campus administrative Policy

chapter 300: ADMINISTRATION AND FINANCE

# Building Planning, Design and Construction

## DONOR FUNDED CONSTRUCTION PROJECT POLICY

### PURPOSE & SCOPE

This Policy outlines the required steps to ensure that construction projects with gift-funded components (Donor Funded Projects) are properly managed, adequately funded, appropriately guide the expectations of donors, and ultimately reduce financial risk to the Project Sponsor and Cal Poly. Any exceptions to this Policy must be approved in writing by the University President.

Donor Funded Projects are developed in support of Cal Poly’s institutional priorities. They are conceived to support the mission of Cal Poly by providing a physical campus environment that fosters excellence, creativity, and a sense of community. Donor Funded Projects include major capital and minor capital projects as defined in the Cal Poly “Construction Project Approval Policy” (CPAP).

Donor Funded Projects may be funded through a combination of State and federal funds, unrestricted campus funds, external debt financing, and donor funds. Cal Poly’s approval and commencement of capital projects depend on the availability of such funding sources and the impact such funding sources may have on Cal Poly’s financial condition.

Funding sources provided through gifts to Cal Poly are an essential component of supporting needed capital investment and all academic and administrative leadership are encouraged to seek opportunities for gift support of such projects where appropriate.

The purpose of this Policy is to provide guidance for construction projects funded in whole or in part by gifts. Capital projects that do not include a Gift funded component are not within the scope of this Policy.

### DEFINITIONS

For the purposes of this Policy:

**Gifts** refer to liquid assets including but not limited to cash, real estate, and securities. This excludes in-kind gifts, bequest intentions, and other revocable arrangements.

**Project Sponsor** refers to the Associate Vice President, Dean, University Librarian, or Athletic Director who will be sponsoring a capital project that is funded in whole or in part by Gifts.

### POLICY STATEMENT

All capital projects must obtain the appropriate approvals pursuant to California State University (CSU) and Cal Poly policy.

To ensure that prospective donors are presented with feasible project opportunities, the Senior Vice President for Administration & Finance (VPAF), Provost and Executive Vice President of Academic Affairs (Provost), Vice President of University Development (VPUD) and appropriate Vice President must issue approval in accordance with this Policy prior to initiating donor solicitations.

A. Prior to Soliciting Gifts

*Prior to soliciting gifts* for a Donor Funded Project, the Project Sponsor must submit a Project Concept Request Form as described in the CPAP. Per CPAP, Facilities Planning and Capital Projects will perform a Preliminary Feasibility Analysis. The Project Sponsor will review this analysis and reassess the concept prior to resubmission for final review by the VPAF, Provost, VPUD and appropriate Vice President to assess the fundraising and business feasibility of the proposed project (Donor Funded Concept Analysis).

The Donor Funded Concept Analysis includes, but is not limited to, the following elements:

1. Program Analysis
   1. Does the concept align with programmatic and institutional priorities?
   2. Does the concept enhance or elevate the teaching and/or research mission of the University?
2. Business Case Analysis
   1. Is pursuit of the concept the highest and best use of institutional resources and donor goodwill?
3. Assessment of Financial Feasibility (cash flow, construction market analysis, etc.)
   1. Can a reasonable cash flow strategy be constructed given proposed traditional and donor funding?
   2. Is the Anticipated Total Project Cost (as provided in Project Concept Request Form) within construction estimate range determined during the Preliminary Feasibility Analysis?
   3. What are the financial risks to the University?
   4. Adequacy of financial plan for the project.
4. Site and Massing Alternatives
   1. Have alternative sites been given adequate consideration?
   2. Does the proposed site conflict with other institutional plans or objectives?
   3. Is this the best site for the project?
5. Fundraising Feasibility and Strategy
   1. Is proposed fundraising target attainable?
   2. If so, in what timeframe?
   3. Identify requirements for cash on hand prior to design and construction.

An initial written assessment will be issued to the Project Sponsor under signature of the VPAF, VPUD and Provost as soon as practical but no later than 30 days from receipt of the Project Concept Request Form. If the assessment supports project feasibility, the concept moves forward for further assessment and approval under the CPAP process. If it does not, the Project Sponsor may revise the project concept to address the issues identified in the assessment and resubmit. Ultimate approval authority for any donor funded project lies with the President.

