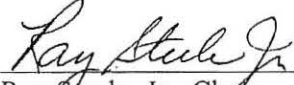
1. They are the Chair and Secretary, respectively, of **CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION**, a California corporation.
2. Article XII of the Articles of Incorporation of this corporation is amended to read as follows:

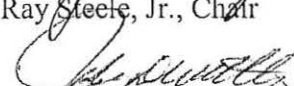
Upon dissolution of this corporation, net assets, other than trust funds, shall be distributed to a successor approved by the President of California State University, Fresno and by the Chancellor. Any nongovernmental successor shall be a nonprofit organization organized and operated exclusively for charitable or educational purposes meeting the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986.

3. The foregoing amendment of Articles of Incorporation has been duly approved by the board of governors.
4. The corporation has no members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: September 20, 2012

  
\_\_\_\_\_  
Ray Steele, Jr., Chair

  
\_\_\_\_\_  
John D. Welty, Secretary

**CERTIFICATE OF AMENDMENT AND RESTATEMENT OF  
ARTICLES OF INCORPORATION OF THE  
CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION**

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**JUL 18 2006**

The undersigned certify that:

1. They are the Chairman of the Board and Secretary, respectively, of the CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION, a California nonprofit corporation.
2. The Articles of Incorporation of this corporation are amended and restated to read in full as follows:

**I**

The name of this corporation is the CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION.

**II**

This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public purposes.

**III**

The corporation is formed and shall be operated exclusively to receive, hold, invest and administer property and to make expenditures to or for the benefit of California State University, Fresno.

**IV**

The primary purposes for which this corporation is formed are: To promote and assist the educational services of California State University, Fresno, by making expenditures for any one or more of the normally accepted functions of California State University, Fresno, including but not limited to: expenditures for acquisition and maintenance of real property comprising part of the campus area, the erection or participation in the erection of university buildings, scholarships, libraries, student loans, faculty and program development, the acquisition and maintenance of equipment and furnishings used for or in conjunction with normally

accepted functions of California State University, Fresno, and the administering of research projects, workshops, institutes and conferences for the purpose of furthering the educational objectives of California State University, Fresno.

## V

The general powers and purposes for which this corporation is formed are:

- (a) To solicit gifts of, to receive by gift, devise or bequest, to purchase or to otherwise acquire real and personal property of every kind and nature, including shares of stock, bonds, and securities of other corporations, and to hold, own, manage and administer the same;
- (b) To act as trustee under any trust incidental to the purposes of this corporation, and to receive, hold, administer and expend funds and property subject to such trust;
- (c) To sell, assign, convey, exchange, lease as lessor or lessee, mortgage, encumber, transfer upon trust, or otherwise dispose of all property, real or personal, and to lend money;
- (d) To invest and reinvest funds of this corporation in real or personal property of every kind and nature, including bonds, corporate common or preferred stocks, or securities of any type or character;
- (e) To borrow money, contract debts, guarantee the payment of indebtedness, and issue bonds, notes and debentures, and secure the payment or performance of its obligations;
- (f) To make contracts and to do all other acts necessary or expedient for the administration of the affairs and attainment of the purposes of this corporation; and
- (g) In order to accomplish any of the above purposes, to own, lease and/or operate facilities and properties, adapted to the purposes above set forth and to engage in any activity incidental to the accomplishment of the purposes above set forth.

## VI

This corporation does not contemplate the distribution of gains, profits or dividends to the members thereof; and no part of the

earnings of this corporation shall inure to the benefit of any private member or individual. Therefore, the corporation shall not:

- (a) lend any part of its income or corpus without the receipt of adequate security and a reasonable rate of interest, to;
- (b) pay any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;
- (c) make any part of its services available on a preferential basis, to;
- (d) make any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;
- (e) sell any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or
- (f) engage in any other transaction which results in a substantial diversion of its income or corpus to:

a person who has made a substantial contribution to this corporation; the brothers, sisters, spouse, ancestors, or lineal descendants of an individual who has made a substantial contribution to this corporation; or a corporation controlled by such person through the ownership, directly or indirectly, of fifty per centum (50%) or more of the total combined voting power of all classes of stock entitled to vote or fifty per centum (50%) or more of the total value of shares of all classes of stock of the corporation.

