

Exhibit 4
Legally Binding Agreement

**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 Corporation (“**Charities**”). MidPen and Charities may be referred to individually
6 as a “**Provider**” and jointly as the “**Providers.**” The LRA and the Providers may be referred to
7 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 (“**Redevelopment Plan**”) for the AFS
20 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 Submission (“**HAS**”) and a copy of the legally binding agreement that the LRA
26 proposes to enter into with homeless providers selected by the LRA to implement homeless
27 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

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1 **WHEREAS**, if HUD determines that the HAS and Redevelopment Plan adequately
2 address the needs of the homeless in the surrounding community and balance the needs of the
3 homeless with the needs of the community for economic redevelopment, then HUD will approve
4 the HAP and the Redevelopment Plan and notify the DoD and the LRA of such approval;
5

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

11 **WHEREAS**, MidPen and Charities Housing submitted to the LRA revised NOIs to
12 consolidate their proposed homeless programs to construct permanent supportive housing for the
13 homeless (“**Consolidated Program**”) on approximately four and six-tenths (4.6) acres of land
14 located on the southern portion of the AFS Property (the “**Provider Property**” more particularly
15 described at Exhibit A);
16

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

22 **NOW, THEREFORE**, the Parties hereby agree as follows:
23

24 **ARTICLE 1. LRA OBLIGATIONS.**
25

26 **1.1 Redevelopment Plan.** The LRA will complete and file with DoD and
27 HUD on or before the federally mandated filing date, as such date may be extended, a HAS and
28 Redevelopment Plan that includes the use of the Provider Property by the Providers at no cost for
29 the purposes set forth in the Consolidated Program.
30

31 **1.2 Pre-Development Costs.** Following execution of this Agreement, the LRA
32 will reimburse each Provider up to fifty thousand (\$50,000.00) dollars for eligible administrative
33 and out-of-pocket costs associated with predevelopment activities approved by the LRA for
34 acquiring and developing the off-site accommodation, whether or not the LRA delivers to the
35 Providers an Election Notice all in accordance with Section 1.5 below.
36

37 **1.3 Acquisition of the Provider Property.** Following HUD approval of the
38 Redevelopment Plan, the LRA shall seek to acquire title to the Provider Property from the Air
39 Force at no cost pursuant to a Government deed to the Provider Property (“**Government Deed**”)
40 for Homeless Purposes, as hereinafter defined, in accordance with the Base Closure Act, the
41 Redevelopment Act, the Redevelopment Plan, the Consolidated Program and this Agreement.
42

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1 **1.4 Conveyance of the Provider Property.** Immediately upon receiving title to
2 the Provider Property from the Air Force, the LRA will execute and tender to each Provider
3 separate ninety (90) year ground leases for that Provider's allocated portion of the Provider
4 Property in accordance with the preliminary lease terms set forth at Exhibit B ("**Provider**
5 **Property Lease**") in accordance with the Base Closure Act, Redevelopment Act, the
6 Redevelopment Plan, the Consolidated Program and this Agreement so the Providers may
7 implement the Consolidated Program at the Provider Property in a manner that will serve
8 homeless persons who meet the definition of "homeless persons" as set forth in the McKinney-
9 Vento Act (42 U.S.C. § 11301 et seq.) ("**Homeless Purposes**") for the term of the leases. Each
10 Provider shall execute its Provider Property Lease no later than the later of June 30, 2013 or the
11 date the Air Force conveys the Provider Property to the LRA, with the ability to request an
12 extension at the discretion of the City of Sunnyvale City Manager.
13

14 **1.5. Off-Site Accommodation:** MidPen and Charities Housing submitted to the
15 LRA a proposed affordable housing program to construct permanent supportive housing for
16 persons of various income levels on property owned by the City of Sunnyvale ("**Affordable**
17 **Housing Program**"). Following the satisfaction of all of the contingencies set forth in Section
18 3.1, the LRA, at its sole discretion, may provide to the Providers an off-site accommodation
19 ("**Off-Site Accommodation**") to implement the Affordable Housing Program at the former
20 National Guard Armory site located at 620 E. Maude Avenue described more fully in Exhibit C
21 ("**Armory Property**"), by providing the Providers with a notice ("**Election Notice**") as follows:
22

23 **1.5.1** Together with the Election Notice, the LRA shall deliver to each Provider
24 an executed (a) ninety (90) year ground lease for that Provider's allocated portion of the
25 Armory Property in accordance with the preliminary Armory lease terms set forth at
26 Exhibit D ("**Armory Property Lease**") and (b) a regulatory agreement with the City, all
27 in accordance with the Base Closure Act, Redevelopment Act, the Redevelopment Plan,
28 the Affordable Housing Program and this Agreement so the Providers may implement,
29 among other homeless programs, the Affordable Housing Program at the Armory
30 Property. Each Provider shall execute its Armory Property Lease no later than December
31 30, 2013, or 21 months after the date of the Election Notice, whichever date is later.
32 However, the ability to request an extension for additional reasons shall be at the
33 discretion of the City Manager.
34

35 **1.5.2** As part of the Off-Site Accommodation, the LRA will provide each
36 Provider with a financial contribution in the amount of four million and one hundred
37 thousand (\$4,100,000.00) dollars ("**Financial Contribution**"), to be used by the Provider
38 for the predevelopment, entitlement and long-term lease of the Armory Property and the
39 construction of suitable facilities ("**Facilities**"). Collectively, the Armory Site and
40 Facilities are referred to as the "**Project**." All aspects of each Provider's Project shall
41 comply with the terms and conditions contained in the Armory Property Leases and the
42 Regulatory Agreement.

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

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

7
8 (b) Not more than ninety (90) days after the LRA delivers the Election Notice,
9 and the Providers execute the Armory Property Leases and the Regulatory Agreement,
10 the LRA will reimburse each Provider a non-recourse three hundred fifty thousand
11 (\$350,000.00) dollar loan for eligible costs approved by the LRA for each Provider's
12 Project, for performing necessary technical studies, obtaining land use entitlements,
13 preparing construction documents and cost estimates, paying development and permit
14 fees, performing site remediation and clearance and constructing the Project.

15
16 (c) 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 deferred or residual receipts loan to each Provider. This \$3,700,000.00 shall be used by
22 the Providers to make one-time lump sum rent payments to the City under the terms of
23 the Armory Property Leases and Regulatory Agreement.

