

**ATTACHMENT C**

Legally Binding Agreement (HAS Exhibit 4)

LRA DRAFT 9/120/2011

**LEGALLY BINDING AGREEMENT  
AMONG  
THE ONIZUKA AIR FORCE STATION LOCAL REDEVELOPMENT AUTHORITY,  
MIDPEN HOUSING CORPORATION  
AND  
CHARITIES HOUSING DEVELOPMENT CORPORATION**

1           **THIS LEGALLY BINDING AGREEMENT (“Agreement”)** is made as of the \_\_\_\_\_  
2 day of \_\_\_\_\_, 2011, among the City of Sunnyvale, California, (“**City**”) acting as the  
3 Federally recognized Local Redevelopment Authority (“**LRA**”) for the Onizuka Air Force  
4 Station, Sunnyvale, California, MidPen Housing Corporation (“**MidPen**”) and Charities Housing  
5 Development ~~Corporations~~Corporation (“**Charities**”). MidPen and Charities may be referred to  
6 individually as a “**Provider**” and jointly as the “**Providers.**” The LRA and the Providers may  
7 be referred to individually as a “**Party**” or jointly as the “**Parties.**”  
8

**WITNESSETH**

9  
10  
11           **WHEREAS**, the Onizuka Air Force Station (“**AFS**”) located in the City was  
12 recommended for closure by the 2005 Base Closure and Realignment Commission;  
13

14           **WHEREAS**, the property on which AFS is located (the “**AFS Property**”) will be  
15 disposed of by the Department of Defense (“**DoD**”) pursuant to the Defense Base Closure and  
16 Realignment Act of 1990, as amended (the “**Base Closure Act**”);  
17

18           **WHEREAS**, the LRA is the federally recognized local reuse authority required by the  
19 Base Closure Act to prepare a final redevelopment plan (“**Reuse****Redevelopment Plan**”) for the  
20 AFS Property;  
21

22           **WHEREAS**, the Base Closure Community Redevelopment and Homeless Assistance  
23 Act of 1994, as amended (the “**Redevelopment Act**”) requires that the LRA submit to the United  
24 States Department of Housing and Urban Development (“**HUD**”) for approval a Homeless  
25 Assistance PlanSubmission (“**HAPHAS**”) and a copy of the legally binding agreement that the  
26 LRA proposes to enter into with ~~representatives of the~~ providers selected by the LRA  
27 to implement homeless programs that fill gaps in the existing continuum of care;  
28

29           **WHEREAS**, this Agreement is intended to legally bind the Parties and to fulfill the  
30 requirements of the Base Closure Act and the Redevelopment Act;  
31

## ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

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1           WHEREAS, if HUD determines that the [HAPHAS](#) and [ReuseRedevelopment](#) Plan  
2 adequately address the needs of the homeless in the surrounding community and balance the  
3 needs of the homeless with the needs of the community for economic redevelopment, then HUD  
4 will approve the HAP and the [ReuseRedevelopment](#) Plan and notify the DoD and the LRA of  
5 such approval;

6  
7           WHEREAS, pursuant to the screening process set forth in the Redevelopment Act and  
8 the Base Closure Act, each Provider submitted a Notice of Interest (“NOI”) to the LRA, to use  
9 portions of the AFS Property to carry out each Providers proposed homeless assistance program  
10 (individually, a “Program” and collectively, the “Programs”);

11  
12           WHEREAS, ~~on March 23, 2011, MidPen and Charities Housing executed that certain~~  
13 ~~Memorandum of Understanding for Joint Development and~~ submitted to the LRA revised NOIs  
14 to consolidate their proposed homeless programs to construct permanent supportive housing for  
15 the homeless (“Consolidated Program”) on approximately four and six-tenths (4.6) acres of  
16 land located on the southern portion of the AFS Property (the “Provider Property” more  
17 particularly described at [Exhibit A](#));

18  
19           WHEREAS, the LRA and the Providers wish to enter into this Agreement to set forth the  
20 terms and conditions for the Providers to implement the Consolidated Program, comply with  
21 applicable Federal laws, address the needs of the homeless, and to further the reuse and  
22 redevelopment of Onizuka AFS.

23  
24           NOW, THEREFORE, the Parties hereby agree as follows:

### 25 26 ARTICLE 1. LRA OBLIGATIONS.

27  
28           **1.1 [ReuseRedevelopment](#) Plan.** The LRA will complete and file with DoD and  
29 HUD on or before the federally mandated filing date, as such date may be extended, a [HAPHAS](#)  
30 and [ReuseRedevelopment](#) Plan that includes the use of the Provider Property by the Providers at  
31 no cost for the purposes set forth in the Consolidated Program.

32  
33           **1.2 Pre-Development Costs.** Following execution of this Agreement, the LRA  
34 will reimburse each Provider up to fifty thousand (\$50,000.00) dollars for eligible administrative  
35 and out-of-pocket costs associated with predevelopment activities approved by the LRA for  
36 acquiring and developing the Armory Site, as hereinafter defined, whether or not the LRA  
37 delivers to the Providers an Election Notice in accordance with Section 1.5 below.

38  
39           **1.3 Acquisition of the Provider Property.** Following HUD approval of the  
40 [ReuseRedevelopment](#) Plan, the LRA shall seek to acquire title to the Provider Property from the  
41 Air Force at no cost pursuant to a Government deed to the Provider Property (“Government  
42 Deed”) for Homeless Purposes, as hereinafter defined, in accordance with the Base Closure Act,

## ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

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1 the Redevelopment Act, the ~~Reuse~~Redevelopment Plan, the Consolidated Program and this  
2 Agreement.

3  
4 **1.4 Conveyance of the Provider Property.** Immediately upon receiving title to  
5 the Provider Property from the Air Force, the LRA will enter into ~~a thirty (30~~separate eighty-five  
6 (85) year ground ~~lease with the Agencies for~~leases with each Provider for that Provider's  
7 allocated portion of the Provider Property in substantially the same form set forth at Exhibit B  
8 **("Provider Property Lease")** in accordance with the Base Closure Act, Redevelopment Act, the  
9 ~~Reuse~~Redevelopment Plan, the Consolidated Program and this Agreement so the  
10 ~~Agencies~~Providers may implement the Consolidated Program at the Provider Property in a  
11 manner that will serve homeless persons who meet the definition of "homeless persons" as set  
12 forth in the McKinney-Vento Act (42 U.S.C. § 11301 et seq.) **("Homeless Purposes")** for ~~a~~the  
13 term of the ~~lease~~leases.

14  
15 **1.5. Off-Site Accommodation:** Following the satisfaction of all of the  
16 contingencies set forth in Section 3.1, the LRA, at its sole discretion, may provide to the  
17 Providers an off-site accommodation **("Off-Site Accommodation")** to implement the  
18 Consolidated Program at the former National Guard Armory site located at 620 E. Maude  
19 Avenue described more fully in Exhibit C **("Armory Property")**, by providing the Providers  
20 with a notice **("Election Notice")** as follows:

21  
22 **1.5.1** Together with the Election Notice, the LRA shall deliver to ~~the~~  
23 ~~Providers~~each Provider an executed (a) ~~minimum of thirty (30~~eighty-five (85) year  
24 ground lease ~~with the Providers for~~that Provider's allocated portion of the Armory  
25 Property in substantially the same form set forth at Exhibit D **("Armory Property**  
26 **Lease")** and (b) a Regulatory Agreement substantially in conformance with the terms and  
27 conditions set forth in Exhibit E **("Terms and Conditions for the Regulatory**  
28 **Agreement")**, all in accordance with the Base Closure Act, Redevelopment Act, the  
29 ~~Reuse~~Redevelopment Plan, the Consolidated Program and this Agreement so the  
30 Providers may implement, among other homeless programs, the Consolidated Program at  
31 the Armory Property ~~in a manner that will serve homeless persons who meet the~~  
32 ~~definition of "homeless persons" as set forth in the McKinney Vento Act (42 U.S.C. §~~  
33 ~~11301 et seq.) ("Homeless Purposes") for a term of the lease.~~  
34

35 **1.5.2** As part of the Off-Site Accommodation, the LRA will provide each  
36 Provider with a financial contribution in ~~an~~the amount ~~not to exceed~~of four million and  
37 one hundred thousand (~~\$4,100,00.00~~4,100,000.00) dollars **("Financial Contribution")**,  
38 to be used by the Provider for the predevelopment, entitlement and long-term lease of the  
39 Armory Property and the construction of suitable facilities **("Facilities")**. Collectively,  
40 the Armory Site and Facilities are referred to as the **"Project."** All aspects of each  
41 Provider's Project shall comply with the terms and conditions contained in the Armory  
42 Property ~~Lease~~Leases and the Regulatory Agreement.

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1  
2           **1.5.3** The total Financial Contribution shall be comprised of:

3  
4           (a) The fifty thousand (\$50,000.00) dollars paid to each Provider to reimburse  
5 eligible administrative and out-of-pocket costs associated with predevelopment activities  
6 set forth in Section 1.2 above.

7  
8           (b) Not more than ninety (90) days after the later of the LRA delivering the  
9 Election Notice, and the Providers executing the Armory Property ~~Lease~~Leases and the  
10 Regulatory Agreement, the LRA will reimburse each Provider up to Three Hundred Fifty  
11 thousand (\$350,000.00) dollars for eligible costs approved by the LRA for each  
12 Provider's Project such as performing necessary technical studies, obtaining land use  
13 entitlements, preparing construction documents and cost estimates, paying development  
14 and permit fees, performing site remediation and clearance and constructing the Project.

15  
16           **(bc)** Not more than ninety (90) days after the City approves the land use  
17 entitlements and Regulatory Agreement for the Armory Property, and the Providers  
18 execute the Armory Property Lease and the Regulatory Agreement, and contingent upon  
19 the sufficiency of the City's Housing Assistance Fund balance, the LRA shall make a  
20 three million seven hundred thousand (\$3,700,000.00) dollar contribution in the form of a  
21 loan to each Provider.

22  
23           **1.6 Environmental Condition of Property.** In the event that an environmental  
24 analysis undertaken by the Air Force (or any other environmental regulator, as applicable),  
25 indicates that the Provider Property or the Armory Property, as appropriate, is not suitable for its  
26 intended homeless purposes set forth in the Consolidated Program, then the Parties agree to  
27 make best efforts to negotiate an alternative arrangement to accommodate the Consolidated  
28 Program.

## 29 30 **ARTICLE 2. PROVIDER OBLIGATIONS.**

31  
32           **2.1 Consent to NOI Objectives.** In consideration for the long-term ~~lease~~leases of the  
33 Provider Property to the Providers, or the long term ~~lease~~leases of the Armory Property to the  
34 Providers, as appropriate, the Providers covenant and agree to lease, develop, improve and use  
35 the Provider Property or the Armory Property, as appropriate, as the preferred means to  
36 accomplish the goals set forth in the Consolidated Program in accordance with the  
37 ~~Reuse~~Redevelopment Plan, the Consolidated Program, and this Agreement in a manner that will  
38 serve Homeless Purposes for a term of the ~~lease~~leases.

39  
40           **2.2 Effect of Election Notice.** In the event the LRA delivers the Election Notice to  
41 the Providers, the Providers immediately will initiate and process through the City the required

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1 General Plan [Amendment](#), zoning and project entitlements and approvals necessary to construct  
2 the Project and implement the Consolidated Plan on the Armory Property.

3  
4 **2.3 Costs.** ~~The~~ Providers shall be responsible for ~~all~~ costs and expenses associated  
5 with the design, construction and operation of the Provider's Project to implement the  
6 [Consolidated Program](#) on the Provider Property or the Armory Property, as appropriate, from the  
7 effective date of the Provider Property [LeaseLeases](#) or the Armory Property [LeaseLeases](#), as  
8 appropriate, using their own resources together with resources made available [to the Providers](#)  
9 under this Agreement.

10  
11 **2.4 Insurance.** From the effective date of, and in accordance with, the Provider  
12 Property [LeaseLeases](#) or the Armory Property [LeaseLeases](#), as appropriate, the Providers shall  
13 maintain a policy of commercial general liability, bodily injury/property damage insurance for  
14 the Provider Property or the Armory Property, as appropriate, and shall name the LRA as an  
15 additional insured.

16  
17 **2.5 Acceptance of Property.** The Providers will accept possession of the  
18 Provider Property by means of the Provider Property [LeaseLeases](#) or the Armory Property by  
19 means of the Armory Property [LeaseLeases](#), as appropriate, and agree to the terms, conditions,  
20 covenants and use restrictions contained therein.

21  
22 **2.6 Transfer or Conveyance.** Without the written consent of the LRA, which  
23 consent shall not be unreasonably withheld, conditioned or delayed, the Providers may not  
24 convey or transfer any portion of the Provider Property or the Armory Property to another party,  
25 either in whole or in part, except to a wholly-owned affiliated entity [or limited partnership](#) of a  
26 Provider that assumes all obligations of the Provider under this Agreement. The LRA shall have  
27 sixty (60) days from receipt of such notice to object in writing to such a transfer or conveyance.  
28 Failure of the LRA to so object in writing within such sixty (60) day period shall be deemed  
29 consent.

30  
31 **2.7 Communication by Providers** If any Provider makes any written  
32 comments, or engages in any written communications, with any local, state, or federal agency  
33 regarding the approval or implementation of any future development proposals, applications,  
34 approvals or permits (including any related environmental documentation) relating to the AFS  
35 Property, or any proposed, approved, or existing uses to the AFS Property or alternative real  
36 estate purchased by a Provider pursuant to the terms of this Agreement, such Provider shall  
37 immediately provide complete copies of such written comments or communications to the LRA.

38  
39 **2.8 Indemnification.** The Providers shall indemnify and save the LRA harmless  
40 against any and all claims, demands, suits, judgments of sums of money to any party accruing  
41 against the LRA for loss of life or injury or damage to persons or property growing out of,  
42 resulting from, or by reason of any act or omission or the operation of the Providers, their agents,

## ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

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1 servants or employees while engaged in or about or in connection with the discharge or  
2 performance of the Provider Project or the implementation of the Consolidated Program by the  
3 Providers hereunder (unless the foregoing results from the intentional acts or negligence of the  
4 LRA). The Providers shall also hold the LRA harmless from any and all claims and/or liens for  
5 labor, services, or materials furnished to the Providers in connection with the performance of the  
6 Providers obligations under this Agreement and any obligations of the Providers by reason of a  
7 default under this Agreement.

### 8 9 **ARTICLE 3. CONTINGENCIES**

10  
11 **3.1 Contingencies.** The obligations of the Parties set forth under this  
12 Agreement are contingent upon the following events occurring (the “**Contingencies**”):

13  
14 **3.1.1** Approval of the LRA’s Homeless Assistance Submission, including this  
15 Agreement and the ~~Reuse~~[Redevelopment](#) Plan, by HUD;

16  
17 **3.1.2** The closure of Onizuka AFS and the disposal of the Provider Property by  
18 the Air Force in accordance with the ~~Reuse~~[Redevelopment](#) Plan; and

19  
20 **3.1.3** The designation by the Air Force (and any other environmental regulator,  
21 as applicable) that the Provider Property is environmentally suitable for the intended  
22 purposes set forth in the Consolidated Program.

### 23 24 **ARTICLE 4. FAILURE BY THE PROVIDERS TO USE PROPERTY FOR HOMELESS 25 PURPOSES.**

26  
27 **4.1 Notifications to LRA.** If the Providers (i) determine that they will no  
28 longer use the Provider Property or the Armory Property, as appropriate, for Homeless Purposes,  
29 (ii) are notified by the Air Force that they are failing to comply with any Government Deed  
30 covenants on the Provider Property, or (iii) are notified by an agency of the United States that  
31 they are failing to comply with the terms and conditions of the Consolidated Program and this  
32 Agreement, then the Providers shall promptly notify the LRA of such event in writing.

#### 33 34 **4.2 Return of Property to the LRA.**

35  
36 **4.2.1** In the event that the Providers determine that they will no longer use the  
37 Provider Property in accordance with the Provider Property ~~Lease~~[Leases](#), or the Armory  
38 Property in accordance with the Armory Property ~~Lease~~[Leases](#), as appropriate, for  
39 Homeless Purposes in accordance with the Consolidated Program and this Agreement,  
40 then the Providers shall promptly relinquish possession of the Provider Property or the  
41 Armory Property, as appropriate, to the LRA.

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1           **4.2.2** In the event that the LRA alleges that the Providers (i) have abandoned the  
2 Provider Property or the Armory Property, as appropriate, or (ii) are not using the  
3 Provider Property in accordance with the Provider Property [LeaseLeases](#), the  
4 Consolidated Program, this Agreement or are not in compliance with one or more  
5 restrictions contained in the Government Deed, or (iii) are not using the Armory Property  
6 in accordance with the Armory Property [LeaseLeases](#), the **Consolidated Program**, or this  
7 Agreement (collectively, an “**Alleged Default**”), then the LRA shall send written notice  
8 to the Providers specifying in detail the nature of such Alleged Default (the “**Provider**  
9 **Default Notice**”). The Providers shall have ninety (90) days from receipt of the Provider  
10 Default Notice to cure an Alleged Default. In the event the Providers do not cure the  
11 Alleged Default within the time period, then there shall exist an “**Event of Default**” and  
12 the LRA shall be entitled to seek any and all legal remedies necessary to enforce the  
13 terms of this Agreement, including, but not limited to (i) the rights set forth in Section 4.3  
14 or (ii) any available action at law or in equity as required to compel performance of the  
15 terms of this Agreement.  
16

17           **4.3 Right to Property.** Upon the occurrence of an Event of Default, the LRA shall  
18 have an immediate right of entry to all or any portion of the Provider Property or the Armory  
19 Property, as appropriate, and, at the option of the LRA, possession of the Provider Property or  
20 the Armory Property, as appropriate, shall vest immediately in the LRA, pursuant to the terms of  
21 the Provider Property [LeaseLeases](#) or the Armory ~~property~~ [LeaseProperty Leases](#), as appropriate.  
22

23           **4.4 Acquisition of Property by LRA.** In the event the Providers rights under the  
24 Provider Property [LeaseLeases](#) or the Armory Property [LeaseLeases](#), as appropriate, are  
25 extinguished in accordance with Section 4.2 or Section 4.3, and possession of the Provider  
26 Property or the Armory Property, as appropriate, is vested in the LRA, the LRA shall take  
27 appropriate actions to secure, to the maximum extent practicable, the utilization of the Provider  
28 Property or the Armory Property, as appropriate, and the buildings and improvements located on  
29 such property, by other representatives of the homeless to assist the homeless in accordance with  
30 the Base Closure Act, the Redevelopment Act, the [ReuseRedevelopment](#) Plan and the Homeless  
31 Assistance Submission; however, the LRA itself shall not be required to utilize the Provider  
32 Property or the Armory Property, as appropriate, or the buildings and improvements located on  
33 such property to establish and operate a program to assist the homeless.  
34

### ARTICLE 5. EFFECT OF OFF-SITE ACCOMMODATION.

35  
36  
37           **5.1 Effect of Off-Site Accommodation.** If the LRA delivers the Election Notice  
38 together with the executed Armory Property [LeaseLeases](#) and Regulatory Agreement and makes  
39 the Financial Contribution to the Providers, all in accordance with Section 1.5 of this Agreement:  
40

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1           **5.1.1** The Providers shall each release all of their rights in and to the Provider  
2 Property by executing a release in substantially the same form set forth in Exhibit F  
3 (**“Provider Release”**).