B. Funding Sources – the written determination will include terms that will commit the Project Sponsor to:

i. Gift Funded Amounts. The Project Sponsor will identify funding expected from gift and other non-state funding sources and identify the specific assets or revenue sources to be allocated towards funding. This will include the amount of gifts already received and the amount of irrevocable pledge commitments assigned to the project. All pledges must convert to cash within the period prescribed in the written determination, typically 3-5 years from project approval.

Pledges scheduled for receipt beyond five years may only be considered for project funding with approval by VPAF. The value of such pledges will be discounted based on the current target endowment return existing on the date of the MOU and will require a bridge funding loan.

ii. Requirements for Commencement of Design and Construction. Prior to design (other than conceptual), at least 50% of total gift funding will be formally documented via legally binding pledges. Prior to construction, pledges equivalent to 105% of the donor funded component will be formally documented via legally binding pledges. Cash requirements will be established as part of the overall financial strategy.

iii. Bridge Funding. Limited bridge funding may be available to address cash flow issues during the course of design and construction. The University has limited resources for this purpose and the cost of capital must be included in project cost. Bridge funding should not be relied on to cover a fundraising shortfall, only cash flow needs.

iv. Project Specific Conditions. Donor funded construction projects are inherently unique and complex. Depending on factors including but not limited to project complexity, cost and fundraising strategy, the requirements and guidelines contained in this policy may be modified to create a foundation for project success. Any deviation from these standards must be approved and agreed upon by the VPAF, Provost, VPUD and appropriate Vice President.

### IN-KIND GIFTS

#### Administrative Procedure Overview:

For purposes of this policy section, in-kind gifts refers to materials and services associated with the construction of buildings, structures and other types of real property. Goods and equipment that are not fixtures of realty are beyond the scope of this policy.

In-kind gifts must not increase the project cost, delay completion, compromise quality or compromise ethical standards.

Design Services are prohibited as In-Kind donations for any phase of a Capital Project.

The solicitation of in-kind gifts should be a part of the public bid process. The public bid process is inclusive and fair to all interested parties. If the potential for in-kind gifts exists, it is recommended that the project designer and construction manager take into consideration the in-kind gifts as they divide the project into bid packages and prepare the specifications and performance standards.

The receipt of proposals for in-kind gifts must be included with the receipt of competitive bids and proposals.

Those who donate services or materials must be held to the same standards as other vendors and contractors as defined in University policy, contract terms and conditions. Solicitations and discussions regarding in-kind gifts should make it clear that donors, like other vendors, will be expected to agree to standard University contract terms and conditions.

Pledges to provide in-kind design or construction services and/or materials cannot be counted toward meeting a capital project's funding requirement.

### Process:

#### Develop the RFBs/RFPs for the Bid Packages

The Requests for Proposals (RFPs) or Requests for Bids (RFBs) will be publicly available. Vendors will be invited to submit bids that may or may not include a gift component. Consistent with standard University practices, the lowest bid or the highest rated proposal will receive the award without prejudice as to whether the vendor’s offer included a “gift” element. In the case of bids, the gift element will be reflected as a reduced price. In the case of proposals, if a gift is part of the vendor's proposal, the “gift” element will be taken into account in the cost section of the evaluation criteria.

#### Review of RFP / RFB:

The VPAF or designee, on behalf of the University, reserves the right to, following consultation, as needed, with Provost or other involved parties:

1. Accept or decline any gift offered as part of a bid/proposal.
2. Evaluate the acceptability of any gift that is offered: A gift's value will be considered reduced, or even unacceptable, if it is not considered advantageous to the University for any reason. Examples of gifts that would be considered disadvantageous:
   * Gift includes obsolete equipment.
   * Acceptance of gift will involve significant or excessive maintenance charges after installation (unless funding to cover such costs has been identified).
   * Gift requires unacceptable modification of other building components.
   * Acceptance of gift will cause unacceptable delays or cost to the project.
   * Acceptance of gift is inconsistent with the principles or goals established for the project.
3. Request any clarification or additional information in order to facilitate that bid/gift evaluation.

### Cal Poly Foundation (Foundation) and University processes for In-Kind Donations

The Foundation is responsible for awarding and maintaining gift credit for these In-kind donations. All in-kind donations must be first coordinated with the Foundation. The tax value associated with those donations is the sole responsibility of the donors.

References for CAP 322.1:

1. Date approved by the President: To be determined
2. Effective Date: To be determined
3. Responsible Department/Office: Administration and Finance/University Development
4. Revision History: Not applicable; New
5. Related University Policies, Procedures, Manuals and/or Documents:
6. Laws, Regulations and/or Codes of practice referred to herein or related to this policy: