

CAPITAL PLANNING, DESIGN AND CONSTRUCTION
SECTION III – LAND USE PLANNING AND ENVIRONMENTAL REVIEW
SECTIONS 9015-9020

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9015 PROCEDURE FOR LAND DEVELOPMENT IN ACCORDANCE WITH EXECUTIVE ORDER 747

E.O. 747 applies to projects involving long-term contractual relationships that use or develop campus real property to further the educational mission of the campus through the acquisition of physical assets, income, and/or educationally related opportunities for students and faculty. Typically, these projects involve third-party development contracts working through a ground lease to the foundation. Sometimes these projects will involve other public agencies constructing facilities on CSU land through a ground lease. At the conceptual stage, the campus shall consult with Land Use Planning and Environmental Review unit and/or the assigned facilities planner in CPDC to discuss the project and determine if E.O. 747 applies.

CAMPUS RESPONSIBILITIES

If it is determined that E.O. 747 applies, the campus should meet with the chair of the Land Development Review Committee (LDRC), to review the project, including a discussion of the following items:

- How will this project further the educational mission of the campus?
- Discuss scope of project.
- Discuss how this project is the highest and best use of University property in consideration of long-term land use planning, the campus master plan, and alternative uses from an economic point of view.
- If the project involves a change in the approved Master Plan, does the proposed project better meet the educational program needs than the current master-planned program use?
- Will this project impact or “displace” a current program use? If so, what are the plans for the displaced program?

LAND DEVELOPMENT REVIEW RESPONSIBILITIES

The chair of the LDRC will provide direction on submittal material for the Board of Trustees concept approval item and advise the campus to work with Financing and Treasury, and CPDC, as may be appropriate, to prepare the agenda item. The LDRC chair may convene a meeting of the LDRC for the committee to review the project and provide direction to the campus as necessary.

To assist the campus in achieving finance committee concept approval, the chair of the LDRC may issue a letter to the campus indicating the steps and process leading to approval of the development plan (http://www.calstate.edu/cpdc/suam/appendices/App_G-Land_Development_Letter.doc). The letter will include a schedule of submissions for BOT required actions to meet the campus-desired completion schedule and appropriate reference to CEQA, title, or other requirements for due diligence. A sample “Schedule of Submissions” (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-Sched_Submissions_for_BOT_Req_Actions.doc) and a sample “Due Diligence Checklist” (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-EO747_Checklist-5.05.doc) are attached in Appendix G. The campus should complete the due diligence and provide a report of its findings to CPDC, along with the required submittals, early enough to allow sufficient time for review and possible revision prior to submittal for Board of Trustees and final action.

BOARD OF TRUSTEES APPROVAL

Before execution of any commitments for use of the property, an action item seeking final approval of the real property development project shall be presented to the Board of Trustees that will provide detailed information on the project including:

- An update of the conceptual plan presented to the trustees that describes how the project will further the educational mission of the campus,
- The results of due diligence studies including an assessment of risks associated with the project,
- A summary of the important terms and conditions of all proposed substantive agreements, and
- A multi-year financial plan.

The campus will seek approval of the trustees for the development plan after all terms and conditions have been negotiated by the campus, finalized in appropriate legal documents, and reviewed and analyzed by the chancellor's office.

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Further approvals by the Board will be sought as necessary to accommodate master plan changes and schematic design review and approval, as indicated in the “Schedule of Submissions” (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-Sched_Submissions_for_BOT_Req_Actions.doc).

9016 THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

ENVIRONMENTAL IMPACT REVIEW PROCESS

The California Environmental Quality Act (CEQA) requires all public agencies to disclose any significantly adverse impact that a proposed capital outlay project or lease may have upon the environment (Refer to the Public Resources Code, Sections 21000 *et seq.* for CEQA and the California Code of Regulations, Title 14, Division 6, Sections 15000 *et seq.* for the CEQA Guidelines). An environmental document must be completed and available prior to submitting master plan proposals (including revisions) and schematic plans for approval by the Board of Trustees, or as otherwise delegated, and prior to submitting individual building projects to the State Public Works Board for approval of preliminary plans and authorization to begin working drawings. Completion of the document must also take place before the public agency takes any irrevocable action on the project. In addition, information regarding environmental effects from a project may be required for both scope conference(s) with the Department of General Services, Office of Project Development and Management (OPDM).

The Assistant Vice Chancellor, Capital Planning, Design and Construction (AVC, CPDC) has assigned responsibility for meeting trustees’ requirements for compliance with CEQA to Land Use Planning and Environmental Review (LUPER). LUPER will be available as a resource to all campus staff for assistance and recommendations regarding CEQA compliance. See Appendix G, CSU CEQA Procedures (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-CEQA_Procedures-4.02.doc).

