



FORT LEWIS COLLEGE

FISCAL RULES

Adopted July 1, 2011

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SECTION I: INTRODUCTION

Colorado State Senate Bill 10-003 enacted by the General Assembly and signed by the Governor and effective June 9, 2010, amends section 24-30-202, C.R.S. As amended, section 24-30-202(13)(b), C.R.S., allows a governing board of an *Institution of Higher Education* that has adopted fiscal Rules and has determined that such fiscal Rules provide adequate safeguards for the proper expenditure of the moneys of the institution to elect to exempt the institution from the fiscal Rules promulgated by the State Controller pursuant to section 24-30-202. An institution that is exempt from the state fiscal rules is also not required to comply with the provisions of subsections (1), (5)(b), (20.1), (22), or (26) of section 24-30-202, C.R.S.

On June 3, 2011, the Board of Trustees for Fort Lewis College (“Board”) determined that existing fiscal policies and practices of the College in addition to the forgoing Fort Lewis College Fiscal Rules (the “Rules”) provide adequate safeguards for the proper expenditure of the moneys of the institution. Accordingly, the Board elected to exempt Fort Lewis College (“College”) from the fiscal rules promulgated by the State Controller. The forgoing Rules were adopted by the College President effective July 1, 2011.

SECTION II: SCOPE OF RULES

These Rules are applicable to all College employees and officials, and any representatives of the College authorized to conduct official College Business. These Rules govern any transaction of any kind and in any medium, that involves the commitment or expenditure of College monies or resources. These Rules are intended to be implemented in concert with applicable state and federal laws and regulations, the Policies of the Board, and all applicable College policies. Wherever possible, any conflict between these Rules and any state or federal law and regulation, Policies of the Board, or applicable College policy, should be harmonized. The Vice President for Finance and Administration has final authority to interpret these Rules.

Wherever an *italicized* word or phrase appears in these Fiscal Rules, that word or phrase can be found in **Appendix I – Fiscal Rules Glossary** (Pages 34-40).

SECTION III: ACCOUNTING

FISCAL RULE NUMBER

- 3-1 Accounting Principles and Standards**
- 3-2 Interface with the State Financial System**
- 3-3 Delegated Authority**
- 3-4 Financial Transactions and Internal Controls**
- 3-5 Reporting of Fraud, Theft or Embezzlement**
- 3-6 Accountability and Capitalization of Equipment**

Rule 3-1 ACCOUNTING PRINCIPLES AND STANDARDS

The accounting principles of Fort Lewis College (“College”) shall be based on generally accepted accounting principles (GAAP) as adopted by the Governmental Accounting Standards Board (GASB) and applicable laws and regulations. When it is necessary to report compliance of financial transactions with statutory requirements, supplemental schedules may be used. Preparation of separate statutory based reports may also be necessary.

The Chief Financial Officer of the College and the College Controller shall annually certify to the State Controller as to the adequacy of its systems of internal accounting and administrative controls. The certification form, content and due date shall be determined by the State Controller.

Rule 3-2 INTERFACE WITH THE STATE FINANCIAL SYSTEM

The College shall continue to report to the State Controller regarding its financial transactions as required by law. To facilitate such reporting, the College shall maintain an electronic interface with the State financial system acceptable to the State Controller and the College.

The College is authorized by the State Controller as the custodian of the College’s portion of the financial database on the State financial system. The College shall not grant any person access to financial data contained on the State financial system for general perusal, other than College employees or representatives for College business purposes. Specific requests for query access to the financial database of the College’s financial system shall be in accordance with the Colorado Open Records Act.

Rule 3-3 DELEGATED AUTHORITY

As used herein, the Chief Executive Officer (the College President); the Chief Financial Officer (the Vice President for Finance and Administration); the Chief Procurement Officer (the Director of Purchasing); and the College Controller are responsible for the fiscal management of the College. These Rules may only be waived or amended upon approval of the Chief Financial Officer of the College under these Rules.

Rule 3-4 FINANCIAL TRANSACTIONS AND INTERNAL CONTROLS

The College shall implement internal accounting and administrative controls that reasonably ensure that financial transactions are accurate, reliable, and conform to these Rules prior to recording transactions on the College financial system and prior to making payment. The factors of risk, cost, and business requirements shall be considered when establishing these internal controls.

Rule 3-5 REPORTING OF FRAUD, THEFT OR EMBEZZLEMENT

The College is responsible for the design and implementation of programs and controls to prevent, deter and detect fraud. Any suspected fraudulent misstatements of the *Financial Statements* shall be reported to the College Controller and the Internal Auditor. Any suspected theft or embezzlement of College funds or assets shall be immediately reported to the College Controller in a timely manner. Also, the results of any investigation or follow-up including corrective measures implemented to prevent or reduce the likelihood of future occurrences must be reported in writing to the College Controller in a timely manner.

Rule 3-6 ACCOUNTABILITY AND CAPITALIZATION OF EQUIPMENT

The College is responsible for ensuring that all equipment acquired by the College is properly accounted for when acquired, inventoried and safeguarded throughout its useful life, and properly accounted for at the time of disposal. Items with a useful life of greater than one year purchased by the College shall be either capitalized or expensed in the fiscal year in which it was acquired, based on applicable capitalization thresholds.

SECTION IV: DISBURSEMENT

FISCAL RULE NUMBER

- 4-1 Propriety of Expenditures
- 4-2 *Commitment Vouchers*
- 4-3 Receiving Reports
- 4-4 Purchase Discounts
- 4-5 Interest Payment on *Delinquent Payables*
- 4-6 *Interagency Purchases* and Payments
- 4-7 *Official Functions* and *Training Functions*
- 4-8 Miscellaneous Compensation and Other *Benefits* (Perquisites)
- 4-9 Moving and Relocation

Rule 4-1 PROPRIETY OF EXPENDITURES

All expenditures by the College shall meet the following standards of propriety:

- Expenditures are for official *College business* purposes only.
- Expenditures are reasonable and necessary under the circumstances.

Rule 4-2 COMMITMENT VOUCHERS

1. Use of *Commitment Vouchers*
2. Dollar Limits and Requirements
3. *College Purchase Orders*
4. *College Contracts*
5. *After-the-Fact Purchases*
6. *Advance Payments*
7. Emergencies
8. *Vendor Agreements*
9. *Purchase Order Terms and Conditions*

1. USE OF COMMITMENT VOUCHERS

The College shall not disburse funds unless the disbursement is supported by a *Commitment Voucher* (*Purchase Order(PO)* or *Contract*) or *Small Purchase Documentation* (Request for Payment). With respect to proposed expenditures, the College shall ensure that the *Commitment Voucher*:

- Expenditure is authorized by the appropriate departmental authorities and required approvals have been received;
- Expenditure is reasonable and necessary;
- Prices or rates are fair and reasonable;
- Expenditure amount is within the available unencumbered balance;
- Adequately defines the requirements, respective performance obligations of the parties, and pricing;
- Terms and conditions represent a commercially reasonable allocation of risks between the parties;
- Complies with applicable statutes, executive orders, College Rules and policies.

2. DOLLAR LIMITS AND REQUIREMENTS

TYPE OF AGREEMENT	*DOLLAR LIMIT	REQUIREMENTS
Goods	\$10,000 and less	Procurement Card, <i>Small Purchase Documentation</i> (Request for Payment) or any <i>Commitment Voucher</i>
	Above \$10,000	PO or <i>College Contract</i> Create <i>encumbrance</i>
Services	\$10,000 and less	<i>Procurement Card, Small Purchase Documentation</i> (Request for Payment) or any <i>Commitment Voucher</i>
	Above \$10,000 but less than or equal to \$250,000	PO or <i>College Contract</i> Create <i>encumbrance</i>
	Above \$250,000	<i>College Contract</i> Create <i>encumbrance</i>
Capital Construction/Controlled Maintenance	NA	See Fiscal Rule 6-1 (<i>Capital Construction Administration</i>) and Fiscal Rule Manual
Professional Services under CRS §24-30-1401, et seq., including architectural, engineering, land surveying, industrial hygienist, and landscape architect services	Any dollar amount	<i>College Contract</i> Create <i>encumbrance</i>
Real Property lease or <i>License</i> of land, buildings, or a portion thereof for term of more than 30 days	Any dollar amount	<i>College Contract</i> Create <i>encumbrance</i>

***Total value of the commitment; for multiple-year commitments, the total value is equal to the sum of the commitments for all contract years.**

2.1 Protecting the College’s Interests. *College Contracts* shall be used in situations in addition to those described in this Rule if other *Commitment Vouchers* do not adequately protect the College’s interests. Refer questions regarding the proper form of *Commitment Voucher* to the Chief Procurement Officer.

2.2 Exempt Disbursements. A *Commitment Voucher* is not required for the following types of disbursements regardless of the amount of funds disbursed:

- Calculated payments required under a program within the College (e.g., formula distributions, other distributions required by regulatory or statutory formulas);
- Copier rental agreements when the payment is based on cost per copy;
- Conference registrations;
- Financial aid or tuition assistance programs;
- Insurance purchases;
- Internal services routinely provided by the College (e.g., internal printing or copying services, or legal services provided by College Counsel);
- Intra-College purchases;
- Moving expenses reimbursed to College employees (Fiscal Rule 4-9);

- Payroll and related disbursements (withholding, authorized *Benefits*, etc.);
- Postal and other delivery charges, including messenger fees;
- College program payments to or on behalf of individuals qualified for the program's *Benefits* (e.g., scholarships);
- Subscriptions for journals, informational publications or similar materials (electronic or hard copy);
- Utility hook ups and line extensions performed by a utility company;
- Water, gas, electric, internet, and customary local and long-distance telephone services, including pagers and cell phones, which are routinely purchased by the College;
- All athletic fees associated with conference affiliation;
- All bond issuance costs, and;
- Other disbursements approved in writing by the Vice President for Finance and Administration.

3. COLLEGE PURCHASE ORDERS

3.1 Standard Provisions. All *Purchase Orders* issued by the College shall include the College's standard *Purchase Order* Terms and Conditions, which may be found in Appendix II of this document.

3.2 Interagency Purchase Orders. In situations where the College is issuing a *Purchase Order* to another *Agency* or *Institution of Higher Education*, the College may change or delete any standard provision.

3.3 Revision of Standard Terms and Conditions. The College, when issuing a *Purchase Order* to a *Party* other than another *Agency* or *Institution of Higher Education*, shall not change or delete the standard *Purchase Order* provisions unless it obtains prior written approval of the Chief Procurement Officer or College Controller, except that:

- No changes to the provisions governing Changes, Vendor Offset, Assignment and Successor, Independent Contractor, and Funds Availability may be made without the prior approval of the Chief Procurement Officer or College controller; and
- No changes to the choice of Law, Public Contracts for Services, or Public contracts with Natural Persons provisions may be made without legal review and written approval by the Chief Procurement Officer or the College Controller.

3.4 Services involving transfer of confidential information. All *Purchase Orders* issued by the College that involve the transfer of or access to confidential electronic information shall comply with applicable College policies related to confidential information and Information Technology security and with applicable laws and regulations related to confidential information.

4. COLLEGE CONTRACTS

The College shall use a *College Contract* as the *Commitment Voucher* for all purchases or leases of goods and services, as required under these Fiscal Rules. *College Contracts* shall comply with requirements of Fiscal Rule 5-1 and this Rule.

5. AFTER-THE-FACT PURCHASES

An *After-the-Fact Purchase* occurs when liabilities are incurred or payments are made on the College's behalf without prior approval of a *College Purchase Order* or contract when a *Purchase Order* or contract is required.

5.1 Payment Prohibition. The College shall not make payments to a vendor when an *After-the-Fact Purchase* has occurred, unless the violation has been ratified by the Vice President for Finance and Administration.

5.2 Personal Liability. Under CRS §24-30-202(3) any person(s) who incurs, orders or votes for an obligation or makes a payment which creates an *After-the-Fact Purchase* may be held personally liable for such obligation, unless the *After-the-Fact Purchase* is ratified by the Vice President for Finance and Administration.

5.3 Internal Controls. The College shall maintain an adequate system of internal controls to identify *After-the-Fact Purchases*, to prevent or minimize such violations, and to implement the provisions of this section.

5.4 Ratification. The Vice President for Finance and Administration, in his or her sole discretion, may ratify the expenditure or obligation creating an *After-the-Fact Purchase*, if he or she finds all of the following:

- The prices or rates are fair and reasonable;
- The amount of the expenditure is within the unencumbered balance;
- The College department provides a written explanation in accordance with the applicable Purchasing Rule;
- The parties did not act in bad faith or in a fraudulent manner; and
- The violation is not repeated or part of a consistent pattern of *After-the-Fact Purchases*.

6. ADVANCE PAYMENTS

An *Advance Payment* is a payment made for goods or services prior to the receipt thereof.

6.1 General Prohibition. *College Contracts* and other *Commitment Vouchers* shall not provide for *Advance Payment* for goods supplied and/or services performed or for any other contractual obligation, except as permitted herein.

6.2 Waiver Process. The College Controller may waive this requirement upon finding that *Advance Payment* is an established industry standard and/or provides a benefit to the College at least equal to the cost and risk of the *Advance Payment*.

6.3 Exceptions - Prior Approval Not Required. *Advance Payments* for a period of one year or less are permitted without prior approval of the College Controller for the following:

- Advertising services and related goods;
- Charter *Transportation*;
- Construction permits;
- Federal grants awarded by the College to sub-grantees (in compliance with Federal requirements);
- Overnight travel accommodations such as hotels, motels, etc.;
- Information Technology service agreements (including internet access, systems and database access),
- Insurance premiums;
- *Interagency Agreements*;
- *Licenses*, including *Licenses* for software;
- Maintenance of office equipment or information technology (software and hardware), and other maintenance agreements;
- Membership dues;
- *Personal Property Lease Agreements* or rentals;
- Post Office Box rentals;
- Professional services provided by expert witnesses hired for litigation purposes, and mediators;
- Real property leases, where the College is a tenant, and perpetual easements, if the entire interest is purchased and all attendant rights are transferred upon payment;

- Sponsored projects;
- Subscriptions for journals, informational publications or similar materials (electronic or hard copy), which do not include services;
- Tuition, registration, and fees charged for trainings, classes, conferences, and seminars;
- Utility hook ups and line extensions performed by a utility company; and
- Water rights purchases or temporary leases.

6.4 Exceptions for *Advance Payments*. *Advance Payments* not covered in §6.3, or any *Advance Payment* for a period of one or more years, if the College Controller determines, and documents in the contract file, that the *Advance Payment* provides a benefit to the College at least equal to the cost and risk of the payment.

7. EMERGENCIES

Disbursements for *Emergency* procurements may be made upon presentation of invoices, receipts, or other statements describing goods or services purchased and the amount to be paid. Goods and services necessary to respond to an *Emergency* may be procured immediately, without issuing a *Commitment Voucher* or obtaining a written waiver from the Chief Procurement Officer, where all of the following conditions are met:

7.1 The nature of the threat requires an immediate response and there is insufficient time to issue a *Commitment Voucher*;

7.2 The procurement is authorized by the Chief Procurement Officer prior to making a commitment for a purchase which exceeds \$10,000;

7.3 The procurement is made with such competition as is practicable under the circumstances;

7.4 A *Commitment Voucher* is executed as soon as possible to define future performance obligations, if any, of the vendor and College, as required by these Rules;

7.5 The department notifies the Chief Procurement Officer in writing, as soon as possible, of the circumstances, goods and services purchased, and the dollar amount of the commitment.

8. VENDOR AGREEMENTS

A *Vendor Agreement* is any form of agreement provided by a vendor, including an on-line agreement, containing contractual provisions relating to the goods and/or services to be provided by such vendor.

8.1 Prohibited Use. A *Vendor Agreement* shall not be used in lieu of a College *Purchase Order* or *Contract*, where one is required, absent the prior written approval of the Chief Procurement Officer. A *Vendor Agreement* is not required where a College *Purchase Order* or *Contract* is not required, except as provided in this Rule.

8.2 Permitted Use. The Chief Procurement Officer may authorize the use of *Vendor Agreements* up to \$10,000, if a College *Contract* or *Purchase Order* is not required.

9. PURCHASE ORDER TERMS AND CONDITIONS. See Appendix II.

Rule 4-3 RECEIVING REPORTS

Receiving reports, or other sufficient documentation, shall be prepared for all goods and services received, showing actual quantities, any unsatisfactory condition, and compliance with specifications, prior to processing a voucher for payment.

Exceptions to Rule:

- A receiving report need not be prepared for personal service expenditures.
- When an adequate system of internal accounting and administrative controls exists to provide sufficient verification that goods or services were received, the College may not require a certified receiving report.

Rule 4-4 PURCHASE DISCOUNTS

Payments shall be processed in a timely manner and made within the allowable discount period to ensure the College takes advantage of purchase discounts.

Rule 4-5 INTEREST PAYMENT ON DELINQUENT PAYABLES

The College shall process invoices and other notices of liability as efficiently as possible in order to ensure payment in accordance with contractual or invoice terms, and in the absence of such terms, as soon as possible, or in accordance with statutory provisions. A *Delinquent Payable* shall be assessed interest at the applicable statutory rate. All written contracts and *Purchase Orders* shall provide for a reasonable time of payment considering the nature of the goods or services provided and review and approval required for payment.

Rule 4-6 INTERAGENCY PURCHASES AND PAYMENTS

The College shall make payment for purchases of goods and services from another state *Agency* or *Institution of Higher Education* within 30 days after receipt of a valid invoice.

DISPUTES ARISING FROM INTERAGENCY PURCHASES

If a dispute arises as a result of an Interagency Purchase, the following steps will be used to resolve the dispute:

- The College, if disputing the charge shall notify the state *Agency* or *Institution of Higher Education* providing the goods or services and attempt to resolve the dispute. If necessary, the chief executive officers, or designated authorities of the *Agencies* involved shall assist in the resolution.
- If the College and the state *Agencies* and/or *Institutions of Higher Education* involved cannot reach a satisfactory resolution, the College, if disputing the charge may, within 30 days of the date of the last meeting held to resolve the dispute, petition the State Controller to resolve the dispute.
- If the State Controller is petitioned to resolve the dispute, the decision of the State Controller will be rendered within a reasonable time and be final and binding on all parties concerned.

Rule 4-7 OFFICIAL FUNCTIONS AND TRAINING FUNCTIONS

Official Functions and *Training Functions* shall be held to achieve program objectives and shall be limited to reasonable and actual *Costs*. The attendance of College employees at *Official Functions* shall be kept to a minimum and shall include only those individuals directly related to the purpose of the function. Expenditures shall be kept to a minimum as they have the potential of being perceived to be for personal benefit and an abuse of public funds. Expenditures incurred for *Official Functions* shall be approved by the appropriate Vice President or the College President.

Rule 4-8 MISCELLANEOUS COMPENSATION AND OTHER *BENEFITS* (PERQUISITES)

1. Honorariums
2. Events Sponsored by the College
3. Meals
4. Food/Beverages/Flowers Purchased for Benefit of Employees
5. Instructional Courses and Job-Related Training
6. Temporary Housing Provided to Visitors and Guests
7. Uniforms and Maintenance of Uniforms
8. Exceptions to Rule

An employee of the College shall not receive any type of *Benefit* by virtue of their position unless such *Benefit* is provided under this Rule. An employee shall not have the authority to grant any perquisites, nor shall any employee receive any perquisite except as provided by state statute or under this Rule. Monetary allowances shall not be given to employees in lieu of *Benefits*, except as provided by statute or approved by the College Controller. Where College policies and state statutes provide allowances for maintenance and ordinary expenses incurred in the performance of duty, it is the responsibility of the College Controller to establish specific expenses that are covered by the allowance so that the same expenses are not also directly reimbursed.

1. HONORARIUMS

College officials and employees may be asked to address an audience for which they receive an honorarium. If such speaking engagements occur outside normal working hours, or their normal work load, or while on annual leave, and there is no cost to the College for travel expenses, the official or employee may retain the honorarium. However, if the engagement occurs during normal working hours, or within their normal workload, as any other duty, the honorarium is to be turned over to the College. Any travel expenses related to the engagement would then be valid expenses for reimbursement by the College.

2. EVENTS SPONSORED BY THE COLLEGE

A reasonable discount may be offered by the College to officials and employees to improve attendance or participation in College-sponsored events. Examples included discounts on admission to athletic games and cultural, educational, recreational, or other events.

Such discounts shall generally be offered on a first-come, first-served basis, except that the College may reserve a specified and reasonable number of admissions to particular events to be distributed on a targeted basis for the purpose of public relations or alumni relations, or for the purpose of student or employee recruitment. The Chief Executive Officer of the College shall approve in writing all plans for discounted admissions.

3. MEALS

Meals prepared at College dining facilities are primarily for the benefit of the students housed at these facilities. However, meals may be provided to College employees working at these facilities and guests visiting these facilities.

4. FOOD/BEVERAGES/FLOWERS PURCHASED FOR BENEFIT OF EMPLOYEE(S)

Hospitality expenses are allowable in accordance with applicable College policies. See Hospitality Policy.

5. INSTRUCTIONAL COURSES AND JOB-RELATED TRAINING

Job related and career enhancement courses may be provided in accordance with applicable College policies or as authorized by a relevant department head to College employees at no cost or at a reduced cost as authorized by the College.

6. TEMPORARY HOUSING PROVIDED TO VISITORS AND GUESTS

Where space is available, temporary housing may be provided to visitors and guests of the College in accordance with applicable College policy, if any. The charge for such accommodations shall be set at an amount which will at least recover all *Direct* and *Indirect Costs* and be reasonable in comparison to the charge for similar housing, if such housing is available.

7. UNIFORMS AND MAINTENANCE OF UNIFORMS

Uniforms required to be worn by College employees and the necessary maintenance of these uniforms may be provided to the employee by the College at no charge, or at a reduced charge, or through a uniform allowance.

