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Office of the President

TO THE MEMBERS OF THE COMMITTEE ON FINANCE:

ACTION ITEM

For Meeting of May 18, 2006

Action by Consent

AUTHORIZATION OF LEASES AND AGREEMENTS FOR SEISMIC CORRECTIONS, SAN FRANCISCO CAMPUS MEDICAL CENTER FACILITIES

EXECUTIVE SUMMARY

Campus: San Francisco

Action: Delegate authority to the President or Secretary of The Regents to execute site and facility leases between The Regents and the State Public Works Board to support financing for seismic corrections to the Moffitt/Long Hospitals at the San Francisco campus to comply with the Hospital Facilities Seismic Safety Act (SB 1953, Chapter 740, Statutes of 1994). Any general acute care hospital facility determined to be a potential risk of collapse or to pose significant loss of life, unless provided an extension, must be taken out of service by January 1, 2008 or used only for non-acute-care hospital purposes.

The waiver of personal and individual liability [(1)g.] and indemnification [(3)l.] provisions are standard features of such leases between the State Public Works Board and The Regents.

RECOMMENDATION

The President 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 UCSF Medical Center SB 1953 Moffitt/Long 2008 project at the San Francisco campus:

A. The President or the Secretary be authorized to:

- (1) Execute an unsubordinated site lease from The Regents to the SPWB for the project named above, said lease to contain provisions substantially as follows:
 - a. 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.
 - b. The purpose of the lease shall be to permit construction of the project.
 - c. 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.
 - d. The rental shall be \$1 per year.
 - e. 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.
 - f. 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.
 - g. The Regents shall waive personal or individual liability of any member, officer, agent, or employee of the SPWB.
 - h. 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.
 - i. 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.

- (2) 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:
 - a. The SPWB agrees to finance construction of the project, as authorized by statute.
 - b. The Regents agrees to provide and perform all activities required to plan and construct said project.

- (3) Execute a facility lease from the SPWB to The Regents for the project named above, said leases to contain provisions substantially as follows:
 - a. The purpose of the building's occupancy shall be to use it as a facility for acute care in-patient service and support-related functions in furtherance of the University's mission related to instruction, research, and public service.
 - b. The SPWB shall lease the financed facility, including the site, to The Regents pursuant to a facility lease.
 - c. 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.
 - d. 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.
 - e. 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.
 - f. 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.
 - g. 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.

- h. 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 (3)g. above.
 - i. 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 re-let the facility, or the SPWB may terminate the lease and recover any damages available at law.
 - j. 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.
 - k. 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.
 - l. 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.
 - m. 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. The President be authorized to identify assets to be leased in lieu of facilities constructed pursuant to (1) and (3) above, and the President or the Secretary be authorized to execute documents necessary to lease such assets.

BACKGROUND

The recommended actions would permit the construction or renovation of facilities at the Medical Center at the San Francisco campus to comply with the Hospital Facilities Seismic Safety Act (SB 1953, Chapter 740, Statutes of 1994). This Act mandates that the owners of all acute care hospitals in California perform a seismic evaluation of their facilities. This evaluation, to be conducted in accordance with procedures developed by the Office of Statewide Health Planning and Development (OSHPD), is intended to determine the probable performance during a seismic disaster of each hospital building used for inpatient care. Following this evaluation, a Structural Performance Category rating must be assigned to each hospital facility according to the performance criteria established by OSHPD. Unless provided an extension to 2013, any general acute care hospital facility determined to be a potential risk of collapse or to pose significant loss of life and consequently assigned an SPC1 rating must be taken out of service by January 1, 2008 or used only for non-acute-care hospital purposes.

Senate Bill 1667 (Chapter 71, Statutes of 2000) authorizes the State Public Works Board to issue up to \$600 million in State Lease Revenue Bonds for seismic corrections to assist the University's five medical centers meet the 2008 requirements of SB 1953. The medical centers

have developed plans to comply with SB 1953, and at the November 2000 Regents meeting, the following allocation of the \$600 million in State Lease Revenue Bonds was approved:

UCDMC: \$120,000,000
UCIMC: \$235,000,000
UCLAMC: \$180,000,000
UCSDMC: \$ 40,000,000
UCSFMC: \$ 25,000,000

The actions recommended in this item are similar to previous actions approved by The Regents for projects financed through State Public Works Board Lease Revenue Bonds. These actions are also similar to previous actions approved by The Regents in which an asset other than the project being financed was used to secure financing for different facilities, including the use of an asset from one UC campus to secure financing for facilities on other campuses.

