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Office of the President

TO MEMBERS OF THE COMMITTEE ON GROUNDS AND BUILDINGS:

ACTION ITEM

For Meeting of February 3, 2009

AMENDMENT OF THE BUDGET FOR CAPITAL IMPROVEMENTS AND THE CAPITAL IMPROVEMENT PROGRAM AND APPROVAL OF EXTERNAL FINANCING, STUDENT ATHLETE HIGH PERFORMANCE CENTER, BERKELEY CAMPUS

EXECUTIVE SUMMARY

Campus:	Berkeley
Project:	Student Athlete High Performance Center (SAHPC)
Proposed Action:	Approval of budget augmentation and additional external financing
Total Cost:	\$153 million, to be funded from gifts (\$17 million) and external financing (\$136 million)
Previous Action:	January 2006: Preliminary Review of Southeast Campus Integrated Projects – Discussion item. March 2006: Approval to prepare SAHPC preliminary plans. November 2006: Budget approval and standby financing. December 2006: Design approval and CEQA compliance. September 2007: Approval of budget and external financing.
Project Summary:	The Berkeley campus requests approval to augment the budget (\$35.6 million) for the SAHPC project, to be funded from external financing, and amend the pledge and source of repayment of the external financing.

The SAHPC is the first part of an overall plan to seismically upgrade and improve the California Memorial Stadium (the Stadium). The proposed project would construct a new multi-level, 108,950 asf (142,000 gsf), facility to provide expanded and improved facilities for student athlete training and development. The new facility, immediately west of the

Stadium, would allow those programs to vacate their existing space in the seismically “Poor” Stadium structure.

Issues:

- The total project cost for SAHPC is estimated to be \$153 million and be funded from gifts and long-term debt
- Planned total project cost per/gsf \$1,077
- The project increases are due to construction delays caused by four lawsuits, which resulted in adjustments in scope, schedule, and funding plan. The augmentation of the budget will cover litigation costs, related professional fees and scope changes, escalation costs, and an increase in interest during construction related to the increase in external financing and a higher planning rate
- The litigation referenced in the September 2007 approval request related to SAHPC – the first project implementing the overall plan to retrofit and renovate California Memorial Stadium – is now pending before the Court of Appeal. However, the injunction previously prohibiting the campus from commencing construction on the SAHPC has been dissolved and construction is underway

RECOMMENDATION

The President recommends that the Committee on Grounds and Buildings recommend to the Regents that:

- (1) The 2008-09 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

From: Berkeley: Student Athlete High Performance Center – preliminary plans, working drawings, construction, and equipment – \$117,448,000, to be funded from gift funds (\$17,448,000) and external financing (\$100,000,000).

To: Berkeley: Student Athlete High Performance Center – preliminary plans, working drawings, construction, and equipment – \$153,000,000, to be funded from gift funds (\$17,000,000) and external financing (\$136,000,000).

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

- (2) The President be authorized to obtain external financing not to exceed ~~\$100~~ \$136 million to finance the Student Athlete High Performance Center (SAHPC) project. The President shall require 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 football program gross revenues ~~and the income earned on the SAHPC Initiative Funds~~, shall be maintained in amounts to pay the debt service and to meet the related requirements of the authorized financing;
 - c. Among all the uses of the Berkeley campus football gross revenues, debt service will be the priority;
 - d. The general credit of the Regents shall not be pledged.
- (3) The President to be authorized to obtain standby financing not to exceed ~~\$6,248,000~~ \$10.9 million, 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 the Berkeley campus football program gross revenues and, as long as the debt is outstanding, the Berkeley campus football

program gross revenues 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) Officers of the Regents be authorized to execute all documents necessary in connection with the above.

A Key to abbreviations and the project description are attached.

KEY
Capital Improvement Program Abbreviations

S	Studies
P	Preliminary Plans
W	Working Drawings
C	Construction
E	Equipment
-	State Funds (no abbreviation)
F	Federal Funds
G	Gifts
HR	Hospital Reserve Funds
I	California Institutes for Science and Innovation
LB	Bank Loans or Bonds (External Financing includes Garamendi, Bonds, Standby, Interim and Bank Loans)
LR	Regents' Loans (Internal Loans)
N	Reserves other than University Registration Fee (Housing and Parking Reserves)
R	University Registration Fee Reserves
U	Regents' Appropriations (President's Funds, Educational Fund)
X	Campus Funds
CCCI	California Construction Cost Index
EPI	Equipment Price Index

2008-09 Budget for Capital Improvements
 and Capital Improvement Program
 Scheduled for
 Regents' Allocations, Loans, Income Reserves,
 University Registration Fee Reserves, Gift Funds,
 and Miscellaneous Funds

