



CALIFORNIA STATE UNIVERSITY | STANISLAUS
UNIVERSITY STUDENT CENTER
ONE UNIVERSITY CIRCLE, TURLOCK, CA 95382

Date: December 12, 2020
To: Christene James, Vice President of Business & Finance
Michael Wojciechowski, Executive Director – ABS Operations
From: Cesar Rumayor, Executive Director
Re: Sublease Agreement between University Student Center & ABS (for Food Service)

Attached to this memo is our Sublease Agreement covering the period from February 1, 2020 through June 30, 2021. Necessary adjustments made to the Sublease, required by the COVID-19 pandemic and ensuing campus shut-down, have resulted in this Agreement being circulated for signatures “after the fact.” In light of the current extraordinary situation we are facing, there are a couple points I want to highlight regarding the lease agreement.

First, the Agreement, covering the period from February 1, 2020 through June 30, 2021, is retroactive to February, 2020. The back rent now due, with the specific amounts outlined in detail below, is payable immediately upon full execution of this agreement.

Second, as the pandemic has forced the closure of most campus operations, the Student Center has adjusted the rental rate as follows:

- For the month of February 2020: rent *now due*: **\$8,583.63**
(4,107 sq. ft. x \$2.09 per sq. ft.)
- For the month of March 2020: rent *now due*: **\$4,312.35**
(4,107 sq. ft. x \$1.05 per sq. ft. – 50% of the per square foot rate)
- For the months of April 2020 through December 2020: rent *now due*: **\$19,220.76**
($\$2,135.64$ per month x nine months — see below)
Monthly rent for the months of April 2020 through June 2021 is/will be $\$2,135.64$.
(4,107 sq. ft. x \$0.52 per sq. ft. – 25% of the per square foot rate)

The total rent now due for February 1 through December 31, 2020: \$32,116.74

Last, subsequent monthly payments will be due the first of each month, beginning with the January 1, 2021 payment.

Please let me know if you have any questions. Thank you.

**SUBLEASE
UNIVERSITY STUDENT CENTER
AND
AUXILIARY & BUSINESS SERVICES
FEBRUARY 1, 2020 – JUNE 30, 2021**

This SUBLEASE is made and entered into this 1st day of February 2020, between the University Student Center California State University Stanislaus, hereinafter referred to as "Student Center", and Auxiliary & Business Services of California State University Stanislaus, hereinafter referred to as "Sublessee".

WHEREAS, Student Center has entered into an Operating Agreement and Lease on July 17, 2017 with California State University, Stanislaus and the Operating Agreement and Lease authorizes the Student Center to sublease any portion of the premises upon approval of the President of California State University, Stanislaus (or approval of his/her designee);

Whereas, a copy of the Operating Agreement and Lease are available upon request by the Sublessee;

Now, Therefore, Student Center and Sublessee hereby agree as follows:

1. PROPERTY LEASED:

Student Center hereby subleases to Sublessee the following property:

Four thousand, one hundred and seven (4,107) square feet of office, retail, and storage space located in Student Center. The subleased space includes rooms:

• Room 106	Coffee Vendor	935 sq. ft.
• Room 106A	Coffee Vendor BOH	228 sq. ft.
• Room 110	Convenience Store	708 sq. ft.
• Room 111	Shake Vendor	455 sq. ft.
• Room 113	Sandwich & Sushi Vendor	811 sq. ft.
• Room 113A	Sandwich & Sushi Vendor BOH	736 sq. ft.
• Room 113B	Coffee Vendor Remote Storage	<u>234 sq. ft.</u>
		4,107 sq. ft.

hereinafter referred to as the "Food Service Premises".

2. TERM OF USE:

The term of this Sublease shall be from February 1, 2020 to June 30, 2021, unless sooner terminated as herein provided in section 22 of this lease.

