# CONSTRUCTION AND RELATED ACTIVITIES POLICY

## SCOPE

- This CONSTRUCTION AND RELATED ACTIVITIES POLICY (referred to herein as the POLICY) shall be applicable to the following activities undertaken by the California State University, Fresno Association, Inc. (hereinafter referred to as ASSOCIATION):
  - 1. All original works of construction; and
  - 2. All renovation, improvement, remodeling, and/or repair activity as to any improvement upon real property, <u>excluding</u> preventative and ordinary maintenance and repair.

#### DEFINITIONS

- I. For purposes of this **POLICY** the following definitions apply:
  - 1. The term **ORIGINAL WORK OF CONSTRUCTION** shall refer to all new works of construction;
  - The term RENOVATION, IMPROVEMENT, REMODELING, AND/OR REPAIR shall refer to construction activities upon existing works of construction, but <u>excluding</u> ordinary/regularly recurring maintenance activities;
  - The term PRE-CONSTRUCTION ACTIVITY shall refer to professional services; project/contract management; financial analysis/planning; surveys/assessments/appraisals; permitting/licensure; plans/ designs/ specifications; environmental compliance assessments/reports; execution of financial instruments; and execution of contract commitments;
  - 4. The term **CONSTRUCTION** shall refer to: site mobilization; erection; and site demobilization;
  - 5. The term **REAL PROPERTY** shall refer to any right, title, or interest in or to any implicated real property;
  - 6. The term **CSU** shall refer to The California State University system, an agency of the State of California, acting through its Board of Trustees and/or implicated units thereof including the Office of Physical Planning and Development, the Office of Auxiliary Planning and Bonds, the Office of the General Counsel;

- 7. The term **CAMPUS** shall refer to the California State University, Fresno, and all implicated units thereof including the Office of the President, the Office of Facilities and Planning, and the Campus Planning Committee;
- 8. The term **APPROVAL** shall refer to all applicable statutory and nonstatutory approval processes including environmental assessment, capital outlay compliance, due diligence, and architectural/master plan compliance;
- 9. The term **CAPITAL OUTLAY PROJECT** shall refer to any activity identified in a CSU Capital Outlay Program/Capital Improvement Program, or amendment thereto;
- 10. The term **MAJOR CAPITAL OUTLAY PROJECT** shall mean a capital outlay project whose total cost is \$250,000 or more, regardless of whether funding source is state or non-state;
- 11, The term **MINOR CAPITAL OUTLAY PROJECT** shall mean a capital outlay project whose total cost is less than \$250,000, regardless of whether funding source is state or non-state;
- 12. The term **STATE FUNDS** shall refer to California general fund monies;
- 13. The term **NON-STATE FUNDS** shall refer to monies which are not California general fund monies; and
- 14. The term **PUBLIC WORKS PROJECT** shall refer to a project where the State of California is a party, state property is involved, or state funds will be expended.

### **PRE-CONSTRUCTION AND CONSTRUCTION ACTIVITIES**

### **Competitive Award of Contracts**

- I. **PRE-CONSTRUCTION** and **CONSTRUCTION** contracts involving a total principal cost of less than Fifty Thousand Dollars (\$50,000) shall be awarded on a competitive basis as follows:
  - Absent exigent circumstance, or reasonable grounds for sole sourcing, the ASSOCIATION shall solicit in writing from at least three (3) vendors/ contractors, bids/quotes/proposals, as appropriate, upon specifications supplied by the ASSOCIATION;
  - 2. The contract shall be awarded to the lowest responsible performing bid/quote proposal. No later than ninety (90) days following closing of the time for submission of bids/quotes/proposals all qualified,

participating vendors shall be notified in writing of the disposition of their bid/quote/proposal. The **ASSOCIATION** shall reserve the right to reject all bids/quotes/proposals, and/or substitute vendors/contractors at any time;

