Office of the President

TO THE MEMBERS OF THE COMMITTEE ON FINANCE:\footnote{Of interest to the Committee on Grounds and Buildings}:

ACTION ITEM – CONSENT

For Meeting of May 15, 2014

APPROVAL TO JOIN THE FORT ORD REGIONAL HABITAT COOPERATIVE AND TO PARTICIPATE IN A LANDSCAPING AND LIGHTING DISTRICT, UC MONTEREY BAY EDUCATION, SCIENCE AND TECHNOLOGY CENTER, SANTA CRUZ CAMPUS

EXECUTIVE SUMMARY

The Santa Cruz campus requests approval of actions related to the UC Monterey Bay Education, Science and Technology (MBEST) Center: (1) the University’s participation in a Joint Exercise of Powers Agreement establishing the Fort Ord Regional Habitat Cooperative (Cooperative); and (2) authorization of the President to adopt an Installation-Wide Multispecies Habitat Conservation Plan (HCP) fee collection policy for private development at the MBEST Center; approve and execute an HCP Implementation Agreement; and approve the University’s participation in a Landscaping and Lighting District to be established by the City of Marina for the MBEST Center’s Central North Campus. The Cooperative is proposed to include 13 public stakeholders with separate and vested real property interests in the former Fort Ord Army Base. The Cooperative’s proposed members are existing members of the Fort Ord Reuse Authority, which was established by State legislation in 1994, and has been coordinating with State and federal wildlife agencies on the development of an HCP since 1997. The HCP is expected to be approved in late 2015 and will establish terms and conditions for complying with the Endangered Species Act in connection with development activities at Fort Ord that could result in harm to endangered species and supporting habitat.

RECOMMENDATION

The President of the University recommends that the Committee on Finance recommend to the Regents that:

1. The University’s participation in the Joint Exercise of Powers Agreement (JEP Agreement) establishing the Fort Ord Regional Habitat Cooperative Membership (Cooperative), for purposes of holding and managing base-wide endangered species incidental take permits on the former Fort Ord lands, which include land owned by the University, be approved.

\footnote{Of interest to the Committee on Grounds and Buildings}
2. The President, after consultation with the Office of the General Counsel, be authorized to execute all documents necessary for the University to become a member of the Cooperative, without limitation, via a JEP Agreement, to include the following provisions:

A. The Santa Cruz campus shall manage and administer the Fort Ord Natural Reserve (FONR) lands consistent with an Installation-Wide Multispecies Habitat Conservation Plan (HCP) and its related oversight documents. All monitoring and reporting responsibilities will be performed by the Cooperative.

B. The Fort Ord Reuse Authority (FORA) will have the following financial obligations until it sunsets (anticipated in 2020), after which the Cooperative will have the same obligations for the remainder of the 50-year life of the endangered species incidental take permit, with those financial obligations to be met by development fees charged and collected by the FORA:

   (1) Provide approximately $84,000 annually, indexed to inflation, to the campus for management and operational costs at FONR. After the FORA terminates, the Cooperative will take on this responsibility until such time as the habitat endowments, including the FONR endowment, are fully funded.

   (2) Contribute 25 percent of all development fees collected to fund habitat endowments, including the FONR Endowment, until all endowments are fully funded.

C. Any party may withdraw from the Cooperative upon 90 days’ written notice to the other parties. The withdrawing party shall remain obligated to the same extent, if any, as the remaining parties, including but not limited to debt, liabilities, and obligations arising from or related to any Cooperative actions taken during the period that the withdrawing party was a member of the Cooperative.

D. The President be authorized to approve and execute a HCP Implementation Agreement with the California Department of Fish and Wildlife, and sign an endangered species incidental take permit issued by the U.S. Fish and Wildlife Service in conjunction with the other members of the Cooperative, and jointly hold a State endangered species incidental take permit applicable to the former Fort Ord land, such agreement to include the following provisions:

   (1) The University will be solely responsible for managing the University’s lands at FONR.