8. EXCEPTIONS TO RULE

Any voluntary separation incentive plans established for College employees shall be governed by applicable state statute.

Rule 4-9 MOVING AND RELOCATION

Moving and relocation expenses for employees exempt from the State Personnel System are allowable in accordance with applicable College policies. Moving and relocation expenses for employees in the State Personnel System are only allowable as expressly provided in the State Personnel Rules.

SECTION V: CONTRACTS

FISCAL RULE NUMBER

5-1 College Contracts

Rule 5-1 COLLEGE CONTRACTS

1. Categories
2. Rule
3. Content of *College Contracts*
4. Approved *College Contract Forms*
5. *College Contract Approvals*
6. *College Contract Legal Review*
7. *College Controller Review and Approval*
8. *Encumbrances*
9. *Monitoring of College Contracts*
10. *Independent Contractor Relationship*
11. *Exceptions to Fiscal Rule 5-1*
12. *Special Provisions*

1. CATEGORIES

1.1 Expenditure Contracts

- *Capital Construction* contracts;
- *Employee Voluntary Separation Agreements*;
- *Fund Management Services* agreements;
- *Goods Contracts*;
- *Information Technology Contracts*;
- *Investment Advisory Services* agreements;
- Personal property leases/*Licenses* -College as lessee or licensee;
- Personal services review exempted contracts;
- *Professional Services Contracts*;
- *Real Property Leases/Licenses* – College as tenant or licensee;
- *Real Property Purchase Agreements* – College as buyer; and
- *Settlement Agreements*.

1.2 Revenue Contracts

- *Franchise Agreements*;
- *Real Property Leases/Licenses* – College as landlord or licensor; and
- *Real Property Purchase Agreements* – College as seller.

1.3 Other Contract Types

- *Debt Contracts*;
- *Grant Contracts*;
- *Interagency Agreements*;
- *Intergovernmental Agreements*;
- *Loan Contracts*;
- No cost/non- cash contracts;
- *Price Agreements*;
- *Sale of Securities* agreements; and

- *Sponsored Project Agreements.*

2. RULE

A *College Contract* that meets the form, content and approval requirements described in this Section 5 shall constitute a *Commitment Voucher* for purposes of College Fiscal Rule 4-2.

3. CONTENT OF COLLEGE CONTRACTS

3.1 Expenditure Contracts, Debt Contracts and Price Agreements. The form and content requirements of this §3.1 shall apply to all *Expenditure Contracts, Debt Contracts and Price Agreements* except as limited or excluded herein. This section shall not apply to *Real Property Leases, Settlement Agreements, Employee Voluntary Separation Agreements, Insurance Coverage Agreements or Health Benefits Agreements.*

3.1.1 General Provisions. The following General Provisions shall be included in all contracts covered by this §3.1:

- Identification of the parties;
- Statement of Work;
- Payment terms, including maximum dollar amount;
- Performance period;
- General terms and conditions;
- Special Provisions (see Appendix to this Fiscal Rule);
- Signature page; and
- Statement that the contract shall not be valid until it has been approved by the Vice President for Finance and Administration.

3.1.2 Real Property Purchases (College as Buyer), Leases (College as Tenant) and Licenses (College as licensee). *College Contracts* for the purchase, lease, or *License* of real property shall contain the following provisions:

3.1.2.1 If the College is the buyer, tenant or licensee, the contract shall include the following Special Provisions:

- College Controller's Approval;
- Funds Availability; and
- Vendor Offset.

3.1.2.2 If the College is the buyer, tenant or licensee, the contract may include the other Special Provisions, at the discretion of the College.

3.1.2.3 If the College is the tenant or licensee, the contract shall include provisions specifying cancellation rights, if the real property leased or licensed is destroyed by fire and/or becomes subject to eminent domain.

3.1.3 Capital Construction Contracts. See Fiscal Rule 6-1, "*Capital Construction Administration.*" See also approved contract forms, available on the website of the Office of the State Architect.

3.2 Content for other Contract Types

3.2.1 Interagency Agreements. All *Interagency Agreements* require approval of the Vice President for Finance and Administration. Each *Interagency Agreement* shall include, at a minimum, the following elements:

- Identification of the parties;
- Statement of work;
- Statement of consideration (if applicable);
- Payment and other performance terms; and
- Definition of breach and remedies.

3.2.2 Intergovernmental Agreements

3.2.2.1 Special Provisions. The College, when contracting with governmental entities outside of the College, shall not agree to modify the Special Provision requiring the governance of Colorado law, but, if requested, may agree to strike the Choice of Law Special Provision, resulting in contractual silence as to governing law. Any other change to the Choice of Law Special Provision shall require the prior written approval of the Office of the Vice President for Finance and Administration and a *Reviewing Attorney*.

3.2.2.2 Federal Government Contracts. All *Intergovernmental Agreements* with any *Agency* of the Federal Government shall be reviewed by the Office of the Vice President for Finance and Administration or a *Reviewing Attorney*.

3.2.2.3 Sponsored Project Agreements. See applicable College policies governing sponsored projects.

3.3 Provisions for All Contract Types

3.3.1 Indemnification – See Board of Trustees policy manual, section 14.

3.3.2 Limitation of Liability:

3.3.2.1 Limitation of Vendor’s Liability - Bodily Injury and Property Damage. The College shall not limit the vendor’s liability for claims or damages, including consequential damages, arising out of bodily injury (including death) and damage to tangible property, if tangible risk is inherent in the nature of the contract.

3.3.2.2 Limitation of Vendor’s Liability - Other Types of Damages. The College may accept commercially reasonable limitations of liability and/or remedies provisions, or the exclusion of consequential damages, if the benefits are deemed to outweigh the risks and this determination is documented in the contract file. Such action requires approval of the Vice President for Finance and Administration or such other individuals specified in a delegation letter from the Vice President for Finance and Administration.

4. APPROVED COLLEGE CONTRACT FORMS

All College *Expenditure Contracts* shall be in a form approved by the Chief Procurement Officer. The Chief Procurement Officer has approved the following contract forms and may approve additional forms at his or her sole discretion.

4.1 Capital Construction Contracts – See Fiscal Rule 6-1, “*Capital Construction Administration*”. See also approved contract forms available on the website of the Office of the State Architect.

4.2 Model Contracts – The Chief Procurement Officer, in consultation with College Counsel, may adopt model contracts, as appropriate.

4.3 Contract Amendments – All modifications to a *College Contract* shall be made by a formal written amendment signed by the parties to the contract and approved by the Vice President for Finance and Administration, unless an alternative modification tool has been approved by the Chief Procurement Officer. A contract cannot be amended or extended (revived) after the contract term has expired.

4.4 Real Property Lease Agreements – Lease agreements involving real property shall be in a form approved by and set forth on the website of the Office of the State Architect, except for leases exempted by statute (see §5.8 of this Fiscal Rule).

4.5 Special Provisions – All College (a) *Expenditure Contracts* and (b) *Grant Contracts* where the College is the grantor and provides funds from College, federal government, or other sources to the other *Party*, (c) *Intergovernmental Agreements* where the College provides funds to another governmental entity, (d) *Debt Contracts*, (e) *Price Agreements*, and (f) *Capital Construction Contracts* shall contain the Special Provisions. See §12 to this Fiscal Rule. No modification shall be made to a Special Provision without the prior written approval of the Vice President for Finance and Administration, or as authorized by the Vice President for Finance and Administration in consultation with a *Reviewing Attorney*, except as otherwise expressly provided herein.

4.6 Waived Contracts – Where the College will enter into multiple contracts containing identical provisions, except for the date, contractor and consideration amount, the Vice President for Finance and Administration may waive any requirement as to contract format.

4.7 Other contract forms – Any other contract form which may be approved by the Vice President for Finance and Administration or Chief Procurement Officer from time-to-time.

5. COLLEGE CONTRACT APPROVALS

The President has delegated the Vice President for Finance and Administration final authority for all *College Contracts*. No person may enter a *College Contract* on behalf of the College without delegation from the Vice President for Finance and Administration. Any *College Contract* executed without proper delegation shall be deemed null and void unless it is ratified. The College shall obtain all required approvals and signatures and retain documentation thereof in its files for any period specified in the applicable College document retention policy.

No *Expenditure Contract* is valid unless it has been approved as required by this §5. Any person who causes a contract to be executed in contravention to this §5 may be personally liable for any obligation incurred thereby. CRS §24-30-202(3).

Additional approvals are required as follows:

5.1 Capital Construction and Controlled Maintenance Contracts require the approval of the State Architect or delegate, unless otherwise exempted by statute or waived by the State Architect. See CRS §24-30-1303(1)(d).

5.2 Central Services Contracts require the approval of the Chief Procurement Officer.

5.3 Contingency-Based Contracts require the approval of the Vice President for Finance and Administration and any other approvals deemed necessary by the Vice President for Finance and Administration. See C.R.S. §24-17-204.

5.4 Debt Collection Services Contracts require the approval of the College Controller. See CRS §24-30202.4.

5.5 Financial Information Contracts used by the College to record financial transactions and information, develop *Financial Reports*, or prepare *Financial Statements* require the approval of the College Controller. See CRS §24-30-202(12).

5.6 Legal Services Contracts require the approval of the Vice President for Finance and Administration and College Counsel, on behalf of the State Attorney General or delegate.

5.7 Real Property Contracts, including leases where the College is the tenant, easements, and rights-of-way contracts, require the approval of the State Architect/Director of Real Estate Programs, Department of Personnel and Administration, or delegate, unless otherwise exempted by statute and *Reviewing Attorney*.

5.8 Utility Cost-Savings Contracts require the approval of the State Personnel Director or delegate. See CRS §24-30-2003(1)(b).

6. COLLEGE CONTRACT LEGAL REVIEW

At the discretion of the Vice President for Finance and Administration, a *College Contract* may be subject to legal review and approval of *Reviewing Attorney*. Also, based on the complexity and perceived risk, any contract \$250,000 or greater requires review and approval of *Reviewing Attorney*.

6.1 Mandatory Review. Legal review shall include, without limitation, scrutiny of contract provisions to ensure that the following requirements are met:

- Compliance with the United States and Colorado Constitutions, federal and state statutes, state regulations, and applicable College policies and Rules;
- Authority of the College representative/s;
- All essential elements of a legally binding contract;
- A statement of work or comparable provisions and business or commercial terms, which are sufficiently clear and definite, under the applicable circumstances, to be enforceable;
- Required signatures.

6.2 Discretionary Review. At the discretion of the Vice President for Finance and Administration, legal review also may include:

- Review and analysis of the significant risks and issues of a particular transaction;
- Inquiry into the availability of specific remedies; and
- Review of compliance with grant conditions, federal funding requirements, and required assurances, where provided by the College.

7. Vice President for Finance and Administration Review and Approval

The Vice President for Finance and Administration's review and approval is required for all *Expenditure Contracts, Intergovernmental Agreements* and *Price Agreements*, except as expressly provided in these Fiscal Rules. The Vice President for Finance and Administration will review other contracts as requested. The Vice President for Finance and Administration may delegate in writing authority to approve *College Contracts* as required by §5 of this Rule. Any such delegation is personal to the delegee and may not be further delegated.

