

AGENDA

COMMITTEE ON CAMPUS PLANNING, BUILDINGS AND GROUNDS

Meeting: 3:30 p.m. Tuesday, July 10, 2007
Glenn S. Dumke Auditorium

A. Robert Linscheid, Chair
George G. Gowgani, Vice Chair
Herbert L. Carter
Carol R. Chandler
Kenneth Fong
William Hauck
Peter G. Mehas
Jennifer Reimer
Kyriakos Tsakopoulos

Consent Items

Approval of Minutes of Meeting of May 15, 2007

1. Amend the 2007-2008 Capital Outlay Program, Non-State Funded, *Action*

Discussion Items

2. Status Report on the 2007-08 State Funded Capital Outlay Program, *Information*
3. California Environmental Quality Act Annual Report, *Information*
4. Categories and Criteria for the State Funded Five-Year Capital Improvement Program, 2009-10 – 2013-14, *Action*
5. Approval of Schematic Plans, *Action*

**MINUTES OF MEETING OF
COMMITTEE ON CAMPUS PLANNING,
BUILDINGS AND GROUNDS**

**Trustees of the California State University
Office of the Chancellor
401 Golden Shore
Long Beach, California**

May 15, 2007

Members Present

Roberta Achtenberg, Chair of the Board
Carol R. Chandler
Kenneth Fong
George G. Gowgani
Andrew LaFlamme
A. Robert Linscheid
Charles B. Reed, Chancellor
Craig R. Smith

Prior to proceeding with the meeting of the Campus Planning, Buildings and Grounds Committee, Board of Trustees Chair Roberta Achtenberg announced that Trustee Moctesuma Esparza submitted his resignation from the board to the governor effective May 14, 2007. Trustee Esparza's corporation, Maya Cinemas North America Incorporated, will be a sub tenant to the developer Kashian Development at the Campus Pointe Project at CSU Fresno. While Mr. Esparza has not lobbied or in any manner sought to persuade this board with respect to this relationship, nonetheless a legal challenge by an adjacent land owner with a competing movie theatre project has alleged that Trustee Esparza's role on this board creates a conflict of interest with that enterprise. The Campus Pointe project was first approved by the board in its conceptual phase in November 2005, before Trustee Esparza had any dealings with the developer of the project. The project did not come back to this board until last March when Trustee Esparza was not in attendance and indicated to the Chair his intent to recuse himself from any discussion of the Environmental Impact Report and master plan approval because of his company's relationship with the developer. Under these circumstances neither the university nor Trustee Esparza believe that there is a conflict of interest, nevertheless in deep respect for the intent of the government code to avoid even the appearance of conflict of interest and not wishing to place this board in any legal jeopardy, Trustee Esparza has made the decision to resign. Chair Achtenberg read Trustee Esparza's resignation letter in its entirety.

Following these remarks, Chair Achtenberg appointed Trustee Bob Linscheid to act as chair of the Committee on Campus Planning, Buildings and Grounds for the duration of the May meeting.

Trustee Linscheid noted that there was a revised Agenda Item 5, Approval of Schematic Plans.

Approval of Minutes

The minutes for the March 2007 meeting were approved.

Amend the 2006-2007 Capital Outlay Program, Non-State Funded

With the concurrence of the committee, Chair Linscheid presented agenda item 1 as a consent action item. The committee recommended approval by the board of the proposed resolution (RCPBG 05-07-07).

Amend the 2006-2007 Capital Outlay Program, State Funded

With the concurrence of the committee, Chair Linscheid presented agenda item 2 as a consent action item. The committee recommended approval by the board of the proposed resolution (RCPBG 05-07-08).

Status Report on the 2007-08 State Funded Capital Outlay Program

Assistant Vice Chancellor Elvyra F. San Juan presented the item with a handout, a comparison of the 2007-08 state funded capital outlay program. The Senate and Assembly have approved \$407 million of CSU's program compared to an original trustees' request in September of \$396 million. The changes occurred during the spring process and allowed the CSU to fund additional projects for ADA compliance with a \$7 million increase to the minor capital outlay program as well as equipment for the new Monterey Bay library, anticipated to be completed during 2007-08. The senate has also approved the extension of time to complete five projects and/or land acquisitions at Maritime Academy, Humboldt, Bakersfield, Sacramento and San Bernardino and a new appropriation to complete the construction of the telecommunications infrastructure project at San Francisco State. The remaining outstanding items are expected to be approved, which will result in a total program of \$416 million. Both the Senate and Assembly subcommittees are expected to adopt supplemental report requirements related to long range development plans for CSU. The reporting areas are: systemwide enrollment projections out to 2020; proactive efforts to increase attendance during the summer term; and progress of agreements with local cities/agencies for the mitigation of off-campus mitigation measures.

Trustee Chandler inquired about the usual length of land leases, specifically one for forty-one years. Ms. San Juan replied that typically land leases are at least thirty years in order to secure financing and may be as high as fifty with options to extend, sometimes to ninety years.