4  
5           **5.1.2** The LRA may dispose of the Provider Property in accordance with the  
6 Reuse/Redevelopment Plan without regard to the Providers need to use the Provider  
7 Property for Homeless Purposes.

### 8 9 **ARTICLE 6. ENTIRE AGREEMENT, AMENDMENT, WAIVER**

10  
11           **6.1** This Agreement contains the entire agreement and understanding of the Parties  
12 with respect to all rights and responsibilities associated with the AFS Property, and may not be  
13 amended, modified or discharged, nor may any of its terms be waived except by an instrument in  
14 writing signed by the Party to be bound thereby. The Parties hereto shall not be bound by any  
15 terms, conditions, statements, warranties or representations, oral or written, not contained herein.  
16 This Agreement supersedes and replaces any prior agreements by the Parties.

### 17 18 **ARTICLE 7. NOTICES**

19  
20           **7.1** Any notice, request, demand, instruction or other document to be given or served  
21 hereunder or under any document or instrument executed pursuant hereto shall be in writing and  
22 delivered personally (including by messenger) or sent by United States registered or certified  
23 mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to  
24 the parties at their respective addresses set forth below, and the same shall be effective upon  
25 receipt if delivered personally or by messenger or two (2) business days after deposit in the mails  
26 if mailed. A party may change its address for receipt of notices by service of a notice of such  
27 change in accordance herewith.

28  
29           If to the LRA:           City Manager  
30                                           City of Sunnyvale  
31                                           456 West Olive Avenue  
32                                           P.O. Box 3707  
33                                           Sunnyvale, CA 94088-3707

34  
35           With a copy to:       George R. Schlossberg, Esq.  
36                                           Kutak Rock, LLP  
37                                           1101 Connecticut Ave, NW, Suite 1000  
38                                           Washington, DC 20036

39  
40           If to MidPen:           MidPen Housing Corporation  
41                                           303 Vintage Park Drive  
42                                           Suite 303

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Foster City, CA 94404  
Attn: ~~Alok Lathi, Project Manager~~[President](#)

If to Charities: Charities Housing Development Corporation  
1400 Parkmoor Avenue  
Suite 190  
San Jose, CA 95126  
Attn: Executive Director

### ARTICLE 8. MISCELLANEOUS.

**8.1 Survival and Benefit.** All representations, warranties, agreements, obligations and indemnities of the Parties shall, notwithstanding any investigation made by any Party hereto, survive the execution of the Provider Property ~~Lease~~[Leases](#) or the Armory Property ~~Lease~~[Leases](#), as appropriate, and the same shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

**8.2 Assignment.** Without written consent of the LRA, this Agreement is not assignable by any Provider, either in whole or in part. The LRA may, in its reasonable discretion, assign this Agreement to another public entity provided that such public entity assumes and agrees to perform the LRA's obligations hereunder.

**8.3 Applicable Law.** This Agreement shall be governed by and construed in accordance with federal law and the laws of the State of California, as applicable.

**8.4 Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**8.5 Entire Understanding of the Parties.** This Agreement constitutes the entire understanding and agreement of the Parties with respect to the implementation of those portions of the ~~Reuse~~[Redevelopment](#) Plan related to homeless needs and facilities pursuant to the Base Closure Act and the Redevelopment Act. If any provision of this Agreement conflicts with a provision of the **Consolidated Program** or the ~~Reuse~~[Redevelopment](#) Plan, the provisions of this Agreement shall control to the extent of such conflict.

**8.6 Title of Parts and Sections.** Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

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**8.7 Time is of the Essence.** In the performance of this Agreement, time is of the essence.

**8.8 Multiple Originals; Counterparts.** This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

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**ARTICLE 9. EXHIBIT LIST**

**9.1** The following exhibits are attached hereto and made a part of this Agreement:

- Exhibit A** Description of the Divided Provider Property
- Exhibit B** Form of Provider Property ~~Lease~~Leases
- Exhibit C** Description of Divided Armory ~~Site~~Property
- Exhibit D** Form of Armory Property ~~Lease~~Leases
- Exhibit E** Terms and Conditions for the Regulatory Agreement
- Exhibit F** Form of Provider Release

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**IN WITNESS WHEREOF**, the Parties have approved this Legally Binding Agreement  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**CITY OF SUNNYVALE**

\_\_\_\_\_  
**By:**

**Date:** \_\_\_\_\_

**MIDPEN HOUSING CORPORATION**

\_\_\_\_\_  
**By:**

**Date:** \_\_\_\_\_

**CHARITIES HOUSING DEVELOPMENT CORPORATION**

\_\_\_\_\_  
**By:**

**Date:** \_\_\_\_\_

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**EXHIBIT A**  
**Description of Divided Provider Property**

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**EXHIBIT B**  
**Form of Provider Property Leases**

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**LEASE OF REAL PROPERTY**  
**LOCATED AT FORMER ONIZUKA AIR FORCE STATION**  
**TO [MIDPEN HOUSING AND CHARITIES**  
**HOUSING DEVELOPMENT CORPORATION]**

1  
2  
3  
4  
5  
6 This Lease, dated [ \_\_\_\_\_, 201 ] for reference purposes, is hereby entered  
7 into between the CITY OF SUNNYVALE, a municipal corporation of the State of  
8 California ("Lessor") and [LESSEE], a California corporation located at \_\_\_\_\_  
9 ("Lessee").

10 WHEREAS, the City of Sunnyvale owns a certain four and six-tenths (4.6)  
11 acre property located on the southern portion of the former Onizuka Air Force  
12 Station ("AFS Property"); and

13 WHEREAS, the Lessee submitted a Notice of Interest to the City of  
14 Sunnyvale to use portions of the AFS Property to carry out its proposed homeless  
15 assistance program; and

16 WHEREAS, MidPen Housing and Charities Housing Development  
17 Corporation submitted revised Notices of Interest to consolidate their proposed  
18 homeless programs to construct permanent supportive housing for the homeless  
19 ("Consolidated Program"); and

20 WHEREAS, on [ \_\_\_\_\_, 2011], the Lessor and the Lessee executed that  
21 certain *Legally Binding Agreement Among the Onizuka Air Force Station Local*  
22 *Redevelopment Authority, MidPen Housing and Charities Housing Development*

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1 Corporation to set forth the terms and conditions for carrying out the  
2 Consolidated Program on the Premises (“LBA”); and

3 NOW, THEREFORE, the Lessor and Lessee agree as follows:

4 1. PREMISES. Lessor hereby leases unto Lessee, a certain portion of the four  
5 and six-tenths (4.6) acre property located on the southern portion of the former  
6 Onizuka Air Force Station, consisting of approximately [ ] square feet of  
7 building along with associated fenced parking area more particularly described in  
8 Exhibit "A" (“Premises”). Lessee shall have dedicated parking on the Premises at  
9 the front and rear of the Premises.

10 2. PURPOSE. Said Premises shall be used for carrying out the Lessee’s  
11 homeless assistance program as set forth in the Consolidated Program in a  
12 manner that will serve homeless persons who meet the definition of “homeless  
13 persons” as set forth in the McKinney-Vento Act (42 U.S.C. § 11301 et seq) and  
14 all other legally permitted uses. No other uses will be allowed without the written  
15 consent of Lessor.

16 3. TERM. The term of this Lease (the “Term”) shall be for eighty-five (85)  
17 year(s), commencing on [ ], 20 [ ], and ending on [ ], 20 [ ].

18 4. RENTAL COMPENSATION. As full consideration for the right, pursuant  
19 to this Lease, to use the Premises for the purposes set forth herein, Lessee  
20 agrees to fulfill its obligations under the terms and conditions of this Lease, the  
21 Notice of Interest and the LBA during the Term of the Lease.

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1 5. OPTION TO TERMINATE. If, at any time during the Term, both the Lessee  
2 and Lessor mutually consent to end this Lease, the Lease shall be deemed  
3 mutually terminated.

4 In the event that the City of Sunnyvale provides the Lessee with an  
5 Election Notice, as such term is defined in the LBA, to provide the Lessee with an  
6 off-site accommodation and upon satisfaction by the City of Sunnyvale of the off-  
7 site accommodation, as defined in the LBA, the Lessee and Lessor shall mutually  
8 consent to end this Lease.

9 6. WAIVER OF BENEFITS. Lessee acknowledges that it is aware that Lessor  
10 is the City of Sunnyvale, a public entity, and that Lessor acquired the Premises  
11 for a public use. Lessee therefore understands and agrees that, if Lessee vacates  
12 or is required to vacate the Premises at the end of the Term or upon earlier  
13 termination as permitted under this Lease, Lessee, as a Lessee who began  
14 occupancy after Lessor's acquisition of the Premises, shall not be eligible for or  
15 entitled to any benefits or compensation under the Relocation Law (Government  
16 Code Sections 7260 et seq.), or under the Eminent Domain Law (Code of Civil  
17 Procedure Sections 1230.010 et seq.), by reason of Lessee's relocation from the  
18 Premises.

19 7. POSSESSORY INTEREST. This lease may create a taxable possessory  
20 interest. Lessee shall pay any possessory interest tax which may be levied as a  
21 result of Lessee's possessory interest in this leasehold.

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1 Possessory interest means any interest described in Section 107 of the California  
2 Revenue and Taxation Code, or successor statute. This section is deemed to  
3 comply with Section 107.6 of the same Code.

4 8. POSSESSION. Lessee shall be entitled to possession of the Premises  
5 beginning [\_\_\_\_, 20\_\_].

6 9. PROHIBITED USES. Lessee shall not use or permit said Premises to be  
7 used for any purpose or purposes other than the purpose for which said  
8 Premises are hereby leased. In particular, Lessee shall not sell, or permit to be  
9 kept, used or sold, in or about said premises, any article which may be  
10 prohibited by the standard form of Fire Insurance Policies. Lessee shall not  
11 commit, or suffer to be committed, any waste upon said Premises, nor cause or  
12 permit any other public or private nuisance. Lessee shall, at their sole cost and  
13 expense, comply with the requirements of all applicable municipal, state and  
14 federal ordinances, statutes or other regulations now in effect or which hereafter  
15 may be applied to said Premises. Nothing contained in this Lease shall be  
16 construed to limit Lessor's regulatory authority, in its capacity as a municipal  
17 corporation, from enforcing any applicable provisions of municipal, state and/or  
18 federal ordinances, statutes, or other regulations within the scope of its  
19 jurisdiction.

20 10. HAZARDOUS MATERIALS. Lessee shall comply with Title 20 of the  
21 Sunnyvale Municipal Code. Lessee specifically agrees not to store gasoline, oil or

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1 batteries on the Premises except as these materials are integral to the approved  
2 use.

3 11. SITE CONTAMINATION AND TESTING. Lessee shall not contaminate the  
4 soil or violate air quality standards in connection with their use of the Premises.  
5 Lessee agrees to permit periodic inspections of the Premises by the City of  
6 Sunnyvale Department of Public Safety. If the Hazardous Materials Coordinator  
7 determines that site testing would be appropriate, Lessee agrees to take  
8 appropriate measures to accommodate such testing, and to reimburse the City of  
9 Sunnyvale for one-half of the costs of conducting such throughout the Term of  
10 this Lease. If, as a result of such inspection and/or testing, it is determined that  
11 Lessee's use of the Premises has resulted in contamination of any part of the  
12 Premises, Lessee agrees to reimburse the City of Sunnyvale for any and all costs  
13 incurred with respect to remediation. Lessor, at its sole discretion, may elect to  
14 terminate the Lease if it is determined that Lessee's use of the Premises has  
15 caused or will result in contamination of the site. Alternatively, Lessor may elect  
16 to continue to lease the Premises to Lessee upon such terms and conditions as  
17 are deemed necessary to protect the site from further contamination, including,  
18 but not limited to, installation of secondary containment devices and/or  
19 monitoring equipment. Lessee shall be fully responsible to pay any and all  
20 necessary cleanup costs resulting from Lessee's use of the site. Lessee's  
21 obligation for site contamination and remediation shall survive any termination

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1 of this Lease. Nothing contained in this Lease shall be construed in any way to  
2 limit Lessee's obligations or liability for any contamination resulting from Lessee's  
3 use of the Premises prior to the effective date of this Lease.

4 12. IMPROVEMENTS. Lessee accepts the Premises "As Is" and shall maintain  
5 the Premises in good condition throughout the duration of this Lease. Lessee  
6 agrees to pay for all electrical, gas and water utility costs associated with use of  
7 the Premises, if any, during the term of this Lease.

8 If Lessee shall abandon, vacate or surrender the Premises during the Term of this  
9 Lease, any personal property belonging to Lessee and left on the Premises shall  
10 be deemed to be abandoned, at the option of Lessor. Lessee agrees to accept the  
11 site in its present condition, as is, and to improve the Premises at its sole cost  
12 and expense to the extent necessary to perform the uses described herein. Any  
13 and all improvements performed or constructed by Lessee shall, at the end of the  
14 Lease Term, become the property of Lessor.

15 Lessee shall be granted no additional signage beyond what is already in place,  
16 subject to compliance with any City of Sunnyvale codes or ordinances.

17 13. INDEMNIFICATION. Lessee shall bear full responsibility for the acts of  
18 their respective officers, agents and employees, and shall indemnify, hold  
19 harmless, and defend the City other from all claims of money or damages arising  
20 from the negligence, errors or omissions of such parties' respective agents, in the  
21 performance of this agreement. Lessee, as a material part of the consideration to

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1 be rendered to Lessor, hereby waives any claims for damages to goods, wares,  
2 and merchandise, in or about said premises and for injuries to persons in or  
3 about said premises, from any cause, except that no claim is waived by Lessee  
4 against Lessor for the intentional or negligent acts of Lessor for the types of  
5 coverages and in the amounts listed in Exhibit "A" which is attached hereto and  
6 incorporated by reference

7 Lessee further agrees to indemnify Lessor for all claims for damages or  
8 losses arising as a result of Lessee's use of the Premises, specifically including  
9 but not limited to costs associated with investigation, testing, cleanup and/or  
10 remediation required pursuant to or resulting from environmental  
11 contamination. Lessee's obligations for liability under CERCLA shall survive the  
12 term of this Lease.

13 14. ENTRY. Lessee shall permit Lessor and its agents to enter into the  
14 Premises at any reasonable time, for the purpose of inspecting the Premises, and  
15 for the performance of its normal municipal functions.

16 15. ASSIGNMENT. Lessee shall not assign this Lease, or any interest herein,  
17 in whole or in part, and shall not sublet the said premises or any part thereof,  
18 without the prior, written consent of Lessor, and consent by Lessor to one  
19 assignment shall not be deemed consent to any subsequent assignment.

20 Any such assignments or subletting without consent shall be void and shall, at  
21 the option of Lessor, terminate this Lease.

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1 16. BREACH. The occurrence of any of the following events shall be deemed a  
2 material breach of this Lease by Lessee, and shall constitute grounds for Lessor,  
3 at its sole discretion, to terminate the Lease:

4 a. The vacating or abandonment of the Premises by Lessee.

5 b. The failure by Lessee to make any payment of Rent, or any other  
6 payment required to be made by Lessee hereunder, as and when due, where  
7 such failure shall continue for a period of fifteen (15) days after the date when  
8 due.

9 c. Any transfer or attempted transfer of this Lease by Lessee contrary  
10 to the provisions of Section 15, above.

11 d. The failure by Lessee to use the Premises for homeless purposes in  
12 accordance with the LBA.

13 e. The failure by Lessee to observe or perform any of the covenants,  
14 conditions or provisions of this Lease to be observed or performed by Lessee,  
15 other than described in b. above, where such failure shall continue for a period of  
16 ten (10) days after written notice thereof by Lessor to Lessee except as provided in  
17 subsection b. above; provided, however, that if the nature of Lessee's default is  
18 such that more than ten (10) days are reasonably required for its cure, then  
19 Lessee shall not be deemed to be in default if Lessee commence such cure within  
20 said ten (10) day period and thereafter diligently prosecutes such cure to  
21 completion. Should Lessee default, Lessor may continue Lease in effect after

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 Lessee's breach and abandonment and recover Rent as it comes due, if Lessee  
2 have right to sublet and assign, subject only to reasonable limitations.

3 f. The appointment of a receiver to take possession of all or  
4 substantially all of the assets of Lessee.

5 17. RE-ENTRY. In the event of any breach of this Lease by Lessee, Lessor, in  
6 addition to any other rights or remedies, shall have the immediate right of re-  
7 entry and may remove all persons and property from the Premises. Such  
8 property may be removed and stored at any other place, for the account of and at  
9 the expense of Lessee. No such re-entry pursuant to this provision shall be  
10 considered a forcible entry, and Lessee hereby waives all claims for damages  
11 resultant therefrom. No such re-entry or taking possession of said Premises by  
12 Lessor shall be construed as an election on Lessor's part to terminate this Lease  
13 unless a written notice of such intention be given to Lessee in advance.

14 18. EFFECT OF HOLDING OVER. If Lessee remains in possession without  
15 Lessor's written consent, the Lessee shall pay one hundred twenty-five (125)  
16 percent of the Rent per month.

17 19. GENERAL PROVISIONS:

18 a. Exhibits, Plats and Riders. Exhibits, plats, riders, clauses and  
19 addenda, if any, affixed to this Lease are a part hereof and are incorporated  
20 herein by this reference.

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1 b. Venue. Santa Clara County is hereby deemed to be a proper place of  
2 venue for transitory actions.

3 c. Marginal Headings. The marginal headings and article titles to the  
4 articles of this Lease are not a part of this Lease and shall have no effect upon  
5 the construction or interpretation of any part hereof.

6 d. Time. Time is of the essence of this Lease and each and all of its  
7 provisions in which performance is a factor.

8 e. Successors and Assigns. The covenants and conditions herein  
9 contained, subject to the provisions as to assignment, apply to and bind the  
10 heirs, successor, executors, administrators and assigns of the parties hereto.