1995 and 1996 Asset Transfer Program As part of the negotiations for the 1994 and 1995 State Budgets, the State authorized the use of \$25 million for each year in debt financing for deferred maintenance, shifting deferred maintenance costs from general funds to long-term financing. Initially, it was anticipated that the appropriations for the deferred maintenance program would be funded through the sale of lease revenue bonds issued by the State Public Works Board, a financing method used for a number of State-funded University capital projects in the past; however, as a result of subsequent discussions with the State Department of Finance, it was agreed that the University would finance the two \$25 million deferred maintenance appropriations included in the 1994 and 1995 State Budget Acts, with the State providing funding for the debt service payments.

The University's financing involved a lease/lease-back mechanism that required the pledge of capital assets. Because there were more than 300 individual deferred maintenance projects in the two-year program, the deferred maintenance projects themselves could not be used as the leased property pledged for the security of the financing. Instead, four University buildings at four different campuses were used to secure the financing. The State has supported this specific asset transfer process by annually funding the University's debt service for the deferred maintenance program.

Leases and Agreements. Under the facility lease, The Regents agrees to pay rent to the SPWB in an amount necessary to repay principal and interest on the obligations of the SPWB issued permanently to finance the construction of the facility. Negotiations between the University and the Department of Finance will determine the repayment arrangements on the debt service. The options for repayment for the UCSF SB 1953 Moffitt/Long 2008 project are (1) State general fund appropriation, (2) hospital revenues, depending on the hospital's financial situation from year to year, or (3) a combination of (1) and (2). While the Legislature and the Governor have indicated their recognition of the need for continuing budgetary support, there can be no absolute assurance of this support through the life of the bonds. To date, however, the State has provided funding for repayment of the debt service. In any year in which the State fails to appropriate sufficient funds to make the rental payments, The Regents would be obligated to pay rent from any lawfully available funds. When the obligations are retired, the leases would terminate, and The Regents would obtain clear title to the improvements.

The exact amount of the annual rent for the SB 1953 Moffitt/Long 2008 project would be based on interest rates and the maturity date of the financial instruments as established by the State Treasurer; however, assuming that the total amount to be financed is \$25,000,000 and assuming an interest rate of 6.125 percent, it is estimated that the annual rent would be \$1,841,000 during the period of indebtedness if 30-year bonds were sold, not including the additional rent for related financing costs and SPWB administrative expenses.

The forms for the site and facility leases and the construction agreements will be drafted by the General Counsel of The Regents and coordinated with the SPWB's Counsel.

Attachment 1 (below) provides a summary of the scope of work for the project. **Attachment 2** provides information regarding the total funding for the project and the estimated annual debt service on the project.

(Attachments)

**Summary of UCSF Medical Center SB 1953 Moffitt/Long 2008 Project
Requesting Funding from State Lease Revenue Bonds**

San Francisco Campus

To comply with 2002 and 2008 SB 1953 seismic requirements, the San Francisco campus reviewed the structural and non-structural elements of the acute care areas of the Medical Center. This result in the need for two projects: SB 1953 Moffitt 2002 and SB 1953 Moffitt/Long 2008. The first project, SB 1953 Moffitt 2002, previously approved and completed, satisfied the anchorage requirements in Moffitt Hospital for non-structural communication systems and emergency lighting, equipment, and signs.

UCSF Medical Center SB 1953 Moffitt/Long 2008: The SB 1953 Moffitt/Long 2008 project is being implemented in two phases. Phase 1 will satisfy non-structural requirements in Moffitt and Long Hospitals by upgrading the seismic anchorage or bracing of non-structural components within the two hospitals and the central utility plant.

Phase 2 will seismically upgrade Moffitt/Long Hospitals and satisfy structural requirements by implementing structural changes along the side of the Moffitt Hospital building where it connects to the Medical Sciences Building. Beams and floor slabs on fifteen floors will be cut and seismic separation joints will be installed. The project will upgrade Moffitt Hospital to a structural performance category of SPC-2 as mandated by Senate Bill 1953 to keep the hospitals in operation through January 1, 2030. Project costs include necessary building infrastructure work, especially those related to information technology systems as affected by the structural work.

The total cost of the two UCSF SB 1953 compliance projects is approximately \$31.5 million. The total cost of the SB 1953 Moffitt/Long 2008 project is estimated to be about \$28.8 million, of which \$25 million will be funded from State lease revenue bonds. The project also will be funded by hospital reserves and FEMA funds.