

SUPPLEMENTAL OPERATING AGREEMENT – FOOD SERVICES

Number: K020099

***A Supplemental Agreement to
Master Operating Agreement Number: K020079***

Preamble

This Supplemental Operating Agreement (this “Supplemental Operating Agreement” or “Agreement”) is made and entered into as of August 1, 2000 by and between the Trustees of The California State University (“Trustees”) by their duly qualified and acting Chancellor on behalf of the California State Polytechnic University, Pomona (“University”), and the Cal Poly Pomona Foundation, Inc. (“Auxiliary” or “Foundation”), acting in its capacity as an authorized auxiliary organization.

I. Purpose

The Trustees and the Auxiliary are parties to a Master Operating Agreement (the “Master Agreement”) which authorizes the Auxiliary to perform certain functions for the University and sets forth the broad terms and conditions under which the Auxiliary will perform these functions pursuant to Chapter 7, Part 55, Division 8, Title 3 (Sections 89900, et seq.) of the Education Code, and Subchapter 6, Article 1, Part V (Sections 42400 et seq.) of Title 5 of the California Code of Regulations.

This Supplemental Operating Agreement is a supplemental agreement to the Master Agreement that further clarifies and delineates the role and responsibility of the Auxiliary in the performance of this function and related activities. This Agreement is not intended to supercede the general terms and conditions of the Master Agreement in its entirety but clarifies and/or amends identified sections as required. This Agreement contemplates that the University and the Auxiliary are parties to a Ground Lease, dated as of August 1, 2000 (the “Ground Lease”), as a separate but required instrument pursuant to which the Auxiliary will lease certain property upon which to conduct operations authorized hereby.

II. Function

As an official auxiliary organization of the California State University, Auxiliary hereby agrees, for the period covered by this Agreement, to operate a cafeteria and related activities as well as other approved activities. Off campus services relating to the cafeteria

function may be established by the Foundation, subject to the approval of the University President that such services support the institution's mission.

Auxiliary shall have the right to perform the function and related activities authorized under this Agreement on an exclusive basis as long as such functions are operated in compliance with Education Code Section 89900 et seq., applicable provisions of Title 5, California Code of Regulations, this Agreement, Trustees and University policy. The University shall enforce this exclusive right through campus policy and administrative action. Auxiliary further agrees to receive and apply exclusively the funds and properties coming into its possession toward furthering this function. Prior to initiating any additional activities unrelated to this function, Auxiliary agrees to obtain written approval of Trustees.

III. Indemnification

Indemnification shall be provided in accordance with Section X of the Master Agreement as it pertains to such functions and related activities.

IV. Term

The term of this Agreement shall be from August 1, 2000 through February 1, 2025 unless sooner terminated as provided in Section V of this Agreement.

V. Termination

This Agreement may be terminated by the Trustees upon any of the following occurrences:

- a) Expiration of this Agreement or of the Ground Lease;
- b) Non-conformance with State Law, Regulations and Policies as stated in the Master Agreement; or
- c) Administrative necessity as judged by the Trustees.

VI. Use of Premises

The property leased pursuant to the Ground Lease may be separately or jointly, as determined by the President of the campus, occupied, operated, and used by the University and Lessee.

Lessee may occupy, operate and use the leased property only in connection with the following functions and activities in accordance with the terms of this Agreement and

only when such functions and activities come within the terms of Section 89046 of the Education Code:

1. Establishing and maintaining resident dining halls, cafeterias, snack bars, coffee shops, or any or all of them for the sale of food required by the students, faculty, and staff of the University.
2. Lessee shall use the leased property only for those functions and activities that are consistent with the guidelines and policies which have been or may hereafter be adopted by Trustees.
3. Operations of Lessee under this lease shall be integrated with University operations and shall be under the general supervision of the University officials. Such supervision shall be provided without cost to Lessee.

At the end of each fiscal year and upon completion of audit, surplus funds, excepting those needed to meet current obligations and to maintain approved reserves and working capital, will, by resolution of Lessee, be deposited in reserve accounts for purposes of aiding the constructing and equipping of food service facilities, the constructing and equipping of University unions and/or student services facilities, and for the operation and maintenance of such facilities, and/or to any other purpose as provided in the Articles of Incorporation of Lessee and authorized by resolution of Lessee's Board of Directors or officers. The reserve accounts will be administered as authorized by Lessee's Board of Directors.

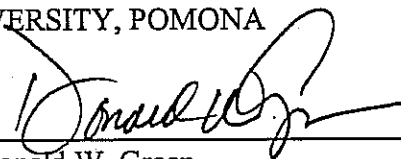
IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representatives of the parties hereto as of the date first above written.

CAL POLY POMONA FOUNDATION, INC.

By 

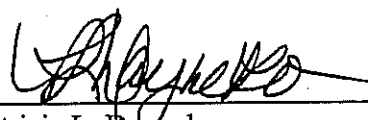
G. Paul Storey
Executive Director

CALIFORNIA STATE POLYTECHNIC
UNIVERSITY, POMONA

By 

Donald W. Green
Director of Procurement & Support Services

TRUSTEES OF THE CALIFORNIA STATE
UNIVERSITY

By 

Patricia L. Dayneko
Director, Contract Services & Procurement