7.1 Process for Review, Approval, and Signature

7.1.1 Review - The Vice President for Finance and Administration shall review all *Expenditure Contracts* to determine if the Expenditure:

- Is authorized by the fund to which it will be charged;
- Does not exceed the unencumbered balance of the fund;
- Complies with all applicable constitutional and statutory provisions, and College policies; and
- Is encumbered; and

7.1.1.1 Prices or rates are fair and reasonable and in accordance with state law and administrative Rules;

7.1.1.2 Form and Content of the contract are sufficient and appropriate for the parties and subject matter under applicable state and federal laws, and College policies; and

7.1.1.3 Risk of the contract is outweighed by the contract's benefits.

7.1.2 Approval and Signature After review, the Vice President for Finance and Administration shall approve or disapprove the *College Expenditure Contract*. If approved, the Vice President for Finance and Administration shall evidence such approval by signing the contract.

7.2 Contracts Not Approved by the Vice President for Finance and Administration

7.2.1 Not Binding. An *Expenditure Contract* is not binding on or enforceable against the College unless and until it is signed by the Vice President for Finance and Administration.

7.2.2 Null and Void. Any *Expenditure Contract* disapproved by the Vice President for Finance and Administration is null and void.

8. ENCUMBRANCES

The College shall encumber *Expenditure Contracts* in accordance with College accounting and financial policies.

9. MONITORING OF STATE CONTRACTS

9.1 Implementation. The College is exempt from the requirements of sections 24-102-205, 24-103.5 and 24102-105, C.R.S.

10. INDEPENDENT CONTRACTOR RELATIONSHIP

The College shall take care in maintaining the distinctions between services performed by persons who are employees of the College and services performed by independent contractors, and their employees, agents and representatives. The College's responsibilities and obligations with respect to employee/employer arrangements differ from its responsibilities and obligations with respect to independent contractors. The College may be liable to a *Party* for the actions of its employees, whereas independent contractors and their employees, agents and representatives are liable for their own actions. The College is responsible for retirement contributions and

Benefits for its employees, whereas independent contractors are responsible for social security taxes and *Benefits* of their employees. The College shall follow guidelines issued by the Internal Revenue Service, the Colorado Division of Human Resources, Colorado statutes, and opinions of the State Attorney General in determining whether an individual is an employee or independent contractor.

11. SPECIAL PROVISIONS

These Special Provisions apply to all contracts except where noted in *italics*.

1. **VICE PRESIDENT'S APPROVAL.** This contract shall not be valid until it has been approved by the Vice President for Finance and Administration.
2. **FUND AVAILABILITY.** Financial obligations of the College payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the College. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation Benefits through the College and the College shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance Benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third Party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the College to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the College, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and state laws, College policies, Rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and Rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, Rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** Fort Lewis College does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the College has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall

not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

9. VENDOR OFFSET. *[Not Applicable to Intergovernmental Agreements]* If required by CRS §24-30-202.4 (3.5), the College Controller may withhold payment under the state's vendor offset intercept system for debts owed for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the state as a result of final Agency determination or judicial action.

10. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. *[Not Applicable to agreements relating to the offer, issuance, or Sale of Securities, Investment Advisory Services or Fund Management Services, sponsored projects, Intergovernmental Agreements, or information technology services or products and services]* Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program Rules to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the College within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the College a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the College may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

11. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

SECTION VI: PROJECTS

FISCAL RULE NUMBER

6-1 *Capital Construction Administration*

6-2 *Capital Construction Projects*

6-3 *Capital Construction Project Retainage*

Rule 6-1 CAPITAL CONSTRUCTION ADMINISTRATION

The State *Capital Construction Fund* was established to provide a source for appropriations to State *Agencies* and *Institutions of Higher Education* to acquire and maintain their physical facilities. The fund has special requirements that must be followed by State *Agencies* and *Institutions of Higher Education* receiving appropriations from the fund.

Capital Construction Contracts

6.1.1 Formal contracts shall be required when expending funds in excess of \$100,000 appropriated for *Emergency* maintenance projects including construction services or *Installation* of fixed equipment unless previous approval has been obtained from the Director of the State Buildings Program to use a *Purchase Order*. Purchases of fixed equipment that do not require *Installation* services may be purchased with a *College Purchase Order*. A *Purchase Order* may be used for construction not exceeding \$100,000 if the Director of State Buildings Program records written approval on the face of the *Purchase Order*. Such approval by the Director of State Buildings Program shall require compliance with approved building codes and signify compliance with bonding requirements in C.R.S. 38-26-106 and 24-105-201. In addition, the *Purchase Order* shall be bilateral requiring written acknowledgment of acceptance by the contractor prior to the beginning of work.

6.1.2 *Capital Construction Fund* contracts shall follow the contract routing Rules established by the Vice President for Finance and Administration.

Rule 6-2 CAPITAL CONSTRUCTION PROJECTS

All funds appropriated for *Capital Construction Projects* shall be used for their intended purpose. The College shall not use the *Capital Construction Fund* to pay or reimburse College employees for construction management, administrative activities, direct labor performed, or any other expense outside the scope of the *Capital Construction* or *Controlled Maintenance Project*.

Contracts funded by the State *Capital Construction Fund* shall be executed and the funds encumbered within the time limits established by 24-30-1404, C.R.S. If the College determines that the deadlines imposed by the statute cannot be met, the College may request the Capital Development Committee to recommend to the State Controller that the deadline be waived. The State Controller may grant the waiver request.

Rule 6-3 CAPITAL CONSTRUCTION PROJECT RETAINAGE

The College shall withhold retainage for all *Capital Construction* and *Controlled Maintenance Projects* where the total amount of the contract exceeds the limit established by 24-91-103, C.R.S. The retainage shall be in the form of monies withheld from the contractor or in any other form authorized by statute and acceptable to the College. The retainage shall be released by the College only when the contract has been satisfactorily completed and accepted, the College has proof of publication of "Notice of Final Settlement", in accordance with 38-26-107, C.R.S., and there are no outstanding claims against the project.

SECTION VII: TRAVEL

Rule 7-1 TRAVEL

1. Rule
2. Travel Authorization
3. Travel Advance
4. Traveling Away from Home
5. Non-Allowable Travel Expenses
6. Certification and Approval
7. Reimbursement Requirements
8. Payment of Travel Expenses
9. Special Situations
10. Per Diem Rates - Meals and Incidental Expenses

1. RULE

1.1 Scope -This Rule addresses *allowable* travel expenses to College employees and officials. College employees and officials shall follow this Rule when *Traveling Away from Home* and for all other situations included in this Rule.

1.2 Travel Reconciliation – A *Traveler* may be use college funds for travel expenses under this Rule only if the *Traveler* is *Traveling Away from Home*, or meets the criteria in one of the special situations described in §9 of this Rule;

1.2.1 Travel:

- Is on *College Business* - travel charged to the College, regardless of the funding source,
- shall be for the benefit of the College;
- Is only for the time period necessary;
- Is completed using the most economical means available which will satisfactorily accomplish the *College Business*; and
- Is approved by the appropriate *College Approving Authority* as required by §2 of this Rule;

1.2.2 Expenses are reasonable under the circumstances;

1.2.3 *Traveler* submits adequate documentation of the travel expenses to the *Approving Authority*;

and

1.2.5 Policy of the College complies with this Fiscal Rule.

1.3 Traveler’s Responsibilities – A *Traveler* is responsible for controlling expenses at a reasonable level and ensuring that the College receives adequate value for the amounts expended. A *Traveler* shall identify *Expenses Incurred for the Benefit of the College* while *Traveling Away from Home* and shall reconcile only those expenses.

1.4 Approving Authority’s Responsibilities - The *Approving Authority* shall review the anticipated expenses claimed by a *Traveler* prior to travel and approve only those expenses incurred for *College Business*. The *Approving Authority* may require documentation, in addition to the documentation prescribed by this

Fiscal Rule, deemed necessary or advisable by the *Approving Authority* in connection with the review and authorization of expenses.

2 TRAVEL AUTHORIZATION

All travel shall be authorized in accordance with the Rules in this Rule regardless of the sources of funding (including reimbursements by third parties).

2.1 In-State Travel - Prior written or electronic authorization by the appropriate *Approving Authority* for all *In-State Travel* may be required, at the discretion of the College.

2.2 Out-of-State Travel - Prior written or electronic authorization by the appropriate *Approving Authority* shall be required for all *Out-of-State Travel*.

2.3 Foreign Travel - Prior written or electronic authorization by the appropriate *Approving Authority* and appropriate Vice President or the President shall be required for all *Foreign Travel*.

2.4 Travel at No Cost to the College - Prior authorization by the appropriate *Approving Authority* is required for any *College Business* travel for which reimbursement is made directly to a College employee by a non-College organization.

3. TRAVEL ADVANCE

3.1 Cash Advance – A *Travel Advance* may be requested from the College if the *Traveler* is traveling with a group of students or in other circumstances when approved by the College Controller.

3.2 Amount of Advance - The amount of the advance shall be computed using the applicable per diem rates and other allowable estimated out of pocket amounts.

3.3 Approval - *Travel Advances* requested from the College require prior authorization from the appropriate *Approving Authority*.

3.4 Settlement of Advance – Upon completion of travel, a *Traveler* shall settle his or her *Travel Advance* by following the requirements for timing, content and receipts set forth in §7 of this Rule. The *Traveler* shall reimburse the College within 14 days of the end of the trip to the extent that the amount of a *Travel Advance* received by the *Traveler* pursuant to §3 of this Rule exceeds the actual expenditures for reimbursable items in §4 of this Rule.

4. TRAVELING AWAY FROM HOME

A *Traveler Traveling Away from Home* shall be reimbursed for the items set forth in this section, if all other requirements of §1 of this Rule are met.

4.1 Lodging – The *Traveler* shall submit receipts for *Lodging* as documentation of the expense and shall utilize college funds for the actual cost of *Lodging*, provided the *Traveler* complies with College Travel Policy.

4.2 Meals – Under regulations issued by the Internal Revenue Service, *Travelers* are required to use the method chosen by Fort Lewis College for reimbursement of meals. The College has chosen to use the standard allowance method for meals, rather than the actual cost method. Under the standard meal allowance method, a *Traveler* shall claim the authorized meal per diem rate for each meal the *Traveler* would normally have eaten while *Traveling Away from Home*. If a meal is included in a conference fee or is provided with the cost of *Lodging*, a *Traveler* shall not request reimbursement for the standard meal allowance, unless the meal

is determined to be inadequate by the *Traveler*. Under no circumstances shall a *Traveler* request reimbursement for more than the applicable per diem rate. Receipts for meals are not required. See the Fort Lewis College travel website for reference to the current standard per diem rates for meals.