Draft State and Non-State Funded Five-Year Capital Improvement Program 2008-09 through 2012-13

The draft book, included with the trustees' mailing, presents the five-year capital improvement program for 2008-09 through 2012-13. The five-year state need is just under \$6 billion, while the non-state program is just under \$4 billion. The criteria for setting priorities, approved by the board in July 2006, identifies the systemwide minor capital outlay and capital renewal programs and other critical infrastructure deficiencies as a higher priority, followed by funds for modernization, renovation, and then new construction. The list of the campus projects in the draft book is not in priority order; when the program is brought to the trustees for the action item in September, it will be in priority order. The program request for the 2008-09 action year is \$384 million. Projecting the cost for these projects out in 2008-09 is the greatest challenge due to ongoing volatile material and labor cost escalation in construction. The capital outlay program for 2008-09 will be reliant upon a new bond to go before the voters, expected in 2008.

Approval of Schematic Plans

The revised item proposed the approval of schematic plans for California State University, East Bay—Pioneer Heights Student Housing, Phase III, California State University, Fullerton—University Police Building, California State University, Los Angeles—Corporation Yard and Public Safety, California State University, Los Angeles—Math and Science Charter High School, California State University, Los Angeles—Los Angeles County High School for the Arts, California State Polytechnic University Pomona—College of Business Administration, California State Polytechnic University Pomona—Innovation Village, Phase IV, California State University, Sacramento—Recreation Wellness Center, California State University, Sacramento—Student Housing, Phase I, California State University, San Marcos—Social and Behavioral Sciences Building, and Sonoma State University—Tuscany Village Student Housing. With an audio-visual presentation, Ms. San Juan presented the item. The revised item reflected a change in the Pomona Innovation Village project to clarify the inclusion of a parking structure. Two of the state funded projects, the Los Angeles Corporation Yard and Public Safety building, and the Pomona Business building are at eight and six percent over budget, respectively. Staff will seek approval from the Public Works Board to secure an augmentation. Ms. San Juan stated that all CEQA actions on the projects had been completed.

Chair Achtenberg asked Ms. San Juan to clarify for new board members what schematic approval means and how many additional times the projects will be in front of the trustees for approval. Ms. San Juan replied that for state funded projects, schematic approval is the only time the project will be presented to the board. Non-state funded projects will return to the board for approval of financing if they are using systemwide revenue bond funds or if a foundation/auxiliary needs to secure financing.

Trustee Reimer asked with regard to the Sacramento Recreation Wellness Center the value of the student fee referendum passed to support the project. Ms. Leslie Davis, the Director of the Student Union at CSU Sacramento, responded stating that the fee increase was \$110 per semester.

The committee recommended approval by the board on the proposed resolution (RCPBG 05-07-09).

Certify the Final Environmental Impact Report (FEIR) and Approve the Campus Master Plan Revision and Amendment to the 2006-07 Non-State Capital Outlay Program for Campus Pointe for CSU Fresno

The chair noted that in March the board delegated to the chancellor review and final approval of this EIR and Master Plan Revision, after good faith negotiation with the city of Fresno. The campus and the city were not able to reach an understanding, and Chancellor Reed did not approve the EIR and Master Plan Revision. Dr. Reed was asked to comment, and reported that he had not approved the EIR and Master Plan Revision because the entities were not able to reach agreement. Today's item reflects staff recommendations.

Ms. San Juan presented the action item using a slide presentation that requested the trustees to certify the Final Environmental Impact Report (FEIR), approve the master plan revision, and amend the 2006-07 non-state capital outlay program for the Campus Point project at CSU Fresno. The Campus Pointe project is comprised of four main components: multi-family housing, senior housing, a hotel, and retail spaces. The fifth element is a future classroom office building, proposed for the master plan but is not part of Campus Pointe. Approval of schematic designs for the retail and the hotel development components will be presented in the next agenda item, while the workforce and senior housing will return to the board for approval at a later date.

The board agenda item indicates that the unavoidable significant impacts of the project are the loss of prime farmland, air quality, noise, and traffic. The traffic impacts are primarily at specific intersections that can be mitigated to less than significant levels with the implementation of identified mitigation measures. However, because certain specific traffic mitigation measures are under the authority and the jurisdiction of the city of Fresno, and cannot be guaranteed to be implemented, some of the traffic impacts are considered remaining and unavoidable. The university and the city of Clovis have signed a Memorandum of Understanding on traffic mitigation measures including the campus agreement to use campus property to widen Willow Avenue and provide funding of approximately \$20,000 to facilitate east and west bound traffic. The campus has also agreed to help the city of Clovis to apply for state funding for roadway improvements.

The city of Fresno and the university have not reached agreement. The agenda item reflects the status of the negotiations which have now been concluded. Also noted in the item, the developer has agreed to provide \$11.3 million in services to fund improvements for the city of Fresno (which includes improvements to Chestnut Avenue), along with \$4.8 million in State Transportation Relief Funds.