As it pertains to the CSU capital outlay process, the environmental process has certain documents that must be completed before a project can be complete. The following is a listing of those procedures and documents:

- **Project Description** – The scope of a project as presented in the Capital Outlay Budget Change Proposal (COBCP) shall coincide with project description presented in a project’s environmental document. The exact description in the environmental document will be more detailed as a result of additional work completed by the public agency in the intervening time between submittal of the COBCP to the Department of Finance and the initiation of the environmental document; however, the basic scope shall remain the same.
- **Environmental Document** – This is the preparation of either: (1) a Notice of Exemption, or (2) Negative Declaration, or (3) Environmental Impact Report. In addition to referring to CEQA, assistance regarding the preparation of this document can be obtained by contacting the Land Use Planning and Environmental Review Unit in CPDC.
- **Notice of Exemption** – Shall be filed with the State Clearinghouse if the project is exempt from CEQA based upon provisions of the Public Resources Code, Section 21084 and the California Code of Regulations, Section 15300. This filing activity, as with the Notice of Determination, will entail date stamping of the Notice of Exemption by the State Clearinghouse and the subsequent provisions stated for the Notice of Determination are the same for the Notice of Exemption.
- **Notice of Determination** – Shall be filed with the State Clearinghouse upon approval of either a Negative Declaration or an EIR (or other similar CEQA document) in conjunction with project approval. Approval action may be either by the Board of Trustees or as delegated to the AVC, CPDC. This filing activity will entail date stamping of the Notice of Determination by the State Clearinghouse, with a stamped copy returned to CPDC and filed for record keeping. This activity and document signifies the completion of the environmental process and initiation of the statutory appeal period, which must be completed before the public agency can go to the State Public Works Board for approval of preliminary plans and continuation to the working drawing phase. (See SAM Section 6680, Illustration 1.)
- **Litigation Period** – Upon filing of the Notice of Determination, a litigation period begins during which any party can file suit against the project. When an EIR or Notice of Determination have been prepared, the litigation period is 30 days. If the Notice of Determination is not filed, the litigation period is 180 days after the public agency has made a decision to carry out or approve the project or the commencement if the project is undertaken without a formal decision by the public agency. Although the environmental process

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is completed with the filing of the Notice of Determination with the State Clearinghouse, public agencies should be aware that the litigation period still is in effect and could influence the timing of a capital outlay project. Also, the State Public Works Board cannot take action on items until the appeal period is exhausted.

- Mitigation Monitoring and Reporting – When approval for an environmental document (EIR or Negative Declaration) includes specified mitigation measures and a mitigation monitoring program as required by CEQA, it shall be the responsibility of the campus to ensure accurate and timely preparation of necessary monitoring reports for a public review and ensure their availability as required under CEQA.

Copies of said reports shall be maintained on the campus at a location readily available to the public, and shall be transmitted to CPDC timely for public access.

Responsibility for timely and accurate completion of environmental documents and filing of Notice of Exemption and Notice of Determination is generally delegated to the campuses, with CPDC providing assistance and guidance as necessary. Copies of completed documents including Notice of Exemption, Notice of Determination, certifications of publication of required public notice, and other correspondence, which verifies compliance with required procedures under the CEQA guidelines, shall be provided to CPDC for every project requiring such actions. For project approval actions by the Board of Trustees which items include Negative Declaration or EIR, CPDC will file the Notice of Determination with the State Clearinghouse unless otherwise completed by the campus in coordination with the CPDC Chief of Land Use Planning and Environmental Review.

Service agreements for CEQA consultants are prepared and executed by the campus, provided the selection of consultants to conduct environmental analysis and prepare documentation meets applicable CSU contract procedures. This includes seeking requests for proposals from at least three firms whose names appear on the current database of qualified vendors as prepared by CPDC. Accurate and complete documentation of the proposal evaluation and selection process shall be maintained by the campus, including maintaining copies of all solicitation and proposals with each project file, for not less than five years. CEQA documents and a CEQA handbook have previously been transmitted to the campuses. It is the campus' responsibility to be familiar with the requirements of CEQA and the Guidelines for Implementation of the Act.

9017 LAND RECORDS DATABASE AND TITLE INVESTIGATION

Land Use Planning and Environmental Review (LUPER) acquires, compiles, and maintains complete records of all Trustees' land transaction activities and all state lands under the jurisdiction of the Trustees. Land records maintained by LUPER include:

- Grant deeds, quitclaim deeds, gift deeds, and final orders and decrees of condemnation,
- Records of transfer of jurisdiction from other state agencies,
- Agreements and grants of easements,
- Grants of license,
- Temporary permits that lead to easements,
- Title policies and reports,
- Records of street vacation or abandonment actions,
- Statewide property inventory parcel history reports and real property reports.
- Records of CSU real property sales.

LAND RECORDS INFORMATION SYSTEM (LRIS)

LRIS is a database that includes campus records of survey, encumbrance maps, and Excel spreadsheets with pertinent data for each encumbrance, available on the CSU website at <http://www.calstate.edu/cpdc/luper/records.shtml>.

9017.01 NEW FACILITY SITE CLEARANCE AND SITE CERTIFICATION

LUPER provides the Office of General Counsel with all necessary information concerning the title of the land upon which an improvement will be financed, wholly or in part, by public bond issue.

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During the planning of new facilities, campus shall perform an investigation of the underlying title of the land for the new site and provide a site clearance report to the design architect and LUPER. Campus should use its own records as well as the Land Records Information System (<http://www.calstate.edu/cpdc/luper/records.shtml>) to aid in its investigation. For lease revenue bond funded projects, an updated preliminary title report of the site area is required. The site clearance report will list any known easements or other title matters affecting the proposed site of the new facility, and how the project will mitigate these matters. It shall include a map identifying the limits of work of the proposed site. Try to keep the limits as tight as possible around the footprint of the building, while still encompassing the preponderance (at least 95%) of the project cost. A legal description is required for all lease revenue and systemwide revenue bond-funded projects. It shall use the campus record of survey as the referenced record map, basis of bearings, and point of commencement. See Appendix G for the site clearance report form (<http://www.calstate.edu/cpdc/Suam/Appendices/App G-Site Clearance Sample Rpt Form.doc>) and a sample map (<http://www.calstate.edu/cpdc/Suam/Appendices/App G-Site Clearance Plat.pdf>) and legal description (<http://www.calstate.edu/cpdc/Suam/Appendices/App G-Site Clearance Legal Desc.doc>). LUPER will also coordinate and/or help negotiate with appropriate campus staff, CPDC staff, legal counsel, campus-hired consultants, utility companies, municipalities, and state or other agencies, should changes in easements or other title restrictions prove necessary and possible. In the case of lease revenue bond and systemwide revenue bond funded projects, the Project Site Title Clearance report will be the basis for the Site Certification that LUPER will request from the Office of General Counsel.

