

TOPIC: CAPITAL ASSETS UPDATE – FIRST QUARTER 2011

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I. SUMMARY

This update is intended to provide information to the Commission on major events and developments in higher education capital assets over the past three months. Specifically: A) Legislative prioritization and funding of new and continuing capital projects; B) Property transactions at the Auraria Higher Education Center; and C) Federal Mineral Lease funding and the Auraria Science Building.

II. BACKGROUND

A. Legislative prioritization and funding of new and continuing capital projects

At the October 2010 meeting the Commission adopted a prioritization list to request state funds for 27 capital projects at institutions of higher education. The Department reviewed a total of 30 new or continuing state funded capital construction requests for FY2011-12. Out of this total, two projects are the continuing annual Certificates of Participation (COP) payments for the University of Colorado Denver Anschutz Medical Center and the projects funded through Federal Mineral Lease payments. Three projects were not recommended for funding (for details see Attachment A).

C.R.S. 23-1-106 (5) requires the Commission to approve program plans or program plan amendments for any capital construction project requesting state funds. For those projects costing less than \$2,000,000, institutions may request that the Commission waive program planning requirements; however, these projects are prioritized alongside requests with costs exceeding \$2,000,000. C.R.S. 23-1-106 (7)(a) requires the Commission to submit a recommended priority list to the CDC by November 1st.

Attachment A is the Commission's approved priority list.

B. Property transactions at the Auraria Higher Education Center

The Regional Transportation District (RTD) concluded a two year major investment study in 1999 for the West Corridor which developed the locally preferred alternative to provide light rail service from Jefferson County to Denver's Union Station. Following the public's 2004 vote on FasTracks, final design began on the West Corridor and occurred from 2005 through 2008.

Staff from the Auraria Higher Education Center (AHEC) have been actively involved with this project during design and met regularly with RTD staff to discuss the project starting in 2007.

In early 2009, AHEC received notices from RTD about parcels it would need to acquire to build the West Corridor project. Following these notices AHEC staff and RTD began regular discussions regarding these parcels and the design of the relocated Auraria West light rail station.

Work on the Auraria Campus related to the West Corridor project includes the following:

- Relocation of the Auraria West light rail station and demolition of the existing station
- Rebuild Curtis Street
- Relocation of the Southeast/Southwest light rail line
- Build the West Corridor light rail tracks
- Rebuild 5th Street
- Relocation of the Burnham Yard Lead

Parcels were reconfigured to address concerns raised by AHEC staff, and agreement on the property transaction was reached in December 2010. The property transaction was presented to and approved by the Auraria Board of Directors at their December 15, 2010 meeting. An Intergovernmental Agreement is being developed between AHEC and RTD to outline the property transaction. Construction on the campus related to the West Corridor began on December 20, 2010 and will continue through early fall 2011. Notification of the final agreement and report was transmitted to staff at the Department of Higher Education in the first quarter of 2011.

Attachment B is the Property Transaction Report provided by the Auraria Higher Education Center.

C. Federal Mineral Lease funding and the Auraria Science Building.

The State of Colorado arranged for \$230,845,000 for capital projects at institutions of higher education through Federal Mineral Lease (FML) revenues in conjunction with Certificates of Participation (COP). In HJR08-1042 the General Assembly identified and prioritized 17 projects that would be funded through the FML COP issuance.

However, there were insufficient funds from the 2008 COP issuance to fully provide for the 17 projects. As a result, only projects listed as #1-11 and 13 received funding. The AHEC Science Building at #6 received approximately \$63.6 million in FML funds and an additional approximately \$22.2 million that was the cash contribution financed through the FML COP.

Staff from interested institutions asked the Department if the Auraria Higher Education Center (and affiliated institutions) would be permitted to submit a program plan amendment to use Federal Mineral Lease cost savings from the AHEC Science Building to fund additional power equipment that was not originally included in the Science Building Program Plan.

III. STAFF ANALYSIS

A. Legislative prioritization and funding of new and continuing capital projects

Due to the continued budget shortfall the Capital Development Committee (CDC) of the General Assembly has only recommended the funding of nine projects for FY2011-12, including the expected top two Commission priorities.

On February 21 the CDC submitted a written recommendation to the Joint Budget Committee. In the CDC recommendation it was stated that the projected available revenue from the Capital Construction Fund is approximately \$2.1 million and that an additional \$62.6 million would be needed as a transfer from the General Fund to provide for these projects.

The CDC recommended project list is included as Attachment C.