3. CONSIDERATION:

- A. The rental rate published by the California Department of General Services (DGS) for the 2019-2020 fiscal year is \$2.36 per square foot per month. However, both Student Center and Sublessee have agreed to a \$2.09 per square foot rental rate for the timeframe of 2020-2021.
- B. Sublessee agrees to pay Student Center rent in the amount of eight thousand, five hundred eighty-three dollars and sixty-three cents (\$8,583.63) per month (4,107 square feet x \$2.09 per square foot), during the term of this Sublease. Rent is due on the first day of each month. Rent shall be made payable and delivered to:

University Student Center
California State University, Stanislaus
One University Circle
Turlock, CA 95382

Failure to pay rent within sixty (60) days from receipt of invoice shall be considered a substantial breach of this Sublease.

4. TELEPHONE AND EQUIPMENT:

Sublessee shall be responsible for all telephone and data installation, service, and disconnect charges, campus mail service charges, and any other communication charges incurred during the term of this Sublessee, whether owed to the University or third-party vendor.

5. SERVICES PROVIDED BY STUDENT CENTER:

Student Center agrees to provide the following at no cost to Sublessee:

- A. Student Center shall furnish keys to Sublessee as required for entrance to, or exit from the Food Service Premises. Keys shall be the responsibility of the Sublessee to maintain and return upon termination of the Sublease. Sublessee shall have reasonable access to the Food Service Premises at all times, subject to the rules and regulations of Student Center's policies. Sublessee shall not change the locks or duplicate or distribute additional keys without the prior written authorization of the Student Center.
- B. Student Center will provide basic facility repairs resulting from regular wear and tear, without charge to the Sublessee. Basic facility repairs include: carpet and/or floor covering, paint, HVAC, doors and windows including associated hardware, and standard lighting fixtures and bulb replacement.

- C. Student Center will provide utilities, including electricity, heat, air conditioning, and water, to the sublessee.
- D. Any and all costs from repairs necessitated by negligence on behalf of the Sublessee or any requested changes or alterations outside of basic facility repairs, shall be incurred by the Sublessee. Furthermore, at the Student Center's discretion, any and all associated work may be performed by the Student Center and shall be invoiced directly to Sublessee. Student Center, at its discretion, may also approve a third-party, with all associated costs billed directly to Sublessee.
 - 1. Any work agreed upon by Student Center will be scheduled based on workload considerations and/or priority of projects.
 - 2. Should the Student Center approve a third-party L i c e n s e d contractor, Sublessee shall ensure that any and all contractors are covered by insurance of the types required by this Sublease, and that the amount of insurance for each contractor is appropriate for the contractor's work. Sublessee shall not allow any contractor to commence work on its subcontract until the insurance has been obtained (refer to Section 17).
- E. Student Center shall provide all fixed fixtures, fixed equipment and counters at the Student Center's expense.
- F. Student Center will provide custodial services for the common area of house and busing tables to the Sublessee.

6. SERVICES PROVIDED BY SUBLESSEE:

Sublessee agrees to provide the following at no cost to the Student Center:

- A. Maintain all back-of-house (BOH) appliances and equipment in working order as required by manufacture at Sublessee's own expense.
- B. Provide pest control services in all point-of-sale areas, service counter, prep kitchen, and BOH areas on an as-needed basis.

7. ASSIGNMENT OF SUBLEASE:

Sublessee shall not assign its rights or obligations under this Sublease or sublet the Food Service Premises.

8. RIGHT OF ENTRY:

Student Center reserves the right to enter and inspect the Food Service Premises at

reasonable times and to render services and make any necessary repairs to the Food Service Premises.

9. INDEMNIFICATION:

Sublessee shall indemnify, defend, and hold harmless the Student Center, the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this sublease, and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising out of or resulting from Sublessee's performance of this sublease.

Student Center shall indemnify, defend and hold harmless the Sublessee, its officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this sublease, and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising of or resulting from Student Center's performance of this sublease.

10. ALTERATIONS:

Sublessee agrees to make no alterations to the Food Service Premises without the prior written approval of the Student Center. Alterations include but are not limited to:

- A. Any and all structural, electrical, gas or water modifications.
- B. Any and all alterations to fixed equipment, including but not limited to: built-in cabinets, flooring, recessed lighting.
- C. Any and all alterations to fixtures, including but not limited to: artwork, shelving, blinds, bookcases, plaques, bulletin boards.