9018 ACQUISITION AND GRANTING OF EASEMENTS AND ACCEPTANCE OF QUITCLAIMS

The Trustees are authorized to grant or acquire easements and rights-of-way (Education Code Section 89048(a) and (b)). The Trustees are also authorized to quitclaim the right, title and interest of the CSU in easements and rights-of-way owned by the CSU but which are no longer needed for CSU purposes (Education Code, Section 89048 (c)). Chancellor's Executive Order No. 372 further delegates authority to campus presidents to acquire easements or rights-of-way when necessary for the proper utilization of real property and to convey such rights over CSU property when it is in the best interests of the CSU. In any case, the campus must obtain approval from the Office of General Counsel (OGC).

- The easement, right-of-way, or quitclaim should enhance, not detract from, the current or future economic value of the Trustees' land holdings.
- The easement, right-of-way, or quitclaim should be consistent with current and future academic land use and development purposes of the institution.
- Safeguards should be negotiated to guard against physical or programmatic damage that might result from the granting or acquisition.
- Whenever an easement or right-of-way is not for the sole benefit of the Trustees, adequate compensation or other in-kind consideration should be achieved in the transaction. If the easement area is within land that was acquired by gift or with parking and housing funds, money (direct payment) may be received as compensation. On property acquired with a general fund appropriation, any money received as compensation will be returned to the general fund.
- The effect desired from granting the easement, right-of-way, or quitclaim should be achieved in full. That is, any negotiated condition of the granting act should be fulfilled by both parties, or else the CSU should seek legal remedies for noncompliance by the other party.
- Easements and rights-of-way on undeveloped Trustees' land are very sensitive because they may affect future options concerning use of the property.

9018.01 ACQUISITION OF AN EASEMENT OR RIGHT-OF-WAY

References: Education Code, Section 89048(a); Executive Order 372, per the policy established by CPDC Coded Memo 85-22.

CAMPUS RESPONSIBILITIES

Adhering to the general guidelines outlined in SUAM Section 9018, the campus will be responsible for the following aspects of the acquisition of an easement or right-of-way.

- Interface with the grantor of the easement or right-of-way, furnishing the grantor an acceptable legal description of the proposed easement and obtaining a survey, title report, map, or other graphic aid to properly locate the proposed easement with respect to campus property.

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- Review the proposed easement for adequacy and to safeguard the interests of the campus. If the proposal appears controversial the campus will notify LUPER and request authorization to proceed.
- Ensure that the proper CEQA action for the proposed easement is accomplished.
- Secure an appraisal if the grantor requires it.
- Transmit the complete data to LUPER for processing.

LUPER RESPONSIBILITIES

LUPER reviews all the submittals; properly locates the site of the proposed easement; reviews the proposal with the facility planner and/or the CPDC assistant vice chancellor (AVC), and transmits to OGC for review and approval. After OGC approval, appropriate grantor and campus officials execute easement document (signatures must be notarized) and easement is recorded. LUPER retains original recorded easement and distributes copies to campus and grantor. If the right is appurtenant to CSU fee owned property, LUPER distributes copy to Real Estate Services Division of the State Department of General Services for filing in the archives of the Secretary of State.

9018.02 GRANT OF AN EASEMENT OR RIGHT-OF-WAY

References: Education Code, Section 89048(b); Executive Order 372 per the policy established by CPDC Coded Memo 85-22.

CAMPUS RESPONSIBILITIES

Adhering to the general guidelines outlined in SUAM Section 9018, campus will be responsible for the following aspects in the granting of an easement or right-of-way.

- Interface with the grantee requesting an easement, obtaining from the grantee a legal description of the proposed easement and a survey, title report, map, or other graphic aid to properly locate the proposed easement with respect to campus property.
- Review the request for adequacy and whether it safeguards the interests of the campus. If the request appears controversial, campus notifies LUPER and requests permission to proceed.
- If the easement is for the grantee's sole benefit, campus requests that the grantee prepare the proper CEQA action for the grant of the easement and furnish an appraisal if the easement is over a substantial land area. Compensation is then negotiated.
- If the easement is for the sole benefit of CSU, e.g., a utility line that terminates within the campus and only serves campus facilities, the grantee may object to some of the standard CSU easement provisions. In such cases, the campus should request the assistance of LUPER and the Office of General Counsel.
- Campus should **never** sign the grantee's easement form without first consulting with LUPER and the Office of General Counsel. The Office of General Counsel may provide, for the record, written advice as to the long-term effects of executing the grantee's form.
- Transmit the complete data to LUPER for processing.
- If time is of the essence, a temporary permit requiring that an easement be granted at the end of construction may be granted (see Appendix G for sample form http://www.calstate.edu/cpdc/Suam/Appendices/App_G-Temporary_Permit-5.05.doc).

