

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

July 20-21, 2016

The Regents of the University of California met on the above dates at UCSF–Mission Bay Conference Center, San Francisco.

Members present: Regents Brody, De La Peña, Gould, Island, Kieffer, Lozano, Makarechian, Napolitano, Ortiz Oakley, Pattiz, Pérez, Ramirez, Reiss, Schroeder, Sherman, Varner, and Zettel

In attendance: Regents-designate Lemus and Mancía, Faculty Representatives Chalfant and Hare, Secretary and Chief of Staff Shaw, General Counsel Robinson, Chief Compliance and Audit Officer Vacca, Provost Dorr, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President and Chief Operating Officer Nava, Executive Vice President Stobo, Senior Vice President Peacock, Vice Presidents Brown, Budil, Duckett, and Humiston, Chancellors Block, Blumenthal, Dirks, Gillman, Hawgood, Khosla, Leland, Wilcox, and Yang, Acting Chancellor Hexter, and Recording Secretary Johns

The meeting convened at 9:30 a.m. with Chairman Lozano presiding.

1. **REPORT OF THE SPECIAL COMMITTEE ON SELECTION OF A STUDENT REGENT**

The Committee presented the following from its meeting of May 12, 2016:

Appointment of 2017-18 Student Regent

The Special Committee recommended that Paul Monge, a law student at the University of California, Berkeley, be appointed a Regent of the University of California to serve for the period July 1, 2017 through June 30, 2018, and that he serve as Regent-designate, effective immediately, until the appointment becomes effective.

Upon motion of Regent Zettel, duly seconded, the recommendation of the Special Committee on Selection of a Student Regent was approved.

Regent-designate Monge thanked the Board of Regents for this opportunity to serve the University of California. He noted that he was the first member of his family to receive a higher education and stressed his commitment to ensuring access to and the affordability of a UC education for other students.

The Regents recessed at 9:35 a.m.

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The Regents reconvened at 11:05 a.m. with Chairman Lozano presiding.

Members present: Regents Brody, De La Peña, Gould, Island, Kieffer, Lansing, Lozano, Makarechian, Napolitano, Ortiz Oakley, Pattiz, Pérez, Ramirez, Reiss, Schroeder, Sherman, Varner, and Zettel

In attendance: Regents-designate Lemus, Mancía, and Monge, Faculty Representatives Chalfant and Hare, Secretary and Chief of Staff Shaw, General Counsel Robinson, Chief Compliance and Audit Officer Vacca, Chief Investment Officer Bachher, Provost Dorr, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President and Chief Operating Officer Nava, Executive Vice President Stobo, Senior Vice Presidents Henderson and Peacock, Vice Presidents Brown, Budil, Duckett and Humiston, Chancellors Block, Blumenthal, Dirks, Gillman, Hawgood, Khosla, Leland, Wilcox, and Yang, Acting Chancellor Hexter, and Recording Secretary Johns

2. **REPORT OF THE COMMITTEE ON GOVERNANCE**

The Committee presented the following from its meeting of July 20, 2016:

Board Governance Restructure: Adoption of Bylaws of the Regents of the University of California and Standing Committee Charters, and Rescission of Current Bylaws

The Committee recommended that:

- A. Service of notice be waived.
- B. The Bylaws of the Regents of the University of California currently in effect be rescinded.
- C. The Bylaws of the Regents of the University of California as shown in Attachment 1 be adopted.¹
- D. The Committee Charters as shown in Attachment 2 be adopted.

Upon motion of Regent Gould, duly seconded, the recommendation of the Committee on Governance was approved.

The Regents recessed at 11:10 a.m.

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The Regents reconvened on July 21, 2016 at 10:40 a.m. with Chairman Lozano presiding.

¹ This item was approved as amended with conforming text edits to be prepared by staff to reflect the Regents' discussion at the July 20, 2016 Board of Regents meeting.

Members present: Regents Blum, Brody, De La Peña, Island, Kieffer, Lansing, Lozano, Makarechian, Napolitano, Ortiz Oakley, Pattiz, Pérez, Ramirez, Reiss, Schroeder, Sherman, Varner, and Zettel

In attendance: Regents-designate Lemus, Mancina, and Monge, Faculty Representatives Chalfant and Hare, Secretary and Chief of Staff Shaw, General Counsel Robinson, Chief Compliance and Audit Officer Vacca, Chief Investment Officer Bachher, Provost Dorr, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President and Chief Operating Officer Nava, Senior Vice President Henderson, Vice Presidents Brown, Budil, Duckett and Humiston, Chancellors Block, Blumenthal, Dirks, Hawgood, Khosla, Leland, Wilcox, and Yang, Acting Chancellor Hexter, and Recording Secretary Johns

3. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of May 12 and the meetings of the Committee of the Whole of May 10, 11, and 12, 2016 were approved.

4. REPORT OF THE PRESIDENT

The President presented her report concerning University activities and individuals. U.S. President Obama had recently bestowed the nation's highest honors for advancing science and technology on three UC faculty members. Paul Alivisatos, former director of Lawrence Berkeley National Laboratory (LBNL) and a professor of chemistry at UC Berkeley, was awarded the National Medal of Science for his contributions to nanoscience. Two UC engineers received the National Medal of Technology and Innovation: Chenming Hu, professor emeritus of electrical engineering and computer sciences at UC Berkeley, for work in microelectronics, and Arthur Gossard, professor emeritus of materials science and computer engineering at UC Santa Barbara, for work on semiconductor device technology.

The Department of Energy ranked the UC San Diego algae biofuels research effort the foremost program of its kind in the nation for the fourth consecutive year. A survey by BestColleges.com found that, among the 100 largest U.S. universities, UC San Diego graduates the highest percentage of women with degrees in science, technology, engineering, and mathematics (STEM), about one-third, and about three times the national average. UC Davis ranked third, with 23.7 percent of women receiving STEM degrees. UC Berkeley was fourth, with 23.5 percent, and UC Irvine ranked eighth at 21.5 percent.

Two UC Berkeley scientists received the Taiwan-based Tang Prize: Jennifer Doudna, professor of chemistry and cell biology, for studies in genome editing; and Arthur Rosenfeld, a researcher at LBNL, for work in energy sustainability and efficiency. Michael Rape, professor of cell and development biology at UC Berkeley, was named a 2016 Blavatnik National Laureate in life science, an award administered by the New

York Academy of Sciences. He was recognized for his discoveries concerning the role of certain proteins in cell development and disease.

5. **REPORT OF THE COMMITTEE ON COMPLIANCE AND AUDIT**

The Committee presented the following from its meeting of July 19, 2015:

A. ***Approval of Ethics and Compliance Program Plan for 2016-17***

The Committee reported its approval of the Ethics and Compliance Program Plan for 2016-17.

B. ***Approval of Internal Audit Plan for 2016-17***

The Committee reported its approval of the Internal Audit Plan for 2016-17.

Upon motion of Regent Zettel, duly seconded, the report of the Committee on Compliance and Audit was accepted.

6. **REPORT OF THE COMMITTEE ON COMPENSATION**

The Committee presented the following from its meeting of July 21, 2016:

A. ***Amendment of Regents Policy 7707: Senior Management Group Outside Professional Activities***

The Committee recommended approval of the proposed amendments to Regents Policy 7707, Senior Management Group Outside Professional Activities, as reflected in Attachment 3.

Implementation of the new policy will be prospective, meaning that it will apply to future Outside Professional Activities approval requests that do not involve a current activity undertaken by an existing Senior Management Group member.

B. ***Approval of Salary Adjustments for Certain Members of the Senior Management Group***

The Committee recommended approval of the salary adjustments for the individuals listed below, effective July 1, 2016.

Last Name	First Name	Working Title	Current Annual Base Salary	Proposed Salary Increase %	Proposed Annual Base Salary	Funding Source
Bachher*	Jagdeep	Chief Investment Officer and Vice President - Investments	\$633,450	3.0%	\$652,454	Non-State

Block	Gene	Chancellor	\$441,334	3.0%	\$454,574	Partial State
Blumenthal	George	Chancellor	\$383,160	3.0%	\$394,655	Partial State
Brostrom	Nathan	Executive Vice President and Chief Financial Officer	\$412,000	3.0%	\$424,360	Partial State
Budil	Kimberly	Vice President - Laboratory Management	\$365,650	3.0%	\$376,620	Non-State
Dirks	Nicholas	Chancellor	\$516,446	3.0%	\$531,939	Partial State
Dorr	Aimee	Provost and Executive Vice President - Academic Affairs	\$371,315	3.0%	\$382,454	Partial State
Gillman	Howard	Chancellor	\$485,000	3.0%	\$499,550	Partial State
Hawgood	Samuel	Chancellor	\$772,500	3.0%	\$795,675	Partial State
Henderson	Julie	Senior Vice President - Public Affairs	\$280,000	3.0%	\$288,400	Partial State
Khosla	Pradeep	Chancellor	\$436,120	3.0%	\$449,204	Partial State
Leland	Dorothy	Chancellor	\$383,160	3.0%	\$394,655	Partial State
Peacock	Nelson	Senior Vice President - Government Relations	\$280,000	3.0%	\$288,400	Partial State
Robinson	Charles	General Counsel and Vice President - Legal Affairs	\$441,334	3.0%	\$454,574	Partial State
Shaw	Anne	Secretary and Chief of Staff to the Regents	\$231,750	3.0%	\$238,703	Partial State
Stobo*	John	Executive Vice President - UC Health	\$615,322	3.0%	\$633,782	Partial State
Vacca	Sheryl	Senior Vice President - Chief Compliance and Audit Officer	\$429,665	3.0%	\$442,555	Partial State
Wilcox	Kim	Chancellor	\$383,160	3.0%	\$394,655	Partial State
Yang	Henry T.	Chancellor	\$389,340	3.0%	\$401,020	Partial State

* These Senior Management Group members are eligible for incentive pay authorized by the Regents.

The base salary described above shall constitute the University's total commitment for base salary until modified by the Regents or the President, as applicable under Regents policy, and shall supersede all previous oral and written commitments. Compensation recommendations and final actions will be released to the public as required in accordance with the standard procedures of the Board of Regents.

C. *Amendment of Regents Policy 7712: Senior Management Group Incentive Awards, to Conform with Clinical Enterprise Management Recognition Plan Changes*

The Committee recommended approval of the proposed amendments to Regents Policy 7712, Senior Management Group Incentive Awards, as reflected in Attachment 4.

Upon motion of Regent Reiss, duly seconded, the recommendations of the Committee on Compensation were approved.

7. REPORT OF THE COMMITTEE ON FINANCE

The Committee presented the following from its meeting of July 20, 2016:

A. *Fiscal Year 2016-17 Budget for Central and Administrative Services, Office of the President*

The Committee recommended that the University of California Office of the President fiscal year 2016-17 budget for Central and Administrative services be approved, as outlined in Table A below.

TABLE A

FY 2016-17 BUDGET SUMMARY OFFICE OF THE PRESIDENT (\$ millions)	TOTAL BUDGET		UNRESTRICTED BUDGET		RESTRICTED BUDGET	
	TOTAL FY 2015-16	TOTAL FY 2016-17	TOTAL FY 2015-16	TOTAL FY 2016-17	TOTAL FY 2015-16	TOTAL FY 2016-17
OFFICE OF THE PRESIDENT						
Central and Administrative Services	221.95	227.90	111.08	115.06	110.87	112.84
Academic Affairs	29.87	29.49	28.87	28.26	1.00	1.23
Research Innovation & Entrepreneurship	49.87	52.67	2.12	2.92	47.75	49.75
Finance	40.48	40.91	30.43	31.27	10.05	9.64
Operations	77.44	80.48	31.16	33.64	46.28	46.84
President's Exec. Office	3.13	3.11	2.68	2.63	0.45	0.48
Health Sciences	3.67	4.08	3.48	3.90	0.19	0.18
Governmental Relations	5.30	5.28	4.69	4.67	0.61	0.61
Public Affairs	12.19	11.88	7.65	7.77	4.54	4.11
Regents Officers	55.51	56.23	19.89	19.64	35.62	36.59
General Counsel	12.10	11.37	10.80	10.15	1.30	1.22
Secretary of the Regents	2.94	2.88	2.93	2.87	0.01	0.01
Ethics & Compliance	6.17	6.63	6.16	6.62	0.01	0.01
Investments Office	34.30	35.35	-	-	34.30	35.35
Facilities & Operational Expenses	23.04	25.87	22.53	25.36	0.51	0.51
Central Merit Funding	-	4.17	-	2.57	-	1.60
TOTAL	300.50	314.17	153.50	162.63	147.00	151.54
	<i>% change</i>	<i>4.5%</i>		<i>5.9%</i>		<i>3.1%</i>

B. *Fiscal Year 2016-17 Budget for Systemwide Academic and Public Service Programs, Office of the President*

The Committee recommended that the University of California Office of the President fiscal year 2016-17 budget for Systemwide Academic and Public Service Programs be approved, as outlined in Table A below.

TABLE A

FY 2016-17 BUDGET SUMMARY OFFICE OF THE PRESIDENT (\$ millions)	TOTAL BUDGET		UNRESTRICTED BUDGET		RESTRICTED BUDGET	
	TOTAL FY 2015-16	TOTAL FY 2016-17	TOTAL FY 2015-16	TOTAL FY 2016-17	TOTAL FY 2015-16	TOTAL FY 2016-17
SYSTEMWIDE ACADEMIC & PUBLIC SERVICE PROGRAMS						
Instruction	53.14	53.66	2.86	3.55	50.28	50.11
Research	107.49	108.56	55.95	56.21	51.54	52.35
Public Service	17.42	16.68	11.51	11.58	5.91	5.10
Academic Support	49.20	46.14	22.87	22.27	26.33	23.87
National Laboratories	4.54	4.99	-	-	4.54	4.99
Presidential Initiatives	9.85	9.77	9.85	9.77	-	-
Central Merit Funding		1.06		1.00	-	0.06
TOTAL	241.64	240.86	103.04	104.38	138.60	136.48
<i>% change</i>		<i>-0.3%</i>		<i>1.3%</i>		<i>-1.5%</i>
Systemwide Services						
UC Path Center	13.32	20.15	13.32	20.15	-	-
CyberSecurity	-	9.60	-	9.60	-	-
Agriculture and Natural Resources	95.92	100.98	69.44	73.50	26.48	27.48
Total Systemwide Services	109.24	130.73	82.76	103.25	26.48	27.48
<i>% change</i>		<i>19.7%</i>		<i>24.8%</i>		<i>3.8%</i>
GRAND TOTAL	350.88	371.59	185.80	207.63	165.08	163.96
<i>% change</i>		<i>5.9%</i>		<i>11.8%</i>		<i>-0.7%</i>

C. *Allocation of Los Alamos National Security, LLC and Lawrence Livermore National Security, LLC Fee Income to be Expended in Fiscal Year 2016-17*

The Committee recommended that the President of the University be authorized to expend an estimated \$23.1 million from the University's net share of Los Alamos National Security, LLC (LANS) and Lawrence Livermore National Security, LLC (LLNS) income earned between January 1, 2016 and December 31, 2016, as projected by the limited liability companies (LLCs), for the purposes and in the amounts described below:

- (1) The University's contractually required share of compensation costs for LLC employees in UC-designated Key Personnel positions under the LLC Agreements that is not reimbursed by the federal government under the prime contracts. Compensation for LLC employees in Key Personnel positions is paid by the LLCs as approved by the LLC Executive Committees. The amount of UC's contractual share of unreimbursed compensation for UC-designated Key Personnel positions for 2016-17 is estimated at \$2.2 million (\$2 million in 2015-16). If all or part of the \$2.2 million is not needed, the unspent allocation will be transferred to the UC Laboratory Fees Research Program Fund (paragraph (5) below) and carried over to 2017-18.
- (2) An appropriation to the Office of the President budget for federally unreimbursed costs of University oversight of its interest in LANS and LLNS, paid or accrued July 1, 2016 through June 30, 2017, including but not limited to an allocable share of the costs of the President's Executive

Office, the Provost, the Academic Senate, Human Resources, Compliance and Audit, Financial Accounting, Office of the National Laboratories, Federal Government Relations, Office of Research and Graduate Studies, Office of the General Counsel, Office of the Secretary and Chief of Staff to The Regents, Office of the President facility charges, and the University-appointed Governors on the Boards of the LLCs in the amount of \$4.9 million for 2016-17 (\$5.1 million in 2015-16). If all or part of the \$4.9 million is not needed, the unspent allocation will be transferred to the UC Laboratory Fees Research Program Fund (paragraph (5) below) and carried over to 2017-18.

- (3) An appropriation in 2016-17 to a Post-Contract Contingency Fund (PCCF) in the amount of \$2.3 million (\$1.3 million for 2015-16). Any income generated by the PCCF under the University's Short Term Investment Pool (STIP) shall be reserved exclusively for the PCCF. The balance in the PCCF as of April 30, 2016 is \$10.3 million. The addition of \$2.3 million in 2016-17 brings the PCCF balance to \$12.6 million.

The management and operating contract for Los Alamos National Laboratory (LANL) currently expires September 30, 2018. The U.S. Department of Energy (DOE) has publicly announced it will conduct a full and open competition for the LANL contract. With this Action Item, the Regents will approve the set-aside of \$5 million (a portion of the total \$12.6 million PCCF balance), beginning in 2016-17, for a Contract Bid and Proposal Reserve (CBPR) to enable the University to evaluate options and, if later approved by the Regents, to mount and submit a bid proposal for the LANL contract when the contract is competitively bid by the DOE. Prior to Regental approval of the University's participation in the LANL contract competition and the submission of a UC bid proposal to the DOE, CBPR funds will be used to evaluate options for a potential UC bid. Unused CBPR funds in 2016-17 will be carried forward in the CBPR to 2017-18.

- (4) The Regents have approved a funding target for the LLC Fee Contingency Fund of \$7 million. The LLC Fee Contingency Fund is currently fully funded with a balance of \$7.2 million as of April 30, 2016. No allocation to the Fund is required for 2016-17. Funds remaining in the LLC Fee Contingency Fund will be carried over to 2017-18 to maintain the \$7 million funding target. Any income generated by the LLC Fee Contingency Fund under the University's STIP shall be reserved exclusively for that fund.
- (5) An anticipated appropriation in 2016-17 in the amount of \$13.4 million for the UC Laboratory Fees Research Program and other research relevant to the missions of the National Laboratories and the University subject to any reallocation required after the calendar year 2016 as a result of LLNS and LANS reporting of actual net fee income earned by the University to meet

the ongoing appropriations under paragraphs (1) through (4) above and (6) below. Of this anticipated appropriation, \$400,000 is a designated appropriation in 2016-17 for the UC-National Laboratory Graduate Student Fellowship Program, which is administered by the UC Laboratory Fees Research Program in the Research Grants Program Office. In the event all or part of this funding for the UC Laboratory Fees Research Program is not needed in 2016-17, that funding will be carried over to 2017-18.

- (6) Commencing in 2016-17 and continuing annually thereafter, an appropriation of \$300,000 per annum to fund an affiliation agreement between the Regents of the University of California and Livermore Lab Foundation, a California nonprofit public benefit corporation that is seeking approval by the IRS as a Section 501(c)(3) organization. It has been requested that the President, within her delegated authority, approve an affiliation agreement between the Regents and the Livermore Lab Foundation that (1) makes the Foundation an affiliate of the University while the agreement remains in effect and (2) provides funding not to exceed \$300,000 per annum as approved by the Regents. The Livermore Lab Foundation has been formed to receive support from donors and to distribute such funds to support LLNL and other scientific and educational purposes. Unspent funds remaining in this Foundation allocation will be carried over to the next fiscal year. Funds requested for the next fiscal year will be the differential needed to provide an appropriation of \$300,000 per annum.

D. ***Approval of External Financing and Loan to Children's Hospital and Research Center at Oakland (CHRCO) for Master Facility Plan Phase I and Approval of Restructuring of Loan to CHRCO for Debt Defeasance, San Francisco Campus***

The Committee recommended that:

- (1) The President of the University be authorized to obtain external financing, which shall be loaned to UCSF Benioff Children's Hospital Oakland (CHRCO) for its Master Facility Plan Phase I, in an amount not to exceed \$50 million, plus additional related financing costs, subject to the following conditions:
 - a. As long as the debt authorized is outstanding, UCSF Health gross revenues shall be maintained in amounts sufficient to pay the debt service and meet the related requirements of the authorized financing.
 - b. The general credit of the Regents shall not be pledged.

- (2) The President be authorized, after consultation with the General Counsel, to approve and execute a loan agreement between the Regents (on behalf of UCSF Health) and CHRCO for repayment of the authorized financing (via an amendment to the existing agreement or a new agreement). The terms of the loan shall require CHRCO to make loan payments sufficient to cover all debt service on the external financing obtained to make the loan to CHRCO.
- (3) The President be authorized, after consultation with the General Counsel, to restructure the existing loan between the Regents and CHRCO to defer annual principal payments under the existing loan through fiscal year 2032 and extend the requirement to make annual principal payments under the existing loan to fiscal year 2046.
- (4) The President be authorized, after consultation with the General Counsel, to approve and execute all documents as may be necessary to implement and execute the intent of this item, including all amendments and modifications provided they do not materially increase the obligations of the University or decrease the rights of the Regents.

E. ***Approval of Loan to Western Health Advantage, Davis Campus***

The Committee recommended that:

- (1) The Regents authorize a loan to Western Health Advantage in the amount of \$4,334,000 on the condition that Western Health Advantage executes a promissory note or similar instrument payable to the Regents of the University of California evidencing the loan.
- (2) The President of the University be authorized, after consultation with the General Counsel, to approve and execute any documents as may be necessary in relation to the loan, and approve and execute any documents reasonably necessary to amend such documents, so long as such amendments do not materially increase the University's obligations or decrease the rights of the Regents of the University of California.

F. ***Amendment of the Budget, Amendment of the Scope, Approval of Revision of the Commercial Terms of the Project Agreement and Related Actions, Approval of External Financing, Amendment of the Long Range Development Plan, and Approval of Design Following Action Pursuant to the California Environmental Quality Act, 2020 Project, Merced Campus***

The Committee recommended that:

- (1) The 2016-17 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

From: Merced, 2020 Project (2020 Project) –\$1,142,850,000 to be funded from external financing (\$600 million), developer funding (\$385.76 million), and campus funds (\$157.09 million).

To: Merced, 2020 Project (2020 Project) – \$1,338,480,000 to be funded from external financing (\$600 million), developer funding (\$590.35 million), and campus funds (\$148.13 million).

- (2) The project scope of the 2020 Project be amended as follows:

From: Construction of approximately 918,900 assignable square feet of academic, administrative, research, recreational, undergraduate and graduate residence, staff/faculty residence, and student services buildings, as well as infrastructure, outdoor recreation facilities and open space, landscaping, roadways, and parking.

To: Construction of approximately 789,892 assignable square feet of academic, administrative, research, recreational, undergraduate residence, staff/faculty residence, and student services buildings, as well as infrastructure, outdoor recreation facilities and open space, landscaping, roadways, and parking.

- (3) The revised commercial terms of the 2020 Project Agreement be approved as summarized in Attachment 5.

- (4) The President of the University be authorized to obtain external financing supported by the general revenues of the Merced campus in an amount not to exceed \$550 million (financing to be issued), plus related financing costs. The President be authorized to utilize already obtained external financing in an amount not to exceed \$50 million (previously issued Century Bonds). 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. For the \$200 million associated with non-State supportable space, as long as the debt is outstanding, the general revenues of the Merced campus shall be maintained in amounts sufficient to pay the debt service and to meet the requirements of the authorized financing.
- c. For the \$400 million associated with State supportable space, the primary source of repayment for the external financing shall be from State General Fund appropriations, pursuant to the Education Code section 92495 et seq. Should State General Fund appropriation funds not be available, the President shall have the

authority to use any legally available funds to make debt service payments.

- d. The general credit of the Regents shall not be pledged.

Upon motion of Regent Kieffer, duly seconded, the recommendations of the Committee on Finance were approved.

8. **REPORT OF THE COMMITTEE ON GROUNDS AND BUILDINGS**

The Committee presented the following from its meeting of July 19, 2016:

A. ***Approval of Preliminary Plans Funding, Minnesota Street Student and Trainee Housing, San Francisco Campus***

The Committee recommended that the 2016-17 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

San Francisco: UCSF Minnesota Street Student and Trainee Housing – preliminary plans – \$12.8 million to be funded from housing reserves (\$7 million) and campus funds (\$5.8 million).

B. ***Approval of the Budget, External Financing, and Design Following Action Pursuant to the California Environmental Quality Act, Multidisciplinary Research Building 1, Riverside Campus***

- (1) The Committee recommended that:

- a. The 2016-17 Budget for Capital Improvements and the Capital Improvement Program be amended as follows:

From: Riverside: Multidisciplinary Research Building 1 – preliminary plans – \$6.89 million to be funded from campus funds.

To: Riverside: Multidisciplinary Research Building 1 – preliminary plans, working drawings, construction and equipment – \$150 million to be funded from external financing.

- b. The scope of the Multidisciplinary Research Building 1 shall consist of constructing a five-story, 179,100-gross-square-foot building that would provide approximately: 76,300 assignable square feet (ASF) of research laboratory, laboratory support, and

research office space; 10,270 ASF of vivarium space; 25,340 ASF of scholarly activity and building support space; and 13,600 ASF of shell space.

- c. The President of the University be authorized to obtain external financing not to exceed \$150 million. The President shall require that:
 - i. Interest only, based on the amount drawn, shall be paid on the outstanding balance during the construction period.
 - ii. As long as the debt is outstanding, general revenues from the Riverside campus shall be maintained in amounts sufficient to pay the debt service and to meet the related requirements of the authorized financing.
 - iii. The general credit of the Regents shall not be pledged.

- (2) Following review and consideration of the environmental consequences of the proposed Multidisciplinary Research Building 1 project, as required by the California Environmental Quality Act (CEQA), including any written information addressing this item received by the Office of the Secretary and Chief of Staff no less than 24 hours in advance of the beginning of this Regents meeting, testimony or written materials presented to the Regents during the scheduled public comment period, and the item presentation, the Committee reported its:

- a. Adoption of the Initial Study/Mitigated Negative Declaration for the Multidisciplinary Research Building 1 project in accordance with CEQA.
- b. Adoption of the CEQA Findings and Mitigation Monitoring and Reporting Program for the Multidisciplinary Research Building 1 project. By adopting the CEQA Findings, the Regents reaffirm the Statement of Overriding Considerations adopted in association with certification of the UC Riverside 2005 Long Range Development Plan Environmental Impact Report from which the Project's Initial Study /Mitigated Negative Declaration tiers.
- c. Approval of the design of the Multidisciplinary Research Building 1 project for the Riverside campus.

[The Mitigated Negative Declaration and CEQA Findings were provided to Regents in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

C. ***Approval of the Budget for the Geffen Academy at UCLA, Los Angeles Campus***

The Committee recommended that the 2016-17 Budget for Capital Improvements be amended to include the following project:

Los Angeles: Geffen Academy at UCLA – preliminary plans, working drawings, construction and equipment – \$35 million to be funded from gift funds.

D. ***Amendment of the Budget, Amendment of the Scope, Approval of Revision of the Commercial Terms of the Project Agreement and Related Actions, Approval of External Financing, Amendment of the Long Range Development Plan, and Approval of Design Following Action Pursuant to the California Environmental Quality Act, 2020 Project, Merced Campus***

(1) The Committee recommended that:

- a. The 2016-17 Budget for Capital Improvements and the Capital Improvement Program be amended to include the following project:

From: Merced, 2020 Project (2020 Project) –\$1,142,850,000 to be funded from external financing (\$600 million), developer funding (\$385.76 million), and campus funds (\$157.09 million).

To: Merced, 2020 Project (2020 Project) – \$1,338,480,000 to be funded from external financing (\$600 million), developer funding (\$590.35 million), and campus funds (\$148.13 million).

- b. The project scope of the 2020 Project be amended as follows:

From: Construction of approximately 918,900 assignable square feet of academic, administrative, research, recreational, undergraduate and graduate residence, staff/faculty residence, and student services buildings, as well as infrastructure, outdoor recreation facilities and open space, landscaping, roadways, and parking.

To: Construction of approximately 789,892 assignable square feet of academic, administrative, research, recreational, undergraduate residence, staff/faculty residence, and student services buildings, as well as infrastructure, outdoor recreation facilities and open space, landscaping, roadways, and parking.

- c. The revised commercial terms of the 2020 Project Agreement be approved as summarized in Attachment 5.
 - d. The President of the University be authorized to obtain external financing supported by the general revenues of the Merced campus in an amount not to exceed \$550 million (financing to be issued), plus related financing costs. The President be authorized to utilize already obtained external financing in an amount not to exceed \$50 million (previously issued Century Bonds). The President shall require that:
 - i. Interest only, based on the amount drawn down, shall be paid on the outstanding balance during the construction period.
 - ii. For the \$200 million associated with non-State supportable space, as long as the debt is outstanding, the general revenues of the Merced campus shall be maintained in amounts sufficient to pay the debt service and to meet the requirements of the authorized financing.
 - iii. For the \$400 million associated with State supportable space, the primary source of repayment for the external financing shall be from State General Fund appropriations, pursuant to the Education Code section 92495 et seq. Should State General Fund appropriation funds not be available, the President shall have the authority to use any legally available funds to make debt service payments.
 - iv. The general credit of the Regents shall not be pledged.
- (2) Following review and consideration of the environmental consequences of the proposed 2020 Project, as required by the California Environmental Quality Act (CEQA), including any written information addressing this item received by the Office of the Secretary and Chief of Staff no less than 24 hours in advance of the beginning of this Regents meeting, testimony or written materials presented to the Regents during the scheduled public comment period, and the item presentation, the Committee reported its:
- a. Determination that the environmental consequences of proposed Long Range Development Plan (LRDP) Amendment are adequately analyzed in the certified 2009 LRDP Environmental Impact Report as updated in Addenda #6 and #7.
 - b. Adoption of the CEQA Findings, after having reviewed and considered the UC Merced 2009 LRDP Final Environmental

Impact Statement/Environmental Impact Report and Addendum #7 thereto.

- c. Amendment of the 2009 LRDP to re-designate 27.55 acres as Campus Mixed Use, amendment of the boundaries of the 2020 Project Site, and other conforming changes to the 2009 LRDP.
- d. Approval of the design of the 2020 Project, Merced Campus.

[LRDP documents and CEQA Findings were provided to Regents in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

Upon motion of Regent Makarechian, duly seconded, the recommendations of the Committee on Grounds and Buildings were approved, Regent Sherman abstaining on item C above.

9. **REPORT OF THE COMMITTEE ON HEALTH SERVICES**

The Committee presented the following from its meeting of June 14, 2016:

Amendments to the Clinical Enterprise Management Recognition Plan

The Committee recommended that the Clinical Enterprise Management Recognition Plan be amended as shown in Attachment 6, subject to the Regents' approval of the related changes to Regents Policy 7712: Senior Management Group Incentive Awards.

Upon motion of Regent Lansing, duly seconded, the recommendation of the Committee on Health Services was approved.

10. **REPORT OF THE COMMITTEE ON OVERSIGHT OF THE DEPARTMENT OF ENERGY LABORATORIES**

The Committee presented the following from its meeting of July 21, 2016:

Approval of a Substantive Modification to the Los Alamos National Security, LLC Operating Agreement to Amend the Allocation of Net Fee Income Earned by the LLC Members during Federal Fiscal Years 2017 and 2018

The Committee recommended that the President of the University be authorized to enter into such written agreements as are necessary to accomplish a substantive modification to the Los Alamos National Security, LLC (LANS) Operating Agreement to modify the fee income distribution between the members to ensure that no LLC Member is disproportionately advantaged or disadvantaged from the modified fee structure in the

prime contract negotiated between and executed by LANS and the Department of Energy for the final two years of the contract (fiscal years 2017 and 2018).

Upon motion of Regent Pattiz, duly seconded, the recommendation of the Committee on Oversight of the Department of Energy Laboratories was approved.

11. **REPORT OF INTERIM, CONCURRENCE, AND COMMITTEE ACTIONS**

Secretary and Chief of Staff Shaw reported that, in accordance with authority previously delegated by the Regents, interim or concurrence action was taken on routine or emergency matters as follows:

Approvals under interim action:

- A. The Chair of the Board, the Chair of the Committee on Finance, and the President of the University approved the following item:

Approval of External Financing, Early Works Agreement, 2020 Project, Merced Campus

That the President of the University be authorized to:

- (1) Utilize external financing in an amount not to exceed \$35 million to finance the Early Works Agreement associated with UC Merced's 2020 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 phase.
 - b. As long as the debt is outstanding, general revenues from the Merced campus 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.
- (2) Execute all documents necessary in connection with the above.

- B. The Chair of the Board, the Chair of the Committee on Compensation, and the President of the University approved the following item:

Approval of Emeritus Status for Jack Powazek as Administrative Vice Chancellor, Los Angeles Campus

Conferral of Emeritus status for Jack Powazek as Administrative Vice Chancellor, Los Angeles campus.