Parking has been a contested issue for the project as part of the 45-acre development is used for overflow parking for the Save Mart Center. Currently, the lots closest to Save Mart (Lots A, B, and C) have been identified to accommodate the estimated 900 vehicles that will be displaced.

This item also notes two lawsuits that were filed after the board's March action. The Findings of Fact and Mitigation Monitoring Plan have been revised to reflect the agreement with the city of Clovis and the status of negotiations with the city of Fresno.

Trustee Linscheid introduced Mr. Brent Hawkins, attorney for Ed Kashian, master developer of the Campus Pointe project.

Mr. Hawkins, speaking on behalf of Kashian Enterprises, expressed the company's commitment to the project and desire to move forward with construction without delay. He also stated that the lawsuits have been reviewed and that he believed they were without merit.

The committee recommended approval by the board on the proposed resolution (RCPBG 05-07-10).

Approval of Schematic Plans for the Hotel and Retail Components of Campus Pointe at California State University, Fresno

This item proposed the approval of schematic plans for California State University, Fresno—Campus Pointe: Hotel and Retail Components. With a visual presentation, Ms. San Juan presented the item. She noted the two lawsuits that have been filed, and that the resolution requires the Developer assume all risk in moving forward with the project that may result, among other things, from environmental litigation.

Trustee Hauck inquired if there was an agreement in place with Hyatt Place Hotel, and whether it was associated with the Hyatt Regency Hotel Corporation. Ms. San Juan responded that Hyatt Place is part of the Hyatt Hotel Corporation. President John Welty, CSU Fresno, added that Hyatt Place Hotels are a new hotel line designed for business use. President Welty called upon Mr. David Straum, representing Wolff Urban Development, the hotel developer, to provide additional information. Mr. Straum stated that a franchise is in place with Hyatt Place, a limited service hotel.

The committee recommended approval by the board on the proposed resolution (RCPBG 05-07-11).

Trustee Linscheid adjourned the meeting.

COMMITTEE ON CAMPUS PLANNING, BUILDINGS AND GROUNDS

Amend the 2007/2008 Capital Outlay Program, Non-State Funded

Presentation by

Elvyra F. San Juan
Assistant Vice Chancellor
Capital Planning, Design and Construction

Summary

This item requests approval to amend the 2007/08 non-state capital outlay program to include the following project:

San Diego State University		
International Student Center Addition, Phase I	PWC	\$1,697,000

San Diego State University wishes to proceed with the design and construction of Phase I (74A), an addition of two small buildings to the International Student Center (#74). The project will construct additional office and meeting space for staff and students on the west side of the existing building. Six offices, a large conference room and meeting space, resident advisor's space, a resource library, and support facilities will be part of the program. It is anticipated that the project will be phased to maximize obtaining donor funds. The first phase will include construction of the two buildings (3,200 GSF). A future second phase will construct a 3,000 GSF multi-purpose building (#74B).

Funding for this project will be from donor funds.

The following resolution is presented for approval:

RESOLVED, By the Board of Trustees of the California State University, that the 2007/2008 non-state funded capital outlay program is amended to include \$1,697,000 for preliminary plans, working drawings and construction for the San Diego State University, International Student Center Addition, Phase I project.

COMMITTEE ON CAMPUS PLANNING, BUILDINGS AND GROUNDS

Status Report on the 2007-08 State Funded Capital Outlay Program

Presentation By

Elvyra F. San Juan
Assistant Vice Chancellor
Capital Planning, Design and Construction

Summary and Background

Attachment A provides a status report on the trustees' 2007/08 capital outlay budget request. The legislative subcommittees have approved 29 projects requested by the trustees and included in the May Revision of the governor's budget. The committees also approved Supplemental Report Language that requires the CSU provide to the Joint Legislative Budget Committee:

- (1) Systemwide enrollment projections to 2020,
- (2) A report identifying campus progress and efforts to increase summer term enrollment,
- (3) Copies of draft master plans and draft environmental impact reports, and
- (4) A report on the status of negotiations with local cities and/or agencies related to the environmental impact of providing access to CSU's higher education academic programs statewide.

2007/08 State Funded Capital Outlay Program Budget Summary

Trustees' Budget Request	Revised Governor's Budget	Legislative Analyst's Office	Senate	Assembly
\$391.8 M	\$416.6 M	\$396.0 M	\$416.6 M	\$416.6 M

A final report will be presented if the 2007/08 Budget Act has been enacted.