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

31
32 **ARTICLE 2. PROVIDER OBLIGATIONS.**

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

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1 **2.2 Effect of Election Notice.** In the event the LRA delivers the Election Notice to
2 the Providers, the Providers immediately will process through the City the required General Plan
3 Amendment, zoning and project entitlements and approvals necessary to construct the Project
4 and implement the Affordable Housing Program on the Armory Property.
5

6 **2.3 Costs.** Providers shall be responsible for costs and expenses associated with the
7 design, construction and operation of the Provider's Project to implement the Consolidated
8 Program on the Provider Property or the Affordable Housing Program on the Armory Property,
9 as appropriate, from the effective date of the Provider Property Leases or the Armory Property
10 Leases, as appropriate, using their own resources together with resources made available to the
11 Providers under this Agreement.
12

13 **2.4 Insurance.** From the effective date of, and in accordance with, the Provider
14 Property Leases or the Armory Property Leases, as appropriate, the Providers shall maintain a
15 policy of commercial general liability, bodily injury/property damage insurance for the Provider
16 Property or the Armory Property, as appropriate, and shall name the LRA as an additional
17 insured.
18

19 **2.5 Acceptance of Property.** The Providers will accept possession of the
20 Provider Property by means of the Provider Property Leases or the Armory Property by means of
21 the Armory Property Leases, as appropriate, and agree to the terms, conditions, covenants and
22 use restrictions contained therein.
23

24 **2.6 Transfer or Conveyance.** Without the written consent of the LRA, which
25 consent shall not be unreasonably withheld, conditioned or delayed, the Providers may not
26 convey or transfer any portion of the Provider Property or the Armory Property to another party,
27 either in whole or in part, except to a wholly-owned affiliated entity or limited partnership of a
28 Provider that assumes all obligations of the Provider under this Agreement. The LRA shall have
29 sixty (60) days from receipt of such notice to object in writing to such a transfer or conveyance.
30 Failure of the LRA to so object in writing within such sixty (60) day period shall be deemed
31 consent.
32

33 **2.7 Communication by Providers** If any Provider makes any written
34 comments, or engages in any written communications, with any local, state, or federal agency
35 regarding the approval or implementation of any future development proposals, applications,
36 approvals or permits (including any related environmental documentation) relating to the AFS
37 Property, or any proposed, approved, or existing uses to the AFS Property or off-site
38 accommodation purchased by a Provider pursuant to the terms of this Agreement, upon request,
39 such Provider shall immediately provide complete copies of such written comments or
40 communications to the LRA; provided, however, that all Provider communications with HUD
41 shall be immediately provided to the LRA.
42

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1 **2.8 Indemnification.** The Providers shall indemnify and save the LRA harmless
2 against any and all claims, demands, suits, judgments of sums of money to any party accruing
3 against the LRA for loss of life or injury or damage to persons or property growing out of,
4 resulting from, or by reason of any act or omission or the operation of the Providers, their agents,
5 servants or employees while engaged in or about or in connection with the discharge or
6 performance of the Provider Project or the implementation of the Consolidated Program or the
7 Affordable Housing Program by the Providers hereunder (unless the foregoing results from the
8 intentional acts or negligence of the LRA). The Providers shall also hold the LRA harmless
9 from any and all claims and/or liens for labor, services, or materials furnished to the Providers in
10 connection with the performance of the Providers obligations under this Agreement and any
11 obligations of the Providers by reason of a default under this Agreement.
12

13 **ARTICLE 3. CONTINGENCIES**

14
15 **3.1 Contingencies.** The obligations of the Parties set forth under this
16 Agreement are contingent upon the following events occurring (the “Contingencies”):
17

18 **3.1.1** Approval of the LRA’s Homeless Assistance Submission, including this
19 Agreement and the Redevelopment Plan, by HUD;
20

21 **3.1.2** The closure of Onizuka AFS and the disposal of the Provider Property by
22 the Air Force in accordance with the Redevelopment Plan; and
23

24 **3.1.3** The designation by the Air Force (and any other environmental regulator,
25 as applicable) that the Provider Property is environmentally suitable for the intended
26 purposes set forth in the Consolidated Program.
27

28 **ARTICLE 4. FAILURE BY THE PROVIDERS TO USE PROPERTY FOR HOMELESS**
29 **PURPOSES.**
30

31 **4.1 Notifications to LRA.** If the Providers (i) determine that they will no
32 longer use the Provider Property or the Armory Property, as appropriate, for Homeless Purposes
33 or the Affordable Housing Program, as appropriate, (ii) are notified by the Air Force that they are
34 failing to comply with any Government Deed covenants on the Provider Property, or (iii) are
35 notified by an agency of the United States that they are failing to comply with the terms and
36 conditions of the Consolidated Program, the Affordable Housing Program, or this Agreement,
37 then the Providers shall promptly notify the LRA of such event in writing.
38

39 **4.2 Return of Property to the LRA.**
40

41 **4.2.1** In the event that the Providers determine that they will no longer use the
42 Provider Property in accordance with the Provider Property Leases, or the Armory

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1 Property in accordance with the Armory Property Leases, as appropriate, for Homeless
2 Purposes in accordance with the Consolidated Program, the Affordable Housing
3 Program, and this Agreement, then the Providers shall promptly relinquish possession of
4 the Provider Property or the Armory Property, as appropriate, to the LRA.
5

6 **4.2.2** In the event that the LRA alleges that the Providers (i) have abandoned the
7 Provider Property or the Armory Property, as appropriate, or (ii) are not using the
8 Provider Property in accordance with the Provider Property Leases, the Consolidated
9 Program, and this Agreement or are not in compliance with one or more restrictions
10 contained in the Government Deed, or (iii) are not using the Armory Property in
11 accordance with the Armory Property Leases, the Consolidated Program, the Affordable
12 Housing Program, or this Agreement (collectively, an "**Alleged Default**"), then the LRA
13 shall send written notice to the Providers specifying in detail the nature of such Alleged
14 Default (the "**Provider Default Notice**"). The Providers shall have ninety (90) days
15 from receipt of the Provider Default Notice to cure an Alleged Default. In the event the
16 Providers do not cure the Alleged Default within the time period, then there shall exist an
17 "**Event of Default**" and the LRA shall be entitled to seek any and all legal remedies
18 necessary to enforce the terms of this Agreement, including, but not limited to (i) the
19 rights set forth in Section 4.3 or (ii) any available action at law or in equity as required to
20 compel performance of the terms of this Agreement.
21

22 **4.3 Right to Property.** Upon the occurrence of an Event of Default, the LRA shall
23 have an immediate right of entry to all or any portion of the Provider Property or the Armory
24 Property, as appropriate, and, at the option of the LRA, possession of the Provider Property or
25 the Armory Property, as appropriate, shall vest immediately in the LRA, pursuant to the terms of
26 the Provider Property Leases or the Armory Property Leases, as appropriate.
27

28 **4.4 Acquisition of Property by LRA.** In the event the Providers rights under the
29 Provider Property Leases or the Armory Property Leases, as appropriate, are extinguished in
30 accordance with Section 4.2 or Section 4.3, and possession of the Provider Property or the
31 Armory Property, as appropriate, is vested in the LRA, the LRA shall take appropriate actions to
32 secure, to the maximum extent practicable, the utilization of the Provider Property or the Armory
33 Property, as appropriate, and the buildings and improvements located on such property, by other
34 representatives of the homeless to assist the homeless in accordance with the Base Closure Act,
35 the Redevelopment Act, the Redevelopment Plan and the Homeless Assistance Submission;
36 however, the LRA itself shall not be required to utilize the Provider Property or the Armory
37 Property, as appropriate, or the buildings and improvements located on such property to establish
38 and operate a program to assist the homeless.
39

40 **ARTICLE 5. EFFECT OF OFF-SITE ACCOMMODATION.**

41

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1 **5.1 Effect of Off-Site Accommodation.** If the LRA delivers the Election Notice
2 together with the executed Armory Property Leases and Regulatory Agreement and makes the
3 Financial Contribution to the Providers, all in accordance with Section 1.5 of this Agreement:
4

