

**OPERATING AGREEMENT
BETWEEN CALIFORNIA STATE UNIVERSITY
AND THE TOWER FOUNDATION OF SAN JOSE STATE UNIVERSITY**

This agreement is made and entered into by and between the Trustees of the California State University by their duly qualified Chancellor (CSU) and the Tower Foundation of San José State University (Auxiliary) serving San José State University (Campus). The term of this agreement shall be November 1, 2015 through October 31, 2025.

1. PURPOSE

The purpose of this agreement is to set forth the terms and conditions under which Auxiliary may operate as an auxiliary organization pursuant to California Education Code §89900 et seq. and California Code of Regulations (CCR) Title 5, § 42400 et seq. In entering this agreement, CSU finds that certain functions important to its mission are more effectively accomplished by the use of an auxiliary organization rather than by the Campus under the usual state procedures.

2. PRIMARY FUNCTION OF THE AUXILIARY

In consideration of receiving recognition as an official CSU auxiliary organization, Auxiliary agrees, for the period covered by this agreement, that the primary function(s), which the Auxiliary is to manage, operate or administer is/are (*Check each category that applies*):

- Student Body Organization
- Student Union
- Housing
- Philanthropic
- Research, Workshops, Institutes, Conferences
- Real Property Acquisition / Real Property Development
- Commercial

In carrying out the above, the Auxiliary engages in the following functions authorized by, CCR tit.5, §42500, which are activities essential and integral to the educational mission of the University:

1. Alumni Programs
2. Gifts, bequests, devises, endowments, trusts and similar funds
3. Public relations, fundraising, fund management, and similar development programs
4. Acquisition, development, sale, and transfer of real and personal property including financing transactions related to these activities

Auxiliary agrees to receive and apply exclusively the funds and properties coming into its possession toward furthering these purposes for the benefit of CSU and the Campus. Auxiliary further agrees that it shall not perform any of the functions listed in CCR tit.5, §42500 unless the

function has been specifically assigned in this operating agreement with the Campus. Prior to initiating any additional functions, Auxiliary understands and agrees that CSU and Auxiliary must amend this agreement in accordance with Section 18, *Amendment*.

3. CAMPUS OVERSIGHT AND OPERATIONAL REVIEW

The responsibility and authority of the Campus president regarding auxiliary organizations is set forth in CCR tit.5, §42402, which requires that auxiliary organizations operate in conformity with CSU and Campus policies. The Campus President has been delegated authority by the CSU Board of Trustees (Standing Orders §VI) to carry out all necessary functions for the operation of the Campus. The operations and activities of Auxiliary under this agreement shall be integrated with Campus operations and policies and shall be overseen by the campus Chief Financial Officer or designee so as to assure compliance with objectives stated in CCR tit.5, §42401.

The Campus shall review Auxiliary to ensure that the written operating agreement is current and that the activities of Auxiliary are in compliance with this agreement at least every five (5) years from the date the operating agreement is executed and at least every five years thereafter. Confirmation that this review has been conducted will consist of either an updated operating agreement, or a letter from the Campus chief financial officer or designee to the Campus President with a copy to the Chancellor's Office, certifying that the review has been conducted. As part of these periodic reviews, the Campus President should examine the need for each auxiliary and look at the efficiency of the auxiliary operation and administration.

Auxiliary agrees to assist the Campus chief financial officer or designee in carrying out the compliance and operational reviews required by applicable CSU Executive Orders and related policies.

4. OPERATIONAL COMPLIANCE

Auxiliary agrees to maintain and operate its organization in accordance with all applicable laws, regulations and CSU and Campus rules, regulations and policies. Failure of Auxiliary to comply with any term of this agreement may result in the removal, suspension or probation of Auxiliary as an auxiliary organization in good standing. Such action by CSU may result in the limitation or removal of Auxiliary's right to utilize the CSU or campus name, resources and facilities (CCR tit.5, §42406).

5. CONFLICT OF INTEREST

No officer or employee of the CSU shall be appointed or employed by Auxiliary if such appointment or employment would be incompatible, inconsistent or in conflict with his or her duties as a CSU officer or employee.