11 f. Quiet Possession. Upon Lessee observing and performing all of the  
12 covenants, conditions and provisions on Lessee's part to be observed and  
13 performed hereunder, Lessee shall have quiet possession of the Premises for the  
14 entire Term hereof, subject to all the provisions of this Lease. In the event the  
15 Premises are damaged, destroyed or otherwise rendered unsuitable for the use or  
16 purposes intended by this Lease by an act or occurrence by a third party or by an  
17 Act of God, Lessee may request that this Lease be terminated. Lessor, at its  
18 discretion, may elect to restore or repair the premises within a reasonable period  
19 of time so as to render the Premises suitable for the purposes intended by this  
20 Lease, or in the alternative, to terminate the Lease immediately without further  
21 notice.

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1 g. Prior Agreements. This Lease contains all of the agreements of the  
2 parties hereto with respect to any matter covered or mentioned in this Lease. No  
3 prior agreements or understanding pertaining to any such matters shall be  
4 effective for any purpose. No provision of this Lease may be amended or added to  
5 except by an agreement in writing signed by the parties hereto or their respective  
6 successors in interest.

7 h. Partial Invalidity. Any provision of this Lease which shall prove to be  
8 invalid, void, or illegal shall in no way effect, impair or invalidate any other  
9 provisions hereof and such other provision shall remain in full force and effect.

10 i. Cumulative Remedies/Compliance with all Laws. No remedy or  
11 election hereunder by Lessor shall be deemed exclusive but shall, wherever  
12 possible, be cumulative with all other remedies at law or in equity available to  
13 Lessor. Lessee shall comply with all federal, state and local laws and  
14 regulations.

15 j. Choice of Law. This Lease shall be interpreted under and pursuant  
16 to the laws of the State of California.

17 k. Attorneys' Fees. In the event of any legal action commenced to  
18 interpret or to enforce the terms of this Lease or to collect damages as a result of  
19 any breach of this Lease, the prevailing party in any such action shall be entitled  
20 to recover against the non-prevailing party or party all reasonable attorneys' fees

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 and costs, whether the matter was resolved by settlement, arbitration, or  
2 adjudication.

3 20. NOTICES. Unless otherwise stated in this Lease, all notices, statements,  
4 demands, requests, consents, approvals, authorizations, offers, agreements or  
5 other communications (collectively referred to in this Section for convenience as a  
6 "notice") which may be given or are required to be given by either party to the  
7 other party under this Lease or by law shall be in writing and shall be deemed to  
8 be given to the other party for the purposes of this Lease only (1) upon delivery  
9 thereof by personal service to the principal offices of the parties to this Lease; (2)  
10 by courier (which may include United States Express Mail, Federal Express or  
11 other nationally recognized courier service), charges prepaid; (3) when received by  
12 facsimile machine (if receipt thereof is acknowledged by the recipient or by giving  
13 such addressee a duplicate copy of such notice in the manner provided for  
14 elsewhere in this Section); or (4) upon three (3) business days following deposit  
15 thereof in the United States mail, postage prepaid, registered or certified mail,  
16 return receipt requested, addressed to the recipient at the address shown below  
17 or such other address as either party shall designate by notice from time-to-time.

18  
19 TO LESSEE: [ ]

20  
21 TO LESSOR: City Property Manager  
22 P.O. Box 3707  
23 Sunnyvale, CA 94088-3707  
24



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1  
2  
3

**EXHIBIT C**  
**Description of Divided Armory Property**

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1  
2  
3

**EXHIBIT D**  
**Form of Armory Property Leases**

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**LEASE OF REAL PROPERTY**  
**LOCATED AT 620 E. MAUDE AVENUE**  
**TO [LESSEE]**

1  
2  
3  
4  
5 This Lease, dated [ \_\_\_\_\_, 201 ] for reference purposes, is hereby entered  
6 into between the CITY OF SUNNYVALE, a municipal corporation of the State of  
7 California ("Lessor") and [LESSEE], a California corporation located at \_\_\_\_\_  
8 ("Lessee").

9 WHEREAS, the City of Sunnyvale owns a certain property located within  
10 the City of Sunnyvale; and

11 WHEREAS, the Lessee submitted a Notice of Interest to the City of  
12 Sunnyvale to use property owned by the City of Sunnyvale at the former Onizuka  
13 Air Force Station to carry out its proposed homeless assistance program; and

14 WHEREAS, on March 23, 2011, MidPen Housing and Charities Housing  
15 Development Corporation executed that certain *Memorandum of Understanding*  
16 *for Joint Development of the Former Armory Site with the City of Sunnyvale and*  
17 *submitted revised Notices of Interest to consolidate their proposed homeless*  
18 *programs to construct permanent supportive housing for the homeless*  
19 *("Consolidated Program"); and*

20 WHEREAS, on [ \_\_\_\_\_, 2011], the Lessor and the Lessee executed that  
21 certain *Legally Binding Agreement Among the Onizuka AFS Local Redevelopment*  
22 *Authority, MidPen Housing and Charities Housing Development Corporation to set*

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 forth the terms and conditions for carrying out the Notice of Interest and  
2 Consolidated Program; and

3 WHEREAS, on [\_\_\_\_\_, 2011], the Lessor and the Lessee entered into  
4 that certain Provider Property Lease Agreement for four and six-tenths (4.6) acre  
5 property located on the southern portion of the former Onizuka Air Force Station;  
6 and

7 WHEREAS, the City of Sunnyvale has provided MidPen Housing and  
8 Charities Housing Development Corporation with an Election Notice and paid a  
9 Financial Contribution, as such terms are defined in the LBA, to provide them  
10 with an off-site accommodation; and

11 NOW, THEREFORE, the Lessor and Lessee agree as follows:

12 1. PREMISES. Lessor hereby leases unto Lessee, a certain portion of the [ ]  
13 acre property located at 620 E. Maude Avenue, consisting of approximately [ ]  
14 square feet of building along with associated fenced parking area more  
15 particularly described in Exhibit "A" ("Premises"). Lessee shall have dedicated  
16 parking on the Premises at the front and rear of the Premises.

17 2. PURPOSE. Said premises shall be used for carrying out the Lessee's  
18 homeless assistance program as set forth in the Notice of Interest and  
19 Consolidated Program and all other legally permitted uses. No other uses will be  
20 allowed without the written consent of Lessor.

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 Lessee shall develop the Premises in accordance with the Regulatory  
2 Agreement, to be entered into simultaneously with this Lease.

3 3. TERM. The term of this Lease (the "Original Term") shall be for eighty-five  
4 (85) year(s), commencing on [ ], 20 ], and ending on [ ], 20 ]. At the  
5 expiration of the Original Term, the Parties shall have the option to renew this  
6 Lease ("Extended Term").

7 4. RENTAL COMPENSATION. As full consideration for the right, pursuant  
8 to this Lease, to use the Premises for the purposes set forth herein, Lessee  
9 agrees to fulfill its obligations under the terms and conditions of this Lease, the  
10 Notice of Interest, the Consolidated Program and the LBA, and to pay Lessor  
11 \$ per month as Rent during the Original Term of the Lease.

12 The full amount of Rent shall be due on the first of each month  
13 beginning [ ], 201 ], and will be delinquent if not received by the 10th of the  
14 month. A late charge of five percent (5.0%) of the Rent will be added to any  
15 payments not received by the 10th of the month and considered additional  
16 rent. In addition, upon occupancy of the Premises, Lessee shall pay to Lessor  
17 the sum of [ ] Dollars (\$ )] as a security deposit, which will be refunded  
18 to Lessee, less any damages, within fifteen (15) days after possession of the  
19 Premises is turned over to Lessor. This provision shall not be construed in any  
20 way to limit any other remedies of Lessor to recover damages in excess of the  
21 amount of the security deposit. The security deposit may be applied to any

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 unpaid past due rent balance if necessary, after making any necessary repairs  
2 that are not normal wear and tear.

3 5. OPTION TO TERMINATE. If, at any time during the Original Term or any  
4 Extended Term, both the Lessee and Lessor mutually consent to end this Lease,  
5 the Lease shall be deemed mutually terminated.

6 6. WAIVER OF BENEFITS. Lessee acknowledges that it is aware that Lessor  
7 is the City of Sunnyvale, a public entity, and that Lessor acquired the Premises  
8 for a public use. Lessee understands and agrees that, if Lessee vacates or is  
9 required to vacate the Premises at the end of the Original Term or upon earlier  
10 termination as permitted under this Lease, Lessee, as a Lessee who began  
11 occupancy after Lessor's acquisition of the Premises, shall not be eligible for or  
12 entitled to any benefits or compensation under the Relocation Law (Government  
13 Code Sections 7260 et seq.), or under the Eminent Domain Law (Code of Civil  
14 Procedure Sections 1230.010 et seq.), by reason of Lessee's relocation from the  
15 Premises.

16 7. POSSESSORY INTEREST. This Lease may create a taxable possessory  
17 interest. Tenant shall pay any possessory interest tax which may be levied as a  
18 result of Tenant's possessory interest in this leasehold.

19 Possessory interest means any interest described in Section 107 of the California  
20 Revenue and Taxation Code, or successor statute. This section is deemed to  
21 comply with Section 107.6 of the same Code.

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1 9. POSSESSION. Lessee shall be entitled to possession of the Premises  
2 beginning [\_\_\_\_, 20\_\_].

3 9. PROHIBITED USES. Lessee shall not use or permit said Premises to be  
4 used for any purpose or purposes other than the purpose for which said  
5 Premises are hereby leased. In particular, Lessee shall not sell, or permit to be  
6 kept, used or sold, in or about said Premises, any article which may be  
7 prohibited by the standard form of Fire Insurance Policies. Lessee shall not  
8 commit, or suffer to be committed, any waste upon said Premises, nor cause or  
9 permit any other public or private nuisance. Lessee shall, at its sole cost and  
10 expense, comply with the requirements of all applicable municipal, state and  
11 federal ordinances, statutes or other regulations now in effect or which hereafter  
12 may be applied to said Premises. Nothing contained in this Lease shall be  
13 construed to limit Lessor's regulatory authority, in its capacity as a municipal  
14 corporation, from enforcing any applicable provisions of municipal, state and/or  
15 federal ordinances, statutes, or other regulations within the scope of its  
16 jurisdiction.

17 10. HAZARDOUS MATERIALS. Lessee shall comply with Title 20 of the  
18 Sunnyvale Municipal Code. Lessee specifically agrees not to store gasoline, oil or  
19 batteries on the premises except as these materials are integral to the approved  
20 use.

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1 11. SITE CONTAMINATION AND TESTING. Lessee shall not contaminate the  
2 soil or violate air quality standards in connection with its use of the Premises.  
3 Lessee agrees to permit periodic inspections of the Premises by the City of  
4 Sunnyvale Department of Public Safety. If the Hazardous Materials Coordinator  
5 determines that site testing would be appropriate, Lessee agrees to take  
6 appropriate measures to accommodate such testing, and to reimburse the City of  
7 Sunnyvale for one-half of the costs of conducting such throughout the Original or  
8 any Extended Term of this Lease. If, as a result of such inspection and/or  
9 testing, it is determined that Lessee's use of the Premises has resulted in  
10 contamination of any part of the Premises, Lessee agrees to reimburse the City of  
11 Sunnyvale for any and all costs incurred with respect to remediation. Lessor, at  
12 its sole discretion, may elect to terminate the Lease if it is determined that  
13 Lessee's use of the Premises has caused or will result in contamination of the  
14 site. Alternatively, Lessor may elect to continue to lease the Premises to Lessor  
15 upon such terms and conditions as are deemed necessary to protect the site from  
16 further contamination, including, but not limited to, installation of secondary  
17 containment devices and/or monitoring equipment. Lessee shall be fully  
18 responsible to pay any and all necessary cleanup costs resulting from Lessee's  
19 use of the site. Lessee's obligation for site contamination and remediation shall  
20 survive any termination of this Lease. Nothing contained in this Lease shall be  
21 construed in any way to limit Lessee's obligations or liability for any

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 contamination resulting from Lessee's use of the Premises prior to the effective  
2 date of this Lease.

3 12. IMPROVEMENTS. Lessee accepts the Premises "As Is" and shall maintain  
4 the Premises in good condition throughout the duration of this Lease. Lessee  
5 agrees to pay for all electrical, gas and water utility costs associated with use of  
6 the Premises, if any, during the term of this lease.

7 If Lessee shall abandon, vacate or surrender the Premises during the Original  
8 Term or any Extended Term of this Lease, any personal property belonging to  
9 Lessee and left on the Premises shall be deemed to be abandoned, at the option  
10 of Lessor. Lessee agrees to accept the site in its present condition, as is, and to  
11 improve the Premises at its sole cost and expense to the extent necessary to  
12 perform the uses described herein. Any and all improvements performed or  
13 constructed by Lessee shall, at the end of the Lease term, become the property of  
14 Lessor.

15 Lessee shall be granted no additional signage beyond what is already in place,  
16 subject to compliance with any City of Sunnyvale codes or ordinances.

17 13. INDEMNIFICATION. Lessee shall bear full responsibility for the acts of  
18 their respective officers, agents and employees, and shall indemnify, hold  
19 harmless, and defend the City other from all claims of money or damages arising  
20 from the negligence, errors or omissions of such parties' respective agents, in the  
21 performance of this agreement. Lessee, as a material part of the consideration to

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1 be rendered to Lessor, hereby waives any claims for damages to goods, wares,  
2 and merchandise, in or about said premises and for injuries to persons in or  
3 about said premises, from any cause, except that no claim is waived by Lessee  
4 against Lessor for the intentional or negligent acts of Lessor for the types of  
5 coverages and in the amounts listed in Exhibit "A" which is attached hereto and  
6 incorporated by reference

7 Lessee further agrees to indemnify Lessor for all claims for damages or  
8 losses arising as a result of Lessee's use of the property, specifically including but  
9 not limited to costs associated with investigation, testing, cleanup and/or  
10 remediation required pursuant to or resulting from environmental  
11 contamination. Lessee's obligations for liability under CERCLA shall survive the  
12 term of this Lease.

13 14. ENTRY. Lessee shall permit Lessor and its agents to enter into the  
14 Premises at any reasonable time, for the purpose of inspecting the premises, and  
15 for the performance of its normal municipal functions.

16 15. ASSIGNMENT. Lessee shall not assign this Lease, or any interest herein,  
17 in whole or in part, and shall not sublet the said Premises or any part thereof,  
18 without the prior, written consent of Lessor, and consent by Lessor to one  
19 assignment shall not be deemed consent to any subsequent assignment.

20 Any such assignments or subletting without consent shall be void and shall, at  
21 the option of Lessor, terminate this Lease.

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1 16. BREACH. The occurrence of any of the following events shall be deemed a  
2 material breach of this Lease by Lessee, and shall constitute grounds for Lessor,  
3 at its sole discretion, to terminate the Lease:

4 a. The vacating or abandonment of the Premises by Lessee.

5 b. The failure by Lessee to make any payment of Rent, or any other  
6 payment required to be made by Lessee hereunder, as and when due, where  
7 such failure shall continue for a period of fifteen (15) days after the date when  
8 due.

9 c. Any transfer or attempted transfer of this Lease by Lessee contrary  
10 to the provisions of Section 15, above.

11 d. The failure by Lessee to use the Premises for homeless purposes in  
12 accordance with the Notice of Interest and the LBA.

13 e. The failure by Lessee to observe or perform any of the covenants,  
14 conditions or provisions of this Lease to be observed or performed by Lessee,  
15 other than described in b. above, where such failure shall continue for a period of  
16 ten (10) days after written notice thereof by Lessor to Lessee except as provided in  
17 subsection b. above; provided, however, that if the nature of Lessee's default is  
18 such that more than ten (10) days are reasonably required for its cure, then  
19 Lessee shall not be deemed to be in default if Lessee commences such cure  
20 within said ten (10) day period and thereafter diligently prosecutes such cure to  
21 completion. Should Lessee default, Lessor may continue Lease in effect after

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

Page 39.

1 Lessee's breach and abandonment and recover Rent as it comes due, if Lessee  
2 has right to sublet and assign, subject only to reasonable limitations.

3 f. The appointment of a receiver to take possession of all or  
4 substantially all of the assets of Lessee.

5 17. RE-ENTRY. In the event of any breach of this Lease by Lessee, Lessor, in  
6 addition to any other rights or remedies, shall have the immediate right of re-  
7 entry and may remove all persons and property from the Premises. Such  
8 property may be removed and stored at any other place, for the account of and at  
9 the expense of Lessee. No such re-entry pursuant to this provision shall be  
10 considered a forcible entry, and Lessee hereby waives all claims for damages  
11 resultant therefrom. No such re-entry or taking possession of said Premises by  
12 Lessor shall be construed as an election on Lessor's part to terminate this Lease  
13 unless a written notice of such intention be given to Lessee in advance.

14 18. EFFECT OF HOLDING OVER. If Lessee remains in possession without  
15 Lessor's written consent, the Lessee shall pay one hundred twenty-five (125)  
16 percent of the Rent per month.

17 19. GENERAL PROVISIONS:

18 a. Exhibits, Plats and Riders. Exhibits, plats, riders, clauses and  
19 addenda, if any, affixed to this Lease are a part hereof and are incorporated  
20 herein by this reference.

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

Page 40.

1 b. Venue. Santa Clara County is hereby deemed to be a proper place of  
2 venue for transitory actions.

3 c. Marginal Headings. The marginal headings and article titles to the  
4 articles of this Lease are not a part of this Lease and shall have no effect upon  
5 the construction or interpretation of any part hereof.

6 d. Time. Time is of the essence of this Lease and each and all of its  
7 provisions in which performance is a factor.

8 e. Successors and Assigns. The covenants and conditions herein  
9 contained, subject to the provisions as to assignment, apply to and bind the  
10 heirs, successor, executors, administrators and assigns of the parties hereto.

11 f. Quiet Possession. Upon Lessee observing and performing all of the  
12 covenants, conditions and provisions on Lessee's part to be observed and  
13 performed hereunder, Lessee shall have quiet possession of the Premises for the  
14 entire Term hereof, subject to all the provisions of this Lease. In the event the  
15 premises are damaged, destroyed or otherwise rendered unsuitable for the use or  
16 purposes intended by this Lease by an act or occurrence by a third party or by an  
17 Act of God, Lessee may request that this Lease be terminated. Lessor, at its  
18 discretion, may elect to restore or repair the premises within a reasonable period  
19 of time so as to render the Premises suitable for the purposes intended by this  
20 Lease, or in the alternative, to terminate the Lease immediately without further  
21 notice.

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 g. Prior Agreements. This Lease contains all of the agreements of the  
2 parties hereto with respect to any matter covered or mentioned in this Lease. No  
3 prior agreements or understanding pertaining to any such matters shall be  
4 effective for any purpose. No provision of this Lease may be amended or added to  
5 except by an agreement in writing signed by the parties hereto or their respective  
6 successors in interest.

