NOTICE OF BOARD OF REGENTS' MEETING

Date: April 15, 2010

Board business not completed on this day will be taken up on another day and time announced at the conclusion of the meeting.

Time: 9:00 a.m.

Place: Honolulu Community College
Loui Conference Center
874 Dillingham Blvd.
Honolulu, Hawai‘i 96817

AGENDA

I. Call Meeting to Order

II. Approval of Meeting Minutes of February 18, 2010

III. Public Comment Period: Individuals may orally testify on items on this agenda either during the Public Comment Period or when the agenda item is taken up by the Board. Please call the Board office prior to the meeting or notify the Secretary of the Board at the meeting site. Written testimony is also accepted. Testifiers are requested to limit their testimony to three (3) minutes.

IV. Report of the President

V. Report of the University of Hawai‘i Foundation

VI. Acceptance and Approval of Gifts, Grants and Contracts [Attachments A1, A2]

VII. Items for Board Action – Part A

UH System
1. Approval of Capital Improvements Program and Repair and Maintenance Project Contracts For FY 2009-2010
2. Approval of Update of Board of Regents’ Policies and Bylaws Section 8-2 and Section 8-6
3. Approval to Amend BOR Policy Relating to Health Insurance for International Students

VIII. Executive Session (closed to the public):

Personnel Actions Related to the Following Positions: (To discuss the following personnel matters pursuant to HRS §92-5(a)(2))
   a. Approval of Honorary Degree
   b. Update on Executive Searches
Legal and Real Estate Matters: (To consult with attorneys on powers, immunities, and liabilities pursuant to HRS §92-5(a)(4); To consider negotiations concerning acquisition of public property pursuant to HRS §92-5(a)(3))

c. Approval of Lease Agreement Amendment/Renewal with The Queen’s Medical Center
d. Status Report on Campus Developments (Information only)
e. Status of Ongoing Litigations

Collective Bargaining: (To discuss authority of persons conducting labor negotiations and conducting negotiations pursuant to HRS §92-5(a)(3))

f. Collective Bargaining

IX. Items of Board Action – Part B

UH Mānoa

4. Approval of Honorary Degree for Patti J. Lyons
5. Approval of Honorary Degree for Gordon E. Moore
6. Approval of Lease Agreement Amendment/Renewal with The Queen’s Medical Center
7. Status of the Cancer Research Center of Hawai‘i (Information Only)

UH Hilo

8. Approval of Honorary Degree for Betty Irene Moore

X. Approval of Personnel Actions [Attachment B]

XI. Announcements

Next Meeting:
May 20, 2010
UH Mānoa Campus Center Ballroom

XII. Adjournment
Extramural Sponsor Awards
Monthly Summary February 28, 2010

<table>
<thead>
<tr>
<th>Type</th>
<th>Count</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research</td>
<td>72</td>
<td>$12,024,930</td>
</tr>
<tr>
<td>Non-Research</td>
<td>42</td>
<td>$4,894,025</td>
</tr>
</tbody>
</table>

**Total:** 114 $16,918,955

Note: The listing of the awards at:
http://www.ors.hawaii.edu/bor-reports.asp

The unofficial year-to-date total is: $311,546,795.
MEMORANDUM

TO: M.R.C. Greenwood
    President
Howard S. Todo
    Vice President for Budget and Finance/Chief Financial Officer
Darelyn H. Lendio
    Vice President for Legal Affairs and University General Counsel

FROM: James R. Gaines
    Vice President for Research


In accordance with the Hawai‘i Revised Statutes Section 304A-110 and Board of Regents Policy Section 8-1, it is requested that you approve the placement of the attached Indemnity Provision between the University of Hawai‘i (UH) and the Smithsonian Astrophysical Observatory (Sponsor), in the consent agenda section for the April 15, 2010 Board of Regents meeting for the purpose of securing Board approval.

Attachment

Approved: [Signature]
President
3/22/10
Date

Approved: [Signature]
Vice President for Budget and Finance/CFO
3/22/10
Date

Approved: [Signature]
Vice President for Legal Affairs and University General Counsel
MAR 1 6 2010
Date

c: Yaa-Yin Fong, Director of Research Services
Consent Agenda for Indemnity Provisions
Attachment

Indemnity Provision – Agreement between the University of Hawai‘i (UH) and the Smithsonian Astrophysical Observatory

The Smithsonian Astrophysical Observatory (SAO) has issued a subaward to UH in the amount of $66,166.00 from its prime agreement with the National Aeronautics and Space Administration (NASA) to conduct a study entitled, "The Distribution and Interaction of Luminous and Dark Matter in Strong-Lensing Clusters at z>0.3" (hereafter referred to as "Project"). The SAO is a research institute of the Smithsonian Institution.

Dr. Harald Ebeling (hereafter “PI”), a member of the UH graduate faculty and affiliated with the UH Institute for Astronomy (IfA), will lead the Project. Under the Project, the PI plans to analyze and develop data that will enable researchers to better understand the evolutionary history and dynamic state of galaxy clusters.

