

Auxiliary Services, Inc?

Why You Should Consider Incorporating Your Auxiliary Services Operation

by

William Dickerson

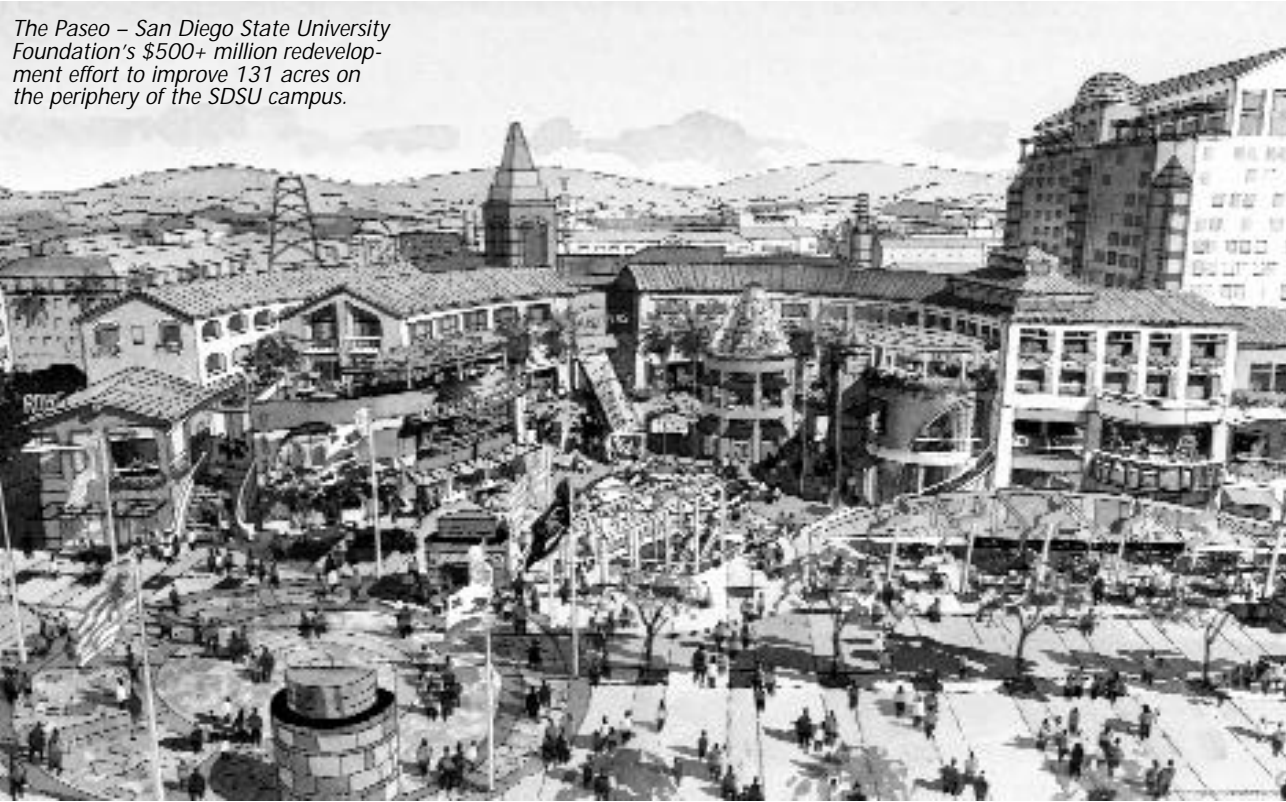
One Southern California University is planning a \$500+ million dollar Redevelopment Project. A neighboring campus some 90 miles to the north just completed a \$16 million dollar for sale Faculty Housing Development, spent another \$29 million to acquire a 200,000 sq. ft. office complex – and is planning to spend another \$50 million to develop Graduate/International Student Housing, Faculty Rental Housing and a multi-use parking structure on the six acres of undeveloped land included in the purchase.

What do these two universities have in common? Quite simply, each of these forward-thinking campuses is developing these highly-creative endeavors through the auspices of a nonprofit 501c3 Auxiliary Organization.

Yes, in case you haven't already guessed, both campuses are part of the 23 campus California State University (CSU) System that has been utilizing nonprofit corporations to oversee Auxiliary Operations for more than 70 years – and from the looks of things, there's no end in sight.

In fact, more than a dozen recognized 501c3 auxiliary corporations (bringing the total to 89 such corporations throughout the 23 campus System) have been created on CSU campuses in recent years in support of the education-

The Paseo – San Diego State University Foundation's \$500+ million redevelopment effort to improve 131 acres on the periphery of the SDSU campus.



al missions of their respective campuses. So as the demands of unprecedented enrollment growth continue to stagger the imagination – CSU campuses are once again turning to their auxiliary organizations to help meet that challenge. Let's examine why colleges and universities around the country are beginning to take a closer look at the CSU, the State University of New York (SUNY) and other selected campuses that have come to realize the benefits of utilizing 501c3 corporations to better serve their college or university.

Shield against Liability

As is obvious from the examples cited in the opening paragraph, a certain amount of risk tends to accompany almost any entrepreneurial project. And although the adage – Even the turtle fails to make progress – unless he sticks his neck out is almost a mantra for many of us in Auxiliaries, the fact remains that accomplishing anything of substance, often means assuming a certain degree of risk. Therefore, why not shore up your defenses by centralizing this risk under a separate umbrella – and placing it at least one small step away from the campus itself?

Creation of a 501c3 corporation doesn't remove campus risk altogether, but it does provide an effective line of protection that is often called upon to defend and hold harmless the campus proper – along with the University System and the State as well. Consolidation of risk under an auxiliary corporation also tends to maximize the effectiveness of Insurance Premiums – for campuses often have difficulty explaining the occasional risky activities in which they become involved. In contrast, the 501c3 tends to be a gathering place for such risky ventures – thus making it easier to obtain appropriate insurance coverage.

