

SUPPLEMENTAL OPERATING AGREEMENT - AGRICULTURE

Number: K020097

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.

II. Function

As an official auxiliary organization of the California State University, Auxiliary hereby agrees, for the period covered by this Agreement to perform functions related to instructionally-related programs and activities including but not limited to agriculture operations. Off campus services relating to this 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 upon any of the following occurrences:

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

VI. Use of Premises

Property to be utilized by the Corporation in accordance with Section 8 of the Master Agreement may be separately or jointly, as determined by the President of the campus, occupied, operated, and used by the University and Foundation.

The Foundation may operate, and use such 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. Student agricultural products, including dairy, livestock, horses, fowl, crop, food processing, ornamental horticulture, and mechanical projects, and such other general types of student agricultural projects as may be approved by the President of the University.
2. Student engineering projects, including service and repair operations and the manufacture and resting of equipment and products, and any other such general types of student project operations approved by the President of the University.
3. Student projects in other academic areas such as business, biological and physical sciences, arts, instructional services, publications, community studies, and any other such general types of student project operations approved by the President of the University.
4. Not-for-profit operations of the Foundation which furnish students with educational experiences not provided by the University in courses offered for credit and which involve the management, production, and marketing of products, goods, and commodities, including dairy manufacturing and production, meat laboratory, food processing, feedmill, not-for-profit production of beef, dairy, swine, sheep, horses, and other animals and poultry, crops and ornamental horticulture, Arabian horse show, campus stores, printing and photography services, instructional services, electronics shop, and any other not-for-profit operations approved by the President of the University.

The Foundation shall use such 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 of The California State University and the Chancellor of The California State University.

Operations of the Foundation under this Agreement 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 the Foundation.

In connection with the Foundation's use of such property, the State will provide services and facilities usually provided under normal State procedures, namely, those for which expenditures are usually allowable in the University budget, and for which appropriations may be allowed hereafter. These services and facilities may include but need not be limited to:

1. Teaching, supervisory, and administrative personnel required for integration of the program on the part of the University with University operations and administration and supervision by the University. This does not include State employees working directly under the Foundation and for whose services the State is reimbursed.
2. All instructional tools, materials, supplies, machines, and equipment which the State deems necessary, which do not become part of the student projects.
3. Land, utilities, and related facilities which the State deems necessary for the conduct of student projects.
4. Maintenance of all land and buildings owned by the State.
5. Major repair and replacement of buildings and equipment owned by the State except where damages beyond reasonable wear and tear occur through the fault of the Foundation.
6. Labor, feed, supplies, materials, travel, and other expenses of the Foundation's not-for-profit operations not required to keep such not-for-profit operations on a commercially productive basis, but required or approved by the State because of their value in education.
7. Vehicles used by the faculty and staff of the University for supervision of the Foundation's operations.
8. Natural, uncultivated range feed used by the breeding herds and flocks.
9. All other expenses customarily allowed by the State.

In connection with the Foundation's use of such property or off-campus operations, the Foundation, at its own expense, shall provide, first out of the gross income, or if such gross income is not sufficient, out of any assets of the Foundation:

1. Labor.
2. Replacement of breeding stock and birds.
3. Feed, feeder stock, meat, bird, seed, fertilizer, plants, materials, and other supplies in amounts to keep operations on a not-for-profit productive basis.
4. Rental of State vehicles and mobile equipment used in the productive and marketing activities of the operations.
5. Maintenance of State-owned equipment used primarily for not-for-profit operations.


6. Emergency maintenance or alterations on State-owned equipment and facilities used on such property with advance permission of the Vice President for Administrative Affairs of the University.
7. Prorated share utilities, as determined under the provisions of Article XXI.
8. Purchase of equipment that will be used for not-for-profit operations.
9. Miscellaneous costs of operations including freight, association memberships, operating supplies, breeding fees, travel on Lessee business, communications, advertising, public relation charges, insurance, and similar costs.
10. Operating costs of the Foundation's off-campus instructional units including maintenance of the property, labor, rent, utilities, equipment use, and similar costs.
11. Accounting and business management including office supplies, office equipment, auditing, and similar expenses.
12. Cost of feed grown for harvest or as feed on State-owned lands and purchased by the Foundation. The grade and price of the cultivated feeds shall be established in accordance with prevailing markets.
13. Reimbursement to the State of the cost to the State of repair or replacement of buildings and equipment damaged beyond reasonable wear and tear through the fault of the Foundation.

In the operation of student projects in agriculture, the State will charge the Foundation and the Foundation, in turn, will charge the student project for use of farm equipment, use of any pasturage (natural or cultivated), and for the transportation of produce.

An Arabian Horse Show Reserve Account shall be established by the Foundation. Earnings from the Arabian Horse Program and Horse Show shall be credited to this account. Expenditures from this account by the Foundation shall be credited to this account. Expenditures from this account by the Foundation shall be confined to the support and maintenance of the Arabian Horse Program and Horse Show.

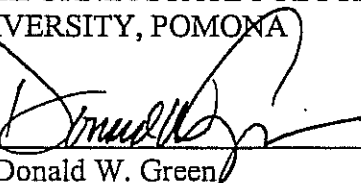
IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representatives of the parties hereto as of the date first above written.

CAL POLY POMONA FOUNDATION, INC.

By 

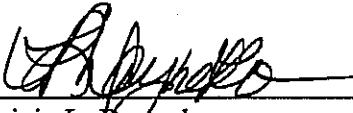
G. Paul Storey
Executive Director

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