LUPER RESPONSIBILITIES

LUPER reviews the request, legal description, survey, title report, or other data; properly locates the site of the proposed easement; prepares the necessary documents on the Trustees' standard Agreement and Grant of Easement form (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-AGE_Master-5.05.doc), and reviews the proposal with the facility planner and/or the CPDC assistant vice chancellor (AVC). If the easement document deviates from the standard form, it's sent to OGC for review and approval.

After OGC approval, appropriate campus official and grantee execute documents (signatures must be notarized) and easement is recorded (if there are no changes to the standard form, campus official recommends approval with his signature, grantee and CPDC AVC execute document, and the easement is recorded). If the grantee is a public entity, the grantee must also sign a proper certificate of acceptance. The grantee receives the original recorded document and copies are distributed to the campus and LUPER. The easement is plotted on the campus encumbrance map by LUPER.

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In addition to any monetary consideration payable by the grantee to the Trustees for the value of the easement, an appropriate administrative fee may be charged to the grantee for processing an easement if the grantee is the sole beneficiary of the easement.

9018.03 **ACCEPTANCE BY TRUSTEES OF A QUITCLAIM OF AN EASEMENT OR RIGHT-OF-WAY**
CAMPUS RESPONSIBILITIES

Adhering to the general guidelines outlined in 9018, the campus is responsible for the following aspects of the acceptance of a quitclaim of an easement or right-of-way.

- Interface with entity quitclaiming easement right, obtain a legal description of the proposed quitclaimed area or a copy of the original description of the interest being quitclaimed, and obtain a survey, map, or other graphic aid to properly locate the subject of the quitclaim.
- Review the quitclaim for adequacy and to safeguard interests of the campus. If the request appears controversial, the campus will notify CPDC and request permission to proceed.
- Transmit the complete data to LUPER for processing.

LUPER RESPONSIBILITIES

LUPER reviews the proposal, verifies the site of the proposed quitclaim and prepares the necessary quitclaim documents on the Trustees' standard format, if possible. The documents are reviewed with the facility planner and Office of General Counsel and sent to the campus for review. Campus forwards it to the quitclaiming entity for notarized signature with instructions to return to LUPER for review and execution by the CPDC assistant vice chancellor. LUPER is responsible for having the fully executed documents recorded in the county of the quitclaimed property and distributed to the appropriate parties. The Trustees' copy is filed in LUPER files and appropriate changes made to the campus encumbrance map.

9019 **REAL PROPERTY ACQUISITION**

Real property can be acquired through the state or under authority given to CSU in the Education Code. Standing Orders of the Trustees delegates to the Chancellor (or designee) the authority to accept an interest in real property. The chancellor or designee shall determine if the property should be included in the campus master plan or if the trustees should pass a specific resolution to approve the acquisition. Regardless of the method, all acquisitions must carry out the primary functions of the CSU.

The campus shall submit a notice to its CPDC facility planner at the conceptual phase of the property acquisition project. This notice shall provide a general description of the proposed project and a schedule of future activities, including the estimated date that a formal project proposal will be submitted to CPDC for a complete evaluation.

DUE DILIGENCE

For any acquisition, the campus shall provide a Due Diligence Report to LUPER in the format shown in Appendix G (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-Prop_Acquisition_Due_Dil_Rpt.doc) . A certification of the report by the appropriate campus official is required (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-Due_Diligence_Certification.doc). The campus must consider environmental, title, and improvement issues that could affect the desirability of a proposed acquisition of real property. When requested, LUPER will assist the campus in evaluating the relevant issues. The following guidelines should be used in evaluating whether an acquisition is in the best interests of the campus.

- Environmental Assessment:
 - The property shall be inspected by a qualified professional to determine if a Phase 1 Environmental Site Assessment (ESA) is needed (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-Environmental_Assess-4.02.doc). If the campus determines a Phase 1 ESA is not needed, the campus EH&S officer shall provide a letter stating this and the basis of this decision.
 - Any toxic material and associated abatement costs, as well as any future liability to the campus, shall be evaluated.
- CEQA Assessment:
 - The intended use of the property shall be considered in view of its potential California Environmental Quality Act (CEQA) implications. Campus shall provide appropriate documentation

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of compliance. See CSU CEQA Procedures in Appendix G (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-CEQA_Procedures-4.02.doc).

- Title Assessment:
 - The condition of the title shall be examined. A preliminary title report shall be prepared to properly evaluate title issues that will impact the use and value of the property.
 - A visual inspection of the property may assist in identifying potential unrecorded encumbrances or title exceptions, such as leases or easements associated with utility lines, fences, roads, driveways or other physical features.
 - If the property is leased or rented, any residential or business occupant may be eligible for relocation assistance payments (Government Code Section 7260 *et seq.*). Consult with the Office of General Counsel.
- Improvement Assessment:
 - Determine what improvements, if any, are to be retained for any program use.
 - The presence of any hazardous material in the improvements and the potential cost for abatement shall be evaluated.
 - Any code deficiencies that require immediate correction and their associated costs shall be considered.
 - The general condition of the improvements and the cost of extensive deferred maintenance repairs shall be evaluated.
 - Determine if adequate utilities are available for the intended use of the property.
 - Determine any historical considerations including archaeology. Provide a description of these issues and your suggestions on how they might best be handled.
 - Determine if the property is in a flood hazard area or seismic risk area.
 - If buildings are being acquired for use by CSU, see Appendix G for Section 8.2 of CSU Seismic Policy (http://www.calstate.edu/cpdc/AE/Seismic/CSU_Seismic_Policy_Manual.pdf).