12. REPORT OF COMMUNICATIONS RECEIVED

Secretary and Chief of Staff Shaw reported that, in accordance with Bylaw 16.9, Regents received a summary of communications for the months of May and June in reports dated June 3 and July 8, 2016.

13. REPORT OF MATERIALS MAILED BETWEEN MEETINGS

Secretary and Chief of Staff Shaw reported that, on the dates indicated, the following were sent to the Regents or to Committees:

To Members of the Committee on Investments

- A. From the Chief Investment Officer, a letter regarding reporting to the United Nations Principles of Responsible Investment (UN PRI). June 16, 2016.

To the Regents of the University of California

- B. From the Secretary and Chief of Staff, the Summary of Communications for April, 2016. May 3, 2016.
- C. From the President of the University, the UC Budget for Current Operations for 2016-17. May 6, 2016.
- D. From the President, the Annual Report on Student Financial Support for 2014-15. May 9, 2016.
- E. From the President, the 2015 University of California Technology Commercialization Report. May 9, 2016.
- F. From the President, a letter regarding Governor Brown's May Revision of the 2016-17 State Budget. May 13, 2016.
- G. From the Secretary and Chief of Staff, a press release announcing the nomination of Paul Monge as the 2017-18 Student Regent. May 18, 2016.
- H. From Regent Pattiz, an email announcing the appointment of Regent De La Peña as a UC Advisory Governor on the Boards of Governors of the Los Alamos National Security, LLC (LANS) and Lawrence Livermore National Security, LLC (LLNS). May 18, 2016.
- I. From the President of the University, an update on the UC Merced 2020 Project. May 27, 2016.
- J. From the Secretary and Chief of Staff, the Summary of Communications for May, 2016. June 3, 2016.

- K. From the President of the University, a letter regarding the 2016-17 State budget for UC. June 10, 2016.
- L. From the President of the University, a press release announcing Plenary Properties Merced as the preferred bidder for the Merced 2020 project. June 14, 2016.
- M. From the President of the University and the Chair of the Board of Regents, a letter regarding Regents' requests for information. June 23, 2016.
- N. From the President of the University, a news article from the *Los Angeles Times*, "UCLA, UC Berkeley boost admissions of Californians, including blacks and Latinos." July 7, 2016.
- O. From the Secretary and Chief of Staff, the Summary of Communications for June, 2016. July 8, 2016.

The meeting adjourned at 10:45 a.m.

Attest:

Secretary and Chief of Staff

BYLAWS OF THE UNIVERSITY OF CALIFORNIA

TABLE OF CONTENTS

CORPORATE ORGANIZATION	1
10. Corporate Name.....	1
11. Corporate Seal.....	1
11.1. Design	1
11.2. Official Use	1
11.3. Symbolic Use	1
12. Composition and Powers.....	1
13. Governing Documents: Order of Precedence	2
14. Amendment of Bylaws	2
15. Suspension of Bylaws	2
BOARD OF REGENTS	2
20. Members.....	2
21. Duties and Requirements.....	2
21.1. Public Mission	2
21.2. Service as Fiduciaries.....	3
21.3. Compliance with Law and Policy	3
21.4. Ethical Conduct	3
21.5. Preparation and Participation	3
21.6. Cooperation.....	3
21.7. Regent Compensation	4
21.8. Gifts, Contracts, and Grants	4
21.9. Role of Regents	4
21.10. Support for the University.....	4
21.11. Breach of Conduct.....	4
22. Authority of the Board	5
22.1. Authority/Delegation	5
22.2. Specific Reservations.....	5
(a) Governance Matters.....	5
(b) Academic Matters.....	5
(c) Finance Matters.....	6
(d) Capital Project Matters.....	6
(e) Compensation Matters.....	7
(f) Health Matters.....	7
(g) Compliance Matters.....	7
23. Officers of the Corporation.....	7
23.1. Designation	8
23.2. Appointment and Qualifications	8
(a) President of Board	8
(b) Chair and Vice Chair of Board	8
(c) Principal Officers.....	8

(d)	Principal Officer Delegates	8
23.3.	Removal	8
(a)	President of the Board	8
(b)	Chair and Vice Chair of Board	9
(c)	Principal Officers	9
(d)	Principal Officer Delegates	9
23.4.	Authority and Duties of Board Officers	9
(a)	Meetings	9
(b)	Executing Documents	9
(c)	Spokesperson	9
(d)	Inability to Act	10
23.5.	Authority and Duties of Principal Officers	10
(a)	Secretary and Chief of Staff	10
(b)	General Counsel	11
(c)	Chief Compliance and Audit Officer	11
(d)	Chief Investment Officer	12
24.	Standing Committees	12
24.1.	Purpose/Authority	12
24.2.	Committee Charters	12
24.3.	Designation of Standing Committees	13
(a)	The Academic and Student Affairs Committee	13
(b)	The Compliance and Audit Committee	13
(c)	The Finance and Capital Strategies Committee	13
(d)	The Governance and Compensation Committee	13
(e)	The Health Services Committee	14
(f)	The Public Engagement and Development Committee	14
24.4.	Membership	14
24.5.	Appointment	14
24.6.	Term	15
24.7.	Voting and Quorum	15
24.8.	Special Requirements for Chancellors/Advisory Members	15
24.9.	Effect of Committee Assignment	15
24.10.	Committee Charter Amendments	15
24.11.	Reporting	16
25.	Subcommittees	16
25.1.	Establishment	16
25.2.	Authority	16
25.3.	Membership	16
25.4.	Appointment	16
25.5.	Term	17
25.6.	Voting and Quorum	17
25.7.	Subcommittee Charter Amendments	17
25.8.	Reporting	17
26.	Special Committees	17
26.1.	Establishment and Authority	17
27.	Meetings	17
27.1.	Regular Meetings of the Board	18
(a)	Schedule of Meetings and Calling Additional Meetings	18
(b)	Agenda	18
(c)	Notice	18
(d)	Supporting Materials	18
(e)	Quorum	19
(f)	Presiding Member	19

(g)	Open/Closed Session	19
(h)	Communication to Regents	19
(i)	Direct Board Review	19
(j)	Matters Failing Committee Vote.....	19
(k)	Determinative Vote	20
(l)	Reconsideration	20
(m)	Supplemental Rules of Procedure.....	20
(n)	Teleconference meetings.	20
27.2.	Special Meetings of the Board	20
27.3.	Emergency Meetings of the Board.....	20
(a)	Emergency Meetings	21
(b)	Waiver of Notice	21
27.4.	Committee Meetings.....	21
(a)	Calling Committee Meetings.....	21
(b)	Rules of Procedure Generally	21
(c)	Quorum.....	22
(d)	Notice.....	22
(e)	Presiding Member	22
(f)	Joint Committee Meetings.....	22
(g)	Special Search Committees.....	22
27.5.	Interim Actions.....	23
27.6.	Release of Board Information.	23
(a)	Open Session.....	23
(b)	Closed Session.....	23
(c)	Disclosure of Closed Session Materials	24

UNIVERSITY EXECUTIVES 24

30. President of the University.....25

31. Chancellors.....25

ACADEMIC SENATE 26

40. Academic Senate.....26

40.1.	Duties and Powers of the Academic Senate.	26
40.2.	Organization of the Academic Senate	26
40.3.	Special Provisions Concerning Faculty	26
(a)	No Political Test	26
(b)	Privilege of a Hearing Before the Academic Senate	26
(c)	Tenure.....	27
(d)	Security of Employment.....	27
(e)	Dismissal	27

APPENDIX A - CHARTER OF THE ACADEMIC AND STUDENT AFFAIRS COMMITTEE

APPENDIX B - CHARTER OF THE COMPLIANCE AND AUDIT COMMITTEE

APPENDIX C - CHARTER OF THE FINANCE AND CAPITAL STRATEGIES COMMITTEE

APPENDIX D - CHARTER OF THE GOVERNANCE AND COMPENSATION COMMITTEE

APPENDIX E - CHARTER OF THE HEALTH SERVICES COMMITTEE

APPENDIX F - CHARTER OF THE PUBLIC ENGAGEMENT AND DEVELOPMENT COMMITTEE

Bylaws of the University of California

Corporate Organization

10. Corporate Name

The name of the Corporation is "The Regents of the University of California."

11. Corporate Seal

11.1. Design

The corporate seal of the University shall be of the following form and design:



11.2. Official Use

The corporate seal shall be used only in connection with the transaction of business of the University. The Secretary and Chief of Staff shall be authorized to affix the seal to any document signed on behalf of the Corporation. The Secretary and Chief of Staff further shall be authorized to grant permission for the use of the seal in the decoration of any University building or in other special circumstances.

11.3. Symbolic Use

The design of the corporate seal with the words "Seal of" deleted may be used as a symbol of the University of California, with the permission of the President of the University, for any official purpose or in connection with alumni, student, or public projects.

12. Composition and Powers

The Corporation's form and composition, its duties, and its powers are as set forth in the provisions of Article IX, Section 9 of the Constitution of the State of California.

13. Governing Documents: Order of Precedence

In case of any conflict between or among governing documents, these Bylaws shall prevail over all other classes of governing documents of the University; Committee Charters shall prevail over Regents Policies (University policies approved by the Board); and Regents Policies shall prevail over other University policies and documents, except as may be specified in the Bylaws or Committee Charters.

14. Amendment of Bylaws

These Bylaws may be amended on the affirmative vote of not less than two-thirds of all Regents then in office, following conclusion of the process specified in this section. Any proposed draft of a Bylaw amendment first must be presented for discussion (the “first reading”) at a regular meeting of the Board of Regents (the “Board”). Any vote on such proposal must be taken at the next regular meeting of the Board following the discussion (the “second reading”). The proposed amendment may be modified, during or after the first reading, and before the second reading, provided that the modification is directed to issues raised during the first reading, or is substantially related to such issues, and further provided that notice of the modification is given as specified in Bylaw 27.1(c), regarding notice for regular meetings of the Board.

15. Suspension of Bylaws

Any provision of the Bylaws may be suspended by an affirmative vote of not less than two-thirds of all Regents then in office.

Board of Regents

20. Members

The University is governed by a Board that includes as members the persons specified in Article IX Section 9 of the Constitution of the State of California. In its current form, the Board consists of the following members: The Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the President and the Vice President of the University’s alumni associations and the President of the University; eighteen Regents appointed by the Governor; and one Student Regent.

21. Duties and Requirements

Each member of the Board (“Regent”) shall be subject to the duties and requirements specified below.

21.1. Public Mission

The responsibility of individual Regents is to serve as trustees for the people of the State of California and as stewards for the University of California, acting to govern the University in fulfillment of its educational, research, and public service missions in the best interests of the people of California.

21.2. Service as Fiduciaries

In performing their responsibilities on the Board, each Regent shall act in the best interests of the University, shall place the interests of the University above their own interests and shall otherwise act in good faith. Regents shall exercise reasonable care, including undertaking reasonable inquiry, in performing their Board responsibilities.

21.3. Compliance with Law and Policy

Each Regent shall comply with all applicable laws, regulations and University policies.

21.4. Ethical Conduct

Regents shall serve the public trust and fulfill their responsibilities with a high degree of ethics and candor. Regents are expected to accept responsibility for the integrity of the financial, physical, and intellectual resources of the University. Regents are expected to disclose personal, familial, business relationships, or other potential conflicts of interest as appropriate.

21.5. Preparation and Participation

Recognizing the broad authority and responsibility vested in the Board for the governance of the University, each Regent is expected to become knowledgeable regarding the educational, research, and public service programs of the University, as well as the duties, responsibilities and obligations of Regents. Each Regent shall use reasonable effort to attend Board and assigned committee meetings; shall come prepared at each meeting to make reasoned and informed decisions based on the information available; and shall participate in the activities of the Board, inside and outside of meetings.

21.6. Cooperation

Regents shall abide by Board decisions and policies in a manner consistent with the Regent's fiduciary duties. Regents are expected to show respect for the opinions of other Regents, University officials, faculty, students, and staff. These expectations are not intended to preclude either forthright expression of opposition or efforts to change such policies or decisions. When such efforts are undertaken, Regents should endeavor to make clear that the opinions expressed are those of the Regent and not of the Board or University.

21.7. Regent Compensation

No Regent shall receive salary or other compensation for service as a Regent, nor shall any Regent, other than the President of the University, be eligible for employment or appointment in any University-affiliated position. Notwithstanding the foregoing, the student Regent shall be eligible for part-time compensated University employment. Within limits pursuant to University policy, Regents may be reimbursed for actual expenses incurred by reason of attendance at any Board or Committee meeting or in the performance of other official business of the University.

21.8. Gifts, Contracts, and Grants

Except as otherwise provided in these Bylaws or by action of the Board, no Regent shall make or enter into any contract, commitment, or other undertaking on behalf of the University. No Regent shall accept or agree to undertake the administration of any gift or grant offered to the University or to the Corporation for the benefit of the University. Nor shall any Regent undertake or agree to undertake the management, disposition, or expenditure of any fund provided to be used for the benefit of the University.

21.9. Role of Regents

It is the responsibility of the Board to set policy and the responsibility of the University administration to implement and carry out policy, which includes responsibility for the day-to-day operations of the University. Except as requested by the President of the University, individual Regents shall not involve themselves in day-to-day administrative matters, such as specific personnel, contract, investment or other operational decisions. Except as specifically authorized by the Board, no Regent, other than the President of the University, shall serve on a campus or University-wide standing committee that oversees or advises on day-to-day administrative matters. Nothing in this section is intended to limit the Board's general oversight responsibility or its power of inquiry.

21.10. Support for the University

Regents are expected to be active supporters and advocates for the University and to take opportunities to help with fundraising, legislative advocacy, and other efforts on behalf of the University.

21.11. Breach of Conduct

Upon recommendation of the Governance and Compensation Committee, the Board shall adopt procedures to consider any allegation that a Regent, Committee member, Regent-Designate or advisor to a Board Committee has not fulfilled their duties as set forth in University Bylaws, policy or applicable law, and to implement appropriate response(s) when such allegation is found to have merit.

22. Authority of the Board

22.1. Authority/Delegation

Pursuant to Article IX Section 9 of the Constitution of the State of California, the full powers of organization and government of the University inhere in and originate with the Board, which has the authority to delegate those powers as it determines to be in the best interest of the University. Any authority delegated by the Board may be rescinded by action of the Board. The Regents hereby delegate authority to the President of the University to oversee the operation of the University, in accordance with policies and directives adopted by the Board, and as further specified in Bylaw 30 (President of the University). This delegation is subject to the powers specifically reserved to the Regents in Bylaw 22.2 below (Reserved Powers), in Committee Charters, and in Regents Policies requiring that matters be approved or otherwise acted on by the Board.

22.2. Specific Reservations

The matters in the following areas are specifically reserved to the Board and/or its Committees for approval or other action, within parameters that may be specified in a Committee Charter or Regents Policy:

(a) Governance Matters

- Amending the University Bylaws, and Committee Charter provisions
- Establishing or eliminating Board committees
- Appointing the Chairs, Vice Chairs and members of Board committees
- Appointing the Student Regent
- Adopting procedures to consider any allegation that a Regent, Committee member, Regent-Designate or advisor to a Board Committee has not fulfilled their duties as set forth in University Bylaws, policy or applicable law; to implement appropriate response(s) when such allegation is found to have merit; and to determine levels of authority to act on such matters.

(b) Academic Matters.

- Upon recommendation of the Academic Senate, approving criteria for University admissions and conferral of certificates and degrees
- Establishing or eliminating colleges, schools, graduate divisions and organized multi-campus research units
- Establishing or eliminating a session of instruction
- Approving the appointment of Regents Professors and University Professors

- Approving dismissal of academic appointees with tenure or security of employment
- Bidding on or entering into a prime contract to manage and operate a National Laboratory or other Comparable Facility (as defined in the Academic and Student Affairs Committee Charter).
- Creating a business entity to hold a prime contract to manage and operate a National Laboratory or other Comparable Facility
- Approving material changes in the type or scope of work for such a business entity.
- Appointing members to a University position on the Executive Committee of the Board of Governors of such a business entity.

(c) Finance Matters.

- Approving the University budget and requests for state appropriations
- Approving the annual budget for the Office of the President
- Accepting the reports of the independent financial auditor
- Approving non-audited related services by the University's independent financial auditor
- Approving tuition, registration fees, education fees, and compulsory student government fees within parameters specified by Committee Charter or Regents Policy
- Authorizing University external financing within parameters specified by Committee Charter or Regents Policy
- Approving loans by the University to other parties, other than loans from established student, faculty, and staff loan funds, and subject to exceptions and parameters specified by Committee Charter or Regents Policy
- Approving agreements to indemnify third-parties, subject to exceptions and parameters specified by Committee Charter or Regents Policy
- Approving alliances and affiliations involving University financial commitments, use of the University's name, research resources, and the University's reputation, within parameters specified by Committee Charter or Regents Policy
- Approving University participation in non-health-related corporations, partnerships and other entities, except for investment purposes, and within parameters specified by Committee Charter or Regents Policy
- Adopting UC Retirement plans and approving plan amendments

(d) Capital Project Matters.

- Approving capital budget requests and augmentation requests within parameters specified by Committee Charter or Regents Policy

- Approving purchases, sales, leases or gifts of real estate within parameters specified by Committee Charter or Regents Policy
- Approving Long Range Development Plans (LRDPs) and amendments to LRDPs within parameters specified by Committee Charter or Regents Policy
- Approving Capital Financial Plans (e.g., 10-year Capital Financial Plans)

(e) Compensation Matters.

- Appointing, demoting or dismissing the President of the University, Chancellors, the Lawrence Berkeley National Laboratory Director and the Principal Officers of the Regents
- Approving compensation for the President of the University, Chancellors, the Lawrence Berkeley National Laboratory Director or Principal Officers of the Regents
- Approving paid leaves of absence for the President of the University, Chancellors, the Lawrence Berkeley National Laboratory Director or Principal Officers of the Regents, as specified in policy
- Approving University compensation and employee benefits plans and policies, within parameters specified by Committee Charter or Regents Policy
- Approving University retirement benefit and retiree health plans, within parameters specified by Committee Charter or Regents Policy
- Approving emeritus status for retired Principal Officers of the Regents and other Officers of the University as specified in Regents Policy

(f) Health Matters.

- Approving acquisitions of physician practices, hospitals, clinics and other health-related transactions, within parameters specified by Committee Charter or Regents Policy

(g) Compliance Matters.

- Approving settlements of claims and litigation within parameters specified by Committee Charter or Regents Policy
- Engagement and retention of the independent financial auditor

23. Officers of the Corporation

23.1. Designation

The persons holding the following offices shall serve as Officers of the Corporation: the President of the Board; the Chair of the Board; the Vice Chair of the Board; and the following officials, who, collectively, shall be known as the Principal Officers of the Regents ("Principal Officers"): the Secretary and Chief of Staff, the General Counsel; the Chief Compliance and Audit Officer, and the Chief Investment Officer. Officers of the Corporation also shall include those persons who have been recommended by a Principal Officer of the Regents and approved by the Board ("Principal Officer Delegates").

23.2. Appointment and Qualifications

(a) President of Board

The President of the Board is the Governor of the State of California, and serves in that Board position as President in an ex officio capacity.

(b) Chair and Vice Chair of Board

The Chair of the Board and Vice Chair of the Board shall be appointed to their respective positions by election of the Regents in accordance with procedures set forth in the charter of the Governance and Compensation Committee. No Regent may serve consecutively in the position of Chair or in the position of Vice Chair for more than two terms. Terms shall commence on July 1.

(c) Principal Officers

The Principal Officers each shall be appointed by the Board on the occurrence of a vacancy and shall continue in service at the pleasure of the Board. Each of the Principal Officers other than the Secretary and Chief of Staff, in addition to serving as Principal Officers, shall serve as Officers of the University. None of the Principal Officers shall be Regents.

(d) Principal Officer Delegates

Principal Officer Delegates shall be appointed by the Board on recommendation by Principal Officers in their areas of responsibility.

23.3. Removal

(a) President of the Board

The President of the Board shall remain in the position until the end of their term as Governor of the State of California.

(b) Chair and Vice Chair of Board

The Chair and Vice Chair of the Board may be removed from their respective positions as an officer of the Board only on the affirmative vote of a majority of the Regents then in office. Removal under this paragraph shall not affect the officer's continued service as a Regent.

(c) Principal Officers

Principal Officers may be removed from their positions as Principal Officers, and as Officers of the University, only on the affirmative vote of a majority of the Regents then in office.

(d) Principal Officer Delegates

Principal Officer Delegates may be removed from their positions at the discretion of the sponsoring Principal Officer or on the affirmative vote of a majority of the Regents present at a meeting of the Board.

23.4. Authority and Duties of Board Officers

(a) Meetings

The Officers of the Board are authorized to preside at meetings of the Board, in the order of precedence prescribed in Bylaw 27.1(f).

(b) Executing Documents

Unless otherwise provided by Board action, the President of the Board, the Chair and the Vice Chair of the Board each is authorized to execute documents on behalf of the Corporation implementing programs and/or policies approved by the Board. All documents so executed by the President of the Board, the Chair of the Board, or the Vice Chair of the Board also must be executed or attested to by the Secretary and Chief of Staff in order to be effective.

(c) Spokesperson

The Chair of the Board, and in the Chair's absence, the Vice Chair of the Board, are authorized to speak on behalf of the Board, and, subject to the right of the Chair to delegate this authority; no other Regent or person may do so.

(d) Inability to Act

During any period that an officer of the Board is unable to perform the duties assigned under these bylaws, the next officer or member in order of precedence shall perform those duties. For these purposes, the order of precedence is as follows: President of the Board; Chair of the Board; Vice Chair of the Board; Chair of the Governance and Compensation Committee; the Vice Chair of the Governance and Compensation Committee; the next most senior member of the Governance and Compensation Committee, as determined by appointment date.

23.5. Authority and Duties of Principal Officers

(a) Secretary and Chief of Staff

The Secretary and Chief of Staff ("Secretary") serves as the primary liaison between and among the Regents and the Administration of the University, working directly with the Board Chair and the President of the University, and with other senior leaders of the Board and University. In consultation with the Board and Committee Chairs and other leaders, the Secretary plans and executes the meetings of the Board and its Committees in compliance with law and policy. The Secretary is responsible for preparing the official notice and minutes of all Board and Committee meetings, and serves as custodian of the minutes and other official records of the Corporation, facilitates the orientation of new Regents, and administers the annual operating budget for the Board. Together with the General Counsel, the Secretary advises on the University's governing documents and other Regents Policies and procedures pertaining to the governance of the University, and provides substantive research, analysis and advice to the Board. The Secretary is the principal point of contact for communications between and among the Regents and parties outside the University. The Secretary is authorized to certify that actions have been taken by the Board and to certify the authority and identity of Officers of the Corporation; to use the corporate seal; and to execute documents effecting a conveyance of title to real property and a broad range of other documents necessary for the operation of the University in the name of the Corporation. The Secretary reports solely to the Board.

(b) General Counsel

The General Counsel serves as the Chief Legal Officer of the University, having general charge of all legal matters pertaining to the Corporation and to the University. The General Counsel represents the Regents in all legal, regulatory and administrative proceedings, attends all meetings of the Board and its committees, and has direct access to the Regents. The General Counsel functions as an independent authority providing advice and counsel to the Regents, to University leaders, and to the Academic Senate on legal and regulatory developments, and on the legal risks and opportunities facing the University. Together with the Secretary and Chief of Staff, the General Counsel advises on the University's governing documents and other Regents Policies and procedures pertaining to the governance of the University. The General Counsel oversees all attorneys employed or retained by the University to represent the Regents. Subject to the direction of the President of the University, the General Counsel oversees the delivery of legal services to University administrators. The General Counsel reports to the Board and to the President of the University.

(c) Chief Compliance and Audit Officer

The Chief Compliance and Audit Officer serves as the chief University official having charge of developing and maintaining the University's corporate ethics, compliance and audit programs. The Chief Compliance and Audit Officer has direct access to the Regents and functions as an independent authority to review, audit and evaluate University compliance with law, regulation, policy and ethical principles. The Chief Compliance and Audit Officer is charged with providing regular reports to the Regents and University leadership regarding the outcome of such reviews. The Chief Compliance and Audit Officer is further charged with overseeing the design and implementation of training and other programs to facilitate faculty and staff compliance with applicable law, regulation and policy. The Chief Compliance and Audit Officer is authorized to implement all steps necessary to achieve the objectives of effective and accountable ethics, compliance and audit programs. The Chief Compliance and Audit Officer reports to the Board and to the President of the University.

(d) Chief Investment Officer

The Chief Investment Officer serves as the chief University official having charge of all investment matters pertaining to the Corporation and University. The Chief Investment Officer provides advice and counsel to the Regents, to Board leadership and to University leadership regarding investment policy and performance and has direct access to the Board. The Chief Investment Officer oversees the acquisition, management and disposition of all assets held for investment purposes, as directed by Regents Policy, the Board and/or the President of the University, and acts as the custodian of all investment assets belonging to University. Subject to the administrative oversight of the President of the University, the Chief Investment Officer provides investment services to the University and oversees all investment managers retained by the University to deliver such services. The Chief Investment Officer reports to the Board and to the President of the University.

24. Standing Committees

24.1. Purpose/Authority

To facilitate oversight of the business of the University and of the Corporation, Standing Committees are established under the terms set forth in the Bylaws. The work of the Standing Committees shall be advisory to the Board unless otherwise specified in a Committee Charter (see section 24.2 below) or these Bylaws. Regardless of whether a responsibility has been assigned to a Standing Committee, the Chair of the Board, in consultation with the President of the University, may determine that a matter should be brought directly to the Board, rather than referred to a Standing Committee, including matters on which a Committee charter grants the Committee plenary authority. Where it is unclear which Standing Committee has responsibility over a matter, the Chair of the Board, in consultation with the President of the University, shall determine the Standing Committee or Standing Committees to which the matter should be referred. The Board may adopt, reject or modify any recommendation or action of a Standing Committee.

24.2. Committee Charters

Each Standing Committee shall operate in accordance with a committee charter that shall set forth the purpose and primary responsibilities of the committee. The charter shall be approved by the Board, on recommendation of the Governance and Compensation Committee. The charters for each of the Standing Committees identified below in paragraph 24.3 are attached as appendices to these Bylaws. In the case of any conflict between the terms of a Committee Charter with these Bylaws, the terms of these Bylaws shall control.

24.3. Designation of Standing Committees

The following Standing committees are hereby established and shall provide strategic direction and oversight on matters within their respective areas of responsibility, as described below and in the Committee Charters (attached to these Bylaws as appendices):

(a) The Academic and Student Affairs Committee

The Academic and Student Affairs Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the educational philosophy and objectives of the University, to admissions policy, to student affairs, and to the academic planning, instruction, research and public service activities of the University. (See Appendix A)

(b) The Compliance and Audit Committee

The Compliance and Audit Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the quality and integrity of the University's financial reporting systems and controls; the qualifications, performance and independence of the University's independent financial auditor; the function and performance of the University's compliance, internal audit and risk management programs; and the University's commitment to meeting all applicable legal, regulatory and policy requirements. (See Appendix B)

(c) The Finance and Capital Strategies Committee

The Finance and Capital Strategies Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the University's fiscal and financial affairs, business operations, land use, and capital facilities and strategies. (See Appendix C)

(d) The Governance and Compensation Committee

The Governance and Compensation Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the organization and management of the Board, on matters pertaining to the appointment and compensation of the University's senior leadership, and on matters pertaining to the development, review and amendment of employee compensation and benefits programs and policies. (See Appendix D)

(e) The Health Services Committee

The Health Services Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the University's schools of health, academic medical centers, health systems, clinics and student health and counseling centers ("UC Health"). (See Appendix E)

(f) The Public Engagement and Development Committee

The Public Engagement and Development Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the University's engagement with key constituents, fundraising, and the development of effective advocacy programs for University stakeholders. (See Appendix F)

24.4. Membership

Unless otherwise specified in a Committee Charter, Standing Committees shall consist of no fewer than five Regent members (excluding ex officio members), and at least one Chancellor of a University campus, who shall serve in an advisory, nonvoting capacity. Unless otherwise specified in a Committee Charter, the President of the Board, the Chair of the Board, and the President of the University shall serve as ex officio members of each Committee. Committees, when included in their charters, also may include non-voting advisory members (in addition to Chancellors) with expertise relevant to the work of the Committee, who, if recommended, shall be appointed as specified in Bylaw 24.5. Additional advisory members may be permitted by Regents Policies. No persons, other than those specified in Bylaw 20, shall be designated as Regents or shall exercise the authority granted Regents under the California Constitution or these Bylaws.

24.5. Appointment

Unless otherwise specified in a Committee Charter, the members (except for ex officio members) of a Standing Committee, and those chosen to serve as Chair and Vice Chair, shall be nominated by the Governance and Compensation Committee, and approved by the Board. The Chair of the Board shall not also concurrently serve as the Chair of any Standing Committee. Candidates for the Chancellor position(s) on Standing Committees, and any other proposed advisory member candidates, shall be forwarded for consideration to the Governance and Compensation Committee by the President of the University. Vacancies of members shall be filled in the same manner, to serve the unexpired term created by the vacancy.

24.6. Term

Unless otherwise specified in a committee charter, voting members of Standing Committees, other than ex officio members, shall be appointed for a term of one year. No Regent may serve consecutively in the position of Committee Chair or in the position of Committee Vice Chair for more than four terms. Advisory members may serve for such terms as recommended by the Governance and Compensation Committee, and approved by the Board, and shall not be subject to any term limits.

24.7. Voting and Quorum

Only Regent Committee members may vote. Advisory members (including Chancellors) may participate in all respects on matters brought before the Committee, except for voting. Unless otherwise specified in a committee charter, a quorum of the Committee shall be five Regents.

24.8. Special Requirements for Chancellors/Advisory Members

A Chancellor member of a Standing Committee may participate on a matter primarily affecting or benefitting the Chancellor's campus only to the extent of presenting or assisting in the presentation of the matter to the Committee, and shall not otherwise participate in the Committee's deliberations. This limitation shall not apply when the matter is expected to affect or benefit all or substantially all campuses. Other advisory members of a Standing Committee, if any, not otherwise subject to University policy, shall be subject to the laws and policies applicable to Regents governing compensation and reimbursement of expenses, and shall be subject to conflict of interest disclosure and recusal obligations as specified in the University's Conflict of Interest Code and other applicable policies.

24.9. Effect of Committee Assignment

The assignment of responsibility to a Standing Committee signifies the Committee to which matters otherwise appropriate for Board consideration generally will be referred and does not create an independent obligation to present a matter to the Board or to a Committee. Such obligations are or will be established through the provisions of other Bylaws.

24.10. Committee Charter Amendments

The charter of a Standing Committee may be amended by majority vote of the Board. Portions of Committee Charters that pertain to the establishment and roles of a Subcommittee may be amended by the Governance and Compensation Committee, except that any delegation of authority to a Subcommittee or change in plenary authority delegated to a Subcommittee shall be approved by the Board.

24.11. Reporting

Each Standing Committee shall deliver to the Board, at the Board's next regularly scheduled meeting, a report, which may be in writing, of all matters on which the Committee or any related Subcommittee has exercised its delegated authority. A similar report shall be delivered to the Chair of the Board and to the President of the University as soon as practicable after such action is taken.

25. Subcommittees

25.1. Establishment

A Standing Committee may seek to establish one or more subcommittees to assist in the effective conduct of its business. A subcommittee shall be formed, following a recommendation of a Standing Committee, on approval by the Governance and Compensation Committee of a Subcommittee Charter, which shall be incorporated into the charter of the related Standing Committee.

25.2. Authority

The authority of a Subcommittee shall be no greater in scope than the responsibilities assigned, and the authority delegated, to the related Standing Committee. Any delegation of plenary authority to a Subcommittee, and any change in such authority so delegated, shall require the approval of the Board, on recommendation of the Governance and Compensation Committee. Except for matters handled under plenary authority and except as otherwise specified in a Subcommittee charter, the work of the Subcommittee shall be advisory to the related Standing Committee.

25.3. Membership

Unless otherwise specified in its charter, a Subcommittee shall consist of no fewer than three Regents, all of whom must be members of the related Standing Committee. The Chair of the related Standing Committee shall serve ex officio as an additional member of the Subcommittee. Subcommittees may include advisory members of the related Standing Committee (including Chancellors) with expertise relevant to the work of the Subcommittee. Subcommittees may also include additional advisory members with expertise relevant to the work of the Subcommittee, who shall be forwarded for consideration to Chair of the related Standing Committee by the President of the University.

25.4. Appointment

Except for the ex officio member, all members of a Subcommittee, and those chosen to serve as Chair and Vice Chair, shall be approved by the Governance and Compensation Committee, following a recommendation by the Chair of the related Standing Committee.

25.5. Term

Unless otherwise specified in a subcommittee charter, voting members of Subcommittees, other than the ex officio member, shall be appointed for a term of one year. No Regent may serve consecutively in the position of Subcommittee Chair or in the position of Subcommittee Vice Chair for more than four terms. Advisory members may serve for such terms as determined by the Board or the Governance and Compensation Committee, in consultation with the Chair of the related Standing Committee, and shall not be subject to any term limits. Notwithstanding the foregoing, no voting members of a Subcommittee shall serve beyond their term on the related Standing Committee.