Should Sublessee obtain written approval from Student Center to perform alterations, Sublessee shall ensure that any and all licensed contractors are covered by insurance of the types required by this Sublease, and that the amount of insurance for each contractor is appropriate for the subcontract until the insurance has been obtained.

11. CONFORMANCE WITH STATE LAW:

Sublessee shall not violate any Federal, State or local law, or rule or regulation of the Student Center, the Trustees, or of California State University, Stanislaus. In conjunction with and/or in addition to, the following shall be complied with by Sublessee:

- A. Sublessee and its employees shall not discriminate against persons on the basis of race, religion, color, ancestry, age, disability, genetic information, gender, gender identity, gender expression, marital status, medical condition, national origin, sex, sexual orientation, covered veteran status, or any other protected status.
- B. Sublessee shall obtain and keep in force all appropriate City, Health Department, County and/or State Licenses, insurance at Sublessee's own expense, required for the operation of the aforementioned business.

12. HOLDING OVER:

Should Sublessee occupy the Food Service Premises after the date of the expiration of this Sublease, such holding over shall be with a 30 days' notice on a month-to-month basis subject to the terms and conditions of this sublease.

13. ABANDONMENT:

Sublessee shall not abandon or vacate the Food Service Premises during the term of the Sublease. If Sublessee does abandon or vacate the Food Store Premises during the term of the Sublease, Student Center retains the right to re-enter and retake the Food Service Premises, and take possession of all personal property therein. If Sublessee abandons or vacates the Food Service Premises, it shall be considered a substantial breach of the Sublease.

14. COMPLIANCE WITH AGREEMENT:

Sublessee shall comply with all the terms of the Lease insofar as they are applicable to the Sublessee.

15. RESTORATION OF FOOD SERVICE PREMISES:

Upon termination or expiration of this Sublease, Student Center shall have the option to require Sublessee, at its own expense and risk, to restore the Food Service Premises in as good a condition as it was at the beginning of the term, reasonable wear and tear accepted. The Sublessee will be liable for any damages occurring to the Food Service Premises or the contents thereof or to the building which are done by Sublessee or his guests.

16. CO-EXISTENCE:

Sublessee recognizes that its use may coincide with other uses of Student Center property, and agrees that it shall organize its use and activities as to cause as little disruption as possible to such uses of the Auxiliary buildings and equipment.

17. REASONABLE CARE:

Sublessee shall exercise care in the use of Student Center facilities and shall comply with guidelines to reduce excessive wear and damage. Sublessee agrees to keep the facilities in a clean and orderly condition and to remove and properly dispose of all waste material promptly during the term of this Sublease.

Sublessee shall not place any heat/air condition-producing appliances within Food Service Premises without the prior written approval of Student Center. Heat/cool - producing appliances include, but are not limited to: space heaters, swamp coolers, etc.

Hazardous materials are strictly prohibited within the Food Service Premises. Hazardous materials include, but are not limited to: solids, liquids, or gases that are radioactive, flammable, corrosive, bio-hazardous, etc.

18. INSURANCE:

- A. Any insurance policy related to Sublessee's activities on the Food Service Premises shall be placed with insurers with a current AM Best rating of A-VII or equivalent, unless otherwise agreed upon to by Student Center. The cost of the insurance shall be borne by the Sublessee.
- B. Sublessee shall maintain in force during the term of this Sublease, Commercial General Liability Insurance of no less than two million dollars (\$2,000,000.00), four million dollars Aggregate (\$4,000,000.00) to include, but not be limited to, bodily injury, property damage, and an umbrella clause. Commercial Auto Liability Insurance of \$1,000,000.00 per occurrence. This policy or policies of liability insurance shall contain the following special endorsement:

"The State of California, the Trustees of the California State University; the California State University, Stanislaus; and their Auxiliaries, employees, volunteers, officers, directors, representatives and agents, and each of them as additional insured under the terms of this policy as to the activities of the Sublessee."
- C. Employer Liability: \$1,000,000.00
- D. Worker's Compensation: as required by California Law.
- E. Hold Harmless Provision: Sublessee shall hold harmless the Student Center, the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this sublease and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising out of or resulting from Sublessee's performance of this sublease.