Final State Funded Capital Outlay Program 2007/08 Priority List

Cost Estimates are at Engineering News-Record California Building Construction Cost Index 4890 and Equipment Price Index 2744

Rank Order	Category	Campus	Project Title	Trustees' Request		Revised Governor's Budget		Legislative Analyst's Office		Senate		Assembly		
				FTE	Phase Dollars	Phase Dollars	Phase Dollars	Phase Dollars	Phase Dollars	Phase Dollars	Phase Dollars			
1	IA	Statewide	Minor Capital Outlay		PWC	20,000,000	PWC	27,000,000 (d)	PWC	20,000,000	PWC	27,000,000	PWC	27,000,000
2	IA	Statewide	Capital Renewal		PWC	50,000,000	PWC	50,000,000	PWC	50,000,000	PWC	50,000,000	PWC	50,000,000
3	IB	Channel Islands	John Spoor Broome Library	N/A	E	3,074,000	E	3,074,000	E	3,074,000	E	3,074,000	E	3,074,000
4	II	San Bernardino	Palm Desert Off-Campus Center, Ph. II	N/A	E	999,000	E	999,000	E	999,000	E	999,000	E	999,000
5	IB	Pomona	Science Renovation (Seismic)	N/A	E	4,475,000	E	4,475,000	E	4,475,000	E	4,475,000	E	4,475,000
6	IB	Long Beach	Library Addition and Renovation	N/A	E	481,000	E	481,000	E	481,000	E	481,000	E	481,000
7	II	Pomona	Library Addition and Renovation, Ph. I	N/A	E	5,863,000	E	5,863,000	E	5,863,000	E	5,863,000	E	5,863,000
8	II	Fresno	Library Addition and Renovation	N/A	E	6,884,000	E	6,884,000	E	6,884,000	E	6,884,000	E	6,884,000
9	II	Sonoma	Music Faculty Office Building	N/A	E	1,553,000	E	1,553,000	E	1,553,000	E	1,553,000	E	1,553,000
10	II	Fullerton	College of Business and Economics	N/A	E	6,593,000	E	6,593,000	E	6,593,000	E	6,593,000	E	6,593,000
11	IB	Humboldt	Forbes P.E. Complex Renovation, Phase II	N/A	E	1,366,000	E	1,366,000	E	1,366,000	E	1,366,000	E	1,366,000
12	IB	Bakersfield	Nursing Renovation	N/A	E	221,000	E	221,000	E	221,000	E	221,000	E	221,000
13	II	Bakersfield	Math and Computer Science Building	N/A	E	1,513,000	E	1,513,000	E	1,513,000	E	1,513,000	E	1,513,000
14	IB	Los Angeles	Science Replacement Building, Wing B	849	WC	50,500,000	WC	50,500,000	WC	50,500,000	WC	50,500,000	WC	50,500,000
15	IB	Dominguez Hills	Educational Resource Center Addition	0	C	58,359,000	C	58,359,000	C	58,359,000	C	58,359,000	C	58,359,000
16	II	San Francisco	School of the Arts/Font Street Property	N/A	A	8,157,000	A	12,382,000 (a)	A	12,382,000	A	12,382,000	A	12,382,000
17	IA	Channel Islands	Infrastructure Improvements, Ph. 1a & 1b	N/A	C	47,134,000	C	47,134,000	C	47,134,000	C	47,134,000	C	47,134,000
18	IB	Los Angeles	Corporation Yard and Public Safety	N/A	C	15,133,000	C	15,133,000	C	15,133,000	C	15,133,000	C	15,133,000
19	IB	San Luis Obispo	Center for Science	66	W	2,707,000	W	2,707,000	W	2,707,000	W	2,707,000	W	2,707,000
20	II	San Marcos	Social and Behavioral Sciences Building	644	WC	53,688,000	WC	53,688,000	WC	53,688,000	WC	53,688,000	WC	53,688,000
21	IA	Channel Islands	Entrance Road	N/A	PW	1,390,000	PW	1,390,000 (b)	PW	1,390,000	PW	1,390,000	PW	1,390,000
22	IB	Channel Islands	Nursing Renovation	9	PWCE	1,216,000		0 (c)						
23	IB	Dominguez Hills	Nursing Renovation	21	PWCE	1,605,000		0 (c)						
24	IB	East Bay	Nursing Renovation	-79	PWCE	698,000		0 (c)						
25	IB	Fresno	Nursing Renovation/Contra Costa	32	PWCE	1,215,000		0 (c)						
26	IB	Fullerton	Nursing Renovation	37	PWCE	1,688,000		0 (c)						
27	IB	Humboldt	Nursing Renovation	3	PWCE	1,108,000		0 (c)						
28	IB	Long Beach	Nursing Renovation	27	PWCE	2,312,000		0 (c)						
29	IB	San Bernardino	Nursing Addition	11	PWCE	1,321,000		0 (c)						
30	IB	San Francisco	Nursing Renovation	15	PWCE	1,459,000		0 (c)						
34	IB	San Marcos	Nursing Renovation	25	PWCE	1,704,000		0 (c)						
22	IB	Systemwide	Nursing Facility Improvements		PWCE		PWCE	14,326,000	PWCE	14,326,000	PWCE	14,326,000	PWCE	14,326,000
32-23	II	Pomona	College of Business Administration	2,453	WC	31,429,000	WC	31,429,000	WC	31,429,000	WC	31,429,000	WC	31,429,000
33-24	II	Channel Islands	Classroom/Faculty Office Reno./Add	1,050	PW	1,989,000	PW	1,989,000	PW	1,989,000	PW	1,989,000	PW	1,989,000
34-25	IB	Stanislaus	Science I Renovation (Seismic)	422	PW	1,049,000	PW	1,049,000	PW	1,049,000	PW	1,049,000	PW	1,049,000
35-26	IB	Bakersfield	Art Center and Satellite Plant	177	P	387,000	P	387,000	P	387,000	P	387,000	P	387,000
36-27	IB	San Diego	Storm/Nasatir Halls Renovation	-2,196	PW	2,552,000	PW	2,552,000	PW	2,552,000	PW	2,552,000	PW	2,552,000
28	II	Monterey Bay	Library				E	4,228,000 (e)	E	4,228,000	E	4,228,000	E	4,228,000
29	IB	San Francisco	Telecommunications Infrastructure				C	9,308,000 (f)	C	9,308,000	C	9,308,000	C	9,308,000
Totals				3,566		\$391,822,000		\$416,583,000		\$396,047,000		\$416,583,000		\$416,583,000