7 h. Partial Invalidity. Any provision of this Lease which shall prove to be  
8 invalid, void, or illegal shall in no way effect, impair or invalidate any other  
9 provisions hereof and such other provision shall remain in full force and effect.

10 i. Cumulative Remedies/Compliance with all Laws. No remedy or  
11 election hereunder by Lessor shall be deemed exclusive but shall, wherever  
12 possible, be cumulative with all other remedies at law or in equity available to  
13 Lessor. Lessee shall comply with all federal, state and local laws and  
14 regulations.

15 j. Choice of Law. This Lease shall be interpreted under and pursuant  
16 to the laws of the State of California.

17 k. Attorneys' Fees. In the event of any legal action commenced to  
18 interpret or to enforce the terms of this Lease or to collect damages as a result of  
19 any breach of this Lease, the prevailing party in any such action shall be entitled  
20 to recover against the non-prevailing party or party all reasonable attorneys' fees

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**

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1 and costs, whether the matter was resolved by settlement, arbitration, or  
2 adjudication.

3 20. NOTICES. Unless otherwise stated in this Lease, all notices, statements,  
4 demands, requests, consents, approvals, authorizations, offers, agreements or  
5 other communications (collectively referred to in this Section for convenience as a  
6 "notice") which may be given or are required to be given by either party to the  
7 other party under this Lease or by law shall be in writing and shall be deemed to  
8 be given to the other party for the purposes of this Lease only (1) upon delivery  
9 thereof by personal service to the principal offices of the parties to this Lease; (2)  
10 by courier (which may include United States Express Mail, Federal Express or  
11 other nationally recognized courier service), charges prepaid; (3) when received by  
12 facsimile machine (if receipt thereof is acknowledged by the recipient or by giving  
13 such addressee a duplicate copy of such notice in the manner provided for  
14 elsewhere in this Section); or (4) upon three (3) business days following deposit  
15 thereof in the United States mail, postage prepaid, registered or certified mail,  
16 return receipt requested, addressed to the recipient at the address shown below  
17 or such other address as either party shall designate by notice from time-to-time.

18  
19 TO LESSEE: [ ]

20  
21 TO LESSOR: City Property Manager  
22 P.O. Box 3707  
23 Sunnyvale, CA 94088-3707  
24



**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**  
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1  
2  
3

**EXHIBIT E**  
**Terms and Conditions for the Regulatory Agreement**

# ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

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1 City of Sunnyvale  
2 Regulatory Agreement and Declaration  
3 of Restrictive Covenants  
4  
5

6 This Regulatory Agreement and Declaration of Restrictive Covenants (“Regulatory  
7 Agreement”), is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and  
8 between the City of Sunnyvale, a municipal corporation (“City”) and [ ] and [ ] (“Parties”):  
9

10 Recitals

11 1. Definitions

12 2. Affordability and Occupancy Covenants

13 2.1 Occupancy Requirements

14 2.2 Allowable Rent

15 2.3 Increased Income of Tenants

16 3. Income Certification and Reporting

17 3.1 Income Certification

18 3.2 Annual Report to the City

19 3.3 Additional Information

20 3.4 Records

21 3.5 On-site Inspection

22 4. Operation of the Project

23 4.1 Use of the Project

24 4.2 Compliance with Loan Agreement

25 4.3 Taxes and Assessments

26 5. Property Management and Maintenance

## ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

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- 1            [5.1 Management Responsibilities](#)
- 2                    [a. Accounting Records](#)
- 3                    [b. Use of Income from Operations](#)
- 4            [5.2 Management Agent; Periodic Reports](#)
- 5            [5.3 Performance Review](#)
- 6            [5.4 Replacement of Management Agent](#)
- 7            [5.5 Approval of Management Policies](#)
- 8            [5.6 Property Maintenance](#)
- 9            [5.7 Non-Assisted Units](#)
- 10   [6. Miscellaneous](#)
- 11            [6.1 Lease Provisions](#)
- 12            [6.2 Nondiscrimination](#)
- 13            [6.3 Section 8 Certificate Holders](#)
- 14            [6.4 Term](#)
- 15            [6.5 Compliance with Loan Agreements and Program Requirements](#)
- 16            [6.6 Notice of Expiration of Term](#)
- 17            [6.7 Covenants to Run With the Land](#)
- 18            [6.8 Enforcement by the City](#)
- 19            [6.9 Attorney Fees and Costs](#)
- 20            [6.10 Recording and Filing](#)
- 21            [6.11 Governing Law](#)

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- 1        [6.12 Waiver of Requirements](#)
- 2        [6.13 Amendments](#)
- 3        [6.14 Notices](#)
- 4        [6.15 Severability](#)
- 5        [6.16 Multiple Originals; Counterparts](#)
- 6        [6.17 Captions](#)
- 7        [6.18 Assignment of City Rights](#)
- 8        [6.19 Binding on Successors](#)
- 9        [6.20 Hold Harmless](#)
- 10       [6.21 Restrictions on Sale, Encumbrances, and Other Acts](#)
- 11       [Signatures](#)
- 12       [Notary Page](#)
- 13       [Exhibit A – Property Description \(Legal\)](#)
- 14       [Exhibit B – Schedule of Assisted Units](#)
- 15

**ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT**  
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1  
2  
3

**EXHIBIT F**  
**Form of Provider Release**



Document comparison by Workshare Professional on Tuesday, September 20, 2011  
3:45:26 PM

<b>Input:</b>	
Document 1 ID	C:\NetDocs\Onizuka LBA(1).doc
Description	C:\NetDocs\Onizuka LBA(1).doc
Document 2 ID	C:\NetDocs\Onizuka LBA.doc
Description	C:\NetDocs\Onizuka LBA.doc
Rendering set	kutak option 1

<b>Legend:</b>	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
<a href="#">Moved to</a>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
	Count
Insertions	295
Deletions	71
Moved from	0
Moved to	0
Style change	0
Format changed	0
<b>Total changes</b>	<b>366</b>

**ATTACHMENT D**

District Agreement

City Draft 9/27/2011

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE CITY OF SUNNYVALE, CALIFORNIA  
AND  
FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**

1           **THIS MEMORANDUM OF AGREEMENT (“Agreement”)** is made as of the \_\_\_\_\_  
2 day of \_\_\_\_\_, 2011 (“**Effective Date**”), between the City of Sunnyvale, California, the  
3 Federally recognized local redevelopment authority for Onizuka Air Force Station, (the “**LRA**”  
4 or “**City**”) and Foothill De-Anza Community College District (the “**District**”). The LRA and the  
5 District may be referred to jointly as the “**Parties**” or individually as a “**Party**.”  
6

**WITNESSETH**

7  
8  
9           **WHEREAS**, the Onizuka Air Force Station (“**AFS**”) located in the City was  
10 recommended for closure by the 2005 Base Closure and Realignment Commission;  
11

12           **WHEREAS**, the property on which AFS is located (the “**AFS Property**”) will be  
13 disposed of by the Air Force Real Property Agency (“**AFRPA**”) pursuant to the Defense Base  
14 Closure and Realignment Act of 1990, as amended (the “**Base Closure Act**”);  
15

16           **WHEREAS**, the City is the Federally recognized local reuse authority required by the  
17 Base Closure Act to prepare a final redevelopment plan (“**Redevelopment Plan**”) for the AFS  
18 Property;  
19

20           **WHEREAS**, the Base Closure Community Redevelopment and Homeless Assistance  
21 Act of 1994, as amended (the “**Redevelopment Act**”) requires the LRA to submit to the United  
22 States Department of Housing and Urban Development (“**HUD**”) for review and approval a  
23 Homeless Assistance Submission (“**HAS**”) that includes the Redevelopment Plan, and a copy of  
24 all legally binding agreements that the LRA proposes to enter into with homeless providers  
25 selected by the LRA to implement homeless programs that fill gaps in the existing continuum of  
26 care;  
27

28           **WHEREAS**, pursuant to the screening process set forth in the Redevelopment Act and  
29 the Base Closure Act, the District submitted a Notice of Interest (“**NOI**”), set forth as Exhibit  
30 “A” to acquire approximately nine (9) acres of AFS Property (the “**District Property**” as more  
31 particularly described at Exhibit “B”) pursuant to a United States Department of Education  
32 (“**DoEd**”) sponsored public benefit conveyance (“**DoEd PBC**”).  
33

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**  
Page 2.

1           **WHEREAS**, the NOI submitted by the District proposed and provided for, among other  
2 uses, an educational program that would provide significant benefits to the community. The  
3 educational program described in the NOI and the District’s DoEd PBC application is hereinafter  
4 referred to as the “**District Plan**”;

5  
6           **WHEREAS**, the LRA and the District wish to enter into this Agreement to set forth the  
7 terms and conditions for the LRA to include the District Plan as part of the Redevelopment Plan  
8 for the AFS Property and for the District to implement the District Plan on the District Property  
9 in accordance with applicable law and to further the reuse and redevelopment of Onizuka AFS.

10  
11           **NOW, THEREFORE**, the Parties hereby agree as follows:  
12

13 **ARTICLE I. LRA OBLIGATIONS.**  
14

15           **1.1 Redevelopment Plan.** The LRA will complete and file with AFRPA and HUD a  
16 Redevelopment Plan that includes the District Plan as a preferred use on the District Property  
17 and the conveyance of the District Property to the District pursuant to a DoEd PBC in  
18 accordance with the PBC Application filed by the District.  
19

20           **1.2** The LRA reserves the right to consider and adopt alternate non-educational uses  
21 on the District Property that are inconsistent with the District Plan if the District’s DoEd PBC  
22 Application is rejected by the DoEd or not acted upon by DoEd in a timely manner, if the  
23 District Property is not conveyed to the District pursuant to a DoEd PBC, if the District for any  
24 reason is unable or chooses not to implement the District Plan as set forth in the NOI and the  
25 District’s DoEd PBC Application, or if the District for any reason is unable to comply with this  
26 Agreement.  
27

28           **1.3** The LRA will keep the District informed in a timely manner as to all activities  
29 related to the Redevelopment Plan, the development and disposal of the AFS Property, and the  
30 implementation of the HAS. Should the LRA acquire title and subsequently dispose of any  
31 portion of the AFS Property, it will inform the District of such eventuality prior to the LRA  
32 making any final disposal decision.  
33

34 **ARTICLE II. DISTRICT OBLIGATIONS.**  
35

36           **2.1 Submission of the PBC Application.**  
37

38           **2.1.1** Within thirty (30) days following the LRA’s approval of a Redevelopment  
39 Plan consistent with the District Plan, the District shall submit to the DoEd a complete and final  
40 DoEd PBC Application for the District Property consistent with such District Plan.  
41

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**

Page 3.

1           **2.1.2** The District shall provide to DoEd, on a timely basis, such responses,  
2 updates or revisions to the DoEd PBC Application that are required or requested by DoEd.

3  
4           **2.1.3** The District shall submit to the LRA copies of all material documents  
5 submitted to or received from DoEd regarding the DoEd PBC Application for the District  
6 Property within fourteen (14) days after the submission or receipt thereof. This obligation shall  
7 continue until the DoEd PBC Application is either approved or rejected by the DoEd.

8  
9           **2.1.4** The District understands and agrees that if DoEd denies, or fails to  
10 approve the District's DoEd PBC Application on or before December 30, 2012, or before that  
11 date the District abandons its efforts to secure a DoEd PBC for the District Property, then, at the  
12 option of the LRA, this Agreement shall terminate and such termination shall be effective upon  
13 the LRA providing written notice to the District.

14  
15           **2.1.5** Upon DoEd's approval of the DoEd PBC Application, the District shall in  
16 a timely manner proceed to implement the District Plan on the District Property on a schedule  
17 that complies with the requirements of 34 CFR Section 12.12(a)(1), as interpreted and applied by  
18 DoEd.

19  
20           **2.2     Development and Reuse of the District Property/Modification of the District**  
21           **Plan**

22  
23           **2.2.1** Except as provided in the following sentence, LRA/City and District  
24 Agree that development and use of the District Property shall be subject to the jurisdiction of the  
25 Division of State Architect ("DSA") and the laws and regulations of the State of California  
26 governing community colleges. To the extent not inconsistent with the foregoing, development  
27 of the District Property, including maximum density and intensity of uses, the general location of  
28 uses, the number and size of legal lots, the maximum height and size of the proposed  
29 improvements, requirements for the dedication and reservation of land for public purposes, for  
30 right of way and frontage dedications, utility easements, utility connections, storm drainage,  
31 infrastructure, traffic mitigation requirements and other standards of development applicable to  
32 the District Property shall be consistent with the Redevelopment Plan, the Sunnyvale Moffett  
33 Park Specific Plan and those specific City of Sunnyvale regulations governing the matters  
34 described in this sentence. The District acknowledges that its compliance with the  
35 Redevelopment Plan and the City's Moffett Park Specific Plan was a primary inducement in  
36 securing (1) the LRA's consideration and adoption of the Redevelopment Plan and (2) the LRA's  
37 support and approval of such District DoEd PBC Application

38  
39           **2.2.2** Prior to commencing the use of the District Property or the construction or  
40 installation of any improvement on the District Property, the District shall prepare and submit to  
41 the City for administrative review a Concept Plan.  
42

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**

Page 4.

1           **2.2.3** The District shall process all appropriate environmental documents for  
2 individual projects as required by CEQA and its implementing regulations. The District shall  
3 also notify the City of all projects on the District Property as that term is defined by CEQA.  
4

5           **2.2.4** The District shall not construct or make or permit the construction or  
6 making of any improvements on the District Property without providing the City with all  
7 documents and information related to any such improvements (“Construction Documents”), to  
8 ensure consistence with the Concept Plan, the Redevelopment Plan and the City’s Moffett Park  
9 Specific Plan. The City may provide comments to any Construction Documents and the District  
10 agrees to give full consideration to all such comments received by the District within thirty (30)  
11 days following receipt of the applicable Construction Documents. The District shall not begin  
12 construction of the improvement(s) under review by the City prior to the expiration of the thirty  
13 (30) day review period.  
14

15           **2.2.5** During the planning and development of the District Plan on the District  
16 Property, the District shall hold regular meetings, at least quarterly, with City representatives, to  
17 coordinate the planning, development, and operational issues of mutual concern, including the  
18 preparation, submission and review of concept plans, short range and long range development  
19 plans and Construction Documents. Such meetings shall serve as a forum for exchange of  
20 information concerning the design and development of the District Plan as well as provide the  
21 opportunity for the City to advise the District of other development issues which may affect  
22 District Property or the AFS Property, as appropriate.  
23

24           **2.2.6** The District shall be responsible for obtaining utility services to serve the  
25 District Property. The District shall pay all service charges, and all initial utility deposits and  
26 fees, for water, electricity, sewage, janitorial, trash removal, gas, telephone, pest control and any  
27 other utility services furnished to the District Property and the improvements on the District  
28 Property.  
29

30           **2.2.7** The District shall not contest, oppose, or challenge, nor fund or assist in  
31 any way any other person or entity to contest, oppose, or challenge before any local, state, or  
32 federal agency, or file or maintain any actions or proceedings before a court or administrative  
33 body to set aside, enjoin, challenge, appeal, or otherwise pursue any legal, equitable, or  
34 administrative remedies regarding the approval or implementation of any proposals, applications,  
35 approvals or permits (including any related environmental documentation) relating to the former  
36 Onizuka Air Force Station, or any proposed, approved, or existing uses at the former Onizuka  
37 Air Force Station that are consistent with the Redevelopment Plan, including but not limited to  
38 development proposals on any other parcel abutting the District Property.  
39

40           **2.2.8** The District may from time to time modify the District Plan; provided,  
41 that such District Plan modifications are consistent with the general intent of the District Plan,  
42 the Redevelopment Plan and the Moffett Park Specific Plan. The District will solicit and

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**  
Page 5.

1 consider, to the extent feasible, ongoing City input in connection with material modifications to  
2 the District Plan that affect (1) site design and planning, (2) community design and development  
3 principles or (3) the surrounding neighborhood.  
4

5 **2.2.9** The District shall cooperate with the City and AFRPA to ensure that all  
6 easements and dedications are obtained and granted with regard to Innovation Way such that  
7 Innovation Way is open to the public.  
8

9 **ARTICLE III. CONTINGENCIES**

10  
11 **3.1 Contingencies.** The obligations of the Parties set forth under this  
12 Agreement are contingent upon the occurrence of following events (the “Contingencies”):  
13

14 **3.1.1** HUD approval of the LRA’s Homeless Assistance Submission, including  
15 the Redevelopment Plan;  
16

17 **3.1.2** The closure of Onizuka AFS and the disposal of the District Property by  
18 the AFRPA in accordance with the Redevelopment Plan; and  
19

20 **3.1.3** The designation by the Air Force, DoEd (and any State of California  
21 environmental regulator, as applicable) that the District Property is environmentally suitable for  
22 the intended purposes set forth in the District Plan.  
23

24 **ARTICLE IV. ENTIRE AGREEMENT, AMENDMENT, WAIVER**

25  
26 **4.1** This Agreement contains the entire agreement and understanding of the Parties  
27 with respect to all rights and responsibilities associated with the AFS Property, and may not be  
28 amended, modified or discharged, nor may any of its terms be waived except by an instrument in  
29 writing signed by the party to be bound thereby. The Parties hereto shall not be bound by any  
30 terms, conditions, statements, warranties or representations, oral or written, not contained herein.  
31 This Agreement supersedes and replaces any prior agreements by the Parties.  
32

33 **ARTICLE V. NOTICES**

34  
35 **5.1** Any notice, request, demand, instruction or other document to be given or served  
36 hereunder or under any document or instrument executed pursuant hereto shall be in writing and  
37 delivered personally (including by messenger) or sent by United States registered or certified  
38 mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to  
39 the Parties at their respective addresses set forth below, and the same shall be effective upon  
40 receipt if delivered personally or by messenger or two (2) business days after deposit in the mails  
41 if mailed. A party may change its address for receipt of notices by service of a notice of such  
42 change in accordance herewith.