All property acquired must be held in the name of the Trustees of the California State University. Per G.C. 27281, a Certificate of Acceptance of the real property interest must be executed by the delegated authority prior to recording (http://www.calstate.edu/cpdc/Suam/Appendices/App_G-Accept_CertificateMstr.doc). Documents must be recorded in the county where the property is located.

The chancellor's office is responsible for reporting all real property acquisitions and dispositions to the state Department of General Services, Real Estate Services Division, in order to update their Statewide Property Inventory (SPI). Therefore, the campus shall report all property acquisitions, regardless of what kind of acquisition it is and regardless of delegation status, to LUPER. In addition, the campus shall provide LUPER with the original property acquisition documents (deed, transfer of jurisdiction, etc.) and a copy of the preliminary title report or policy of title insurance for filing with the Department of General Services. The Department of General Services then files these documents with the secretary of state.

9019.01 ACQUISITION USING CSU AUTHORITY

Education Codes 89720 and 89048(g) provide for three situations where the Trustees may acquire real property without the prior approval of any other state department or agency (in addition to authority specific to certain campuses, i.e., San Luis Obispo, Pomona, Monterey Bay and Channel Islands). They are:

- By gift, devise or donation (89720);
- From monies received by gift or bequest, or with proceeds received from the sale or exchange of real property previously received by gift or devise (89720), expenditure of these proceeds must be approved by the state's Director of Finance per E.C. 89724(b); and
- With revenues from parking or housing programs pursuant to the applicable housing and parking program regulations which govern the use of such funds (89048(g)).

9019.01.01 REAL PROPERTY ACQUISITION BY GIFT OR DEVISE

References: Education Code, Section 89720; Government Code Section 7260 *et seq.* and Section 11011.11 *et seq.*, Standing Orders of the Trustees, Section 2-k; Chancellor's Executive Order No. 676.

Education Code, Section 89720 gives CSU the authority to acquire real property by gift, devise or donation. To facilitate fundraising activities, Chancellor's Executive Order No. 676 further delegates this authority to campus

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presidents when the proposed property is part of an approved campus master plan. However, if the proposed acquisition is not included in an approved master plan, the campus must first submit a request to CPDC for a determination by the Chancellor's Office on whether the property should be included in the campus master plan or if the trustees should pass a specific resolution to approve the acquisition.

Notwithstanding the need to maintain good relations with donors, or potential donors, the campus must consider any environmental, title, and improvement issues that could affect the desirability of a proposed gift of real property. Due diligence as detailed in Section 9019 must be performed to ensure that all gifts given to the campus will aid in carrying out the primary functions of the campus and CSU. All gifts, devises, and donations shall be used in accordance with restrictions specified by the donor.

Any impacts to the state or nonstate capital improvement program/campus master plan shall be considered and coordinated with the CPDC facility planner.

Report the gift acquisition and provide proper documentation (deed, preliminary title report, etc.) to LUPER. The campus shall also report the gift to the Division of University Advancement, Office of the Chancellor in accordance with Executive Order No. 676. As required by E.C. Section 89720, the Office of the Chancellor will report gifts of real property to CPEC, JLBC, and DOF by January 5 of each year.

9019.01.02 REAL PROPERTY ACQUISITION FROM MONIES RECEIVED BY GIFT OR BEQUEST, OR WITH PROCEEDS RECEIVED FROM THE SALE OR EXCHANGE OF REAL PROPERTY PREVIOUSLY RECEIVED BY GIFT OR DEVISE

References: Education Code Section 89720, 89724(b); Government Code Section 7260 *et seq.*; Government Code Section 11011.11 *et seq.*; Standing Orders of the Trustees, Section 2-k; Coded Memo BA 92-04.

PROJECT PLANNING ISSUES

The campus shall submit a notice to its CPDC facility planner at the conceptual phase of the property acquisition project. This notice shall provide a general description of the proposed project and a schedule of future activities, including the estimated date that a formal project proposal will be submitted to CPDC for a complete evaluation. It shall also include documents verifying that the source of funds being used for the acquisition was by gift or bequest. If the property will be acquired with proceeds from the sale or exchange of real property previously received by gift or devise, see real property disposal procedures in SUAM Section 9020.01.

Prior to entering into any agreements or commitments, the campus shall provide the CPDC facility planner a complete project proposal. CPDC will be responsible for ensuring that all fiscal and legal requirements are addressed in the campus proposals, and also will provide consultation, coordination and facilitation throughout the process. If the land is being acquired with proceeds from the sale of real property received by gift or devise, CPDC will be responsible for requesting approval from the state's Director of Finance.

Each proposal submitted by the campus shall include the following information:

- A description and map of the property to be acquired, including any physical improvements;
- A description of the proposed use of the property along with any development plans, feasibility studies, funding sources, cost estimates, financial analysis, development pro forma and projected benefit to campus;
- A legal description of the property and the interest to be acquired (i.e. leasehold, fee, etc.);
- An estimated value of the property and proposed timetable for purchase;
- A copy of the fair market value appraisal by a state certified (preferably MAI) appraiser;
- Plans for relocation assistance when appropriate (Government Code Section 7260 *et seq.*);
- Draft or purchase agreement;
- Results of the environmental, title, and improvement assessments detailed in SUAM 9019 Summary Due Diligence.