Auxiliary has established and will maintain a conflict of interest policy. The Auxiliary's Conflict of Interest Policy is attached as **Attachment 1**.

6. EXPENDITURES AUGMENTING CSU APPROPRIATIONS

With respect to expenditures for public relations or other purposes which would serve to augment appropriations for CSU operations, Auxiliary may expend funds in such amount and for such purposes as are approved by Auxiliary's governing body. Auxiliary shall file, as **Attachment 2** to this agreement, a statement of Auxiliary's policy on accumulation and use of public relations funds. The statement shall include the policy and procedures for solicitation of funds, the purposes for which the funds may be used, the allowable expenditures and procedures of control.

7. FISCAL AUDITS

Auxiliary agrees to comply with CSU policy and the provisions of CCR tit.5, §42408, regarding fiscal audits. All fiscal audits shall be conducted by auditors meeting the guidelines established in the Integrated CSU Administrative Manual (ICSUAM).

The Campus chief financial officer (CFO) shall annually review, and submit a written evaluation to the Chancellor's Office in accordance with Section 17, Notices, of the external audit firm selected by the Auxiliary. This review by the Campus CFO must be conducted prior to the Auxiliary engaging an external audit firm and annually thereafter. If the Auxiliary has not changed audit firms, and the audit firm was previously reviewed and received a satisfactory evaluation, a more limited review may be conducted and submitted.

8. USE OF NAME

Campus agrees that Auxiliary may, in connection with its designated functions as a CSU auxiliary organization in good standing and this agreement, use the name of the Campus, The Campus logo, seal or other symbols and marks of the Campus, provided that Auxiliary clearly communicates that it is conducting business in its own name for the benefit of Campus. All correspondence, advertisements, and other communications by Auxiliary must clearly indicate that the communication is by and from Auxiliary and not by or from CSU or Campus.

Auxiliary shall use the name of Campus, logo, seal or other symbols or marks of Campus only in connection with services rendered for the benefit of Campus and in accordance with Campus guidance and direction furnished to Auxiliary by Campus and only if the nature and quality of the services with which the Campus name, logo, seal or other symbol or mark are used are satisfactory to the Campus or as specified by Campus.

Campus shall exercise control over and shall be the sole judge of whether Auxiliary has met or is meeting the standards of quality of the Campus for use of its name, logo, seal or other symbol or mark.

Auxiliary shall not delegate the authority to use the Campus name, logo, seal or other symbol or mark to any person or entity without the prior written approval of the Campus President or designee. Auxiliary shall cease using the Campus name, logo, seal or other symbol or mark upon expiration or termination of this agreement, or if Auxiliary ceases to be a CSU auxiliary organization in good standing or dissolves.

9. CHANGE OR MODIFICATION OF CORPORATE STATUS

Auxiliary shall provide notice to the CSU upon any change in Auxiliary's legal, operational or tax status including but not limited to changes in its Articles of Incorporation, bylaws, tax status, bankruptcy, dissolution or change in name.

10. FAIR EMPLOYMENT PRACTICES

In the performance of this agreement, and in accordance with California Government Code §12900 et. seq., Auxiliary shall not deny employment opportunities to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status. Auxiliary shall adopt employment procedures consistent with the policy statement on nondiscrimination and affirmative action in employment adopted by the CSU.

11. DISPOSITION OF ASSETS

Attached hereto as **Attachment 3** is a copy of Auxiliary's Constitution or Articles of Incorporation (as applicable) which establishes that upon dissolution of Auxiliary, the net assets other than trust funds shall be distributed in accord with, CCR tit.5, §42600. Auxiliary agrees to maintain this provision as part of its Constitution or Articles of Incorporation. In the event Auxiliary should change this provision to make other dispositions possible, this agreement shall terminate as of the date immediately preceding the date such change becomes.

12. USE OF CAMPUS FACILITIES

Auxiliary may use those facilities identified for its use in a lease agreement executed between Campus and Auxiliary. If this Operating Agreement terminates or expires and is not renewed within 30 days of the expiration, the lease automatically terminates, unless extended in writing by the parties.

Auxiliary and Campus may agree that Auxiliary may use specified Campus facilities and resources for research projects and for institutes, workshops, and conferences only when such use does not interfere with the instructional program of Campus and upon the written approval from appropriate Campus administrators with such specific delegated authority. Auxiliary shall reimburse Campus for costs of any such use.