4.3 Meals for Days *Traveler* Departs and Returns – A *Traveler* may claim 75% of destination city’s per diem rate, including *Incidental Expenses*, for the day of departure; and 75% of the departing city’s per diem rate, including *Incidental Expenses*, on the day of return. If a *traveler*, on a multiday trip, leaves their house prior to 5:00 am and does not arrive to their destination until after 8:00 pm they are entitled to 100% of that city’s per diem. When returning from a multiday trip a *traveler* arriving back home after 8:00 pm is entitled to 100% of the per diem of the departing city.

4.4 Incidental Expenses –Under regulations issued by the Internal Revenue Service, *Travelers* are required to use the method chosen by the College for reimbursement of *Incidental Expenses*. The College has chosen to use the standard allowance method for *Incidental Expenses*, rather than the actual cost method. Under the standard allowance method, a *Traveler* shall include the total *Incidental Expense* per diem rate for each overnight stay and 75% of such rate for partial days. Under no circumstances shall a *Traveler* request reimbursement for more than the applicable per diem rate. Receipts for *Incidental Expenses* are not required.

4.5 Transportation – A *Traveler* shall utilize college funds only for the dollar equivalent of the most cost beneficial method of *Transportation* available to the *Traveler* that satisfactorily accomplishes the College Business. Expenditures shall be limited to the actual cost of commercial *Transportation*. A *Traveler* shall submit receipts for all *Transportation* expenses except as provided in §4.10 of this Rule.

4.6 Rental Vehicles –A *Traveler* may use a College motor pool vehicle or shall be required to use an approved or designated vehicle rental company, as available and in accordance with applicable campus policies. Certain upgrades provided at extra cost by vehicle rental companies, such as satellite radio, GPS units, etc., are not allowable unless necessary for *College Business* or safety reasons and approved by the *Approving Authority*. A *Traveler* shall submit receipts for rental vehicles and fuel expenses as documentation of the actual cost of rental vehicles, provided the *Traveler* complies with all relevant provisions of this Rule.

4.7 Mileage for Personal Vehicles – A *Traveler* shall be allowed mileage reimbursement for each mile actually and necessarily traveled on *College Business* using the *Traveler’s* personal vehicle as provided if no government-furnished or rental automobile is available. A *Traveler* normally shall be reimbursed at the mileage rate as designated by GSA Mileage Reimbursement Rate. Commuting expenses incurred while traveling between a *Traveler’s Residence* and *Traveler’s Regular Work Location* are non-reimbursable personal expenses.

4.8 Airfare - A *Traveler* shall follow applicable travel policies regarding the use of approved or designated airlines and, in accordance with such travel policies, may purchase airline tickets utilizing college funds, including baggage fees if not included in the airfare.

4.9 Tips – A *Traveler* cannot claim tips as a separate item on a *Travel Reconciliation*. Tips paid to porters, baggage carriers, bellhops, hotel maids, and skycaps for airport check-in are included in *Incidental Expenses*. Tips paid in conjunction with meals are included in the standard meal allowance. Tips paid in connection with taxi and shuttle expenses should be included as part of these expenses.

4.10 Other Allowable Travel Expenses - In addition to *Lodging*, meals, and *Transportation*, the actual expenses identified below, incurred as a part of approved travel, are allowable if necessary to complete *College Business*:

4.10.1 Commercial *Transportation* such as taxi and shuttle expenses, including tips. A receipt shall be required for each individual ride in a commercial vehicle costing over \$25;

4.10.2 Camping site fees paid for a commercial camp ground or a state or national park. A receipt shall be required for any fee over \$25;

4.10.3 Parking fees. A receipt shall be required for any single fee over \$25;

4.10.4 Registration fees for conferences or other meetings. A receipt shall be required for all registration fees;

4.10.5 Telephone, fax, internet access, and other similar miscellaneous business expenses paid for *College Business*. A receipt shall be required for any single charge over \$25;

4.10.6 Toll road charges. A receipt shall be required for charges over \$25; and

4.11 Summary of Allowable Travel Expenses

Type of Travel Expense -Receipt Required?

Type of Travel Expense	Rate	Receipt Required?
<i>Lodging</i>	Actual	Yes
Meals	Per Diem Rate	No
<i>Incidental Expenses</i>	Per Diem Rate	No
<i>Transportation</i> (other than airfare)	Actual	Yes, if over \$25
Rental Vehicle	Actual	Yes
Mileage for Personal Vehicles	Federal Mileage Rate	No – Log or other documentation of actual miles is required.
Airfare	Actual	Yes
Baggage Fees	Actual	Yes –for one bag only unless prior approval for additional bags
Registration	Actual	Yes
Other Allowable Expenses	Actual	Yes, if over \$25
Tips included in Per Diem Rate		No

5. NON-ALLOWABLE TRAVEL EXPENSES

A *Traveler* shall not be reimbursed for the following expenses:

5.1 Alcoholic beverages;

5.2 Entertainment expenses;

5.3 Personal expenses incurred during travel that are primarily for the benefit of the *Traveler* and not directly related to *College Business*;

5.4 *Political Expenses*;

5.5 The cost of traffic fines and parking tickets;

5.6 Certain insurance coverage - The cost of additional or other types of coverage shall not be reimbursed by the College, including without limitation, expenses paid by a *Traveler* for the following:

- Collision damage waiver or loss damage waiver for rental vehicles;
- Supplemental liability insurance on rental vehicles;
- Value premiums on airline tickets;
- Trip cancellation insurance;
- Additional liability insurance for rental vehicles;
- Personal accident insurance on rental vehicles; and
- Supplemental life insurance for airline or common carrier travel.

6. CERTIFICATION AND APPROVAL

6.1 Certification - Each *Travel Advance* request form or *Travel Reconciliation* shall contain the following certification signed manually or electronically by the *Traveler*: “I certify that the statements in the above schedule are true and just in all respects; that payment of the amounts claimed herein has not and will not be reimbursed to me from any other sources; that travel performed for which reimbursement is claimed was performed by me on *College business* and that no claims are included for expenses of a personal or political nature or for any other expenses not authorized by College fiscal policies; that amounts claimed for meals are limited to the total daily Maximum Meal Reimbursement amount established by travel policy or the amounts actually incurred for meals; and that I actually incurred or paid the expenses of the motor vehicle for which reimbursement is claimed on a mileage basis.”

6.2 Approval – The *Approving Authority* shall endorse the Travel Authorization or *Travel Advance* request manually or by electronic signature. The *Approving Authority* will need to approve the *Travel Reconciliation* only in instances where the *Travel Reconciliation* is larger than the authorized travel amount.

7. REIMBURSEMENT REQUIREMENTS

7.1 Timing - A *Travel Reconciliation* shall be filed within 30 days of completion of travel to allow for proper recording of expenses and to obtain reimbursement for approved travel expenses, unless otherwise provided under this Rule or applicable Travel Rule.

7.2 Content - *Travel Reconciliation* forms may be obtained from the Purchasing website and must include the following information:

7.2.1 Amount – The amount of each separate expenditure incurred while *Traveling Away from Home*, such as the cost of *Transportation* or *Lodging*;

7.2.2 Time – Dates of departure for and return from *Traveling Away from Home* and the number of days spent on *College Business* while *Traveling Away from Home*;

7.2.3 Place – Destinations or locality of travel, described by name of city or town or other similar designation; and

7.2.4 College Purpose – Reason for travel or nature of *College Business* benefit is derived or expected to be derived as a result of the travel.

7.3 Receipts:

7.3.1 Receipts Required -Receipts are required for all expenses over \$25, except for meals, *Incidental Expenses*, mileage for personal vehicles, and tips, which do not require receipts regardless of dollar amount. Receipts are required for *Lodging*, rental vehicles, airfare and registration, regardless of the amount. See §4.11 of this Rule. Receipts shall be detailed vendor receipts. Non-specific charge card transaction slips shall not be accepted as proper documentation.

7.3.2 Receipts Waived – The College Controller may waive the requirement for a receipt in extenuating circumstances, upon receipt of a written certification from the *Traveler*, certifying that the cost was incurred and providing the reason why a receipt was not obtained or available. Further, the College Controller may establish alternative documentation requirements for recurring travel to certain locations, e.g. *Foreign Travel*, or for group travel, where compliance with the receipt requirement is determined to be impractical by the designated Approval Authority, with concurrence from the College Controller.

7.4 Application to Travel Advances – The requirements with respect to timing, content and receipts set forth in this §7 shall apply to the settlement of *Travel Advances* as provided in §3 of this Rule.

7.5 Compliance – A *Traveler* shall comply with the reimbursement requirements in this §7 regardless of the method of payment used. See §8 of this Rule.

8. PAYMENT OF TRAVEL EXPENSES

The College shall use one or more of the methods set forth in this §8 to pay for travel expenses or reimburse *Travelers*.

8.1 College Credit Cards

Procurement Card – The Procurement Card shall be used to pay for all applicable travel expenses. Utilizing the procurement card for travel is the preferred method of payment for all College business related travel.

8.2 Electronic Reimbursement – The College shall pay a *Traveler* for expenses claimed on the *Travel Reconciliation* form or the *Travel Advance* form by direct deposit using Electronic Funds Transfer (EFT). College warrants shall not be used for the payment of travel reimbursement, unless the *Traveler* is not on the payroll of the College. Should a traveler choose to use a personal card in lieu of a p-card for any travel expenses the College will not reimburse the traveler for any in state taxes incurred.

8.3 Travel Advance – See §3 and §7 of this Rule.

9. SPECIAL SITUATIONS

9.1 Travel within a Single Day – If travel is completed wholly within a single day, reimbursement for lunch and incidentals shall not be allowed. If, however, an employee or official leaves home prior to 5:00 a.m. on *College Business* that requires the employee to extend the workday, the *Approving Authority* may allow a meal per diem for breakfast. In addition, if an employee or official remains away from home after 8:00 p.m. on *College Business* that requires the employee to extend the workday, the *Approving Authority* may allow a meal per diem for dinner.

9.2 Travel to a Temporary Work Location - A *Traveler* may be reimbursed for *Transportation* expenses to a *Temporary Work Location* in accordance with these Rules.

9.3 Travel to Conferences, Meetings, Training Sessions, and Other Business-related Activities – A *traveler* may be reimbursed for *Transportation* expenses for these activities in accordance with these Rules.

9.4 Allowances for College Job Applicants - To obtain the best-qualified individual for a given College employment position, it may be necessary to pay interview related travel expenses for job applicants. At the discretion of the designated *Approving Authority*, such travel expenses, including the meal per diem rate established by these Rules, may be reimbursed to the applicant.

9.5 Allowances for Travel Not Solely for College Business - In some instances, the purpose of travel may be partially for *College Business* and partially for personal reasons. In these instances, the *Traveler* shall make a reasonable allocation of the expenses between *College Business* and personal or political purposes and the *Travel Reconciliation* for such expenses shall contain such allocation and sufficient documentation to explain the basis for the allocation. If a College employee obtains lower rates for *Lodging* or *Transportation* because travel is extended for personal or political reasons, these lower rates shall also apply to the *College Business* portion of the travel.