When acquisition is completed, the campus shall provide proper acquisition documentation (deed, title insurance policy, etc.) to LUPER.

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9019.01.03 REAL PROPERTY ACQUISITION WITH REVENUES GENERATED BY PARKING AND HOUSING FUNDS

References: Education Code Sections 89048(g), 90002, 90010 *et seq.*; Government Code, Section 7260 *et seq.*; 11011.11 *et seq.*; Standing Orders of the Trustees, Section 2-k; Coded memo APB 94-05.

Section 89048(g) of the Education Code authorizes the Trustees to acquire real property with revenues generated by the parking and housing programs when it is in the best interests of the state. In addition, various Education Code sections permit the Trustees to pledge parking and housing revenues for the repayment of Trustees' bonds but also require that they restrict the use of pledged funds solely for the needs of the respective programs, which may include the acquisition of property for such programs. These requirements are also contained in contracts with bondholders through the Trustees' execution of bond indentures. The chancellor or designee shall determine if the property should be included in the campus master plan or if the trustees should pass a specific resolution to approve the acquisition.

FINANCING ISSUES

If parking or housing facilities are being acquired from parking or housing revenues currently pledged pursuant to the 1947 Bond Act and related bond covenants, or are to be financed through the Trustee-authorized financing program (the Bond Act of 1947 and the Dormitory Revenue Fund), contact the senior director of Financing and Treasury to provide financing requirements and services. The Office of Financing and Treasury (F&T) is responsible for coordination and administration of the Trustees financing programs.

If parking or housing facilities are being acquired by the campus or a campus auxiliary organization with funds not obtained through the Trustees financing programs, and when the campus has similar programs subject to bond obligations of the 1947 Bond Act, also contact the senior director of F&T to obtain advice about requirements and approvals. In this situation, the Trustees are primarily concerned with the impact of the project on similar campus programs financed by the Trustees.

F&T will work with the campus as needed to:

- Evaluate the project as it relates to requirements of the Trustee's financing program.
- Assist with scheduling Trustee review requirements for financing activities.
- Advise on special program requirements and financing timing issues.
- Coordinate financing activities with the Trustees financing team, other state offices and the investing community.

PROJECT PLANNING ISSUES

If the proposed acquisition is part of an approved campus master plan, the chancellor or designee may accept the interest. If the proposed acquisition is not included in an approved master plan, request a resolution by the Board of Trustees to either specifically approve the acquisition or revise the master plan to include the property. To initiate the process the campus will submit the following documents to the CPDC assistant vice chancellor.

- Two copies of a draft Capital Outlay Budget Change Proposal (COBCP) incorporating the following information as appropriate:
 - COBCP Project Description (CPDC 1-4)
 - Project Justification Statement including the following specific program requirements:
 - Parking: · A facility/parking space utilization study including significant changes in enrollment, losses due to building construction, or changes in mass transit patterns or community parking regulations. All parking structures require a thorough access assessment by an independent consultant prior to submission.
 - A five-year financial plan comparing projected campus parking program revenues to expenses beginning with the current fiscal year.
 - Housing: · A housing development plan including marketing surveys of the demand for on-campus and off-campus housing, and rental rate surveys.
 - An evaluation of the proposed project by the Housing Proposal Review Committee. See Coded Memorandum APB 94-05 for a complete summary of this requirement, which is accessible on the internet at <http://www.calstate.edu/FT/APBCM94/APB94-05/APB94-05.shtml>.

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- A five-year financial plan comparing projected campus housing program revenues to expenses beginning with the current fiscal year.
 - Capital Outlay Estimate (CPDC 2-7).
 - Information on the funding source.
 - Information on required utilities/infrastructure.
- Results of the environmental, title, and improvement assessments detailed in SUAM 9019.
 - A copy of the fair market value appraisal by state certified (preferably MAI) appraiser.
 - Plans for relocation assistance when appropriate (Education Code Section 89048(g)(2); Government Code Section 7260 *et seq.*). Consult with the Office of General Counsel.

OTHER ISSUES

Once property is master planned and acquired, campuses will need to amend the non-state funded capital outlay program. The timing of this step and its requirements as well as any financing approvals may vary depending on the development plan. Consult F&T and CPDC to coordinate these requirements.

Provide proper acquisition documentation (deed, preliminary title report, title insurance, etc.) to LUPER for reporting to Department of General Services (Government Code Section 11011.15 *et seq.*).

CPDC will report all acquisitions of real property with revenues from parking and/or housing funds to the Joint Legislative Budget Committee and Department of Finance by January 5 of each year. (Education Code Section 89048(g)(1)).

9019.02 PROPERTY ACQUISITION THROUGH THE STATE

Property may be acquired through the state in the following ways.

9019.02.01 TRANSFER OF JURISDICTION FROM ANOTHER STATE AGENCY TO CSU

Reference: Government Code Section 14673.

The jurisdiction of real property owned by the state may be transferred from one state agency to another state agency with the written approval of the Director of the Department of General Services. In connection with such a transfer, the Director of the Department of General Services may authorize the payment of such consideration as the Director deems proper from available funds of the receiving agency to the transferring agency. The campus shall contact the LUPER Section and the CPDC facility planner in order to process a transfer of jurisdiction with the Department of General Services. Campus shall follow due diligence procedures as outlined in Section 9019, and project planning and other issues as outlined in 9019.01.03.

