

# Behind the Scenes at Fort Ord

## Land Transfer Laws

### Until Fort Ord...

Federal surplus lands were conveyed under the 1949 Federal Property and Administrative Services act of 1949. Including:

**Public Benefit Conveyances** that enabled transfers to educational institutions for no cost. Such transfers had restrictions which prohibited profit making activities on lands transferred under this authority.

**FAA conveyances**, however, allowed a similar conveyance, at no cost, for airports while allowing the airport to site profit making activities on the transferred properties.

### Challenge at Fort Ord:

University of California, as one of the two anchor reuse entities, sought to acquire 1100 acres of land for the purpose of creating a university lead research park. This activity would require profit making entities on the land.

In the early 1990's there was a national recognition that public/private partnerships were desirable and necessary for creating university lead research parks.

UC MBEST vision was to acquire 500 acres for the research park that would build upon the regional marine science expertise around the Monterey Bay Crescent...and 600 acres to be maintained in habitat to enable base wide development.

(a UCSC effort lead by Lora Lee Martin but conceived of by Jim Rote and Bill Schramm)

Martin determined that the PBC would be too restrictive for UC's project. She also proposed that the CSU initiative would benefit from not having the restrictions no profit-making activities on their footprint.

### Mechanisms (laws/legislation) that were explored to enable transfers to CSU/UC.

#### 1. Federal Property Conveyances

Seeking an exception to the 1949 Federal Surplus Act. Martin met with the staffer who helped write that law (yes..he was an OLD staffer)...and argued that if the act allowed airport transfers without the no profit making restriction that land across the street, literally, should be transferred in that manner also. The staffer was not swayed.

## 2. Direct Conveyance

Congressman Farr, new to Washington, hit the ground running. Farr, working with Congressman Dellums' office, authored legislation to directly convey lands to CSU and to UC without cost and without restriction. The bill was a viable alternative that was eventually dropped due to negotiations related to the Pryor Amendment.

## 3. Pryor Amendment

Martin secured a meeting in the White House with the National Economic Council to brief them on UC's intent to create a research park on the former fort ord. (The meeting was made possible by Ed Furteck UCSD's federal relations officer.) As she described the vision of a research park, she raised the issue of 1949 public benefit conveyances being out of step with the current notion of public/private partnerships. The NEC principals were energized with this concept and voiced that they thought that would be something they were interested in expanding beyond Fort Ord (other bases were closing in that BRAC round as well). The NEC then approached Senator Pryor. The Senator authored a successful bill that was incorporated as section 2903 of public law 103-160). Under this law, no cost transfers for land could be done as an "economic development conveyance" (EDC). Integral to the concept of the EDC was the valuation of regional job creation as the return vs a previously relied on return via cash flow to the Pentagon. The EDC mechanism also included a profit-sharing term that would allow the Pentagon to reap some portion of net profit that would be defined in the conveyance agreements. As part of the negotiations for the passage of the Pryor Amendment, Congressman Farr agreed to pull back his direct conveyance bill. UC now had an avenue for conveyance as an EDC and CSU now had a second conveyance option beyond the PBC.

Once the Pryor Amendment passed regulations were promulgated by the Department of Defense, and UC and CSU began conveyance negotiations under the interim regulations. This was due to political pressures to expedite the transfers before final regulations could be filed.

## 4. One Catch....Must be a Reuse Authority

Pryor Amendment implementing regulations (DOD's last attempt to thwart the no cost conveyances to UC/CSU) included a requirement that transfers of former military base lands could only be conveyed to a 'reuse authority' as designated by the state where the land existed. (\*NOTE: I need to do more research, but this is close)

5. **Mello Bill – reuse authority SB900** (1993-1994) Signed into law as an urgency bill Not to be outsmarted by the feds, Congressman Farr reached out to state Senator Henry Mello and they concocted a plan to thwart the DOD's effort to thwart the UC/CSU

EDC's<sup>1</sup>. Mello's bill moved through the legislature and was signed into law as an urgency bill to enable the CSU/UC conveyances under the Pryor amendment law...This was done in parallel, but the Army/DOD was not aware of its existence. Army was hoping that their regulations requiring a reuse authority to receive the lands would be enough to stop the UC conveyance and to require CSU to use the PBC option. OH...oops...didn't work that way.

The Mello bill included:

“Redevelopment authority”, for the purposes of the transfer of property at military bases pursuant to Title XXIX of the National Defense Authorization Act for the 1994 fiscal year, means the Fort Ord Reuse Authority, except that, with respect to the property within the territory of Fort Ord that is transferred to the California State University or to the University of California, “redevelopment authority” solely for the purposes of the transfer of property at military bases pursuant to Title XXIX of the National Defense Authorization Act for the 1994 fiscal year means the California State University or the University of California, and does not mean the Fort Ord Reuse Authority.”

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- <sup>1</sup> Why DOD didn't want EDC's. The BRAC conveyance laws at the time allowed the specific branches of the military to recoup all of the proceeds of the land sales on surplus properties held by those branches of the military if they were sold within a certain time frame. The conveyance protocols allowed for public benefit conveyances to educational institutions, homeless services and to other federal or state agencies. But after that the military branch would be able to sell the land for a profit and hold the funds for their use (vs sending to the Treasury). So the EDC option that was changing transfer lands across all DOD held properties was not welcomed by the Army or by DOD at the highest level.