25.6. Voting and Quorum

Only the Regent members of a Subcommittee may vote on Subcommittee business. Advisory members (including Chancellors) may participate in all respects on matters brought before the Subcommittee, except voting. A quorum of a Subcommittee shall be three Regent members.

25.7. Subcommittee Charter Amendments

Except as provided in Paragraph 25.2 above, the portions of a Committee Charter governing the Subcommittee may be amended on approval of the Governance and Compensation Committee, following a recommendation by the related Standing Committee.

25.8. Reporting

A Subcommittee shall deliver to the related Standing Committee, at its next regularly scheduled meeting, a report, which may be in writing, of all matters on which the Subcommittee has exercised its delegated authority.

26. Special Committees

26.1. Establishment and Authority

The Board may establish Special Committees to assist in the effective conduct of its business. A Special Committee shall be formed on approval by the Board of a Special Committee charter, following the recommendation of the Governance and Compensation Committee. Without limiting the discretion of the Board, Special Committees will be established for purposes of providing more focused review and analysis of a specific issue or event, and will be established for a limited duration determined at the time of formation. Unless the Special Committee charter provides otherwise, the provisions of Sections 24.1 through 24.12 shall apply to all Special Committees.

27. Meetings

27.1. Regular Meetings of the Board

(a) Schedule of Meetings and Calling Additional Meetings

The Board shall establish a schedule of its regular meetings for the upcoming calendar year no later than 180 days before the start of the year. Such schedule shall be approved by the Board, on recommendation of the Chair of the Board, in consultation with the President of the University. Additional regular meetings of the Board shall be called by the Secretary and Chief of Staff at the direction of the Chair of the Board or the President of the University.

(b) Agenda

The agenda for each regular meeting of the Board shall include a roll call and a request for action on the minutes of the previous meeting. The agenda otherwise shall be determined by the Chair of the Board, in consultation with the President of the University, and with the Chairs of the Standing Committees, as appropriate. Any Regent is entitled to have an item placed on the agenda of a Committee or of the full Board, including an item that previously failed to obtain the approval of a Committee, or received no Committee action within 180 days of being placed on the Committee's agenda. The Chair of the Board or the Committee Chair as appropriate, in consultation with the President of the University, shall determine the scheduling of the item, provided that such scheduling must occur in sufficient time to afford the Regent a meaningful opportunity to have the proposal heard by the Board or Committee.

(c) Notice

The Secretary and Chief of Staff shall provide notice and the agenda of each regular meeting of the Board as required under applicable law. At a minimum, the Secretary and Chief of Staff, 10 days in advance of each regular meeting, shall post notice and agenda of the meeting on the University's website, and shall deliver notice of the meeting to each Regent by email or other means assuring similar time of delivery. The times and dates and order of business indicated are approximate and subject to change.

(d) Supporting Materials

The supporting materials for the agenda shall be made available to the Regents 10 days in advance of the meeting or as soon as practicable thereafter.

- (e) Quorum
The quorum for a regular meeting of the Board is nine Regents. A “meeting” of the Board or of a Committee shall be deemed to be subject to applicable open meeting requirements when either a majority or a quorum of members, whichever is fewer, is in attendance.
- (f) Presiding Member
The presiding member at a meeting of the Board shall be determined in the following order, based on availability: the President of the Board; the Chair of the Board; the Vice Chair of the Board; the member with the most seniority on the Board among those present. Any member otherwise entitled to preside at the meeting may request that the member next in order assume the presiding role, regardless of the presiding member’s presence or availability.
- (g) Open/Closed Session
Meetings of the Board shall be convened in Open Session and/or Closed Session in accordance with applicable law.
- (h) Communication to Regents
Persons seeking to communicate with the Board during a regular meeting shall be given the opportunity to do so during a public comment session, in accordance with applicable law and Regents policy. The presiding member may also invite representatives of the University’s students, faculty or staff to address the Board on issues pertinent to the Board’s business. Persons seeking to communicate with the Board outside a regular meeting may do so in writing by providing it to the Secretary and Chief of Staff.
- (i) Direct Board Review
Prior to a meeting of the Board, matters otherwise suitable for review by a Committee may be placed on the Board’s agenda and brought directly to the Board at the direction of the Chair of the Board. During a meeting of the Board, matters otherwise suitable for review by a Committee and listed on a Committee agenda may be brought directly to the Board on the affirmative vote of a majority of the members, following a motion by any Regent, which may be made as a matter of right.
- (j) Matters Failing Committee Vote
Any Regent has the right to make a motion to bring to the Board a matter that fails to obtain the approval of a Committee; the matter will be brought directly before the Board for consideration upon the affirmative vote of a majority of the Regents present at a meeting of the Board.

(k) Determinative Vote

Except as otherwise provided in the Bylaws or Committee Charters, all matters coming before the Board shall be determined by a majority of votes cast by Regents present, excluding abstentions and recusals. Upon the request of any Regent, the vote shall be by a call of the roll.

(l) Reconsideration

Any Regent may move for the reconsideration of an action taken by the Board during a meeting, provided that such motion is made and voted upon at the same meeting during which the original action is taken.

(m) Supplemental Rules of Procedure

Subject to applicable law, and to the extent not addressed in these Bylaws or other University governing policies, the current edition of Robert's Rules of Order Newly Revised shall govern the meetings of the Board and its Committees.

(n) Teleconference meetings.

The Board may hold meetings (including both open session and closed sessions) by teleconference consistent with applicable law.

27.2. Special Meetings of the Board

Special meetings of the Board shall be governed, to the extent applicable, in accordance with the rules specified for regular meetings of the Board, except as provided below. Special meetings of the Board may be convened for any purpose, at the request of the President of the Board, the Chair of the Board, the President of the University, or any four Regents. Notice and agenda of such special meetings shall be provided as required under applicable law. In addition to legal requirements, the Secretary and Chief of Staff, at least 72 hours in advance of such meeting, shall post the notice and agenda for the meeting on the University's website, and shall deliver the notice and agenda to each Regent by email or other means assuring similar time of delivery. The quorum for a special meeting of the Board is twelve Regents.

27.3. Emergency Meetings of the Board

(a) Emergency Meetings

Emergency meetings of the Board may be convened only for purposes specified under applicable law, at the request of the President of the Board, the Chair of the Board, or the President of the University. Notice of such meetings shall be provided as required under applicable law. In addition to legal requirements, the Secretary and Chief of Staff, at least one hour in advance of such meeting, shall deliver the notice and agenda for the meeting, if any, to each Regent by email or other means assuring similar time of delivery. The quorum for an emergency meeting of the Board is five Regents.

(b) Waiver of Notice

In the event that services are not functioning to permit notice to be made, notice requirements shall be deemed waived, and the President of the Board, the Chair of the Board or the President of the University, or a designee thereof, shall, as soon after the meeting as possible, post on the University's website the fact of the holding of the emergency meeting, the purpose of the meeting, and any actions at the meeting which are subject to announcement.

27.4. Committee Meetings

(a) Calling Committee Meetings

Meetings of Committees and Subcommittees shall be called by the Secretary and Chief of Staff at the direction of the Chair of the Board, the Chair of the Committee or Subcommittee for which a meeting is to be called, the President of the University, or any three members of the Committee or Subcommittee for which a meeting is to be called.

(b) Rules of Procedure Generally

Meetings of the Standing Committees and other Committees shall be governed, to the extent applicable, in accordance with the rules specified for regular meetings of the Board, except as provided below.

- (c) Quorum
Except as otherwise provided in the Bylaws or a Committee Charter, the quorum for a meeting of a Standing Committee or other Committee is five Regents.
- (d) Notice
Notice and agenda of Committee and Subcommittee meetings shall be provided as required under applicable law. Apart from legal requirements, the Secretary and Chief of Staff, at least 10 days in advance of such meeting, shall post the notice and agenda for the meeting on the University's website, and shall deliver the notice and agenda to each Regent by email or other means assuring similar time of delivery.
- (e) Presiding Member
The presiding member at a meeting of a Standing Committee or other Committee shall be determined in the following order, based on availability: the Chair of the Committee; the Vice Chair of the Committee; the member with the most seniority on the Committee among those present. Any member otherwise entitled to preside at the meeting may request that the member next in order assume the presiding role.
- (f) Joint Committee Meetings
Any combination of Committees may be convened to meet jointly, at the discretion of the Chair of the Board, in consultation with the President of the University. The vote of each Committee participating in the joint meeting shall be recorded separately. Items requiring Board approval that are approved by any one Standing Committee shall be forwarded to the Board for further consideration and possible action.
- (g) Special Search Committees
To the extent permitted by applicable law, meetings of special search or selection committees held for the purpose of conducting interviews for university officer positions shall not be public meetings, and no public notice is required.

27.5. Interim Actions

Matters requiring Board or Committee action between meetings may be acted on upon the recommendation of the President of the University or an Officer of the Corporation in their respective areas of responsibility. For matters requiring action by the Board, approval under this authority requires the approval of the Chair of the Board and the Chair of the Standing Committee with jurisdiction over the matter. For matters requiring action by a Committee, approval under this authority requires the approval of the Chair and the Vice Chair of the Committee. In the case of the inability of the Chair of the Board to act, the Vice Chair of the Board may act; and in the case of the inability of the Chair of the Committee to act, the Vice Chair of the Committee may act. For matters requiring action by a Committee, in the case of the inability of the Chair or Vice Chair of the Committee to act, the next most senior member of the Committee may act. All actions approved under this interim action authority shall be reported at the next regular meeting of the Board.

27.6. Release of Board Information.

(a) Open Session

Agenda materials for items to be discussed in open session shall be made available to the public as required by applicable law. Notice of actions approved by the Board and its Committees in open session shall be made public as soon as practicable following the meeting. Approved minutes of open session meetings shall be posted as soon as practicable after approval. All of the foregoing is subject to any legal requirement that prohibits disclosure of specific information.

(b) Closed Session

The proceedings of closed sessions are to be kept confidential by all attendees except as provided in Section 27.6(c). Notice of actions taken in closed session by the Board and its Committees shall normally be made public as soon as practicable following the meeting. Actions may be withheld from release or release may be delayed if disclosure would constitute an invasion of privacy of individuals or would adversely affect the interests of the University in a manner contrary to the purpose of the closed session exceptions in applicable open meeting laws. Release of actions shall be determined by the President of the University, the Secretary and Chief of Staff, the Chief Investment Officer, and the Chief Compliance and Audit Officer in their respective areas of responsibility, in consultation with the General Counsel, or, upon determination of the General Counsel in the General Counsel's area of responsibility.

(c) Disclosure of Closed Session Materials

Minutes and agenda materials from closed session meetings shall be kept confidential by members and staff and released only as follows:

- As required by law or legal process; or
- The President of the University, the Secretary and Chief of Staff , the Chief Investment Officer, and the General Counsel of The Regents in their respective areas of responsibility may release from closed session background information as required for the conduct of ordinary business of the University; or
- The President of the University or the Secretary and Chief of Staff, in consultation as appropriate with the Chair of the Board and General Counsel of The Regents, may release information for scholarly purposes or other good cause if the substance would not presently be considered in closed session, if the substance would be scheduled for release to the public subsequent to the closed session, or if the information is twenty-five years or more old.

University Executives

30. President of the University

The President of the University is appointed by and serves at the pleasure of the Board, and exercises authority delegated by the Board pursuant to Bylaw 22.1. The President is the executive head of the University and facilitates the development by the Board of the University's direction, goals and strategy. The President implements the policies and objectives of the Board, and keeps the Board informed of all significant developments affecting the University. The President administers the day to day central and/or system-wide functions of the University, except those activities within the responsibility of the Principal Officers. The President develops, and on the approval of the Board, manages the University budget. The President serves as the academic leader of the University, subject to any authority delegated to the Academic Senate, and is expected to consult with the Academic Senate, consistent with the principles of shared governance, on issues of significance to the general welfare and conduct of the faculty. The President is charged with establishing a University environment that is conducive to compliance with law, regulation, policy and ethical principles. The President is expected to promote diversity in the University community, consistent with applicable law and the public mission of the University. The President serves as principal administrative spokesperson for the University, promoting the University's interests and managing its reputation with external stakeholders. Except as may be otherwise provided in the Bylaws or as may be within the authority of a Principal Officer, the President represents the University before the executive and legislative branches of the state and federal governments, and of any foreign governments.

31. Chancellors

The Chancellors of the University campuses are appointed by and serve at the pleasure of the Board, on recommendation of and in consultation with the President of the University. The Chancellors serve as the executive heads of their respective campuses, implementing the policies and objectives of the Board and of the President of the University, and apprising the Board and the President of the University of significant developments affecting their campuses and the University. The Chancellors set the policies, goals and strategic direction for their campuses, consistent with those of the University. The Chancellors are responsible for the organization, internal administration, operation, financial management, and discipline of their campuses within the budget and policies approved by the Board and/or the President of the University. They oversee all faculty personnel and other staff at their locations, and appoint all members of the instructional staff, and may fix their remuneration in accordance with the provisions of the budget established by the Board and the salary scales of the University. On recommendation of the Academic Senate, the Chancellors are authorized to confer academic degrees on candidates successfully completing their courses of instruction. The Chancellors are authorized to serve as principal spokespersons for their campuses, and shall preside at all formal functions of their campuses unless they delegate the presiding function to a campus provost, vice chancellor, or dean.

Academic Senate

40. Academic Senate.

40.1. Duties and Powers of the Academic Senate.

The Regents recognize that faculty participation in the shared governance of the University of California through the agency of the Academic Senate ensures the quality of instruction, research and public service at the University and protects academic freedom. The Academic Senate shall perform such duties as the Board may direct and shall exercise such powers as the Board may confer upon it. The Academic Senate, subject to the approval of the Board, shall determine the conditions for admission and for certificates and degrees, and recommend to the President all candidates for degrees. The Academic Senate shall authorize and supervise all courses and curricula, except in the Hastings College of the Law, in professional schools offering work at the graduate level only, and over non-degree courses in the University Extension. No change in the curriculum of a college or professional school shall be made by the Academic Senate until such change shall have been submitted to the formal consideration of the faculty concerned. The Academic Senate may select committees to advise the President and Chancellors on campus and University budgets and, through the President, or to the Regents directly by a formal Memorial, may address the Board on any matter pertaining to the conduct and welfare of the University.

40.2. Organization of the Academic Senate

Membership in the Academic Senate is as determined in Regents Policy. The Academic Senate shall organize and choose its own officers and committees and may delegate authority to its divisions or committees as appropriate.

40.3. Special Provisions Concerning Faculty

(a) No Political Test

No political test shall ever be considered in the appointment and promotion of any faculty member or employee.

(b) Privilege of a Hearing Before the Academic Senate

Any member of the Academic Senate shall have the privilege of a hearing by the appropriate committee or committees of the Academic Senate on any matter relating to personal, departmental, or University welfare.

(c) Tenure

All appointments to the positions of Professor and Associate Professor and to positions of equivalent rank are continuous in tenure until terminated by retirement, demotion, or dismissal. The termination of a continuous tenure appointment or the termination of the appointment of any other member of the faculty before the expiration of the appointee's contract shall be only for good cause, after the opportunity for a hearing before the properly constituted advisory committee of the Academic Senate, except as otherwise provided in a Memorandum of Understanding for faculty who are not members of the Academic Senate.

An Assistant Professor who has completed eight years of service in that title, or in that title in combination with other titles as established by the President, shall not be continued after the eighth year unless promoted to Associate Professor or Professor. By exception, the President may approve appointment of an Assistant Professor beyond the eighth year for no more than two years.

(d) Security of Employment

A Lecturer-Potential Security of Employment or Senior Lecturer-Potential Security of Employment appointed at more than half time who has completed eight years of service in that title, or in that title in combination with other titles as established by the President, shall not be continued in that title after the eighth year unless given appointment with security of employment.

By exception, the President may approve appointment of a Lecturer-Potential Security of Employment or Senior Lecturer-Potential Security of Employment on more than half time beyond the eighth year without security of employment, but may not extend it beyond two years.

(e) Dismissal

Dismissal of an academic appointee who holds tenure or security of employment shall be only for good cause and shall be voted by the Board upon recommendation of the President of the University, following consultation with the appropriate Chancellor. Prior to recommending dismissal, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate.

Appendix A - Charter of the Academic and Student Affairs Committee

- A. Purpose. The Academic and Student Affairs Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the educational philosophy and objectives of the University, to admissions policy, to student affairs, and to the academic planning, instruction, research and public service activities of the University.
- B. Membership/Terms of Service: The identity, appointment and terms of service of Committee members shall be as specified in Bylaws 24.4 through 24.6, except that the California Superintendent of Public Instruction shall be added to the Committee as a voting ex officio member.
- C. Delegated Authority. The Committee shall have plenary authority to approve the following matters which, on approval, shall require no further action or authorization from the Board or any other committee. Unless otherwise specified, any approval authority for these matters that falls outside parameters expressly reserved to the Board or a Committee is delegated to the President.
- Making any cardinal change to a prime contract to manage and operate a National Laboratory or other Comparable Facility.
 - Allocation of the annual fee earned by the University from an affiliated business entity formed to manage and operate any National Laboratory or Comparable Facility.
- D. Other Oversight Responsibilities. The charge of the Committee shall include reviewing and making recommendations to the Board with regard to the following matters and/or with regard to the following areas of the University's business:
- Enrollment and admissions
 - Access and affordability for undergraduate, graduate academic, and graduate professional students
 - Residency
 - Student life and student conduct
 - Academic personnel
 - Faculty life and faculty conduct
 - Privilege and Tenure
 - Undergraduate, graduate academic and graduate professional curricula
 - Degrees and Certificates
 - Academic Calendar
 - Establishment and disestablishment of campuses, colleges and schools
 - Research directions, funding, structures and accomplishments

- Internal and external research collaboration
- Intellectual property
- Technology transfer and commercialization
- Innovation and entrepreneurship in curricula, degrees and research
- Public service related to academic affairs
- Master Plan for Higher Education
- Strategic Academic Plans
- K-12 engagement, student preparation for college success, and school improvement
- Diversity
- Campus climate and inclusion
- CSU and CCC relations
- Division of Agriculture and Natural Resources
- Natural Reserve System
- Department of Energy National Laboratories
- Appointments of Regents Professors and University Professors
- Approval of equivalent academic ranks

The assignment of responsibility to a Standing Committee signifies the Committee to which matters otherwise appropriate for Board consideration generally will be referred and does not create an independent obligation to present a matter to the Board or to a Committee.

- E. National Laboratories Subcommittee. The Committee hereby establishes the National Laboratories Subcommittee to assist the Committee in discharging its governance and oversight responsibilities with regard to the Lawrence Berkeley National Laboratory, the Lawrence Livermore National Laboratory, the Los Alamos National Laboratory, and any other Comparable Facility. A Comparable Facility shall include any National Laboratory or other Federally Funded Research and Development Center as identified by federal regulation. The duties and responsibilities of the Subcommittee, and the plenary authority delegated to it by the Board, are set forth as follows.
1. Purpose. In support of the Academic and Student Affairs Committee (the “related Standing Committee”), the National Laboratories Subcommittee shall consider, make recommendations, and act pursuant to delegated authority on matters pertaining to the research and other activities of the Lawrence Berkeley National Laboratory, the Lawrence Livermore National Laboratory, the Los Alamos National Laboratory, and any other National Laboratory or Comparable Facility and any affiliated business entity holding a prime contract to manage and operate a National Laboratory or Comparable Facility.
 2. Membership/Terms of Service: The identity, appointment and terms of service of Subcommittee members shall be as specified in Bylaws 25.3 through 25.5.

3. Delegated Authority. The Subcommittee shall have plenary authority to approve the following matters which, on approval, shall require no further action or authorization from the Board, the related Standing Committee or any other committee. Unless otherwise specified, any approval authority for these matters that falls outside parameters expressly reserved to the Board or a Committee is delegated to the President.
- Making any cardinal change to a prime contract to manage and operate a National Laboratory or other Comparable Facility.
 - Allocation of the annual fee earned by the University from an affiliated business entity formed to manage and operate any National Laboratory or Comparable Facility.
4. Other Oversight Responsibilities. In addition to the authority delegated to the Committee described above, and to the extent not otherwise within such authority, the charge of the Subcommittee shall include reviewing and making recommendations to the related Standing Committee with regard to the following matters and/or with regard to the following areas of the University's business:
- The University's participation in any solicitation for or contract to manage and operate a National Laboratory or Comparable Facility.
 - The University's participation in any business entity formed to manage and operate a National Laboratory or other Comparable Facility
 - Oversight of relationships between and among the University, the Department of Energy, the National Nuclear Security Administration, other pertinent state and federal authorities, and any business partners and business entities with responsibility for management and operation of a National Laboratory or Comparable Facility
5. Reporting. In addition to the reports required under Bylaw 25.8, the Subcommittee shall report to the related Standing Committee any material developments in the operation of the National Laboratories or Comparable Facilities, including those that concern the health and safety of laboratory personnel or the surrounding communities, those that have the potential to expose the University to financial loss, those that have the potential materially to impact fees earned by the University for management and operation of a National Laboratory or Comparable Facility, and/or those that have the potential to adversely impact the University's relationship with state or federal authorities or University business partners.

Appendix B - Charter of the Compliance and Audit Committee

- A. Purpose. The Compliance and Audit Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the quality and integrity of the University's financial reporting systems and controls; the qualifications, performance and independence of the University's independent financial auditor; the function and performance of the University's compliance, internal audit and risk management programs; and the University's commitment to meeting all applicable legal, regulatory and policy requirements.
- B. Membership/Terms of Service. The identity, appointment and terms of service of Committee members shall be as specified in Bylaws 24.4 through 24.6, except that neither the President of the University nor the Chief Financial Officer of the University shall be eligible to serve on the Committee. The Committee may include non-voting advisory members (in addition to Chancellors) with expertise relevant to the work of the Committee.
- C. Delegated Authority. The Committee shall have plenary authority to approve the following matters which, on approval, shall require no further action or authorization from the Board or any other committee.
- Approval of the audit scope and plan of the independent financial auditor
 - Approval of the annual internal audit and compliance plans
 - Approval of litigation settlements and other settlements of disputed claims in which the amounts paid, or the amounts compromised on monies owed, is between \$1 million and \$5 million
 - For settlements over \$5 million, or where the settlement involves significant questions of University policy, or where the agreement is with an Officer of the University or an Officer of the Corporation, the Committee shall make recommendations for Board approval
 - For settlements less than \$1 million, approval authority shall be determined pursuant to Regents policy
- D. Other Oversight Responsibilities. In addition to the authority delegated to the Committee described above, and to the extent not otherwise within such authority, the charge of the Committee shall include reviewing and making recommendations to the Board with regard to the following matters and/or with regard to the following areas of the University's business:

- Monitoring University compliance with applicable laws, regulations and policies, including those concerning conflicts of interest and financial disclosure, those presenting a risk of a material financial impact to the University, and those relating to the University's policies prohibiting discrimination and harassment.
- Developing and implementing the University's compliance program
- Developing an effective program for receiving, monitoring and investigating complaints of alleged improper governmental activities (i.e. a "whistleblower" program)
- Operational risk management enterprise wide
- Cyber security risks and management response
- Establishing the University's internal audit program
- Establishing an effective environmental health and safety program
- Responding to external inquiries such as state and federal regulatory investigations and audits
- Litigation settlements and other settlements of disputed claims
- Monitoring and assuring control environment related to financial controls, operational controls, legal compliance and risk management are effective
- Developing and implementing corrective actions for identified deficiencies in financial controls or legal compliance
- Appointment and compensation of the Chief Compliance and Audit Officer, who oversees the compliance and audit functions of the University
- The appointment of the external independent financial auditor, the external audit plan and the general delivery of these services
- Resolving any disputes between the independent financial auditor and management
- Assuring that the independent financial auditor has access to the Committee for independent discussions, where appropriate
- Overseeing development and regular review of the University's ethics policies and statements of ethical principles

The assignment of responsibility to a Standing Committee signifies the Committee to which matters otherwise appropriate for Board consideration generally will be referred and does not create an independent obligation to present a matter to the Board or to a Committee.

- E. Independent Experts. The Committee shall have the authority to retain independent legal counsel, following consultation with the General Counsel, and to retain other independent experts, as necessary to conduct the business of the Committee.

Appendix C - Charter of the Finance and Capital Strategies Committee

- A. Purpose. The Finance and Capital Strategies Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the University's fiscal and financial affairs, business operations, land use, and capital facilities and strategies.
- B. Membership/Terms of Service: The identity, appointment and terms of service of Committee members shall be as specified in Bylaws 24.4 through 24.6.
- C. Other Oversight Responsibilities. In addition to the authority delegated to the Committee described above (if any), and to the extent not otherwise within such authority, the charge of the Committee shall include reviewing and making recommendations to the Board with regard to the following matters and/or with regard to the following areas of the University's business:
- Expenditures and appropriation of funds
 - Cash management
 - Bank accounts and banking relationships
 - External financing
 - Capital Financial Plans (e.g. 10 Year Capital Financial Plan)
 - Capital planning and capital budget requests
 - University Budget and planning
 - State Budget requests
 - Review of operating and capital budgets on a campus by campus basis
 - Indirect cost recovery
 - Financial Performance of Insurance programs.
 - Captive insurance affiliates and programs
 - Procurement
 - Significant financial programs (e.g. Fiat Lux, Procurement, asset management)
 - Large-scale enterprise systems (e.g. UC PATH)
 - Annual valuations for UCRP and the retiree health program
 - University Investments
 - Real estate sales, purchases and leases, easements, licenses, mineral rights
 - Physical design framework
 - Design approvals
 - Facilities Operations
 - Long Range Development Plans (LRDPs) and environmental policy matters
 - Energy matters
 - Sustainability matters

The assignment of responsibility to a Standing Committee signifies the Committee to which matters otherwise appropriate for Board consideration generally will be referred and does not create an independent obligation to present a matter to the Board or to a Committee.

- D. Consultation with Other Committees. The Committee shall consult with the Chair of the National Laboratories Subcommittee in advance of, or concurrent with, consideration, recommendation, or approval, of projects of strategic importance to the National Laboratories. The Committee shall consult with the Health Services Committee on plans for improvements and capital improvement requests involving UC Health or any of its components prior to or concurrent with consideration, recommendation, or approval by the Finance and Capital Strategies Committee. This requirement applies only to those capital projects that are related to patient care or research, or are otherwise of strategic importance to UC Health.
- E. Investments Subcommittee. The Committee hereby establishes the Investments Subcommittee to assist the Committee in discharging its oversight responsibilities with regard to University investments. The duties and responsibilities of the Subcommittee, and the plenary authority delegated to it by the Board, are set forth as follows.
1. Purpose. In support of the Finance and Capital Strategies Committee (the “related Standing Committee”), the Investments Subcommittee shall consider, make recommendations, and act pursuant to delegated authority on matters pertaining to University investment strategy and operations, and pertaining to the review and reporting of investment results.
 2. Membership/Terms of Service. The identity, appointment and terms of service of Subcommittee members shall be as specified in Bylaws 25.3 through 25.5.
 3. Special Requirements for Members/Advisors. Except as specifically provided in this Charter, neither the Subcommittee nor any of its members or advisors shall direct or attempt to direct the University’s internal or external investment managers with regard to the selection of specific investments, specific funds or specific investment managers. The role and authority of such members and advisors shall be limited to providing general direction though policy and to monitoring and reporting investment results.
 4. Delegated Authority. The Subcommittee shall have plenary authority to approve the following matters which, on approval, shall require no further action or authorization from the Board, the related Standing Committee or any other committee. Unless otherwise specified, any approval authority for these matters that falls outside parameters expressly reserved to the Board or a Committee is delegated to the President or the Chief Investment Officer, within their respective jurisdictions.

- Determination of asset classes
 - Asset allocation policy
5. Other Oversight Responsibilities. In addition to the authority delegated to the Committee described above, and to the extent not otherwise within such authority, the charge of the Subcommittee shall include reviewing and making recommendations to the related Standing Committee with regard to the following matters and/or with regard to the following areas of the University's business:
- Investment policy and strategy
 - Physical asset management (e.g. real estate held as investments)
 - Investment accounts/custodian relationships
 - Retirement system investments
 - Endowment funds investments
 - Short term and liquidity investments
 - Investment operations
 - Investment results and reporting
 - Annual valuations for UCRP and the retiree health program
6. Expert Advisors. The Subcommittee shall have the authority to retain independent investment experts and advisors, as necessary to conduct the business of the Subcommittee. Any advisors not otherwise subject to University policy, shall be subject to the laws and policies applicable to Regents governing compensation and reimbursement of expenses, and shall be subject to conflict of interest disclosure and recusal obligations as specified in the University's Conflict of Interest Code and other applicable policies.
7. Reporting. In addition to the reports required under Bylaw 25.8, the Subcommittee shall report to the related Standing Committee any material developments in the University's investments operation and in the University's investment portfolio.

Appendix D - Charter of the Governance and Compensation Committee

- A. Purpose. The Governance and Compensation Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the organization and management of the Board, pertaining to the appointment and compensation of the University's senior leadership, and pertaining to the development, review and amendment of employee compensation and benefits programs and policies.
- B. Membership and Terms of Service. The Committee shall consist of the President of the Board, the Chair of the Board, the President of the University, and six other Regents, appointed by the Chair of the Board, no later than March of each year for the ensuing year. .
- C. Delegated Authority. The Committee shall have plenary authority to approve the formation of Subcommittees, appointment of Subcommittee members, and the portion of a Committee Charter governing a Subcommittee except that any delegation of authority to a Subcommittee or change in plenary authority delegated to a Subcommittee shall be approved by the Board. .
- D. Board Leadership and Committee Assignments. The Committee shall be responsible for presenting to the Board no later than May of each fiscal year a slate of candidates for Chair and Vice Chair of the Board, Chair and Vice Chair of each Standing Committee, and the remaining members of each Standing Committee (except the Governance and Compensation Committee, whose members are selected by the Chair of the Board), for the following fiscal year.
- E. Other Oversight Responsibilities. In addition to the authority and responsibilities described above, the charge of the Committee shall include reviewing and making recommendations to the Board with regard to the following matters and/or with regard to the following areas of the University's business:
- Review and amendment of the University's Bylaws, Regents Policies and other governing documents
 - Formation and organization of the Board's Standing Committees, subcommittees and special committees, and development of committee charters
 - Appointments in Board leadership or on Board committees
 - Review and oversight of the Board code of conduct and other Board policies
 - Oversight of member compliance with laws, regulations and University policy
 - Development of Board training and performance assessment programs
 - Development of Board meeting and other processes

- Appointment and assessment of University senior leadership, in accordance with University policy
- Approval of senior executive compensation, in accordance with University policy
- Review of University compensation and benefit plans and programs
- Development of compensation benchmarks and other tools to assess the efficiency and competitiveness of the University's compensation and benefits plans and programs
- Oversight of University collective bargaining practices
- Assuring that appropriate subject matter expertise is available to the Board and its Committees
- Recommending to the Board procedures to consider any allegation that a Regent, Committee member, Regent Designate or advisor to a Board Committee has not fulfilled their duties as set forth in University Bylaws, policy or applicable law; to implement appropriate response(s) when such allegation is found to have merit, and to determine levels of authority to act on such matters.

The assignment of responsibility to a Standing Committee signifies the Committee to which matters otherwise appropriate for Board consideration generally will be referred and does not create an independent obligation to present a matter to the Board or to a Committee.

- F. Consultation With Other Committee Chairs on Compensation Matters. The Governance and Compensation Committee shall consult with the Chairs of other Standing Committees or Subcommittees, as appropriate, in making determinations and recommendations regarding the appointment and compensation of employees within the jurisdiction of those other committees.

Appendix E - Charter of the Health Services Committee

- A. **Purpose.** The Health Services Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the University's health professions schools, academic health centers, health systems, non-hospital clinics and student health and counseling centers ("UC Health").
- B. **Membership.** The Committee shall consist of sixteen members, constituted as follows:
- The President of the Board, serving in an ex officio capacity
 - The Chair of the Board, serving in an ex officio capacity
 - The President of the University, serving in an ex officio capacity
 - A member of the Regents Finance and Capital Strategies Committee
 - A member of the Regents Governance and Compensation Committee
 - Three other Regents
 - The senior executive in the Office of the President charged with overseeing UC Health, serving in an ex officio capacity
 - Two Chancellors of University of California campuses
 - One member in good standing of the Academic Senate, holding a clinical appointment at one of the University's schools of medicine
 - Four additional advisory members, demonstrating expertise in health care delivery management, academic health services, health care mergers and acquisitions or other relevant expertise
- C. **Appointment.** Except for ex officio members, all members of the Committee, and those chosen to serve as Chair and Vice Chair, shall be nominated by the Governance and Compensation Committee, and approved by the Board. Candidates for the Chancellor, Academic Senate, and Advisory Member positions on the Committee shall be forwarded for consideration to the Governance and Compensation Committee by the President of the University.
- D. **Term.** Unless otherwise specified by action of the Board, voting members of the Committee, other than ex officio members, shall be appointed for a term of one year. Advisory members may serve for such terms as recommended by the Governance and Compensation Committee, and approved by the Board, and shall not be subject to any term limits.
- E. **Voting and Quorum.** Only the Regent members of the Committee shall be permitted to vote on Committee business. Nonvoting members may be permitted to participate in all respects on matters brought before the Committee, except for participating in the vote. A quorum of the Committee shall be four Regent members.

