

SECTION: **POLICY STATEMENT – GENERAL AND ADMINISTRATIVE**

SUBJECT: **REAL ESTATE ACQUISITION & DEVELOPMENT**

PURPOSE: To provide management with prudent criteria and a policy framework within which the Cal Poly Corporation (“CPC”) may acquire, sell, trade, exchange and develop real property (or any interest therein) in support of the University’s mission.

EFFECTIVE DATE: **May 11, 2001**

REAL ESTATE ACQUISITION & DEVELOPMENT

I. BACKGROUND

- A.** As a nonprofit corporation and auxiliary organization, the CPC is held to certain fiduciary standards, external regulations and accounting principles relating to the acquisition and development of real property.
- B.** Title 5, *California Code of Regulations*, Section 42500(a), lists essential functions the Trustees have determined are appropriate for auxiliary organizations. Subsection 12 lists:
- Acquisition, development, sale, and transfer of real and personal property including financing transactions related to these activities.*
- C.** In order for the CPC to perform the Section 42500(a)(12) function, an appropriate operating agreement with the University covering this function shall be in effect. At the time that this Policy Statement is adopted, the University and the CPC have in effect a Master Operating Agreement (MOA) that includes “acquisition and development of real property.” See MOA, dated February 16, 2000, at Section II.
- D.** Executive Order No. 676 provides limited authority to a campus president to accept gifts of interest in real property within specific criteria.
- E.** Executive Order No. 703 sets forth a comprehensive procedural framework in connection with auxiliary organization financing activities that may involve a real property interest.
- F.** Executive Order No. 747 establishes policies and procedures for projects involving real property development.
- G.** California Corporations Code Section 5230 *et seq.* sets certain standards of conduct of the CPC Board of Directors, its officers and management in the performance of duties and transactions, including those involving real property, requiring good faith, in a manner believed to be in the best interest of the corporation, and with such care,

including reasonable inquiry, as an ordinary prudent person in a like position under similar circumstances.

- H. California Corporations Code Section 5240(b) generally requires management of CPC invested assets (including reinvesting, purchasing, acquiring, exchanging and selling) to a standard that avoids speculation, looking instead to the permanent disposition of assets, considering probable income, as well as the probable safety of its capital.

II. POLICY

A. Real Estate Transaction Purposes

This policy statement is intended to apply to the following broad real property transaction purposes by the CPC:

1. Meeting University facility needs; and
2. Supporting the University's faculty, staff and student housing programs.

B. Real Estate Acquisition Funding Mechanism Established

To fund real property acquisitions for the CPC or the Cal Poly Housing Corporation authorized through this policy statement, the Executive Director may establish appropriate written asset transfer procedures using generally accepted accounting principles and practices, and Board policy. Such procedures shall be reported to the Board.

C. Funding Sources

Real property transactions involving restricted assets (such as donated property) shall respect the terms and conditions of the restrictions upon the asset. The Plant Fund shall be the primary funding source for unrestricted real property acquisitions. The Plant Fund unexpended funds balance may be utilized to acquire real property.

D. Real Property Transaction Criteria

The Executive Director is delegated authority to transact real property (or any interest therein) by purchase, sale, trade, or by internal asset exchange, upon written findings to the Investment Committee that the following applicable criteria have been met:

1. The transaction has been preceded by an appropriate and documented "due diligence" review that includes, but is not limited to, an appraisal, and legal, financial, environmental, land-use, return on investment, and transaction purpose considerations.
2. The proposed real property transaction and its intended purpose and result shall be consistent with laws, regulations, policy and procedures applicable to the transaction.

3. The University President has formally approved the proposed real property transaction with a finding that such transaction is in support of the University's mission.
4. The proposed transaction is consistent with any applicable gift or sponsor instrument restricting transfer.
5. The proposed transaction is on an "arms length" and equitable basis, particularly with regard to internal asset exchanges or transfers to another campus auxiliary organization.

III. REPORTS TO THE BOARD

The Executive Director shall periodically report to the Board on significant real property transactions subject to this policy statement.

IV. IMPLEMENTING GUIDELINES

The Executive Director is authorized to establish written management guidelines consistent with and in implementation of this policy statement.