13. DISPOSITION OF NET EARNINGS

Auxiliary agrees to comply with CSU and Campus policy on expenditure of funds including, but not limited to, CSU guidelines for the disposition of revenues in excess of expenses and CSU policies on maintaining appropriate reserves. Cal. Educ. Code §89904; Executive Order 1059.

14. ACCEPTANCE, ADMINISTRATION, AND USE OF GIFTS

Auxiliary agrees, if authorized to do so in Section 2 above, that it will accept and administer gifts, grants, contracts, scholarships, loan funds, fellowships, bequests, and devises in accordance with policies of CSU and Campus.

A. Authority to Accept Gifts

If authorized, Auxiliary may evaluate and accept gifts, bequests and personal property on behalf of CSU. In acting pursuant to this delegation, due diligence shall be performed to ensure that all gifts accepted will aid in carrying out the CSU mission as specified in Education Code §§89720 and 66010.4(b).

Auxiliary agrees, before accepting gifts of real estate or gifts with any restrictive terms or conditions that impose an obligation on CSU or the State of California to expend resources in addition to the gift, to obtain written approval from the appropriate campus authority. Auxiliary agrees that it will not accept a gift that has any restriction that is unlawful.

B. Reporting Standards

Gifts shall be recorded in compliance with the Council for Advancement and Support of Education and California State University reporting standards and shall be reported to the Chancellor's Office on an annual basis in accordance with Education Code §89720.

15. INDEMNIFICATION

Auxiliary agrees to indemnify, defend and save harmless the CSU, its officers, agents, employees and constituent campuses and the State of California, collectively "CSU indemnified parties" from any and all loss, damage, or liability that may be suffered or incurred by CSU indemnified parties, caused by, arising out of, or in any way connected with the operation of Auxiliary as an auxiliary organization.

16. INSURANCE

Auxiliary shall maintain insurance protecting the CSU and Campus as provided in this section. CSU's Systemwide Office of Risk Management shall establish minimum insurance requirements for auxiliaries, based on the insurance requirements in Technical Letter RM 2012-01 or its successor then in effect. Auxiliary agrees to maintain at least these minimum insurance requirements.

Auxiliary's participation in a coverage program of the California State University Risk Management Authority (CSURMA) shall fully comply with the insurance requirement for each type of required coverage (which may include but not be limited to, general liability, auto liability, directors and officers liability, fiduciary liability, professional liability, employer's liability, pollution liability, workers' compensation, fidelity, property and any other coverage necessary based on Auxiliary's operations). Auxiliary shall ensure that CSU and Campus are named as additional insured or loss payee as its interests may appear.

17. NOTICES

All notices required to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed to all parties as provided below.

Notice to Auxiliary shall be addressed as follows:

Chief Executive Officer
Tower Foundation of SJSU
One Washington Square
San Jose, CA 95192-0183

Notice to the CSU shall be addressed to:

Trustees of the California State University
401 Golden Shore
Long Beach, California 90802
Attention: Director, Contract Services & Procurement

Notice to the Campus shall be addressed as follows:

Office of the President
San José State University
One Washington Square
San Jose, CA 95192-0002

18. AMENDMENT

This agreement may be amended only in writing signed by an authorized representative of all parties.

19. RECORDS

Auxiliary shall maintain adequate records and shall submit periodic reports as required by CSU showing the operation and financial status of Auxiliary. The records and reports shall cover all activities of Auxiliary whether pursuant to this agreement or otherwise.

20. TERMINATION

CSU may terminate this agreement upon Auxiliary's breach of or failure to comply with any term of this agreement by providing Auxiliary with a minimum of ninety (90) days advance written notice. Auxiliary may use the ninety-day advance notice period to cure the breach. If, in the judgment of CSU, the breach has been cured, the termination notice will be cancelled.

21. REMEDIES UPON TERMINATION

Termination by CSU of this agreement pursuant to Section 20, *Termination*, may result in Auxiliary's removal, suspension or probation as a CSU auxiliary in good standing, and loss of any right for Auxiliary to use the name, resources or facilities of CSU or any of its campuses.