Campus and Project Title (Total Cost)	<u>Approved</u>		<u>Proposed 2008-09</u>			
<u>Berkeley</u>	P	\$ 6,536,000	G			
Student Athlete High Performance Center	P	\$ 3,743,000	G			
	C	\$ 6,169,000	G	(C	\$1,448,000	G)*
	C	\$100,000,000	LB	C	\$36,000,000	LB
	E	\$ 1,000,000	G	<u>E</u>	<u>\$1,000,000</u>	<u>G*</u>
(\$153,000,000)						* net decrease of gift funding of \$448,000

DESCRIPTION

The Berkeley campus requests approval of a \$35.6 million augmentation and an increase of external financing for the Student Athlete High Performance Center (SAHPC) at a total project cost of \$153 million, at CCCI of 5380, to be funded from gifts and long term external financing. Related actions include a decrease in gift funding of \$448,000, an increase to standby financing of \$4.6 million, and an amendment to the pledge and source of repayment of the external financing.

Background

At the November 2006 meeting, the Regents approved a \$111.9 million amendment of the 2006-07 Budget for Capital Improvements and the Capital Improvement Program for this project, standby financing for up to \$12 million, the proposed design of the facility, and at a special meeting of the Committee on Grounds and Buildings (December 5, 2006) certified the environmental impact report for the Southeast Campus Integrated Projects. Subsequently, four lawsuits were filed against this project and an injunction was granted by the court blocking construction until the judge ruled on the merits. Concurrently, protesters began occupation of trees in the oak grove outside Memorial Stadium to prevent removal of 44 specimen trees.

In September 2007, the Regents authorized the President to obtain \$100 million to finance the SAHPC project and a \$5.5 million dollar augmentation for financing costs for a total project cost of \$117.5 million to be funded from gifts and external financing.

UC Berkeley won a court victory in July 2008 when the Alameda County Superior Judge Barbara Miller lifted the injunction previously prohibiting the campus from beginning

construction of the SAHPC. However, her initial injunction remained in place for seven more days, providing petitioners with opportunity to appeal and seek a continuation of the injunction from the Court of Appeal.

In August 2008, the Alameda Superior Court issued a decision confirming the ruling made July 2008 and in September 2008, the Court of Appeal rejected petitioner's request to continue the injunction while the appeal was pending. The denial of the injunction of the appeal was affirmed by the California Supreme Court. The final four demonstrators left the site in September 2008, thus ending the 21-month litigation and tree sit.

Status and Need for Augmentation

Project increases are due to construction delays caused by four lawsuits, which resulted in adjustments in scope, schedule, and funding plan. The proposed \$35.6 million budget augmentation will cover litigation costs, related professional fees and scope changes, escalation costs, and an increase in interest during construction related to the increase in external financing and a higher planning rate.

The summary of cost increase is as follows:

<u>Direct</u>	<u>Notes</u>
Cost of escalation owing to delay in schedule	\$ 955,000 (3)
Temp Egress Platform and Code Required Smoke Controls	4,000,000 (7)
Utility Infrastructure Upgrades to Campus Quadrant	6,000,000 (8)
Job Site Allowance for Gamewek Modifications	1,000,000 (9)
Underground Water Line relocation	2,100,000 (10)
Equipment Cost (Additional Kitchen Equipment)	1,000,000
<u>Security</u>	<u>700,000 (6)</u>
(Subtotal)	\$ 15,755,000
<u>Indirect</u>	<u>Notes</u>
CM-at-risk expenses due to extended schedule	390,000 (3)
Attorney fees, special consultants, litigation support	5,200,000 (1,2)
Design Work	2,300,000 (4)
Additional Labor Costs (recharge, etc)	1,100,000 (3,5)
Increased Contingency	1,000,000 (12)
<u>Unanticipated expenses not accounted for in URS Budget</u>	<u>4,307,000 (11)</u>
(Subtotal)	\$ 14,297,000
<u>Interest during construction</u>	<u>\$ 5,500,000</u>
Total Cost Increase	\$ 35,552,000

Litigation costs:

- (1) Include attorney fees, special consultants/experts requested by legal counsel, and related costs required by the litigation.

- (2) Other costs to support the litigation effort, including architects and consultants, University staff, test labs and fees, surveys, and reproduction costs. Included are geotechnical studies and surveys, trenching, boring, and other investigative work to demonstrate compliance with Alquist Priolo Zoning Act requirements.

Delay in the project due to litigation process of 21 months (January 2007 through September 2008) resulted in:

- (3) Cost of escalation owing to delay in schedule.
- (4) Additional architectural and consultant fees and related costs for the SAHPC design. The design team continued working on the project, although not at full speed, through the entire period in support of the litigation.
- (5) Additional labor costs: the longer schedule resulted in increase to salaries and recharge rates necessary to manage the project. Included are staff costs for project management, planners, and administrative support.
- (6) Costs required to maintaining security at the site during the tree sitting period: fencing, security services, campus forces, scaffolding, and other miscellaneous contracts. The tree protest also resulted in greater project management and administrative costs to coordinate and manage the process.

Other costs:

- (7) As the project developed, some code requirements became better defined and understood, resulting in greater scope and cost. The egress platforms which allow spectators to exit west across the project site was developed in more detail by the code consultants in conjunction with the Fire Marshall's office, and resulted in a more complex platform and smoke control system. The platforms which were originally envisioned simply required exiting from the stadium; as revised, the exits will provide safe exits for the crowds and also allow emergency vehicle access during construction of the SAHPC.
- (8) Further development of the design required much more extensive site utilities work necessary to service the SAHPC.
- (9) During the construction phase of the project, in order to accommodate access for construction vehicles, a dedicated entrance into the job site will be installed. A new fence line will create a pedestrian walkway along the south edge of Maxwell Family Field. Bus and shuttle stops at the southwest corner of Maxwell Family Field will be relocated nearby. Gates will be established at the South Tunnel that will allow construction vehicles to separate pedestrian access from job site access. Added mobilization and demobilization by contractor is necessary to accommodate stadium game day functions, due to ongoing construction on-site. This dedicated entrance will be removed at the end of the construction.

- (10) As described in the environmental documents, in order to prepare the jobsite for construction of the new facility, an underground water line is being installed. The project also re-routes an existing steam service to California Memorial Stadium which is located within the footprint of the SAHPC; and installs fire hydrants to provide required fire suppression for the SAHPC, California Memorial Stadium, and the adjacent International House. The project also prepares the site for future connection of water services to the California Memorial Stadium. Part of this line runs in the southbound lane of Gayley Road, and construction will necessitate closing one lane of traffic. Traffic will be managed by flaggers to ensure safety. This work must be completed in spring 2009, prior to excavations for the SAHPC foundation.
- (11) Unanticipated Costs: the original estimate was developed by an outside management team (URS) using methodology different from the standard campus budgeting process. This resulted in unanticipated and additional costs related to preconstruction services, preliminary planning, environmental impact reports, campus inspection services, building commissioning, fire marshal and other review costs, and reproduction and bidding costs.
- (12) Contingency: greater construction cost resulted in an increase in construction contingency.

The campus undertook CM-at-risk construction delivery method with a careful prequalification process, aiming to limit the budget increase as much as possible. The campus has been relatively successful in this regard.

As a result of the delays caused by the litigation, the increase in cost of materials, and contract and architectural services, the costs of the project have gone up by \$35.6 million. The Regents are being asked to approve an increased budget and financing to enable the project to proceed.

Project Description

The SAHPC project will create a new 108,950 asf (142,000 gsf) athletic facility for approximately 450 student athletes in 13 sports programs and integrate the site and landscape into the surrounding campus to improve connection and circulation. The building will consist of a two-level athlete training and development building located at the west side of the Stadium. The new structure will be constructed mostly below grade in the west sloping site, allowing almost full exposure of the Stadium's historic west wall to remain visible from the adjacent Piedmont Avenue. Stairs and ramps included in the proposed project would substantially improve access for all up to the Stadium from Piedmont and other parts of the main campus.

Construction of the SAHPC will be accomplished through two separate groups of bid packages:

- The first group includes relocation of water and steam lines, excavation, shoring, surveying, and relocation of trees. This work is currently under way.

- The second package consists of 38 trade packages (bids), and these include the construction of the SAHPC building plus the tenant improvements within it. Construction is scheduled to begin February 2009, immediately after approval of this item.

Due to delays caused by the lawsuits and protests, completion of the SAHPC is now scheduled for fall 2011.

Policy on Sustainable Practices

The project will comply with the *University of California Policy on Sustainable Practices*. As required by this policy, the project will adopt the principals of energy efficiency and sustainability to the fullest extent possible, consistent with budgetary constraints and regulatory and programmatic requirements. Specific information regarding energy efficiency and sustainability was provided when The Regents approved the project design in December 2006.

CEQA Compliance

Environmental review of this project was conducted as part of the Southeast Campus Integrated Projects (SCIP) Environmental Impact Report (EIR), certified by the Regents at a special meeting of the Grounds and Buildings Committee on December 5, 2006. The validity of the EIR is on appeal; however, the Court has lifted the injunction and the campus is legally authorized to commence construction during the pending of the appeal.