- F. Special Requirements for Chancellors/Advisory Members. A Chancellor member of the Committee shall be permitted to participate on a matter primarily affecting or benefitting their campus only to the extent of presenting or assisting in the presentation of the matter to the Committee, and shall not otherwise participate in the Committee's deliberations. This limitation shall not apply when the matter is expected to affect or benefit all or substantially all UC Health campuses.
- G. Delegated Authority Over Transactions.
1. General Delegation: Subject to the limitations and other requirements specified below, the Committee shall have plenary authority to approve the following UC Health business transactions, which, on approval, shall require no further action or authorization from the Board or any other committee:
 - alliances and affiliations involving University financial commitments, use of the University's name, research resources, and the University's reputation;
 - acquisitions of physician practices, hospitals and other facilities and clinics and ancillary services providers;
 - participation or membership in joint ventures, partnerships, corporations or other business entities; and
 - other business transactions primarily arising from or serving the programs or services of UC Health.
 2. Further Delegation: With review and approval of the Chair or Vice Chair of the Health Services Committee, the President may approve any UC Health transaction that can reasonably be anticipated to commit or generate no more than the lesser of (i) 1.5% of the relevant Medical Center's annual operating revenue for the previous fiscal year, or (ii) \$25 million and when combined with other transactions approved by the President for a particular Health Center in the current fiscal year, would reasonably be anticipated to commit or generate no more than the lesser of (i) 3% of the relevant Health Center's annual operating revenue for the previous fiscal year, or (ii) \$50 million; nor to any transaction involving more than one Medical Center.
 3. Exclusions From Delegations:
 - When a transaction is predominantly (by revenue committed or generated) a real estate transaction; or
 - when a transaction includes issuance of debt; or
 - when a transaction is anticipated to generate or commit more than 3% of the annual operating revenue of the sponsoring health center(s), as reflected in the audited financial statement(s) for the most recent fiscal year; or
 - when a transaction, when combined with the value of other transactions approved by the Committee in the current fiscal year, reasonably is anticipated

to generate or commit more than 5% of the annual operating revenue of the sponsoring health center(s), as reflected in the audited financial statements for the most recent fiscal year.

H. Delegated Authority Over Appointments and Compensation.

1. When the appointment of or compensation for an employee serving UC Health or any of its components, whose compensation is paid solely from sources other than State general fund support to the University, otherwise requires approval from the Regents or a Committee of the Regents, the Health Services Committee may review and approve such appointment and/or compensation without further Regents action.
2. The Committee shall develop a benchmarking framework for use in evaluating compensation proposals that may be approved under the authority delegated in paragraph H(1). The benchmarking framework shall identify peer institutions against which UC Health competes for high level positions and identify external salary data for positions comparable to those that may be approved by the Committee. The benchmarking framework shall be reviewed and approved by the Health Services Committee and the Governance and Compensation Committee at least every two (2) years.

I. Other Oversight Responsibilities. In addition to the authority described above, the Committee may review and make recommendations with regard to the following matters and/or with regard to the following areas of the University's business:

- The general operation of UC Health
- Functions and operations of the governing body of each of the academic health centers
- Systemwide or regional UC Health initiatives
- Patient care and the cost, quality and accessibility of service
- Development of health system performance dashboards
- Strategic plans and budgets for UC Health
- Issuance of debt that may affect UC Health clinical strategy
- Real estate transactions that may affect UC Health clinical strategy
- Capital improvements that may affect UC Health clinical strategy
 - The Health Services Committee shall consider proposals for plans for improvements and capital improvement requests involving UC Health or any of its components prior to or concurrent with consideration, recommendation, or approval by the Finance and Capital Strategies Committee. This requirement applies only to those capital projects that are related to patient care or research, or are otherwise of strategic importance

to UC Health.

- Health system acquisitions, affiliations and alliances (for matters not covered by the Committee's delegated authority)
- Health system procurement
- Health system appointments and compensation (for matters not covered by the Committee's delegated authority)
- Health system incentive compensation programs
- Participation in government health care programs and contracts with private health plans
- University health benefits self-insurance programs under UC Health (e.g., UC Care)
- Health information privacy, security and data protection
- Regulatory compliance
- All other matters significantly affecting UC Health

The assignment of responsibility to a Standing Committee signifies the Committee to which matters otherwise appropriate for Board consideration generally will be referred and does not create an independent obligation to present a matter to the Board or to a Committee.

- J. Administrative Committees. Notwithstanding any other University policy, the Regent members of the Committee shall be permitted to serve on committees or work groups established by the President of the University or other University administrators for the conduct of the business of UC Health.
- K. Reporting. In addition to the reports required under Bylaw 24.11, the Committee shall deliver to the Board the following reports, which may be in writing, on at least an annual basis:
- The UC Health strategic plan and budget
 - A report on the status of the University student health and counseling centers
 - A report on the status of all health system transactions approved under the Committee's delegated authority during the previous three years

Appendix F - Charter of the Public Engagement and Development Committee

- A. Purpose. The Public Engagement and Development Committee shall provide strategic direction and oversight, make recommendations to the Board, and take action pursuant to delegated authority, on matters pertaining to the University's engagement with key constituents, fundraising, and the development of effective advocacy programs for University stakeholders.
- B. Membership/Terms of Service: The identity, appointment and terms of service of Committee members shall be as specified in Bylaws 24.4 through 24.6.
- C. Delegated Authority. The Committee shall have plenary authority to endorse the commencement of fundraising campaigns above \$250 million, which, on approval, shall require no further action or authorization from the Board or any other Committee. Unless otherwise specified, any approval authority for these matters that falls outside parameters expressly reserved to the Board or a Committee is delegated to the President.
- D. Other Oversight Responsibilities. In addition to the authority delegated to the Committee described above, the charge of the Committee shall include reviewing and making recommendations to the Board with regard to the following matters and/or with regard to the following areas of the University's business:
- Legislative priorities and advocacy
 - University ballot endorsements and/or positions on public policy
 - Public awareness priorities
 - Campus fundraising campaigns and giving programs
 - Alumni relations

The assignment of responsibility to a Standing Committee signifies the Committee to which matters otherwise appropriate for Board consideration generally will be referred and does not create an independent obligation to present a matter to the Board or to a Committee.

Senior Management Group Outside Professional Activities

Approved January 21, 2010



Responsible Officer: Vice President–Human Resources

Responsible Office: Human Resources

Effective Date: ~~January 1, 2010~~ July 21, 2016

Next Review Date: The Responsible Officer will review the policy annually for update purposes and will conduct a full review at least every three years.

Who Is Covered: All employees whose position is designated to be in the Senior Management Group, inclusive of Officers of the University per Regents Standing Order 100.1.a, and non-SMG members appointed to an SMG position on an acting or interim basis. ~~Designation and to Whom Responsible~~ Regents Standing Order 100.1
Designation and to Whom Responsible.

CONTENTS

I. Policy Summary

II. Policy Definitions

III. Policy Text

IV. Approval Authority

V. Compliance

Revision History

Implementation Procedures

Related Documents

Frequently Asked Questions

Senior Management Group Outside Professional Activities

I. POLICY SUMMARY

Considerable benefit accrues to the University from Senior Management Group (SMG) members' association with external educational and research institutions, not-for-profit professional associations, federal, state and local government offices and private sector organizations. Such associations foster a greater understanding of the University of California and its value as a preeminent provider of education, research, public service, and health care. Such associations also may provide a stimulus for economic development and enhanced economic competitiveness.

While outside professional activities performed by SMG members are often mutually beneficial to the University and the members themselves, and are therefore encouraged, the primary commitment of University of California SMG members must be to the fulfillment of their regular University responsibilities.

This Policy applies to all University of California SMG members, including those who have underlying faculty appointments. During the period an SMG member possesses a dual academic and SMG appointment, his/her participation in outside professional activities will be subject to this policy and not that of the Academic Personnel Manual.¹ This Policy is intended to:

- Support and recognize the value of SMG members' outside professional activities to the University, such as contributing to their academic field, sharing their expertise with other institutions, and providing service to the community,
- Provide guidance about the limits of such activities in relation to fulfilling University responsibilities,
- Establish methods for seeking appropriate approval(s), monitoring, and reporting such activities,
- Protect against actual or apparent-perceived conflicts of interest and/or commitment when SMG members engage in such activities.
- Protect the University of California by assessing outside affiliations that could diminish the reputation of the institution or system.

II. POLICY DEFINITIONS

¹ SMG members with faculty appointments who are participants in the HSCP need to report under **APM – 671, Conflict of Commitment and Outside Activities of Health Sciences Compensation Plan Participants**. SMG members with faculty appointments who are *not* members of the HSCP need to report under **APM – 025, Conflict of Commitment and Outside Activities of Faculty Members**. APM – 670, the Health Sciences Compensation Plan and Guidelines on Occasional Outside Professional Activities by Health Sciences Compensation Plan Participants and SALARY ADMINISTRATION APM - 671 Conflict of Commitment and ... and APM – 025, Conflict of Commitment and Outside Activities of Faculty Members.

Senior Management Group Outside Professional Activities

Approving Authorities: The person or office to whom an individual reports plus the next higher level manager. For SMG members who report to another SMG member who reports to the Chancellor, Laboratory Director or President, the immediate manager and the Chancellor (for campus SMG members), the Laboratory Director, or the President will be the Approving Authorities. For SMG members who report directly to the Chancellor or Laboratory Director, the Chancellor or Laboratory Director and the President will be the Approving Authorities. For SMG members who report directly to the President, the President and the Chair of the Board of Regents will be the Approving Authorities. For SMG members who report directly to the Regents, the Vice Chair and Chair of the Board of Regents will be the Approving Authorities.

Activities Regarded as Outside Professional Activities: Outside Professional Activities are those activities within the SMG member's area(s) of professional expertise for which they are employed by the University. Such activities include, but are not limited to: service on state or national commissions, government agencies and boards, committees or advisory groups to other universities, organizations established to further the interests of higher education, not-for-profit organizations, and service in an advisory capacity or on corporate boards of directors.

Activities Not Regarded as Outside Professional Activities: The following are **not** regarded as Outside Professional Activities:

- Activities unrelated to the SMG member's area of professional expertise for which they are employed by the University, such as involvement in religious or cultural organizations.
- Activities that the ~~approving authority~~ Approving Authorities confirms as part of the individual's job expectations. It is expected that the individual would not receive additional compensation for such activities beyond the individual's normal University salary.
- For an SMG member with an underlying faculty appointment, activities that the ~~approving authority~~ Approving Authorities confirms as essential to remaining current in the SMG member's academic field. It is expected that the individual would not receive additional compensation for such activities beyond the individual's normal University salary.

Exception to Policy: An action that exceeds what is allowable under current policy or that is not expressly provided for under policy. Any such action must be treated as an exception and must be reviewed and approved by the Regents.

Executive Officer: The University President of the University, Chancellor, or Laboratory Director.

Governance responsibilities ~~on a for-profit board are assumed with the appointment as a board member, but not assumed with the appointment as an advisor to the board or appointment to an advisory committee to a board unless such responsibilities are specified.~~

Senior Management Group: Individuals whose career appointment is in the Senior Management Group personnel program. Employees with a dual academic appointment at 0% and an appointment to a Senior Management Group position shall will be considered to possess a career appointment in the Senior Management Group.

Senior Management Group Outside Professional Activities

Top Business Officer: Executive Vice President, ~~Business Operations~~ Chief Operating Officer for the Office of the President, Vice Chancellor for Administration, or the position responsible for the location's financial reporting and payroll as designated by the Executive Officer.

III. POLICY TEXT

A. Responsibility and Accountability

1. Guiding Principles

SMG members are individually responsible for ensuring that the Outside Professional Activities they perform, and compensation received for such activities, do not violate conflict of commitment and/or actual or perceived conflict of interest standards of the University. SMG members have a duty of loyalty to the University, as well as a primary fiduciary responsibility to the University.

Each SMG member's ~~approving authority~~ Approving Authorities ~~is~~ are personally responsible for monitoring, evaluating, and verifying that the SMG member's Outside Professional Activities comply with University policies and State of California law.

Ultimately, SMG members and their Approving Authorities are accountable to the President and the Regents for ensuring that conflicts do not occur and that any activities or affiliations do not diminish the reputation of the institution or system. ~~For SMG members who report directly to the Regents, the Chair of the Board of Regents will be The the Approving Authority.~~

2. Approval and Assessment

Documentation and approval request forms for any All-Outside Professional Activities, whether compensated or uncompensated, must be completed by the SMG member and submitted for review and approved by the Approving Authorities. All activities must be approved before the SMG member announces or engages in the activity.

The documentation and request for any new proposed activities **where time commitment, compensation or reputational risk raise concerns** will be reviewed by an independent advisory committee appointed by Office of the President, Systemwide Human Resources to assess the activity for conflicts of interest or commitment, or the appearance of conflicts, and to advise the Approving Authorities. The turnaround time for reviewing and approving or denying any new activity will be no more than 30 calendar days or less from the date the committee receives a complete packet of materials.

Each year, SMG members are also required to request approval for ongoing, recurring OPA prior to the beginning of the next calendar year. -The SMG member is responsible for providing sufficient details on any proposed activity that has changed materially from the preceding year. - Material changes must be disclosed and may include changes in compensation (form or amount) or, time commitment, changes in organizational status of the outside entity, e.g., mergers, acquisitions, relationships with the University or its entities, or changes (legal

Senior Management Group Outside Professional Activities

challenges or other) that may impact its the entity's reputation in the community. The Approving Authorities may request review of any recurring activity by the independent advisory committee before considering the SMG member's request. ~~For SMG members who report directly to the Regents, the Chair of the Board of Regents will be the Approving Authority.~~

An SMG member's ~~a~~Approving ~~a~~Authorities ~~are~~ is responsible for assessing whether a proposed Outside Professional Activity might create, or appear to create, a conflict of interest or commitment or reputational risk to the campus or system. In general, the proposed activity must be compatible with the SMG member's University duties. Other important factors for consideration include:

- Will the activity compete with the SMG member's regular and/or expected University duties? - An assessment of the SMG member's performance is an appropriate factor to be considered.
- Will the SMG member be precluded from making decisions within the scope of his/her University duties due to a financial conflict associated with the activity (e.g., a fiduciary responsibility to the external entity, payments received from the external entity)?
- Will the time necessary to successfully perform the activity interfere with the SMG member's ability to fulfill his/her University duties?

If the answer to any of these questions is "Yes," the ~~approving authority~~ Approving Authorities ~~should must~~ seek written guidance from the independent advisory committee ~~appropriate University office (e.g., Human Resources; Office of Ethics, Compliance and Audit Services; or legal counsel)~~ in order to resolve the matter with the SMG member and, if resolution is not possible, deny the SMG member's request.

► The forms documenting the assessment/approval process for all Outside Professional Activities can be found at:

~~<http://policy.ucop.edu/files/smg-docs/opa-pre-approval.pdf>~~

<http://policy.ucop.edu/manuals/smg-hr-policies.html>

B. Outside Professional Activities: Definitions and Limits

1. Uncompensated Outside Professional Activities

Uncompensated activities are Outside Professional Activities for which the SMG member does not receive compensation or donates the full amount of the compensation to the University or a charitable organization.- Compensation donated to the University may not be returned to the individual.

2. Compensated Outside Professional Activities

Compensated activities are Outside Professional Activities for which the SMG member receives and retains compensation.

Reimbursement for reasonable travel expenses is not considered compensation for the purpose of this policy.

Senior Management Group Outside Professional Activities

3. Limits on Compensated Outside Professional Activities

- a. In addition to considering the reporting guidelines set forth below, when assessing proposed activities, Approving Authorities must be mindful of the following limits:
 - i. An SMG member may ~~serve simultaneously on up to~~ participate in up to three two concurrent compensated activities including, but not limited to, any board memberships, consulting or advisory activity, for-profit boards that are not entities of the University of California for which s/he receives compensation and for which s/he has governance responsibilities. ~~Service as a member of the Board of Directors would constitute governance responsibility. Service on an advisory committee likely would not constitute governance responsibility.~~
 - ii. An SMG member will be required to use his/her personal time to engage in compensated Outside Professional Activities, by either performing such activities outside his/her usual work hours or debiting accrued vacation time consistent with applicable leave policy.
 - iii. An SMG member who is appointed at 100 percent time ~~shall~~ must not receive additional compensation above his/her base salary for any work or services from an entity managed exclusively by the University, for any work or services, regardless of source or type of payment, except in the limited circumstances outlined in Regents Policy 7701, Senior Management Group Appointment and Compensation, which includes an ~~with the exception, for payments for teaching of University Extension courses (UNEX).~~ Additional restrictions pertaining to compensation from University entities, addressed in other SMG policies, are incorporated by reference into this policy. Regents Policy 7701 –SMG Salary and Appointment addresses this restriction.

C. Reporting Outside Professional Activities

Each SMG member must file a report with his/her ~~a~~ Approving a Authorities ~~sy~~ each year detailing all Outside Professional Activities (whether compensated or uncompensated) that were performed during the previous calendar year. ~~Service or compensation that inadvertently is not reported or is erroneously reported in the calendar year immediately following the activity shall be reported as soon as the omission or error is known to the individual and/or the approving authority.~~ Approving Authorities. In addition, each SMG member must file a mid-year report of all new activity undertaken in the preceding six months. ~~period.~~ Templates for collecting details for these reports will be distributed by the Office of the President. The mid-year report will be distributed to the President and the Regents' Committee responsible for oversight of compensation.

- a. Employees who step down from their SMG appointment but remain employed by the University, are subject to this reporting requirement for the calendar year in which they served in a career SMG position.

Senior Management Group Outside Professional Activities

- b. Employees serving in an acting or interim SMG capacity are ~~not also~~ subject to this reporting requirement, ~~unless they also possess a career appointment in an SMG position.~~
- c. Only activities that occurred ~~once~~ when an employee is ~~became~~ an SMG member shall be reported.

~~In addition, each SMG member must file a mid-year report of all new activity undertaken since the approvals were granted. Templates for collecting details for these reports will be distributed by Office of the President. The mid-year report will be distributed to the President and the Regents' Committee responsible for oversight of the Compensation Committee. The annual report will be distributed to the President and the Board of Regents.~~

1. Uncompensated Outside Professional Activities

As detailed in section III.C above, each SMG member must file separate annual reports with his/her ~~a~~Approving a~~Authorities~~sy detailing all Outside Professional Activities, including activities compensated as well as uncompensated.

A separate uncompensated annual report will be made to each of the Chancellors, the Laboratory Director and the Executive Vice President, Chief Operating Officer ~~Business Operations~~ of all uncompensated outside professional activities covered by this policy for SMG members at their respective locations that occurred the previous calendar year.

- A sample of the Annual Report by individual SMG members listing all uncompensated Outside Professional Activities can be found at:

http://policy.ucop.edu/files/smg-docs/opa-sample_uncompensated_report.pdf

The Chancellor, Laboratory Director or Executive Vice President, Chief Operating Officer ~~Business Operations~~ will assess and maintain the reports of all uncompensated Outside Professional Activities.

In an annual report to the President, ~~t~~The Chancellors, the Laboratory Director and the Executive Vice President, Chief Operating Officer ~~Business Operations~~ shall acknowledge receipt of a comprehensive set of reports that includes all employees who meet the criteria detailed in Section III.C. above, and confirm that no instances of actual or perceived conflict of interest or conflict of commitment were apparent within the reports of all uncompensated Outside Professional Activities for their location.

2. Compensated Outside Professional Activities

As detailed in section III.C above, each SMG member must file separate annual reports with his/her ~~a~~Approving a~~Authorities~~sy detailing all Outside Professional Activities, including activities compensated as well as uncompensated.

- A sample of the Annual Report by individual SMG members listing all compensated Outside Professional Activities can be found at:

Senior Management Group Outside Professional Activities

http://policy.ucop.edu/files/smg-docs/opa-sample_compensated_report.pdf

Deferred compensation shall be reported in the year in which the compensation was known or granted, not received. If the amount of the deferred compensation is unknown during the year in which the service is performed, such as in the case of royalties, the compensation shall be reported when it is known.

The Chancellors, the Laboratory Director and the Executive Vice President, Chief Operating Officer Business Operations will make a separate report to the President, who will in turn report to the Regents all compensated Outside Professional Activities covered by this policy for SMG members that occurred the previous calendar year.

D. Conflict of Interest and/or Commitment

1. Conflict of Interest

No SMG member may make, participate in the making, or influence a governmental decision in which he or she has a financial interest as defined by the Political Reform Act. <http://www.ucop.edu/general-counsel/legal-resources/conflict-of-interest-code.html> ~~<http://www.ucop.edu/general-counsel/legal-resources/index.html>~~

2. Conflict of Commitment

Conflict of commitment is a subjective judgment made either by the SMG member or his/her ~~approving authority~~ Approving Authorities at the time approval is requested to pursue an outside professional activity. -This subjective judgment shall determine whether or not a conflict is created -- either by the time required to reasonably fulfill the outside professional activity, and/or by an incompatibility between the outside professional activity and the SMG member's responsibilities to the University.

3. Actual or Apparent Perceived Conflict of Interest and/or Commitment

Instances may occur in which there is an appearance of a ~~c~~Conflict of interest even though the SMG member does not have a financial interest in the decision as defined by the Political Reform Act. SMG members are expected to conduct themselves with integrity and good judgment and must avoid the appearance of favoritism in all of their dealings on behalf of the University.

The responsibility for determining and disclosing whether an actual or ~~apparent~~ perceived conflict of ~~i~~nterest and/or ~~c~~ommitment reasonably may occur rests first with the individual SMG member and then with his/her ~~a~~Approving ~~a~~Authoritiessy.

In the event the SMG member or his/her ~~a~~Approving aAuthoritiessy either anticipates an ~~apparent~~ perceived or recognizes an actual ~~c~~Conflict of interest and/or ~~c~~Commitment, a full written disclosure must be reviewed by the appropriate administrator.

E. Use of University Resources

Senior Management Group Outside Professional Activities

The University of California has a responsibility for the stewardship of University resources and is committed to compliance with University policies and procedures regarding the use of University resources.- See Business and Finance Bulletin BUS 29, Section XIII ~~Business and Finance Bulletin BUS 29, Section XIII~~ and UC Whistleblower Policies. ~~UC Whistleblower Policies~~.

The use of the name, logo, seal, or letterhead of the University of California or any University laboratory facility or entity in the conduct of any outside activity is prohibited at all times.

Incidental and occasional personal use of University equipment, services and supplies is permitted within the University, so long as such use does not disrupt or distract from University business (due to volume, frequency, or intent).

Approval of any proposed Outside Professional Activity that includes use of University facilities, equipment, services, or supplies will be conditioned upon reimbursement to the University for costs resulting from such use.

Incidental and occasional personal use of electronic resources is subject to local regulations and must comply with existing- University of California Electronic Communications Policy ~~University of California Electronic Communications Policy~~.

IV. APPROVAL AUTHORITY

A. *Implementation of the Policy*

The Vice President— Human Resources is the Responsible Officer for this policy and has the authority to implement the policy.- The Responsible Officer may apply appropriate interpretations to clarify policy provided that the interpretations do not result in substantive changes to the underlying policy.

B. *Revisions to the Policy*

The Board of Regents is the Policy Approver for this policy and has the authority to approve any policy revisions upon recommendation by the President.

The Vice President— Human Resources has the authority to initiate revisions to the policy, consistent with approval authorities and applicable *Bylaws* and *Standing Orders* of the Regents.

The Executive Vice President, Chief Operating Officer~~—Business Operations~~ has the authority to ensure that policies are regularly reviewed and updated, and are consistent with the *Senior Management Group Compensation Policy Principles* and other governance policies.

C. *Approval of Actions*

All actions within this policy must be approved by the Approving Authorities as described in Section II of this policy. ~~(the person or office to whom an individual reports).~~ For SMG members who report directly to the Regents, the Chair of the Board of Regents is the Approving Authority for actions within this policy. All actions that are exceptions to exceed this policy including retroactive actions or

Senior Management Group Outside Professional Activities

~~those that are not expressly provided for under any policy applicable to SMG members must be endorsed by The President and shall be approved by the Regents.~~

V. COMPLIANCE

A. *Compliance with the Policy*

SMG members who are actively employed by the University and who have more than two concurrent compensated activities approved before the effective date of this policy, may continue those approved compensated activities that exceed the policy limit.

The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Top Business Officer and/or the Executive Officer at each location will designate the local management office to be responsible for the ongoing reporting of policy compliance, including collecting all relevant data and creating specified regular compliance reports for review by the location's Top Business Officer.

The Top Business Officer establishes procedures to collect and report information, reviews the specified regular compliance reports for accuracy and completeness, reviews policy exceptions and/or anomalies to ensure appropriate approval has been obtained, and submits a copy of the compliance report to the Executive Officer for signature.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms, ensuring monitoring procedures are in place, approving the specified regular compliance reports and sending notice of final approval for the reports to the Senior Management Compensation Office, Top Business Officer, and Local Resources.

The Vice President, ~~xx~~–Human Resources is accountable for reviewing the administration of this policy. The Senior Vice President, ~~x~~–Chief Compliance and Audit Officer will periodically audit and monitor compliance to these policies, and results will be reported to senior management and the Regents.

B. *Noncompliance with the Policy*

Noncompliance with the policy is handled in accordance with the Regents' Guidelines for Corrective Actions Related to Compensation Practices ~~Guidelines for Corrective Actions Related to Compensation Practices~~ and Guidelines for Resolution of Compensation and Personnel Issues Resulting from the Findings of Audits and Management Reviews.

Violations of the Outside Professional Activities policy and will be subject to corrective action, consistent with how the University addresses any policy violations. The action taken will depend on the nature and severity of the conduct. Remedies may include, but are not limited to, issuance of a letter in the personnel file, mandatory training, consideration in the performance review and related salary actions including loss of or reduction in a merit or equity increase, reassignment,

Senior Management Group Outside Professional Activities

demotion, removal from the Senior Management Group position where there is an underlying academic appointment, or termination of employment.

Noncompliance is reported in the monthly compliance report from each location as approved by the Executive Officer and reviewed by the Senior Vice President, Chief Compliance and Audit Officer and the Regents at least three times per fiscal year.

REVISION HISTORY

As a result of the issuance of this policy, the following documents are rescinded:

- Interim Regental Policy on Outside Professional Activities for University Officers and Designated Staff, dated January 18, 2007
- Presidential Policy on Outside Professional Activities for University Officers and Designated Staff, dated July 1, 1995
- Guidelines for the Policy on Outside Professional Activities for University Officers and Designated Staff, dated June 1, 2000)
- Letter of Clarification Regarding Annual Reporting Requirements Under Both APM-025 and the University's Policy on Outside Professional Activities for University Officers and Designated Staff, dated December 1, 2005
- Regental Policy on Outside Professional Activities of the President, Principal Officers of the Regents, and Officers of the Regents, dated March 17, 1995

IMPLEMENTATION PROCEDURES [to be developed as needed to support implementation]

RELATED DOCUMENTS

- ~~APM - 025, Conflict of Commitment and Outside Professional Activities of Faculty Members~~ APM—025, Conflict of Commitment and Outside Professional Activities of Faculty Members
- APM - 250, Deans ~~APM—240, Deans~~
- APM - 670, the Health Sciences Compensation Plan and Guidelines on Occasional Outside Professional Activities by Health Sciences Compensation Plan Participants
- ~~APM—670, the Health Sciences Compensation Plan and Guidelines on Occasional Outside Professional Activities by Health Sciences Compensation Plan Participants~~

Senior Management Group Outside Professional Activities

- ~~California Political Reform Act of 1974 , <http://www.ucop.edu/general-counsel/legal-resources/index.html>~~
- ~~University Conflict of Interest Code~~
- ~~no SMG member may make, participate in the making, or influence a governmental decision in which he or she has a financial interest as defined by the Political Reform Act. <http://www.ucop.edu/general-counsel/legal-resources/index.html> <http://ucop.edu/ogg/coi/econinterest.html>, <http://policy.ucop.edu/doc/3420344/BFB-BUS-78> <http://www.ucop.edu/ucophome/policies/bfb/bus78/>, <http://policy.ucop.edu/doc/1220367/BFB-G-39> <http://www.ucop.edu/ucophome/policies/bfb/g39.pdf>~~
- ~~*Business and Finance Bulletin BUS 29, Section XIII Personal Use of Property*~~
~~*Business and Finance Bulletin BUS-29, Section XIII - Personal Use of Property*~~

Senior Management Group Salary and Appointment (Regents Policy 7701)

- ~~Senior Management Group Salary and Appointment (Regents Policy 7701)~~

University of California Electronic Communications Policy

- ~~University of California Electronic Communications Policy~~
- ~~University Whistleblower Policies~~ ~~University Whistleblower Policies~~

University of California – Regents Policy 7712

Senior Management Group

Incentive Awards

Approved July 15, 2010



Responsible Officer: Vice President–Human Resources

Responsible Office: Human Resources

Effective Date: ~~July 1, 2010~~ July 21, 2016

Next Review Date: The responsible officer will review the policy annually for update purposes, and will conduct a full review at least every three years.

Who is Covered: All employees whose position is designated to be in the Senior Management Group, inclusive of officers of the University per Regents Standing Order 100.1.a.

CONTENTS

I. Policy Summary

II. Policy Definitions

III. Policy Text

IV. Approval Authority

V. Compliance

Revision History

Implementation Procedures

I. POLICY SUMMARY

This policy provides direction and authority for the development and approval of incentive award plans that include Senior Management Group (SMG) participants.

Incentive awards are intended to motivate individuals or teams to produce results that have been pre-defined and communicated to the participants in advance in accordance with an incentive award plan, and to reward them for achieving the stated performance objectives. Plan performance objectives should require participants to stretch their performance beyond their normal duties and responsibilities so that the incentive award plan rewards exemplary performance.

II. POLICY DEFINITIONS

Exception to Policy: An action that exceeds what is allowable under current policy or that is not expressly provided for under any policy. Any such action must be treated as an exception and must be reviewed and approved by the Regents.

Executive Officer: The University President, Chancellor, or Laboratory Director.

Plan Document: A document that provides specific detail and definitions governing the administration of the incentive award plan, including, but not limited to, defining the eligible population, the plan year, the award opportunity levels, the criteria for establishing the annual performance objectives for each participant, and the methodology for calculating award payouts.

Top Business Officer: Executive Vice President–~~Business Operations~~–Chief Operating Officer for the Office of the President, Vice Chancellor for Administration, or the position responsible for the location's financial reporting and payroll as designated by the Executive Officer.

III. POLICY TEXT

A. Plan Document

Incentive award plans must be documented and approved prior to implementation and communication. An incentive award program Plan Document must be approved by the Regents if SMG members are included as eligible program participants. Incentive or bonus award plans that do not have SMG participants are subject to the President's approval.

The Plan Document defines the key terms, conditions and design elements of the incentive award plan. The Plan Document will include the following elements:

- __Plan purpose
- Governance and oversight responsibilities

Senior Management Group Incentive Awards

- The process for plan approval and for making changes to the plan
- The plan year (performance measurement period)
- Eligibility criteria
- Award opportunity levels (e.g., threshold, target and maximum), when appropriate
- The criteria for establishing the annual performance objectives for each participant and, when appropriate, the weightings to be given performance objectives
- Funding and award formulas, if applicable
- The protocol for the review and approval of awards, as well as the schedule for award payouts
- Any contingencies and administrative rules governing payouts, including any mechanism for the deferral of award payouts

Incentive awards are at risk, meaning that whether they will be paid depends on the plan participant's achievement of predetermined objectives. Awards must be variable and directly correlate to each plan participant's actual accomplishment of stated performance objectives. Award amounts should be appropriate for the level of each participant's performance and contribution. Incentive awards are not a means of providing additional pay for performing normal duties and responsibilities, as described in the participants' respective job descriptions. Nor are they meant to be a replacement or substitute for a merit, promotion, equity, or retention increase as described in the policy on Senior Management Group Salary and Appointment ~~Policy~~ Appointment and Compensation (Regents Policy 7701).

B. Plan Review and Approval

Independent Administrative Oversight Committees (AOCs), comprised of senior executives and subject matter experts, will be established to oversee the creation and annual review of each incentive award plan. Incentive award plans that include SMG participants are first subject to the review and approval of the President. After the President approves such plans, Chair of the Regents' Committee on Compensation may consult with other Chairs of the applicable Regents' Committees, as appropriate, prior to presentation to the appropriate Regents' committee or full Board, as appropriate, for approval.

Once such a plan has been approved by the Board, the applicable AOC will be responsible for its administration. The Chief ~~Audit and Compliance~~ Compliance and Audit Officer will assure that periodic auditing and monitoring will occur, as appropriate.