9019.02.02 REAL PROPERTY ACQUISITION THROUGH THE CAPITAL OUTLAY PROCESS USING THE STATE PROPERTY ACQUISITION LAW

Any real property acquisition that requires the expenditure of state funds must go through the normal capital outlay and due diligence process. Campuses shall contact the CPDC facility planner and the LUPER Section at the conceptual stage of the planning process. Campus shall follow due diligence procedures as outlined in Section 9019 and project planning and other issues as outlined in 9019.01.03. When preparing the estimated acquisition cost for the capital program budget process, the campus should request a budget acquisition cost estimate from DGS and add to this the estimated appreciation in value for the number of years before actual acquisition.

9019.02.03 REAL PROPERTY ACQUISITION THROUGH OTHER EDUCATION CODE SECTIONS USING THE STATE PROPERTY ACQUISITION LAW

Reference: Education Code Sections 89701, 89702, 90012.

There are other Education Code provisions that provide for situations where real property is acquired through the state Property Acquisition Law, e.g., property purchased for student health centers with student health center fee revenues. This procedure requires the prior approval of other state agencies. Contact the CPDC facility planner and LUPER at the conceptual stage of the planning process. Campus shall follow due diligence procedures as outlined in Section 9019 and project planning and other issues as outlined in 9019.01.03.

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9020 REAL PROPERTY DISPOSAL

Both the Education Code and the Government Code allow for real property disposal. Education Codes 89720 and 89048(f) provide for two situations (see SUAM Sections 9020.01 and 9020.02) where the California State University (CSU) may dispose of real property without the prior approval of any other state department or agency. They are:

- by sale or exchange of real property acquired by gift, devise or donation or acquired with monies received by gift, bequest or donation;
- by sale or exchange of real property acquired with revenues generated by parking and housing programs.

Documents for any sale transaction pursuant to the Education Code must be submitted to the chancellor for execution as the California State University (CSU) delegated official with the responsibility to dispose of property on behalf of the Trustees.

The Government Code provides for disposal of certain small parcels of land (see SUAM Section 9020.03) which were not acquired pursuant to the Education Code sections referenced above and also the transfer of jurisdiction of real property from CSU to another state agency (see SUAM Section 9020.04).

E.C. Section 89048.5 requires that a statement must be included in the conveyance document that notifies the buyer that the property may revert to the state if an Indian burial ground is discovered on the property and legislation is passed requiring reversion. Public Resources Code (P.R.C.) Sections 6401 to 6407 delineates when mineral, gas, and oil rights, along with surface mining rights, must be reserved to the state in the conveyance document.

The chancellor's office is responsible for reporting all real property acquisitions and dispositions to the Real Estate Services Division of the California State Department of General Services (DGS) in order to update their Statewide Property Inventory (SPI) (Government Code Sections 11011.11 *et seq.*). Therefore, the campus shall report all property dispositions, and in the case of an exchange, the property acquired as well, to LUPER. In addition, the campus shall provide LUPER with copies of the property disposition documents (sale agreement, transfer of jurisdiction, etc.) and property acquisition documents in the case of an exchange, for filing with DGS. DGS then files these documents with the secretary of state.

9020.01 SALE OR EXCHANGE OF INTEREST IN REAL PROPERTY ACQUIRED BY GIFT, DEVISE OR DONATION OR ACQUIRED WITH MONIES RECEIVED BY GIFT, BEQUEST OR DONATION

References: Education Code Sections 89720, 89720.5, 89724(b); Standing Orders Section II-k; Coded Memo BA 92-04.

The Trustees may sell or exchange interests in real property acquired pursuant to Education Code Section 89720, but no property that is part of a main campus may be sold. The sale or exchange may not exceed \$10,000,000 per transaction and must be reported annually by the Trustees to the California Postsecondary Education Commission, the Joint Legislative Budget Committee, and the Department of Finance by January 5 of each year (Education Code Section 89720). When requested, LUPER shall assist the campus in understanding required procedures and in evaluating whether the sale of gift property would be in its best interests.

The campus shall submit a notice to the facility planner in CPDC at the conceptual phase of each project. This notice shall provide a general description of the proposed project and a schedule of future activities, including the estimated date that a formal project proposal will be submitted to CPDC for a complete evaluation. It shall also include documents verifying that the property being used for the sale or exchange was acquired by gift.

The campus shall provide the facility planner in CPDC a complete project proposal prior to entering into any agreements or commitments. CPDC will be responsible for ensuring that all fiscal and legal requirements have been addressed in the campus proposals. CPDC will provide consultation, coordination and facilitation throughout the process.

PROCEDURES FOR SALE OF REAL PROPERTY ACQUIRED PURSUANT TO E.C. 89720

The following identifies the types of information needed from the campus for sale of real property proposals:

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- Description of the property and map including descriptions of any improvements, leases, or other significant impacts.
- Copy of the preliminary title report and legal description.
- Copy of an appropriate appraisal prepared by a state certified (preferably MAI) appraiser.
- Plan for marketing the property, i.e., auction, sealed bid, list with a real estate broker, etc. If a broker is involved, the plan should also include a description of the selection process.
- Estimated value of the property to be sold and how the value was determined.
- Discussion on how the sale proceeds will be utilized. Be aware that if the proceeds from the sale of gift property are used for some purpose other than purchasing real property, Department of Finance approval through CPDC is necessary (Education Code Section 89724(b)).
- Timetable for the sale of the property.
- Information confirming that local governmental agencies have had an opportunity for right of first refusal on the proposed property as required by Education Code Section 89720.5.