And regardless of whether a threatened legal action ever develops into a full-blown lawsuit – universities know well that the cost of defense against such actions can be staggering. Once again, through a concentration of risk within the 501c3 corporation, such costs can often be picked up (or at least shared) by the corporation's insurance carrier.

Fiscal Flexibility

Beginning with the simplest of purchasing guidelines. State (or System) purchasing guidelines usually do not govern nonprofit corporations. The same goes for



Overhead layout of The Paseo – San Diego State University

spending restrictions (*aka freeze*). In other words, public bidding requirements which often govern how a campus might spend its money, frequently do not extend to affiliated nonprofit corporations.

And although the accumulation of reserves may be encouraged in nonprofit organizations, campuses tend to function much more on a year to year basis – thereby promulgating a spend it or lose it philosophy among campus employees. 501c3 corporations, on the other hand, are usually required to be self-funded – which, in effect, leads to fiscal operations that are run on more of a business-like basis.

In addition to providing the necessary funds for major acquisitions, the combination of business-like practices and the accumulation of reserves also brings with it a related benefit – added debt capacity. Once again, colleges and universities – especially those in the public domain – cannot easily borrow money. However, a 501c3 corporation with established cash flows and a proven record of profitability usually has little difficulty in borrowing funds for a needy cause.

Hiring/Firing Flexibility

And for a number of reasons.

- Processes (timing) – what campus hasn't experienced difficulties when it comes to hiring? It always seems to take 2-3 times as long as it should to complete a successful job search. And though most campuses do provide a means of making emergency hires, quite often they are subjected to limited periods of employment that can often complicate matters. 501c3 cor-

porations provide an alternative means of hiring that addresses both concerns.

- Job Descriptions – ever want to combine the elements of 2-3 job descriptions into one – attach a reasonable salary – and go about filling the position – either from within or outside? For most campuses, this proves to be nearly impossible – but with a 501c3 corporation, it's a proverbial piece of cake.
- Wages – an effective means of recognizing both responsibilities and performance – but with significant limitations that disappear with 501c3 corporations. You determine the wage that is most appropriate for a position instead of the HR office using some standards that may or may not really apply. And how do you reward truly outstanding performance with a salary pool that is often less than 3 percent? Or what about providing a salary supplement to an athletic coach who performs extra duties outside the normal job description? A 501c3 corporation provides a means of accomplishing just that with a minimum of difficulty.
- Hiring Freeze – imposed due to budgetary cut-backs – would not automatically apply to a 501c3 corporation.
- Collective Bargaining – very rarely covers employees of 501c3 corporations. And though avoidance of collective bargaining would never suffice as sufficient reason to create such a corporation, its absence does provide a more flexible work environment in which to function.

Institutional Control

Through board appointment of corporation directors, a relatively high degree of control can be achieved. And though an arms length relationship between the campus and the corporation is necessary in order to satisfy the IRS – that, in and of itself, does not lead to an untenable situation in which the corporation is apt to run afoul of the institution. Remember, the very purpose of each such corporation is to further the educational mission of the campus which they serve – so any failure to act accordingly can easily lead to the organization's demise.

Involving community expertise is another great benefit provided by the boards of directors of these 501c3

corporations. Prominent members of the local community serving on the nonprofit's board brings real-world expertise to the campus where their knowledge and experience can help oversee campus auxiliary operations. CEOs and CFOs of private corporations (both active and retired) can provide invaluable assistance in any number of ways – especially when it comes to providing a business-like view of campus operations. And in most cases, they come to truly enjoy being able to contribute their expertise to the campus.

Learn More

For one or more of the preceding reasons, you decide that perhaps a 501c3 corporation might be a good addition to your campus, where do you begin? A good place to start is with your campus attorney – for the process of creating a recognized nonprofit corporation is not quite as simple as it may seem.

First of all, there are numerous different types of nonprofit corporations – each of which offers differing types of benefits (and constraints) to the enabling entity. Therefore it's critical that you make the right choices at the time of incorporation in order to make life easier down the road.

And if you or your attorney are looking for some sound advice as to what to include and what to avoid – consider contacting John Francis at the address below. Most of us in Auxiliary Services are quite familiar with John. As the Association's attorney for many years, John has been a frequent presenter at national and regional conferences.

But perhaps unknown to many, John also has the distinction of having created hundreds of nonprofit corporations over the years – many for colleges and universities. As such, he is arguably the country's leading expert in the area of Higher Education Nonprofit Organizations. He can be reached at the Nonprofit Advisory Group, 2600 Nutwood Avenue, Suite 260, Fullerton, CA, 92831-3106. Phone 714-278-5825 or by email at jwfrancis46@msn.com.

Nonprofit corporations are a proven entity when it comes to increasing the effectiveness of auxiliary operations.

What are you waiting for? ♦



College Park – Cal State Fullerton Foundation's vision for a \$50 million dollar mixed-use project on six acres – consisting of a 1,200 space parking structure, surrounded by 150 rental apartments for faculty and staff, 450 beds for international and graduate students, and 20,000 square feet of retail/commercial space.



Bill Dickerson is Executive Director of the Cal State Fullerton Foundation, Fullerton, CA. In that capacity, he serves as the CEO of a nonprofit organization of 600+ employees that generates annual Auxiliary Services revenues in excess of \$40 million dollars. He currently serves as President of NACAS West, and throughout his bi-coastal career (NY to CA by way of NJ) has served in several regional and national leadership positions for NACAS, ACU-I, NACA and AOA. Bill can be reached at: bdickerson@fullerton.edu