   (2) The University will establish and manage an endowment to provide and receive funding in perpetuity for HCP-required management activities on FONR.
(3) The President of the University will adopt a policy to collect funds associated with development of UC-owned lands at the former Fort Ord to be used to mitigate impacts to endangered species.

E. The President be authorized to negotiate, approve, and execute any other agreements, amendments, or modifications concerning the Cooperative or the JEP Agreement that are reasonably related to the above, provided such agreements, amendments, or other modifications do not materially change the obligations or reduce the consideration to The Regents.

F. The President of the University be authorized to appoint the University’s representative to the board of the Cooperative.

G. The President of the University be authorized to approve, and execute any other agreements, amendments, or modifications concerning the University’s joining a Landscaping and Lighting District for the Central North Campus of the UC Monterey Bay Education, Science and Technology Center to be established by the City of Marina, and to appoint the University’s representative to the board of such a District.

BACKGROUND

On the former Fort Ord Base, the University holds approximately 484 acres of developable land and approximately 605 acres of natural habitat. The latter acreage comprises the Fort Ord Natural Reserve (FONR), which is administered by the UC Natural Reserve System (NRS) and managed day-to-day by the Santa Cruz campus. FONR is obligated to remain a natural habitat by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife (CDFW). For context, the historic background for the UC Monterey Bay Education, Science and Technology (MBEST) Center is provided in Attachment 1.

MBEST Center’s Programmatic Purpose

The MBEST Center arose from the opportunity afforded by the U.S. Army’s property disposal program and the desire of regional leadership to draw upon the strengths of the region’s educational and research sectors. The University’s goals for the MBEST Center are: (1) to promote economic growth and environmental stewardship through the integration of science, technology, education, and policy; (2) to contribute to California’s leadership in the emerging environmental and informational economies of the global marketplace; and (3) to maintain and enhance the unique natural and cultural resources of the Monterey Bay Region.

The Santa Cruz campus anticipates that it will be required to participate in two different types of affiliation agreements in order to meet the goals of the MBEST Center.
Joint Exercise of Powers Agreement Establishing the Fort Ord Regional Habitat Cooperative

The Regents are being asked to approve the University’s participation in this affiliation agreement in order to establish the Fort Order Regional Habitat Cooperative (Cooperative). The Cooperative would perform reporting, management, and administrative duties as detailed in the Installation-Wide Multispecies Habitat Conservation Plan (HCP), including the administration of the incidental take permit for the potential development of non-FONR lands within the MBEST Center, and to provide funding for the on-going HCP management through the assessment of development fees on lands in the former Fort Ord Base.

In addition, the Cooperative will have the following responsibilities:

1. Manage the Habitat Reserve System lands, consisting of approximately 2,316 acres held by local jurisdictions;
2. Provide HCP public information and outreach; and
3. Exercise its powers to establish an HCP concurrence process, which allows the Cooperative, its members, or a member of the public to appeal a Permittee’s HCP concurrence decision to the Cooperative.

The Cooperative will ensure that habitat management endowments, including the FONR Endowment managed directly by the University, are adequately funded through the collection of base-wide and local jurisdiction development fees for habitat management and monitoring activities required under the HCP, into perpetuity. The endowments will be funded through the collection of 25 percent of all development fees until all endowments are fully funded. In the meantime, the Fort Ord Reuse Authority (FORA) and the Cooperative will provide annual funding of approximately $84,000, indexed to inflation, to meet FONR’s management and operational cost required to comply with the HCP. The campus has estimated that total funding required for the on-going management of FONR is $5.2 million, which will be funded by the Cooperative through a campus endowment.

The members of the Cooperative will consist of the cities of Seaside and Marina, and the County of Monterey, each having two votes, and the cities of Del Rey Oaks and Monterey, University, California State University Monterey Bay, Monterey Peninsula College, California Department of Parks and Recreation, and Marina Coast Water District, each having one vote. The three non-voting members are FORA, the Bureau of Land Management (BLM), and the Monterey Peninsula Regional Park District.

The HCP guidelines were drafted with the campus and NRS oversight, and are considered consistent with the campus’ goals for the MBEST Center as stated above.