Notes: Revised Governor's Budget

- (a) Amount increased due to revised appraisal.
- (b) Design funds are contingent upon the completion of the land purchase for entrance road construction.
- (c) Nursing Facility Improvements projects combined for lump sum funding.
- (d) Amount increased by \$7.0 million in bond funds (6610-301-6028) for accessibility projects.
- (e) Equipment funding provided so the library building can be ready for occupancy in late 2007/08.
- (f) Outstanding balance reverted and new construction appropriation requested due to contractor termination.

- Categories:
- I. Existing Facilities/Infrastructure
 - A. Critical Infrastructure Deficiencies
 - B. Modernization/Renovation
 - II. New Facilities/Infrastructure

COMMITTEE ON CAMPUS PLANNING, BUILDINGS AND GROUNDS

California Environmental Quality Act Annual Report

Presentation By

Elvyra F. San Juan
Assistant Vice Chancellor
Capital Planning, Design and Construction

Summary

Pursuant to the Board of Trustees' policy, this information item provides the annual report on the CSU's compliance actions required by the California Environmental Quality Act (CEQA). The board must certify all Final Environmental Impact Reports (EIR) and other CEQA compliance documents for major capital projects and major master plan revisions before approving the implementation and construction of new facilities. Certain minor projects are delegated for administrative approval to the assistant vice chancellor, capital planning design and construction.

Background

CEQA became law in 1970. It is further implemented with administrative procedures (State CEQA Guidelines), and University CEQA procedures. The Board of Trustees must comply with the California Environmental Quality Act in assessing the potential environmental impacts of, and approving, CSU development projects. The board is the "Lead Agency" for all CEQA approval actions involving projects sited on trustee property.

As the Lead Agency, the board has a responsibility to ensure that all relevant information on potential environmental impacts of a project are disclosed. They must also determine when the benefits to the educational mission of the CSU, of any particular project, will outweigh any adverse impacts that may result from the construction of improvements on a campus. The essential requirement in making these decisions is that the board must set forth the basis for each such decision. The chancellor is delegated responsibility for implementing actions to ensure compliance for campus development projects. The assistant vice chancellor of capital planning, design and construction (CPDC) is delegated authority to approve certain capital projects (e.g., architecturally not significant or utility projects) and their related environmental compliance document, primarily Negative Declarations. A Negative Declaration signifies that a determination has been made that a project does not have the potential for adverse environmental impacts. Both EIRs and Negative Declarations require public notice to provide opportunity for comments from agencies and the public regarding proposed CEQA related project actions.

Minor changes and adjustments to facilities typically are exempt from CEQA analysis through defined Categorical Exemptions.

CSU Compliance Actions

Attachment A lists activity during 2006. In summary:

- An Environmental Impact Report (EIR) was certified for the master plan revision for the Monterey Bay and Northridge campuses. A Supplemental Environmental Impact Report was certified for two specific projects at Dominguez Hills. Of the individual capital projects listed in Attachment A, three projects met CEQA compliance requirements through preparation of an Addendum to an existing approved EIR, thus reducing duplication of effort and time to prepare the project for trustee approval. For other projects, only a Finding of Consistency with the previously approved EIR was necessary to meet CEQA compliance requirements, by confirming previously reported conditions consistent with the trustee approval process.
- Negative Declarations (ND) were certified for capital projects at the Chico, Pomona, San Francisco, and Stanislaus campuses; four additional ND documents were certified administratively at campuses for Photovoltaic Renewable Energy Projects, Chico, Dominguez Hills, Fullerton, and San Luis Obispo.
- Seven Categorical Exemptions were submitted for Major Capital Outlay projects included on Attachment A.
- Not included in Attachment A are administratively approved minor capital outlay projects and minor master plan revisions for which a Notice of Exemption was submitted by the respective campus directly to the State Clearinghouse.

