



**Dr. Matthew J. Ceppi**  
*Designated Member*  
*President's Designee*  
AVP for Institutional Planning &  
Analysis and Chief of Staff,  
Office of  
President Karen S. Haynes

**David Chang**  
*Community Member*  
Hampton Inn San Diego,  
San Marcos

**Dr. Chuck De Leone**  
Professor, Physics

**Dr. Regina Eisenbach**  
Dean, Academic Programs

**Neal Hoss**  
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Vice President for  
Finance & Administrative  
Services

**Brandon Losey**  
*Alumni Member*  
Dabelgott Agency  
Insurance & Financial Services

**Collin Bogie**  
*Student Member*  
President, Associated Students,  
Inc.

**DawnMarie Myers**  
*Student Member*

**Dr. Graham Oberem**  
*Designated Member*  
Provost

**Jason Schreiber**  
Director, Student Life &  
Leadership

**Dr. Sharon Whitehurst-Payne**  
*Community Member*

**Special Meeting of the Board of Directors**  
**Tuesday, June 6, 2017 @ 12:00 p.m via Teleconference**  
**Call-in # 415 762-9988 Meeting ID# 773 031 1032**

**AGENDA**

- I. **Action Item (Ceppi)**
  - A. Adopt UARSC Agreement of Merger Resolution (**Attachment A**)
- II. **Adjournment of Meeting (Ceppi)**

# **ATTACHMENT A**

UARSC Agreement of Merger Resolution

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
UNIVERSITY AUXILIARY AND RESEARCH SERVICES CORPORATION  
APPROVING AGREEMENT OF MERGER WITH THE  
SAN MARCOS UNIVERSITY CORPORATION  
AND AUTHORIZING EXECUTION OF AGREEMENT**

WHEREAS, the San Marcos University Corporation (SMCOR), an auxiliary organization in good standing, is a separate nonprofit, public benefit corporation chartered under the California Nonprofit Corporation Law; and

WHEREAS, the SMCOR provides certain authorized auxiliary functions in exclusive support of the educational mission of the California State University San Marcos (University); and

WHEREAS, the University is also supported by other auxiliary organizations performing support services authorized by Trustees' regulations and agreements, including this corporation, the University Auxiliary and Research Services Corporation (UARSC), an auxiliary organization in good standing and a separate nonprofit public benefit corporation; and

WHEREAS, the University seeks to realign its auxiliary support organizations to provide more effective services to students, faculty, staff and supporters; and

WHEREAS, the University President has expressed her desire to merge SMCOR into UARSC (as Surviving Corporation) in order to consolidate related auxiliary functions into a single auxiliary entity, and the Chancellor has concurred in such action;

WHEREAS, the Attorney General has been given prior advance written notice of the intended merger as required by law;

WHEREAS, an Agreement for Merger has been prepared to the approval of the University President and with the approval of the Surviving Corporation;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE *UNIVERSITY AUXILIARY AND RESEARCH SERVICES CORPORATION* RESOLVE AS FOLLOWS:

1. Approves the Agreement of Merger in substantially the form set forth in EXHIBIT 'A' hereto and incorporated herein by reference, and
2. The Chairman of the Board and the Secretary are authorized and directed to execute said Agreement of Merger.

Duly adopted by the Board of Directors on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Graham Oberem, Secretary

## AGREEMENT OF MERGER

THIS AGREEMENT OF MERGER (Agreement) is between the UNIVERSITY AUXILIARY AND RESEARCH SERVICES CORPORATION, (Surviving Corporation), and the SAN MARCOS UNIVERSITY CORPORATION (Disappearing Corporation).

### Explanatory Statements

- A. The San Marcos University Corporation (SMCOR), an auxiliary organization in good standing, is a separate nonprofit, public benefit corporation chartered under the California Nonprofit Corporation Law, providing authorized support functions in exclusive support of the California State University San Marcos (University).
- B. The University is also supported by other auxiliary organizations performing support services authorized by Trustees regulations and agreements, including the University Auxiliary and Research Services Corporation (UARSC), an auxiliary organization in good standing, and separate nonprofit, public benefit corporation chartered under the California Nonprofit Corporation Law.
- C. The University intends to realign present auxiliary support functions to provide more effective services to students, faculty, staff and supporters.
- D. The University President has expressed her desire to **merge** SMCOR (as the Disappearing Corporation) into UARSC (as the Surviving Corporation) in order to consolidate related auxiliary functions into one auxiliary entity, and **transfer** other SMCOR functions and equipment to the University -- thereby gaining economies of scale, simplification of administration and the elimination of duplication.
- E. The Surviving Corporation then wishes to restate its Articles of Incorporation, including changing its corporate name to California State University San Marcos Corporation.