5 **5.1.1** Simultaneously with the execution of the Armory Property Lease, the
6 Providers shall each release all of their rights in and to the Provider Property by
7 executing a release in substantially the same form set forth in Exhibit E (“**Provider**
8 **Release**”).
9

10 **5.1.2** The LRA may dispose of the Provider Property in accordance with the
11 Redevelopment Plan without regard to the Providers need to use the Provider Property
12 for Homeless Purposes.
13

14 **ARTICLE 6. ENTIRE AGREEMENT, AMENDMENT, WAIVER**

15
16 **6.1** This Agreement contains the entire agreement and understanding of the Parties
17 with respect to all rights and responsibilities associated with the AFS Property, and may not be
18 amended, modified or discharged, nor may any of its terms be waived except by an instrument in
19 writing signed by the Party to be bound thereby. The Parties hereto shall not be bound by any
20 terms, conditions, statements, warranties or representations, oral or written, not contained herein.
21 This Agreement supersedes and replaces any prior agreements by the Parties.
22

23 **ARTICLE 7. NOTICES**

24
25 **7.1** Any notice, request, demand, instruction or other document to be given or served
26 hereunder or under any document or instrument executed pursuant hereto shall be in writing and
27 delivered personally (including by messenger) or sent by United States registered or certified
28 mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to
29 the parties at their respective addresses set forth below, and the same shall be effective upon
30 receipt if delivered personally or by messenger or two (2) business days after deposit in the mails
31 if mailed. A party may change its address for receipt of notices by service of a notice of such
32 change in accordance herewith.
33

34 If to the LRA: City Manager
35 City of Sunnyvale
36 456 West Olive Avenue
37 P.O. Box 3707
38 Sunnyvale, CA 94088-3707

39
40 With a copy to: George R. Schlossberg, Esq.
41 Kutak Rock, LLP
42 1101 Connecticut Ave, NW, Suite 1000

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1 Washington, DC 20036

2
3 If to MidPen: MidPen Housing Corporation
4 303 Vintage Park Drive
5 Suite 303
6 Foster City, CA 94404
7 Attn: President

8
9 If to Charities: Charities Housing Development Corporation
10 1400 Parkmoor Avenue
11 Suite 190
12 San Jose, CA 95126
13 Attn: Executive Director

14
15 **ARTICLE 8. MISCELLANEOUS.**

16
17 **8.1 Survival and Benefit.** All representations, warranties, agreements,
18 obligations and indemnities of the Parties shall, notwithstanding any investigation made by any
19 Party hereto, survive the execution of the Provider Property Leases or the Armory Property
20 Leases, as appropriate, and the same shall inure to the benefit of and be binding upon the
21 respective successors and assigns of the Parties.

22
23 **8.2 Assignment.** Without written consent of the LRA, this Agreement is not
24 assignable by any Provider, either in whole or in part. The LRA may, in its reasonable
25 discretion, assign this Agreement to another public entity provided that such public entity
26 assumes and agrees to perform the LRA's obligations hereunder.

27
28 **8.3 Applicable Law.** This Agreement shall be governed by and construed in
29 accordance with federal law and the laws of the State of California, as applicable.

30
31 **8.4 Severability.** If any term or provision of this Agreement or the application
32 thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the
33 remainder of this Agreement, or the application of such term or provision to persons or
34 circumstances other than those as to which it is held invalid or unenforceable, shall not be
35 affected thereby, and each such term and provision of this Agreement shall be valid and be
36 enforced to the fullest extent permitted by law.

37
38 **8.5 Entire Understanding of the Parties.** This Agreement constitutes the entire
39 understanding and agreement of the Parties with respect to the implementation of those portions
40 of the Redevelopment Plan related to homeless needs and facilities pursuant to the Base Closure
41 Act and the Redevelopment Act. If any provision of this Agreement conflicts with a provision of

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1 the Consolidated Program, the Affordable Housing Program or the Redevelopment Plan, the
2 provisions of this Agreement shall control to the extent of such conflict.

3
4 **8.6 Title of Parts and Sections.** Any titles of the sections or subsections of this
5 Agreement are inserted for convenience of reference only and shall be disregarded in interpreting
6 any part of the Agreement's provisions.

7
8 **8.7 Time is of the Essence.** In the performance of this Agreement, time is of the
9 essence.

10
11 **8.8 Multiple Originals; Counterparts.** This Agreement may be executed in
12 multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

13
14 **ARTICLE 9. EXHIBIT LIST**

15
16 **9.1** The following exhibits are attached hereto and made a part of this Agreement:

17
18 **Exhibit A Description of the Divided Provider Property**
19 **Exhibit B Preliminary Onizuka Lease Terms**
20 **Exhibit C Description of Divided Armory Property**
21 **Exhibit D Preliminary Armory Lease Terms**
22 **Exhibit E Form of Provider Release**
23
24

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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

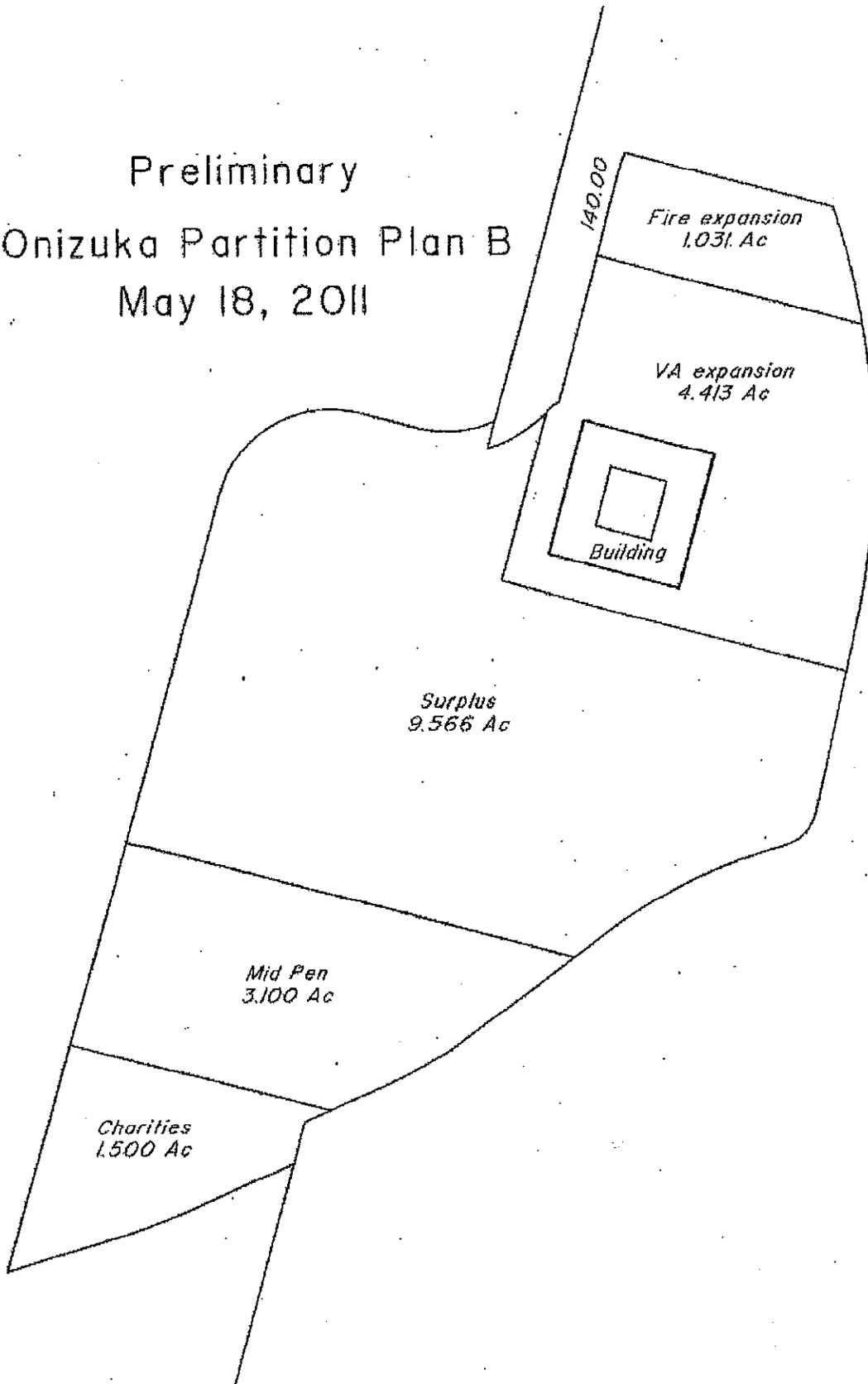
By:

Date: _____

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EXHIBIT A
Description of Divided Provider Property

Preliminary
Onizuka Partition Plan B
May 18, 2011



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**EXHIBIT B
PRELIMINARY PROVIDER PROPERTY LEASE TERMS**

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION AND/OR WORK PRODUCT

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PRELIMINARY ONIZUKA LEASE TERMS

- 1
- 2
- 3 1. Property See Exhibit A (to be determined)
- 4
- 5 Title in improvements to vest in Lessee
- 6 during term of Lease
- 7
- 8 2. Term 90 years
- 9
- 10 3. Transfer of possession Lessee shall take possession pursuant to the
- 11 LBA terms
- 12
- 13 4. Rent \$1 per year
- 14
- 15 5. Use Property shall be used for the Lessee's
- 16 homeless assistance program as set forth in
- 17 the NOI and the Consolidated Program in a
- 18 manner that will serve homeless persons
- 19 who meet the definition of "homeless
- 20 persons" as set forth in the McKinney Vento
- 21 Act (42 U.S.C. Section 11301 et seq).
- 22
- 23 6. Taxes All taxes paid by Lessee. Lessor will
- 24 cooperate as necessary to allow Lessee to
- 25 obtain property tax exemption.
- 26
- 27 7. Insurance Customary and reasonable insurance to be
- 28 maintained by Lessee
- 29
- 30 8. Utilities Lessee responsible for all utility expenses
- 31 and utility connections to Property
- 32
- 33 9. Encumbrances Fee interest in land may not be encumbered.
- 34 Leasehold interest may be encumbered for
- 35 purposes of financing the improvements
- 36 without prior consent of Lessor
- 37
- 38 10. Default provisions Lessee shall have a defined period of time
- 39 to cure defaults
- 40
- 41 11. Mortgagee protections Lenders and investor shall have cure rights
- 42 and other standard protections in event of

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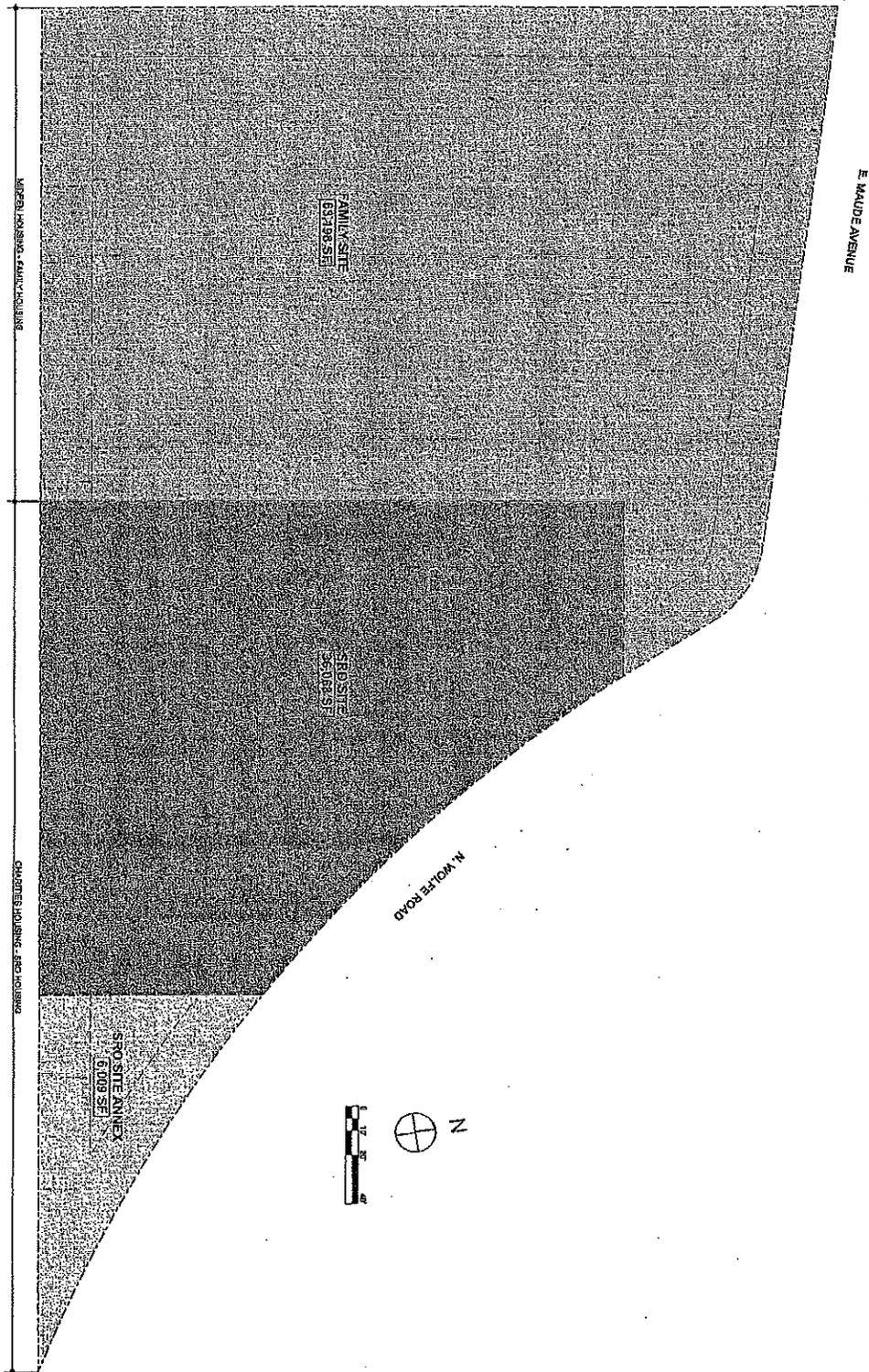
- 1 Lessee default. [Language to be agreed upon
- 2 by Lessor and Lessee]
- 3
- 4 12. Maintenance and repair Obligation on Lessor to maintain property
- 5 until possession is transferred to Lessee
- 6
- 7 13. Risk of loss Risk of loss transfers upon delivery of
- 8 possession to Lessee
- 9
- 10 14. Indemnification Standard Lessor indemnity provisions. The
- 11 parties shall hold each other harmless for all
- 12 losses caused by gross negligence or willful
- 13 misconduct of the other party
- 14
- 15 Additional provisions to address
- 16 environmental indemnification
- 17
- 18 15. Sublease/Assignment Lessee to obtain prior written consent of
- 19 Lessor for all transfers, assignments or
- 20 subleases, except for permitted transfers to
- 21 affiliates and leases to residential tenants
- 22
- 23 16. Start of Construction Failure to commence construction within 1
- 24 year from the commencement date of the
- 25 Lease shall be an event of default unless
- 26 extended by mutual agreement.
- 27
- 28 17. Consents Lessor agrees not to unreasonably withhold
- 29 its consent.
- 30
- 31 18. Reserves Shall be maintained in accordance with
- 32 the requirements of all lenders
- 33
- 34 19. Estoppel certificates Lessor shall provide estoppel certificates
- 35 reasonably requested by lenders or investor
- 36
- 37