- The ASSOCIATION encourages all contractors to make good faith efforts to meet participation goals established under any and all federal/state affirmative action and MWDVE policies/preferences/ guidelines;
- The ASSOCIATION supports a drug free workplace and encourages all contractors to make good faith efforts to achieve such goals. The ASSOCIATION may request a Drug Free Workplace Certification or equivalent document from implicated vendors/contractors;
- Contracts shall be based upon designs by a licensed engineer or architect, acceptable to the CSU Board of Trustees, the Office of the Chancellor, and/or the Board of Directors of the ASSOCIATION, as appropriate. All implicated vendors/contractors shall possess all requisite licensure;
- 6. Contracts shall contain or incorporate suitable general terms and conditions;
- 7. The **ASSOCIATION** shall not enter any contract containing any of the following language absent prior consent from the General Counsel or Staff Counsel for the **ASSOCIATION**.
  - A. Language indemnifying or holding harmless a part other than the **ASSOCIATION** or the **CSU**;
  - B. Language directly obligating the **CSU**;
  - C. Language requiring that the **ASSOCIATION** make payment in advance;
  - D. Language creating a contingent liability against the State of California; or
  - E. Language requiring the **ASSOCIATION** to provide insurance covering a risk incurred by any other party.
- 8. The **ASSOCIATION** shall avoid any conflict of interest or the appearance thereof. Prior to entry of any contract, there shall be full disclosure of any implicated financial interest held by interested Board/ managerial members as more fully provided in governing documents of

the **ASSOCIATION**; no person or firm preparing contract specifications or a request for bid/quote/proposal shall be eligible to participate in such contract; nor shall any such person be employed for pay by, or realize monetary gain from, any vendor/contractor participating in such contract.

- II. **PRE-CONSTRUCTION** or **CONSTRUCTION** contracts involving a total principal cost of Fifty Thousand Dollars (\$50,000) or more shall be awarded on a competitive basis as follows:
  - Absent exigent circumstance, or reasonable grounds for sole sourcing, the ASSOCIATION shall prepare a formal request for bid/quote/ proposal, as appropriate; make reasonable efforts to circulate such request through a process of advertising on at least a local basis; and solicit, in writing, from at least three (3) vendors/contractors, bids/ quotes/proposals, as appropriate;
  - The contract shall be awarded to the lowest responsible performing bid/ quote/proposal. No later than ninety (90) days following closing of the time for submission of bids/quotes/proposals all qualified, participating vendors shall be notified in writing of the disposition of their bid/quote/ proposal. The ASSOCIATION shall reserve the right to reject all bids/ quotes/proposals, and/or substitute vendors/contractors at any time;
  - 3. The **ASSOCIATION** encourages all contractors to make good faith efforts to meet participation goals established under any and all federal/ state affirmative action and MWDVE policies/preferences/guidelines;
  - The ASSOCIATION supports a drug free workplace and encourages all contractors to make good faith efforts to achieve such goals. The ASSOCIATION may request a Drug Free Workplace Certification or equivalent document from implicated vendors/contractors;
  - Contracts shall be based upon designs by a licensed engineer or architect, acceptable to the CSU Board of Trustees, the Office of the Chancellor, and/or the Board of Directors of the ASSOCIATION, as appropriate. All implicated vendors/contractors shall possess all requisite licensure;
  - For MAJOR CAPITAL OUTLAY PROJECTS all implicated vendors/ contractors must be included in the Chancellor's Office approved Pre-Qualification List;
  - Contracts shall contain or incorporate suitable general terms and conditions as determined by the ASSOCIATION following any appropriate consultation with the CSU;

- 8. The **ASSOCIATION** shall not enter any contract containing any of the following language absent prior consent from the General Counsel or Staff Counsel for the **ASSOCIATION**.
  - A. Language indemnifying or holding harmless a party other than the **ASSOCIATION** or the **CSU**;
  - B. Language directly obligating the **CSU**;
  - C. Language requiring that the **ASSOCIATION** make payment in advance;
  - D. Language creating a contingent liability against the State of California; or
  - E. Language requiring the **ASSOCIATION** to provide insurance covering a risk incurred by the any other party.
- 9. The ASSOCIATION shall avoid any conflict of interest or the appearance thereof. Prior to entry of any contract, there shall be full disclosure of any implicated financial interest held by interested Board/ managerial members as more fully provided in governing documents of the ASSOCIATION. No person or firm preparing contract specifications or a request for bid/quote/proposal shall be eligible to participate in such contract. Nor shall any such person be employed for pay by, or realize monetary gain from, any vendor/contractor participating in such contract.