THEREFORE, the parties (constituent corporations and the University) to this Agreement, with concurrence by the University President, have agreed to the following Terms and Conditions:

### Terms and Conditions

1. Parties' intent. The parties intend by this Agreement to set forth the basis for a merger and transfer, subject to approvals as required by law and regulations, and by the articles of incorporation and bylaws of the parties.
2. Surviving Corporation. The Surviving Corporation, *University Auxiliary and Research Services Corporation*, is a California nonprofit public benefit corporation without members (C1662131).
3. Disappearing Corporation. The Disappearing Corporation, *San Marcos University Corporation*, is a California nonprofit public benefit corporation without members (C2346897).
4. Effective Date. When all applicable laws have been complied with and all necessary authorizations, approvals, or concurrences have been received, a copy of this Agreement, together with an officer's certificate of each constituent corporation, shall be submitted by Surviving Corporation to the California Secretary of State for filing. This merger shall become effective on July 1, 2017 (Effective Date). The specific date(s) on which the merged assets, including facilities, and liabilities are transferred under this Agreement may vary at the mutual convenience of the parties and with University concurrence.
5. Approvals and Consents. This merger and transfers are subject to receipt of the written approval of any person or persons required by law or by the articles of incorporation or bylaws of each of the constituent corporations, or needed to gain or maintain Surviving Corporation tax-exempt status or good standing as an auxiliary organization or charitable organization. If such approval or approvals, or consent are not obtained, this Agreement is to be terminated, as provided in Section 11.

6. Statement of Merger and Transfers. It is agreed by the parties that on or before the Effective Date, as determined under Section 4 of this Agreement, Disappearing Corporation shall a) terminate lease agreement(s) for the Student Union, Clark Field House and Fields managed by Disappearing Corporation, and transfer to the University specified programs and minor capital equipment/supplies and the management of that facility and said programs to the approval of both the SMCOR governing board and an authorized University representative; and then b) merge into the Surviving Corporation. The corporate existence of Surviving Corporation shall continue, and the separate corporate existence of Disappearing Corporation shall cease. The corporate identity, existence, purposes, powers, rights, and immunities of Disappearing Corporation shall be merged into and vested in the Surviving Corporation and, except as otherwise provided in this Agreement, the corporate identity, existence, name, purposes, powers, rights, and immunities of Surviving Corporation shall continue unaffected and unimpaired by the merger.

Surviving Corporation shall be subject to all Disappearing Corporation's debts, liabilities, and trust obligations in the same manner as if Surviving Corporation had itself incurred them, and all rights of creditors and all liens, debt instruments and trust obligations on or arising from the property of each constituent corporation shall be preserved unimpaired, as long as such liens, instruments and trust obligations on the property of Disappearing Corporation, if any, shall be limited to the property affected by such liens, instruments and obligations immediately before the Effective Date.

7. Articles and Bylaws. Surviving Corporation's articles of incorporation are restated and amended, including corporate name change, as of the Effective Date to read as set forth in EXHIBIT 'A' attached hereto and incorporated herein by reference.

Surviving Corporation's bylaws revised as a result of the merger under this Agreement shall be amended as of the Effective Date to read in substantial form as set forth in EXHIBIT 'B' attached hereto and incorporated herein by reference.

8. Directors and Officers. Surviving Corporation's directors and officers from and after the Effective Date until changed in accordance with law and Surviving Corporation's bylaws are listed in EXHIBIT 'C.'

9. Non-membership Constituent Corporations. Each of the constituent corporations under this Agreement represent that their respective articles of incorporation provide that the only corporation members are the board of directors.

10. Activities Prohibited During Merger. Between the date of this Agreement and the Effective Date or date of termination, neither Surviving Corporation or Disappearing Corporation shall, without the prior written consent of the other and with concurrence of the University, engage in any activity or transaction other than in the ordinary course of its affairs, except as contemplated by this Agreement.

11. Termination of Abandonment. This Agreement may be terminated and the merger abandoned at any time before the Effective Date (a) by the mutual consent of the respective boards of directors of Disappearing Corporation and Surviving Corporation; or (b) if in the opinion of the board of directors of Disappearing Corporation or Surviving Corporation, and with University concurrence, evidenced by written objections filed by the respective boards and the University, with the parties to this Agreement, the merger is impractical or undesirable because of relevant facts or circumstances occurring at the time. If termination occurs as provided in the Section, neither Disappearing Corporation nor Surviving Corporation or their respective boards of directors shall be liable to the other or its board of directors.

12. Amendments to Agreement. This Agreement may be amended by the boards of directors of the constituent corporations with University concurrence, except that any amendment that would change any principal term of this Agreement must be approved or consented to in the same manner as the original agreement.

13. Governing Law. This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by California law.

14. Entire Agreement. This Agreement constitutes the entire understandings of the parties, superseding any prior written or oral agreements between them on the same subject.

15. Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all of them together shall constitute only one agreement.

16. Further Assurances. On request by Surviving Corporation, Disappearing Corporation shall from time to time execute and deliver any documents and instruments and take any actions desirable or necessary to vest in Surviving Corporation the title to and possession of all rights, properties, assets, trusts, and business of Disappearing Corporation or otherwise to carry out the full intent and purpose of this Agreement.

17. Authorization to Execute Merger-related Instruments. Upon the full execution of this Agreement, any two officers of their respective constituent corporation shall be authorized to execute, on behalf of their corporation, any documents required to carry out the merger, consistent with the terms and conditions of this Agreement.



IN WITNESS WHEREOF, the parties to this Agreement, with University concurrence, have executed this Agreement on May 18, 2017.

**UNIVERSITY AUXILIARY AND RESEARCH SERVICES CORPORATION**

By:   
Name: Matthew Ceppi  
Its: Chair

By:   
Name: Graham Oberem  
Its: Secretary


**SAN MARCOS UNIVERSITY CORPORATION**

By:   
Name: Chris Morales  
Its: Chair

By:   
Name: Justin Lewis  
Its: Secretary

**Concurrence:**

**CALIFORNIA STATE UNIVERSITY SAN MARCOS**

By:   
Name: Neal Hoss  
Its: Vice President, Finance and Administrative Services