

**Council Resolution 10: Decertification of the  
Che Cafe Collective**



**WHEREAS**, on May 1, 2006, GSAUCSD entered into a Master Space Agreement (MSA) with UCSD Food Cooperative, Che Cafe Collective, Groundworks Books, UCSD General Store, the Regents of the University of California on behalf of the University of California, San Diego, and Associated Students (AS); and,

**WHEREAS**, when GSAUCSD passed Council Resolution 9, on May 19<sup>th</sup>, 2014 decertifying the Che Café Collective, at that time the Che Café Collective had not been given formal advance notice of the Council’s intention to perform its responsibility under the MSA to determine whether the Che Café Collective continues to act in the best interest of students as required by the MSA; and,

**WHEREAS**, the GSAUCSD Council has a responsibility under the MSA to determine whether the Che Café Collective is “acting in the best interest of UCSD students”; and,

**WHEREAS**, student fees have been and continue to be used to subsidize rent, utilities, and maintenance for the Che Café as approved by the University Center Advisor Board (UCAB); and,

**WHEREAS**, in the recent 2012 University Centers Student Usage and Priority Survey, 80% of graduate students rated the Che Café as a low to very low priority as did 78% of undergraduates; and,

**WHEREAS**, the UCSD Fire Marshal has strongly recommended the Che Café facility have a sprinkler system and fire alarm system under section 903 of the California Building Code (CBC) during his August 20<sup>th</sup>, 2012 inspection<sup>1,2</sup> in accordance with Title 19 of the California Code and Regulations; and

**WHEREAS**, a recent ISES Corporation<sup>3</sup> facilities report indicates that the Che Café needs \$722,471 in repairs in the 2014-2015 academic year, which would be paid from student fees; and,

**WHEREAS**, University Centers spent \$43,210 this year on unexpected maintenance on the Che Café facility<sup>4</sup>; and,

**WHEREAS**, University Centers is projected to have a \$1,285,955 deficit in 2014-15 annual budget<sup>5</sup> if it were to repair the Che Café facility; and

**WHEREAS**, University Centers is projected to have \$3,078,283 in reserves at the end of 2013-14, which is considered too low for an annual operating expense of \$11,052,456, and a deferred maintenance<sup>6</sup> for repair and replacement of facilities at over \$10,000,000; and,

**WHEREAS** GSAUCSD passed a resolution decertifying all co-ops on December, 10th, 2012; and,

**WHEREAS**, Certification from AS and GSA has not been obtained in the last two academic years; and,

**WHEREAS**, the MSA between the UCSD Retail Cooperatives and the University states in section 1.4, the AS and GSA are responsible for determining whether the Co-Ops are acting in the best interest of students and the act of decertification of a particular Co-Op shall result in termination of its Master Space Agreement,

**WHEREAS**, those criteria for acting in the best interest of students include determining “whether the financial practices of each Co-Op are sound, based on financial and CPA reports, including long-term budgeting for the maintenance, repair, and replacement of equipment (MSA 1.4.b.i) and “whether each Co-Op is financially solvent” (MSA 1.4.b.iv); and,

**WHEREAS**, the Che Café MSA can be extended beyond the original terms “provided that it has obtained the written certification of both the AS and the GSA, as provided in Sections 1.4(b) and (c) above, within ninety (90) days prior to the end of a Term or any Extension Term as to each Co-Op (MSA 2.2); and,

**WHEREAS**, the MSA states that “no later than January 15 of each year following the Space Agreement Commencement Date and throughout its Term and any Extension Term(s), each Co-Op shall furnish the University with financial statements, prepared by an independent, certified public accountant and certified by officers of each Co-Op as being true, complete and correct, including, but not limited to, annual statement of gross sales, balance sheets, profit and loss statements, income

statements and changes to financial condition, which reflect current financial conditions of each Co-Op” (MSA 3.3); and,

**WHEREAS**, the MSA states that “the Co-Ops shall comply with applicable laws and the University’s policies in all respects, including, but not limited to, (i) acquisition of and compliance with all permits, licenses, orders, requirements, approvals, plans and authorizations which are or may become necessary for conduct of the Co-Ops’ operations in their respective Premises” (MSA 6.4b); and;