CEQA Updates

Significant legislative and judicial actions have occurred in the past year that will have important consequences for the CSU capital improvement program and campus growth issues.

CPDC continues to monitor legislative bills that propose changes to CEQA compliance requirements that affect CSU policies and procedures. Of particular concern has been a number of initiatives dealing with the issue of CSU responsibility for off-site mitigation of environmental impacts from university capital projects needed to accommodate and serve growing enrollment demand. These include off-site street, traffic, infrastructure, and mass transit improvements.

This issue has consistently been a factor in prior year and current litigation for many CSU capital projects and master plan programs on the campuses.

CPDC staff continues to host CEQA working groups and conduct training seminars for campus planning staff to develop CSU policies and procedures and provide updated CEQA compliance procedures on the technical and practical aspects of CEQA compliance to meet the environmental review requirements, further incorporating discussions with local cities and agencies in the process.

AB 2951 Capital Facilities Fee Bill

Assembly Bill 2951 (Goldberg) substantively changed current law regarding the imposition of capital facilities fees on public agencies. This bill was enacted into law in September, 2006. The CSU in conjunction with coalition partners of public schools, community colleges, universities and other agencies had worked diligently to defeat this bill. Unfortunately, these efforts were unsuccessful.

AB 2951, as enacted, allows publicly owned utilities to embed capital facilities fees in their monthly service charges to pay for new capital facilities. These capital facilities fees do not have to be negotiated and may exceed inflation limits provided for in previous, existing law. The bill significantly changed prior law, which provided that certain public agencies, such as the CSU, pay only for utility capital facilities that actually served them and required negotiation of capital facilities fees in excess of those provided by [prior] law.

California Supreme Court Case: City of Marina v. CSU

The Supreme Court on May 2, 2006, heard the long-standing case involving the CSU Monterey Bay master plan revision (City of Marina v. CSU). The essential issue is whether a local jurisdiction (city, county, special district) can compel the CSU to fund or otherwise participate in shared funding for major roadway and related off-site infrastructure improvements that are identified in an EIR as necessary to mitigate potential future environmental impacts related to the growth and development of a CSU campus. *Supreme Court Ruling*

On July 31, 2006, the California Supreme Court ruled in the City of Marina v. CSU case that the cost of environmental mitigation is not a tax or assessment but, rather, a “voluntary” payment. Therefore, CSU does not enjoy a constitutional immunity from these charges, and has an obligation to negotiate with local public agencies its fair share of the cost of environmental impacts caused by its projects.

The Court also ruled, however, that it is CSU that has the ultimate discretion to determine its fair share, subject only to a challenge of abuse of its discretion:

"[H]aving chosen not to assess the campus but instead to rely on the Trustees to comply with their CEQA obligation to mitigate or avoid the environmental effects of their project, [a local agency] has no power to dictate the manner in which the Trustees exercise their discretion. Neither do the remedial provisions of CEQA 'authorize a court to direct any public agency to exercise its discretion in any particular way.' . . . CEQA requires only that any mitigation measures the Trustees adopt be adequate."

The Court ruled that CSU has an obligation to seek funding for environmental mitigation costs from the Legislature, which in theory should relieve CSU from having to use its core education budget to pay for environmental mitigation costs, but will inevitably decrease the overall availability of state funds for educational projects.

The key elements of the ruling are the following:

- The cost of environmental mitigation is voluntary -- i.e., not a tax or an assessment; therefore the constitutional exemption does not apply.
- CSU has an obligation to negotiate with a host local agency to determine CSU's fair share of overall environmental mitigation costs -- i.e., those caused by a CSU project. If agreement is not reached, CSU determines what is its fair share, and this finding can only be overturned by the local agency upon a showing of abuse of discretion (a strong legal standard to meet).
- CSU has an obligation, based on the City of Marina v. CSU decision, to request of the Legislature funding to pay for negotiated environmental mitigation that represents CSU's "Fair Share" of those improvement costs. *Secondary Issues*

Previously approved EIRs are not subject to this decision as long as they were certified and have gone through the statutory appeal period without legal challenge. Campuses where a legal challenge has already been filed during the statutory appeal period will have to re-do their EIRs (Monterey Bay and San Diego State). Campuses will have to comply with the City of Marina v. CSU directives on all future project EIRs, even those that are tiered-off of previously certified master plan EIRs.

Campuses that are currently in the middle of preparing an EIR, particularly those that propose a master plan revision to raise the enrollment ceiling for the campus, must now take into account the City of Marina v. CSU directives. Campuses will need to negotiate environmental mitigation

costs and revise draft EIRs accordingly prior to publishing. If it is necessary to prepare a Subsequent or Supplemental EIR, it must also follow the City of Marina v. CSU directives.