The current period of performance of the Project is from September 10, 2009 to January 8, 2012. Since the PI has not started work on this project, we requested that the start date be changed to reflect the actual start date which will be after the agreement is signed. However, SAO has indicated that they are unable to agree to this change.

Under this award, the PI will analyze data provided by SAO. This data will be transmitted over the Internet from an orbiting x-ray telescope on a space-borne observatory, traveling about a thousand miles above the earth.

The PI or his graduate assistant may travel to the Big Island for the purpose of conducting observations with telescopes on Mauna Kea. These observations need to be planned and proposed to the UH Telescope Time Allocation Committee. The PI will decide whether to initiate this process after he completes the analysis of data provided by SAO.

If observation time on the Mauna Kea telescope is applied for and approved, the PI’s primary role will be to determine and control the observational parameters that will maximize the scientific usefulness of the data to be obtained from the observation. The PI will not operate the telescope. A trained technician will perform this task. Interactions between the PI and the technician and other staff supporting the telescopes are limited to oral and electronic communications. According to the IfA, no technician or other staff supporting the telescopes at Mauna Kea has ever suffered any harm or injury from the types of interactions anticipated in the performance of this Project.

The subaward agreement between UH and SAO contains a provision which reads as follows:

D. General Release

Award Recipients are responsible for all actions taken or not taken in the performance of the activities under this Award, and the Smithsonian Institution and NASA expressly disclaim any responsibility to any third party therefor. Further, to the extent allowable by law, the Award Recipient agrees to hold both the Smithsonian and NASA harmless from, and to accept all responsibility for, any harm suffered by anyone arising out of actions of the Award Recipient or its
employees, agents, and representatives if visiting SAO.

As stated in the contract, UH will be undertaking the work under this award as an independent contractor, not as an employee of the Smithsonian Institution or NASA. In addition, UH is insured against the types of risk that might be incurred under this award, such as an accident while traveling to Mauna Kea.

As described, the PI or his graduate assistant paid under the award may travel to Mauna Kea observatories to acquire data for the Project. All other work will be performed at the Institute for Astronomy, located at 2680 Woodlawn Drive and part of the UH Manoa Campus. No employee, agent or representative of the award recipient (UH) will travel to SAO in Cambridge, Massachusetts under this award. Thus, “harm” suffered during such visits will not occur.

Another provision in the subaward agreement between UH and SAO states:

B. Indemnification

The Award Recipient agrees not to make any claim against the U.S. Government, NASA, or the Smithsonian Institution, its Regents, directors, officers, employees, volunteers, licensees, representatives and agents, with respect to activities under this Award for the injury or death of its employees or of contractor or subcontractor employees, or to the loss of its property or that of its contractors and subcontractors, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

Although the title of this clause is “indemnification,” this provision is an agreement not to file a claim against the U.S. Government, NASA, or the Smithsonian Institute. Since, with respect to the activities to be performed under this award, UH does not envision a circumstance under which it would want to bring a claim against any of these entities for the injury or death of UH employees or to the loss of its property, and since UH will not hire contractors or subcontractors under this award, we do not believe that this provision is problematic.

If a Mauna Kea telescope technician files a claim against the U.S. Government, NASA, or the Smithsonian Institution, then under this provision, UH might be required to indemnify the U.S. Government, NASA, or the Smithsonian Institution. However, for reasons detailed above, it is extremely unlikely that a technician or other support staff will incur injury or death from any activities performed under this award, or that a claim would be filed against the U.S. Government, NASA, or the Smithsonian Institution. According to the IfA, no such claim has ever been filed against a Mauna Kea observer. For this award, it is highly unlikely that the indemnity clause will be invoked.

This Project has the same scope of work and title as a subaward issued by SAO and approved by the Board of Regents in 2009. The reason that the Board of Regents must approve a new subaward for this Project is because the PI must reapply for funding each year. A panel of scientists at SAO review projects annually and determines which projects will be approved for the upcoming year. The PI's project was approved two years in a row.

For these reasons, it is requested that the Board of Regents approve the acceptance of the two provisions in the subaward agreement between UH and SAO.
B-1 Pursuant to Act 6, Special Session 2008 (SB 2263), the following proposed compensation actions for excluded executives are disclosed for purposes of public comment.

UNIVERSITY OF HAWAI‘I SYSTEM

Executive

TAMASHIRO, CHRISTINE F. Y.
University Associate General Counsel
Office of the Vice President for Legal Affairs
Reallocation
$9,334 per month
Temporary Salary Adjustment
$8,774 per month
May 1, 2010

COMMUNITY COLLEGES

Executive

MCKEE, JONATHON V.
Interim Vice Chancellor for Academic Affairs
University of Hawai‘i Maui College
Appointment
$9,250 per month
Temporary Salary Adjustment
$8,696 per month
May 3, 2010 – April 30, 2011

ROBINSON, SUZETTE T.
Academic Affairs Program Officer
Office of the Vice President for Community Colleges
Appointment
$10,370 per month
Temporary Salary Adjustment
$9,748 per month
May 3, 2010