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EXHIBIT C
Description of Divided Armory Property

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EXHIBIT D
PRELIMINARY ARMORY PROPERTY LEASE TERMS

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PRELIMINARY ARMORY LEASE TERMS

- 1
2
3 1. Property See Exhibit C
4
5 Title in improvements to vest in Lessee
6 during term of Lease
7
- 8 2. Term 90 years
9
- 10 3. Transfer of possession Lessee shall take possession pursuant to the
11 LBA terms
12
- 13 4. Rent \$3.7 million lump sum
14
- 15 5. Use Property shall be used for the purposes as
16 set forth in the Lessee's Affordable Housing
17 Program and as approved by the City.
18
- 19 6. Taxes All taxes paid by Lessee. Lessor will
20 cooperate as necessary to allow Lessee to
21 obtain property tax exemption.
22
- 23 7. Insurance Customary and reasonable insurance to be
24 maintained by Lessee
25
- 26 8. Utilities Lessee responsible for all utility expenses
27 and utility connections for Property
28
- 29 9. Encumbrances Fee interest in land may not be encumbered.
30 Leasehold interest may be encumbered for
31 purposes of financing the improvements
32 without the prior consent of Lessor
33
- 34 10. Default provisions Lessee shall have a defined period of time
35 to cure defaults
36
- 37 11. Mortgagee protections Lenders and investor shall have cure rights
38 and other standard protections in event of
39 Lessee default. [Language to be agreed upon
40 by Lessor and Lessee]
41
- 42 12. Maintenance and repair Obligation on Lessor to maintain property

ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

Page 21.

- 1
2
3 13. Risk of loss
4
5
6 14. Indemnification
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9
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11
12
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14 15. Sublease/Assignment
15
16
17
18
19 16. Start of Construction
20
21
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24 17. Consents
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27 18. Reserves
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30 19. Estoppel certificates
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- until possession is transferred to Lessee
- Risk of loss transfers upon delivery of possession to Lessee
- Standard Lessor indemnity provisions. The parties shall hold each other harmless for all losses caused by gross negligence or willful misconduct of the other party
- Additional provisions to address environmental indemnification
- Lessee to obtain prior written consent of Lessor for all transfers, assignments or subleases, except for permitted transfers to affiliates and leases to residential tenants
- Failure to commence construction within 1 year from the commencement date of the Lease shall be an event of default unless extended by mutual agreement.
- Lessor agrees not to unreasonably withhold its consent.
- Shall be maintained in accordance with the requirements of all lenders
- Lessor shall provide estoppel certificates reasonably requested by lenders or investor

ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT
Page 22.

1
2
3

EXHIBIT E
Form of Provider Release

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION AND/OR WORK PRODUCT

Exhibit 5
Expression of Interest by the
U.S. Department of Veterans Affairs



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

February 3, 2006



Commemorating 75 Years of Service

The Honorable Michael W. Wynne
Secretary of the Air Force
1665 Air Force Pentagon
Washington, DC 20330-1665

Dear Mr. Secretary:

On January 4, 2006, I wrote to you to express the Department of Veterans Affairs' (VA) interest in further exploring the possibility of acquiring several properties of the Department of the Air Force. The properties were included in your December 7, 2005, notice of availability as part of the 2005 Base Realignment and Closure program.

In accordance with the notice of availability, I am enclosing the required applications to pursue three sites. We believe it is in VA's best interest to pursue acquisition of these properties to assist in carrying out our mission of delivering high-quality health care and benefits to our Nation's veterans. I appreciate your consideration of VA's applications for these sites.

Sincerely yours,

A handwritten signature in black ink, appearing to read "R. James Nicholson".

R. James Nicholson

Enclosures

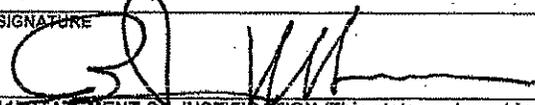
**DEPARTMENT OF VETERANS AFFAIRS
REQUEST FOR TRANSFER OF PROPERTY
BRAC 2005 – DEPARTMENT OF THE AIR FORCE**

1. Research Lab, Mesa, AZ
2. Onizuka Air Force Station, Sunnyvale, CA
3. Buckley Annex, Denver, CO

REQUEST FOR TRANSFER OF EXCESS REAL AND RELATED PERSONAL PROPERTY	1. GSA CONTROL NO.	PAGE OF 1 PAGES	THIS BLOCK FOR USE BY AGENCY RECEIVING REQUEST
	2. DATE OF REQUEST		DATE REQUEST RECEIVED
3. TO (Name, address and ZIP Code of agency being requested to transfer the property) Department of the Air Force Office of the Assistant Secretary of the Air Force 1665 Air Force Pentagon Washington DC 20330-1665	4. FROM (Name, address and ZIP Code of agency requesting transfer of the property) Department of Veterans Affairs 810 Vermont Avenue NW Washington, DC 20420		HOLDING AGENCY NO. (if any)
			ACQUISITION COST \$
			APPRAISED FAIR MARKET VALUE
			REIMBURSEMENT \$
5. REQUESTING AGENCY'S REPRESENTATIVE TO BE CONTACTED FOR FURTHER INFORMATION (Name, address and ZIP Code) James Sullivan / Lisa Thomas, PhD Department of Veterans Affairs 810 Vermont Avenue NW Washington, DC 20420	6. PROPERTY IDENTIFICATION AND ADDRESS (Include ZIP Code) Onizuka Air Force Station 1080 Lockheed Martin Way Sunnyvale, CA 94089		