### **CONTRACT APPROVAL PROCESS**

- I. Notice to and **APPROVAL** by the Executive Director, **ASSOCIATION** General Counsel or Staff Counsel, and/or the Board of Directors of the **ASSOCIATION** shall be required as follows:
  - As to contracts involving a total cost of less than One Hundred Thousand Dollars (\$100,000), there shall be notice to and review by ASSOCIATION General Counsel or Staff Counsel; and notice to and APPROVAL by the Executive Director of the ASSOCIATION (subject to any limitations upon signatory authority as the Board of Directors of the ASSOCIATION may from time to time provide); and
  - As to contracts involving a total cost of more than Fifty Thousand Dollars (\$50,000) but less than One Hundred Thousand Dollars (\$100,000), such contracts shall be presented to the Board of Directors of the ASSOCIATION as an informational item; and

- 3. As to contracts involving a total cost of One Hundred Thousand Dollars (\$100,000) or more, there shall be notice to and APPROVAL by the Board of Directors of the ASSOCIATION in the form of a resolution variously establishing an ASSOCIATION account from which such expenditures may be made; the Board of Directors shall remain free to impose such conditions precedent/subsequent to approval as it sees fit.
- II. Notice to and **APPROVAL** by the **CSU** and the **CAMPUS** shall be required as follows:
  - 1. As to contracts involving **ACQUISITION** of any right, title, or interest in state property; and
  - 2. As to contracts involving **PRE-CONSTRUCTION** or **CONSTRUCTION** activity on state land or in state facilities; and
  - 3. As to contracts wherein the **CSU** or the State of California is a party; and
  - 4. As to contracts wherein the purchasing power of the State of California or the **CSU** is utilized; and
  - 5. As to contracts wherein a **Master Agreement** negotiated by the Department of General Services is utilized; and
  - 6. As to contracts involving one or more (MAJOR OR MINOR) CAPITAL OUTLAY PROJECT(S); and
  - As to contracts involving expenditure of STATE FUNDS or NON-STATE FUNDS in an amount in excess of Fifty Thousand Dollars (\$50,000) but less than Two Hundred Fifty Thousand Dollars (\$250,000). [Notice to CAMPUS only.]; and
  - As to contracts involving expenditure of STATE FUNDS or NON-STATE FUNDS in an amount of Two Hundred Fifty Thousand Dollars (\$250,000) or more; and
  - As to contracts involving the California State University, Fresno Student Union, wherein STATE FUNDS (or state funded reserves) are expended; and
  - 10. As to contracts involving application of **NON-STATE FUNDS** where such application is neither approved by the Board of Directors nor reflected in the operative budget; and

- 11. As to any **CONSTRUCTION** activity necessitating a significant change in an approved budget of the **AUXILIARY** and occurring during the course of the budget year. [Notice to **CAMPUS** only.]
- III. Exigent Circumstance(s):
  - Notwithstanding anything else herein, if the Executive Director, following consultation with the CAMPUS President and the Chairman of the Board of Directors of the ASSOCIATION, in the reasonable exercise of his discretion, determines that exigent circumstance(s) require immediate action, then any and all action reasonably required to meet the exigent circumstance(s) may be undertaken, provided that: such action involves an expenditure of no more than One Hundred Thousand Dollars (\$100,000); and the CSU, the CAMPUS, and/or Board of Directors of the ASSOCIATION, as appropriate, is/are so informed at the earliest opportunity.