The Joint Budget Committee (JBC) met on March 11 to consider the CDC FY 2011-12 recommendations. The JBC approved the state-funded recommendation with a few exceptions. Specifically the JBC did not include the CDC's #6 and #9 projects.

The JBC recommended project list is included as Attachment D.

Provided no additional FY2011-12 budget cuts are needed that would negatively affect planned capital appropriations, higher education expects to receive funds for the required bond payments of Federal Mineral Lease (FML) projects and the required bond payments for the Anschutz Medical Campus projects. These are the Commission's #1 and #2 priorities.

Additionally, because Controlled Maintenance projects through a score of 5 which includes approximately half of Level 1 (recall that Level 1 projects are directed at life, safety and loss of use) have been recommended for funding it is anticipated that six higher education institutions will receive state funded Controlled Maintenance projects for FY2011-12.

The State Architect's requested Controlled Maintenance list is included as Attachment E.

B. Property transactions at the Auraria Higher Education Center

Capital staff at the Department were initially consulted about Department, Commission, and legislative review of the project in summer 2009. Department staff have been kept informed about the progression of negotiations and have offered guidance on the requisite approvals the transactions would need from the Department, Commission, and General Assembly.

With revisions and amendments to the Colorado Revised Statute during the 2009 and 2010 legislative sessions it was determined that no significant approvals were required by the

Department, Commission, or General Assembly because no AHEC funds were being expended on the land acquisition and no funds were being acquired by the disposition of land. Therefore the Department had no role to play in the negotiation or approval process.

The Department was kept up to date on developments through the end of the land transfer agreement. Further, Department staff wish to congratulate and commend AHEC staff for all the hard work in arranging the agreement over a three year period.

C. Federal Mineral Lease funding and the Auraria Science Building.

Program Planning

Program planning is required for state funded projects and the plans submitted to the Department must be relevant to the program and approved (under powers delegated by the Commission). The approved program plan provided for adjustments made to the energy supply for the Science Building. Institution capital staff indicates that additional power supply is needed for additional construction. The approved program plan and FML funding pertains solely to the Science Building and staff is concerned that expanding the project via amendment to provide for the power supply issues may be an inappropriate use of FML funding. .

AHEC Power needs

Department staff have been informed that there exists a sufficient power supply for the Science Building to operate. Independent analyses of electrical load and system growth conducted for AHEC and provided to the Department further support this position. The potential for insufficient power supply is related to the construction or expansion of additional facilities on the AHEC campus.

Fund source

The funding for the AHEC Science Building was secured through the FML COP issuance. It is the understanding of Department , the Commission, OSPB, and the CDC that if there was a second issuance of FML COPs then HJR08-1042 would be the starting point to determine which projects receive funding.

The decision to approve or deny the program plan and amendment belongs to the Department, but the determination needs to consider the legislative intent found in HJR08-1042 and adherence to the original list of 17 approved FML projects.

Conclusion

Department staff briefed Department leadership on this issue and a letter addressed to AHEC community leadership was distributed on March 10 stating that the Department could not approve the requested program plan amendment.

Attachment F is the letter to AHEC community leadership from Lt. Governor Garcia.

IV. STAFF RECOMMENDATIONS

No action is required; this is an information item only.

STATUTORY AUTHORITY

Program Planning

C.R.S. 23-1-106(5)

(a) The commission shall approve plans for any capital construction project at any institution, including a community college, regardless of the source of funds; except that the commission need not approve plans for any capital construction project at a local district college or area vocational school or for any capital construction or acquisition project described in subsection (9) or (10) of this section.

(b) The commission may except from the requirements for program and physical planning any project that shall require less than two million dollars of state moneys.

Prioritization

C.R.S. 23-1-106(7)

(a) The commission annually shall prepare a unified, five-year capital improvements report of projects to be constructed, but not including those projects constructed or acquired pursuant to subsection (9) or (10) of this section, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, and the general assembly, consistent with the executive budget timetable, together with a recommended priority of funding of capital construction projects for the system of public higher education. The commission shall annually transmit the recommended priority of funding of capital construction projects to the capital development committee no later than November 1 of each year.

ATTACHMENT A: Commission approved FY2011-12 Capital Priorities

ATTACHMENT B: Property Transaction Report

ATTACHMENT C: Capital Development Committee recommended FY2011-12 Capital Priorities

ATTACHMENT D: Joint Budget Committee recommended FY2011-12 Capital Priorities

ATTACHMENT E: Office of the State Architect recommended FY2011-12 Controlled Maintenance

ATTACHMENT F: Letter from Lt. Governor Garcia