Upon expiration of the term of this agreement, the parties shall have 30 days to enter into a new operating agreement which period may be extended by written mutual agreement.

22. SEVERABILITY

If any section or provision of this Agreement is held illegal, unenforceable or in conflict with any law by a court of competent jurisdiction, such section or provision shall be deemed severed and the validity of the remainder of this Agreement shall not be affected thereby.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

Approved: 10-15, 2015

San José State University

By Susan Martin
Susan Martin, Interim President

Approved: 10-15, 2015

San Jose State University
By Josee Larochelle
Josee Larochelle, Interim VP Admin & Finance

Executed on 10/9, 2015

Tower Foundation of SJSU
By Paul I. Lanning
Paul I. Lanning, Chief Executive Officer

Executed on 10-26, 2015

California State University
Office of the Chancellor
Contract Services and Procurement
By Mareymina

Tower Foundation of San Jose State University Policy on Disclosure of Potential Conflicts of Interest

I. PURPOSE

The purpose of this Policy on Disclosure of Potential Conflicts of Interest (the "Policy") is to protect the Tower Foundation of San Jose State University's (Foundation) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Board Director of the Foundation. In addition, this Policy is intended to assist the Board of Directors of the Foundation in identifying situations that present potential conflicts of interest or the appearance of conflicts of interest and to provide the Foundation with a procedure which, if observed, will allow a transaction to be treated as valid and binding even though a Board Director has or may have a conflict of interest or the appearance of a conflict of interest with respect to the Foundation.

II. DEFINITIONS

- a. A "**Conflict of Interest**" means a contract, transaction or other financial relationship between the Foundation and an entity where a Responsible Person is a board member, a principal or has a Financial Interest.
- b. A "**Responsible Person**" is any person serving as a director of the Foundation's Board of Directors or a member of any Committee of the Board with board designated powers.
- c. A "**Party Related to a Responsible Person**" is a spouse, a descendent, a sibling, an estate or trust in which the Responsible Person or Party Related to a Responsible Person has a beneficial interest, or an entity in which a Party Related to a Responsible Person is a board member, a principal or has a Financial Interest.
- d. A "**Financial Interest**" in an entity is a financial interest of any kind which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a Responsible Person's judgment with respect to a contract, transaction or financial relationship to which the entity is a party.
- e. A "**Contract or Transaction**" is any agreement or relationship involving the sale or purchase of goods, services or rights of any kind, the providing or receipt of a loan or grant, or the establishment of any other type of pecuniary relationship. The making of a gift to the Foundation is not a Contract or Transaction.

III. PROCEDURES

- A. Duty to Disclose. In connection with any actual or possible Conflict of Interest, a Responsible Person must disclose both the existence of the potential Conflict of Interest, and all material facts relating thereto, to the Chief Executive Officer of the Foundation who will notify the executive committee immediately.
- B. Determining Existence of a Conflict of Interest. After disclosure by the Responsible Person of any actual or potential Conflict of Interest and all material facts, and after discussion with the Executive Committee of the Board of Directors concerning the actual or potential Conflict of Interest, the Responsible Person shall leave the Executive Committee meeting while the determination of a Conflict of Interest is discussed and voted upon by the members of the Executive Committee. A Responsible Person who has a Conflict of Interest shall not attempt to exert his or her personal influence with respect to the potential or actual Conflict of Interest being addressed, either at, or outside of, the meeting.
- C. Addressing the Conflict of Interest. The Foundation may enter into a Contract or Transaction with a Responsible Person after having determined that a Conflict of Interest exists if:
1. The material facts as to the Responsible Person's relationship or interest and as to the Conflict of Interest are disclosed or are known to the committee, and the committee in good faith authorizes, approves or ratifies the Contract or Transaction by the affirmative vote of a majority of disinterested directors, even though the disinterested directors are less than a quorum; or
 2. The material facts as to the Responsible Person's relationship or interest and as to the Conflict of Interest are disclosed or are known to the committee and the Contract or Transaction is specifically authorized, approved and ratified in good faith by a vote of the members entitled to vote thereon; or
 3. The Contract or Transaction is fair to the Foundation.
- D. Violation of Policy.
1. If the Board of Directors has reasonable cause to believe a Responsible Person has failed to disclose an actual or possible Conflict of Interest, it shall inform the Responsible Person of the basis for such belief and afford the Responsible Person the opportunity to explain the alleged failure to disclose.
 2. If, after hearing the response of the Responsible Person and making such further investigation as may be warranted under the circumstances, the Board of Directors determines that the Responsible Person has purposefully and knowingly failed to disclose an actual or possible Conflict of Interest, such Responsible Person shall be required to resign from the Board of Directors.

