

## CEQA & Design Approval Go Together Like a Lock & Key

CEQA supports a decision that constitutes an "irrevocable commitment" to the project. As a result, CEQA and design approval go together like a lock and key - one does not work without the other. CEQA requires the lead agency (the University for UC projects) to file a Notice of Determination (NOD) or Notice of Exemption (NOE) for projects at the time an "irrevocable commitment" to a project is made. The CEQA determination supports an action and cannot be issued except in support of that action. Likewise, an irrevocable commitment cannot occur without the accompanying CEQA action.

"Irrevocable commitment" is the CEQA term indicating that the lead agency has given its ultimate approval to a project. For UC capital projects this is normally design approval—either by the Regents, the President, or the Chancellor. Within UC, "Design Approval" is commonly understood to be the approval of exterior design (primarily siting, massing, form, style and color) of a building as, for example, it is traditionally presented to the Regents. However, some types of projects—such as entirely interior renovations or agricultural buildings—are not presented to the Regents for design approval; in accordance with longtime practice, nor are they presented to the President for administrative approval, and on the campus they may not be reviewed by the Design Review Board or Committee.

For projects of this kind, the CEQA determination still needs

to be made in support of the irrevocable commitment to the project, which is still considered to be design approval. In these cases, approval of Schematic Design is the appropriate decision for the CEQA determination to support.

Schematic Design approval typically is done at the campus level before the start of the Design Development phase is authorized, and should be properly documented, especially when it is the irrevocable commitment that the CEQA determination supports.

Generally, the only recourse the public has to raise objections to UC projects is by challenging the CEQA determination. The statute of limitations for a legal challenge is 30 days after filing an NOD and 35 days after filing an NOE with the State Clearinghouse. The statute of limitations increases to 180 days from the date when there is evidence that a project has been approved if no NOD or NOE has been filed. It is therefore beneficial to clearly document the irrevocable commitment to the project and to file the NOD or NOE in a timely manner to shorten the statute of limitation period.

If you have questions, please contact Charlotte Strem ([charlotte.strem@ucop.edu](mailto:charlotte.strem@ucop.edu)) or Catherine Kniazewycz ([catherine.kniazewycz@ucop.edu](mailto:catherine.kniazewycz@ucop.edu))



## Use of Real Estate Agents



Should UC use a real estate broker/sales person ("Agent") to lease, buy or sell property?

While UC specialists can perform all of the tasks needed for property transactions, an Agent can provide: 1) unique market knowl-

edge, 2) quick, comprehensive access to many alternatives, and/or 3) anonymity so UC's interest is confidential. Absent the need for these services, an Agent may not be required. Properties on the market typically have a listing Agent who will compensate UC's Agent. There is still a cost to UC, however, either in no longer being able to negotiate to receive a portion of the listing commission or a reduced rent or purchase price because less commission has to be paid. Casually contacting Agents (other than the listing Agent) for information or a tour may entitle that Agent to a share of the listing commission per multiple listing service (MLS) rules. Thus, while retaining an Agent to represent UC requires a written agreement, casual use of Agents can result in unnecessary claims and should be avoided. Before selecting an Agent for a purchase or sale, or for more information, contact RESG.

*Gordon Schanck*

## Contractor Safety Records and UCIP Projects

Because capital projects of \$25 million and over pay the premiums for the University Controlled Insurance Program (UCIP), it is important to select contractors with good safety records to keep premiums and risks reasonably low. Under UCIP, high contractors' and subcontractors' workers' compensation claims will increase UC's future UCIP premiums and, therefore, project costs.

In accordance with California Government Code § 4420, all contractors and subcontractors bidding on a UCIP-insured project must provide a declaration under penalty of perjury that for the past five years 1) they have had no serious or willful violations of CalOSHA; 2) their average Experience Modification Rate (EMR) does not exceed 1.15; and 3) they have a current injury prevention program. Campuses that have a more difficult time attracting qualified bidders may find that a maximum EMR of 1.15 disqualifies too many bidders. Those campuses may contact Construction Services at UCOP and request a higher EMR threshold on a project-by-project basis. Construction Services and UCOP Risk Services will consider the needs of the project and the campus' experience attracting bidders. A higher EMR may be allowed if the bidder provides additional risk mitigation for the project. Any request for an exception to the maximum EMR must be made prior to bidding.

