

Approved

## COMMITTEE ON FINANCE

November 15, 2007

## TO THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

**A. AUTHORIZATION OF LEASES AND AGREEMENTS FOR HELIOS ENERGY RESEARCH FACILITY, BERKELEY CAMPUS**

The Committee recommends that, subject to adoption by the State Public Works Board of a resolution authorizing the issuance of State Public Works Board (SPWB) Lease Revenue Bonds and authorizing interim loans from the State's Pooled Money Investment Account or General Fund for the Helios Energy Research Facility at the Berkeley campus:

- (1) The President or the Secretary and Chief of Staff be authorized to:
  - a. Execute an unsubordinated site lease from The Regents to the SPWB for the project named above, said lease to contain provisions substantially as follows:
    - i. The site shall comprise the approximate size of the footprint for the building named above. Said lease shall also include a license to the SPWB for access from campus roads to the site during the term of the lease.
    - ii. The purpose of the lease shall be to permit construction of the project.
    - iii. The term of the site lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds, and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full.
    - iv. The rental shall be \$1 per annum.
    - v. The Regents shall have power to terminate the site lease in the event of default by the SPWB, except when such termination would affect or impair any assignment or sublease by the SPWB and such assignee or subtenant is duly performing the terms and conditions of the lease.

- vi. The Regents shall provide to the SPWB and any assignee of the SPWB access to the site and such parking and utility services as are provided for similar facilities on the campus.
  - vii. The Regents shall waive personal or individual liability of any member, officer, agent, or employee of the SPWB.
  - viii. The Regents shall agree to pay assessments or taxes, if any, levied on the site or improvements attributable to periods of occupancy by The Regents.
  - ix. In the event any part of the site or improvements is taken by eminent domain, The Regents recognizes the right of the SPWB to retain condemnation proceeds sufficient to pay any outstanding indebtedness incurred for the construction of the project.
- b. Execute an agreement between the State of California, as represented by the SPWB, and The Regents for the project named above, said agreement to contain the following provisions:
- i. The SPWB agrees to finance construction for the project, as authorized by statute.
  - ii. The Regents agrees to provide and perform all activities required to plan and construct said project.
- c. Execute a facility lease from the SPWB to The Regents for the project named above, said leases to contain provisions substantially as follows:
- i. The purpose of the building's occupancy shall be to use it as a facility for research and support-related functions in furtherance of the University's mission related to instruction, research, and public service.
  - ii. The SPWB shall lease the State-financed portion of the facility, including the site, to The Regents pursuant to a facility lease.
  - iii. The terms of the facility lease shall commence on recordation of the lease or the first day of the month following the meeting of the SPWB at which the resolution is adopted authorizing the lease, the issuance of bonds, and interim financing for the project, whichever is earlier, and shall terminate on the date the bonds issued by the SPWB are paid in full, subject to earlier termination if such bonds have been retired in full.
  - iv. If the SPWB cannot deliver possession to The Regents at the time contemplated in the lease, the lease shall not be void nor shall the SPWB be liable for damages, but the rental payment shall be abated proportionately to the

- construction cost of the parts of the facility not yet delivered.
- v. In consideration for occupancy during the term of the lease and after the date upon which The Regents takes possession of the facility, The Regents shall pay base rent in an annual amount sufficient to pay debt service on the bonds or other obligations of the SPWB issued to finance or refinance the facility and additional rent for payment of all administrative costs of the SPWB.
  - vi. The Regents covenants to take such actions as may be necessary to include in the University's annual budget amounts sufficient to make rental payments and to make the necessary annual allocations.
  - vii. During occupancy, The Regents shall maintain the facility and pay for all utility costs and shall maintain fire and extended coverage insurance at then current replacement cost or an equivalent program of self-insurance, and earthquake insurance if available on the open market at a reasonable cost.
  - viii. During occupancy, The Regents shall maintain public liability and property damage insurance, or an equivalent program of self-insurance, on the facility and shall maintain rental interruption or use and occupancy insurance, or an equivalent program of self-insurance, against perils covered in c (vii.) above.
  - ix. In the event of default by The Regents, the SPWB may maintain the lease whether or not The Regents abandons the facility and shall have the right to relet the facility, or the SPWB may terminate the lease and recover any damages available at law.
  - x. The Regents shall be in default if the lease is assigned, sublet, or transferred without approval of the SPWB; if The Regents files any petition or institutes any proceedings for bankruptcy; or if The Regents abandons the facility.
  - xi. The Regents shall cure any mechanics' or materialmen or other liens against the facility and, to the extent permitted by law, shall indemnify the SPWB in that respect.
  - xii. The Regents, to the extent permitted by law, shall indemnify the SPWB from any claims for death, injury, or damage to persons or property in or around the facility.
  - xiii. Upon termination or expiration of the lease, other than for breach or because of eminent domain, title to the facility shall vest in The Regents.

**B. APPROVAL OF THE UNIVERSITY OF CALIFORNIA FINANCIAL REPORT, 2007**

The Committee recommends approval of the University of California Financial Report, 2007.

**C. APPROVAL OF UNIVERSITY OF CALIFORNIA 2008-09 BUDGETS FOR CURRENT OPERATIONS AND FOR STATE CAPITAL IMPROVEMENTS**

The Committee recommends that:

- (1) The expenditure plan included in the document, *2008-2009 Budget for Current Operations*, be approved.
- (2) The Committee concurs with the recommendation of the Committee on Grounds and Buildings that the *2008-2009 Budget for State Capital Improvements* be approved.

**D. APPROVAL OF A WORKING CAPITAL LOAN FOR THE GEFFEN PLAYHOUSE, INC., LOS ANGELES CAMPUS**

The Committee recommends that:

- (1) The Los Angeles Campus be authorized to extend a working capital loan from campus funds of up to \$2.6 million to the Geffen Playhouse, Inc.
- (2) The term of the loan shall not exceed five years and shall bear interest at the current rate of the Short-Term Interest Pool.
- (3) The Officers of The Regents be authorized to execute all documents necessary in connection with the above.

**E. APPROVAL OF THE PROCESS FOR THE DEVELOPMENT OF THE MISSION BAY NEUROSCIENCE RESEARCH BUILDING (19A), SAN FRANCISCO CAMPUS**

The Committee recommends that:

- (1) The President, in consultation with the Office of the General Counsel, be authorized:
  - a. To review and refine alternative development methods for constructing the Neurosciences Building (19A) and establish an

evaluation methodology to determine the development method that is in the best interests of the University.

- b. To issue a Request for Proposals (RFP) for the development of the 19A building consistent with the determination in (1) a.
- (2) The President be authorized to execute all documents necessary in connection with the above.