IV. RECORDS OF PROCEEDINGS

- A. The minutes of any meeting of the Executive Committee at which an actual or potential Conflict of Interest is addressed shall contain, at a minimum, the names of the persons who disclosed or otherwise were found to have a Financial

Interest in connection with an actual or possible Conflict of Interest, the nature of the Financial Interest, any action taken to determine whether a Conflict of Interest was present, and the Executive Committee's decision as to whether a Conflict of Interest in fact existed. The Executive Committee must report the outcome of its decision at the next Board of Directors meeting.

- B. The minutes of any board meeting at which a vote is taken to enter into a Contract or Transaction where there is a Conflict of Interest shall contain, at a minimum, the names of the persons who were present for discussions and votes relating to the Contract or Transaction, the content of the discussion, including any alternatives to the proposed Contract or Transaction, and a record of any votes taken in connection therewith.

V. REVIEW OF POLICY

- A. Each Board Director shall annually sign a statement, as attached at the end of the policy, which affirms that such person:
 - 1. Has received a copy of the Policy
 - 2. Has read and understands the Policy.
 - 3. Has agreed to comply with the Policy.
 - 4. Understands that the Foundation is a tax-exempt nonprofit corporation and that in order to maintain its federal tax exemption and status the Foundation must engage primarily in activities which accomplish its tax-exempt purpose and comply with the applicable federal and state rules and regulations.
- B. Each Board Director shall complete a disclosure form and identify any relationships, positions or circumstances in which the Board Director is involved that she or he believes could constitute a Conflict of Interest. Such relationships, positions or circumstances might include service as a director or consultant of another nonprofit corporation, or ownership of a business that might provide goods or services to the Foundation. Any such information regarding business interests of a Board Director shall be treated as confidential and shall generally be made available only to the Foundation's Chief Operating Officer and the members of the Board of Directors, except to the extent additional disclosure is necessary in connection with the implementation of this Policy.
- C. This Policy shall be reviewed annually by the Board of Directors.

Tower Foundation of SJSU

Source and Use of Public Relations Funds

I. PURPOSE

To provide policy guidance on the accumulation and use of funds by The Tower Foundation of SJSU (Tower) for public relations purposes.

II. BACKGROUND

Per Title 5 California Code of Regulations §42502(i), each auxiliary organization shall maintain a policy on the “accumulation and use of public relations funds if such funds are obtained and used by the auxiliary organization to augment State appropriations for public relations.” The policy must include “...the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the funds will be used, allowable expenditures, and procedures of control.”

III. POLICY

Solicitation and Accumulation of Public Relations Funds

Tower does not solicit public relations funds. Any Tower funds used for public relations purposes would be budgeted annually and part of the budget approved by the Board of Directors and the University President.

Source of Public Relations Funds

Public relations funds, when expended, may be sourced from Tower discretionary or restricted funds. These funds may be derived from various sources including administrative fees and donations. Expenditures from discretionary or restricted funds must clearly advance the objectives of the campus and the California State University, and be consistent with applicable procurement and accounting practices. In general, expenditures must be appropriate for campus authorized educational, social, development, hospitality, community and employee relations, employee business travel and related considerations, student aid, and for other purposes that benefit California State University or the campus. All expenditures from a restricted fund must be consistent with the restricted purpose.

IV. PROCEDURE

Any expenditure of Tower funds for purposes of public relations shall only be at the request of the University President. The source of funds would be any discretionary or restricted fund account that is available to the President. Pursuant to Tower’s purchasing policies and procedures, the request shall be accompanied by appropriate supporting documentation, with dates, purpose and individuals or groups involved, location and amounts clearly stated, and any other requirements.

