

The Regents of the University of California

COMMITTEE ON GROUNDS AND BUILDINGS

September 17, 2009

The Committee on Grounds and Buildings met on the above date at UCSF—Mission Bay Community Center, San Francisco.

Members present: Regents Johnson, Kozberg, Makarechian, Pattiz, Ruiz, Schilling, and Zettel; Ex officio members Gould, and Yudof; Advisory members Hime and Powell

In attendance: Regents Bass, Bernal, De La Peña, Garamendi, Island, Kieffer, Lansing, Marcus, Nunn Gorman, Stovitz, Varner, and Wachter, Regent-designate DeFreece and Faculty Representative Simmons, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Chief Audit and Compliance Officer Vacca, Interim Provost Pitts, Executive Vice Presidents Darling and Taylor, Interim Executive Vice President Brostrom, Senior Vice Presidents Dooley and Stobo, Vice Presidents Beckwith, Duckett, Lenz, and Sakaki, Chancellors Birgeneau, Block, Blumenthal, Desmond-Hellmann, Drake, Fox, Kang, Katehi, White, and Yang, and Recording Secretary Harms

The meeting convened at 9:25 a.m. with Committee Chair Schilling presiding.

1. **APPROVAL OF MINUTES OF PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of July 14, 2009 were approved.

2. **CONSENT AGENDA**

A. *Amendment of the Budget for Capital Improvements and the Capital Improvement Program and Approval of External and Interim Financing, Helios Energy Research Facilities and Former California Department of Health Services Demolition and Site Clearance, Berkeley Campus*

The President recommended that:

(1) The 2009-10 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

From: Berkeley: Helios Energy Research Facility – preliminary plans, working drawings, and construction – \$198,246,000 to be funded from State lease revenue bonds (\$70,000,000), external financing

(\$113,246,000), grant funds (\$10,000,000) and gift funds (\$5,000,000).

To: Berkeley: Helios Energy Research Facilities

West site project: preliminary plans, working drawings, and construction - \$143,846,000 to be funded from State lease revenue bonds (\$40,000,000), external financing (\$98,846,000) and gift funds (\$5,000,000).

East site project: preliminary plans, working drawings, and construction - \$54,400,000 to be funded from State lease revenue bonds (\$30,000,000) and gifts and grants (\$24,400,000).

- (2) The 2009-10 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

Berkeley: Former California State Department of Health Services (DHS) Demolition and Site Clearance – working drawings and construction – \$10,355,000 to be funded from external financing.

Deletions shown by ~~strikeout~~; additions by underscore

- (3) The President be authorized to obtain external financing not to exceed ~~\$113,246,000~~ \$109,201,000 to finance the *Helios Energy Research Facility* ~~Facilities~~ Facilities and Former California State Department of Health Services (DHS) Demolition and Site Clearance projects. The President requires that:

- a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period.
- b. As long as the debt is outstanding, the Berkeley campus’ share of the University Opportunity Fund and University Education Fund shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.
- c. The general credit of the Regents shall not be pledged.

- (4) The President be authorized to obtain standby financing not to exceed \$10,000,000 and interim financing not to exceed ~~\$5,000,000~~ \$19,400,000, for a total of ~~\$15,000,000~~ \$29,400,000 prior to awarding a construction contract for any gift funds not received by that time and subject to the following conditions:

- a. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period,

- b. Repayment of any debt shall be from gift funds. If the gift funds are insufficient, and some or all of the debt remains outstanding, then the Berkeley campus' share of the University Opportunity Fund shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.
- c. The general credit of the Regents shall not be pledged.

- (5) The President be authorized to execute all documents necessary in connection with the above.

B. *Adoption of Mitigated Negative Declaration and Approval of Design, Health Sciences Research Facility 2, San Diego Campus*

The President recommended that, upon review and consideration of the environmental consequences of the proposed project, the Committee:

- (1) Adopt the Initial Study/Mitigated Negative Declaration.
- (2) Adopt the Mitigation Monitoring and Reporting Program and Findings.
- (3) Approve the design of the Health Sciences Biomedical Research Facility 2.

C. *Adoption of Mitigated Negative Declaration and Approval of Design, Parking Structure III, Davis Medical Center, Davis Campus*

The President recommended that upon review and consideration of the environmental consequences of the proposed project, the Committee:

- (1) Adopt the Mitigated Negative Declaration.
- (2) Adopt the Mitigation Monitoring and Reporting Program and Findings.
- (3) Approve the design of the Parking Structure III Project, Davis campus.

D. *Adoption of Findings and Approval of Design, Science and Engineering Building 2, Merced Campus*

The President recommended that, upon review and consideration of the environmental consequences of the proposed project, the Committee:

- (1) Adopt the Mitigation Monitoring and Reporting Program and Findings.

- (2) Approve the design of the Science and Engineering Building 2 Project, Merced campus.

[Background material was mailed to the Committee in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Schilling noted that for each item on the consent agenda involving environmental issues, the Committee members had been provided with environmental documentation prepared pursuant to the California Environmental Quality Act as well as with copies of all public comments received and responses prepared by the University. The members of the Committee reviewed and considered all of the documents and comments, and balanced the specific benefits of each project against any unavoidable adverse environmental effects.

Upon motion duly made and seconded, the Committee approved the President's recommendations and voted to present them to the Board.

3. **AMENDMENT OF THE BUDGET FOR CAPITAL IMPROVEMENTS AND THE CAPITAL IMPROVEMENT PROGRAM AND APPROVAL OF EXTERNAL FINANCING CALIFORNIA MEMORIAL STADIUM (CMS) SEISMIC CORRECTIONS AND WEST PROGRAM IMPROVEMENTS, BERKELEY CAMPUS**

The President recommended that:

- A. The 2009-10 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

From: Berkeley: California Memorial Stadium (CMS) Seismic Corrections and West Program Improvements – preliminary plans \$18,300,000 to be funded entirely from interim financing.

To: Berkeley: California Memorial Stadium (CMS) Seismic Corrections and West Program Improvements – preliminary plans, working drawings and construction – \$321,000,000 to be funded entirely from external financing.

Deletions shown by ~~strikeout~~; additions by underscore

- B. The President be authorized to obtain ~~interim financing~~ external financing not to exceed ~~\$18,300,000~~ \$321,000,000 to finance the *California Memorial Stadium (CMS) Seismic Corrections and West Program Improvements* project. The President requires that:

- (1) Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.

- (2) Repayment of any debt shall be from the Berkeley campus ~~football~~ Athletics program gross revenues and, as long as the debt is outstanding, the Berkeley campus ~~football~~ Athletics program gross revenues shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.
- (3) Among all the uses of the Berkeley campus ~~football~~ Athletics program gross revenues, debt service will be the priority.
- (4) The general credit of the Regents shall not be pledged.

C. The Officers of the Regents be authorized to execute all documents necessary in connection with the above.

[Background material was mailed to the Committee in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

Vice President Lenz remarked that the proposed action was to approve the California Memorial Stadium (CMS) project budget at \$321 million and approve the external financing at \$321 million. The building project includes upgrades and improvements on the 86-year-old stadium to correct all of its deficiencies and raise its seismic rating from poor to good. He noted that representatives from the campus were available to answer questions.

Regent Makarechian observed that the campus had approached the contractors to incorporate value-engineering principles – the creative, practical application of needed functions at the lowest overall cost – into the project. He asked if the estimates were from a negotiated contract, or represented bids from a few contractors. Mr. Lenz explained that the campus is working under a process called Construction Management (CM) at-Risk. Through CM at-Risk, the campus asked the contractor community for qualification statements, interviewed a number of contractors, and selected a CM at-Risk contractor to work on the design phase. During that stage, the contractor assists with estimating, scheduling, and constructability issues. Mr. Lenz added that the campus does not go out to bid until the drawings are complete; at that time, the CM at-Risk contractor acts as a general contractor and solicits subcontractor bids for the project.

Regent Makarechian asked what incentive that process provides for contractors to lower their prices. Mr. Lenz said that the CM at-Risk contract provides expertise to ensure that the University does not spend more than necessary to realize the scope and the quality appropriate to the project. The CM at-Risk contractor submits ideas on materials, means, and methods to the University’s architects, and together they make informed decisions. Regent Makarechian asked if Berkeley would then, at the end of that process, go to bid with two or three contractors. Mr. Lenz stated that the campus would go to bid with multiple subcontractors. The general contractor gives UC a bid. The campus then selects the general contractor – the CM at-Risk contractor – after it is prequalified on the lowest

fee and general conditions bid. All of the work then is bid out to multiple subcontractors, or in some cases, general contractors who elect to act as subcontractors.

Regent Makarechian pointed out that the general contractor gets a fee in addition to the subcontracts; he asked how the University would know if it got the best subcontract. Mr. Lenz said that the campus is bound by law to accept the lowest responsible price. In addition, the fee that the CM at-Risk contractor has bid is the lowest fee. Regent Makarechian asked if the fee is guaranteed, and Mr. Lenz affirmed that it is.

Regent Lansing said that if the University is obliged to accept the lowest fee, contractors would seem to have an incentive to bid unrealistically low, win the bid, and then overspend on the project. She expressed concern that this circumstance had occurred before, and that the policy might not be to the University's advantage. Mr. Lenz explained that even though the University has to accept the lowest bid, it can pre-qualify the contractors on factors such as the bidder's experience, employees, the types of projects it has done, and its history of change orders. This process is true of both the general contractor and key subcontractors. He noted that this is a very laborious process, but it eliminates contractors who deliberately underestimate their bids. Mr. Lenz added that, due to the flagging economy, the University is receiving bids that are ten to twenty percent below budget. Furthermore, contractors have an incentive to be accurate and efficient because UC is one of the few clients that has work for them and their previous performance can dictate if they will be successful on future bids.

Regent Pattiz asked if work beyond the seismic upgrades was being done, and if so, what that entailed. Mr. Lenz replied that approximately 70 percent of the work was related to seismic and life safety issues. The remaining 30 percent includes items such as visitor locker rooms, concession stands, pathways, and press box space that can also function as clubrooms for gatherings or be rented for special occasions. Regent Pattiz inquired as to the total expenditure, and Mr. Lenz answered that the construction cost is slightly over \$200 million, and that the total project cost is \$300 million, excluding interest during construction of an additional \$21 million.

Regent Makarechian recalled that the day before, the Regents were given presentations of close to \$940 million in committed and uncommitted construction. He asked how much of the CMS project is committed. Mr. Lenz replied that none of the funds were committed because the Regents had not approved the financing. He offered to discuss the financing program, all of which involves external funding.

Interim Executive Vice President and Berkeley Vice Chancellor Brostrom introduced Erin Gore, Associate Vice Chancellor for Budget and Resource Planning. Ms. Gore explained that no State bond funds are being used for the CMS renovation and that it is not a general revenue pledge of the Regents. The revenue that will be used to repay the bonds is from the athletics department at UC Berkeley.

Regent Makarechian asked if, assuming the item is approved, it would be added to the committed portion of those funds until the money is raised by Berkeley. Ms. Gore said

that there would be no commitment of the Regents to repay the financing; it would fall entirely on the athletics revenues of the Berkeley campus. Mr. Brostrom noted that the item would be brought forward in January for design and environmental approvals. At that time, the campus will be able to commit to construction, but commitment requires that Berkeley have the ability to fund the project. Ms. Gore added that, to date, Berkeley has sold 65 percent of the seats in the Endowment Seat Program.

Regent Gould complimented the staff on their adept management of the project, including the decision to sell the seats to generate an independent revenue stream that does not risk the general resources of the University.

Regent Pattiz revisited his earlier comments and expressed his concern about spending 30 percent of \$200 million on construction unrelated to seismic improvement. He acknowledged that the Regents have a fiduciary responsibility to make sure that campus buildings are up to seismic standards. However, he emphasized, the proposed locker rooms and press rooms are very costly; he offered that if the athletics department can cavalierly spend such an amount, there might be better uses for that money.

Mr. Brostrom informed the Regents that most of the 30 percent not spent on seismic improvements is funding the upgrade of the 3,000 seats that are part of the Endowment Seat Program. He explained that the campus is leveraging its amenities and creating a long-term revenue stream that will finance the seismic repairs. The upgrades, which include installing chair backs in a portion of the bowl and building the three clubs that will service the Endowment Seat Program, will generate funds to finance the safety improvements to the stadium.

Regent Pattiz asked if the campus would be able to garner any funds from the seating in the new locker room. Mr. Brostrom confirmed that the seats would be used as a naming opportunity, along with many other elements of the stadium, and will be covered by private philanthropy. Regent Pattiz expressed satisfaction with that answer.

Regent Marcus emphasized the grave importance of bringing the stadium, which is over 80 years old, into the twenty-first century. He said that the campus not only should implement all of the proposed improvements, but also should do more. Noting that Berkeley is a world-class University with a renowned football team, he asserted that it needs an exceptional stadium so that it can remain competitive. He congratulated the campus on its hard work and outstanding results.

Regent Kozberg, as a former chair of the Committee on Grounds and Buildings, noted that she was well aware of the years of discussions regarding the renovation of CMS. She stated that the staff had created a thoughtful proposal, and encouraged the campus to continue value-engineering it. She observed that, in addition to the seismic issue, the life safety issues in the stadium are appalling. She said that the campus should take advantage of this opportunity to determine what the stadium needs, and how to get the best value for that work.

Regent Zettel acknowledged concern about sizable expenditures during difficult economic times, and congratulated the campus for being aggressive in securing external financing. She noted that a strong football team, such as Berkeley's, often spurs other philanthropic support for the University. The stadium improvements could produce ripple effects that could benefit the education and research arms of the campus. Mr. Brostrom responded that Berkeley did an analysis on the synergy between athletics and academics when it was planning for the Student Athlete High Performance Center (SAHPC); he recalled that the campus raised approximately \$100 million from fans and donors for SAHPC, and that those donors gave an additional \$108 million to other academic departments at the University.

Regent Pattiz remarked that he appreciated the presentation, and that the campus provided sound answers to his questions; he expressed his intent to vote for the project.

Regent Johnson recalled that she is a frequent visitor to the football stadium, and applauded the campus' efforts to repair and improve it.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

4. **STATUS OF THE REDESIGNED PROCESS FOR CAPITAL IMPROVEMENT PROJECTS**

Vice President Lenz reminded the Regents that they had approved the redesigned capital improvement process to provide more autonomy for the campuses and chancellors and to streamline the capital facilities process for projects that cost no more than \$60 million. The campuses are to come before the Regents and provide their integrated plans; three campuses have done so to date: San Diego, Davis, and Los Angeles.

Mr. Lenz explained that one delegated project has been submitted and successfully completed in a 15-day review period by the Office of the President and the Office of the General Counsel. He estimated that approximately 25 projects could potentially be part of this redesigned process from the three campuses whose integrated plans have been accepted by the Regents.

He informed the Regents that two additional campuses, Berkeley and Riverside, would be coming before them in November to present their plans, and that the remaining campuses would present their plans in the spring.

Committee Chair Schilling reminded the Committee members that the redesigned process was part University's efforts to reduce costs.

5. **ANNUAL REPORT ON APPROVALS OF CHANCELLORS' RESIDENCES AND OTHER CAPITAL PROJECTS FOR THE YEAR ENDING JUNE 30, 2009**

Vice President Lenz drew the attention of the Regents to the Annual Report on Chancellors' Residences and Other Capital Projects that had been approved for upgrades by the Regents or the President.

Committee Chair Shilling asked if future reports such as this could be mailed to the members, since they were information items, rather than putting them on the agenda for a Committee meeting. Mr. Lenz deferred to the judgment of Secretary and Chief of Staff Griffiths, who explained that the item is currently on the Schedule of Reports for presentation in this fashion. She noted that the Regents have discussed possibly changing that requirement when the Schedule of Reports is amended in January, but that the Regents would need to take action to make that change.

The meeting adjourned at 9:50 a.m.

Attest:

Secretary and Chief of Staff