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**

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1  
2           If to the LRA:           City Manager  
3                                   City of Sunnyvale  
4                                   456 West Olive Avenue  
5                                   P.O. Box 3707  
6                                   Sunnyvale, CA 94088-3707  
7

8           With a copy to:       George Schlossberg, Esq.  
9                                   Kutak Rock LLP  
10                                  1101 Connecticut Ave. NW, Suite 1000  
11                                  Washington, DC 20036  
12

13           If to the District:     Vice Chancellor, Business Services  
14                                  Foothill – De Anza Community College District  
15                                  12345 El Monte Road  
16                                  Los Altos Hills, CA 94022  
17

18           With a copy to:       Executive Director of Facilities, Operations and  
19                                  Construction Management  
20                                  Foothill – De Anza Community College District  
21                                  12345 El Monte Road  
22                                  Los Altos Hills, CA 94022  
23  
24

25 **ARTICLE VI.           MISCELLANEOUS**

26  
27           **6.1 Survival and Benefit.** All representations, warranties, agreements,  
28 obligations and indemnities of the Parties shall, notwithstanding any investigation made by any  
29 party hereto, survive closing and the same shall inure to the benefit of and be binding upon the  
30 respective successors and assigns of the Parties.  
31

32           **6.2 Assignment.** Without written consent of the LRA, this Agreement is not  
33 assignable by any Agency, either in whole or in part. The LRA may, in its reasonable discretion,  
34 assign this Agreement to another public entity provided that such public entity assumes and  
35 agrees to perform the LRA's obligations hereunder.  
36

37           **6.3 Applicable Law.** This Agreement shall be governed by and construed in  
38 accordance with federal law and the laws of the State of California, as applicable.  
39

40           **6.4 Severability.** If any term of provision of this Agreement or the application  
41 thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the  
42 remainder of this Agreement or the application of such term or provision to persons or

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**

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1 circumstances other than those as to which it is held invalid or unenforceable, shall not be  
2 affected thereby, and each such term and provision of this Agreement shall be valid and be  
3 enforced to the fullest extent permitted by law.  
4

5 **6.5 Entire Understanding of the Parties.** This Agreement constitutes the entire  
6 understanding and agreement of the Parties with respect to the implementation of those portions  
7 of the Redevelopment Plan related to educational purposes pursuant to the Redevelopment Act  
8 and Base Closure Act. If any provision of this Agreement conflicts with a provision of the  
9 District Plan or the Redevelopment Plan, the provisions of this Agreement shall control to the  
10 extent of such conflict.  
11

12 **6.6 Title of Parts and Sections.** Any titles of the sections or subsections of this  
13 Agreement are inserted for convenience of reference only and shall be disregarded in interpreting  
14 any part of the Agreement's provisions.  
15

16 **6.7 Time is of the Essence.** In performance of this Agreement, time is of the  
17 essence.  
18

19 **6.8 Multiple Originals; Counterparts.** This Agreement may be executed in  
20 multiple originals, each of which is deemed to be an original, and may be signed in counterparts.  
21

22 **ARTICLE VII. EXHIBIT LIST**  
23

24 **7.1** The following exhibits are attached hereto and made a part of this Agreement:  
25

26 **Exhibit A: Foothill De-Anza Community College District Notice of Interest**

27 **Exhibit B: Description of the District Property**  
28  
29  
30  
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32  
33

34 **[Signature Page Follows]**  
35

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**  
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**IN WITNESS WHEREOF**, the Parties have approved this Memorandum of Agreement  
on the \_\_\_ day of \_\_\_\_\_, 2011.

**CITY OF SUNNYVALE, CALIFORNIA**

\_\_\_\_\_  
**By:**

**Date:** \_\_\_\_\_

**FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**

\_\_\_\_\_  
**By:**

**Date:** \_\_\_\_\_

**APPROVED AS TO FORM:  
FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**

\_\_\_\_\_  
**By:**

**Date:** \_\_\_\_\_

**CITY OF SUNNYVALE, CALIFORNIA**

\_\_\_\_\_  
**By:**

**Date:** \_\_\_\_\_

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND Foothill DE-ANZA COMMUNITY COLLEGE DISTRICT**  
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**EXHIBIT A**

**Foothill De-Anza Community College District  
Notice of Interest**

**MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF SUNNYVALE,  
CALIFORNIA AND FOOTHILL DE-ANZA COMMUNITY COLLEGE DISTRICT**  
Page 10.

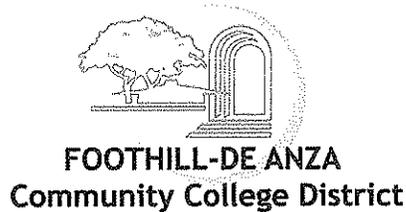
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**EXHIBIT B**

**Description of District Property**

**ATTACHMENT E**

Foothill-DeAnza Community College District NOI for Onizuka AFS Site



Linda M. Thor, Ed.D., Chancellor

September 1, 2011

City of Sunnyvale  
Sunnyvale City Hall  
456 W. Olive Ave.  
Sunnyvale, CA. 94086

Dear Mayor Hamilton and Council Members,

As you know, the Board of Trustees of the Foothill-De Anza Community College District at the meeting of Aug. 8, 2011, identified the Onizuka Air Force Station in Sunnyvale as the district's preferred location for the permanent home of its education center. After several years of searching, the district has concluded that Onizuka is an ideal location for Foothill-De Anza to continue to provide essential and innovative educational services to our local communities for many years into the future.

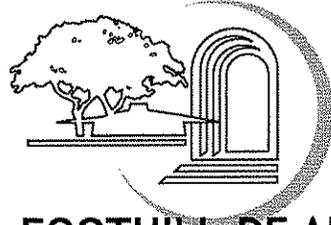
In addition to Onizuka's excellent location, history and the opportunity to use the public benefit conveyance process, important considerations in the board's decision were Sunnyvale's expressed interest in having the district locate within the city and the outstanding professionalism and collaborative approach demonstrated by the city staff and other members of the community.

We are excited about the opportunities the Onizuka property offers for partnerships with other colleges, universities and community organizations, and for mutually beneficial collaborations with local companies.

I speak confidently for Foothill-De Anza in saying that we look forward to enjoying a long and productive relationship with the city of Sunnyvale. On that note, I am pleased to submit to the Sunnyvale City Council, acting as the Local Redevelopment Authority, Foothill-De Anza's notice of interest in acquiring property at the Onizuka Air Force Station.

Sincerely,

Linda M. Thor, Ed.D.  
Chancellor



**FOOTHILL-DE ANZA**  
**Community College District**

# Notice of Interest for Onizuka Air Force Station

Local Redevelopment Authority  
Sunnyvale, California

September 2011



**ORGANIZATIONAL PROFILE**

1. ***Legal name of non-profit institution requesting use of property at Onizuka Air Force Station:***  
  
Foothill-De Anza Community College District
2. ***Complete address and telephone number of applicant:***  
  
Foothill-De Anza Community College District  
12345 El Monte Road  
Los Altos Hills, CA. 94022  
(650) 949-6100 – Chancellor’s Office
3. ***Name and title and email of contact person:***  
  
Linda Thor, Chancellor  
thorlinda@fhda.edu (copy to executive assistant toyoharadonna@fhda.edu)
4. ***Name and title of person(s) authorized to complete purchase and execute agreements (attach copy of legal authority):***  
  
Linda Thor, Chancellor  
thorlinda@fhda.edu (copy to executive assistant toyoharadonna@fhda.edu)
5. ***Statement regarding whether applicant is state, political, sub-division of state or private non-profit, tax exempt organization under Section 501(C)(3) of 1986 Internal Revenue Code. If applicant is a private not-for-profit entity, attach a copy of the IRS recognition of its section 501(C)(3) exemption status.***  
  
Foothill-De Anza Community College District is a state non-profit.
6. ***A copy of the document showing statutory or legal authority under which the applicant is authorized by law to acquire and hold title to property or to lease property.***  
  
SEE EXHIBIT “A”
7. ***Organizational information:***
  - a. ***A description of the organization, year founded, brief history, major accomplishments and organizational goals:***



The Foothill-De Anza Community College District is a publicly funded educational organization in Silicon Valley that serves approximately 70,000 students a year at two colleges, an education center, and through distance education.

The mission of the Foothill-De Anza Community College District is student success. We accomplish this by providing access to a dynamic learning environment that fosters excellence, opportunity and innovation in meeting the diverse educational and career goals of our students and communities.

The district offers basic skills, university transfer and workforce preparation, as well as lifelong learning opportunities. About 45 percent of Foothill-De Anza students are age 25 or older. The vibrant multicultural community created by its students, faculty and staff reflects the region's characteristically diverse mix of ethnic, cultural, educational and professional backgrounds.

Foothill-De Anza has the third largest enrollment in credit courses among the 72 districts that make up the California Community Colleges. It offers approximately 300 degree and certificate programs and its two colleges have among the highest university transfer rates in the state.

Foothill-De Anza has educated more than one million students since the district was formed on January 15, 1957, following several months of study by citizens groups and the California Department of Education. Foothill College offered its first classes on September 15, 1958, at a former grammar school in Mountain View. The college opened its new master-planned campus in Los Altos Hills in September 1961, and in 1967, the district opened a second master-planned campus, De Anza College in Cupertino, to meet the community's growing demand for higher education.

The district is a significant social, cultural and economic force in Silicon Valley. Foothill-De Anza's longstanding commitment to excellence and opportunity is recognized globally, one reason its colleges rank No. 3 and No. 11 among community colleges in the United States for hosting international students. The district is one of only 19 colleges and districts nationally to serve on the board of the League for Innovation in the Community College.



- b. A listing of all principals in the organization and any proposed on-site program managers who would participate in management activities of any proposed program. Provide appropriate credentials, as well as a description of previous related experience:*

Linda M. Thor, chancellor  
Judy Miner, president, Foothill College  
Brian Murphy, president, De Anza College  
Kevin J. McElroy, vice chancellor, business services  
Dorene Novotny, vice chancellor, human resources and equal opportunity  
Frederick W. Sherman, vice chancellor, technology  
Charles E. Allen, executive director, facilities, operations and construction management  
Denise Swett, associate vice president

**Biographies:**

**Linda M. Thor  
Chancellor**

Dr. Linda M. Thor joined the Foothill-De Anza Community College District in February 2010, succeeding Martha J. Kanter, who now serves as U.S. under secretary of education.

As the district's chancellor, her goals include keeping the focus on student success while dealing with California's budget crisis; ensuring that district facilities are modern and effective learning spaces; providing for integrated planning; maintaining community connections; enhancing the district's state and national reputation; and returning the district to a leadership role in technology.

Dr. Thor was president for 20 years of Rio Salado College in Arizona's Maricopa Community College District. Under her leadership, the college became known for innovation in effectively using technology to serve working adults and providing accelerated learning programs. Enrollment increased 252 percent during her tenure.

She assumed her first presidency in 1986, when she took over the struggling West Los Angeles College in the Los Angeles Community College District and turned the college around during her four-year tenure. Before that she had served as the district's senior director of occupational and technical education, director of high technology centers



and services, director of communications services and public information officer.

Active at the national level, Dr. Thor serves on the boards of the League for Innovation in the Community College and the Community College Baccalaureate Association; the executive council of the WICHE Cooperative for Educational Technologies (WCET); and is a member of the Leadership Circle of the American College & University Presidents Climate Commitment. U.S. Secretary of Education Arne Duncan appointed her one of 15 higher education leaders to serve on the Committee on Measures of Student Success.

She currently serves locally on the boards of Joint Venture: Silicon Valley Network; the University Associates-Silicon Valley Board of Governors; and the NOVA Workforce Board of Silicon Valley, which addresses the workforce investment needs of the region. She also holds membership on the Peninsula Clergy Network Community Advisory Board, American Leadership Forum Silicon Valley Class XXIII and the Telecommunications and Technology Advisory Committee for the California Community Colleges Chancellor's Office.

Chancellor Thor holds a bachelor's degree in journalism from Pepperdine University; a master of public administration degree from California State University, Los Angeles; and a doctor of education degree in community college administration from Pepperdine University.

**Judy C. Miner**  
**President, Foothill College**

Dr. Judy Miner began work in 2007 as president of Foothill College. Her vision for her presidency is "excellence through inclusion." She has integrated planning and budgeting, making the process more inclusive and transparent to achieve the college's strategic initiatives.

President Miner has been an administrator with the Foothill-De Anza Community College District since 1988. Before becoming Foothill's president, she oversaw instructional and student support services at De Anza College, completing her nearly 19-year tenure there as vice president of instruction.

Dr. Miner has been a higher education administrator since 1977 and worked in the California Community Colleges since 1979, when City College of San Francisco named her dean of admissions and records. She



worked in the California Community Colleges' Chancellor's Office as a special assistant to the vice chancellor of student services, overseeing implementation of matriculation requirements, and as program coordinator for the Transfer Center Pilot Program. At De Anza College, she served as an instructor, dean, provost, vice president and interim president.

President Miner currently serves on the board of the Council for Higher Education Accreditation, which coordinates accreditation activities in the United States, and the American Council on Education's Commission for the Advancement of Racial and Ethnic Equity. She has a doctor of education degree in organization and leadership, with a concentration in education law, from the University of San Francisco. She earned a bachelor's degree, summa cum laude, in history and French at Lone Mountain College in San Francisco, where she also earned a master's degree in history.

The new Education Center's day-to-day management and operations would be under the guidance of President Miner. Dr. Miner has supervised Foothill's off-campus center, Middlefield Campus, since the commencement of her presidency in 2007.

**Brian Murphy**  
**President, De Anza College**

Dr. Brian Murphy has been president of De Anza College since 2004. A key focus of his presidency is preparing students to be active, involved citizens committed to transforming their communities. This vision led to the creation of De Anza's Institute for Community and Civic Engagement. In 2006, President Murphy spearheaded a participatory strategic planning process for the college with input from faculty, staff and students. This effort generated four campus initiatives in the areas of student outreach, individualized attention to student retention and success, cultural competence and community collaborations.

Dr. Murphy served for 12 years as executive director of the San Francisco Urban Institute at San Francisco State University. Among other positions, he was chief consultant to the California Legislature's reviews of the Master Plan for Higher Education and the community college reform process in the late 1980s. He recently served as a member of the Commission on the Future, formed by the Community College League of California to develop a plan to increase community college access and



completion in California. He participates actively as a leader in the American Democracy Project.

Dr. Murphy has taught political theory and American government at San Francisco State University, Santa Clara University and the University of California, Santa Cruz. He earned a bachelor's degree from Williams College and master's and doctorate degrees from the University of California, Berkeley, all in political science.

**Kevin J. McElroy**  
**Vice Chancellor, Business Services**

Kevin McElroy began work as vice chancellor of business services in August 2010. He brings to the district 21 years experience as vice president for administrative services at Coastline Community College in California's Coast Community College District.

Vice Chancellor McElroy is known as a consensus builder who works successfully in the shared governance environment. He has extensive knowledge and experience managing budget and finance, real estate transactions, facilities planning and construction management.

Vice Chancellor McElroy is responsible for overseeing all business policies and procedures for Foothill-De Anza, providing leadership in strategic planning and advising the chancellor and Board of Trustees on fiscal matters. As Coastline's administrative vice president, his responsibilities included supervising non-instructional support services, serving as chief financial officer, managing real estate and facilities transactions, and developing community partnerships. Before joining Coastline, he was supervisor of fiscal affairs at Golden West College, also in the Coast district.

Vice Chancellor McElroy holds a master's degree in public policy administration from California State University, Long Beach, and a bachelor's degree in public administration from San Diego State University. He attended community college at Orange Coast College.

He is active in the Association of College Business Officials for community college business officers, and has served on committees for similar regional and national groups.



**Dorene Novotny**  
**Vice Chancellor, Human Resources and Equal Opportunity**

Dorene Novotny has been vice chancellor of human resources and equal opportunity since February 2008. She emphasizes customer service, creative problem solving, and efficiency and effectiveness guided by the values of integrity and ethical conduct.

Vice Chancellor Novotny has 28 years experience in human resources administration, including 17 years in higher education. She came to Foothill-De Anza from Washington's Tacoma Community College, where she was associate vice president for human resources for nine years and a member of the leadership team. Her work as a creative problem-solver and pioneer for change in diversity recruitment and retention at Tacoma was recognized in 2005 when the College and University Professional Association for Human Resources gave her the Excellence in Human Resource Management Award for the Northwest Region.

She has held human resources management positions with the Tacoma Pierce County Health Department, University of Missouri-Columbia, Missouri Department of Revenue and the University of Missouri-St. Louis.

Vice Chancellor Novotny leads all aspects of Foothill-De Anza's human resources function, including policy development, labor negotiations and employee relations, recruitment, benefits, personnel processing, staff development, classification and compensation and human resources information system implementation.

She completed coursework for a master's degree in industrial and organizational psychology from Western Kentucky University and is currently enrolled in a master of business administration program with Columbia Southern University. She has a bachelor's degree from Northeast Missouri State University and an associate's degree from Kirkwood Community College in Iowa. She holds certifications in negotiations, mediation and conflict resolution, and employee-relations law.

**Frederick W. Sherman**  
**Vice Chancellor, Technology**

As chief technology officer since 2006, Dr. Fred Sherman provides the vision and leadership for planning and implementing the district's information and learning technologies. He also supervises institutional research.



Dr. Sherman is leading Foothill-De Anza's effort to replace its technology infrastructure and oversees technology planning and design for new and refurbished buildings as part of the district's extensive bond program. He has launched a 15-year program to replace the district's computers and is managing the implementation of a new educational information system (ERP) for finance, human resources and student services, which is proceeding on time and on budget. He led the planning effort for the recent revision of the district's Strategic Plan.

Vice Chancellor Sherman's focus is using technology to enhance student access and retention. The California Community College Chief Information Systems Officers Association recognized his work by presenting him with the 2010 Campus Technology Innovator in Technology Planning Award.

Over the past 18 years, Dr. Sherman has served in executive roles for California's Butte-Glenn, Victor Valley and Barstow community college districts. While at Butte-Glenn, he led the team that supported distance education programs through the California Virtual Campus for the California Community Colleges system. He also directed the California Community Colleges Technology Center, which provides technology services for the digital infrastructure of community colleges throughout the state. Prior to that, he worked for 13 years as an engineering manager for commercial technology programs at General Dynamics Corp.

Vice Chancellor Sherman holds a doctorate degree in management information systems and a master of business administration degree in financial/econometric analysis from Claremont Graduate University; a master's degree in systems management from the University of Southern California; and a bachelor's degree in military science from the U.S. Military Academy at West Point. He served as an officer in the U.S. Army, retiring as a lieutenant colonel.

**Charles E. Allen**  
**Executive Director, Facilities, Operations and Construction Management**

Since 2007, Executive Director Charles Allen has provided leadership for Foothill-De Anza's extensive construction and renovation program and guided environmental sustainability efforts, including energy conservation policies and projects.



His background includes four years as a deputy bond program manager in private industry, overseeing a \$350 million bond program for a large public high school district, and 12 years as chief project manager for the Lawrence Berkeley National Laboratory, where he built a record of effective leadership in all aspects of project planning, execution and conflict resolution.

He retired as a commander of the Civil Engineer Corp. after a 20-year career in the U.S. Navy managing multiple large-scale operations responsible for facility planning, design and construction in the western United States.