7. REAL PROPERTY REQUESTED					
A. STRUCTURES			B. LAND		C. UTILITIES
USE (a)	NUMBER OF BUILDINGS (b)	FLOOR AREA (Sq. Ft.) (c)	GOVERNMENT'S INTEREST (a)	AREA (Acres of Sq. Ft.) (b)	VA will need all connecting electrical, natural gas, water, sewer and telephone connections currently on site for the office and storage buildings.
(1) OFFICE	1.00	50,560.00	(1) FEE	1.53	
(2) STORAGE	1.00	2,200.00	(2) LEASED		
(3) OTHER (Specify)	1.00	4,205.00	(3) OTHER (Specify)		
(4) TOTAL	3.00	56,965.00	(4) TOTAL	1.53	
8. RELATED PERSONAL PROPERTY REQUESTED No personal property requested.					9. ARE FUNDS AVAILABLE FOR REIMBURSEMENT FOR THE TRANSFER OF THIS PROPERTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

10. CERTIFICATION
Certification is hereby made that this agency has a need for the property identified above to carry on an approved program; that the transfer thereof to this agency for the purposes indicated would be in accord with the intent of the Congress with respect to that program; that the requirement cannot be satisfied by better use of this agency's existing property; and that the proposed land use is consistent with FMR 102-75.25 and 102-75.30. The statement of justification under block 11 below for the transfer of the property requested is complete and accurate.

SIGNATURE 	TITLE Secretary of Veterans Affairs	DATE 2-3-06
--	--	----------------

11. STATEMENT OF JUSTIFICATION (This statement must include data with respect to all factors covered in Block 11, instructions for Preparation of Form GSA-1334).

- See Air Force BRAC Application for Transfer Statement b.
- See Air Force BRAC Application for Transfer Statement c.
- See Air Force BRAC Application for Transfer Statement g.
- See Air Force BRAC Application for Transfer Statement h.
- See Air Force BRAC Application for Transfer Statements d and f.
- See Air Force BRAC Application for Transfer Statement e.
- See Air Force BRAC Application for Transfer Statement d.
- See Air Force BRAC Application for Transfer Statement h.
- VA has not yet performed this coordination, but intends to comply with requirements - see attached Form 1334 Note 11.i and Air Force BRAC Application for Transfer Statement j.

**Instructions for preparation of GSA-1334,
Request for Transfer of Excess Real Property
and Related Personal Property**

General Instructions.

This form shall be used by agencies when requesting the transfer of excess real property and related personal property therein as defined by 41 CFR 102-75.20. The original and first three copies shall be filed with the regional office of GSA or the agency which notified the requesting agency that the property is available.

Block for Use of Agency Receiving Request. Certain terms used in this block are explained as follows:

Acquisition Cost. Where the actual acquisition cost is known that cost, of course, will be used. If it is not known, an estimate will be substituted therefore.

Appraised Fair Market Value. The appraised fair market value shall be obtained and set forth in this block in all cases, regardless of whether the property is to be transferred with or without reimbursement.

Reimbursement. The actual monetary amount of reimbursement to be required will be shown; whether it be zero, the full appraised fair market value of the property, or fifty percent of that sum.

Specific Instructions.

- Block 1 Enter the GSA Control Number as shown on the Notice of Availability.
- Block 2 Enter the date the request is made.
- Block 3 Enter the name and address of the office of the agency to which the request is being made.
- Block 4 Enter the name and address of the office of the agency transmitting the request.
- Block 5 Enter the name and address of the requesting agency's representative to be contacted for further information.
- Block 6 Enter the official title or name shown on the Notice of Availability to identify the property and the street address, city, county, and State for urban property, or the RFD address, county, and State for rural property.

Block 7 **ITEM A - STRUCTURES.**

Column (b). Enter the number of structures for office use on line (1); for storage use on line (2); and for other use on line (3), and specify on line (3) the intended use. Enter the total number of structures on line (4).

Column (c). Enter the gross floor area (in terms of square feet) of the space for office use on line (1); for storage use on line (2); and for other use on line (3). Enter the total gross floor area on line (4).

ITEM B - LAND.

Column (b). Enter the Government fee owned land on line (1); the Government-leased land on line (2); and the land used by the Government under other rights of occupancy on line (3), and specify on line (3) such rights of occupancy. Enter the total on line (4). Indicate the unit of measure used. Attach a survey description of the land or a drawing showing its boundaries and location.

ITEM C - UTILITIES.

Enter a general description of the utilities and miscellaneous facilities, including facilities such as railroad trackage, docks, wash racks, and gasoline storage.

- Block 8 Enter a description of the nature of related personal property such as manufacturing equipment, maintenance equipment, and supplies.
- Block 9 Indicate by a check mark, in the appropriate square, whether or not funds are available for reimbursement for the transfer of this property.
- Block 10 Enter the signature and title of official of requesting agency authorized to make the application, and the date signed.
- Block 11 Enter the statement of justification for the transfer of the property requested. This statement must include data with respect to all of the factors set forth in 41 CFR 102-75.25. These data should be complete and fully documented as far as practicable. Generally, the following information will suffice as the basis for making a determination as to whether the transfer will be in the best interest of the Government.
- a. Show compatibility of the proposed use with the authorized program.
 - (1) Explain the specific use to be made of the property and describe the program for which it is to be used. Indicate how the use to be made of the property is compatible with the authorized program in order to demonstrate that the proposed transfer does not establish a new unauthorized program nor does it substantially increase the level of the requesting agency's existing program beyond that contemplated in the President's budget or by the Congress.
 - (2) Cite the statutory authority on which the program is based and identify the title of the appropriation (or appropriations) which supports the activity that will benefit from the transfer of the property.
 - b. Show that internal screening of agency property has not revealed any available, suitable property for the proposed use.
 - (1) Indicate the extent of the screening accomplished, including that property under permit or outlease.
 - (2) Name the specific alternate properties given consideration and discarded. State the reasons for rejection.
 - (3) Indicate any property revealed by such screening as excess to agency requirements. A report of excess should be processed covering any such property.
 - (4) Describe the property presently used for the activity and tenure of occupancy. If the property to be transferred will replace real property now under agency control which is presently required for the activity, a report of excess of the property being replaced shall be a condition of the transfer.
 - c. State the extent to which all buildings, facilities and land are to be used. If less than the full parcel is needed, the request for transfer should be made for only the portion needed; unless it can be shown that the remaining part probably could not be sold or utilized by another agency.
 - d. Give an estimate of the acquisition cost of other suitable property and an estimate of the probable sale price if the property requested for transfer were to be put to its highest and best use. If such purchase price is substantially less than the probable

sale price of the property proposed for transfer, give an explanation of why the purchase is not made instead of requesting the transfer.

- e. State the economies to be effected in the form of actual or estimated annual recurring savings, if any, in rental, maintenance operation, or other current costs resulting from the transfer. Show that the transfer will prove more economical over a substantial period of time than the acquisition of a new facility specifically planned for the purpose. In demonstrating the economies to be effected, specific consideration should be given to the design, layout, geographic location, age, and state of repair of the real property proposed for transfer as well as the aforementioned saving and current cost. Describe any other efficiencies in agency operation which will result from the transfer.
- f. Advise whether the program to be served by the transferred property is scheduled for substantial curtailment or termination. In such instances, the property may be transferred on a conditional basis with the understanding that it will be released for further utilization or disposal as surplus property at a time agreed upon when the assignment is arranged.
- g. State any other pertinent facts which the requesting agency may deem to be appropriate to justify the transfer,
- h. In those instances where the agency proposes to obtain the transfer without reimbursement, the documents required under the provisions of 41 CFR 102-75.190.
- i. Advise whether coordination has been had with State, regional, and local agencies to determine compatibility of the proposed use with their plans and programs in accordance with Executive Order 12372 which supercedes Part II of OMB Circular No. A-95, Revised, dated February 9, 1971, as amended.