Policy filing

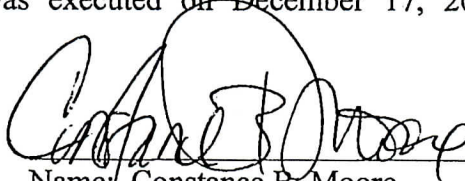
Tower shall file a copy of this Policy with the Chancellor’s Office, per the requirements of Title 5 California Code of Regulations §42502(i).

**CERTIFICATE OF AMENDED AND RESTATED
ARTICLES OF INCORPORATION OF
THE TOWER FOUNDATION OF SAN JOSÉ STATE UNIVERSITY**

Constance B. Moore and Leslie Rohn certify that:

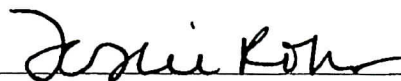
1. They are the chair of the board and secretary, respectively, of THE TOWER FOUNDATION OF SAN JOSÉ STATE UNIVERSITY, a California nonprofit public benefit corporation (the "Corporation").
2. The Articles of Incorporation of this corporation are hereby amended and restated to read in their entirety as set forth in Exhibit A attached hereto and incorporated herein by reference.
3. The Board of Directors has duly approved the Amended and Restated Articles of Incorporation attached hereto as Exhibit A.
4. The corporation has no members.

Each of the undersigned declares under penalty of perjury under the laws of the State of California that the statements in the foregoing certificate are true and correct of his or her own knowledge, and that this declaration was executed on ~~December 17, 2012~~, at San José, California.



Name: Constance B. Moore

Title: Chair of the Board



Name: Leslie Rohn

Title: Secretary

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
THE TOWER FOUNDATION OF SAN JOSÉ STATE UNIVERSITY**

Article I
Name of Corporation

The name of the Corporation is The Tower Foundation of San José State University (the "Corporation").

Article II
Purpose of Corporation and
Tax-Exempt Status of Corporation

1. This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable and public purposes.

2. This Corporation is organized exclusively for educational purposes within the meaning of Internal Revenue Code §501(c)(3) or the corresponding provision of any future United States internal revenue law. Despite any other provision in these articles, the corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that do not further the purposes of this corporation, and the corporation shall not carry on any other activities not permitted to be carried on by (a) a corporation exempt from federal income tax under Internal Revenue Code §501(c)(3) or the corresponding provision of any future United States internal revenue law, or (b) a corporation, contributions to which are deductible under Internal Revenue Code §170(c)(2) or the corresponding provision of any future United States internal revenue law. Subject to the foregoing, the purposes of the Corporation include the following:

A. The encouraging, soliciting, receiving, accepting, holding, investing and managing of money and property of every description, and the disbursement thereof for the promotion, development and advancement of the purposes and objectives of SAN JOSÉ STATE UNIVERSITY (hereinafter, "University"), and any other organization, qualified as an exempt organization under Section 501 (c)(3) of the Internal Revenue Code and its regulations, which has among its primary corporate purposes providing assistance to the University, including but not limited to library aid, classroom, laboratory and other equipment, scholarships, fellowships, professorships, athletic and artistic programs, and other grants and loans of financial assistance.

B. To provide facilities by lease or otherwise, (i) to the University for any of its lawful purposes; (ii) to the SAN JOSÉ STATE UNIVERSITY RESEARCH FOUNDATION (hereinafter, "Research") for research activities by faculty, staff and students of the University; (iii) to the SAN JOSÉ STATE UNIVERSITY ALUMNI ASSOCIATION (hereinafter, "Association") for programs and facilities to engage alumni, students and others more closely in the mission of the University; and (iv) in conjunction with use by the University or Research, to other organizations, whether public or private, whose proximity to the educational or research activities of the University or its faculty, staff or students enhances such activities or provide career development opportunities for students of the University.