Executive Director Allen oversees more than \$400 million in construction projects funded through the district's Measure C bond program. He is known for finding creative solutions to challenges and forging productive working relationships internally and externally. In an effort to avoid litigation and minimize costs associated with change orders, he initiated a lease-leaseback approach for two of the Foothill-De Anza's most significant construction projects. He also spearheaded creation of a sustainability plan for the district that sets annual goals.

Executive Director Allen holds a master's degree in civil engineering from the University of Illinois and a bachelor's degree in science and engineering from the U.S. Naval Academy.

**Denise Swett**  
**Associate Vice President, Middlefield Campus & Community Programs**

Dr. Denise Swett will be the manager of the education center. She has supervised Middlefield Campus since 2007. She was the vice president of student services at Cañada College, dean of students at Chabot College and a manager in student life at the University of San Francisco. In addition to managing Middlefield Campus, Associate Vice President Swett also supervises career and technical education grants, the Workforce Innovation Partnership and the Silicon Valley Community Collaborative as well as high school and Regional Occupational Program (ROP) classes and articulation, college-wide professional development and campus emergency preparedness. She holds a doctor of education degree in organization and leadership from the University of San Francisco and master of public administration and bachelor of science degrees from San Jose State University.



The current team at Middlefield Campus in Palo Alto serves 4,000 students each quarter in a variety of vocational, transfer and general education programs. Approximately 120 instructors teach classes at Middlefield Campus.

**Additional education center staff:**

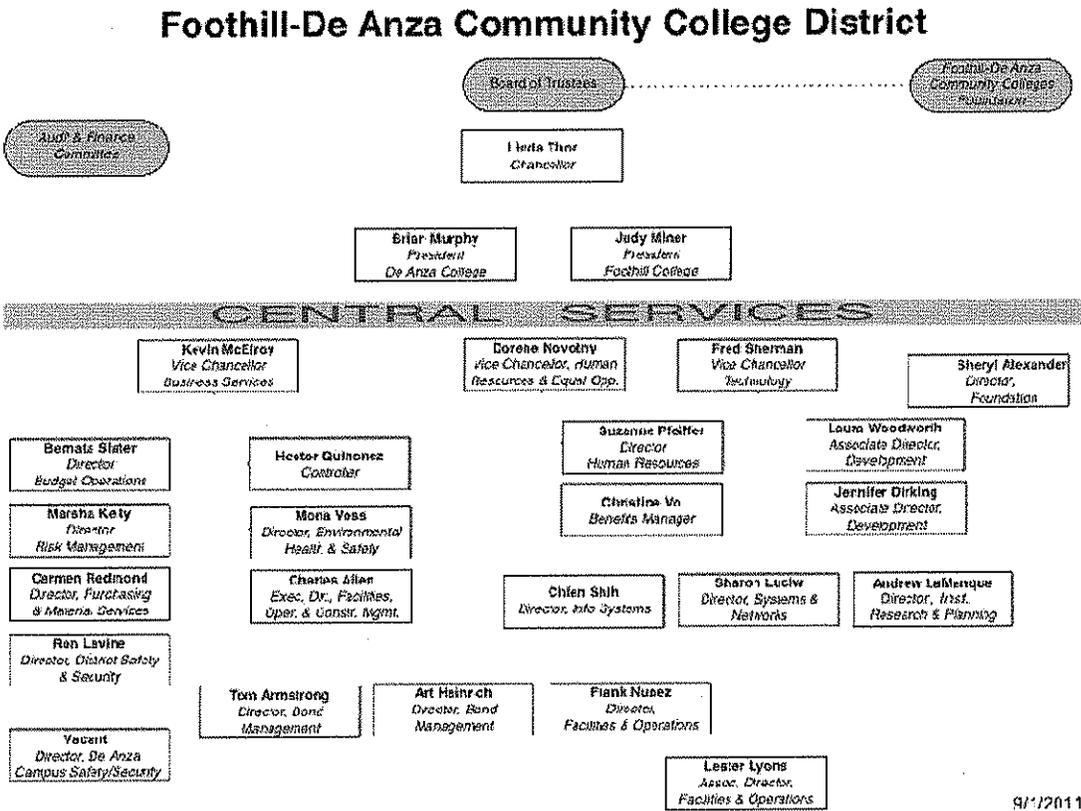
The current Middlefield Campus staff would move to the new site and manage all operations and services. Staff members include:

Judi McAlpin, M.A., campus supervisor  
Charlie McKellar, M.A., program coordinator II  
Al Guzman, B.S., student services coordinator  
Hao Pham, B.S., admissions & records coordinator  
Alexandra Duran, M.A., project director & outreach coordinator  
Michael Almasi, B.S., computer lab technician,  
Josephine Christensen, B.A., financial aid coordinator

Additionally, Foothill - De Anza is in discussion with partner Mission College regarding location of a Mission College supervisor or administrator at the education center.



**c. An organizational chart for the organization and a roster of the current Board of Directors:**





**Foothill – De Anza Community College District  
Board of Trustees:**

Pearl Cheng, president  
Joan Barram, vice president  
Betsy Bechtel  
Laura Casas Frier  
Bruce Swenson

**Board member biographies:**

**Joan Barram**

Joan Barram was appointed in 2009 to fill a vacancy created when Hal Plotkin resigned to join U.S. Under Secretary of Education Martha J. Kanter in Washington as a senior advisor. She currently serves as the board's vice president. Trustee Barram has had a 20-year association with the Foothill-De Anza Community College District. She served for nearly a decade on the board of the Foothill-De Anza Foundation, which raises philanthropic support for the district's students and colleges. She is a longtime member of the advisory council of the Euphrat Museum of Art at De Anza College, and was a member of the "Yes on Measure C" Campaign Committee, which supported passage of the district's 2006 bond measure. Her record of public service includes the Cupertino Union School District Board of Education, where she was elected to three terms; the boards of EdSource and the California School Boards Association; Women of Silicon Valley; and the program committee of the Silicon Valley Community Foundation. Trustee Barram holds a bachelor's degree in biology from Wheaton College. Her term on the Board of Trustees expires in 2012.

**Betsy Bechtel**

Betsy Bechtel was elected in 2003 and brings a strong background in education, government and business to the board. Her previous public service includes nine years on the Palo Alto City Council, where she served terms as mayor and vice mayor. After earning bachelor's and master's degrees in speech pathology from Stanford University, she joined the Peace Corps and taught school in Ecuador. She became a sixth grade teacher in San Jose upon her return to the United States. Trustee Bechtel worked on staff for a member of the Santa Clara County Board of Supervisors for five years before going into banking. She worked as a vice president at Citibank for 15 years and later, a vice president at J.P. Morgan. Her extensive community service has included leadership positions in the League of Women Voters,



Palo Alto Rotary Club, YMCA of the Mid-Peninsula, the Los Altos and Palo Alto Chambers of Commerce and the Committee for Green Foothills. She is a senior fellow of the American Leadership Forum. Her term expires in 2012.

### **Pearl Cheng**

Pearl Cheng, a program manager for education initiatives at United Way Silicon Valley, was appointed in 2008 to complete the term of a former board member who was elected to the California State Assembly. Her work at the United Way includes helping children and their families achieve their potential through education. In 2009 she was elected to the Board of Trustees without opposition, and currently serves as its president. Trustee Cheng served for eight years on the Cupertino Union School District Board of Education and held leadership positions with the Santa Clara County School Boards Association. She has served on the De Anza Commission, an auxiliary of the Foothill-De Anza Foundation that represents De Anza College in the community. She worked for many years at the NASA Ames Research Center, achieving the position of associate director for management operations in information sciences and technology. She holds a master's degree in mechanical engineering from Stanford University and a bachelor's degree in engineering from the University of Iowa. Her term expires in 2014.

### **Laura Casas Frier**

Laura Casas Frier was appointed in 2005 to fill a vacancy created by the death of a board member. She grew up in a working-class immigrant community, paid her way through college and earned a bachelor's degree in political science from California State University, Northridge. After receiving a law degree from Santa Clara University, she worked as a claims representative for an international commercial liability carrier. Trustee Casas Frier has served on a school site council and in the Sixth District PTA. She is active on the boards of the California Community College Trustees and Children Now, a national organization that works to make children the top public policy priority. She also serves as a founding board member of ALearn, which offers programs to help students become the first in their family to go to college. Before her appointment as a trustee, Trustee Casas Frier served on the board of the Foothill-De Anza Foundation, which raises philanthropic support for the district's students and colleges. She stood for election in 2007 with no opposition. Her term expires in 2012.



**Bruce Swenson**

Bruce Swenson was elected to the Board in 2005. A mathematics instructor at Foothill College for more than two decades, Trustee Swenson subsequently served as dean of the college's Physical Science, Mathematics and Engineering Division. He retired as Foothill's vice president of instruction and educational resources in 1999 and has remained active in the district. Before his election to the board, he served as a member of the Foothill Commission, one of the two college-specific auxiliary organizations that represent the Foothill-De Anza Foundation in the community and raise funds for the colleges. Trustee Swenson holds a doctorate degree in education from the University of California, Berkeley, a master's degree in mathematics from the University of Wisconsin and a bachelor's degree in mathematics from Stanford University. His term expires in 2014.

**8. *A copy of the Bi-Laws and Articles of Incorporation as appropriate:***

Foothill-De Anza does not have bylaws and articles of incorporation. It is a public community college district funded by the state of California. It has extensive board policies which can be found at [http://www.fhda.edu/about us/board/policy](http://www.fhda.edu/about_us/board/policy)

**9. *The NOI shall include a release, executed by the Executive Director or President of the Board of Directors that states:***

SEE EXHIBIT "B" for executed release

**PROPOSED PROGRAM**

**1. *A complete description of the proposed project and programs:***

**a. *Include in the description the proposed project and the services to be provided within the facility. If you are proposing a combination activity, explain all aspects of these activities. If the project involves activities that will involve various user groups, describe all of the uses of the building/facility and estimates for percentage of time and space needs projected for use by each user group. If your project includes a community facility which has more than one public service activity conducted within it, then you must provide the approximate square***



***footage that each program will take up within the facility and provide complete information for each of the following areas for each public service.***

The vision for the education center is to provide career pathways and education and employment ladders in areas of high employability. Programs will be offered in a variety of formats including traditional year-long coursework and accelerated academies leading to certifications that provide “gateways” to higher level training programs or retraining for adults.

An example of this kind of career pathway:

Emergency Medical Technician (EMT) training is offered in a nine-month format as well as an eight-week accelerated summer academy. Certified EMTs can continue to Foothill’s paramedic training program on site at the education center. Certified paramedics can continue to Mission College’s firefighter training program on site. Students may also choose to complete an associate in arts or associate in science degree at the education center and transfer to a four-year college or university to pursue baccalaureate, master’s or doctor of medicine degrees.

To maximize facility usage, Foothill has invited community partners, such as Catholic Charities of Santa Clara County and NOVA Workforce Board to have satellite offices at the education center to provide services in numerous areas that would blend with the educational opportunities at the center.

An example of this kind of collaboration is Foothill’s Geriatric Home Aide Certificate Program, which prepares students to be in-home care providers. Foothill currently offers this program in partnership with Catholic Charities in San Jose and would offer it on site at the new center. Students who complete this certification could then move into gerontology or other allied health programs offered at the center, such as EMT training.

Preliminary discussions would support an estimate of about 1,000 square feet for each partner for office and services space. We anticipate classroom space that would be flexible to serve multiple functions and use of mobile and wireless technology in lieu of designated computer labs.



In an effort to provide holistic and well-rounded programs, the district plans to build a fitness center with exercise machines and an exercise room for wellness activities such as yoga, Pilates and aerobic exercise.

It is also our intention to incorporate a facility use/rental program so that the community can use center space for meetings and activities when it is available.

***b. Environmental Clearance: Please indicate the anticipated level of National Environmental Policy Act (NEPA) environmental clearance.***

The city of Sunnyvale has indicated that the Air Force has made a determination of "Finding Of No Significant Impact" ("FONSI") relative to NEPA.

For California Environmental Quality Act clearance, an Initial Study will be prepared to determine the appropriate CEQA action.

***2. A detailed assessment of the need of the proposed program:***

***a. Problem Description: Describe the serious problem that exists if this project and/or service are not available and/or increased. Describe how the need for increased services was determined. Include a description of all other current facilities or services in the region and identify issues that restrict their ability to address the problem:***

Foothill-De Anza Community College District has been seeking a permanent location for its off-campus center for several years. The district has rented space at Cubberley Community Center in Palo Alto since 1984 and currently utilizes approximately 60,000 square feet at that location to serve approximately 4,000 students each quarter.

Middlefield Campus at the Cubberley Community Center currently offers several vocational and career programs (EMT, paramedic, pharmacy technology, child development) as well as all general education curriculum needed to complete associate degrees and/or transfer to a four-year university.

Cubberley Community Center is a converted 1955 high school site. We are limited by space and the poor facility condition due to extreme budget constraints that have resulted in the owner's deferral of several million dollars of needed maintenance..



Foothill staff, faculty and administrators provide student services, instruction and opportunities that are similar to those offered on the main Foothill College campus in Los Altos Hills. It is anticipated that these services would continue and be enhanced through a planned partnership with Mission College. We will propose sharing of student services such as admissions, registration, financial aid, counseling and outreach as partners rather than separate entities.

Of the many potential sites that Foothill-De Anza has considered for a permanent center in recent years, the property at Onizuka meets all the top-priority criteria the district applies when assessing a potential site:

- Location central to freeways and employment
- Accessibility by public transportation (bus and/or light rail)
- Parking availability
- Potential for growth (additional square footage and parking as programs or partners are added)
- Affordability for development and operation

Onizuka Air Force Station meets all these criteria and more. The site has access from two freeways and the light rail line, plenty of parking and a unique historical significance in the area that the district would preserve and highlight.

- b. Explain how and to what extent the proposed project and services will solve the problem. Quantify the current and proposed levels of service and identify how many persons will be served. Include in your description any surveys of intended beneficiaries regarding their needs and the impacts of not having the project and services; surveys or records of existing service levels needs showing the number of people served and turned away (unmet demand) due to inadequate facilities of services:***

Moving the Foothill College education center to the Onizuka Air Force Station site would provide a permanent location for the center and all its classes, programs and services. It also has the added benefit of supporting the participation of community partners. Using a partnership model will provide the surrounding community with tremendous opportunities to attend classes and programs offered by the colleges and receive services from community partners, all at one location.



Additional programs, certifications, vocational training and career pathways would be developed and offered with partner collaboration. Seamless provision of services creates new opportunities for students of all ages and backgrounds. Though the involvement of community partners, resources are maximized and services are not duplicated.

- c. Include a statement that applicant does not currently possess real estate suitable for the proposed program. Describe why this site is suitable and/or accessible for the proposed project and/or its programs:**

The Foothill-De Anza district does not currently own any property or facilities that are suitable for a permanent site for the educational center. The Onizuka Air Force Station site is highly suitable due to its location, accessibility, capacity for growth, historical significance and affordability.

- d. Provide a detailed timeline and description of the activities necessary to complete the proposed project and provision of services:**

SEE EXHIBIT "C" for Schedule

## **BUILDING OR PROPERTY NECESSARY TO CARRY OUT PROGRAM**

- 1. A narrative description of the requested facilities, land, buildings, improvements, easements and related equipment. (describe by building number and include an illustrative map):**

Foothill-De Anza requests use of Parcel C as shown on Exhibit F. The parcel consists of approximately 9.15 acres with approximately 550,000 square feet of obsolete improvements that have been utilized by the U.S. Air Force since the mid-1960s. It is the intention of Foothill-De Anza to demolish the existing improvements, while preserving selected historically significant features, and to construct a new 55,000 square foot, two-story instructional facility with parking for approximately 500 cars.

SEE EXHIBIT "D"

- 2. Is the applicant requesting a deed transfer? Would the applicant agree to the Redevelopment Authority owning the property and buildings and leasing such properties to the applicant at no cost?**

Yes, the applicant is requesting a deed transfer.



- 3. *Indicate what land use and zoning requirements or entitlements are anticipated as necessary in order to implement the proposed project/program at the site:***

The proposed use of the site is anticipated to be consistent with the land use and zoning requirements of the re-use plan to be approved by the Onizuka Local Redevelopment Authority. Foothill-De Anza Community College District would be the lead agency for all matters relating to land use and CEQA. The Division of the State Architect would oversee the plan check and permitting of the building process.

- 4. *Indicate whether existing buildings will be used and fully describe any new construction or rehabilitation that is anticipated on the site necessary for program implementation:***

The applicant intends to demolish all existing buildings and construct new education facilities and surface parking as outlined in the attached exhibit E.

### **ORGANIZATIONAL CAPACITY**

***Provide evidence that the management team is capable of successfully developing and operating any proposed project and services will be examined. The applicant must demonstrate a record of past performance and experience with similar projects and/or programs, viability, and financial and administrative solvency and stability based on the following:***

- 1. *A general description of past performance and experience implementing similar projects and programs to those proposed:***

For more than 50 years, Foothill-De Anza has demonstrated excellence and innovation in academic programs and student services. As one of the largest community college districts in the United States, Foothill-De Anza provides credit classes for over 40,000 students per quarter. The colleges are active members of the League for Innovation in the Community College, a national consortium of leading two-year institutions. In the past decade, the district has successfully managed numerous major capital projects funded with approximately \$740 million in community-approved general obligation bonds.