Once approved by the Regents, an incentive award plan will be implemented each year upon the approval of the AOC if the plan is being implemented without changes. If a plan with SMG participants has been approved as outlined above, and the AOC recommends substantive or material changes to the plan, the applicable AOC will obtain the approval of the President and the ~~Regents' Committee on Compensation and other Committees~~, as the appropriate Regents' Committee, before

Senior Management Group Incentive Awards

implementing such changes. That Regents' Committee may consider and approve such changes in a single meeting. Reasonable efforts, given all circumstances, will be made to delay implementing substantive or material plan changes until after the end of the current plan year. However, if changes are implemented during the plan year that would affect the award calculations, changes will only be applied prospectively to the remaining portion of the plan year. Plan changes recommended by the AOC that are not material or substantive, or are deemed to be technical corrections, may be approved by the AOC after consultation with the President, ~~the Chair of the Regents' Committee on Compensation and the Chairs of other applicable Regents' Committees, as appropriate,~~ and will then be approved implemented by the AOC at an appropriate time. The appropriate Regents' Committee will receive reports of all material or substantive changes to the plans.

All incentive award plans will be reviewed annually by the applicable AOC, generally in the spring, but dependent upon the appropriate review/plan cycle so that new or revised plans are in effect at the commencement of the applicable plan year, which will be the performance measurement period.

C. Plan Administration

Each SMG member who participates in an approved incentive award plan will be notified in writing of: ~~receive an annual Terms and Conditions document that~~ (a) ~~identifies~~ the participant's individual performance objectives, (b) ~~defines the~~ performance standards to that will be used to determine the level of performance achieved for each objective, and (c) when appropriate, ~~assigns performance weightings applicable to the participant's objectives, and~~ (d) a copy of the applicable Plan Document.

The AOC will review and approve plan participants' performance objectives, as specified in the Plan Document for each incentive plan, prior to the start of the plan year or as soon as possible thereafter. The AOC will also review and approve all proposed awards. The AOC will consult the Chief ~~Audit and Compliance and Audit~~ Officer in an independent advisory capacity during its review of Plan participants' objectives and award recommendations. Any award for an employee who reports directly to the Regents and/or the President ~~who holds one of the executive offices identified in section 92032(b)(7)(B)(i) of the California Education Code~~ will also require the approval of the Regents. The AOC will provide the Chair of the applicable Regents' Committee on Compensation with a listing of award recommendations before awards are scheduled to be paid.

D. Funding Sources

Funding for awards may be provided by University-wide program sources and/or by local resources.

E. Treatment for Benefit Purposes

Cash awards under this policy are not considered to be compensation for University benefit purposes, such as the University of California Retirement Plan or employee life insurance programs.

F. Tax Treatment and Reporting

Under Internal Revenue Service Regulations (IRS), payment of such cash awards must be included in the employee's income as wages subject to withholding for federal and state income taxes and applicable FICA taxes. The payment is

Senior Management Group Incentive Awards

reportable on the employee's Form W-2 in the year paid.

~~Any payments to Awards made to any SMG members participants under this policy will be reported annually to the President and the Regents with appropriate detail, such as the range of awards and the percentage and amount of the award granted for each plan participant in the Annual Report on Executive Compensation.~~

G. Conditions

Incentive award plans may be terminated or replaced at any time for any reason upon the recommendation of the President and with the approval of the Regents. Reasonable efforts, given all circumstances, will be made to delay plan termination until after the current plan year has concluded.

The President, in consultation with the Chair of the Board of Regents and other Chairs of the applicable Regents' Committees, may defer payments from an incentive award plan for reasons specified in the applicable plan document. Once the contingency has been resolved, awards deferred for that reason will be processed as soon as possible thereafter.

A participant who has been found to have violated state or federal law or to have committed a serious violation of University policy will not be eligible for an award under an incentive award plan. If such allegations against a participant are pending investigation at the time of the award distribution, the participant's award for that plan year may be withheld pending the outcome of the investigation.

The University may require repayment of an incentive award that was made as a result of inappropriate circumstances.

The University does not allow any guaranteed awards of any level or of any nature under any incentive award plan. Plan participation in any one year does not provide any right or guarantee of eligibility or participation in any subsequent year.

Participants in an incentive award plan may not participate in any other University incentive award plan or bonus plan, except in the event of a mid-year transfer within the University. Specifically, if a plan participant is eligible for only a partial year award under a plan because a mid-year transfer of position renders him or her eligible for plan participation for only a portion of the plan year, he or she may participate in a different University plan for the other portion of the plan year. Concurrent participation in more than one plan is not permitted.

IV. APPROVAL AUTHORITY

A. Implementation of the Policy

The Vice President–Human Resources is the Responsible Officer for this policy and has the authority to implement the policy. The Responsible Officer may apply appropriate interpretations to clarify policy provided that the interpretations do not result in substantive changes to the underlying policy.

B. Revisions to the Policy

The Regents is the Policy Approver for this policy and has the authority to approve

Senior Management Group Incentive Awards

any policy revisions upon recommendation by the President.

The Vice President–Human Resources has the authority to initiate revisions to the policy, consistent with approval authorities and applicable *Bylaws* and *Standing Orders* of the Regents.

The Executive Vice President–~~Business Operations~~–Chief Operating Officer has the authority to ensure that policies are regularly reviewed and updated, and are consistent with University governance policies.

C. Approval of Actions

Authority to approve incentive award plans and individual incentive awards is described in Section III.B and III.C of this policy.

All actions that exceed this policy or that are not expressly provided for under any policy must be approved by the Regents.

V. COMPLIANCE

A. Compliance with the Policy

The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Top Business Officer and/or the Executive Officer at each location will designate the local office to be responsible for the ongoing reporting of policy compliance, including collecting information regarding all relevant compensation package activity and creating specified regular compliance reports for review by the location's Top Business Officer.

The Top Business Officer establishes procedures to collect and report information, reviews the specified regular compliance reports for accuracy and completeness, reviews policy exceptions and/or anomalies to ensure appropriate approval has been obtained, and submits a copy of the compliance report to the Executive Officer for signature.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms, ensuring monitoring procedures are in place, approving the specified regular compliance reports, and sending notice of final approval for the reports to the Senior Management Compensation Office, Top Business Officer, and Local Resources.

The Vice President–Human Resources is accountable for reviewing the administration of this policy. The Senior Vice President–Chief Compliance and Audit Officer will periodically audit and monitor compliance with these policies, and results will be reported to senior management and the Regents.

B. Noncompliance with the Policy

Violations of the Senior Management Group Incentive Awards policy will be subject to corrective action, consistent with how the University addresses any policy violations. The action taken will depend on the nature and severity of the conduct. Remedies may include, but are not limited to, issuance of a letter in the personnel file, mandatory training, consideration in the performance

Senior Management Group Incentive Awards

review and related salary actions including loss of or reduction in a merit, equity increase or incentive award, reassignment, demotion, removal from the Senior Management Group position where there is an underlying academic appointment, or termination of employment.

Noncompliance with the policy is handled in accordance with the Regents' *Guidelines for Corrective Actions Related to Compensation Practices* and *Guidelines for Resolution of Compensation and Personnel Issues Resulting from the Findings of Audits and Management Reviews*.

Noncompliance is reported in the monthly compliance report from each location as approved by the Executive Officer and reviewed by the Senior Vice President–Chief Compliance and Audit Officer and the Regents at each Regents' meeting.

REVISION HISTORY

As a result of the issuance of this policy, the following policy is no longer applicable for SMG members:

- *Personnel Policies for Staff Members 34 (Incentive Awards)*, dated July 1, 1996

IMPLEMENTATION PROCEDURES

The Responsible Officer may develop procedures or other supplementary information to support the implementation of this policy. Such supporting documentation does not require approval by the Regents.

Additions shown by underscoring; deletions shown by strikethrough

ATTACHMENT 5: Revised Commercial Terms Summary

~~(As of November 11, 2015)~~

As of Request for Revised Proposal (Addendum No. 2 – 6/9/16)

Article/ Section No.	Subject	Description
1	Definitions and Interpretation; Contract Documents; Standards	
1.1	Abbreviations and Definitions	Abbreviations used in the Contract Documents are set forth in Appendix 1, Section 1. Definitions used in the Contract Documents are set forth in Appendix 1, Section 2. Abbreviations and definitions used in the Technical Volumes <u>Requirements</u> and not defined in Appendix 1 are set forth in Section 2.1 of the Technical Requirements.
1.2, 1.3	Construction and Interpretation of Contract Documents;	Sets forth typical construction and interpretation provisions.
1.4	Order of Precedence	Sets forth order of precedence among the Contract Documents. Notwithstanding the order in the list, in the event of conflict, the higher standard/quality/requirement applies. <u>The conceptual building design for each Indicative Building included in the Proposal and attached to the Agreement represents a design concept and minimum standards applicable to any other Building of the same Use Type. The Utilities Survey governs as to as-built locations of Utilities.</u>
1.5	Principal Developer Document	Limits ability of Developer to terminate or amend a Principal Developer document.
1.6	Reference Documents	Describes non-binding nature of Reference Documents and inability of Developer to rely on them.
1.7	Design and Construction Standards	Sets forth Developer obligations to notify the Owner of provisions inconsistent with Best Management Practice or applicable Law, sets the effective date for Manuals and Guidelines at 30 days prior to Proposal Due Date for D&C Work, and the current edition in effect for O&M Services, except as otherwise provided in the contract. Owner has right to change Manuals and Guidelines during the Term as an Owner Change.

Article/ Section No.	Subject	Description
2	Concession Term	
2.1.1	Grant of Concession	Developer to develop, design, construct, finance, operate and maintain the Project subject to terms and conditions of Contract Documents and applicable Laws.
2.1.2, 2.1.3	Project Right of Entry	<p>Developer and its Contractors are granted a Project Right of Entry onto Project Site, Ancillary Site and Facilities: <u>(a) the Project Site and the Facilities on and after the Effective Date until the Termination Date (provided that the right of entry with respect to the Central Plant Expansion ends on the earlier of the applicable Occupancy Readiness Date and the Termination Date); (b) the Central Plant Expansion Site on and after the Effective Date until the earlier of (i) the applicable Occupancy Readiness Date and (ii) the Termination Date (subject to requirements set forth in the Technical Requirements); (c) the Bellevue Intersection Improvements Site on and after the Effective Date until the earlier of (i) the Substantial Completion Date and (ii) the Termination Date; (d) the Borrow Site on and after the Effective Date until the earlier of (i) the Substantial Completion Date and (ii) the Termination Date; and (e) the Ancillary Site on and after the Effective Date until the earlier of (i) 30 days following the Project Final Acceptance Date and (ii) the Termination Date, in each case</u> for purposes of carrying out Developer's obligations under the Agreement<u>Contract Documents</u>. No real property interest is granted to Developer and Parties acknowledge and agree that the requisite elements of possessory interest for State tax purposes do not exist.</p> <p><i>Note: Developer and its Lenders do not have an ownership, leasehold or secured interest in the University's real property or facilities at any point during the term of the Agreement.</i></p>
2.1.4	Possessory Interest Tax	<p>Notwithstanding Section 2.1.3, if property taxes are levied on any possessory interest of Developer created by the Agreement, the Owner will pay any final unappealable amount of such taxes assessed and<u>directly to the County of Merced upon 60 days' written notice. The Owner will also</u> reimburse reasonable costs and expenses incurred by Developer in opposing same<u>the imposition of any such possessory interest tax</u>, provided Developer must provide the requisite notice to the Owner and contest such imposition as directed by the Owner<u>submit an invoice on a monthly basis in arrears with detailed supporting information and the Owner will pay within 30 days of receipt of such invoice.</u></p> <p><i>Note: The University retains this potential tax risk in order to avoid risk contingency associated with an unknown, future liability.</i></p>

Article/ Section No.	Subject	Description
2.2	Term	From Effective Date until expiry of Term (39 years from Effective Date) or any earlier termination of Agreement.
3	Developer Responsibility for Work; Owner Review and Oversight	
3.1.1 – 3.1.3	General	Developer is responsible for the Work, complying with applicable Laws, cooperating with the Owner and Governmental Entities with jurisdiction over the Work, mitigating interference with Campus Activities and coordination with any other ongoing adjacent projects.
3.1.4	Project Commitments	Except as otherwise specified, Developer is responsible for complying with, and assuming and performing on behalf of the Owner, the Owner's obligations and liabilities under the Project Commitments (except <u>excluding</u> any liabilities accruing prior to the Effective Date pursuant to any indemnities to third parties, <u>except to the extent arising in connection with the Early Works</u>).
3.2	Preliminary Planning and Engineering Activities	Developer is responsible for all preliminary planning and engineering activities appropriate for the D&C Work, unless expressly provided otherwise in the Project Agreement. Developer bears the risk of any incorrect or incomplete review, examination and investigation by it of the Work, Project Site, Ancillary <u>Work</u> Site and surrounding locations and of information resulting from preliminary planning and engineering activities conducted by Developer, the Owner or any other Person.
3.3	Governmental Approvals	<p>Developer is responsible for securing all Governmental Approvals other than the Owner-Provided Approvals, and any amendments required for the Project and Work. If the subject Governmental Approval is an Owner-Provided Approval or is a Governmental Approval obtained or to be obtained in the Owner's name, Developer must obtain the Owner's prior written approval of the terms and conditions of same, and Owner may <u>not unreasonably</u> withhold <u>or delay</u> such approval if it determines, in its good faith discretion, that they may adversely affect the Owner or its other future projects.</p> <p>Developer is entitled to <u>seek</u> an extension of the applicable Completion Deadline if the Building Official fails to issue a Certificate of Occupancy or the Designated Campus Fire Marshal fails to issue a Fire Clearance Notice, as applicable, within a specified number of days after Developer has fulfilled all requirements necessary for same, including submission of all required applications and documentation, and such delay is otherwise beyond the reasonable control of the Developer-Related Entities. <u>(s) for any Governmental Approval Delay, but</u> Developer is not entitled to any: <u>(a) additional monetary compensation for such delay, including any Direct Costs and compensation for delayed Payments; (b) any relief for delays that could have been mitigated by</u></p>

Article/ Section No.	Subject	Description
		<u>Developer through reasonable efforts; and (c) any relief for Governmental Approvals required in connection with Alternative Technical Concepts.</u>
3.4	Submittals	These provisions set forth rules that apply to Owner approvals, review, comment, rejection or disapproval of Submittals generally, and hold Developer responsible for compliance with the Contract Documents notwithstanding any such Owner action or inaction.
3.5	Damage and Disruption	Developer is responsible for (a) loss or damage caused to property or assets of the Owner, its contractors or other Indemnified Parties, and (b) disruption to the Campus Activities on, or operation of, the Existing Campus arising from any act or omission of <u>Developer or</u> any Developer-Related Entity to the extent not planned for in accordance with the terms and conditions of the Contract Documents, <u>except to the extent caused by the active negligence or breach of the Agreement by the Owner.</u> Developer must repair, rebuild, or otherwise restore any such lost or damaged property or remedy any such disruption within a reasonable period of time, and if Developer fails to do so, the Owner may take such remedial steps as it deems necessary in its good faith discretion. <u>Subject to limitations on consequential losses,</u> Developer must indemnify the Owner for any such loss or damage (including costs of any step-in) on written notice.
3.6, 3.7	Policing, Security and Incident Response, Police Services	Developer acknowledges, and Owner has no liability for, Governmental Entities carrying out law enforcement duties. Developer is responsible for the safety and security of the Project, workers and public during performance of the D&C Work. The Owner is responsible for providing security services for the Facilities upon completion.
3.8	Financial Reporting	Developer must deliver on an annual basis Developer's most recent annual audited financial statements and any other reporting and notifications provided to Lenders regarding material events (including draws on Developer's debt service reserve account) under the Finance Documents. <u>Developer must deliver on a monthly basis, from the Effective Date until the Project Final Acceptance Date, certified copies of Developer's draw requests to Lenders and the Lenders' technical advisor's (LTA) reports and design-build contractor invoices approved by the LTA in connection with the same.</u>
4	Design and Construction	
4.1.1	General Duties	Developer is responsible for the D&C Work and must achieve Occupancy Readiness of all First Delivery Facilities no later than the First Delivery Facilities Long Stop Date and achieve Substantial Completion no later than the Substantial Completion Long Stop Date. <u>Among other things,</u>

Article/ Section No.	Subject	Description
		Developer must comply with Contract Documents , use commercially reasonable efforts to mitigate delay and delay damages, and bear the risk of unforeseen work and conditions in connection with the D&C Work, except to the extent expressly assumed by the Owner under the Contract Documents.
4.1.2	Performance, Project Schedule	Developer must perform the D&C Work in accordance with Best Management Practice, the Contract Documents, applicable Laws, and terms and conditions of Governmental Approvals, <u>and approved Project Management Plan and plans thereunder</u> , and schedule the D&C Work so as to minimize inconvenience to adjacent businesses or residences.
4.2.1, 4.2.2	Design Implementation and Submittals	Developer is responsible for preparing designs, plans and specifications in accordance with Contract Documents using appropriately qualified and licensed design professionals, and is responsible for errors and omissions discovered in the Plans or Final Design Documents.
4.3	FF&E	<p>Developer is responsible for procuring, delivering and installing <u>and commissioning</u> the FF&E, including a subset of <u>certain</u> FF&E (Deferred FF&E <u>and Facility IT Equipment</u>), which will be identified by the Owner once Developer provides one year's notice to the Owner of the anticipated Occupancy Readiness/Substantial Completion date <u>with respect to each Facility</u>.</p> <p>Developer will be compensated for the Deferred FF&E as an Owner Change.</p> <p><u>The cost of the Facility IT Equipment will be invoiced upon delivery on site and paid within 30 days of the invoice. The cost of labor for procuring, installing and commissioning the Facility IT Equipment is included in the contract price, provided that if the quantity and/or type of Facility IT Equipment differs from the applicable Indicative IT Equipment Packages and would result in Developer incurring additional labor costs, the difference will be treated as an Owner Change.</u></p> <p>Note: The Deferred FF&E <u>and Facility IT Equipment</u> provisions allow the University to select a subset <u>subsets</u> of FF&E at a point in time when the program needs / users have been identified. The cost of the Deferred FF&E will be determined under the Owner Change Procedure once the University identifies the Deferred FF&E, and compensation for the Deferred FF&E will be limited to the costs and mark-ups expressly permitted under the Agreement and paid by way of lump sum payment or progress payments. <u>The cost of the Facility IT Equipment, which is subject to the Owner's approval (which approval will be given if consistent with the Owner's IT Equipment Supplier Information), will be invoiced as it is delivered on site, but the cost of associated labor is included in the contract price unless additional labor costs are incurred due to differences between the actual Facility IT</u></p>

Article/ Section No.	Subject	Description
		<u>Equipment and the applicable indicative IT Equipment Packages.</u>
4.4	Project <u>Work</u> Site, Ancillary Site and Bellevue Intersection	<p>The Project must be situated entirely within the Project Site, with the exception of: <u>(a) the Bellevue Intersection Improvements, which must be situated entirely within the Bellevue Intersection ROW Site; and (b) the Central Plant Expansion, which must be situated entirely within the Central Plant Expansion Site.</u></p> <p>The Ancillary Site is provided solely for use by Developer and its Contractors for construction staging and parking between the Effective Date and the Project Final Acceptance Date, <u>and must be handed over within 30 days following the Project Final Acceptance Date in the required condition.</u></p> <p><u>The Borrow Site is provided solely for purposes of excavation and use of borrow material during the Construction Work. The Owner makes no representation or warranty regarding quantity or fitness for purposes of the borrow material or the Borrow Site. Developer must hand back the Borrow Site on the Substantial Completion Date in the required condition.</u></p> <p>Developer is responsible for obtaining (a) from the County of Merced all <u>access</u> rights in ROW and <u>Governmental Approvals</u> necessary to perform the D&C Work with respect to the <u>applicable portion of the Bellevue Intersection Improvements within the Bellevue Intersection Site (Western Portion), and (b) any other real property which Developer deems desirable for the Project, including for additional construction staging and parking</u> <u>Developer-Acquired Real Property</u>. Developer must comply with all Site Commitments.</p>
4.5	Utility Adjustments	<p>Developer is responsible for coordinating and causing all Utility Adjustments necessary for timely Work, including negotiating and executing necessary Utility Agreements that are reasonably acceptable to the Owner and consistent with applicable Contract Document requirements. Developer is responsible for all Utility Adjustment costs except Betterment costs, which are the responsibility of the Utility Owner. Developer is entitled to compensation/relief for <u>Except for any applicable Relief Event (including Utility Owner Delays and Unknown Utilities, which are Relief Events), Developer is not entitled to any additional monetary compensation, time extension or other relief in connection with the Utility Adjustment Work or Utilities impacting or impacted by the Project or the Work.</u> Developer must respond to requests by Utility Owners for Utility Enhancements, but is not required to agree to them. If agreed, such work must be performed by separate contract outside of the Work, is subject to Owner's prior written approval, in its sole discretion, and is subject to the same standards and requirements as if it were a Utility Adjustment. Developer may not commence construction of a Utility Adjustment until NTP 2 is issued except to the extent authorized by the Owner in its sole discretion as Advance Construction Activities under Section 4.8.2. <u>Developer</u></p>

Article/ Section No.	Subject	Description
		<u>must submit to PG&E, on or prior to [September 1], 2016, a complete application and all supporting documents required by PG&E to request an increase in service capacity of electricity and gas Utilities sufficient to meet the increased demand for such Utilities for each Facility.</u>
4.6	Conditions to Commencement of Design Work	<p><u>The parties acknowledge the Early Design Work performed under the Early Works Agreement.</u></p> <p>Various conditions precedent must be satisfied prior to issuance by the Owner of NTP 1 and commencement of <u>any further</u> Design Work by Developer, including having in place the Performance Bond and Payment Bond and insurance policies required for Design Work, Developer has submitted and Owner has approved the Preliminary Project Schedule, Project Master Plan and specified components of the Project Management Plan, representations and warranties remain true and correct, Developer is not in <u>receipt of any notice of</u> default <u>delivered</u> under financing documents <u>(unless such default has been cured)</u>, and Developer has delivered the Financial Model into escrow and the D&C Pricing Documents to the Owner as required.</p>
4.7	Conditions to Commencement of Construction Work	<p>Except to the extent authorized by the Owner in its sole discretion as <u>The parties acknowledge the Early Construction Work performed under the Early Works Agreement. Except for any</u> Advance Construction Activities <u>authorized</u> under Section 4.8.2, various conditions precedent must be satisfied prior to issuance by the Owner of NTP 2 and commencement of <u>any further</u> Construction Work by Developer, including having in place insurance policies required for Construction Work, Governmental Approvals necessary to begin the applicable portions of the Construction Work have been obtained, Developer has submitted and Owner has approved the Baseline Project Schedule and specified components of the Project Management Plan, Developer has delivered an initial Skilled Workforce Plan and initial SBE Plan, representations and warranties remain true and correct, there exists no uncured Developer Default, Developer is not in <u>receipt of any notice of</u> default <u>delivered</u> under financing documents <u>(unless such default has been cured) and no Lender has indicated it is unwilling or unable to fund Developer's D&C and O&M costs</u>, and Developer has provided a functional Project Office.</p>
4.8	Construction Commencement Deadline; Advance Construction Activities	<p>Developer must commence Construction Work no later than the date which is 150 days after the Effective Date (adjusted for any Relief Events). Failure to do so is a Developer Default.</p> <p>The Owner may, in its sole discretion, authorize Developer to perform Advance Construction Activities prior to NTP 2, and Developer must satisfy and comply with any conditions and requirements imposed by the Owner prior to commencing such activities.</p>
4.9.1	Substantial Completion	Developer must exercise its best efforts to achieve Substantial Completion on or before the Scheduled Substantial Completion Date (which is the Baseline Substantial Completion Date

Article/ Section No.	Subject	Description
		<p>adjusted for any Relief Event Delays).</p> <p>Failure to achieve Substantial Completion by the Substantial Completion Long Stop Date (12 months after the Scheduled Substantial Completion Date) is a Developer Default.</p>
4.9.2	Conditions to Substantial Completion	<p>Various conditions precedent must be satisfied for Substantial Completion, including completion of the D&C Work except Punch List items, Designated Campus Fire Marshal and Building Official approval, Facilities and FF&E are ready for use for performing Facilities Activities<u>Certificates of Occupancy Readiness have been issued for all Facilities, Facility Systems are operational and functional and have passed all required inspections and tests, Developer has completed all other D&C Work except for Punch List items, Developer has completed all work related to the D&C Work that it is obligated to perform for or on behalf of third parties except for Punch List items,</u> all Governmental Approvals and third party approvals required for use and operation of the Project have been obtained, the Operations and Maintenance Plan and other required O&M submittals have been approved or accepted and necessary training completed, all IP Materials and any other specified materials have been delivered to the Owner or deposited to escrow, there exists no uncured Developer Default (except any Developer Default (a) that will be cured by achieving Substantial Completion, (b) arising from a breach regarding the O&M Services or (c) for which the applicable cure period has not expired), all Developer-provided O&M insurance policies are in place, Developer has submitted the D&C Punch List and all other Submittals required to be submitted prior to Substantial Completion and Owner has approved such Submittals to extent required, and Developer has delivered originally signed waivers and releases from all Contractors <u>(unconditional for payments received or conditioned upon receipt of specified payment for work completed up to Substantial Completion).</u></p> <p>Developer must give 60 days' prior written notice of anticipated Substantial Completion Date, and Owner will review and inspect within the next 14 days and thereafter issue a Certificate of Substantial Completion (effective as of the actual date achieved) or notify Developer why it has not been achieved.</p>
4.9.3	D&C and Facility Punch Lists	<p>Developer must prepare, maintain and complete the Work identified on the D&C Punch List and each Facility Punch List in accordance with contract and Project Management Plan requirements. Developer is not entitled to any relief from Availability and Performance Deductions arising from uncompleted Punch List items.</p>
4.9.4	Project Final Acceptance	<p>Following Substantial Completion, Developer must complete all remaining Construction Work, including Punch List items, and exercise its best efforts to achieve Project Final Acceptance by the</p>

Article/ Section No.	Subject	Description
		<p>Project Final Acceptance Deadline.</p> <p>Various conditions precedent must be satisfied for Project Final Acceptance, including completion of all Punch List items, submittal of all Submittals required to be submitted for D&C Work after Substantial Completion and approval by the Owner of same, receipt by the Owner of the As-Built Plans, delivery of all required manufacturer warranties, all IP Materials and any other specified materials have been delivered to the Owner or deposited to escrow, delivery of any certifications from the AOR or EOR required by any Governmental Entity with jurisdiction, there exists no uncured Developer Default (except any Developer Default (a) that will be cured by achieving Project Final Acceptance, (b) arising from a breach regarding the O&M Services or (c) for which the applicable cure period has not expired), <u>Developer has delivered originally signed unconditional waivers and releases from all Contractors or has provided a bond around any stop notices from any such Contractor, Developer has submitted final documentation demonstrating full compliance with the skilled workforce requirements under Section 8.10.1,</u> and Developer certifies and has paid for all work by third parties that Developer is obligated to pay for other than disputed amounts.</p> <p>Developer must give the Owner written notice when it determines it has achieved Project Final Acceptance. The Owner will review and inspect within the next 20 days and thereafter issue a Certificate of Project Final Acceptance (effective as of the actual date achieved) or notify Developer why it has not been achieved. Within 10 days of issuance of a Certificate of Project Final Acceptance, the Owner will file a Project Notice of Completion.</p>
4.10	Contaminated Materials <u>and Undesirable Materials Management</u>	<p>Developer is responsible for Contaminated Materials and Undesirable Materials management.</p> <p>As between the parties: (a) Developer is considered the sole generator and arranger for Releases of Contaminated Materials by <u>Developer or</u> any Developer-Related Entity and Contaminated Materials that migrate onto the Work Site where the source is a<u>Developer or any</u> Developer-Related Entity; and (b) the Owner is considered the sole generator and arranger of Known Contaminated Materials and Unknown Contaminated Materials existing prior to the Effective Date (provided Developer manages in accordance with all applicable requirements) and for Releases of Contaminated Materials by the Owner or a third party that is not a Developer-Related Entity, <u>Contaminated Materials that migrate onto the Work Site where the source is the Owner,</u> and Contaminated Materials that migrate onto the Work Site <u>(excluding any Developer-Acquired Real Property)</u> where the source is any of them<u>a third party that is not a Developer-Related Entity.</u></p> <p>Discovery of Unknown Contaminated Materials and Releases of Contaminated Materials by the Owner at any time during the term <u>of the Agreement (or the Early Works Agreement)</u> are Relief Events for which Developer is entitled to additional compensation, time extension and other relief</p>

Article/ Section No.	Subject	Description
		<p>under Article 10. Releases of Contaminated Materials by third parties is a Relief Event; Developer must assign and subrogate to the Owner all rights of recovery of Developer and any Developer-Related Entity against third parties upon written request from the Owner.</p> <p>To the extent the Owner is considered the generator and arranger for (a) Known Contaminated Materials or Unknown Contaminated Materials existing prior to the Effective Date under Section 4.10.2 or (b) Releases of Contaminated Materials by the Owner or a third party that is not a Developer-Related Entity or Contaminated Materials that migrate to the Project Site if the source is the Owner of a third party that is not a Developer-Related Entity¹⁷. Developer may seek contribution from the Owner for Developer's Losses arising out of third party claims for same, subject to certain procedural requirements.</p>
4.11	Environmental Compliance	Developer must comply with all applicable Environmental Laws and perform all environmental mitigation measures and permit conditions, monitoring and reporting required under the Contract Documents, Environmental Approvals and CEQA Documentation that are applicable to the D&C Work and with any additional commitments in any subsequent environmental re-evaluations submitted up to 30 days prior to the Proposal Due Date.
4.12.1	Oversight	<p>The Owner has robust Oversight rights over the D&C Work. Developer must uncover finished work at the request of the Owner prior to Final Acceptance and fix any deficiency found at its cost; if the work was compliant, such uncovering will be an Owner-Caused Delay/Relief Event. Owner may step in to correct if Developer fails to do so. Nothing in the Contract Documents, except the limitation on remedies in Section 19.2.10, limits the Owner's right to assert claims for patent and latent defects in the Non-O&M Segment Work.</p> <p>Note: The Owner may conduct Oversight of the D&C Work at any time, so long as it does not unreasonably interfere with the Work. Examples of Oversight rights include monitoring, inspecting, sampling, measuring, auditing, attending, observing, testing, investigating and conducting any other oversight of the Project or the Work.</p>
4.12.2	Meetings	Developer must conduct weekly progress meetings and provide progress reports throughout the Term in accordance with requirements set forth in the Technical Requirements. The Owner will call a preconstruction conference in Merced prior to commencement of construction. Either party can request additional meetings with the other party.
4.13	Design and Construction	Developer must correct any Defect in the Non-O&M Segment Work related to: (a) the Central Plant Improvements, if notified of same within the first three years following Substantial Completion; and

Article/ Section No.	Subject	Description
	Warranties	<p>(b) the Bellevue Intersection Improvements, <u>if notified of same within the first year following Substantial Completion; and (c) a 3060 ASF addition to the existing Early Childhood Education Center (ECEC) building</u>, if notified of same within the first year following Substantial Completion (each, a “Non-O&M Segment Warranty Period”).</p> <p>Upon expiry of the applicable Non-O&M Segment Warranty Period, Developer must assign to the Owner, to the extent assignable, all of Developer’s and Contractors’ rights under warranties in connection with the Non-O&M Segment and the Non-O&M Segment Work.</p> <p><i>Note: The non-O&M segments are the Bellevue Intersection and, the Central Plant, <u>and a 3060 ASF addition to the existing ECEC building</u>. The intersection improvements will be deeded to and maintained by the County and the. <u>The Central Plant and the addition to the existing ECEC building</u> will be operated and maintained by the University. The Agreement includes enhanced warranty protections for these improvements as Developer has no O&M obligations for these improvements following completion of design and construction. For the rest of the Project, Developer is responsible for performing O&M Services and the full performance regime of the Agreement (including payment deductions and assessment of Noncompliance Points) applies to sub-par performance throughout the term of the Agreement.</i></p> <p>Developer must obtain from all Contractors warranties appropriate for work of similar scope and scale, and extend to any third parties for whom Work is being performed. Warranties of Key Contractors must be for such periods specified in the Technical Requirements or, if not specified, for not less than one year from date of <u>the applicable</u> Certificate of Occupancy Readiness or the Substantial Completion Date, as applicable. Developer must obtain all customary manufacturer and supplier warranties with respect to the FF&E in the name of and for the benefit of the Owner.</p>
5	First <u>and Second</u> Delivery Facilities and Occupancy Readiness	
5.1	First <u>and Second</u> Delivery Facilities	<p>Developer must exercise its best efforts to achieve Occupancy Readiness for each First Delivery Facility by June<u>July</u> 1, 2018 (subject to adjustment for Relief Events) and for each Second Delivery Facility by June 1, 2019 (subject to adjustment for Relief Events).</p> <p>If Occupancy Readiness is not achieved for the First Delivery Facilities by August<u>September</u> 1, 2018 (subject to adjustment for Relief Events), liquidated damages will be assessed and deducted from the Second Milestone Payment, and any excess amounts will be deducted from the Third Milestone Payment, Monthly Disbursements, and Quarterly Settlement Amounts, as necessary<u>Monthly Progress Payments</u>.</p>

Article/ Section No.	Subject	Description
		<p>If Occupancy Readiness is not achieved for the Second Delivery Facilities by August 1, 2019 (subject to adjustment for Relief Events), liquidated damages will be assessed and deducted from the Third Milestone Payment, and any excess amounts will be deducted from the Monthly Disbursements and Quarterly Settlement Amounts, as necessary.</p> <p>If Developer commits to delivering a portion of the Second Delivery Facilities by an earlier date and Occupancy Readiness is not achieved by that date (subject to adjustment for Relief Events), liquidated damages will be assessed and deducted from the Third Milestone Payment, and any excess amounts will be deducted from the Monthly Disbursements and Quarterly Settlement Amounts, as necessary. <u>Monthly Progress Payments.</u></p> <p>Subject to the Owner's rights and remedies under Articles 19 and 20, liquidated damages assessed under Section 5.1 are the sole and exclusive remedy of the Owner for any failure by Developer to achieve Occupancy Readiness of the First Delivery Facilities or the Second Delivery Facilities by the applicable deadlines.</p> <p>Failure by Developer to achieve Occupancy Readiness for all First Delivery Facilities by the First Delivery Facilities Long Stop Date is a Developer Default.</p>
5.2	Occupancy Readiness	<p>The Owner will issue a Certificate of Occupancy Readiness for any Facility prior to Substantial Completion for which specified conditions precedent are satisfied, including completion of applicable D&C Work except Facility Punch List items, and other requirements that mirror the conditions precedent to overall Substantial Completion, but with respect to the particular Facility. However, the Owner is not obligated to issue a Certificate of Occupancy Readiness for a Facility any earlier than the date specified in Developer's Sequencing Plan for delivery of such Facility.</p>
5.3	Facility Final Acceptance	<p>Following achievement of Occupancy Readiness of a Facility, Developer must complete all remaining Construction Work for the Facility, including all Facility Punch List items, and exercise its best efforts to achieve Facility Final Acceptance by the applicable Facility Final Acceptance Deadline.</p> <p>Various conditions precedent must be satisfied for each Facility Final Acceptance, including completion of all Facility Punch List items, submittal of all Submittals required to be submitted for D&C Work for the Facility after Occupancy Readiness and approval by the Owner of same, receipt by the Owner of the As-Built Plans for the Facility, delivery of all required manufacturer warranties, all IP Materials have been delivered to the Owner or deposited to escrow, and delivery of any certifications from the AOR or EOR required by any Governmental Entity with jurisdiction.</p> <p>Developer must give the Owner written notice when it determines it has achieved Facility Final</p>

Article/ Section No.	Subject	Description
		Acceptance. The Owner will review and inspect within the next 20 days and thereafter issue a Certificate of Facility Final Acceptance (effective as of the actual date achieved) or notify Developer why it has not been achieved. Within 10 days of issuance of a Certificate of Facility Final Acceptance, the Owner will file a Facility Notice of Completion.
5.4	LEED Certification	<p>Developer is responsible for achieving Gold level LEED certification for each Building by the first anniversary of the effective date on which Occupancy Readiness or Substantial Completion is achieved, whichever is earlier (LEED Certification Deadline). Failure to do so will result in the assessment of liquidated damages in an amount equal to \$5.50 per ASF of the Building, which amount will be deducted from the first and any subsequent Monthly Disbursements following the later of the LEED Certification Deadline and the Substantial Completion Date and from the first and any subsequent Quarterly Settlement Amounts until the assessed liquidated damages are deducted in full <u>is a Developer Default.</u></p> <p>Note: The Contract Documents include technical requirements and other contractual obligations, including the “painshare/gainshare” provisions discussed below, to ensure that the Project supports the campus’ overall compliance with the UC Sustainability Policy.</p>
<u>5.5</u>	<u>Central Plant Work</u>	<u>Base Direct Costs incurred by Developer or its Contractors to perform certain Central Plant Work, and reasonably approved by the Owner, will be paid by the Owner to Developer within 30 days of receipt of an invoice from Developer for same. Mark-ups for \$5 million of such Base Direct Costs are included in the contract price. If such Base Direct Costs exceed \$5 million, the mark-ups (as permitted in Appendix 18) will be paid by the Owner pursuant to a Change Order.</u>
6	Operations and Maintenance	
6.1	Commencement of O&M Services	Developer will commence the O&M Services upon the effective date of: (a) the applicable Certificate of Occupancy Readiness, if any; or (b) the Certificate of Substantial Completion.
6.2	O&M Standards and Requirements	<p>Developer must perform the O&M Services in accordance with Best Management Practices as it evolves from time to time, the Contract Documents, all applicable Laws and Governmental Approvals, specified plans and any Safety Compliance Order.</p> <p>Failure to meet the performance standards specified in Section 4 of the Technical Requirements entitles the owner to various rights and remedies, including assessment of Noncompliance Points, payment deductions and termination for Developer Default.</p> <p>Developer’s obligations with respect to Contaminated Materials and environmental compliance also</p>

Article/ Section No.	Subject	Description
		<p>apply during performance of the O&M Services.</p> <p>The Owner is responsible for the cost of Utility services required for the O&M Services, subject to the painshare/gainshare provisions of Appendix 17.</p> <p>Note: The “painshare/gainshare” provisions in Appendix 17 create an incentive structure for Developer to design and operate the Facilities in an energy efficient manner. This is important because the University pays for the cost of utility services during the operations phase. <u>Appendix 17 requires Developer to design each Building and specified exterior Areas to achieve a minimum performance level that is a 20% energy reduction below the Title 24 Energy Efficiency Standard.</u> Energy consumption targets are developed for three types of energy utilities during the design and construction phase of the Project. If actual energy consumption during operations is lower than the targets by more than 515%, Developer receives 50% of the energy cost savings <u>in excess of the 15%</u> so long as all Facilities/<u>specified exterior Areas</u> are performing within acceptable bounds. If actual energy consumption during operations exceeds the targets during operations <u>by more than 15%</u>, Developer pays 100% of the extra energy costs <u>in excess of the 15%</u>. The <u>painshare/gainshare provisions do not apply to (a) any Facility for a period of two years after the applicable Occupancy Readiness Date or (b) the Competition Field and the Competition Pool.</u></p> <p>Developer is responsible for emergency repair work, as demonstrated by issuance of a corresponding Change Order or Unilateral Change Order, from and after the Effective Date and must solicit competitive bids for such work if specified by the Owner.</p>
6.3	Vandalism	<p>Developer is responsible for any maintenance, repair or replacement of a Facility required due to Vandalism. During the Operating Period, subject to an Annual Vandalism Deductible (\$10,000 of Direct Costs per Calendar Year), Vandalism is a Relief Event for which Developer is entitled to additional compensation and relief.</p>
6.4	Oversight, Meetings and Reporting	<p>The Owner has robust Oversight rights over the O&M Services. Developer must conduct monthly meetings and provide regular reporting relating to the O&M Services. The Owner may attend all <u>of any such meeting between</u> Developer’s progress meetings with <u>and</u> its Lead O&M Firm and may raise any questions, concerns or opinions without restriction.</p> <p>Note: The Owner may conduct Oversight of the O&M Services at any time, so long as it does not unreasonably interfere with the Work. Examples of Oversight rights include monitoring, inspecting, sampling, measuring, auditing, attending, observing, testing, investigating and</p>

Article/ Section No.	Subject	Description
		<i>conducting any other oversight of the Project or the Work.</i>
6.5 – 6.7	Renewal Work and Renewal Work Reserve	<p>Developer is responsible for performing Renewal Work in accordance with a Renewal Work Schedule, which will be submitted/updated by Developer and agreed to by the Owner on an annual basis. <u>Developer may perform Renewal Work not identified in the Renewal Work Schedule at any time as necessary to maintain compliance with the Availability Standards and Performance Standards, subject to scheduling the performance of such Renewal Work at times reasonably agreed to by the Owner.</u></p> <p>Developer must fund and maintain a Renewal Work Reserve in the amounts required by the Lenders. The initial estimated amounts will be attached as a sub-appendix to Appendix 2, then updated throughout the Operating Period, and amounts cannot be reduced from such specified amounts without the prior approval of the Owner. The Lenders will have a first priority security interest in the reserve, and the Owner will have a second priority security interest. Amounts in the reserve may only be used for Renewal Work, Compliance Work, and work to meet Handback Requirements. Any balance in the Renewal Work Reserve as of four years prior to the expiry date of the Term will roll over into the Handback Requirements Reserve. Developer may deliver one or more letters of credit in lieu of maintaining a cash account for the reserve.</p>
6.8, 6.9	Handback Requirements and Handback Requirements Reserve	<p>On the Termination Date, Developer must transfer the Project to the Owner in the condition meeting the Handback Requirements, as specified in the Technical Requirements (but if early termination, only to the extent Renewal Work was required to be performed prior to such early termination).</p> <p>Beginning four years prior to the end of the Term, Developer must establish and fund a Handback Requirements Reserve Account (and any remaining balance in the Renewal Work Reserve will be transferred to the Handback Requirements Reserve at such time). Funds in the reserve must be used exclusively for work required to meet Handback Requirements, and required amount adjusted annually and Developer must fund any shortfall. The Owner will have a first priority security interest in this account. Any amount remaining in the reserve on the Termination Date will go to the Owner. Developer may deliver one or more letters of credit in lieu of maintaining a cash account for the reserve (in which case any amount remaining on the Termination Date may be drawn by the Owner or deducted from the last Monthly Disbursement or Termination Compensation (if terminated earlier), at Owner's election).</p> <p>If Developer disputes, in good faith, any Renewal Amount required for the Handback Requirements Reserve as determined by the Owner, Developer must fund the undisputed portion and the accelerated Dispute Resolution Procedure will apply to the disputed portion.</p>

Article/ Section No.	Subject	Description
7	Noncompliance Points	
7.1 – 7.3	Noncompliance Points System, Assessment, Notification, Cure,	Appendix 5 sets forth a Noncompliance Points table, identifying specific breaches or failures in performance that will result in the assessment of Noncompliance Points and accrual of Noncompliance Instances. Developer is responsible for self-reporting, and Owner may notify as well. Applicable cure periods are specified in Appendix 5, and if the Owner notified rather than Developer, 100% of the specified Noncompliance Points may be assessed prior to the expiration of the applicable cure period (if any), whereas if Developer notifies, no points are assessed unless the Noncompliance is not fully cured within the specified cure period. Noncompliance that is not fully cured within the applicable cure period or Recurrence Period will be treated as a new instance of Noncompliance for each new cure period/Recurrence Period until it is fully cured, unless the Owner chooses to exercise its step-in rights (which it may after expiration of the initial cure period/Recurrence Period). Developer is responsible for keeping and providing the Owner with current records of the number of assessed Noncompliance Points and accrual of Noncompliance Instances and related information.
7.4	Monetary Deductions	<p>In addition to Noncompliance Points, certain instances of Noncompliance will result in monetary deductions from Availability Payments and Partial Availability Payments in accordance with Appendix 6.</p> <p>Developer acknowledges that any monetary deductions assessed under the Agreement are reasonable liquidated damages to compensate the Owner for increased costs of administration, loss of tuition and auxiliary revenues, loss of reputation, etc., and are the Owner's sole remedy unless otherwise expressly provided in the agreement.</p>
7.5	Increased Oversight	<p>If Developer is assessed more than a specified number of Noncompliance Points or accrues more than a specified number of Noncompliance Instances within specified time frames on a rolling basis, the Owner has increased Oversight rights at Developer's expense.</p> <p><i>Note: The increased Oversight thresholds provide an early warning to the University and Developer for continuing minor defaults by the Developer which may eventually lead to a Developer Default and termination. The University has the right in these circumstances to increase its Oversight of the Work at Developer's expense to help ensure that the Project gets back on track and Developer Default is avoided.</i></p>

Article/ Section No.	Subject	Description
8	Contracting and Labor Practices	
8.1, 8.2	Contractors, Employees	<p>Developer must provide list of all Contracts and Contractors with each monthly report required under the Agreement or Technical Volumes and allow ready access to them. Developer must deliver to Owner copies of all Key Contracts, guarantees, amendments and supplements (unredacted) within 10 days after execution and any other Contract within 20 days upon request. Developer must notify Owner of name, address, phone number and authorized representative of any potential first-tier Contractor not later than 15 days prior to scheduled initiation of work by such Contractor.</p> <p>Developer must only use Contractors that are qualified, experienced and capable in the performance of the portion of the Work assigned. Contractors must have all necessary licenses, bonds and insurance required by Law, including registration to perform public work under Labor Code Section 1725.5. Developer must not use Contractors that are ineligible to bid on, be awarded or perform work on public works projects pursuant to Labor Code Section 1777.1.</p>
8.3	Key Contractors	<p>Developer must use the Key Contractors identified in Appendix 2 (and if identified in SOQ or SSOQ, cannot remove or replace without Owner approval in its good faith discretion). A Key Contractor may not be terminated by Developer or a Contractor except for (1) material uncured default by Key Contractor, (2) termination of the Project Agreement and Owner's election not to assume the Key Contract, (3) suspension, debarment, disqualification or removal of Contractor or agreement or voluntary exclusion of Contractor from bidding, proposing or contracting with any federal, State or local department or agency, or (34) with Owner's prior written approval in its good faith discretion.</p> <p><i>Note: The Agreement protects the University from unilateral changes in the Key Contractors and Key Personnel (see below) identified in the Statement of Qualifications and proposals.</i></p> <p>Key Contracts must contain certain mandatory provisions as set forth in Section 8.3.2, including (1) compliance with applicable provisions of Contract Documents, Governmental Approvals and applicable Laws, (2) no right to suspend or demobilize until Key Contractor delivers to the Owner written notice of Developer's breach or default, requirement to participate in meetings between Developer and Owner, (3) agreement to participate in any dispute resolution proceeding under Project Agreement if requested, (4) permit assignment of Key Contracts as contemplated in Project Agreement and Lender's Direct Agreement, (5) expressly include the Indemnified Parties as indemnities, with direct right of enforcement, in any indemnity given by Key Contractor, and (6) expressly include an acknowledgement that the Key Contractor has no right or claim to any lien or</p>

Article/ Section No.	Subject	Description
		encumbrance on the Project, the Project Site, the Ancillary <u>Work</u> Site or the Facilities for failure of counterparty to pay and a waiver of any such right or claim as may exist at Law or equity.
8.4	Key Personnel	Developer must retain the Key Personnel identified in Appendix 2 and any replacement must be approved by the Owner in its good faith discretion. Developer must ensure adequate supervision of the Work, including presence of the Project Executive, Project Manager or other Owner-approved designee at the Work Site at all times while the Work is in progress.
8.6 – 8.11	Labor and Ethical Standards, Nondiscrimination, Prevailing Wages <u>and Fair Wages</u> , Skilled Workforce, Small Businesses	<p>Developer and Contractors must comply with all applicable labor laws and standards. All individuals performing the Work must have the requisite skill and experience, licenses and certifications, failing which they must be replaced or affected work may be suspended.</p> <p>Developer must adopt policies establishing ethical standards of conduct for <u>Developer and</u> all Developer-Related Entities.</p> <p>Developer and Contractors (other than Suppliers, manufacturers or distributors) must comply with Sections 12900 through 12996 of the State of California Government Code (requiring nondiscriminatory employment practices), and must permit access to records of employment, etc. to Owner or any agency of State of California designated by Owner for compliance investigation.</p> <p>Developer, the Lead Contractor and the Lead O&M Firm and their respective Contractors (excluding Suppliers, manufacturers or distributors) must comply with Sections 1770, 1771, 1772, 1773, 1774, 1775 and 1776 of the State of California Labor Code (relating to prevailing wage rate and payroll record requirements). Developer and Contractors must pay not less than prevailing wage rates. Work will be subject to an Owner's Labor Compliance Program. <u>Developer must comply, and must cause every Contractor to comply, with the Owner's fair wage/fair work plan entitled "UC Fair Wage/Fair Work Plan."</u> For purposes of these provisions, "Contractor" excludes Suppliers, manufacturers and distributors.</p> <p>For Contracts greater than \$250,000, workers employed by Developer or any Contractor to perform manual labor in connection with the development and Construction Work must be either (a) registered in, or graduates of, an approved apprenticeship program, or (b) Skilled Journeypersons covered by a collective bargaining agreement for the applicable trade, in the graduated percentages set forth in Section 8.10.1. This requirement does not apply if the local joint labor-management program does not have the capacity, or neglects or refuses, to dispatch sufficient apprentices.. Developer must submit a Skilled Workforce Plan prior to commencement of Construction Work and submit updated plans on each anniversary of NTP 2 until completion of Construction Work. If Developer fails <u>Each monthly certified payroll report submitted under Section 8.9.4.2 must include</u></p>

Article/ Section No.	Subject	Description
		<p><u>an interim report on the current state of compliance by Developer with the Skilled Workforce Plan, and Developer must submit final documentation to demonstrate full compliance with Section 8.10.1 as a condition precedent to Project Final Acceptance. Developer must contact each local joint labor-management program to arrange for these programs to dispatch apprentices to Developer and its Contractors as and when needed to perform the Construction Work. If the final documentation submitted by Developer indicates that Developer has failed to comply with these requirements, liquidated damages will be assessed for each one (1) percent that the actual percentage of workers employed directly or indirectly by Developer or a Contractor is below the applicable percentage requirement.</u></p> <p>Developer must aspire and exercise good faith efforts to achieve specified participation of local Small Business Enterprises and local Disabled Veteran Business Enterprises. Local means an enterprise headquartered in Counties comprising the San Joaquin Valley. Developer must submit an SBE Plan and update same on each anniversary of NTP 2 throughout the Term.</p> <p>A self-certification form must be submitted for each SBE and DVBE.</p> <p>Note: The Agreement ensures that Developer complies with University policy.</p>
8.12	<p>Certification of Payment to Contractors; Bond<u>Releases</u> and Release of Contractor Stop Notice Claims, etc.<u>Waivers; Bonding</u></p>	<p>Developer and each Contractor must comply with applicable statutory provisions regarding prompt payment of subcontractors and waivers and releases by subcontractors. If a stop payment notice, lien or other claim is made against the Owner or Project by any Contractor in connection with the Work, Developer must bond in compliance with statutory requirements as necessary to release such claim within 10 days of filing.</p> <p>Note: The Agreement specifically requires Developer and subcontractors of all tiers to comply with statutory requirements for prompt payment of subcontractors and waivers and releases by subcontractors. If any lien or stop payment notice is filed by any subcontractor, the Agreement requires Developer to procure the bond(s) necessary to release it. Developer must also deliver waivers and releases from all subcontractors as a condition precedent to Substantial Completion (see Section 4.9.2 above).</p>
8.13	No Forced Labor	<p>Developer certifies that no foreign-made equipment, materials or supplies furnished to the Owner pursuant to the Agreement will be produced in whole or in part by forced labor, convict labor or indentured labor under penal sanction.</p> <p>If Developer knew, or should have known, that foreign-made equipment, materials or supplies furnished were so produced, the Agreement may be terminated at the option of the Owner for</p>

Article/ Section No.	Subject	Description
		<p>Developer Default and Developer and any applicable Contractor may be removed from consideration for Owner contracts for up to 360 days. <u>Developer may protest any sanctions imposed in accordance with the procedures set forth in the University's Administrative Guidelines on the Procurement of Foreign-Made Equipment, Materials, or Supplies Produced by Forced Labor, Convict, or Indentured Labor, issued on April 7, 1998.</u></p> <p>Note: The Agreement ensures compliance with University policy.</p>
9	Safety Compliance	
9.1, 9.2	Safety Compliance Orders; Duty to Comply	<p>The Owner may issue Safety Compliance Orders and must consult with Developer prior to doing so except in case of an Emergency. Developer must implement Safety Compliance upon issuance of such order. Relief Event is not an excuse for not implementing a Safety Compliance Order, but a Safety Compliance Order is itself a Relief Event.</p> <p>Note: A Safety Compliance Order is a directive from the University to Developer to make improvements, repairs or reconstructions to correct a safety condition identified by the University or a Governmental Entity. For example, if the University reasonably determines that there is inadequate lighting along a pathway that creates a safety condition (even if compliant with contract requirements), the University may issue a Safety Compliance Order requiring Developer to correct it, and Developer must do so although it may be entitled to compensation/relief under the Relief Event regime.</p>
10	Relief Events	
		<p>Relief Events are defined in Appendix 1. These are specified events which Owner agrees to bear the risk as between the parties should they occur, subject to certain limitations and conditions.</p> <p>Developer may make claims for additional compensation, time extension and other relief for Relief Events in accordance with Article 10. Developer must strictly follow the claims procedure and other obligations (including mitigation) set forth in the Article, and is not entitled to any other compensation or relief for a Relief Event. <u>Any Relief Event that occurred during performance of the Early Works under the Early Works Agreement is deemed to have occurred under the Agreement, and Developer may submit a corresponding Relief Event Claim within 30 days following the Effective Date so long as it provided the requisite Relief Event Notice and kept the requisite records.</u></p> <p>Deductible Relief Events are subject to a \$50,000 per claim costs deductible (indexed to CPI), and a 90-day deductible for delayed Payment relief under Section 10.4. All entitlement to compensation is net of insurance proceeds, insurance deductibles/self-insured retentions, and deemed</p>

Article/ Section No.	Subject	Description
		<p>self-insurance.</p> <p>Monetary compensation is limited to Direct Costs (including limited delay costs), as defined in Appendix 18, and, if applicable, compensation for delayed receipt of Milestone Payments, <u>Partial Availability Payments</u> and/or Final Acceptance Payment <u>Availability Payments</u> due to a Relief Event Delay that delays achievement of the corresponding Milestone, <u>Delays that delay the scheduled delivery date or Scheduled Substantial Completion</u> or Final Acceptance Date, as applicable, beyond the applicable baseline delivery/Substantial Completion date. An equity true-up payment will be calculated by the Owner and paid to Developer following Substantial Completion or, in the event of Termination for Convenience prior to Substantial Completion, at termination.</p> <p>Time extensions are limited to extensions of Completion Deadlines for critical path delay. If the Owner elects to pay compensation to which Developer is entitled by a deferred payment method, the Owner will pay additional compensation to offset the effect of such delayed payment on Equity IRR and debt service coverage ratios.</p> <p>Developer is also entitled to relief from assessment of Noncompliance Points, accrual of Noncompliance Instances, delivery by the Owner of an Initial Breach Notice or Final Breach Notice, assessment of monetary deductions or other liquidated damages, and relief from Developer Default, in each case to the extent they would not have been assessed or would not have occurred except due to a Relief Event.</p> <p>Developer has obligation to maintain detailed records related to any Relief Event claim, and the Owner has broad rights to audit them.</p>
11	Changes in the Work; Alternative Technical Concepts	
11.1	Owner Changes	<p>Subject to certain restrictions, the Owner has the right to direct an Owner Change at any time during the Term. An Owner Change may include alterations or changes in the Work, additions to scope, deletions to scope of the D&C Work (up to a cap of 10% of the cost for the D&C Work as set forth in the Schedule of Values as at the Effective Date), deletions to scope of the O&M Services, and changes to requirements applicable to the Work. Owner Changes may include Renovations during the Operating Period, for which Developer or the Lead O&M Firm must solicit competitive bids in accordance with policies and procedures of the Owner and applicable Laws.</p> <p>Developer is not required to implement any Owner Change to the extent it would: (a) result in a breach of Law or conditions of a Governmental Approval or revocation of same; (b) render any Project-required insurance policy void or voidable; (c) require a new Governmental Approval that is not reasonably obtainable; (d) materially and adversely affect the health and safety of any person; or</p>

Article/ Section No.	Subject	Description
		<p>(e) materially and adversely affect the risk allocation and payment regime under the Agreement with respect to the Work.</p> <p>The Owner Change Procedure is set out in Appendix 21 (including determination of cost of an Owner Change). An Owner Change is a Relief Event, and therefore provisions of Article 10 with respect to any delayed Payments, time extension and other relief required as a result of an Owner Change also apply.</p> <p><i>Note: The University can increase or decrease the scope of O&M services through the Owner Change process, subject to the limitations described above, including a limit on any proposed change that materially and adversely affects the risk allocation and payment regime.</i></p> <p><i>Note: Determination of costs for purposes of Owner Changes is limited to the types of Direct Costs and applicable mark-ups specified in Appendix 18. Most of these types of costs are also permitted under the University's standard contracts.</i></p>
11.2	Developer Change Proposals	<p>Developer may request Owner approval of modifications to the Technical Volumes by submitting a Developer Change Proposal setting forth its detailed estimate of the net cost and schedule impacts of the requested change. The Owner may accept or reject such request in its sole discretion. If accepted, The Owner is entitled to 50% of savings for D&C and O&M costs and 100% of financing cost savings associated with same.</p>
11.3	Deviations	<p>Developer may apply to Owner for approval of any deviation from, or noncompliance with, the requirements of the Technical Volumes in Work performed. The Owner must consider, but has no obligation to approve, such application. If an approved Deviation results in diminution of value of the completed Work or reduction in D&C or O&M costs, Owner is entitled to 100% of such diminution/reduction.</p>
11.4	Alternative Technical Concepts	<p>Developer is responsible for, and must make good faith efforts to obtain, all third party approvals required to implement an ATC. Developer must satisfy all conditions to the Owner's pre-approval of an ATC before implementing same, and must use good faith efforts to do so. If Developer is unable to obtain any required approval or fails to satisfy any condition to Owner's pre-approval of the ATC, it must give notice to the Owner and must comply with the baseline requirements at its cost with no relief. If the ATC represented additional Work, higher quality materials or would have required additional resources, the Owner is entitled to a credit for the reduced costs to Developer of reverting to the baseline requirements. If Developer uses any Unsuccessful Proposer's Work Product provided to Developer by the Owner, it does so at its sole risk.</p>

Article/ Section No.	Subject	Description
12	Payments to Developer	
12.1	Milestone Payments / Milestones	<p>Developer is entitled to three Milestone Payments upon achievement of the corresponding Milestones and requisite invoicing for same, provided there exists no uncured Developer Default (or the applicable cure period has not expired, if the Developer Default is one for which the applicable cure period may be longer than 30 days): (1) First Milestone Payment of \$[50,000,000] upon delivery of requisite evidence of a minimum of \$100,000,000 in D&C Work having been completed and invoiced by the design-builder and approved by Developer; (2) Second Milestone Payment of</p> <p>\$[125,000,000], less any First Delivery Facilities Deduction, upon issuance by the Owner of Certificates of Occupancy Readiness for all First Delivery Facilities; and (3) Third Milestone Payment of \$[125,000,000], less any First Delivery Facility Deduction not yet deducted and any Second Delivery Facilities Deduction, upon issuance by the Owner of Certificates of Occupancy Readiness for all Second Delivery Facilities and delivery by Developer to the Owner of a written notice with supporting documentation demonstrating that Developer has incurred State-Eligible Costs in excess of \$[100,000,000]. If Developer commits to accelerating the delivery of a portion of the Second Delivery Facilities in its Proposal, a portion of the Third Milestone Payment would be paid upon delivery of these Facilities.</p> <p>Note: Amounts of Milestone Payments and requisite State-Eligible Costs to be scaled downward in accordance with ITP based on Successful Proposer's Bid MAP.</p> <p>Note: Documentation demonstrating that Developer has incurred over \$100 million in State-Eligible Costs is required so that a corresponding amount of new state-eligible general revenue bond proceeds (external University financing) can be used in the aggregate to make the Third Milestone Payment.</p>
12.212.1	Final Acceptance Payment <u>Monthly Progress Payments</u>	<p>A Final Acceptance Payment of \$[300,000,000] is payable upon (a) issuance of a Certificate of Project Final Acceptance, (b) delivery by Developer to the Owner of a written notice with supporting documentation demonstrating that Developer has incurred State-Eligible Costs in excess of \$[400,000,000], and (c) requisite invoicing (but no earlier than June 1, 2020). <u>Monthly Progress Payments will be made by the Owner to Developer in the aggregate amount of up to \$585 million. Each Monthly Progress Payment will equal (a) the total amount payable by Developer to its design-build contractor for work associated with the Project incurred for each month (as certified and approved by the LTA), multiplied by a ratio equal to: \$585 million / (D&C Contract Amount – \$150 million), less (b) any First Delivery Facility Deduction or Second Delivery Facility Deduction, if applicable.</u></p>

Article/ Section No.	Subject	Description
		<p>Note: Amounts of Final Acceptance Payment and requisite State-Eligible Costs to be scaled downward in accordance with ITP based on Successful Proposer's Bid MAP.</p> <p>Note: Documentation demonstrating that Developer has incurred over \$400 million in State-Eligible Costs is required so that a corresponding amount of new state-eligible general revenue bond proceeds (external University financing) can be used in the aggregate to make the Third Milestone Payment and the Final Acceptance Payment. <u>Monthly Progress Payments will not commence until at least \$150 million in cumulative work has been invoiced by Developer's design-build contractor for work associated with the Project, as demonstrated by certified copies of Developer's draw requests and design-build contractor invoices approved by the LTA.</u></p>
<p>12.3,12.2,12.4<u>12.3</u></p>	<p>Availability Payments and Partial Availability Payments</p>	<p>The Owner will make Partial Availability Payments to Developer between the date on which Occupancy Readiness is achieved for all First Delivery Facilities and the Substantial Completion Date or the Early Termination Date, whichever is earlier. Payment will be made through a combination of advance Partial Monthly Disbursements and Quarterly Settlement Amounts calculated in accordance with Appendix 6.</p> <p>The Owner will make Availability Payments to Developer between the Substantial Completion Date and the Termination Date, but commencing no earlier than the Early Completion Date (June 1, 2020). Each Availability Payment comprises a combined payment of AP Capital amount and AP O&M amount. Payment will be made through a combination of advance Monthly Disbursements and Quarterly Settlement Amounts calculated in accordance with Appendix 6.</p> <p>Note: The cost of on-going operations and maintenance is built into the Availability Payment, which is subject to a specified cost escalator, protecting the University from uncertainty associated with maintenance, repair and renewal costs.</p> <p>Note: The University will start paying Partial Availability Payments to Developer once the First Delivery Facilities are delivered, <u>based on the ratio of ASF delivered</u>. The amount of the Partial Availability Payments will be increased upon delivery of the Second Delivery Facilities to take into account the cost of providing O&M Services for<u>reflect</u> the additional Facilities<u>ASF delivered</u>. This approach allows for Developer to be compensated for the cost of providing O&M Services for the First Delivery Facilities and the Second Delivery Facilities without having to finance those costs<u>Developer to reduce its financing costs by reducing the amount of construction period financing required</u>.</p>

Article/ Section No.	Subject	Description
12.5 , 12.4 , 12.6 12.5	Disputed Amounts; Interest	The Owner has the right to dispute any amount of an invoice submitted by Developer under the Agreement, and will pay the undisputed portion and provide written reasons for any withheld portion. Interest is payable on any late payment of an undisputed amount due and owing from a Party to the other Party at the Late Payment Rate (10% per annum or maximum rate permitted by law, whichever is less).
12.7 12.6	Delay Damages	Developer acknowledges and agrees that any Partial Availability Payment or Availability Payment, or portion thereof, not received by Developer as a result of a delay in achieving Occupancy Readiness of the First Delivery Facilities, the Second Delivery Facilities or Substantial Completion, as applicable (other than a delay for which Developer is entitled to compensation under Article 10), represents the liquidated amount of delay damages suffered by the Owner due to such delay.
12.8 12.7	Tax Allocation	Developer acknowledges that the Owner may fund the Milestone Monthly Progress Payments and the Final Acceptance Payment with proceeds of tax-exempt bonds. For federal tax purposes, Developer agrees not to allocate proceeds of Developer's financing or equity investment to the Facilities in a manner that is inconsistent with any allocation by the Owner of the payments to the Facilities. Upon request, Developer will provide certifications information regarding costs of development, operation and maintenance of the Facilities. Developer will not take the position for federal tax purposes that it is the owner or lessee of the Project or the Facilities.
13	Lenders	
		<p>The Owner, Developer and the Collateral Agent, on behalf of the Lenders, will have executed the Direct Agreement concurrently with execution of the Project Agreement. The Direct Agreement addresses, among other things, Lenders' step-in rights and their right to replace a defaulting Developer, as well as the Owner's option to purchase project debt in default.</p> <p><i>Note: A primary purpose of the Direct Agreement is to set out the Lenders' rights to receive notice of, and opportunity to step in and cure, Developer Defaults or to replace Developer if needed, before the Owner has a right to terminate the Project Agreement for Developer Default. The Direct Agreement does not give Lenders an interest in, or recourse to, University assets – the Lenders' security interests are limited to the assets of Developer and equity interests in Developer. The designated representative of Developer's Lenders is the direct party to the Direct Agreement on behalf of the Lenders.</i></p>

Article/ Section No.	Subject	Description
14	Equity Transfers and Change of Control; Committed Investment Requirement	
14.1, 14.2	Restrictions on Equity Transfers and Changes of Control	<p>Equity transfers and Changes of Control prior to the second anniversary of Substantial Completion require the Owner's prior written approval, in its sole discretion. An exception is made for any proposed Equity Transfer during such period by a purely financial Initial Equity Member that does not constitute a Change of Control, in which case the applicable standard is reasonable approval. If Developer sought the Owner's pre-approval of an equity transfer to a specified affiliate prior to submission of its proposal and the Owner pre-approved such transfer, such transfer will be permitted following the Effective Date without the requirement of further Owner approval, subject to any conditions imposed on such pre-approval. Transfers/transactions that fall within an exception to the definition of Change of Control are allowed at any time, subject to specified notice requirements.</p> <p>Equity transfers and Changes of Control following the second anniversary of Substantial Completion are subject to the Owner's prior written approval, which may not be unreasonably withheld.</p> <p>The Owner has 60 days to approve or disapprove in writing following receipt of a request for approval and required supporting documentation.</p> <p><i>Note: Equity transfers and changes of control in Developer do not alter Developer's contractual obligations under the Agreement or Developer's equity members' minimum equity commitment (see below). The restrictions on equity transfers and changes of control allow the University to ensure that the initial equity member(s) of Developer at the beginning of the Project remain committed to the Project until the riskiest phase (i.e., the design and construction) has been completed. Even after completion of construction, the University retains the right to reasonably approve any equity transfers or changes of control so that it may ensure the quality of any replacement equity member(s) throughout the term of the Agreement.</i></p>
14.3	Minimum Equity Requirement	<p>During the Construction Period, Developer must maintain a Construction Equity Ratio of at least 10%, with limited exceptions. Construction Equity Ratio is the ratio between (a) the Committed Equity Investment at the time and (b) the sum of Committed Equity Investment at the time and the amount of Developer's private debt (including short-term construction financing) scheduled to be outstanding at the time.</p> <p><i>Note: The 10% requirement may equal up to \$80 million at the time of Substantial Completion. Under this delivery model, lenders typically impose constraints on Developer to limit equity dividends and "cash-out" during the operating period to ensure Developer</i></p>

Article/ Section No.	Subject	Description
		<i>and its equity investors' incentives are aligned with long term performance. Those constraints would be customized to the private debt structure bid by the successful Proposer.</i>
15	Financial Model	
		The Initial Financial Model is included in Attachment 2 to the Project Agreement. The Initial Financial Model and any subsequent Financial Model must be escrowed. Financial Model Updates are required whenever a specified event occurs during the term (e.g., Relief Event for which Owner owes compensation, Refinancing with shared Refinancing Gain). Financial Model Updates must be audited by an independent audit firm prior to becoming part of the Agreement.
16	Project Financing and Refinancing	
		<p>Developer is solely responsible for all financing required for the Work, with no recourse to the Owner (except the Payments).</p> <p>The Owner's prior written approval is required for any Refinancing except an Exempt Refinancing or Rescue Refinancing. Developer must provide at least 60 days' advance notice of any Exempt Refinancing or Rescue <u>Refinancing except an Exempt Refinancing under clause (d) of the definition of Exempt Refinancing (e.g., syndication or disposition of Lender's interests), for which Developer must provide notice within 7 days following the</u> Refinancing. Developer must provide requisite documentation and information with respect to Refinancings.</p> <p>Refinancings other than Exempt Refinancings, Rescue Refinancings and Nominal Refinancings are subject to the Owner's prior written approval in its reasonable discretion.</p> <p>Nominal Refinancings are subject to the Owner's prior written approval in its sole discretion.</p> <p>The Committed Equity Investment requirements must continue to be satisfied and a Refinancing may not increase the Lenders' Liabilities by more than 10% except as approved by the Owner in its sole discretion.</p> <p>For any Refinancing other than an Exempt Refinancing, the Owner is entitled to 50% any Refinancing Gain calculated in accordance with Appendix 11</p> <p>Note: Refinancings do not alter Developer's contractual obligations under the Agreement or Developer's equity members' minimum equity commitment (see above).</p>

Article/ Section No.	Subject	Description
17	Insurance; Payment and Performance Security, and Indemnity	
17.1	Insurance Policies and Requirements; Unavailability; Premium Benchmarking	<p>The Owner will procure and maintain property insurance following Occupancy Readiness/Substantial Completion, except if claims and loss experience due to negligence, willful misconduct or breach of applicable law or contract of <u>by Developer or</u> any Developer-Related Entity adversely impacts the Owner or its policy, the Owner may require Developer to procure and maintain a replacement property policy for the Project on the same <u>applicable</u> terms and conditions as required <u>set forth in Appendix 8</u> for the Owner-Provided Insurance Policy. Such replacement policy is a Developer-Provided Insurance Policy for the purposes of the Agreement. From and after the effective date of any such replacement policy, the Owner will pay to Developer the Base Project Property Insurance Cost, which will be subject to the insurance premium benchmarking provisions.</p> <p>Developer must procure and maintain the remainder of the Project policies in accordance with Section 17.1 and Appendix 8-8, <u>and in the case of MID Required Insurance, in accordance with the minimum coverage requirements and terms of coverage set forth in the MID Agreement.</u> Developer may use a Controlled Insurance Program during the Construction Period. Developer is liable for deductibles and self-insured retentions (except those under (a) the Developer-Provided Insurance Policies arising from the active negligence of the Owner, and (b) the Owner-Provided Insurance Policy, except any arising from Developer fault or Vandalism up to the Annual Vandalism Deductible), and must include specified terms/conditions in any endorsements and waivers.</p> <p>Every two years during the Term <u>Operating Period</u>, the Owner and Developer will review and, if appropriate, make adjustments to the Developer-Provided Insurance Policy limits.</p> <p>If any required insurance policy becomes commercially unavailable, the Owner may self-insure or terminate the Agreement.</p> <p>Premiums for Operating Period insurance policies for which Developer is responsible for procuring and maintaining will be compared against a benchmark that is escalated 3% per annum and the Owner will bear 85% of any increases above the benchmark and have the benefit of 85% of any decreases below the benchmark, as adjustments to the MAP.</p> <p>The Owner will self-insure Earthquake and Terrorism risk. Developer will be entitled to Direct Costs to repair or replace tangible property damage to the Project caused by <u>any such</u> Earthquake or Terrorism, but not for its tools, machinery, equipment, etc. that are not intended for permanent installation into the Project.</p> <p>Note: The insurance provisions have been developed in consultation with OP Risk</p>

Article/ Section No.	Subject	Description
		Services.
17.2	Performance and Payment Bonds	<p>As a condition precedent to NTP 1, Developer must deliver Performance and Payment Bonds, each in the aggregate amount of the Milestone Payments and the Final Acceptance Payment<u>an amount equal to the D&C Contract Amount</u>. The Owner will be a multiple-obligee under the bonds. The required forms of the bonds and multiple obligee riders are set forth in Appendix 15.</p> <p>Note: The Performance Bond and Payment Bond amounts are set as the sum of the Milestone Payments and Final Acceptance Payment amounts, which is \$600 million scaled downward as described in Sections 12.1 and 12.2 above. The bonds have been sized to exceed the total amount of payments made by the University to Developer at any given time prior to Substantial Completion.</p> <p>For performance security, the Performance Bond amount is sufficient as the University will also have security equal to the value of work in progress (including materials procured but not yet integrated) but not yet paid for by the University. The amount of the Performance Bond also exceeds the Project's maximum probable loss.</p> <p>For payment security, the Payment Bond amount is sufficient because the University also has the benefit of the protections discussed at Section 8.12 above.</p>
17.3	Letters of Credit	<p>If Developer provides a letter of credit where permitted under the Agreement (i.e., in lieu of the Renewal Work Reserve Account or the Handback Requirements Reserve Account), it must be issued by an Eligible LC Issuer and meet the other requirements of Section 17.3 and be substantially in the form set forth in Appendix 14 (provided any deviation from such form is subject to the Owner's approval, in its reasonable discretion).</p>
17.4	Developer Indemnities	<p>Developer indemnifies the Indemnified Parties for claims, Losses, etc. asserted or incurred by or award to any third party to the extent caused by various specified events, including breach or alleged breach by Developer of the Contract Documents or Principal Developer Document, failure or alleged failure to comply with Governmental Approvals and applicable Laws, IP infringement, negligence, willful misconduct or breach of law by <u>Developer or</u> any Developer-Related Entity, stop payment notices/liens filed in connection with the Work, actual or threatened Releases of Contaminated Materials by <u>Developer or</u> any Developer-Related Entity, etc. <u>Developer assumes the defense and indemnity of MID and its officers, agents and employees as required under the MID Agreement.</u></p>

Article/ Section No.	Subject	Description
18	Representations and Warranties	
18.1	Developer Representations and Warranties	Developer provides certain representations and warranties with respect to organization, authorization, enforceability, no challenging actions, requisite licensing, the Initial Financial Model, investigations of Surface and subsurface conditions, no debarment/suspension and no organizational conflicts of interest, intellectual property infringement, etc.
18.2	Owner Representations and Warranties	The Owner provides certain representations and warranties with respect to formation/existence, authorization, no violation or default, and no challenging actions.
19	Default; Suspension of Work; Suspension for Delinquency	
19.1.1	Developer Default	Developer Defaults are set forth in Section 19.1.1, including failure to satisfy conditions precedent to NTP 1 within 30 days of the Effective Date, failure to commence Construction Work by the Construction Commencement Deadline (<i>i.e.</i> , 150 days after Effective Date, subject to adjustment for Relief Events), failure to achieve Occupancy Readiness of all First Delivery Facilities by the First Delivery Facility Long Stop Date, failure to achieve Substantial Completion by the Substantial Completion Long Stop Date, Persistent Developer Noncompliance, Persistent Developer Breach, and insolvency or bankruptcy.
19.1.2	Cure Periods	<p>Applicable cure periods for Developer Defaults vary from zero to 30 days, or in limited circumstances, a further cure period is allowed, provided Developer is taking meaningful steps to cure a default that cannot be completed within the specified period. A cure period begins upon Developer's receipt of the Owner's written notice of Developer Default (except no notice is required for a Developer Default arising from a conviction of Developer, <u>or</u> any Equity Member or Qualified Investor of fraud, bribery, etc. in connection with bidding on public works contracts).</p> <p>Developer Defaults for which there is no cure period are : insolvency/bankruptcy of Developer,; failure to comply with written suspension of Work or Project Right of Entry order,; failure to meet certain Completion Deadlines (including the First Delivery Facilities Long Stop Date and the Substantial Completion Long Stop Date),; Persistent Developer Noncompliance,; conviction of Developer, <u>or</u> any Equity Member or Qualified Investor of fraud, bribery, etc. in connection with bidding on public works contracts,; a false certification <u>submitted</u> by Developer or Equity Member(s),</p>

Article/ Section No.	Subject	Description
		<u>any Qualified Investor or any other Affiliate of Developer</u> regarding engagement in investment activities in Iran or any ; <u>a false Darfur Contracting Act Certification submitted by Developer or any Equity Member; Developer, any Equity Member or any Affiliate of either</u> of them being a “scrutinized” company as defined in Section 10476 of the Public Contract Code;; improper use of funds in the Handback Requirements Reserve Account;; and Persistent Developer Breach.
19.2	Owner Remedies	<p>The Owner has a right to terminate the Agreement if a Developer Default has not been cured within any applicable cure period.</p> <p>The Owner also have remedies specific to certain circumstances, such as a Developer Default under Section 19.1.1.7 (use of Project in violation of Contract Documents), for which Owner has an immediate right of entry to cure, and to undertake or direct work for failure to meet Safety Standards or timely performance Safety Compliance.</p> <p>Upon occurrence of a Developer Default and expiration of any applicable cure period without full cure, subject to the Lenders’ rights under the Direct Agreement, the Owner has step-in rights under Section 19.2.4.</p> <p>Subject to the Lenders’ rights under the Direct Agreement, the Owner has the right to suspend the Work (<u>including the Project Right of Entry</u>) in whole or in part – if due to a failure of Developer to comply with its obligations under the Contract Documents, with no liability to Developer; and if for other reasons at its discretion, such suspension is an Owner-Caused Delay and therefore a Relief Event.</p>
19.2.10	Limitation on Developer’s Liability for Certain Damages	Developer is not liable to the Owner for punitive damages or indirect, incidental or consequential damages arising under any theory of liability, subject to certain exceptions such as Losses covered by insurance proceeds, Losses arising out of fraud, criminal conduct, intentional misconduct, reckless or bad faith of <u>Developer or</u> any Developer-Related Entity, Losses arising out of Releases of Contaminated Materials by <u>Developer or</u> any Developer-Related Entity, and any amounts Developer owes under the express provisions of the Contract Documents.
19.3	Owner Default; Cure Periods;	<p>Owner Defaults are: (1) failure to make payment of undisputed amounts due under the Agreement when due; (2) any material breach of representation or warranty made by the Owner under Section 18.2; and (3) the Owner or other Governmental Entity confiscates, condemns, appropriates, etc. the Project or material portion thereof, excluding any exercise of a right of termination under the Agreement.</p> <p>For an Owner Default under (1), the cure period for failure to pay (a) any Monthly Disbursement or</p>

Article/ Section No.	Subject	Description
		<p>Partial Monthly Disbursement is 30 days after Developer delivers written notice of such Owner Default, and (b) any other payment due Developer is 90 days after Developer delivers written notice of such Owner Default.</p> <p>For an Owner Default under (2) or (3), the cure period is 30 days after written notice, subject to a longer cure period as is reasonably necessary to cure, up to 180120 days, if the cure cannot be completed with diligence within the 30 days and the Owner immediately commenced meaningful steps to cure.</p>
19.4, 20.4.1	Developer Remedies	<p>Developer has a right to terminate the Agreement for an Owner Default upon expiry of the applicable cure period without cure, effective immediately upon delivery of a written notice of termination to the Owner.</p> <p>If Developer does not terminate the Agreement, Developer may submit a Relief Event claim under Article 10 and, for an uncured Owner Default for non-payment, Developer has a right to suspend performance of the Work until such default is cured.</p> <p>Developer may exercise any other rights and remedies available under the Agreement or available at Law.</p>
19.4.3	Limitations on Owner's Liability	<p>The Owner is not liable to Developer for punitive damages or indirect, incidental or consequential damages arising under any theory of liability, subject to certain exceptions such as Losses covered by insurance proceeds for which the Owner self-insured, Losses arising out of fraud, criminal conduct, intentional misconduct, reckless or bad faith of any Developer-Related Entity <u>on the part of the Owner</u>, and any amounts the Owner owes under the express provisions of the Contract Documents.</p>
20	Termination	
20.1 – 20.4, 20.9	Termination; Exclusive Termination Rights	<p>Sections 20.1 through Section 20.4 set forth the exclusive termination rights of the Parties.</p> <p>Termination for Convenience: The Owner may, in its sole discretion, terminate the Agreement in whole upon not less than 90 days' written notice if it determines that such termination is in its best interest.</p> <p>Termination for Extended Relief Event: Developer <u>Either Party</u> may, on written notice to the Owner <u>other Party</u>, conditionally terminate the Agreement <u>if</u>:</p>

Article/ Section No.	Subject	Description
		<p>(1)(a)(i) an Owner-Caused <u>a</u> Relief Event has occurred which will result in a delay in achieving Substantial Completion beyond 180 days of Relief Event Delay or such 180 days have expired or (ii) any Relief Event other than an Owner-Caused Relief Event has occurred which will result in a delay in achieving Substantial Completion beyond 360 days of Relief Event Delay or such 360 days have expired, or (b) if the written notice is given after the Substantial Completion Date, all or substantially all of the Facilities are inoperable for 270 days or more and not because of another concurrent delay; (2) Developer could not have mitigated or cured with diligent efforts; (3) the result is continuing at time of delivery of the notice; and (4) the notice contains the requisite information.</p> <p>The Owner may, on written notice to Developer, conditionally terminate the Agreement if: (1) (a) a Relief Event has occurred which will result in a delay in achieving Substantial Completion beyond 180 days of Relief Event Delay or such 180 days have expired, or (b) the written notice is given after the Substantial Completion Date, all or substantially all of the Facilities are inoperable for 270 days or more and not because of another concurrent delay; (2) the result is continuing at time of delivery of the notice; and (3) the notice contains the requisite information.</p> <p>If insurance proceeds are available and Parties agree to a restoration plan, neither Party may elect to so terminate.</p> <p>If the Owner delivers such notice, Developer may notify the Owner that it elects to continue the Agreement and the Owner will have no obligation to compensate Developer for costs or loss of Payments or any other relief arising out of the Relief Event and incurred after the date of the Owner's notice of conditional termination (except if the Relief Event occurred prior to the Substantial Completion Date, Developer is entitled to an extension of the applicable Completion Deadlines). If Developer delivers the conditional notice of termination, the Owner may elect to continue the Agreement for up to 180 days (or more if Parties agree) and pay Developer Direct Costs to repair/restore any physical damage, including Delay Costs after Developer's conditional notice of termination, and MAP prorated <u>the amount of Availability Payments or Partial Availability Payments, as applicable, that Developer would have received during such extended period absent the Relief Event, prorated,</u> less avoided O&M and other expenses.</p> <p>Termination for Developer Default: See 19.2 above.</p> <p>Termination for Owner Default: See 19.4 above.</p> <p>Termination for Suspension of Work: If the Owner issues a suspension order that is not due to Developer's fault for more than 270 days, Developer has a right to terminate the Agreement upon written notice with immediate effect.</p> <p>Termination by Court Ruling: Upon issuance of a final order by a court of competent jurisdiction</p>

Article/ Section No.	Subject	Description
		<p>after exhaustion of all appeals (a) that the Agreement is void, voidable and/or unenforceable or impossible to perform for reasons beyond the reasonable control of Developer or (b) upholding the binding effect of a Change in Law that causes impossibility of performance of a fundamental obligation by, or exercise of a fundamental right of, Developer or Owner, the final court order will be treated as the notice of termination.</p> <p>Termination Compensation due to Developer will depend on the type of termination – applicable formulae are set forth in Sections 20.1 through 20.4. Broadly speaking: (a) if termination is for convenience, Owner Default, extended Owner-Caused Relief Event or discretionary suspension of work, Lenders and equity investors will be made whole; (b) if termination is for Developer Default, if prior to Substantial Completion, termination compensation (for work performed but not yet paid) will be calculated such that (i) the Owner does not pay more to rectify and deliver the Project than it otherwise would have, absent a Developer Default, and (ii) equity does not receive any compensation, or if after Substantial Completion, termination compensation will equal 80% of the Developer's debt less rectification costs, account balances, etc.; and (c) if termination is for Extended Relief Events or by court ruling other than for Owner fault, Lenders are made whole and equity is repaid its nominal value, without additional return on investment.</p>
20.5 – 20.8	Termination Procedures and Duties, etc.	Detailed termination procedures and Developer obligations are set forth in Section 20.5. Developer obligations include providing a transition plan for orderly transition of Work, demobilization and transfer of control of the Project Site , the Ancillary Site (if prior to Project Final Acceptance) Work Site and the Facilities to the Owner, relinquishing and surrendering full control and possession of the Project, etc. to the Owner on the Termination Date in at least the condition required by the Handback Requirements, executing and delivering a written assignment of any Key Contracts the Owner elects to continue (if all Work has not yet been completed), and delivery of other information, documents, assignments, releases, etc.
21	Reserved Rights	
		<p>The Owner reserves all Business Opportunities related to the Project, the ProjectOwner-Provided Work Site, the Ancillary Site and all improvements therein (including the Facilities) and the Bellevue Intersection Improvements, and all ancillary or collateral use thereof, except to the extent such rights are expressly granted to Developer under the Agreement.</p> <p><i>Note: The Agreement expressly grants to Developer the right to develop the Project; no business opportunities have been granted to Developer.</i></p>

Article/ Section No.	Subject	Description
22	Records; Intellectual Property; D&C Pricing Documents	
22.1, 22.2	Project Records; Audits	<p>Developer must maintain all Project-related records and documents in Merced or other location approved by the Owner. All D&C-related records must be kept until the later of ten years after Substantial Completion and when the last audit related to the D&C Work (and timely commenced) is completed. All O&M-related records must be kept until the later of seven years after the Termination Date and when the last audit related to the O&M Services (and timely commenced) is completed.</p> <p>The Owner has broad audit rights with respect to the Project Records.</p> <p><i>Note: Records that are essential to the University such as as-built drawings are required to be turned over to the University on Termination Date.</i></p>
22.3	Public Record Act	<p>Developer must maintain and allow public access to Project Records subject to the Public Records Act on the same terms and conditions that the Owner would do so as provided by law and on the Termination Date, transfer to the Owner all public records in Developer's possession and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.</p> <p>Developer acknowledges that all Submittals, records, D&C Pricing Documents, etc. in the Owner's possession are subject to the Public Records Act. Developer must label as "CONFIDENTIAL" any proprietary information and cite the relevant provision exempting such material from public disclosure. Owner will use reasonable efforts to notify Developer of a request for public disclosure of any such materials, to allow Developer to assert an exception from disclosure requirements. If a legal action is filed against the Owner to disclose, Owner will promptly notify Developer and Owner's sole role will be as custodian until otherwise ordered by a court, and Developer is responsible for prosecuting or defending such action (although Owner reserves the right to intervene/participate as it deems necessary or desirable).</p>
22.4, 22.5	Intellectual Property	<p>Project Intellectual Property comprises Subject Intellectual Property, Developer Intellectual Property and Third Party Intellectual Property.</p> <p>Subject Intellectual Property means Intellectual Property created, authored and/or invented under or for the purposes of the Proposal, the Contract Documents and/or the Project. Developer assigns to the Owner all rights, title and interest in and to Subject Intellectual Property, and the Owner grants to Developer a limited license to use the Subject Intellectual Property for incorporation into the Project and performance of the Work.</p>

Article/ Section No.	Subject	Description
		<p>Developer Intellectual Property means Intellectual Property developed by Developer or its Affiliates or Contractors either prior to the Effective Date or independently of the Contract Documents and is incorporated into the Project. Developer grants to the Owner an irrevocable, perpetual, transferable (solely to a permitted Owner's assignee), fully paid-up right and license to use Developer Intellectual Property in connection with the Owner Uses (<i>i.e.</i>, uses in connection with the Work, Project, Facilities and Systems, including maintenance, repair, renewal work and renovations following the Termination Date).</p> <p>Third Party Intellectual Property means Intellectual Property owned by any Person unrelated to Developer or its Affiliates or Contractors and which is incorporated into the Project. Developer must secure licenses in the name of the Owner in connection with the Owner Uses (and may not incorporate any Third Party Intellectual Property without first securing such licenses), and must use reasonable efforts to (i) obtain the Owner's prior written approval of terms and conditions of such licenses, (ii) identify and disclose to the Owner all Third Party Intellectual Property, and (iii) obtain the consent of the relevant third parties to deposit the IP into an Intellectual Property Escrow.</p> <p>Developer must (a) deliver to the Owner all IP Materials (software, source code and other intellectual property and related documentation, as integrated into Project Intellectual Property), work product, documents, results and related materials created in the development of Subject Intellectual Property, and (b) either deliver to the Owner or deposit into an Intellectual Property Escrow all IP Materials for Developer Intellectual Property and Third Party Intellectual Property.</p>
22.6	D&C Pricing Documents	Within 10 days after the Effective Date and as a condition precedent to NTP 1, Developer must deliver all D&C Pricing Documents to the Owner. D&C Pricing Documents may only be unsealed and reviewed with Developer's reasonable consent, with notice in connection with any claim, DRB hearing or litigation related to D&C Work, and without consent in response to a Public Records Act request.
23	Legal Requirements	
23.1	Suspension and Debarment	Developer must deliver to the Owner not later than January 31 of each year through Project Final Acceptance, and upon Project Final Acceptance, signed certifications regarding suspension, debarment, etc. from Developer and each Affiliate of Developer and each Contractor whose Contract amount equals or exceeds US\$25,000.

Article/ Section No.	Subject	Description
24	Assignment and Transfer	
24.1	Restrictions on Developer	Developer may not assign or encumber the Developer's Interest without the Owner's prior written approval, in its sole discretion, except to Lenders for security, to any approved (or deemed approved) Substitute Entity under the Direct Agreement. Any assignment in violation of the provision is null and void <i>ab initio</i> and Owner may declare any such attempted action to be a material Developer Default.
24.2	Restrictions on Owner	The Owner may assign all or any portion of its rights, title and interest in and to, and obligations and liabilities under (if applicable), the Contract Documents, bonds and any other security (a) to any Person that succeeds to the powers and authority of the Owner in its sole discretion without consent, and (b) to others with the prior written consent of Developer. Any assignee must have a credit rating equal to or better than the Owner's at the time of assignment. Any assignment in violation of this provision is null and void <i>ab initio</i> .
25	Dispute Resolution Procedures	
		<p>All Disputes are subject to the Dispute Resolution Procedures except Owner decisions permitted to be made in its sole discretion. The Owner's initial determination is binding pending any final determination of the Dispute unless otherwise expressly provided. Owner decisions permitted to be made in its good faith discretion are binding unless finally determined by clear and convincing evidence that it was arbitrary or capricious.</p> <p>With the exception of Disputes over key Owner determinations discussed below, Disputes that are not resolved between the Parties are referred to the Disputes Review Board (DRB) for a non-binding decision. Disputes that remain unresolved after issuance of the DRB's recommendations regarding such Disputes may be resolved by litigation. Timely submission of a Dispute to the DRB is a condition precedent to a Party having the right to proceed to litigation of such unresolved Dispute, provided that a disputing Party may proceed directly to litigation if a failure by the other Party, or such other Party's selected DRB member, to select a replacement DRB member as required under Appendix 9-B delays by more than 30 days the disputing Party's ability to advance the Dispute to the next stage within the applicable time period set forth in Section 25.</p> <p>Disputes over Owner determinations regarding (i) achievement of Occupancy Readiness of the<u>all</u> First Delivery Facilities, Occupancy Readiness of the<u>all</u> Second Delivery Facilities, Milestones, or Substantial Completion, Facility Final Acceptance, or Project Final Acceptance, (ii) <u>failure by Developer to complete the Renewal Work in accordance with the then current Renewal Work</u></p>

Article/ Section No.	Subject	Description
		<p><u>Schedule and applicable Technical Requirements, (iii)</u> the Renewal Amount, or (iv) satisfaction of Handback Requirements, are subject to accelerated Dispute Resolution Procedures. Any DRB recommendations regarding such Disputes are provisionally binding pending the results of any litigation. The DRB must retain an Independent Certifier within a specified period in advance of any determination regarding Occupancy Readiness of the all First Delivery Facilities, Occupancy Readiness of the all Second Delivery Facilities, <u>or</u> Substantial Completion or Project Final Acceptance. The Independent Certifier will be required to provide its report to the DRB regarding its assessment of whether the applicable conditions precedent have been satisfied, which the DRB will consider if there is a dispute between the Parties as to whether the applicable conditions precedent have been satisfied. If Developer disagrees with any such determination by the Owner, Developer may dispute the Owner's determination under an abbreviated dispute resolution procedure which will require the DRB to render its decision within a specified abbreviated period of filing of such dispute. <u>The Owner will be responsible for the cost of the Independent Expert.</u></p> <p>During the course of any Dispute Resolution Procedures, Developer must continue performing the Work, including any Work that is the subject of the Dispute, as directed by the Owner in accordance with the Contract Documents.</p> <p>See Appendix 9 below regarding form of DRB Agreement and DRB procedures.</p>
26	Miscellaneous	
		<p>The Agreement contains various miscellaneous provisions, including provisions providing for governing law of California and venue for any litigation as a State court of competent jurisdiction in Alameda County, CA.</p>

Appendix No.	Subject	Description
Appendix 1	Abbreviations and Definitions	
		Appendix 1 sets forth meanings/definitions for abbreviations and capitalized terms used in the Project Agreement, Appendices and Technical Requirements. Additional abbreviations and capitalized terms used only in the Technical Volumes are defined in Volume II.
Appendix 2	Developer's Proposal Commitments	
		<p>Select portions of Developer's Proposal will be excerpted and attached as Appendix 2 to the Agreement. Anything so attached becomes a contractual requirement.</p> <p>Note: The excerpts that become contractual requirements <u>may will</u> include: (a) key technical submittals, such as Developer's project master plan, preliminary project schedule, master sequencing plan, project building designs, project management plan, operations and maintenance plan, <u>Project Master Plan, Conceptual Project Building Designs, Use Type Architectural Drawings, Project Management Plan, Operations and Maintenance Plan, Sustainability Plan Narrative</u> and any Alternative Technical Concepts; (b) Design and Construction Schedule of Values (Form F); (c) <u>Labor Strategy Narrative;</u> (d) <u>Bid Financial Model;</u> (e) <u>State-Eligible Cost Summary Tables;</u> (f) <u>Equity Members, Contractors and Key Personnel Commitment (Form G);</u> and (dg) certifications.</p>
Appendix 3	First and Second Delivery Facilities Deductions	
		This Appendix sets forth the formulas for calculating the liquidated damages to be assessed for late delivery of (a) the First Delivery Facilities (First Delivery Facilities Deduction) and (b) the Second Delivery Facilities (the Second Delivery Facilities Deduction).
Appendix 4	Site Maps	
4-A	Project Site Map	The limits of the Project Site are delineated in this map.
4-B	Ancillary Site Map	The limits of the Ancillary Site are delineated in this map.
4-C	Bellevue Intersection ROW <u>Site Map</u>	The <u>limits of the</u> Bellevue Lake Road Intersection right of way is <u>Site are</u> delineated in this map.

Appendix No.	Subject	Description
4-D	Central Plant Expansion Site Map	The limits of the Central Plant Expansion Site are delineated in this map.
4-E	Borrow Site Map	The limits of the Borrow Site are delineated in this map.
Appendix 5	Noncompliance Points Table	
		See Article 7 above.
Appendix 6	Payment Mechanism	
		<p>This Appendix sets forth the methodology and related requirements for: (a) calculating (i) the Partial Maximum Availability Payment (PMAP), Partial Monthly Disbursements and Partial Quarterly Settlement Amounts, and (ii) the Maximum Availability Payment (MAP), Monthly Disbursements and Quarterly Settlement Amounts; and (b) calculating and assessing monetary deductions against the Partial Availability Payments and Availability Payments, as applicable, for Availability Failures and Performance Failures during the provision of O&M Services, together with related procedural requirements. Deductions from Partial Availability Payments are capped per month at 90% of the monthly PMAP amount. Deductions from Availability Payments are capped per month at 90% of the monthly MAP amount. Developer may seek temporary relief from deductions for Recurrence Periods following the initial Temporary and Permanent Cure Periods have expired if the failure is of such a nature that it cannot be cured with Developer's best efforts in accordance with Best Management Practice, and the Owner may approve such relief in its reasonable discretion.</p>
Appendix 7	List of Initial Funding Agreements and Initial Security Documents	
		<i>[TO BE COMPLETED POST-SELECTION OF WINNING PROPOSER, REFLECTING ITS FINANCING DOCUMENTS]</i>
Appendix 8	Insurance Requirements	
		This Appendix sets forth certain terms and conditions applicable to required Project insurance policies.

Appendix No.	Subject	Description
Appendix 9	Disputes	
9-A	Form of Disputes Review Board Agreement	The form of DRB Agreement which DRB members will be required to execute is attached as Appendix 9-A.
9-B	Disputes Review Board Procedures	The DRB procedures, including qualification requirements and process for selection and replacement of DRB members, are set forth in Appendix 9-B.
Appendix 10	Initial Designation of Authorized Representatives	
		<i>[TO BE COMPLETED POST-SELECTION OF WINNING PROPOSER]</i>
Appendix 11	Calculation and Payment of Refinancing Gains	
		This Appendix describes how Refinancing Gains will be calculated for purposes of determining the sharing of any Refinancing Gain arising from a Refinancing permitted under Section 16.3 of the Agreement.
Appendix 12	Utilities Survey	
		A utilities survey is attached as Appendix 12 for purposes of baselining known Utilities.
Appendix 13	Form of Direct Agreement	
		See Section 13 above.
Appendix 14	Form of Letter of Credit	
		This Appendix sets forth the required form of letter of credit if Developer elects to deliver any in lieu of the Renewal Work Reserve Account or the Handback Requirements Reserve Account.
Appendix 15	Forms of Performance Bond, Payment Bond and Multiple Obligee Rider	
15-A	Form of	This Appendix sets forth the required form of Performance Bond.