9.6 Allowances for Travel Paid Directly by a Non-College Entity - In limited instances, College officials and employees may be invited to attend a committee meeting, seminar, or conference concerning *College Business* where their travel expenses are paid directly or reimbursed by the sponsor of the meeting, seminar or conference. In such instances the official or employee may accept the invitation if the travel has been approved by the appropriate *Approving Authority* and does not violate other state statutes or constitutional provisions.

9.7 Allowances for Travel with Spouse, Relatives, or Friends - The College shall not reimburse the cost of an employee's spouse or other person(s) accompanying the College employee on a business trip, unless specifically permitted by these Rules.

9.8 Allowances for Travel by the President of the College - In the case of travel by the President, security, protocol, ceremonial functions, and time demands may require considerations not accorded any other College official or employee. If protocol requires that the President's spouse accompany the President, travel expenses incurred by the President's spouse may be paid using College funds. When the President allocates travel *costs* between *College business* and personal or political purposes, the allocation shall take into account all the various factors involved in the travel.

9.10 Airline Travel: Airline travel shall be completed using the most economical means available. The expectation is that economy or coach class will be the norm. However, upgrade to economy plus will be allowed to accommodate special needs. Medical disability must be certified by a written statement from a competent medical authority. Such certificate will be kept on file for all future travel and a copy attached to the *traveler's* reconciliation. In addition, any leg of a flight lasting three hours or longer will also be eligible for an upgrade to economy plus.

10. PER DIEM RATES - MEALS AND INCIDENTAL EXPENSES

The current maximum meal and *Incidental Expense* per diem rates as defined by GSA Per Diem Rates and are updated on their website.

SECTION VIII: BUDGET

The Board of Trustees for Fort Lewis College via the Vice President for Finance and Administration has general supervision and exclusive control of all funds of and appropriations to the College. The Chief Financial Officer of the College has established policies and practices related to the College budget in accordance with the Laws and Policies of the Board. Accordingly, these Rules do not address this area.

SECTION IX: REPORTING

FISCAL RULE

9-1 Financial Statements

9-2 Quarterly Financial Reporting

9-3 Cost Allocation Plans

Rule 9-1 FINANCIAL STATEMENTS

Annual *Financial Statements* prepared by the College shall be submitted to and approved by the Board of Trustees Business Affairs Committee. Unless otherwise provided by this fiscal Rule, *Financial Statements* shall be prepared by the Office of the College Controller in accordance with generally accepted accounting principles and shall reflect the financial activities of College.

The College or its contractor may provide draft *Financial Statements* to the Office of the State Auditor to facilitate a timely and efficient audit. Draft *Financial Statements* and accountant work papers are not public records.

State-Generated Financial Statements for the College

The state financial system generates a balance sheet and an income statement for the College utilizing the CORE system. These system generated statements are considered acceptable *Financial Statements* for any purposes of the State Controller. The College shall continue to provide information to the State Controller, including exhibit information required in the fiscal year-end closing instructions issued by the State Controller and any post-closing adjustments, as necessary for the State Controller to meet the obligations set forth in C.R.S. §§24-30-202(11), 24-17-102 and 24-20-204, as described in C.R.S. §24-30-202(13).

Required Reconciliation to the State Financial System

Financial Statements prepared by the College shall be reconciled to the state financial system. A copy of this reconciliation shall be provided to the State Controller.

Rule 9-2 QUARTERLY FINANCIAL REPORTING

The College shall prepare quarterly *Financial Reports*. Quarterly *Financial Reports* shall be available for use by the Board of Trustees Business Affairs Committee and others for planning purposes and decision making.

9.2.1 The College's financial system shall be the system used to record the College's financial information and the system from which standard reports shall be prepared.

9.2.2 The College's Budget Office shall determine what is reasonable and necessary to be included in the report, the funds which are to be included, and the date each report is due.

Each quarterly reporting period shall be regarded as an integral part of the fiscal year. Revenues shall be allocated to quarterly reporting periods in accordance with generally accepted accounting principles. Expenditures such as salaries, operating expenditures and accruals of expenditures shall be allocated to interim periods in which they are incurred or, where appropriate, allocated among quarterly periods on the basis of benefits received or time expended. Arbitrary assignment to a quarterly period shall not be allowed.

Rule 9-3 COST ALLOCATION PLANS

The College shall prepare a documented *Indirect Cost Allocation* or *Indirect Cost* rate proposal/plan that assigns *Indirect Costs* to their programs, activities, and services relative to their benefits received from the activities whose *Costs* are being allocated or on another *Equitable Relationship*. The allocated *Costs* shall be used as the

basis of recovering *Indirect Costs* from the federal government, determining fees for program services and activities, and assessing the cost effectiveness of a program or activity.

The College shall use a cost allocation methodology that assures that the allocations made through the methodology represent a service/benefit or other *Equitable Relationship* between the *Costs* of the services provided and the value of the benefits received by users of the services.

The College shall periodically review its cost allocation methodology to ensure that the methodology represents the best allocation attainable. Allocations should be reconciled to actual expenditures to ensure all *Costs* have been captured and allocated.

Indirect Cost Allocations Made for Federal Indirect Cost Recovery Purposes

When the College receives *Federal Funds*, it shall prepare a federal *Indirect Cost* rate proposal/plan in accordance with OMB A-21 and sign an *Indirect Cost* rate or allocation methodology agreement with the federal government. The College's federal *Indirect Cost* rate proposal/plan shall include all *Costs* allocated to the College in the federal *Indirect Cost Allocation* plan and other approved cost allocation plans.

Grants, contracts, and other agreements that do not allow for the recovery of the *Full Cost* incurred under the agreement should be closely evaluated to determine if their acceptance is cost effective and in the best interest of the College.

Accounting for Indirect Cost Recoveries

Indirect Cost recoveries shall be recorded when earned in separately identifiable accounts as determined by the College Controller.

Revenues from *Indirect Cost* recoveries shall not be deferred at the end of the fiscal year.

SECTION X: PAYROLL

The College Payroll Office and Human Resources Office have adopted policies and practices related to financial reporting and, accordingly, these Rules do not address this area.

Appendix I - FISCAL RULES GLOSSARY

DEFINITIONS:

Advance Payment – A payment made for goods or services prior to the receipt thereof.

Advice of Employment – A document that includes an offer of employment.

After-the-Fact Purchase – An *After-the-Fact Purchase* occurs when liabilities are incurred on the College's behalf before a *College Purchase Order* or contract has been issued or executed by a *Delegated Officer* when required under College policy.

Agency – An executive department of the State of Colorado, or any subdivisions thereof.

Approving Authority - An individual who has authority to approve travel for *College Business* and related matters.

Benefits - Any pecuniary or material advantage provided by the College to a College employee other than salary, leave, incentives, awards, retirement *Benefits*, insurance *Benefits*, and travel and non-travel related reimbursements. Incentive awards, salary increases, fringe *Benefits* established pursuant to CRS 24-50-104(8) and (9) are not considered *Benefits* under this Rule.

Capital Construction – A *Capital Construction Project* or *Controlled Maintenance Project* funded wholly or in part by the state *Capital Construction Fund* (CRS §24-75-302) or any cash resources of the College.

Capital Construction Fund - A fund created by statute for the purpose of purchasing and/or maintaining land, buildings and equipment and for constructing buildings for use by the state.

Capital Construction Project – A construction project funded wholly or in part by funds from the state *Capital Construction Fund*.

College Business – Official *College Business* or other duties undertaken for College purposes and for the benefit of the College.

College Contract – Any formal, legally binding document between the College and another *Party*, the form, content and process for approval of which is described in Fiscal Rule 3-1. A *College Contract* that meets the requirements of Fiscal Rule 3-1 shall constitute a *Commitment Voucher* for purposes of Fiscal Rule 2-2.

Commitment Voucher - A document, the form of which has been approved by the Chief Procurement Officer of the College, evidencing the following:

- A description of goods or services being purchased or other reasons for the disbursement of funds;
- The amount to be paid;
- That the obligation of the College is being charged to the appropriate account; and
- That procurement requirements have been satisfied.

Commitment Vouchers include any approved form of *Purchase Order*, *College Contract*, travel authorization, *Advice of Employment*, *License* agreement, parking *License* agreement, Request for Payment (FRP) and other written authorizations for disbursement which satisfy the requirements of subsection 2.4.1 (Elements) of Fiscal Rule 2-2

Procurement cards are not *Commitment Vouchers*. Procurement cards are a method of payment, not a method of procurement. Purchases made with a procurement card also require the use of an appropriate *Commitment Voucher* or *Small Purchase Documentation*.

Contingency-Based Contract – A contract for services between the College and a vendor where:

- All or part of the vendor’s compensation is computed by multiplying a stated percentage by the measurable savings in the College’s expenditures or *Costs* of operation attributable to the vendor’s services under the contract; and
- The *Contingency-Based Contract* is not specifically authorized by statute. See CRS §24-17-203.
- Contingent fees are prohibited in certain *Professional Services Contracts*. See CRS §24-30-1404(4).

Controlled Maintenance Project – A maintenance project funded wholly or in part by funds from the state *Capital Construction Fund*.

CONUS - The 48 continental United States, including the District of Columbia.

Cost Objective - A project, grant, program, or other activity to which *Costs* are being allocated.

Costs - All expenses incurred by a project or program, either directly or indirectly. *Costs* include such items as labor, material, supplies, rent or building charges, operating expenses, and administrative expenses that might properly be assigned to the project or program.

Debt Contract - A financial obligation reported in the state’s Comprehensive Annual Financial Report under standards promulgated by the Governmental Accounting Standards Board. *Debt Contracts* include without limitation contracts for revenue bonds, tax revenue anticipation notes, lease purchases, certificates of participation, and other multi-year transactions with outside third-Party facilitators, issued or otherwise incurred by the College.

Delegated Officer – A College officer delegated to execute certain contracts on behalf of the College.

Delinquent - A *Payable is Delinquent* if a disbursement is not made within forty-five days after a liability arises, unless the time of payment has been otherwise provided in the contract or *Purchase Order*. A *Payable* being disputed by a vendor or the College shall become *Delinquent* if a disbursement is not made within forty-five days after resolution of the dispute.

Direct Cost - A cost incurred by a state *Agency* that exclusively benefits a specific *Cost Objective* and that may be readily identified with the same specific *Cost Objective*.

Emergency – An unexpected event creating an immediate threat to the public health, welfare, or safety, the functioning of the College, or the preservation or protection of property, which requires an immediate response.

Employee Voluntary Separation Agreement – A contract between the College and a College employee setting forth the terms of the employee’s voluntary separation from College service.

Encumbrance -An amount reserved on the College financial system or accounting system to reflect a formal obligation of the College. When required by College Accounting Rules, the College shall encumber funds prior to recording expenditures and disbursing funds.

Equitable Relationship - A relationship that is based on cause and effect or logic and reason.

Expenditure Contract – A contract between the College and another *Party* resulting in an expenditure of funds by the College, directly or indirectly, or the creation of a payment obligation on the part of the College. *Expenditure Contracts* do not include transactions in which an expenditure of College funds is supported by *Small Purchase Documentation* pursuant to Fiscal Rule 4-2.

Expenses Incurred for the Benefit of the College - Expenses incurred that enable a College employee or College official to perform assigned duties or enable the College to carry out responsibilities required by law.