If the Legislature denies a request for funding for environmental mitigation costs, the CSU may claim that the mitigation measures are infeasible. The City of Marina v. CSU opinion states: "Moreover, a state agency's power to mitigate its project's effects through voluntary mitigation payments is ultimately subject to legislative control; if the Legislature does not appropriate the money, the power does not exist."

For projects that are not State funded but are for facilities needed to serve our students the City of Marina v. CSU directives still apply. The central issue of how this new obligation will be funded remains unresolved at this juncture but staff anticipates the CSU 2008/09 Budget Request will include a funding request.

Legislative Committee Hearing: Long Range Development Planning Process—*Supplemental Language for the 2007 Budget Bill from the Legislative Analyst, relating to CSU campus growth and new EIR's following the City of Marina v. CSU Decision*

On January 30, 2007 a Joint Legislative Committee Hearing was held in Sacramento, with the Assembly Budget Subcommittee No. 2 on Education Finance and the Assembly Higher Education Committee. The Legislative Analyst's Office (LAO) presented a report on Long Range Planning for University of California, the physical and environmental impact controversies that arise within the local "host" cities with the growth of UC campuses, and how the "Marina" decision will impact some of these issues. Many of the specific issues presented and discussed in the hearing carry numerous implications for CSU. The LAO expressed three major CEQA concerns:

1. Enrollment projections are not reviewed by the Legislature, and the process at arriving at enrollment projections is not clearly defined.
2. The process of reaching agreement with local cities for "Fair Share" impact mitigation fees is not well defined, nor is the implementation of such agreements uniform or even clearly established.
3. The public process for implementing community review and input under existing CEQA requirements and UC/CSU procedures when major growth plans are underway, are not sufficient to adequately inform the local community of the institution's plans for growth of its facilities and programs.

Partly in response to the hearing and input from the committee members, the LAO proposed and has now finalized Supplemental Language for the 2007 budget, specifically for CSU (as well as UC), that makes new requirements for notifying the Legislature (through the Joint Legislative

Budget Committee) when new or updated physical master plans for growth and the accompanying EIR are published for public review and comment.

Additionally, it requires that the university report on negotiations with local agencies for mitigation measures for significant off-campus impacts. These additional administrative requirements will add to the due diligence and disclosure processes that are now required in putting forward a campus master plan revision, particularly when growth of the campus enrollment ceiling is part of the master plan proposal.

THE CALIFORNIA STATE UNIVERSITY
 CALIFORNIA ENVIRONMENTAL QUALITY ACT ANNUAL REPORT
 January 2006 through December 2006

CAMPUS/Project	CEQA Action Prepared					
	Exempt	MIT. N.D.	N.D.	E I R	BOT Action	NOD Filed
CALIFORNIA STATE UNIVERSITY, BAKERSFIELD Recreation Center Schematic Plan Approval	√				5/17/2006	5/18/2006
CALIFORNIA STATE UNIVERSITY, CHANNEL ISLANDS Student Housing Phase II Schematic Plan Approval	√				2/1/2006	2/2/2006
CALIFORNIA STATE UNIVERSITY, CHICO Photovoltaic Project Schematic Plan Approval			√		8/23/2006	8/25/2006
Wildcat Activity Center Schematic Plan Approval		√			7/19/2006	7/20/2006
CALIFORNIA STATE UNIVERSITY, DOMINGUEZ HILLS Certify the Final SEIR and Approve the Permanent Lighting for the Track and Field Stadium				√	2/1/2006	2/15/2006
Photovoltaic Project Schematic Plan Approval		√			2/1/2006	2/2/2006
Home Depot Center Phase II Conference Center & Hotel, Certify Final SEIR & Approve Campus Master Plan Revision				√	2/1/2006	2/2/2006
CALIFORNIA STATE UNIVERSITY, EAST BAY Student Services Schematic Plan Approval	√				3/15/2006	3/16/2006
CALIFORNIA STATE UNIVERSITY, FULLERTON Photovoltaic Project Schematic Plan Approval		√			2/1/2006	2/2/2006
CALIFORNIA STATE UNIVERSITY, MONTEREY BAY Approve Campus Master Plan Revisions and Land Exchange				√	3/15/2006	3/16/2006
CALIFORNIA STATE UNIVERSITY, NORTHRIDGE Parking Structure G-3 Schematic Plan Approval				√	11/15/2006	11/16/2006
Certify the Final EIR and Approve the Campus Master Plan Revision with Enrollment Ceiling Increase				√	3/15/2006	3/16/2006
Performing Arts Center Schematic Plan Approval				√	3/15/2006	3/16/2006
Science Replacement Schematic Plan Approval	√				2/1/2006	2/2/2006
CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA Innovation Village Phase III Schematic Plan Approval		√			3/15/2006	3/16/2006
CALIFORNIA STATE UNIVERSITY, SACRAMENTO Field House Replacement Facility	√					
Recreation and Wellness Center Schematic Plan Approval	√				3/15/2006	3/16/2006
CALIFORNIA STATE UNIVERSITY, SAN BERNARDINO Northern Access Road, Part of the Master Plan				√		7/14/2006
Palm Desert Off-Campus Center Phase II Schematic Plan Approval	√				5/17/2006	5/18/2006
SAN FRANCISCO STATE UNIVERSITY Approve Campus Master Plan Revision and Construct Creative Arts Building		√			5/17/2006	5/19/2006
CALIFORNIA POLYTECHNIC STATE UNIVERSITY, SAN LUIS OBISPO Photovoltaic Project Schematic Plan Approval			√		8/23/2006	9/1/2006
CALIFORNIA STATE UNIVERSITY, STANISLAUS Master Plan Revision, Amendment to Nonstate Funded COP & Student Recreation Complex Schematic Plan Approval		√			11/15/2006	11/16/2006