In 2000, the incidental take permit was obtained by the University from CDFW as a temporary measure to allow for the immediate development of the MBEST Center until such time as the base-wide incidental take permit could be issued to the Cooperative. The temporary permit is not
suitable for long-term development of the MBEST Center because it limits development to only
certain developable areas of the MBEST Center and its required mitigations are more costly than
those under the base-wide take permit.

Specific Provisions within the Joint Exercise of Powers Agreement

The FORA has the authority to prepare a Base Reuse Plan (BRP), assess development fees on
new projects, accept additional lands from the U.S. Army, convey former U.S. Army lands to
local jurisdictions or their designees, and determine consistency between the local plans,
development entitlements, and the BRP.

Under the proposed terms of the Joint Exercise of Powers Agreement (JEP Agreement), the
Cooperative can formally apply for an endangered species incidental take permit in connection
with development proposals on non-FONR lands within the MBEST Center once the
Cooperative is established, the HCP is finalized, and California Environmental Quality Act
(CEQA) documentation is prepared. The incidental take permit will expire 50 years from the
date of issuance, and during its term the Cooperative will manage the incidental take permit on
behalf of all landholders in the former Fort Ord, except that the University will solely manage
the incidental take permit on FONR lands. Management of FONR lands by the University
contributes to the mitigation of base-wide impacts on endangered species.

Consistent with the HCP, FONR lands will be managed solely by the University, with all
monitoring and reporting responsibilities performed by the Cooperative. All other designated
habitat lands will be managed by the BLM, the California Department of Parks and Recreation,
and the Cooperative.

Landscaping and Lighting District

The Santa Cruz campus is focusing its efforts to establish a University research park on the
Central North Campus of the MBEST Center. As part of a future action, the campus is working
closely with the City of Marina to draft a Specific Plan and Subdivision Map (Subdivision Map)
for the MBEST Center’s Central North Campus and the adjacent Marina Airport Business Park.
(See parcels M1 through M26 on Attachment 5.)

The Subdivision Map will require that the campus deed the common areas (parks, roadways,
storm water retention basins, and other open space) to the City of Marina and that a Landscaping
and Lighting District be established to fund the cost of maintenance of these common areas. To
the extent that the campus holds land in the Central North Campus, the campus will be expected
to pay its prorata share of improvement and maintenance costs incurred by the District, which are
not known at this time. The President requests the authorization to have the University join a
Landscaping and Lighting District established to manage and maintain the common areas of the
Central North Campus of the MBEST Center.

It will be in the campus’ interest to dedicate common areas to the City of Marina and to join a
Landscaping and Lighting District given that the campus does not have the dedicated resources
to maintain and operate parks, roadways, storm water facilities, or other open space, at the MBEST Center. The estimated contributing value of the common areas is less than $20 million and disposition of that property would fall under the President’s delegated authority.

The University’s proposed participation in the future Lighting and Landscaping District to be established by the City of Marina would enhance the development of the MBEST Center’s Central North Campus as a University research park.

**Future Delegated Approvals**

Following the Regents’ approval of the Action Item on the MBEST Center’s West Campus, these further actions will be presented for delegated approval:

1. A minor subdivision of land to legally define the boundary between the West Campus and FONR, and create four parcels, of which five acres of the West Campus will be designated as FONR lands to replace the five acres of habitat sold by the University to the City of Marina in July 2001;

2. Covenants, Conditions and Restrictions on the West Campus to reflect the terms and conditions of the MBEST Center Master Plan; and