C. To receive and/or purchase, hold, and manage and administer such property as may be received or purchased by the Corporation, and to use and apply all or any part of the income or earnings there from as well as the principal thereof exclusively for cultural, scientific, literary or educational purposes, either directly or by contributions to organizations which are organized and authorized to carry out such activities, provided however, that said organizations qualify as exempt organizations under Section 501 (c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended, provided, however, that no part of such income or such principal shall be contributed to any organization whose net earnings, or any part thereof, inure to the benefit of any private shareholder or individual or any substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

3. The Corporation has not been formed for pecuniary profit or financial gain, and all corporate property is irrevocably dedicated to the purposes set forth in this Article II. No part of the net earnings of this Corporation shall inure to the benefit of any of its directors, trustees, officers, private shareholders or members, or to individuals.

Article III Membership

The Corporation shall have no voting members within the meaning of the California Nonprofit Corporation Law.

Article IV Dissolution

Upon the dissolution of the Corporation, the Board of Directors of the Corporation shall, after the payment of all the just debts, obligations and liabilities of the Corporation (or after making adequate provision for the payment thereof) dispose of all its assets by transfer to the University or to such other non-profit organization or organizations organized and operated

exclusively for educational, charitable or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501 (c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States internal revenue law) that are approved by the Chancellor of the California State University and the Board of Trustees of the California State University.

Attachment 4
Administration of Grants and Contracts
Addendum to Auxiliary Operating Agreement
Between Trustees of the California State University,
San Jose State University
And
Tower Foundation of SJSU

This is an addendum to the Operating Agreement between the Trustees of the California State University (CSU) and Tower Foundation of SJSU (Auxiliary) serving San Jose State University (Campus), effective from July 1, 2016 through June 30, 2026, and authorizes the Auxiliary to perform the function "7. Externally Funded Projects Including Research, Workshops, Conferences and Institutes" as specified in 5 CCR (California Code of Regulations) 42500.

With this addendum, Campus designates Auxiliary as:

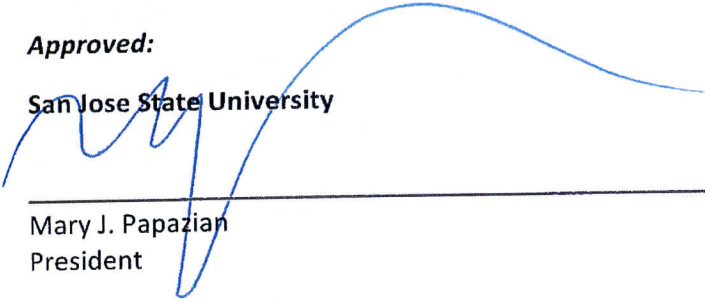
- The primary Sponsored Program Administrator (SPA) for the Campus;
- A SPA for specific types of grants and contracts for Auxiliary primary business purpose.¹
[Grants and contracts from corporations and foundations]

Auxiliary will ensure that all proposals for external funding are reviewed by the President or designees to provide programmatic and fiscal written approval in accordance with CSU systemwide policy, ICSUAM 11002.01 (formerly EO 890).²

Auxiliary, when acting as SPA, agrees to provide grant and contract administration services in compliance with all CSU (see ICSUAM, Section 11000), Campus and Auxiliary policies related to sponsored program administration, federal and state regulations and funding agency (sponsor) regulations and guidelines.

Approved:

San Jose State University

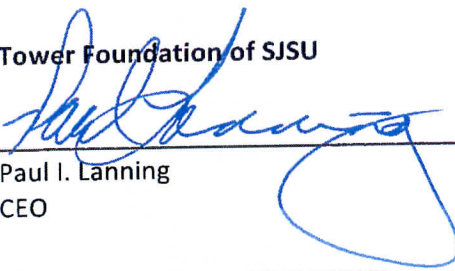


Mary J. Papazian
President

9/8/16

Date

Tower Foundation of SJSU



Paul I. Lanning
CEO

9/7/16

Date

¹ For example: certain grants may be awarded to the associated students (AS) auxiliary that directly support AS programs; or a non-profit foundation may require the grant recipient to be qualified under a particular IRS code, such as 501(c)(3) or its subsections. In either case, the auxiliary accepting the grant may choose to enter into an agreement with the Campus primary SPA for more effective grant administration.

² ICSUAM Policy 11002.01 incorporates the relevant policy sections from EO890, including proposal review and approval requirements. EO890 is superseded by ICSUAM Section 11000 et al.