Appendix No.	Subject	Description
	Performance Bond	
15-B	Form of Payment Bond	This Appendix sets forth the required form of Performance Bond.
15-C.1	Form of Multiple Obligee Rider – Performance Bond	This Appendix sets forth the required form of multiple obligee rider for the Performance Bond.
15-C.2	Form of Multiple Obligee Rider – Payment Bond	This Appendix sets forth the required form of multiple obligee rider for the Payment Bond.
Appendix 16	Intellectual Property License	
		This Appendix sets forth additional requirements with respect to third party software licenses and grants to Developer a non-exclusive license to use the Owner Proprietary Information on specified terms and conditions.
Appendix 17	Energy Utilities Management	
		This Appendix identifies compliance and energy usage standards.
Appendix 18	Direct Costs	
		<p>This Appendix sets forth what types of costs may be included in Direct Costs (for purposes of calculating any additional compensation to which Developer may be entitled due to a Relief Event), what types of costs are excluded, and the permitted mark-ups.</p> <p><i>Note: This Appendix provides the University with certainty regarding additional compensation payable to Developer in the event of an Owner Change or other Relief Event by allowing only specified types of direct costs and mark-ups.</i></p>

Appendix No.	Subject	Description
Appendix 19	Baseline Contaminated Materials Report	
		Four Phase 1 Preliminary Site Assessment due diligence reports are attached as Appendix 19 for purposes of baselining Known Contaminated Materials for the Project Site and Ancillary Site.
Appendix 20	First and Second Delivery Facilities	
20-A	First Delivery Facilities	This Appendix sets forth (a) the types and quantities (in ASF) of facilities comprising First Delivery Facilities and (b) the applicable schedule and amounts of liquidated damages for late delivery.
20-B	Second Delivery Facilities	This Appendix sets forth (a) the types and quantities (in ASF) of facilities comprising the Second Delivery Facilities and (b) the applicable daily liquidated damages amounts for late delivery.
Appendix 21	Owner Change Procedure	
		<p>This Appendix sets forth the Owner Change Procedure, including Developer obligations to provide a Preliminary Change Estimate and keep records, the method of calculation of the net cost impact of an Owner Change, the method of payment, agreement and issuance of a Change Order, provisions dealing with any disagreements on a Preliminary Change Estimate, and procedures for Owner's Unilateral Change Orders.</p> <p><i>Note: The Owner Change Procedure applies to Owner Changes relating to both the D&C Work and the O&M Services, including any Renovations during the Operating Period. Competitive bids must be sought for any Renovation work (see Section 11.1 above).</i></p>
Appendix 22	SBE/DVBE Self-Certification Form	
		Attached as Appendix 22 is the form of SBE/DVBE Self-Certification Form that must be completed and signed by each entity claiming an exemption from the skilled workforce requirements in Section 8.10 or for purposes of counting toward the small business goals in Section 8.11.
Appendix 23	Modifications to Project Commitments	
		This Appendix sets forth certain exceptions to Developer's assumption of the Owner's obligations and liabilities under the Project Commitments.

Appendix No.	Subject	Description
Appendix 24	Form of Early Works Agreement	<p>This Appendix sets forth the form of Early Works Agreement, which will be executed by the Owner and the Successful Proposer upon selection of the Successful Proposer. The purpose of the Early Works Agreement is to allow the permit Successful Proposer to commence certain early Design Work and general site preparation pending Financial Close. The Successful Proposer will be paid at pre-agreed hourly rates. Upon achievement of Financial Close, the Early Works Agreement will be null and void and the Successful Proposer will not be entitled to any compensation beyond what is contemplated <u>design work and limited construction work prior to achievement of financial close so as to enable it to meet the aggressive delivery deadlines set forth</u> in the Project Agreement. The Owner will pay up to a maximum of \$35 million for performance of the Early Works. Successful Proposer will invoice the Owner in arrears on a monthly basis for work performed under the Early Works Agreement. At financial close, the Early Works Agreement will terminate, work performed under the Early Works Agreement will be deemed work performed under the Contract Documents, and Successful Proposer will reimburse the Owner for amounts paid under the Early Works Agreement as part of the overall financing of the transaction. The Early Works Agreement may be terminated by the Owner for convenience or for any Proposer Default that is not cured within the applicable cure period, <u>or by Developer for an Owner Default.</u></p> <p><i>Note: The Early Works Agreement allows the Developer to meet the aggressive schedule for Project delivery by allowing design work to commence upon selection of the successful proposer. Once the Project Agreement is executed, the cost of the Early Works gets incorporated into the Project price and therefore University does not pay any additional amount for the Early Works. All work completed under the Early Works Agreement is the property of the University, regardless of whether the parties execute the Project Agreement and proceed with the Project.</i></p>
<u>Appendix 25</u>	<u>Governmental Approvals and Deadlines</u>	<p><u>This Appendix sets forth the applicable periods of time for securing Governmental Approvals (commencing from the date on which Developer submits a complete application and supporting documents to the applicable Governmental Entity in accordance with the requirements of such Governmental Entity and the Contract Documents), after which Developer will be entitled to seek relief for Governmental Approval Delays.</u></p>

Appendix No.	Subject	Description
<u>Appendix 26</u>	<u>Baseline Geotechnical Report</u>	
		<u>Kleinfelder's geotechnical report dated January 8, 2016 is attached as Appendix 26 for purposes of baselining geotechnical conditions.</u>
<u>Appendix 27</u>	<u>Owner's Competitive Bidding Policies and Procedures</u>	
		<u>This Appendix sets forth the Owner's Competitive Bidding Policies and Procedures.</u>

Additions shown by underscoring; deletions shown by strikethrough.

**The University of California
Clinical Enterprise Management Recognition Plan (CEMRP)
For Plan Year July 1, ~~2015~~2016 through June 30, ~~2016~~2017**

1. PLAN PURPOSE

The purpose of the University of California Clinical Enterprise Management Recognition Plan (CEMRP or “Plan”) is to provide ~~performance-based~~ at-risk, variable incentive compensation opportunity to those employees responsible for achieving or exceeding key Clinical Enterprise objectives. Consistent with healthcare industry practices, UC ~~medical centers~~Health Systems use performance-based (incentive) compensation programs to encourage and reward ~~quality patient care and operational efficiency among employees at every level. Achievement is measured based on~~ achievement of specific financial and/or non-financial objectives, (e.g., quality of care or patient satisfaction and safety, budget performance) and strategic objectives which relate to the Clinical Enterprise’s mission.

The annual Short Term Incentive (STI) component of the Plan provides participants with an opportunity to receive a non-base building cash incentive based on the achievement of specific annual financial, non-financial, and strategic objectives relative to the mission and goals of the UC Health enterprise.

The Long Term Incentive (LTI) component is a non-base building incentive that is intended to encourage and reward top executives of the UC Health enterprise for the achievement of multi-year strategic initiatives, to support and reinforce those results that will promote UC Health and its long-term success, and emphasize the importance of the long-term strategic plan. In addition, the LTI assists in retaining the executive talent needed to achieve multi-year organizational objectives by complementing (but not duplicating) the focus of the rest of the Clinical Enterprise Management Recognition Plan. The Executive Vice President (EVP) – UC Health and the Chief Executive Officers (CEOs) of each of the Health Systems will participate in the LTI.

The overall Plan encourages the teamwork required to meet challenging organizational goals. The Plan also uses individual and/or departmental performance objectives to encourage participants to maximize their personal effort and to demonstrate individual excellence.

2. PLAN OVERSIGHT

Development, governance and interpretation of the Plan will be overseen by an independent Administrative Oversight Committee (AOC) comprised as follows:

- Executive Vice President – ~~Business Operations~~Chief Operating Officer
- The Chancellor of every campus with a ~~medical center~~Health System
- The Vice President – Human Resources
- The Executive Director – Compensation Programs and Strategy

The AOC, in its deliberations pertaining to the development or revision of the Plan, ~~will~~may consult with the ~~Senior Vice President—EVP – UC Health Sciences and Services~~, and representatives from the ~~medical centers comprised of a Chief Medical Officer, a Chief Nursing Officer, and a Chief Human Resources Officer, each selected from a UC medical center.~~Health Systems. The AOC will abide by the Political Reform Act, which would prohibit Plan participants, such as the ~~Senior Vice President—Health Sciences and Services, Chief Medical Officers, Chief Nursing Officers, and Chief Human Resources Officers~~, from making, participating in making, or influencing decisions that would affect whether they participate in the Plan, the objectives that will govern whether they earn awards under the Plan, and the amount of awards paid to them under the Plan. The Office of General Counsel will be consulted if there are any questions about the application of the Political Reform Act in this context. The Senior Vice President – Chief ~~Audit and Compliance~~ and Audit Officer will assure that periodic auditing and monitoring will occur, as appropriate.

3. PLAN APPROVAL

The Plan will be subject to an annual review conducted by the AOC to address design issues and market alignment. The Plan will be implemented each year upon the approval of the AOC if no changes to the Plan are being recommended.

If the AOC recommends any substantive or material changes to the Plan, including, but not limited to, changes in the award opportunity levels, the AOC will obtain the approval of the President and the Regents' ~~Committees on Compensation and~~Committee on Health Services before implementing such changes. Reasonable efforts, given all circumstances, will be made to delay implementing substantive or material Plan changes until after the end of the current Plan year. However, if changes are implemented during the Plan year that would affect the award calculations, changes will only be applied prospectively to the remaining portion of the Plan year. Plan changes recommended by the AOC that are not material or substantive, or are deemed to be technical corrections, may be approved by the AOC after consultation with the President and ~~the Chairs of the Regents' Committees on Compensation and Health Services~~ and will then be implemented by the AOC at an appropriate time. The Regents will receive reports of all changes to the Plan.

4. PLAN YEAR

The ~~CEMRP Plan~~ year will correspond to the University's fiscal year, beginning July 1 and ending the following June 30.

The applicable performance period for CEMRP's LTI component will begin July 1 of the Plan year and end three years later on June 30th.

5. PLAN ADMINISTRATION

The Plan will be administered under the purview of the Executive Director – Compensation Programs and Strategy, at the Office of the President, consistent with the Plan features outlined in this document, and as approved by the President and the Regents' Committee on Health

Services. The Plan features and provisions outlined in this document will supersede any other Plan summary.

6. ELIGIBILITY TO PARTICIPATE

~~Eligible participants in CEMRP are defined as the senior leadership of the Clinical Enterprise who have significant strategic impact and a broad span of control with the ability to effect enterprise-wide change. Participants must be full-time employees of the University at the end of the Plan year to be eligible to receive an award for that Plan year, unless they have retired or involuntarily separated from the University as set forth in the Separation from the University provision below.~~

Eligibility to participate in CEMRP's LTI component is reserved for those senior executives who are in a position to make a significant impact on the achievement of long-term strategic objectives, specifically the EVP – UC Health and the CEOs at each of the Health Systems.

Plan participation in any one year does not provide any right or guarantee of eligibility or participation in any subsequent year of the Plan.

~~Participants must have at least a “Meets Expectations” overall rating on their performance evaluation for the Plan year to be considered for an award under the Plan. A manager may reduce an award according to the participant’s overall performance rating. However, an overall performance rating below “Meets Expectations” will eliminate the total award for that participant.~~

~~A participant who has been found to have committed a serious violation of state or federal law or a serious violation of University policy at any time prior to distribution of an award will not be eligible for an award under the Plan. If such allegations against a participant are pending investigation at the time of the award distribution, the participant’s award for that Plan year may be withheld pending the outcome of the investigation.~~

~~Likewise, when it has been determined that a participant’s own actions or the participant’s negligent oversight of other University employees played a material role in contributing to a serious adverse development that could harm the reputation, financial standing, or stability of the participant’s Medical Center (e.g., the receipt of an adverse decision from a regulatory agency, placement on probation status, or the adverse resolution of a major medical malpractice claim), the AOC has the discretion to decide that the participant will either not be eligible for an award under the Plan that year or will receive an award that has been reduced as a result of and consistent with the participant’s role with regard to the adverse development. If the participant’s role with regard to the adverse development is still under investigation at the time of award distribution, the participant’s award for the Plan year may be withheld pending the outcome of the investigation.~~

~~Prior to the beginning of the Plan year, the AOC will provide the President and the Chair of the Regents’ Committee on Compensation with a list of Plan participants for that Plan year, including appropriate detail regarding each Plan participant.~~

~~Plan participation in any one year does not provide any right or guarantee of eligibility or participation in any subsequent year of the Plan.~~

Plan participants may be added after the Plan year has begun, subject to CEMRP's eligibility requirements and AOC approval.

Participants in this Plan may not participate in any other incentive or ~~bonus~~recognition plan during the Plan year, including the Health Sciences Compensation Plan, except in the event of a mid-year transfer within the University. Specifically, if a Plan participant is eligible for only a partial year award under this Plan because a mid-year transfer of position renders him or her eligible for Plan participation for only a portion of the Plan year, he or she may participate in a different University plan for the other portion of the Plan year. Concurrent participation in this Plan and another University incentive plan is not permitted.

CEMRP STI participants must have a minimum of six months of service to participate in the Plan and will receive a prorated award in their first year of participation. Similarly, participants who were not working for a significant portion of the Plan year may receive a prorated award in appropriate circumstances, as determined by the AOC. Participants who transfer within the University to a position that would not be eligible for participation in the Plan are eligible to receive a prorated award for that Plan year if they worked in the CEMRP-eligible position for at least six months.

An LTI participant hired or promoted into an LTI-eligible position between July 1 and December 31 of the Plan year will be assigned one or more long-term objective(s) for the three-year period that begins with the Plan year and will be eligible for a prorated LTI incentive opportunity for that period. The prorated LTI award will be determined by dividing the number of complete months employed during that three-year period by the number of months in the full performance period (36 months).

Prior to the beginning of the Plan year, the AOC will approve the Plan's participants and provide the President and the Chair of the Regents' Committee on Health Services with a list of participants for that Plan year, including appropriate detail regarding each participant.

7. AWARD OPPORTUNITY LEVELS

As part of their competitive total cash compensation package, Plan participants are assigned threshold, target and maximum incentive award levels, expressed as a percentage of their base salary. These award opportunity levels serve to motivate and drive individual and team performance toward ~~annually~~ established objectives. Target awards will be calibrated to expected results while maximum awards will ~~only~~ be granted only for superior performance against established performance standards. Actual awards for any individual participant may not exceed the maximum award opportunity level assigned. Award opportunity levels are determined, in part, based on the participant's level within the organization and the relative scope of responsibilities, impact of decisions, and long-term strategic impact. If a participant changes positions during the Plan year within the same institution (defined as the participant's ~~Medical Center~~Health System) and the participant's level within the organization changes based on the

table below, the participant's award should be adjusted to take into account the amount of time spent in each position.

CEMRP STI Annual Award Opportunity (as percent of salary)

Position Level within Organization	Threshold Opportunity (as % of Salary)	Target Opportunity (as % of Salary)	Maximum Opportunity (as % of Salary)
<u>EVP – UC Health and Health System Chief Executive Officers</u>	10%	20%	30%
Other “Chief Levels” and Other Key Senior Clinical Enterprise Leadership	7.5%	15%	25%
Other Key Clinical Enterprise Leadership	7.5%	15%	20%

The individuals eligible to participate in CEMRP's LTI component will be assigned one or more long-term performance objective(s) for the three-year period that begins with each new CEMRP Plan year, resulting in overlapping three-year LTI cycles. The LTI Threshold, Target, and Maximum award opportunity for the EVP – UC Health and the CEOs will be 5 percent, 10 percent and 15 percent, respectively, as shown in the chart below. The actual awards will be based on final assessments at the conclusion of the three-year LTI performance period and paid at the same time as the STI awards are paid.

CEMRP LTI Award Opportunity (as percent of salary)

<u>Position Level within Organization</u>	<u>Threshold Opportunity</u>	<u>Target Opportunity</u>	<u>Maximum Opportunity</u>
<u>EVP – UC Health and Health System Chief Executive Officers</u>	<u>5%</u>	<u>10%</u>	<u>15%</u>

8. PERFORMANCE STANDARDS

Each Plan participant will be assigned Performance Objectives which have standards of performance defined as Threshold, Target, and Maximum performance consistent with the following:

Threshold Performance – Represents the minimum acceptable performance standard for which an award can be paid. This level represents satisfactory results, but less than full achievement of stretch objectives.

Target Performance – Represents successful attainment of expected level of performance against stretch objectives.

Maximum Performance – Represents results which clearly and significantly exceed all performance expectations for the year. This level of accomplishment should be rare.

The same performance standards will be used for LTI performance objectives, but they will relate to performance over a three-year period rather than a one-year period.

9. PERFORMANCE OBJECTIVES AND WEIGHTINGS

Prior to the beginning of each fiscal year, a series of financial and non-financial performance objectives will be established for each participant, consistent with the mission and goals of the Clinical Enterprise and each Medical Center/Health System in the Clinical Enterprise.

~~There will nine objectives for each participant in the Plan comprised of the following: (1) Three objectives relating to the performance of the *Clinical Enterprise* (defined as Systemwide); (2) Three objectives relating to the performance of the *Institution* (defined as the participant's Medical Center); (3) Three objectives relating to *Individual* performance. Each of the nine objectives will relate to one or more of the categories below:~~

- ~~• Financial Performance~~
- ~~• Quality Improvements~~
- ~~• Patient Satisfaction~~
- ~~• Key Initiatives in Support of the Strategic Plan~~
- ~~• People and other Resource Management~~

~~The participants' performance toward their assigned objectives will be measured across three organizational levels as noted above (*Clinical Enterprise*, *Institutional*, and *Individual*) based on the weightings listed in the table below.~~

Position Level within Organization	Clinical Enterprise Level	Institutional Level	Individual Level
Chief Executive Officer	40%	40%	20%
Other "Chief Levels" and Other Key Senior Clinical Enterprise Leadership	30%	50%	20%
Other Clinical Participants	20%	50%	30%

Clinical Enterprise level (systemwide) objectives encourage ~~medical centers~~ the Health Systems to work together for the benefit of the entire Clinical Enterprise system. Institutional performance objectives encourage local teamwork and recognize the joint effort needed to meet challenging organizational goals. Individual or departmental performance objectives are designed to ~~encourage participants' maximum effort and demonstration of~~ focus attention on key individual excellence or departmental initiatives.

For purposes of ~~the~~ this Plan, ~~individual~~ individual/departmental performance objectives should not be the same activities that are normal job requirements or expectations. Job performance is assessed as part of the Annual Performance Review Process. All CEMRP performance

objectives must be stretch in terms of achievement potential, must be aligned with specific Institutional and/or Clinical Enterprise initiatives, and are often peripheral but related to or integrated with ongoing job responsibilities.

Each of the STI and LTI performance objectives will relate to one or more of the categories below:

- Financial Performance
- Quality Improvements
- Patient Satisfaction
- Key Initiatives in Support of the Strategic Plan
- People and other Resource Management

There will be no more than nine STI performance objectives for each participant in CEMRP comprised of the following: (1) Up to three objectives relating to the performance of the *Clinical Enterprise* (defined as Systemwide); (2) Up to three objectives relating to the performance of the *Institution* (defined as the participant's Health System); (3) For all participants other than those eligible for the LTI component, up to three objectives relating to *Individual* and/or *Departmental* performance. If an Individual/Departmental performance objective has three components and the Threshold, Target, and Maximum performance standards are framed as "meet one of three," "meet two of three," and "meet three of three," respectively, each component must have equal importance and weighting. While this type of Individual/Departmental performance objective is permissible, Individual/Departmental performance objectives with clear metrics for each performance standard are preferred.

Annual STI Individual/Departmental performance objectives will be established and administered by each participant's supervisor in consultation with the CEO of that Health System for all participants other than those eligible to participate in the LTI component.

The annual STI Institutional performance objectives for each Health System will be established and administered by the EVP – UC Health in consultation with the respective Chancellors in advance of the Plan year.

The annual STI performance objectives for the Clinical Enterprise Level (systemwide) will be established by the President, who may consult with the Chair of the Regents' Committee on Health Services.

LTI participants will also be assigned one or more LTI performance objective(s) for each three-year performance period. The LTI performance objective(s) will require longer-term, multi-year efforts to achieve. LTI performance objectives must contain details that define Threshold, Target, and Maximum performance and include metrics and benchmarks, as appropriate. The LTI performance objectives will be established by the President, who will consult with the Chair of the Regents' Committee on Health Services.

All performance objectives must be SMART (specific, measureable, attainable, relevant, and time-based). Assessment of participants' performance and contribution relative to these objectives will determine their actual award amount.

Peer group and/or industry data must be used where appropriate to provide a benchmark and performance standard. Performance objectives at the Clinical Enterprise and Institutional levels are typically measured against relative peer/industry benchmarks in the market. Where an established internal or external benchmark is used, baseline metrics must be included to enable a determination of the degree to which the intended results would require stretch performance. The Chief Human Resource Officer at each Health System will be responsible for ensuring that all Individual/Departmental objectives for participants at that location meet the SMART standards before obtaining sign-off from the CEO and Chancellor. The STI and LTI performance objectives for all participants will be subject to review and approval by the AOC prior to the beginning of the Plan year or as soon as possible thereafter. The AOC will consult the Senior Vice President – Chief Compliance and Audit Officer in an independent advisory capacity during its review of Plan participants' objectives.

The participants' performance toward their assigned STI objectives may be measured across three organizational levels as noted above (Clinical Enterprise, Institutional, and Individual/Departmental) and will be weighted according to the percentages listed in the table below.

Weighting of STI Annual Objectives

<u>Position Level within Organization</u>	<u>Clinical Enterprise Level</u>	<u>Institutional Level</u>	<u>Individual and/or Departmental Level</u>
<u>EVP – UC Health and Health System Chief Executive Officers</u>	<u>50%</u>	<u>50%</u>	<u>0%</u>
<u>Other “Chief Levels” and Other Key Senior Clinical Enterprise Leadership</u>	<u>30%</u>	<u>50%</u>	<u>20%</u>
<u>Other Clinical Participants</u>	<u>20%</u>	<u>50%</u>	<u>30%</u>

The supervisor of each Plan participant will provide him/her with: (a) the participant's performance objectives for the Plan year, (b) the performance standards that will be used to measure Threshold, Target, and Maximum performance for each objective, (c) the performance weightings that will apply to the participant's performance objectives, and (d) a copy of this Plan document.

~~Annual performance objectives for the Clinical Enterprise Level (system-wide), annual Institutional performance objectives for each medical center, and annual performance objectives for the individual CEOs of the medical centers will be established and administered by the Senior Vice President—Health Sciences and Services in consultation with the respective Chancellors in advance of the Plan year. Annual performance objectives for the Senior Vice President—Health Sciences and Services will be established by the President in consultation with the Chairs of the Regents' Committees on Compensation and Health Services in advance of~~

~~the Plan year. Annual performance objectives for other participants will be established and administered by each participant's supervisor in consultation with the CEO of that medical center.~~

~~Objectives for participants in this Plan must be submitted to the AOC, which will review and approve the objectives in consultation with the President and the Chairs of the Regents' Committees on Compensation and Health Services in advance of the Plan year. The AOC will consult the Senior Vice President—Chief Audit and Compliance Officer in an independent advisory capacity during its review of Plan participants' objectives.~~

10. FINANCIAL STANDARDS AND PLAN FUNDING

~~A financial target will be set by each medical center for the Plan year. These financial targets will be reviewed by the AOC in consultation with the Senior Vice President—Health Sciences and Services and the Executive Vice President and Chief Financial Officer, and approved by the President in advance of the beginning of the Plan year.~~

Full funding of ~~incentive~~STI awards for participants at a ~~medical center~~Health System in the Plan year is contingent upon that ~~medical center's~~Health System's ability to pay out the awards while maintaining a positive net cash flow from operations before intra-institutional transfers. In the event that the ~~medical center~~Health System cannot meet that financial standard for the Plan year, and the ~~medical center~~Health System attains key Institutional non-financial objectives, the AOC may consider and approve, in consultation with the Chancellor and ~~Senior Vice President—EVP – UC Health Sciences and Services~~, partial ~~incentive~~STI award payouts for some or all of that ~~medical center's~~Health System's Plan participants based on the Award Opportunity Levels defined above and participants' achievement of their assigned STI performance objectives for the Plan year.

11. INCENTIVE AWARD ELIGIBILITY CRITERIA

Participants must be active full-time employees of the University at the conclusion of the Plan year (i.e., as of midnight on June 30th) to be eligible to receive an STI award for that Plan year, unless the circumstances of their separation from the University entitle them to a full or partial award as set forth in the Separation from the University provision below in Section 13.

LTI participants must be active full-time employees at the conclusion of the three-year period associated with an LTI performance objective (i.e., as of midnight on June 30th of the third year) to be eligible to receive an LTI award for that period.

Participants must have at least a “Meets Expectations” or equivalent overall rating on their performance evaluation for the Plan year to be considered for an STI award under the Plan for that Plan year or an LTI award for the performance period that concludes at the end of that Plan year. A manager may reduce or eliminate an award according to the participant's overall performance rating with the approval of the AOC. However, an overall performance rating below “Meets Expectations” will eliminate the total award for that participant for that Plan year or performance period.

A participant who has been found to have committed a serious violation of state or federal law or a serious violation of University policy at any time prior to distribution of an STI or LTI award will not be eligible for such awards under the Plan for that Plan year and/or performance period. If such allegations against a participant are pending investigation at the time of the award distribution, the participant's award(s) may be withheld pending the outcome of the investigation. If the participant's violation is discovered later, the participant may be required to repay awards for the Plan years and/or performance periods in which the violation occurred.

Likewise, when it has been determined that a participant's own actions or the participant's negligent oversight of other University employees played a material role in contributing to a serious adverse development that could harm the reputation, financial standing, or stability of the participant's Health System (e.g., the receipt of an adverse decision from a regulatory agency, placement on probation status, or the adverse resolution of a major medical malpractice claim) or, with regard to the EVP – UC Health, the Clinical Enterprise overall, the AOC has the discretion to decide that the participant will either not be eligible for an STI or LTI award under the Plan that year or will receive an award that has been reduced as a result of and consistent with the participant's role with regard to the adverse development. If the participant's role with regard to the adverse development is still under investigation at the time of award distribution, the participant's award for the Plan year may be withheld pending the outcome of the investigation.

If the participant's role in the adverse development is discovered later, the participant may be required to repay awards for the years in which the actions or negligent oversight occurred.

ADMINISTRATIVE PROVISIONS AND INCENTIVE AWARD APPROVAL

~~The Plan will be administered under the purview of the Executive Director— Compensation Programs and Strategy, at the Office of the President, consistent with the Plan features outlined above, and as approved by the President and the Regents. The Plan features and provisions outlined in this document will supersede any other Plan summary.~~

12. INCENTIVE AWARD APPROVAL PROCESS

~~The supervisor of each Plan participant will provide him/her with an annual Terms and Conditions document that (a) identifies the participant's individual performance objectives for the Plan year, (b) defines the standards that will be used to measure Threshold, Target, and Maximum performance for each objective, and (c) indicates the performance weightings that will apply to the participant's individual objectives.~~

~~At the end of each fiscal Plan year, proposed incentive awards will be submitted to the Executive Director – Compensation Programs and Strategy. Except as set forth below, review and approval of all incentive awards under the Plan will be the responsibility of the AOC, which will review recommended incentive awards within 60 days of the end of the Plan Year. awards amounts will be reviewed and approved by the AOC. Any incentive award for the Senior Vice President— Health Sciences and Services or any other Plan participant who holds one of the executive offices identified in section 92032(b)(7)(B)(i) of the California Education Code, including, but not limited to, any vice president of the University, EVP – UC Health will require the approval of~~

~~the Regents~~ Regents' Committee on Health Services in addition to the approval of the AOC. The AOC will consult the Senior Vice President – Chief Compliance and Audit Officer in an independent advisory capacity during its review of proposed incentive awards. The AOC will provide the chair of the Regents' Committee on Health Services and the President with a listing of award recommendations before awards are scheduled to be paid. On behalf of the AOC, the Executive Director – Compensation Programs and Strategy will provide the President and the Regents with the award details in the Annual Report on Executive Compensation.

Approved incentive awards will be processed as soon as possible unless they have been deferred pursuant to the provision set forth below. ~~The AOC will consult the Senior Vice President – Chief Audit and Compliance Officer in an independent advisory capacity during its review of proposed incentive awards.~~

~~The Executive Director – Compensation Programs and Strategy will provide the President and Chairs of the Regents' Committees on Compensation and Health Services with a listing of the incentive award recommendations before the awards are scheduled to be paid. The awards will be reported annually to the Regents, with appropriate detail, such as the range of awards, and the percentage and amount of the award granted for each Plan participant.~~

Annual incentive awards will be payable in cash, subject to appropriate taxes and pursuant to normal University payroll procedures. The participant's total University salary (~~including which includes~~ base salary, and any stipends, and PTO pay, but ~~excluding~~ does not include any prior year incentive award payouts ~~and/or~~ disability pay) ~~paid as of the end June 1st of the Plan year (i.e., on June 30)~~ will be used in the calculation of the incentive award ~~payout amount~~. The assigned Description of Service code of "XCE" specific to the Plan must be used when paying awards to Plan participants.

This Plan may be terminated or replaced at any time for any reason upon the recommendation of the President, in consultation with the ~~Chairs~~ Chair of the Regents' ~~Committees~~ Committee on ~~Compensation and Health Services, and with the approval of the Regents.~~ Reasonable efforts, given all circumstances, will be made to delay Plan termination until after the current Plan year has concluded. However, if the Plan is terminated during the Plan year, awards for the current year will still be processed based on participants' performance during the portion of the Plan year prior to termination.

Notwithstanding any other term in the Plan, current year incentive awards may be deferred if the Regents issue a declaration of extreme financial emergency upon the recommendation of the President or if the Clinical Enterprise experiences a ~~system-wide~~ systemwide negative cash flow. In such situations, the deferral would be made upon the recommendation of the AOC and require the approval of the President and the ~~Chairs~~ Chair of the Regents' ~~Committees~~ Committee on ~~Compensation and Health Services.~~ In such a case the current year deferred awards will earn interest at the ~~STIP~~ Short Term Investment Pool rate. Award payments that have been approved, but deferred, will be processed and distributed as soon as possible. In no event will awards be deferred longer than one year.

The University may require repayment of an award that ~~has been~~was made as a result of inappropriate circumstances. For example, if there is an inadvertent overpayment, the participant will be required to repay the overage. If the participant has not made the repayment before an award for the employee for a subsequent Plan year is approved, the outstanding amount may be deducted from the employee's subsequent award.

13. SEPARATION FROM THE UNIVERSITY

~~Participants~~The table below indicates whether a participant who retire or who involuntarily separate due to reorganization, restructuring, or total disability during the current Plan year~~are~~separates from the University will be eligible to receive a prorated incentive full or partial STI award for the current Plan year based on the date and also specifies when forfeiture of separation of employment from the University such awards will occur. Retirement and total disability status will be determined based upon applicable University policies. In order to determine the most accurate STI award for the current Plan year, ~~prorated~~partial payments will be calculated at the end of the Plan year and issued in accordance with the normal ~~processing~~process and schedule.

~~Participants whose employment terminates as a result of death during the current Plan year are similarly eligible to receive a prorated incentive award for the current Plan year based on the date of death. In this situation, award payments will be made to the estate of the deceased participant. In order to determine the most accurate award for the current Plan year, prorated payments will be calculated at the end of the Plan year and issued to the estate of the deceased participant in accordance with the normal processing schedule.~~

~~Involuntary separation during the current Plan year for any other reason will be handled on a case by case basis.~~

PARTIAL YEAR INCENTIVE AWARDS

~~Participants must have a minimum of six months of service to participate in the Plan and will receive a prorated award in their first year of participation. Similarly, participants who were not working for a significant portion of the Plan year may receive a prorated award. Participants who transfer within the University to a position that would not be eligible for participation in the Plan are eligible to receive a prorated award for that Plan year.~~

<u>Reason for Separation</u>	<u>Separation During Plan Year (i.e., on or before June 30, 2017)</u>	<u>Separation on or after July 1, 2017</u>
<u>Voluntary Separation for any reason other than retirement</u>	<ul style="list-style-type: none"> • <u>Forfeiture of STI award for 2016-17 Plan year.</u> 	<ul style="list-style-type: none"> • <u>Payout of full STI award for 2016-17 Plan year.</u>
<ul style="list-style-type: none"> • <u>Retirement</u> • <u>Medical separation due to disability</u> • <u>Death*</u> • <u>Involuntary separation due to reorganization or restructuring</u> 	<ul style="list-style-type: none"> • <u>Partial STI award for 2016-17 Plan year.</u> 	<ul style="list-style-type: none"> • <u>Payout of full STI award for 2016-17 Plan year.</u>
<u>Involuntary termination due to misconduct or inadequate performance</u>	<ul style="list-style-type: none"> • <u>Forfeiture of STI award for 2016-17 Plan year.</u> 	<ul style="list-style-type: none"> • <u>Forfeiture of STI award for 2016-17 Plan year.</u>

*In such cases, payments will be made to the estate of the participant.

LTI awards are not eligible for full or partial payment if a participant separates from the University before the conclusion of the applicable three-year LTI performance period; forfeiture will occur.

14. TREATMENT FOR BENEFIT PURPOSES

~~With the exception of the Senior Management Supplemental Benefit Program,~~
~~incentive~~Incentive awards under this Plan are not considered to be compensation for University benefit purposes, such as the University of California Retirement Plan or employee life insurance programs.

15. TAX TREATMENT AND REPORTING

Under Internal Revenue Service Regulations, payment of incentive awards under this Plan must be included in the participant's income as wages subject to withholding for federal and state income taxes and applicable FICA taxes. The payment is reportable on the participant's Form W-2 in the year paid.