**Foothill College:**

Year Founded: 1957  
First Classes Offered: Sept. 15, 1958  
Campus Size: 122 acres  
Enrollment: 16,898 (Fall Quarter 2010, Credit Courses)  
Accreditation: Accredited by the Western Association of Schools and Colleges; the American Dental Association Council of Dental Education; American Medical Association Council of Medical Education; and Federal Aviation Administration

Degrees and Certificate Programs: 133

**De Anza College:**

Year Founded: 1967  
Campus Size: 112 acres  
Enrollment: 23,760 (Fall Quarter 2010, Credit Courses)  
Accreditation: Accredited by the Western Association of Schools and Colleges

Degrees and Certificate Programs: 169

**Middlefield Education Center:**

Year Founded: 1984  
Location: Cubberley Community Center, Palo Alto  
Enrollment: 4,000 (included in Foothill College total)

**2. A list of all projects/properties owned or managed by the applicant including:**

**a. Development name, address, and telephone number and name of on-site manager:**

**Foothill College**

12345 El Monte Road  
Los Altos Hills, CA 94022  
(650) 949-6100  
Charles Allen, executive director of facilities & operations



**De Anza College**

21250 Stevens Creek Blvd.

Cupertino, CA 95014

(408) 864-8327

Charles Allen, executive director of facilities & operations

**Middlefield Campus** (at the Cubberley Community Center)

*(Leased from the City of Palo Alto since 1984)*

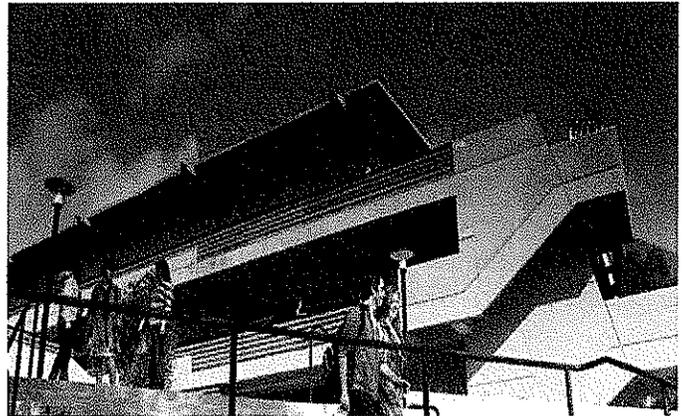
4000 Middlefield Road

Palo Alto, CA 94303

(650) 949-6950

Denise Swett, associate vice president of Middlefield Campus

**b. Photos demonstrating exterior and interior physical condition of buildings;**

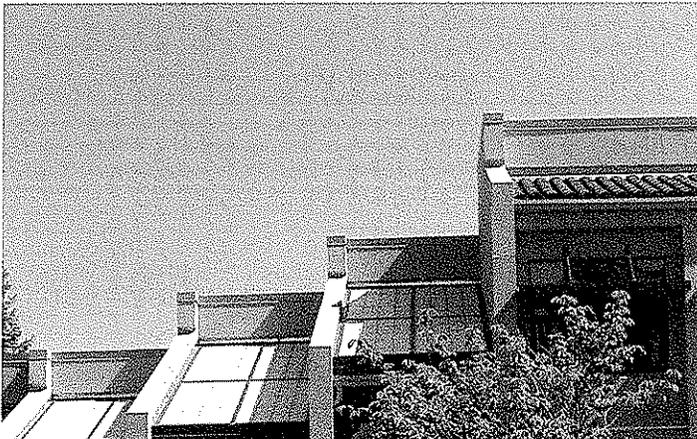


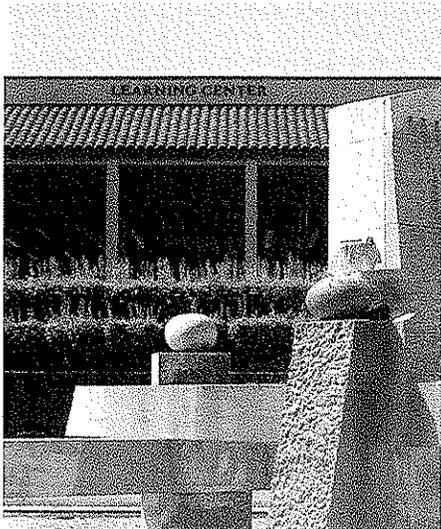


### **Foothill College**

#### **Architectural Awards**

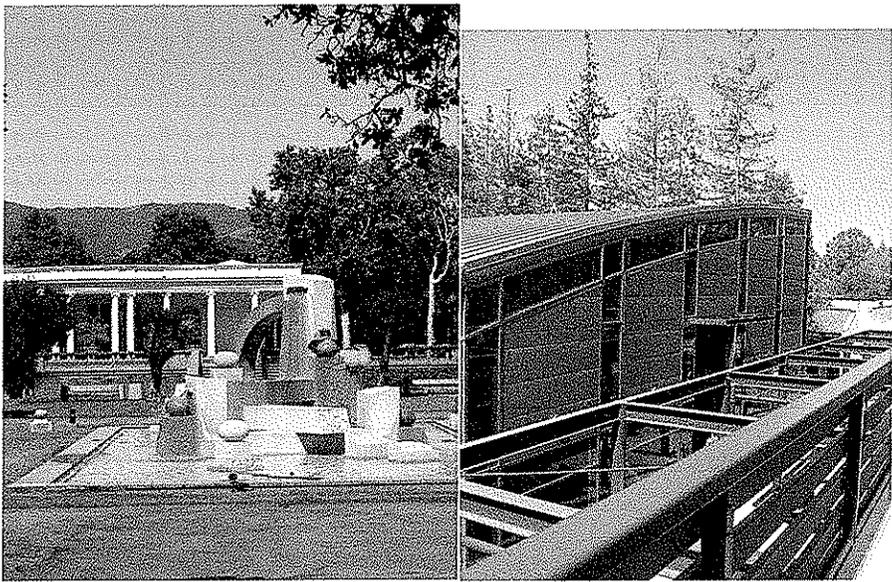
Community College Facility Coalition, Award of Merit for the Physical Sciences & Engineering Center, 2009; American Institute of Architects, Honor Award, 1962, Award of Merit, 1963, Special Commendation 1980; *Progressive Architecture Magazine*; Design Award





**De Anza College**  
**Architectural Awards**

Energy Efficiency Partnership Program for Higher Education Buildings, Best Overall  
Sustainable Design for Mediated Learning Center, 2010; Center for the Built Environment,  
Livable Building Award for Kirsch Center for Environmental Studies, 2007;  
American Institute of Architects, Honor Award for De Anza College campus, 1969





**c. c. Supportive services provided at each site;**

Extensive student support services are provided at the college and center sites. These include admissions, records and registration; financial aid; academic counseling; health and psychological services; tutoring; library services; and computer labs. In addition food services, a bookstore and student activities and events are also provided.

**d. Years managed/owned;**

Foothill College:	Founded in 1957 (54 years)
De Anza College:	Founded in 1967 (44 years)
Middlefield Campus:	Founded in 1984 (27 years)

**e. Audited financial statements for last two years on each site.**

See EXHIBIT "F" for audited financial statements for 2009-2010  
See EXHIBIT "G" for audited financial statements for 2008-2009

These audited financial statements can also be founded at  
<http://business.fhda.edu/finance/financialreports>

**3. Plans for the expansion of the organization to meet an increased demand for the proposed programs. Identify any organizational adjustments needed to implement the proposed programs including number of staff required with job titles and descriptions:**

The current staff would move to the new site and manage all operations and services. The staff includes:

**Denise Swett, Ed.D.**, associate vice president (4 years)  
Supervise all programs, services and facilities

**Judi McAlpin, M.A.**, campus supervisor (14 years)  
Manage all day-to-day operations for programs, services and facilities

**Charlie McKellar, M.A.**, program coordinator II (10 years)  
Manage budget, coordinate special programs and noncredit classes

**Al Guzman, B.S.**, student services coordinator (16 years)



Provide on-site student support services and services to faculty for classroom instruction

**Hao Pham**, B.S., admissions & records coordinator (8 years)  
Provide registration assistance for all students

**Alexandra Duran**, M.A., project director & outreach coordinator (8 years) Provide outreach and retention support for students

**Michael Almasi**, B.S., computer lab technician, (8 years)  
Supervise and maintain computer labs and equipment

**Josephine Christensen**, B.A., financial aid coordinator (8 years)  
Provide financial aid assistance to students

4. ***Provide a list of management functions that will be staffed at the project and whether those management function swill be provided by the applicant or contracted out to a third party. If contracted out, please provide information regarding the selection process for those management services and how often a site manager will visit the property:***

Applicant Foothill-De Anza Community College District would provide all educational center management functions as currently provided at the Middlefield Campus. The managing administrator would be housed on site at the center.

5. ***For other than public agencies, the following information must be provided:***

Not applicable

- a. **Fully detailed and audited financial statement for the last two years (including copies of tax returns for the last two fiscal years) of the organization's assets/reserves, liability, balances, make-up of current assets accounts receivable, balance of revenues and expenses and net worth. This report must include a balance sheet and income statement. If the applicant is a partnership or joint venture, individual financial statements must be submitted for each general partner or joint venture thereof. A full disclosure of whether any of the organizations officer's, principals or partners has declared bankruptcy in the last (5) years.**



- b. A disclosure as to whether any of the organization's officers, principals or partners has been convicted of a felony in the last five (5) years and the nature of the conviction.
- c. A minimum of five (5) business references including names, addresses, telephone numbers and the nature and magnitude of the business association in each instance. These references must be persons or firms with whom you have transacted business during the past five (5) years.
- d. A minimum of five (5) financial references including names, addresses and telephone numbers in each instance. It is required that two (2) of the five (5) references be banks or savings and loan institutions; also indicate the type of relationship.

#### **FINANCIAL PLAN**

*Information in this plan will not be released to the public without written consent from the applicant. Prepare a financial plan for the specific building, property and/or program requested which shall include:*

1. *A development pro forma that identifies estimated costs associated with ensuring buildings and property that can be used for the proposed program. These costs shall include the cost of any needed construction to comply with local building codes, ADA requirements and to bring properties into conformance with design standards envisioned in the Reuse Plan. The costs of any proposed improvements, and costs associated with securing needed utility services. Soft costs such as architectural/engineering services, survey work, title services, legal services and government permit fees shall also be identified. In addition, any financing costs for said improvements shall be identified. A schedule for completion and financing of all improvements shall be provided.*

SEE EXHIBIT "E" - for the SITE PLAN for Phase 1 and for Phase 2

SEE EXHIBIT "H" - for the DEVELOPMENT BUDGET for Phase 1



2. ***A five (5) year projected operating cash-flow analysis for the project/program which shall include: annual gross income (with sources of all income and revenue producing operations for the program identified), a complete breakdown of expenses (including, as applicable, vacancy costs, utility costs, maintenance costs, management fees, security costs, capital and operating reserves, salaries and benefits, insurance, real estate taxes, other expenses (postage, collections, training, supplies, etc.), net operating income before debt service and depreciation, debt service, net operating income after debt service and depreciation:***

SEE EXHIBIT "1" – for the OPERATING BUDGET

3. ***Provide a detailed statement of the source of anticipated funding to establish the program operations, describe the level of funding commitment, including a statement that funds are currently available or when they will become available for expenditure to carry out the proposed program:***

***If the proposed program contemplates major development costs and funds are not currently available, identify plans and sources of funds to carry out the proposed program and development.***

The source of general operational funding for the education center will be state and local revenue received from serving students at the new center. Expenses needed to fund operations will be budgeted as part of the Foothill College operating budget, as under the current education center arrangement. Foothill college funds the operation of the existing education center at Cubberley Center from its General Fund budget allocation received from the state of California. The education center at Cubberley has been in operation for more than 20 years and has a solid history of attendance for the high-demand programs offered by the college. Because these same high-demand programs would be relocated to the new education center planned for the Onizuka site, the college has complete confidence and a 20-year track record to assure similar or greater attendance at the new location.

The specific source of funding for Foothill College's General Fund, and consequently funding for its education center, is received from the state of California. This funding is part of the total funding provided for community colleges under the SB 361 funding formula. Community college funding is approved as a part of the California state budget each fiscal year and will be immediately available to support the new center when completed.



Funding for the community college system has been very stable over the last 30 years or more. Allocation is based on the numbers of full-time-equivalent students served and does not typically fluctuate up or down by more than 1 percent to 3 percent. Consequently, the Foothill-De Anza Community College District has been able to make very reliable plans for the scope and types of programs offered at the education center at Cubberley for the past 20 years. Although California is currently facing some very significant budget challenges, the Foothill-De Anza Community College District has prepared itself to adjust operational expenses as necessary and has more than adequate reserves to balance to any reduced state budget and continue serving the community with quality higher education. This same kind of stability and reliable funding will translate to the new center planned for the Onizuka site where student services for the next 20 years and beyond will be of paramount importance. The district plans to build a state-of-the-art center at Onizuka using funds designated as part of its Measure C bond program.

- 4. *Indicate whether the applicant is receiving federal, state or local grants or subsidies for programs they provide. If so, what percentage of total organization revenues relies on these grants?***

Although Foothill-De Anza Community College District regularly receives federal, state and local grants to support programs or provide start-up funding for new concepts, neither the colleges nor the current education center at Cubberley is dependent upon grants or subsidies for ongoing operations. As noted in the response to question #3, regular, ongoing operational funding for programs and service offered by the district is derived from the California state funding model for public education.

## **EXHIBIT A**

***A copy of the document showing statutory or legal authority under which the applicant is authorized by law to acquire and hold title to property or to lease property.***

## GOVERNMENT CODE

### SECTION 50330-50335

50330. Whether governed under general laws or charter, a local agency may donate and grant to the Regents of the University of California, the Trustees of the California State University, or the governing board of a community college district real property that it owns as a site for university buildings and grounds, state university buildings and grounds, or community college buildings and grounds, as the case may be. A local agency may expend funds, incur indebtedness, and issue bonds for the acquisition of a site within or without its boundaries for the purposes of this section.

50330.4. For the purposes of Section 50330, a local agency may purchase land or options on land or contract for and make downpayments on land or options on land within or without its boundaries and make a gift of that land, option, or contract and downpayment to the Trustees of the California State University for development as a state university on condition that the entire gift shall revert to the local agency if the state university is not established on that site prior to a specific date designated by the local agency and the trustees and the acceptance of the gift by the trustees shall not obligate the expenditure of any state funds for the purchase or acquisition of land or for development on land unless the Legislature shall subsequently approve the obligation by appropriating funds for that specific purpose.

50331. A local agency may acquire and hold land within its boundaries for:

(a) Developing and encouraging agricultural, horticultural, or botanical products.

(b) Exhibiting such products.

(c) Erecting, rebuilding, or furnishing historical museums and art galleries.

Such land may be acquired by purchase or otherwise, or may be leased for a term not to exceed fifty years.

50332. By a four-fifths vote of its legislative body, a local agency may donate and convey, for fairground or exposition, park, playground, or recreational purposes, to the State or to the district agricultural association of the agricultural district in which the local agency is situate any land and buildings owned, held, or used by it, upon such terms as the local agency and the district agricultural association or the State agree. If the local agency received the land or buildings by donation or dedication, the agreement is subject to the covenants, conditions, and restrictions of the donation or dedication as to the use of the land and buildings, existing at the date of transfer from the local agency.

50333. Whether governed under general laws or charter, a local agency may donate and grant to the State real property which it owns within its boundaries as a site for public buildings and grounds. A local agency may acquire such real property by purchase or eminent domain proceedings in the name of the local agency. The title to such property may be taken in the name of the State or of the local agency and thereafter conveyed to the State. A local agency may expend its funds, incur indebtedness, and issue bonds for the acquisition of such sites.

50334. Whether governed under general laws or charter, a local agency may donate and grant to the United States real property which it owns within its boundaries as a site for post office and federal office buildings and grounds.

A local agency may expend its funds, incur indebtedness, and issue bonds for the acquisition of such sites.

50335. The legislative body of a local agency may convey to any public corporation, or private corporation engaged in the public utility business, an easement to lay, construct, reconstruct, maintain, and operate water, sewer, gas or storm drain pipes or ditches, electric or telephone lines, and access roads used in connection therewith, over and upon any land belonging to the local agency, upon such terms and conditions as the parties thereto may agree. Nothing contained herein shall relieve a public utility from any franchise requirement imposed by any law, charter, or ordinance.

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EXHIBIT B

RELEASE

The undersigned, Linda Thor, as the authorized representative of the organization, hereby provides its consent to the Onizuka Air Force Station LRA to release to members of the LRA and the LRA Evaluation Subcommittees (who shall not further release the information to the general public), any information regarding the capacity of Foothill-De Anza Community College District to carry out its program, a description of the organization, or its financial plan for implementing the program.

By:

A handwritten signature in black ink, appearing to read "Linda M. Thor", written over a horizontal line.

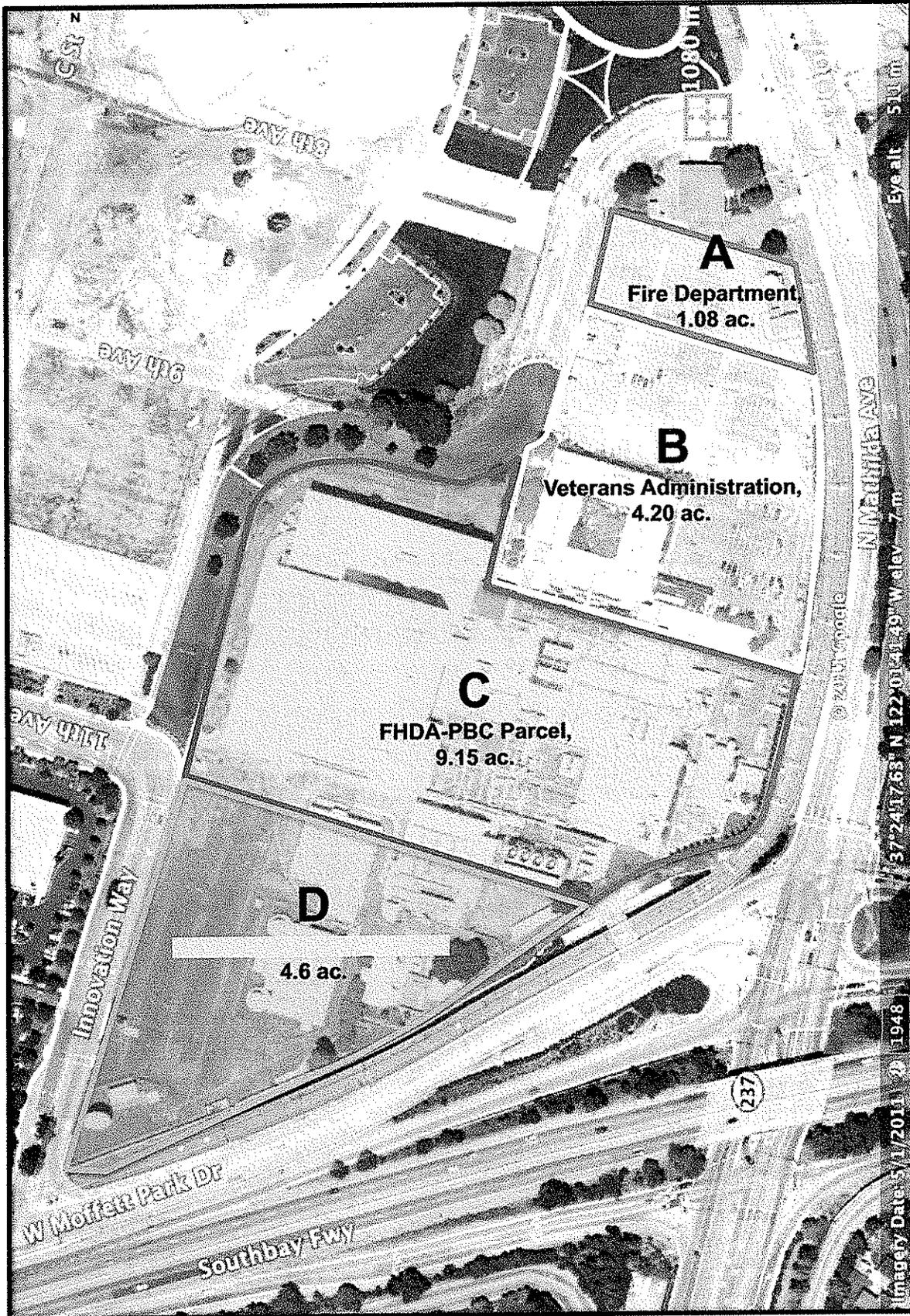
Linda Thor, Chancellor  
Foothill-De Anza Community College District

