

**Agendum
Oakland University
Board of Trustees Formal Session
February 5, 2018**

POURING RIGHTS AGREEMENT - EXTENSION

A Recommendation

1. **Division and Department:** Finance and Administration and Student Affairs
2. **Introduction:** As a result of a 1999 Request for Proposals (RFP), Oakland University (University) entered into a ten-year Pouring Rights Agreement (Agreement) with Pepsi Bottling Group (Pepsi) in which Pepsi was contracted to be the University's exclusive beverage supplier through 2009. As a result of a 2009 RFP, the Agreement with Pepsi was renegotiated and extends into 2020.

Based on the results of the two prior RFP processes, an analysis of peer institution pouring rights agreements, a successful long-term relationship, and a mutual interest to extend the Agreement between the University and Pepsi, discussions were initiated, at the direction of the President, to consider potential terms for a further extension of the Agreement. The President understood that, if a proposal was received from Pepsi that was acceptable to the Administration, the Administration would need to request that the Board of Trustees (Board) waive its Competitive Bidding Purchasing Policy.

Pepsi proposed an extension through 2031 including increased sponsorship payments and complimentary product. The University confirmed its interest in the proposed sponsorship and product increases but countered with a desire for a growth funding model whereby sponsorships and complimentary product would grow based on increases in vending sales volume. Pepsi has agreed to the University's proposed growth funding model.

Pepsi has committed to providing a wide array of Pepsi products, high technology vending machines, regular product inventory management, product pricing guarantees, annual on-site meetings to evaluate service, and certain complimentary products for special events.

See Attachment A for a Pouring Rights Agreement Financial Support Summary.

For comparison purposes, of the Michigan and Horizon League universities which have pouring rights agreements, 18 in total, 15 have agreements with Pepsi and three have agreements with Coke. The average proposed annual net proceeds (excluding complimentary product) over the life of the extension is estimated to be \$324,428, compared to, for example:

- \$155,000 - University of Wisconsin – Green Bay (through 2022)
 - Enrollment – 6,800
- \$280,000 - Eastern Michigan University (through 2025)
 - Enrollment – 21,600
- \$294,286 - Western Michigan University (through 2021)
 - Enrollment – 23,900
- \$324,428 – Oakland University (through 2019)
 - Enrollment – 19,300

**Pouring Rights Agreement - Extension
Oakland University
Board of Trustees Formal Session
February 5, 2018
Page 2**

- \$333,307 - University of Illinois – Chicago (through 2019)
 - Enrollment – 29,100
- \$337,500 - Grand Valley State University (through 2024)
 - Enrollment – 25,300
- \$350,000 - Wayne State University (through 2022)
 - Enrollment – 27,200

None of the comparable universities have a growth funding model in their agreements.

3. **Previous Board Action:** On September 9, 1999 the Board approved a ten-year Pouring Rights Agreement with Pepsi for the right to be the University's exclusive beverage supplier, through December 31, 2009. On November 9, 2009, the Board approved a ten-year extension to the Agreement, through February 28, 2020.

4. **Budget Implications:** The estimated sponsorship and product support to the University over the Agreement extension period totals \$5,311,992 and will provide support for the University in several areas including student activities, intercollegiate athletics, and general University support.

5. **Educational Implications:** A portion of the financial support may fund educational programs that compliment classroom learning and enrich campus life, such as lectures and cultural events.

6. **Personnel Implications:** None.

7. **University Reviews/Approvals:** This recommendation was formulated by the Vice President for Finance and Administration and Vice President for Student Affairs, and has been reviewed by the President.

8. **Recommendation:**

WHEREAS, the Pepsi Bottling Group has proposed to provide Oakland University with sponsorships, vending commissions, and complimentary product as a result of being named Oakland University's exclusive beverage supplier; now, therefore, be it

RESOLVED, that the Board of Trustees hereby waives its Competitive Bidding Purchasing Policy relative to the proposed extension to the Pouring Rights Agreement with the Pepsi Bottling Group; and, be it further

RESOLVED, that the Board of Trustees authorizes the Vice President for Finance and Administration to negotiate and execute an extension to the Pouring Rights Agreement with the Pepsi Bottling Group through 2031; and, be it further

RESOLVED, that the agreement include a requirement that the Pepsi Bottling Group provide the University with a one-time up-front payment, sponsorships, vending

**Pouring Rights Agreement - Extension
Oakland University
Board of Trustees Formal Session
February 5, 2018
Page 3**


commissions, and complimentary product comparable to their proposal, as summarized in Attachment A; and, be it further

RESOLVED, that the Board of Trustees authorizes the Vice President for Finance and Administration, and his respective designees, to perform all acts and deeds and to execute and deliver all contracts, instruments and documents required by this resolution that are necessary, expedient and proper in connection with the Pouring Rights Agreement; and, be it further

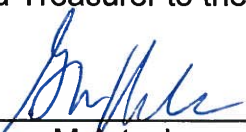
RESOLVED, that said contracts, instruments and documents shall be reviewed by and be in a form acceptable to the Vice President for Legal Affairs and General Counsel prior to execution, and be in compliance with the law and with University policies and regulations and conform to the legal standards of the Vice President for Legal Affairs and General Counsel.

9. **Attachments:**
Attachment A - Pouring Rights Agreement Financial Support Summary

Submitted to the President
on 2/2, 2018 by




John W. Beaghan
Vice President for Finance and Administration
and Treasurer to the Board of Trustees



Glenn McIntosh
Vice President for Student Affairs and
Chief Diversity Officer

Recommended on 2/2, 2018
to the Board of Trustees for approval by



Ora Hirsch Pescovitz, M.D.
President

Pouring Rights Agreement Financial Support Summary

	<u>2018</u>	<u>2019</u>	<u>2020 - 2029</u>	<u>2030</u>	<u>2031</u>	<u>Contract Total</u>
Sponsorships	\$ 206,428	\$ 216,428	\$ 226,428	\$ 236,428	\$ 246,428	\$ 3,169,992
Vending Commissions*	\$ 98,000	\$ 98,000	\$ 98,000	\$ 98,000	\$ 98,000	\$ 1,372,000
Cash Total	<u>\$ 304,428</u>	<u>\$ 314,428</u>	<u>\$ 324,428</u>	<u>\$ 334,428</u>	<u>\$ 344,428</u>	<u>\$ 4,541,992</u>
Complimentary Product Value	\$ 55,000	\$ 55,000	\$ 55,000	\$ 55,000	\$ 55,000	\$ 770,000
TOTAL CONTRACT VALUE						<u><u>\$ 5,311,992</u></u>
Proposed Average Annual Cash Support						\$ 324,428
Current Average Annual Cash Support						\$ 253,311

* Estimate