*Chris Hornbeck*



KEY DATES

APR

10  WATER INTRUSION MANAGEMENT  
UCOP

18  WATER INTRUSION MANAGEMENT  
UCLA

MAY

2  UC CONSTRUCTION AND THE LAW  
DAVIS

9  UC CONSTRUCTION AND THE LAW  
UCSD

11  LEED FOR PROJECT MANAGERS  
BERKELEY

15-17 REGENTS MEETING  
SACRAMENTO

## Site Assessment Before Design

Preparing a site assessment before proceeding with formal design can avoid project pitfalls and excess costs. This is also known as a Land Capability Analysis or Opportunities and Constraints Map ('Map'). The Map can be used to aid in site selection and/or refine the project location on the preferred site. Most importantly, the Map can guide the design team's effort to assure that the project design is not compromised and that unexpected costs are not incurred because of unknown site conditions. Typical Map components are shown at right. For example, a constraint such as an active earthquake fault on the site precludes building within a certain distance (per the Alquist-Priolo Act); or the discovery of existing underground utilities that could entail high costs to relocate can be dealt with earlier rather than later. The Map process adds value whether the site is on the core campus or at a remote location. Campus A&E, Planning, Facilities, and Real Estate, as well as outside consultants, can all contribute to making a comprehensive Map; for additional information see Facilities Manual Vol. 2, Chap. 6.

<http://www.ucop.edu/facil/fmc/facilman/volume2/ch6.html>

### Constraint Map Components:

- ALTA Survey with Topography
- Geotechnical (soils) analysis with active fault location and hydrology evaluation
- Environmental Phase I Due Diligence
- Records and facilitates review of any archeological factors, prior development or unrecorded subsurface improvements (geophysical surveys as needed)
- Conditions on surrounding properties
- Availability of utilities, drainage and access, and the capacity & feasibility to connect them
- CEQA issues assessment (identify appropriate level of CEQA documentation given potential environmental impacts)
- Title commitment (formerly called Preliminary Title Report) and review of recorded exceptions mapped on the site



Charlotte Strem

## UC Acronyms

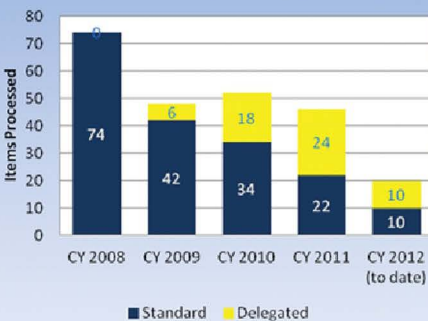
We use a lot of acronyms at the University of California. When I first started as a new project manager, they made my head swim! Here's a sample list of some of the most common ones we see in capital projects and planning, along with brief definitions. For a more comprehensive list of UC familiar Acronyms please visit:

[www.ucop.edu/capitalprojects/acronyms.pdf](http://www.ucop.edu/capitalprojects/acronyms.pdf)

Catherine Kniazewycz

ASF	Assignable Square Feet
BCA	Business Case Analysis
CEQA	California Environmental Quality Act
CFP	Capital Financial Plan
CIB	Capital Improvement Budget
CRM	Capital Resources Management (UCOP)
DCFM	Designated Campus Fire Marshal
DOF	Department of Finance (State of California)
G&B	Regents Committee on Grounds and Buildings
LAO	Legislative Analyst's Office (State of California)
LRDP	Long Range Development Plan
RESG	Real Estate Services Group (UCOP)

### Capital Project Approvals



## CODE CORNER

**Section 3408.1, Conformance**, permits changes of occupancy that are "less hazardous, based on life and fire risk, than the existing use," without conforming to "all the requirements of the code" for the new occupancy group or groups *[emphasis added]*. However, this does not mean that *no* requirements of the code apply in this case. In particular, **Section 3411.4** delineates the minimum requirements for accessibility in the case of changes of occupancy, regardless of whether the change in occupancy is to a more hazardous or less hazardous use.

**Section 3417, Earthquake Evaluation and Design for Retrofit of Existing Buildings**, specifically applies to UC and CSU in addition to state-owned structures. **Section 3417.3.1, [Applicability to] Existing State-Owned Buildings** again specifically names UC and CSU and provides that whenever a "structure is to be retrofitted, repaired or modified" and any of five conditions apply, a seismic evaluation must be done (Section 3417.4), and a seismic retrofit may be required depending on the results of that evaluation. One of the five conditions is #2, when "There are changes in occupancy category." Note again that this is regardless of whether the change in occupancy is to a more hazardous or less hazardous use. Refer to Chapter 34 for complete details.

This feature of Dialogue highlights building code issues and questions. If you have a code question or an idea for spotlighting issues in the code, please send it to [catherine.kniazewycz@ucop.edu](mailto:catherine.kniazewycz@ucop.edu). Please use the words "Building Code" in your subject line.