Federal Funds - Funds received by the state either directly or indirectly from the federal government.

Financial Reports - Financial information compiled periodically to assist in management decision-making or for reasons other than financial statement purposes.

Financial Statements – Comprehensive reports prepared in accordance with generally accepted accounting principles, as adopted by the Governmental Accounting Standards Board.

Foreign Travel - Travel to any out-of-country destination not included within the definitions of *In-State Travel* or *Out-of-State Travel*.

Franchise Agreement – An agreement where the College grants to a *Party* a concession or right to provide goods or services in a particular market controlled by the College. The College may regulate service level, quality and price, but users of the service pay the other *Party* directly and the other *Party* provides the goods or services and exercises control over other management decisions.

Full Cost - The total of all *Direct* and *Indirect Cost* associated with a specific *Cost Objective*.

Fund Management Services – Professional consulting services regarding the management of College funds.

Goods Contract – A contract between the College and another *Party* for the purchase of goods. The term “goods” includes commodities, supplies, and products as such terms are used in the Uniform Commercial Code (CRS §24-1-201 General Definitions) or applicable College policy.

Grant Contract – An agreement between the College and another *Party* where the College:

- Receives grant funds from or through the other *Party* to the *Grant Contract*. The College may receive grant funds from or through any contract type, including without limitation, *Revenue Contracts*, *Sponsored Project Agreements*, *Intergovernmental Agreements*, and *Interagency Agreements*, depending on the nature of the grant; or
- Provides funds from Fort Lewis College sources to the other *Party* to the *Grant Contract*. The College may grant funds to the other *Party* from or through any contract type, depending on the nature of the grant.

Health Benefits Agreement – Any contract for the purpose of establishing a health or welfare *Benefit* plan for the benefit of College employees, officials or students and which may include provisions for the payment of premium or deductible contributions to such plan by the employee, official or student or by the College.

In-State Travel - Travel within the State of Colorado and to the immediate area outside the state that is a necessary part of an otherwise "in-state" trip.

Incidental Expenses – Fees and tips given to porters, baggage carriers, bellhops, hotel maids, and skycaps for airport check-in, and cost of personal telephone calls. *Incidental Expenses* do not include expenses for laundry, cleaning and pressing of clothing, and *Lodging* taxes.

Indirect Cost - A cost incurred by a state *Agency* that does not exclusively benefit a specific *Cost Objective* and that cannot be readily identified with the same specific *Cost Objective*, and, therefore shall be allocated to *Cost Objectives* on some basis of assumed service/benefit or other equitable distribution basis.

Indirect Cost Allocation - A systematic and rational allocation of *Indirect Cost* to benefiting programs and activities that result in the calculation of an *Indirect Cost* recovery rate or the identification of the amount of *Indirect Cost* assigned to the benefiting program for cost recovery purposes and/or to establish appropriations and fees. Four types of documentation representing *Indirect Cost Allocations* to *Cost Objectives* are recognized in this fiscal Rule:

- a. Statewide Federal *Indirect Cost Allocation Plan* - The plan prepared by the State Controller's Office, using federally approved costing principles, to allocate the allowable central administrative *Costs* of state government to state agencies for inclusion in its State *Agency* Federal *Indirect Cost* Rate Proposal/Plan.
- b. Statewide Budget/Cash *Indirect Cost Allocation Plan* - The plan prepared by the State Controller's Office using Full Costing principles, to allocate the central administrative *Costs* of state government to state for inclusion in its State *Agency* Budget/Cash Program *Indirect Cost* Determination Worksheet.
- c. College Federal *Indirect Cost* Rate Proposal/Plan:
 - Proposal - A document prepared by the College to establish a rate used to recover *Indirect Costs* from federally funded programs or activities.
 - Plan - A document prepared by the College to document *Indirect Cost Allocation* algorithms used for federal *Indirect Cost* recovery purposes.
- d. Documentation of an *Indirect Cost Allocation* prepared separately or as a part of a fee formulation process, the allocations from which are used to establish a component of fees for state cash programs and services.

Information Technology Contract – A contract between the College and another *Party*, where the other *Party* provides information technology services or products and services.

Installation – Normal hookup of appliances to existing utilities. It does not include adding plumbing, wiring or vents.

Institution of Higher Education -A public college, community college, or College established as a part of the state.

Interagency Agreement - An agreement between the College and one or more *Agencies* or *Institutions of Higher Education*.

Interagency Purchase Order - A *Purchase Order* issued by a state *Agency* or *Institution of Higher Education* to another state *Agency* or *Institution of Higher Education*.

Intergovernmental Agreement – An agreement between the College and a political subdivision of the state, another state, a political subdivision or public *Institution of Higher Education* in another state, or an agency of the federal government.

Investment Advisory Services -Professional consulting services regarding securities and investments.

License – A grant by the owner of rights in real or personal property to another of a personal privilege to use such property, without the transfer of the underlying ownership interest therein.

Loan Contract – An agreement between the College and another *Party*, where the College agrees to loan funds to such other *Party*.

Lodging - Any commercial accommodations available or offered for use for which a rental schedule has been established and payment is required.

Official Function -A meeting, conference, meal, or other function that is hosted by the chief executive officer, or representative, of the College, attended by guests and/or College employees, and held for official *College Business* purposes.

Out-of-State Travel - Travel within *CONUS*, other than *In-State Travel*, or within Alaska or Hawaii.

Party – An individual or entity who is not an *Agency* or *Institution of Higher Education*. If appropriate in the context, the term “*Party*” may also refer to multiple individuals or entities who are not *Agencies* or *Institutions of Higher Education*.

Payable - A *Payable* is a liability incurred by the Fort Lewis College. A liability shall arise upon receipt of supplies and services and a correct notice of the amount due. A liability shall not arise if a good faith dispute exists as to the College's obligation to pay all or a portion of the liability.

Personal Property Lease Agreement – An agreement between the College, as lessee, and the owner of personal property, as lessor, where the College pays the lessor for the right to use such personal property for the term of the lease. A personal property lease may be an operating lease or a capital lease.

Political Expenses - Expenses incurred in relation to activities that are primarily designed to further the interests of a candidate, political party, or special interest group.

Price Agreement – A contract which allows the College to order goods or services from the vendor, pursuant to the terms of the *Price Agreement*, by issuing a *Purchase Order*, task order, or other approved order form.

Professional Services Contract – A contract between the College and another *Party* for the performance of any of the following services: architectural, engineering, land surveying, industrial hygienist, and landscape architect.

Purchase Order - A document, in a form prescribed by the Chief Procurement Officer, prepared and approved by an authorized College employee for the purpose of encumbering funds and securing goods or services from a vendor. For the purpose of this Rule, a *Purchase Order* is not a *College Contract*.

Real Property Lease Agreement – An agreement between the College and another *Party*, where the College:

- As landlord, owns the real property subject to the lease and gives the other *Party* to the Lease, as tenant, the right of possession of such property for the lease term; or
- As tenant, obtains the right of possession of the real property subject to the lease from the owner of such property, as landlord, for the lease term.

Real Property Purchase Agreement – An agreement for the purchase of an interest in land (fee title or lesser interests) and improvements to land, such as buildings and other structures.

Reimbursement Request – A request for reimbursement of travel expenses incurred by a *Traveler* under this Rule.

Revenue Contract – An agreement between the College and another *Party* where cash and/or property are paid to the College, resulting in revenue recognition. *Revenue Contracts* do not require the expenditure of College funds or create an obligation on the part of the College.

Reviewing Attorney – An attorney employed by the State Attorney General as an assistant attorney general who is authorized to review contracts on behalf of the College.

Sale of Securities – The offer, issuance or *Sale of Securities* by Fort Lewis College. Securities include certain *Debt Contracts*.

Settlement Agreement – A contract between the College and another *Party* for the purpose of ratifying agreements concerning employment or contractual disputes.

Small Purchase Documentation - *Small Purchase Documentation* is required for purchases of \$10,000 or less. Documentation shall include:

- Description of goods or services being purchased or other reasons for the disbursement of funds; and
- The amount to be paid.

Fort Lewis College shall ensure that:

- The College's obligation is being charged to the appropriate account; and
- Procurement requirements have been satisfied.

Small Purchase Documentation includes, without limitation, an invoice, billing, receipt, court order, or any other document appropriate to the transaction and approved by the College Controller. *Small Purchase Documentation* is not required for purchases that do not require a receipt under Fiscal Rule 5-1(Travel).

Sponsored Project Agreement – An agreement between the College and another *Party*, where Fort Lewis College receives or expends restricted funding for use in connection with oversight responsibilities for research and development or other specified programmatic activities sponsored by federal, state, or local governments, or private agencies or organizations.

Temporary Work Location – A location where employment is expected to continue, and does continue, for one year or less.

Training Function -A meeting, conference, or other function which is hosted by the College, attended by customers of the College and/or College employees, and held to enhance staff knowledge or to educate customers of the College or College employees, that are affected by the College's operations or regulations. *Training Functions* should have a written agenda, study materials, and be led by an identified presenter.

Transportation - Travel by commercial airline, railroad, bus, taxicab, College owned, leased, or personally owned automobile or airplane or any other means of conveyance.

Travel Advance – The advance of funds to a *Traveler* for approved travel expenses by the College.

Traveler – A College employee, official or student who receives required approvals to travel on *College Business*.

Traveler's Regular Work Location – Generally, the primary location where the *Traveler* works.

Traveler's Residence – The location where the *Traveler* maintains his or her primary family home.

Traveling Away from Home – A *Traveler* is *Traveling Away from Home* if: a) the *Traveler's* duties require him or her to be away from the *Traveler's Regular Work Location* substantially longer than an ordinary day's work, and b) the *Traveler* needs to sleep or rest to meet the demands of his or her work while away from home.

Utility Cost-Savings Contract – An energy performance contract, shared-savings contract, or other agreement in which utility cost savings are used to pay for service or equipment. See CRS §24-30-2001(6).

Vendor Agreement – A *Vendor Agreement* is any form of agreement provided by a vendor, including an on-line agreement, containing contractual provisions relating to the goods and/or services to be provided by such vendor.

Appendix II – Purchase Order Terms and Conditions

Purchase Order Terms and Conditions

Reviewed July 2011

1. **Offer/Acceptance.** If this purchase order (“PO”) refers to your bid or proposal, then this PO is an ACCEPTANCE of your OFFER TO SELL in accordance with the terms and conditions of the Invitation for Bid/Request For Proposal, as stated in your bid. If no bid or proposal is referenced, this PO is an OFFER TO BUY, subject to your acceptance, which must be demonstrated by either your performance of this PO or by a formal acknowledgment in writing. Any COUNTER-OFFER TO SELL is automatically construed as a CANCELLATION of this PO unless a change order is issued accepting a counter-offer. In the event vendor form(s) or part(s) of forms are included in, or as an attachment to, any bid, proposal, offer, acknowledgment, or otherwise, vendor agrees that, in the event of inconsistencies or contradictions, the terms and conditions of the solicitation document and this PO shall supersede and control over those contained in vendor’s form(s) regardless of any statement to the contrary in such form(s). Unless the purchasing agent specifically agrees in writing through overt reference or other express written indication of assent, terms and conditions on vendor forms regarding choice of law, venue, warranty disclaimer or exclusion, indemnification or limitation of liability shall be of no effect.