## VII

This corporation shall not carry on propaganda, or otherwise attempt to influence legislation, nor shall any of its funds be used to support or oppose any political issue or candidate.

## VIII

The county in this State where the principal office for the transaction of the business of this corporation is located is Fresno County.

## IX

The corporation shall have no members.

## X

- (a) The board of directors of this corporation shall be known and described as the Board of Governors and the directors of this corporation shall be known and described as Governors.
- (b) The number of Governors, their qualifications, powers, duties, tenure of office, and the manner in which they shall be selected, shall be as stated in the Bylaws of the Corporation.

## XI

This corporation shall have perpetual existence.

## XII

Upon dissolution of this corporation, net assets, other than trust funds, shall be distributed to a successor approved by the President of California State University, Fresno and the Trustees of the California State University. Any nongovernmental successor shall be a nonprofit organization organized and operated exclusively for charitable or educational purposes meeting the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986.

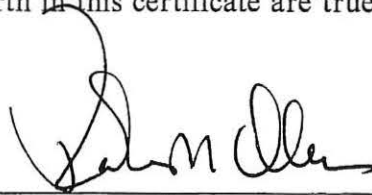
## XIII

This corporation elects to be governed by all of the provisions of the Nonprofit Corporation Law effective January 1, 1980, not otherwise applicable to it under Parts 2 and 5 of Division 2 of Title 1 of the Corporations Code of the State of California.

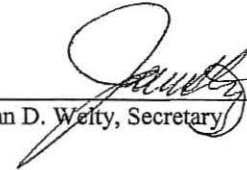
- 3. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the Board of Governors.
- 4. The corporation has no members.

We certify under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: 6/30/06



Robert H. Oliver, Chairman of the Board of Governors



John D. Welty, Secretary





**Attachment 4**  
**to Auxiliary Operating Agreement**  
**Designation of Authority re: Administration of Grants and Contracts**  
**Between Trustees of the California State University,**  
**California State University, Fresno**

**And**

**California State University, Fresno Foundation**

This Attachment 4 to the Auxiliary Operating Agreement between the Trustees of the California State University (CSU) and California State University, Fresno Foundation (Auxiliary) serving California State University, Fresno (Campus), effective from July 1, 2017 through June 30, 2022, acknowledges that Auxiliary performs the function "Externally Funded Projects Including Research, Workshops, Conferences and Institutes" as specified in Cal. Code Reg. tit. 5 §42500 and Section 2 of the Auxiliary Operating Agreement.

In compliance with Executive Order No. 1059, Campus designates Auxiliary as:

- ☒ The primary Sponsored Program Administrator for the Campus;
- ☐ A Sponsored Program Administrator for specific types of grants and contracts for Auxiliary primary business purpose.<sup>1</sup>

Auxiliary will ensure that all proposals for external funding are reviewed by the President or designees to provide programmatic and fiscal written approval in accordance with CSU policy, ICSUAM 11002.01.<sup>2</sup>

Auxiliary, when acting as Sponsored Program Administrator, agrees to provide grant and contract administration services in compliance with all CSU, Campus and Auxiliary policies related to sponsored program administration, federal and state regulations and funding agency (sponsor) regulations and guidelines.

**Approved:**

**California State University, Fresno**



Joseph I. Castro, M.P.P., Ph.D.  
President

7/1/17

Date

**California State University, Fresno Foundation**



Deborah S. Adishian-Astone  
Executive Director

7/1/2017

Date

\*\*\*Footnotes are for reference only and can be deleted.

<sup>1</sup> For example: certain grants may be awarded to the associated students (AS) auxiliary that directly support AS programs; or a non-profit foundation may require the grant recipient to be qualified under a particular IRS code, such as 501(c)(3) or its subsections. In either case, the auxiliary accepting the grant may choose to enter into an agreement with the Campus primary SPA for more effective grant administration.

<sup>2</sup> ICSUAM Policy 11002.01 incorporates the relevant policy sections from EO890, including proposal review and approval requirements. EO890 is superseded by ICSUAM Section 11000 et al.