When the requested property is listed or may be eligible for listing on the National Register of Historic Places, or is in the immediate vicinity of a property on the National Register, evaluate the effect on the historic character of the property of the proposed use of the property and any planned repair, rehabilitation, restoration, and maintenance work by applying the "Criteria for Effect" in the Procedures for Compliance with section 106 of the National Historic Preservation Act of 1966, issued by the Advisory Council on Historic Preservation. If it is decided there is a beneficial effect or no effect, state the decision and basis. If it appears that there may be an adverse effect on the property, the agency requesting the transfer of the property shall be responsible for taking all action required under the procedures of the Advisory Council on Historic Preservation to mitigate the adverse effects. The agency shall record actions taken and their disposition, and attach copies of appropriate documents.

Supporting Documentation for Form 1334 – Sunnyvale, CA

**Notes to Form 1334
Onizuka Air Force Station**

Form 1334, Section 7:

A. Structures

Use: (1) Administrative		
Bldg. No.	Name	GSF
1002	Headquarters Building	50,560

Use: (2) Storage		
Bldg. No.	Name	GSF
1034	Storage Shed	4,205

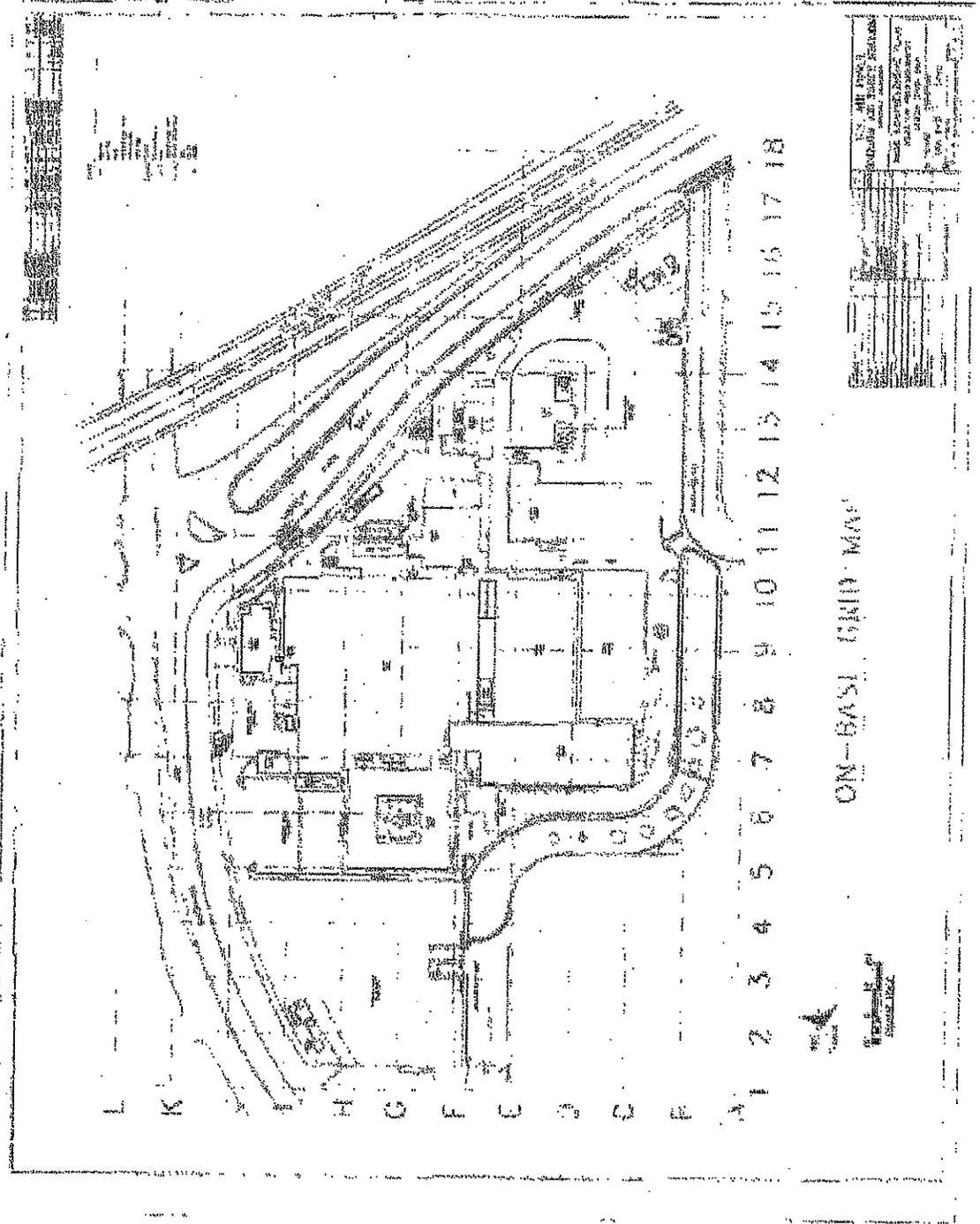
Use: (3) Other		
Bldg. No.	Name	GSF
1018	Base Exchange	2,200

Total Structures (4)		GSF
3 buildings*		56,965

*Building inventory described does not detail additions to buildings and supporting structures on site (flagpoles, gardens, statues). VA requests all structures on site, including supporting structures and additions.

Supporting Documentation for Form 1334 – Sunnyvale, CA

B. Land
Survey of the premises showing its boundaries and location:



Supporting Documentation for Form 1334 – Sunnyvale, CA

B. Land Requested

Footprint of Bldg. 1002	25,280 sf*
Footprint of Bldg. 1018	2,200 sf*
Footprint of Bldg. 1034	4,205 sf*
100 parking spaces	35,000 sf*
Total	66,685 sf or 1.53 acres

*All square footages are approximations calculated using the gross square footage of the buildings and the number of floors. Parking spaces calculated by multiplying 300 sf per space by 100 spaces.

Form 1334, Section 9:

Funds available for reimbursement for the transfer of this property as delineated in the Air Force BRAC Application for Transfer Statement h.

Form 1334, Section 11:

i. None of the facilities referenced above are considered part of a "Historic District." VA will work with local government, community organizations and any other regulatory bodies, as necessary, to address coordination issues.

Air Force BRAC Application for Transfer Requirements – Sunnyvale, CA

a. A completed GSA Form 1334, Request for Transfer signed by VA Secretary

A completed Form 1334 signed by the Honorable R. James Nicholson, Secretary of Veterans Affairs is attached as required.

b. A statement that the request does not establish a new program (i.e., one that has never been reflected in a previous budget submission or Congressional action).

The Department of Veterans Affairs (VA), established as an independent agency under the President by Executive Order 5398 on July 21, 1930, was elevated to Cabinet level on March 15, 1989 (Public Law No. 100-527).