Financial Feasibility

Gift Standby Financing

The total project cost of \$153 million at CCCI 5380 would be funded from gifts (\$17 million) and long-term debt (\$136 million). The gift campaign for the project is under way, and as of January 2009 the status is as follows:

Gifts In Hand	\$ 6,100,000
Gifts Pledged	\$10,900,000
<u>Gifts to be Raised</u>	<u>\$ 0</u>
TOTAL:	\$17,000,000

Standby financing in the amount of \$6.2 million was previously approved at the September 2007 Regents meeting. This action requests approval to increase the amount of standby financing to \$10.9 million.

Long Term External Financing

Long-term debt in the amount of \$100 million was approved at the September 2007 Regents meeting. At this time, approval is requested to pledge football program gross revenues to pay the

debt service on the bonds. Based on long-term debt of \$136 million at 6.25 percent interest for 30 years, the estimated average annual debt service is \$10.1 million.

The change in the pledge and source of payment for external financing completely decouples the external financing from any fundraising activities (except for the \$17 million of gifts dedicated to the project). This change is part of a plan, unrelated to the financing of the SAHPC or any other project, to develop a long-term and stable funding source for programs through the expansion of funds functioning as an endowment (FFE). To achieve this goal, it is important that the FFE balance and income be available for use for a wide range of expenditures. The FFE will be created through unrestricted gifts or gifts with very limited restrictions matching the purpose of the FFE. Gifts tied to the construction of the SAHPC or other capital projects will not be included in the FFE.

In compliance with Regents' policy, all funds necessary to complete construction will be in hand prior to issuing the project for bid.

The external financing will be paid from specific revenue sources specified in the external financing documents; therefore, the general credit of the Regents will not be pledged. Additional financial feasibility information may be found in Attachment 2.

(Attachments)

PROJECT STATISTICS
STUDENT ATHLETE HIGH PERFORMANCE CENTER
CAPITAL IMPROVEMENT BUDGET
BERKELEY CAMPUS
CCCI 5380

<u>Cost Category</u>	<u>Total Amount</u>	<u>% of Total</u>
Site Clearance	\$ 700,000	0.5%
Building	96,237,000	63.7%
Exterior Utilities	9,000,000	6.0%
Site Development	1,000,000	0.7%
A/E Fees ^(a)	12,151,000	8.0%
Campus Administration	7,155,000	4.7%
Surveys, Tests	1,635,000	1.1%
Special Items ^(b)	17,772,000	11.8%
Contingency	5,350,000	3.5%
		%
Total	\$ 151,000,000	100%
Groups 2 & 3 Equipment	2,000,000	
Total Project	\$ 153,000,000	

Statistics

	<u>Total</u>
<u>Gross Square Feet (GSF)</u> ^(c)	142,000
<u>Assignable Square Feet (ASF)</u> ^(c)	108,950
<u>Ratio ASF/GSF (%)</u>	77%
<u>Building Cost/GSF</u> ^(c)	\$ 678

Comparable University Projects at CCCI 5380

Because of the project's unique constraints and challenges, and the special design and construction solution to meet them, the Student Athlete High Performance Center cannot be adequately compared to other projects of this type.

The special issues and solutions include the following:

- The structure is substantially underground in order to minimize its visual impact on the historic stadium.
- The design includes a plaza on the roof to address circulation and game-day program needs. This plaza/roof must be able to support fire trucks.
- The design of the project will have to include added seismic work due to near fault conditions.

(a) Fees include executive architect and other professional design contract costs.

(b) Special items include advance planning expenses, special consultants, environmental reviews, project reviews, and off-site utilities, totaling \$6,772,000, and interest expense totaling \$11,000,000.

(c) Gross square feet (gsf) is the total area, including usable area, stairways, and space occupied by the structure itself. Assignable square feet (asf) is the net usable area.

ATTACHMENT 2

SUMMARY OF FINANCIAL FEASIBILITY ANALYSIS

Project Title: Student Athlete High Performance Center

Total Estimated Project Cost \$ 153,000,000

Proposed Sources of Funding

Gifts	\$ 17,000,000
External Financing	<u>\$ 136,000,000</u>
Total	\$ 153,000,000

Proposed Financing Terms

Interest Rate: 6.25%
External Financing Duration: 30 years

Pledged Sources of Repayment (FY2013-2014)¹

Estimated Football gross revenue \$ 22,270,000

Estimated Annual Debt Service \$ 10,146,000

Debt Service Coverage 2.19x

¹ Represents second full year of operation and estimated first year of principal and interest payments.