After the initial proposal, the campus shall submit the following for CPDC to review prior to the sales transaction:

- Either a Market Value or Disposal Value Appraisal including the highest and best use and maximum/minimum sales price;
- The proposed method of sale, i.e., exclusive listing with a broker, auction or sealed bid.

The campus may also consider consulting the state Department of General Services, Real Estate Services Division, who can provide property sales services for a fee.

PROCEDURES FOR EXCHANGE OF REAL PROPERTY ACQUIRED PURSUANT TO E.C. 89720

For property to be disposed of in an exchange, see sale procedures, excepting the requirement to provide local agencies the right of first refusal. For property to be acquired in an exchange, see guidelines and procedures for acquisition of real property.

After the initial proposal, certain actions shall be completed or other documents shall be provided for CPDC review, prior to completing a real property exchange transaction.

- Prior to making any offers on the proposed exchange property, the campus shall acquire exchange documents in final form, a legal description and a fair market value appraisal by a state certified (preferably MAI) appraiser for both properties.
- All necessary environmental impact reports associated with the acquisition of the replacement property shall be completed.
- Documentation of compliance regarding relocation assistance if appropriate (Government Code, Section 7260 *et seq.*).

9020.02 SALE OR EXCHANGE OF INTEREST IN REAL PROPERTY ACQUIRED WITH REVENUES GENERATED BY PARKING AND HOUSING PROGRAMS

References: Education Code Sections 89048(f), 89701, 89901, 90010 *et seq.*

The Trustees may sell or exchange interests in real property acquired with revenues generated by the parking and housing programs, however assets previously pledged in a financing program may have disposition restrictions, and the use of any sale proceeds is generally restricted by the respective program. When property is subject to the 1947 Bond Act restrictions and covenants of relevant outstanding bonds, campuses must contact the senior director of Financing and Treasury (F&T), Office of the Chancellor, to obtain the specific criteria applicable to the asset, develop plans, and obtain approval for such a transaction. The following conditions set out in Education Code Section 89048(f) apply, whether such property is subject to program, 1947 Bond Act, or bond covenant restrictions.

- The sale must be made to a recognized auxiliary organization established pursuant to Section 89901 of the Education Code.
- Where more than one auxiliary organization expresses interest in acquiring the property, the sale, exchange, or other form of disposal shall be awarded to the highest responsible bidder. The net present

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value of the projected proceeds of a bid shall be used to determine the highest responsible bidder, where applicable.

- When the real property for sale is an improvement situated on land purchased with funds not generated by the parking or housing programs of the campus, rights to the land upon which the improvement is situated, and access thereto, shall be leased and not sold or exchanged to the acquiring party.
- When the real property for sale includes land purchased with funds generated by the parking or housing programs of the campus, the property shall have at least one border with property that is not owned by the California State University.

PROCEDURES FOR SALE OR EXCHANGE OF REAL PROPERTY ACQUIRED PURSUANT TO E.C. 89048.f

Follow same procedures as sale or exchange of gift property except that property must be sold to a recognized CSU auxiliary organization.

Contact the senior director of Financing and Treasury to determine if there are any 1947 Bond Act and/or bond covenant restrictions applicable to the property. If such conditions are applicable, work with F&T to develop plans and obtain approval for the transaction to proceed in a manner consistent with any bond program requirements. F&T will provide advice to the campus for any transactions subject to bond act and bond covenant restrictions and will coordinate and facilitate any activities or processes necessary as a result of the Trustees' financing program. The campus should consult F&T with regard to issues concerning auxiliary organizations.

When requested, LUPER will assist the campus in understanding the required procedures and in evaluating whether selling the property would be in its best interests.

9020.03 DISPOSAL OF OTHER REAL PROPERTY PURSUANT TO GOVERNMENT CODE 14664

Reference Government Code Section 14664

The Government Code authorizes the director of general services to sell, convey, or exchange property, typically small parcels, belonging to CSU and at CSU's request, under certain circumstances that may assist campuses, when the normal surplus property declaration process may be cumbersome or impractical. Although the referenced Government Code Section covers four possibilities, the circumstances under which this might typically occur are of two types:

- Property, not to exceed five acres, may be transferred to a local governmental agency for the purpose of local public works projects, including, but not limited to, utility rights-of-way, drainage ditches, road widening, including curbs, gutters, sidewalks, and small parking lots.
- Property that is being encroached on, where the adjacent landowner, the CSU, the director of general services, and the Attorney General agree that the best manner in which to resolve the matter is through a sale of the property or for an exchange of property of equal value.

Campuses shall contact LUPER for assistance in these situations, or in any situation where the campus believes it may be in its best interests to convey fee title.

9020.04 TRANSFER OF JURISDICTION OF CSU REAL PROPERTY TO ANOTHER STATE AGENCY

Reference: Government Code Section 14673

The jurisdiction of real property owned by the state may be transferred from one state agency to another state agency with the written approval of the director of the Department of General Services. In connection with such a transfer, the director of the Department of General Services may authorize the payment of such consideration as the director deems proper from available funds of the receiving agency to the transferring agency. With regard to receipt of "consideration," remember that unless gift or parking and housing funds were used to acquire the property originally (see SUAM Section 9020), any money received for property that was acquired with general fund money will go to the general fund. In-kind compensation may be kept by CSU. Campuses shall contact LUPER and the CPDC facility planner in order to process a transfer of jurisdiction with the Department of General Services.