**Environmental Review**

This Item recommends approval of the University’s participation in a JEP Agreement establishing the Fort Ord Regional Habitat Cooperative (Cooperative) and a Lighting and Landscaping District. In accordance with CEQA and University procedures for the implementation of CEQA, it has been determined that the authorization to participate in the Cooperative and District are not “projects” as defined by CEQA and therefore the preparation of environmental documentation is not required (Public Resources Code Section 21065 and CEQA Guidelines Sections 15002(d), 15378.b(4) and (5)). The Cooperative is an administrative and funding mechanism for implementation of the HCP, if and when the HCP is approved and the Implementing Agreement is executed. The action authorizing formation of the Cooperative is an organizational or administrative activity of governments that will not result in direct or indirect physical changes in the environment. CEQA Guideline 15078(b)(5). If and when the HCP is approved, the University will be asked to accept the HCP terms and execute an HCP Implementing Agreement, which authority is proposed to be delegated to the President. Execution of the HCP Implementing Agreement and acceptance of the incidental take permits are future University discretionary actions subject to compliance with CEQA. Approval of UC’s participation in the District is also not a project because the purpose of the District is to create a government mechanism to fund landscape and lighting improvements and does not commit the University to any specific project that may result in direct or indirect physical changes in the environment. (CEQA Guidelines Section 15378(b)(4))
Committee on Finance
May 15, 2014

Attachments:

Attachment 1 – Chronology of MBEST and Fort Ord Natural Reserve
Attachment 2 – MBEST Center State Map
Attachment 3 – MBEST Center Regional Map
Attachment 4 – MBEST Center and FONR Lands Map
Attachment 5 – MBEST Center Master Plan Map
The chronological history of the UC Monterey Bay Education, Science and Technology (MBEST) Center as it relates to Fort Ord Natural Reserve (FONR) and the base-wide endangered species take-permits, is detailed below.

1. In **1991**, the U.S. Army announced the planned closure of the Fort Ord Army Base, located in Monterey County, approximately 35 miles south of the Santa Cruz campus. (See Attachment 2 – MBEST Center State Map and Attachment 3 – MBEST Center Regional Map.)

2. On **July 14, 1994**, the Committee on Finance recommended that the Regents accept title to approximately 1,100 acres of real property at the former Fort Ord in a phased transfer.

3. On **August 19, 1994**, the UC President signed a Memorandum of Agreement with the Secretary of the Army (Installations, Logistics, and Environment) for the phased conveyance of approximately 1,100 acres of real property to UC that would become the MBEST Center and the Fort Ord Natural Reserve (FONR). (See Attachment 4 – MBEST Center and FONR Lands.)

4. On **June 20, 1996**, the Committee on Educational Policy recommended that the Regents designate approximately 605 acres of property received by UC at the former Fort Ord as the Natural Reserve System, thereby establishing the FONR. (See Attachment 4 MBEST Center and FONR Lands.)

5. On **March 20, 1997** the Committee on Grounds and Buildings recommended that the Regents approve the Master Plan for two tracts totaling 127 acres of developable land and 408 acres of FONR land located near the Marina Municipal Airport. Although the plan identified four large tracts (the Central North Campus, West Campus, East Campus, and Central South Campus), the Regents were asked to approve only portions of the Master Plan applying to the Central North and West campuses and the 408 acres in the FONR – North Reserve. (See Attachment 5 – MBEST Center Master Plan.) An additional 47-acre tract, located approximately two miles to the southwest of the Central North Campus, known as the Eighth Street Parcel, was transferred from the Army in 2004, but was not included in the Master Plan because the campus intended that this land would be sold to raise funds to help develop the MBEST Center. (See Attachment 4, MBEST Center and FONR Lands.)

6. On **February 22, 1999**, responding to a requirement established by the U.S. Army for receiving real property, UC Santa Cruz Chancellor Greenwood and UC/Natural Reserve System Director Alex Glazer signed the Fort Ord Multispecies Habitat Management Plan (HMP), committing the University to manage FONR in accordance with the specific
requirements of the HMP. The HMP formed the basis for the later development of the Installation-Wide Multispecies Habitat Conservation Plan.

7. In **December of 2000**, UC Santa Cruz Chancellor Greenwood signed an endangered species incidental take permit issued by the California Department of Fish and Wildlife that enabled development on most but not all MBEST Center parcels containing endangered species.
State Context
MBEST CENTER MASTER PLAN MAP

MBEST Center Master Plan

- WEST CAMPUS
- MARINA AIRPORT BUSINESS PARK
- OPPORTUNITY AREA
- EAST CAMPUS
- OPEN SPACE

Flight Simulator Building
Headquarters Building

Attachment 5