- F. This insurance policy shall not be canceled without thirty (30) days prior written notice to Student Center.
- G. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of Sublessee to furnish insurance during the term of this Sublease. A complete and signed certificate of insurance shall be submitted 5 business days prior to the expiration of any such policy, a signed certificate of insurance (COI) listing "the Trustees of California State University on behalf of California State University, Stanislaus and additional insured endorsement listing "The State of California, the Board of Trustees of the California State University, the California State University, Stanislaus; and their Auxiliaries, employees, volunteers, officers, directors, representative and agents showing that such insurance coverage has been renewed or extended shall be filed with the Student Center.
- H. Sublessee shall provide evidence of insurance and required endorsement to the Student Center concurrently with the execution of this Sublease.
- I. Sublessee shall ensure that any and all licensed contractors are covered by commercial insurance of the types required by this Sublease, and that the amount of insurance for each contractor is appropriate for the contractor's work. Sublessee shall not allow any contractor to commence work on its contract until the insurance has been obtained.
- J. Sublessee hereby grants to the Student Center a waiver of any right of subrogation which any insurer of said Sublessee may acquire against the Campus or Student Center by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the Campus or Student Center has received a waiver of subrogation endorsement from the insurer.
- K. The Student Center reserves the right to modify these requirements at any time, including limits, based on the nature of risk, prior experience, insurer, coverage, or other special circumstances.

19. STUDENT CENTER PHILOSOPHY:

The philosophy of the Student Center is that student services and all commercial operations housed in the facility are to be student oriented, maximizing student services and minimizing the student financial burden for the Student Center operations. In carrying out this philosophy, Sublessee's operations should:

- A. Provide student-oriented services/products so that the student population will be served.
- B. Maintain a pricing structure for Sublessee's goods and/or services, which is

compatible with the philosophy of a university environment and competitive with the surrounding community.

- C. Utilize student employees to the maximum extent possible in all operations, thereby providing students with opportunities for employment and/or career training. The Student Center shall from time to time conduct reviews of Sublessee's operation in terms type and quality of services offered.

Follow-up comments that may arise from the review will be forwarded to the Sublessee and corrective action, if necessary, shall be taken in a timely manner.

20. CHANGES IN OPERATING CONDITIONS:

Sublessee agrees to provide Student Center, in writing, services offered, operating hours, or other conditions affecting service to the public in sufficient time to allow for review and response to the proposed change.

21. DESTRUCTION:

If the Food Service Premises are rendered unusable by fire or other casualty, or by reason of strikes, civil disorder, terrorism, war, acts of God, or any reason beyond the control of the Student Center, Student Center shall have the right to terminate this Sublease immediately by giving notice to Sublessee. The Student Center shall not be liable for any loss or damage suffered by Sublessee if this Sublease is terminated pursuant to this provision.

If such casualty shall render less than the entire floor space unusable and does not constitute total destruction, the Student Center shall forthwith give notice to Sublessee of an estimate of the number of days required to repair the same. If the Student Center under such circumstances shall not give such notice within fifteen (15) calendar days after such destruction, or if such notice shall specify that such repairs will require more than ninety (90) days to complete from the date such notice is given, Sublessee, in either such event, at its option, may terminate this Sublease within thirty (30) days of the occurrence of the casualty by providing Student Center with written notice in accordance with the terms of this Sublease.

In the event of any such destruction other than total, where Sublessee has not terminated the Sublease as herein provided, Student Center shall diligently execute the repair of the Food Service Premises and, in any event, if such repairs are not completed within the greater of the period of time estimated, or within ninety (90) days of the occurrence of the casualty, Sublessee shall have the option to terminate this Sublease upon fifteen (15) days written notice to Student Center.

If Sublessee remains in possession of the Food Service Premises though partially destroyed, the rent for such Food Service Premises as herein provided, during

restoration, shall be reduced by the same ratio as the usable square feet Sublessee is thus precluded from occupying bears to the total usable square feet in the Food Service Premises. "Usable square feet" shall mean actual inside dimensions and shall not include public corridors, stairwells, elevators, and restrooms.