EXEMPT Categorical Exemption
 MIT. N.D. Mitigated Negative Declaration
 N.D. Negative Declaration
 EIR Environmental Impact Report
 BOT Action Meeting Date Action Taken (or Delegated Approval)
 NOD Filed Date Notice of Determination Filed with State Clearinghouse Office of Planning and Research or Date of Notice of Exemption

COMMITTEE ON CAMPUS PLANNING, BUILDINGS AND GROUNDS

**Categories and Criteria for the State Funded Five-Year Capital Improvement Program,
2009-10 – 2013-14**

Presentation By

Elvyra F. San Juan
Assistant Vice Chancellor
Capital Planning, Design and Construction

Summary

The Board of Trustees annually adopts categories and criteria that are used in setting priorities for the state funded capital outlay program. Attachment A contains the proposed CSU 2009/10–2013/14 categories and criteria, which is fairly consistent with those approved by the board last year. Campus administrative staff has reviewed the proposed categories and criteria.

The following resolution is presented for approval:

RESOLVED, By the Board of Trustees of the California State University, that:

The Categories and Criteria for the State Funded Five-Year Capital Improvement Program, 2009/10–2013/14 in Attachment A of Agenda Item 4 of the July 10-11, 2007 meeting of the trustees' Committee on Campus Planning, Buildings and Grounds be approved; and

The chancellor is directed to use these categories and criteria to prepare the CSU State Funded Five-Year Capital Improvement Program.

Categories and Criteria to Set Priorities
2009/10–2013/14 State Funded Five-Year Capital Improvement Program

General Criteria

A campus may submit a maximum of one project for the 2009/10 budget year, and one project for the 2010/11 planning year, including health and safety projects. A campus may submit a maximum of three projects per year, including health and safety projects, for the 2011/12 through 2013/14 planning years. Exceptions to this limit will be considered on an individual project basis. Equipment and seismic strengthening projects are excluded from this limit. Seismic strengthening projects will be prioritized according to recommendations from the CSU Seismic Review Board.

Campuses shall typically prepare their project requests for the five-year program using preliminary plan (P) phase funding separate from the working drawing and construction (WC) phases for new project starts. Approval of multi phase projects may require the project funding to be allocated over more than one bond cycle. Campus requests for PWC lump sum funding will be considered on an individual project basis.

Current trustee-approved campus physical master plan enrollment ceilings apply to on-campus station count enrollment only. These numbers are to be used as the basis of comparison for justifying capital projects that address enrollment demand to be accommodated on campus. Enrollment estimates that exceed these figures should be accommodated through distributed learning and other off-campus instructional means. Proposed renovation projects are expected to include additional instructional capacity (a minimum of 10% increase in the building's existing capacity) as a means to address enrollment demand in these types of projects. Projects that increase capacity will receive higher priority consideration than renovation projects without enrollment capacity increases. Priorities will be determined based upon the relative deficiency in campus space.

If there are two or more auditoriums or large lecture hall projects, priority shall be given to the project for which 50 percent or more of its funding will be from nonstate sources. At least \$5 million must be raised from non-state sources for an auditorium project.

Individual Categories and Criteria

I. Existing Facilities/Infrastructure

A. Critical Infrastructure Deficiencies

These funds correct structural, health and safety code deficiencies by addressing life safety problems and promoting code compliance in existing facilities. Projects include seismic strengthening, correcting building code deficiencies, and addressing regulatory changes which impact campus facilities or equipment. These funds also include minor capital outlay and capital renewal projects.

B. Modernization/Renovation

These funds make new and remodeled facilities operable by providing group II equipment, and replacing utility services and building systems to make facilities and the campus infrastructure operable. These funds also meet campus needs by modernizing existing facilities or constructing new replacement buildings in response to academic, support program needs and enrollment demand as appropriate.

II. New Facilities/Infrastructure

These funds eliminate instructional and support deficiencies, including new buildings and their group II equipment, additions, land acquisitions, and site development.