**WHEREAS**, the MSA states that “The rights of each Coop under this Space Agreement shall be subject to the fulfillment of... the following condition... that such Co-Op maintains its tax exempt status under section 501(c) of the Federal Internal Revenue Code and section 23701d of the California Revenue and Taxation Code and provides the University with evidence of such compliance by submitting annually a copy of Form RRF-1, as filed with the California State Attorney General within thirty (30) days after its filing” (MSA 1.3b); and,

**WHEREAS**, Che Café rent, apart from being subsidized with student fees, is significantly lower than market or near market rate and was set at \$84 / month; and,

**WHEREAS**, The Che Café Collective currently owes over \$6,500 dollars in back rent and utilities as of May 2014; and,

**WHEREAS**, the GSAUCSD has determined that:

- the Che Cafe financial practices are not sound (MSA 1.4.b.i); nor is the Che Cafe financially solvent (MSA 1.4.b.ii);
- the Che Cafe has not received written certification of both the AS and the GSA within 90 days since the last term of the MSA expired, which is a precondition for extension of the agreement (MSA 2.2);
- the University has not received any financial statements from the Che Cafe, which is a condition of the space agreement (MSA 3.3)
- the Che Cafe has not complied with applicable laws and University policies which is required under the MSA section 6.4b
- the Che Cafe has not maintained its tax exempt status under section 501(c) of the Federal Internal Revenue Code nor has it provided the University with

evidence of such compliance as required under the space agreement (MSA 1.3.b);

**BE IT RESOLVED**, That GSAUCSD hereby determines and declares that, based partially on the areas enumerated above, the Che Café Collective is not acting in the best interests of UCSD students, and therefore, the GSAUCSD formally decertifies the Che Café Collective and requests the University to terminate the Master Space Agreement with the Che Café Collective and its use of the Che Café Facility by the end of the fiscal year, June 30, 2014; and

**BE IT RESOLVED**, That GSAUCSD calls on the Che Café Collective to continue its activities as a Registered Student Organization at UC San Diego with oversight from a university provided fund manager; and

**BE IT RESOLVED**, That GSAUCSD calls on the Che Café Collective to accept temporary relocation of their facility to the Student Center with ability to program at the Stage Room at Porter's Pub, the Loft, and/or any other University Centers locations normally available to Registered Student Organizations; and

**BE IT RESOLVED**, That GSAUCSD calls on the University to find a suitable place for relocation of the murals from the Che Facility to the Student Center should the Che Café Collective wish them to be relocated, provided that they can be relocated at a reasonable cost.

**BE IT FINALLY RESOLVED**, That GSAUCSD encourages the 2014-2015 council to revisit certification during spring of 2015.

1. Che Facility Safety Inspection  
<http://universitycenters.ucsd.edu/documents/Che%20Cafe%20Safety%20Inspection.pdf>
2. Che Facility Report  
(<http://universitycenters.ucsd.edu/documents/Che%20Facility%20Overview.pdf>)
3. Che Facility ISES Summary  
(<http://universitycenters.ucsd.edu/documents/Che%20Facility%20ISES%20Executive%20Summary.pdf>)
4. Che Planning Worksheet  
[http://universitycenters.ucsd.edu/documents/Che%20Facility%20Audit\\_UCEN%20Review\\_Planning%20Worksheet.pdf](http://universitycenters.ucsd.edu/documents/Che%20Facility%20Audit_UCEN%20Review_Planning%20Worksheet.pdf)

5. UCEN 2014-2015 Budget  
<http://universitycenters.ucsd.edu/documents/DRAFT%202014-15%20UCEN%20Budget%20dsc%20with%20che%20renovations%204%2025.pdf>
6. Deferred Maintenance  
<http://universitycenters.ucsd.edu/documents/DeferredMaintananceFY14-15.pdf>

**Voted & Passed in GSA Council Meeting 15: 06/02/2014 (Y/N/A - 24/2/3)**  
**Certified: Rahul S. Kapadia, 06/04/2014**