**FOOTHILL - DE ANZA COMMUNITY COLLEGE DISTRICT**  
**MASTER SCHEDULE - EDUCATION CENTER SITE ACQUISITION & DEVELOPMENT**

**EXHIBIT C**

August, 2011

	2011				2012				2013				2014				2015			
	Jan - Mar	Apr - June	July - Sep	Oct - Dec	Jan - Mar	Apr - June	July - Sep	Oct - Dec	Jan - Mar	Apr - June	July - Sep	Oct - Dec	Jan - Mar	Apr - June	July - Sep	Oct - Dec	Jan - Mar	Apr - June	July - Sep	Oct - Dec
FHDA - NOI Application / Due Diligence																				
FHDA - RFO - Final Site Selection																				
Dept. of Aeronautics (Submit / Review / Approve)																				
City Amend / Approve Re-Use Plan																				
City / FHDA - Negotiate MOU for 4.6 Acres																				
FHDA - Prepare PBC for DOE																				
DOE - Review and approval of PBC (8 acres)																				
State Chancellor's Office Review																				
CEQA Review																				
Transfer Title Onizuka																				
Schematic Design / Design Development																				
Construction Documents / Working Drawings																				
State Architect (ORS) Approval Process																				
Preconstruction Services																				
Guaranteed Maximum Price Determination																				
Construction																				
Occupancy																				



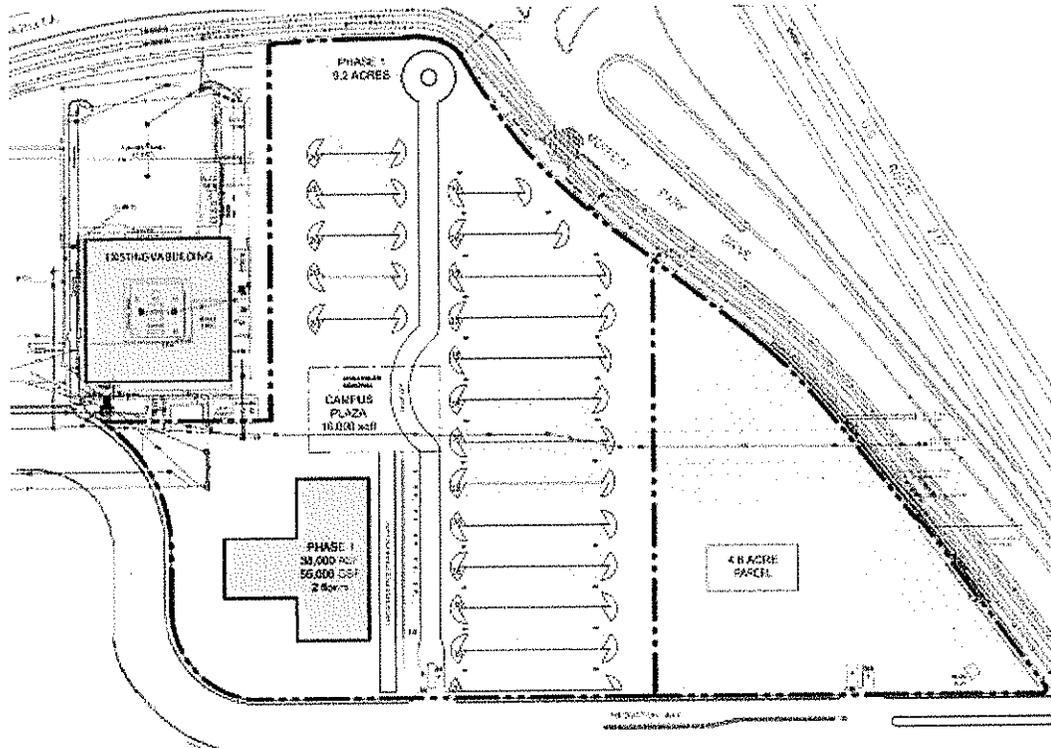
# Onizuka Air Force Station – Parcel Map





Exhibit E

CONCEPTUAL SITE PLAN - PHASE 1



SCALE: 1" = 50'

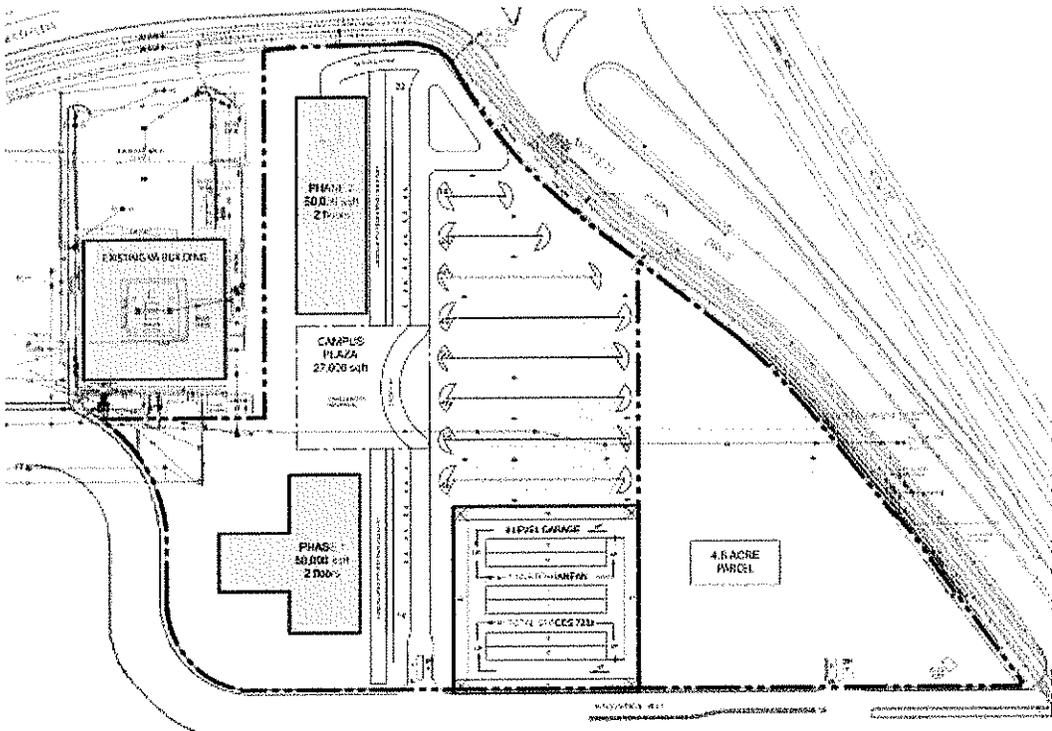
**ONIZUKA CONCEPTUAL SITE PLAN  
PHASE 1**

- DEMOLISH ALL IMPROVEMENTS ON 9.15 ACRES (approx. 550,000 sf)
- PREPARE SITE FOR DEVELOPMENT
- INSTALL REQUIRED SITE UTILITIES
- INSTALL CIRCULATION ROADS
- INSTALL OFFSITE IMPROVEMENTS TO INNOVATION WAY
- CONSTRUCT 55,000 GSF (38,000 ASF) INSTRUCTIONAL BUILDING (2 STORY)
- CONSTRUCT SURFACE PARKING FOR 556 CARS (10 per 1,000 sf)
- INSTALL 16,000 SF CAMPUS COURTYARD
- INSTALL SITE LANDSCAPING



Exhibit E

**CONCEPTUAL SITE PLAN - PHASE 2**



SCALE: 1" = 50'

**ONIZUKA CONCEPTUAL SITE PLAN  
PHASE 2**

- CONSTRUCT ADDITIONAL 55,000 GSF (38,000 ASF) BUILDING (2 STORY)
- CONSTRUCT 4 LEVEL PARKING GARAGE FOR 728 CARS (1 level subterranean)
- SURFACE PARKING FOR 372 CARS
- TOTAL PARKING = 1,100 CARS (10 per 1,000 sf)

EXHIBIT "H"

FOOTHILL - DE ANZA COMMUNITY COLLEGE DISTRICT  
ONIZUKA - PHASE 1 PROJECT DEVELOPMENT COST ESTIMATE

Date: May 11, 2011

**DIRECT COSTS**

**Site Development:**

Demolition	\$3,203,044 *
Haz Mat Abatement	\$1,273,600 *
Grading	\$401,940 *
Parking (500 cars - surface parking)	\$875,000
Roadways	\$385,000
Innovation Way Restoration	\$400,000
<b>Subtotal Site Development</b>	<b>\$6,538,584</b>

**Utilities:**

Sanitary Sewer	\$153,150
Storm Drain	\$401,825
Fire Protection Water	\$262,600
High Voltage Power	\$727,200
Signal	\$123,200
Domestic Water	\$168,075
Natural Gas	\$118,300
Site Lighting & Signage	\$283,500
<b>Subtotal Utilities</b>	<b>\$2,237,850</b>

<b>Building (38,000 sf (ASF) / 54,000 sf (GSF) x \$445/sf)</b>	<b>\$16,910,000</b>
<b>Subtotal Building</b>	<b>\$16,910,000</b>

<b>Landscape (hardscape/softscape)</b>	<b>\$816,000</b>
<b>Subtotal Landscape</b>	<b>\$816,000</b>

**TOTAL DIRECT COST** **\$26,502,434**

**INDIRECT COSTS**

Architecture & Engineering (Plans/Specs)	\$2,120,195
Architecture & Engineering - Project Oversight	\$424,039
<b>Subtotal A&amp;E:</b>	<b>\$2,544,234</b>
Project Administration / Management (District Cost)	\$265,024
Division of State Architect Plan Check	\$140,512
Community College Plan Check	\$75,721
Preliminary soils test / geotech	\$85,000
Legal Fees/printing/advertisement	\$50,000
Constructibility Review	\$60,000
Haz Mat Survey/Monitoring/Clearance	\$100,000
Storm Water Pollution Program	\$45,000
Utility Engineer for coord/interface with site utilities	\$75,000
Civil Engineering - Site	\$125,000
LEED	\$35,000
Testing and Inspection	\$623,024
Construction Management	\$1,060,097
<b>TOTAL INDIRECT COST</b>	<b>\$5,283,613</b>

**CONTINGENCY** **\$2,650,243**

**TOTAL CONSTRUCTION COST** **\$34,436,290**

**FF&E** **\$1,200,000**

**TOTAL PROJECT COST** **\$35,636,290 \*\***

Footnotes:

\* Does not include \$707,402 of demolition, grading and hazardous materials abatement for Phase 2 land (4.6 acres)

\*\* Does not include cost of Phase 2 land purchase (4.6 acres) or Phase 2 development costs

## APPENDIX I

### ONIZUKA EDUCATIONAL CENTER ESTIMATED OPERATING BUDGET

#### OPERATING COSTS

Staffing:	\$1.7M 7 FTE Classified, 1.5 FTE custodian, 1 FTE management, PT security
Utilities:	\$120K/year
Supplies:	\$165K/year operating budget for instructional and administrative needs
Maintenance and Operations:	\$275K/year including grounds, facilities, custodial and contracts
<b><i>Estimated Total:</i></b>	<b><i>\$2.26M</i></b>

#### REVENUE

State Funding for Center	\$1.1M/year
State Apportionment	\$3M (based on enrollment and attendance)
<b><i>Estimated Total:</i></b>	<b><i>\$4.1M</i></b>

**ATTACHMENT F**

Planning Commission Minutes, dated September 26, 2011

<b>PLANNING COMMISSION MINUTES OF SEPTEMBER 26, 2011</b>
----------------------------------------------------------

<b>2.</b>	<b>FILE #:</b>	<b>2010-7636</b>
	<b>Location:</b>	<b>1080 Innovation Way</b> (APN: 110-27-034, 036, 037)
	<b>Proposed Project:</b>	Review of Amendments to the Onizuka Air Force Station Local Redevelopment Authority Redevelopment Plan (Approved by the LRA December 2008), Legally Binding Agreement and Homeless Assistance Submission
	<b>Applicant / Owner:</b>	City of Sunnyvale /United States Air Force
	<b>Environmental Review:</b>	Statutory Exemption 15262, Feasibility and Planning Study and General Rule Exemption 15063(b) (3).
	<b>Staff Contact:</b>	Shaunn Mendrin, 408-730-7429, smendrin@ci.sunnyvale.ca.us

**Shaunn Mendrin**, Senior Planner, presented the staff report. He noted the report is to amend the adopted 2008 Onizuka Air Force Station Redevelopment Plan and he further summarized the report.

**Comm. Sulser** asked staff about the homeless shelter and the proposed relocation to the Armory site. He noted that the report stated that the City will be providing funds from the City's housing mitigation fund, and asked if this only applies if they relocate to the Armory site.

**Hanson Hom**, Director of Community Development Department, responded that there's a Legally Binding Agreement (LBA) in 2008 to grant an incentive for the Homeless Advisory to relinquish their claims of their site in the Onizuka Air Force Base in exchange for an alternative site. At the time, the alternative site was not identified to relocate to, but there was an incentive of \$8.2 million of the City's housing mitigation funds. He further stated that since that time the National Guard relinquished their lease on the armory site in June this year, and the two homeless providers are interested in developing on the Armory site. The LBA going to Council on October 4, 2011 will include the same offer as 2008, including the \$8.2 million. He further stated that the Armory site was appraised at \$7.4 million and the funds would go towards the ground lease of the proposed property at 620 East Maude Avenue.

**Comm. Sulser** responded that the City Council's concern in the past is not to locate these uses close to industrial sites because it makes those sites less financially viable. He asked if the park, educational use, or the Veteran Affairs claim may affect the industrial sites' viability.

**Mr. Hom** noted that these uses are not subject to the City's property tax revenue. He noted potential employment benefits and an educational facility is a huge investment to the City.

**Comm. Sulser** asked if these uses are potential sensitive receptors that will affect the industrial sites' viability.

2010-7636 725 Gail Avenue

Draft Minutes  
September 26, 2011  
Page 2 of 3

**Mr. Hom** responded no, that a college or park is not as much of a concern as residential uses close in proximity to industrial sites. He noted air quality impacts and further stated that if it were an elementary school or senior housing then these uses would be more of a concern if they were to be located close to industrial uses.

**Mr. Hom** stated that the relocation of the homeless shelter to 620 East Maude Avenue is a more suitable site.

**Vice Chair Larsson** asked staff about potential traffic impacts since this site is close in proximity to US Route 237 and Mathilda Avenue. He asked how the City will manage the traffic if the community college or other uses on the site decide to expand in the future.

**Shaunn Mendrin** responded that they will have to go through the California Environmental Quality Act (CEQA) process.

**Mr. Hom** also added that the District Agreement will require them to go through CEQA review and provide mitigation per City standards.

**Vice Chair Larsson** asked if the Veteran Affairs property will have to go through CEQA review.

**Mr. Hom** said that they will be conducting an environmental review, but the City has no ability to enter a similar VA agreement because they have the right to the property. He further stated that they will most likely have to go through National Environmental Policy Act (NEPA) review. He also noted that the Moffett Park Specific Plan includes more intensive use as far as uses in relation to traffic.

**Chair Hendricks** asked staff if the funds go into the City's General Fund.

**Mr. Hom** responded yes, the proposed Housing Mitigation Funds of \$7.4 million dollars is available for affordable housing and the lease payments would go to the City's General Fund.

**Chair Hendricks** asked staff, if a motion to approve this amendment passes, are they giving VA the right to develop a homeless shelter in a location not preferred by the City based on the reasons Mr. Hom explained previously.

**Mr. Hom** responded its part of the Base Closure and Realignment Commission (BRAC) process, and that in order to gain control of the sites the City needs to recognize the VA's claims. He noted that they have two options, to allow them to build low-income housing on without any incentives from the City, or to build on an alternative site with incentives and added benefits. He noted that the Armory site is the preferred location.

**Chair Hendricks** asked the City Attorney if the Commission can have the motion recognize the claim that they feel that the Onizuka location is not a good site for a homeless shelter.

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**Kathryn Berry**, Senior Assistant City Attorney, noted that the City does not have a lot of control over the (BRAC) process, clarifying the Commission's concern is that the homeless housing location stated on the amendment is located on the Air Force Station, and that the proposed re-location to the Armory site is not stated in the agreement.

**Shaunn Mendrin** added that the BRAC process already entitles them to build housing if they choose to, regardless of any City policy.

**Chair Hendricks opened the public hearing.**

**Chair Hendricks** stated that there are no speaker cards.

**Chair Hendricks closed hearing.**

**Vice Chair Larsson moved with staff's recommendations to approve Alternative's 1, 2, and 3; Approve and direct the City Manager to submit to the Department of the Air Force (AF) and the Department of Housing and Urban Development (HUD) an amended Onizuka Air Force Station Redevelopment Plan and amended Homeless Housing Submission. (Attachments A and B); Direct the City Manager to execute a Legally Binding Agreement with MidPen Housing and Charities Housing. (Attachment C); and Direct the City Manager to execute a District Agreement with the Foothill-De Anza Community College District (Attachment D). Comm. Chang seconded the motion.**

**Comm. Chang** stated the amendments adhere to the Moffett Park Specific Plan, and accommodate the civic duties, and said he was able to make the findings.

**Chair Hendricks** stated that he will support the motion and has been following this, especially the housing portion of the Plan.

**ACTION: Vice Chair Larsson made a motion with staff's recommendations to approve Alternative's 1,2, and 3; Approve and direct the City Manager to submit to the Department of the Air Force (AF) and the Department of Housing and Urban Development (HUD) an amended Onizuka Air Force Station Redevelopment Plan and amended Homeless Housing Submission. (Attachments A and B); Direct the City Manager to execute a Legally Binding Agreement with MidPen Housing and Charities Housing. (Attachment C); and Direct the City Manager to execute a District Agreement with the Foothill-De Anza Community College District (Attachment D). Comm. Chang seconded.**

**APPEAL OPTIONS: This item is scheduled to be considered by City Council at the October 4, 2011 City Council meeting.**