22. TERMINATION:

This Sublease may be terminated upon any of the following occurrences:

- A. By either party upon giving sixty (60) days written notice to the other party.
- B. Upon breach of any substantial provision of this Sublease.
- C. Upon termination of the Agreement and Lease by the Student Center for administrative necessity or for any other reason which gives the Student Center the right to terminate the Agreement and Lease under the terms of that document.

Upon termination of the Sublease, Sublessee shall have ten (10) days to remove any personal property in the Food Service Premises, Sublessee obtains written authorization from Student Center for additional time to remove personal property. If Sublessee fails to remove personal property within ten (10) days, Student Center shall have the right change the locks to the Food Service Premises, and to re-enter and take possession of any personal property.

If Student Center re-enters the Food Service Premises and takes possession of any personal property ("Recovered Property"), Sublessee authorizes Student Center at its discretion, (1) to store the Recovered Property at Sublessee's expense; and/or (2) to sell the Recovered Property or any portion thereof, and apply any proceeds from such sales towards unpaid rent or other money owed by Sublessee for damage to the Food Service Premises. If the Student Center sells any of the Recovered Property, Student Center shall, within a reasonable time following a written request by Sublessee, return to Sublessee any proceeds exceeding the cost of storage of the Recovered Property and monies owed by Sublessee to Student Center, and shall return any Recovered Property that has not been sold. Student Center also shall provide Sublessee with an accounting of any transactions related to the Recovered Property within a reasonable time following a written request for such information by Sublessee.

Sublessee agrees to indemnify, hold harmless, and at the Student Center's discretion shall defend the Released Parties against any damage to, or loss related to or in consequence of Student Center's re-entry into the Food Service Premises and/or its possession, storage, use, and/or sale of the Recovered Property.

23. ATTORNEYS' FEES:

In the event that Student Center or Sublessee bring suit against the other to enforce any rights under this Sublease, the prevailing party shall recover from the other, in addition to any other award, an amount equal to reasonable attorneys' fees incurred in prosecuting and/or defending the action, to be fixed by the court.

24. ENTIRE AGREEMENT; WAIVER:

This Sublease constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements and no other representations or understandings of the parties shall be binding unless executed in writing by all of the parties. No waiver of any of the provisions of this Sublease shall be deemed, or shall constitute, a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. This Agreement may not be amended, changed, modified, or altered except by an instrument in writing executed by the Parties.

25. SEVERABILITY:

In the event that any one or more of the provisions contained in this Sublease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such provision(s) shall be deemed severed, and this Sublease shall be construed as if such invalid, or illegal, or unenforceable provision never was made part of this Sublease.

26. APPLICABLE LAW:

This Sublease shall be governed by the laws of the State of California.

27. AUDIT

CSU policy requires an internal compliance/internal control review of auxiliary organization be performed by the CSU university auditor.

28. NOTICES AND CORRESPONDENCE:

All notices and correspondence 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 as follows:

If directed to STUDENT CENTER:

University Student Center
California State University, Stanislaus
Cesar Rumayor
Executive Director
One University Circle,
Turlock CA 95382

If directed to SUBLESSEE:

Auxiliary and Business Services
California State University, Stanislaus
Michael Wojciechowski
Executive Director – ABS Operations
One University Circle
Turlock, CA 95382

29. AUTHORITY:

Each individual executing this Sublease represents and warrants for the benefit of the other that he or she is duly authorized to execute and deliver this Sublease, the consent of a third party is not required to render this Sublease effective, and this Sublease is binding upon such respective party in accordance with its terms.

IN WITNESS HEREOF, the parties hereto execute this agreement on the above date:

SUBLESSEE:

By: *Michael Wojciechowski*
Michael Wojciechowski, Executive Director – ABS Operations

Date: Dec 14, 2020

UNIVERSITY STUDENT CENTER:

By: *Cesar Rumayor*
Cesar Rumayor (Dec 16, 2020 10:40 PST)
Cesar Rumayor, Executive Director

Date: Dec 16, 2020

UNIVERSITY APPROVAL:

By: *Christene James*
Christene James, Vice President for Business & Finance and CFO

Date: Dec 16, 2020