2. **Safety Information.** All chemicals, equipment and materials proposed and/or used in the performance of this PO must conform to the standards required by the William-Steiger Occupational Safety and Health Act of 1970. Bidders must furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

3. **Changes.** Vendor agrees to furnish products and/or services in strict accordance with the specifications, and at the price set forth for each item. Nothing in this PO may be added to, modified, superseded or otherwise altered except in writing signed by an authorized representative of the agency purchasing office and acknowledged by vendor. Each shipment received or service performed shall be only upon the terms contained in this PO, notwithstanding any terms contained in any invoice or other act of vendor other than acknowledgment of a written change order to this PO.

4. **Delivery.** Unless otherwise specified in the solicitation or in this PO, delivery shall be FOB destination. In its acceptance of any quotation offer, the agency is relying on the promised delivery date, installation, or service performance as material and basic to its acceptance. In the event of vendor’s failure to deliver or perform as and when promised, the agency reserves the right to cancel its order, or any part thereof, without prejudice to its other rights, and vendor agrees that the agency may return all or part of any shipment so made, and may charge vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.

5. **Rights in Data, Documents, Computer Software or Other Intellectual Property.** Unless otherwise agreed in writing, any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials delivered by vendor in the performance of its obligations under this PO shall be the exclusive property of the State. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.

6. **Quality.** The State will be the sole judge in determining “equals” with regard to quality, price and performance. All products delivered shall be newly manufactured and of the manufacturer’s current model, unless otherwise specified.

7. **Warranties.** All provisions and remedies of the Uniform Commercial Code (“UCC”) relating to both implied and expressed warranties are herewith referred to and made a part hereof and are in addition to any warranties stipulated in the specifications.

8. Inspection and Acceptance. Final acceptance is dependent upon completion of all applicable inspection Rules. Should the products or services fail to meet any inspection requirements, the agency may exercise all of its rights, including those provided in the UCC. The agency reserves the right to inspect services provided under this PO at all reasonable times and places. "Services" as used in this clause includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform with PO requirements, the agency may require vendor to perform the services again in conformity with PO requirements, with no additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, the agency may (i) require vendor to take necessary action to ensure that the future performance conforms to PO requirements and (ii) equitably reduce the payment due vendor to reflect the reduced value of the services performed. These remedies in no way limit the remedies available to the agency in the termination provisions of this PO, or remedies otherwise available at law or in equity.

9. Cash Discount. The cash discount period will start from date of receipt of acceptable invoice, or from date of receipt of acceptable products/services at the specified destination by an authorized agency representative, whichever is later.

10. Taxes. The State agency, as purchaser, is exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code [No. 84-730123K] and from all State and local government use taxes [CRS 39-26-14(a) and 203, as amended]. Tax exempt numbers for the specific agency may be found elsewhere in this PO. Vendor is hereby notified that when materials are purchased for the benefit of the State, such exemptions apply except that in certain political subdivisions (e.g., City of Denver) vendor may be required to pay sales or use taxes even though the ultimate product or service is provided to the State. These sales or use taxes will not be reimbursed by the State.

11. Prompt Payment. State law and regulations provide that vendors will be paid within 45 days after receipt of products or services and a correct notice of amount due, unless otherwise agreed to by contract or special conditions of the PO. A State liability not paid within 45 days is considered delinquent and, unless otherwise agreed to, interest on the unpaid balance shall be paid beginning with the 46th day at the rate of 1% per month until paid in full. A liability shall not arise if a good faith dispute exists as to the agency's obligation to pay all or a portion of the liability. Vendors shall invoice the agency separately for interest on delinquent amounts due. The billing shall reference the delinquent payment, the number of days interest to be paid and the applicable interest rate. [CRS 24-30-202(24), as amended.]

12. Vendor Offset. CRS 24-30-202 (1) and 24-30-202.4. [*Not Applicable to Intergovernmental Contracts*] The State Controller may withhold payment of certain debts owed to State agencies under the State's vendor offset intercept system for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or its agencies, as a result of final agency determination or reduced to judgment, as certified by the State Controller.

13. Assignment and Successors; Antitrust Claims. Vendor shall not assign rights or delegate duties under this PO, or subcontract any part of the performance required under this PO, without the express, written consent of the State, which shall not be unreasonably withheld. This PO shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Assignment of accounts receivable may be made only with written notice furnished to the purchasing agency or institution.

14. Indemnification. In the event any article sold or delivered under this PO is covered by any patent, copyright, trademark, or application therefor, vendor will indemnify and hold harmless the State from any and all loss, liability, cost, expenses and legal fees incurred on account of any claims, legal actions or judgments arising out of manufacture, sale or use of such article in violation, infringement or the like of rights under such patent, copyright, trademark or application. If this PO is for services, to the extent authorized by law, vendor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses, incurred as a result of any act or omission by vendor, or its employees, agents, subcontractors or assignees, arising out of or in connection with performance of services ordered by this PO.

15. INDEPENDENT CONTRACTOR. VENDOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER VENDOR NOR ANY AGENT OR EMPLOYEE OF VENDOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. VENDOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING INCLUDING ALL FEDERAL AND STATE INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID PURSUANT TO THIS PO. VENDOR ACKNOWLEDGES THAT VENDOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS VENDOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. VENDOR SHALL HAVE NO AUTHORIZATION EXPRESS OR IMPLIED TO BIND THE STATE TO ANY AGREEMENT, LIABILITY, OR UNDERSTANDING, EXCEPT AS EXPRESSLY SET FORTH HEREIN. VENDOR SHALL PROVIDE AND KEEP IN FORCE, AND SHOW PROOF OF UPON REQUEST, WORKERS' COMPENSATION AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR ITS ACTS AND THOSE OF ITS EMPLOYEES, AND AGENTS.

16. Communication. All communications, including reports, notices, and advice of any nature, concerning administration of this PO, prepared by vendor for the agency's use, must be furnished solely to the purchasing agent within the agency purchasing office.

17. Compliance with Laws. Vendor agrees to comply with all applicable federal and State laws, regulations and policies, as amended, including those regarding unfair labor practices, anti-kick-back and collusion.

18. Americans with Disabilities Act (ADA) Requirements. If this solicitation contemplates the provision of services to the public, vendor shall, in addition to any other requirements under Title 11 of the ADA, comply with the Title 11 requirements of the ADA regarding the accessibility of State services and programs, as an explicit requirement. Vendor assures that, at all times during the performance of any resulting PO, no qualified individual with a disability shall, by reason of that disability, be excluded from participation in, or be denied benefits of, services, programs, or activities performed by vendor for the benefit of the State.

19. Insurance. Vendor shall obtain, and maintain at all times during the term of this PO, insurance as specified in the solicitation or order, and shall provide proof of such coverage.

20. Termination For Default/Cause. a. Except as otherwise agreed, the UCC shall govern in the case of goods. In the case of services, if vendor refuses or fails to timely perform any of the provisions of this PO, with such diligence as will ensure its completion within the time specified in this PO, the purchasing agent may notify vendor in writing of non-performance, and if not promptly corrected within the time specified, such agent may terminate vendor's right to proceed with the PO or such part thereof as to which there has been delay or a failure to properly perform. Vendor shall continue performance of the PO to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere. Payment for completed services performed and accepted shall be at the PO price.

b. In the case of remedies exercised under this paragraph for services, or analogous remedies exercised under the UCC for in goods, the purchasing agency may withhold amounts due to vendor as the purchasing agent deems necessary to reimburse the purchasing agency for the excess costs incurred in curing, completing or procuring similar goods and services.

c. In the case of either goods or services, vendor shall not be in default by reason of any failure in performance of this PO in accordance with its terms, if such failure arises out of acts of God; acts of the public enemy; acts of the State or any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather.

d. If after rejection, revocation, or other termination of vendor's right to proceed under the provisions of the UCC or this clause, it is determined for any reason that vendor was not in default under the provisions of this clause, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

21. Termination For Convenience. a. If not accepted by written acknowledgment, this PO may be canceled by written or oral notice to vendor prior to shipment of goods or beginning of performance of services.

b. Unless otherwise agreed in writing, in addition to the rights and remedies governing goods in the UCC, the purchasing agent may, when the interests of the purchasing agency so require, terminate this PO in whole or in part for the convenience of the agency or institution. The purchasing agent shall give written notice of the termination to vendor specifying the part of the PO terminated and when termination becomes effective. Upon receipt of notice of termination, vendor shall incur no further obligations except to the extent necessary to mitigate costs of performance. In the case of services or specially manufactured goods, the State shall pay reasonable settlement expenses, the PO price or rate for supplies and services delivered and accepted, the reasonable costs of performance on unaccepted supplies and services, and a reasonable profit for that unaccepted work, in accordance with the cost principles promulgated in accordance with CRS 24-107-101, as amended. In the case of existing goods, the State shall pay reasonable settlement expenses, the PO price for goods delivered and accepted, reasonable costs incurred in preparation for delivery of the undelivered goods, and a reasonable profit for that preparatory work. The amount of the termination liability under this paragraph shall not exceed the amount of the PO price plus a reasonable cost for settlement expenses. Vendor agrees to submit a termination proposal as well as reasonable supporting documentation, cost and pricing data, and a certification as required CRS 24-106-101, as amended, upon request of the purchasing agent.

22. Purchase Order Approval. This PO shall not be valid unless it is executed by the purchasing agent for the purchasing State agency or institution. The State shall have no responsibility or liability for products or services delivered or performed prior to proper execution hereof.

23. Fund Availability; Federal Funds Contingency. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this PO is funded in whole or in part with federal funds, this PO is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. If this PO contemplates the purchase of goods to be delivered in a single installment, the State represents that it has set aside sufficient funds to make payment under this PO in accordance with its terms.

24. Choice of Law. This PO is made in, and the laws of the State of Colorado shall govern, in connection with the formation, performance and the legal enforcement of, this PO. Unless otherwise specified in the solicitation or this order, venue for any judicial action arising out of or in connection with this PO shall be in Denver, Colorado. Vendor shall exhaust administrative remedies in CRS 24-109-106, as amended, prior to commencing any judicial action against the State.

25. Uniform Commercial Code. All references in this PO to the UCC shall mean the UCC as adopted by the State of Colorado at Title 4, Colorado Revised Statutes, as amended.

26. Non-discrimination. Vendor agrees to comply with the letter and spirit of all applicable State and federal laws respecting discrimination and unfair employment practices.

27. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [*Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services*]

Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program Rules to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting

with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, institution of higher education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

28. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS 24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears or affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of CRS 24-76.5-101 et seq., and (iii) shall produce one form of identification required by CRS 24-76.5-103 prior to the effective date of this contract.

Street Address

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Campus Mailing Address

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Office of the Controller
140 Berndt Hall