The Veterans Health Administration (VHA) operates the Nation's largest integrated health care system. It provides care to 4,997,772 million unique patients with 54,012,534 million outpatient visits in 2004. To carry out its mission to provide medical care, VHA operated (as of December 31, 2004) 157 hospitals, 869 outpatient clinics, 134 nursing homes, 42 residential rehabilitation treatment programs, and 206 readjustment counseling centers including facilities in every state, the Commonwealth of Puerto Rico, the American Virgin Islands, Washington, DC and Guam.

The Veterans Benefits Administration (VBA) is responsible for administering the Department's programs that provide financial and other forms of assistance to veterans, their dependents, and survivors. Major benefits include veterans' compensation, veterans' pension, survivors' benefits, rehabilitation and employment assistance, education assistance, home loan guaranties, and life insurance coverage. The VBA provides these services through its 57 regional offices.

VA provides services and benefits to eligible beneficiaries as authorized by Title 38, U.S.C. The property identified in this Request for Transfer will be utilized for the Medical Facilities and Research programs to support the program's annually appropriated activities.

FOR MEDICAL FACILITIES:

The Medical Facilities appropriation finances the operations, maintenance, construction, and alteration of the VA health care systems' vast capital infrastructure. The capital investment accounts necessary to ensure VA's infrastructure is adequate to support the delivery of quality health care are within the Medical Facilities appropriation. The capital investment programs include:

Major Construction: Provides for constructing, altering, extending, and improving any VA facility for the provision of health-care services where the estimated cost of a project is greater than \$7,000,000.

Minor Construction: Provides for constructing, altering, extending, and improving any VA facility for the provision of health-care services where the estimated cost of a project is less than \$7,000,000.

Grants for Construction of State Extended Care Facilities: Provides for grants to assist States to acquire or construct State nursing home and domiciliary facilities in State homes, for furnishing care to veterans.

Department of Veterans Affairs Capital Asset Fund: Provides for costs associated with the transfer and future transfers of real property; enhancing medical care services to veterans by improving patient care.

FOR RESEARCH FACILITIES:

This account is an intramural program whose mission is to acquire knowledge and create innovations that advance the health and care of veterans and the Nation. Veterans' health issues are addressed comprehensively in the following four program divisions and the medical

Air Force BRAC Application for Transfer Requirements – Sunnyvale, CA

care research support required for these programs:

Bio-medical Laboratory Research and Development Service.—This research strives to understand the disease process so that efficient, rational interventions can be made to cure or alleviate the effects of disease. The program supports investigator-initiated research projects, the training of clinicians in basic and clinical research, and centers of excellence devoted to specific diseases. The research is done in areas particularly relevant to the veteran population—aging, chronic disease, mental illness, substance abuse, military occupations, and environmental exposures.

Rehabilitation Research and Development Service.—Rehabilitation Research is dedicated to the development and application of science and engineering to improve the care and quality of life for the physically disabled. The program supports investigator-initiated research projects, the training of clinicians and engineers in rehabilitation research, centers of excellence devoted to specific disabilities, and technology transfer. The research is done in areas particularly relevant to the disabled veteran population—aging, sensory loss, and trauma related illness.

Health Services Research and Development Service.—Health Services Research is directed toward improving the outcome effectiveness and cost efficiency of health care delivery for the veteran population. The program supports investigator-initiated research projects, the training of clinicians in applied clinical research, centers of excellence devoted to specific aspects of health care delivery, and service-directed projects addressing clinical management needs. The research focuses on the translation of research findings to clinical best practices for all veteran patients. Particular contributions are made in the areas of aging, substance abuse, health systems, and special populations.

Clinical Science Research and Development Service.—Clinical Science Research will encompass interventional and observational studies in humans, including pharmacological and surgical studies.

Medical Research Support.—Provides the indirect costs of the VA Research and Development program which includes such costs as the facility utility costs associated with laboratory space; administrative costs of human resources support, fiscal service, and supply service attributable to research; research's portions of a medical center's hazardous waste disposal and nuclear medicine licenses; and, most importantly, the funding for the time clinicians devote to their research activities. VA's Medical and Prosthetic Research programs are included in the Federal Science & Technology (FS&T) budget.

Focus on Training Clinical Researchers.—The objective of the Career Development program is to train an appropriate number of VA clinicians who can conduct research in areas of high relevance to the health care of veterans.

The Department of Veterans Affairs is funded through the Military Quality of Life/Veterans Affairs annual appropriation, most recently codified in P.L. 109-114 (2005).

The transfer of the Onizuka Air Force Station does not establish a new program and is compatible with currently authorized and funded VA activities. The VA Palo Alto Health Care System has become overcrowded due to a growing patient population and an increase in research programs. Many of VA's research functions are located in facilities considered Exceptionally High Risk according to seismic reports. The VA would like to relocate some non-wet lab research functions a portion of the Onizuka AFS property including one administrative building (Building 1002) and utilize two storage structures (Buildings 1018 & 1034) for support.

Air Force BRAC Application for Transfer Requirements – Sunnyvale, CA

c. A statement that the requesting Component or agency has reviewed its real property holdings and cannot satisfy its requirement with existing property. This review must include all property under the requester's accountability, including permits to other Federal agencies and outleases to other organizations.

(1) The extent of internal screening of property, including property under permit or outlease:

The VA Palo Alto Health Care System is one of the largest and fastest growing VA Medical Centers within the Department of Veterans Affairs due in part to its strong academic affiliation with the Stanford University School of Medicine. VA's Capital Asset Inventory (CAI) database for VA Palo Alto Health Care System's Palo Alto Division shows that it currently contains 1,402,893 GSF of space, while the VA Space Driver Database shows a space requirement of 1,703,890 SF based on the existing workload and functional level that the Division maintains.

Based on these two databases, the Palo Alto Division campus has an existing space deficiency of 300,997 GSF. In addition, outpatient encounters have increased 38 percent over the past four years and VA's actuarial projections predict a 20 percent increase in outpatient workload by 2012. During this same time period, Palo Alto Division's research staff has increased by 30 percent to over 750. Based on the aforementioned space requirements, the VA does not have any available or suitable property on the Palo Alto Division campus to expand its operations.

Furthermore, the Palo Alto Division operates a number of seismically deficient buildings, buildings that have been identified as Exceptionally High Risk and structural engineers have concluded that during a significant seismic event, these buildings "are in danger of collapsing."

As a result of these space and functional issues, the Onizuka Air Force Station provides an excellent opportunity to decompress the Palo Alto Division campus by relocating research activities capable of operating remotely.

(2) Name of specific alternate VA properties considered, but rejected (state why rejected?):

There are no VA sites available to accommodate VA's existing research programs.

(3) Indicate property identified as excess to VA needs during screening (complete report of excess):

There is no excess VA property in the San Francisco Bay, central to both campuses, available for reuse. The VA Palo Alto Health Care System has seen tremendous clinical and research growth over the past five years. As a result, any underutilized space has been completely accounted for and is currently occupied. In addition, approximately 50 percent of VA Palo Alto Health Care buildings are considered seismically unsafe.

(4) Describe property presently used for VA activity and tenure of occupancy (if replacing current property, a report of excess will be a condition for replacement):

Over 50 percent of VA Palo Alto Health Care System's buildings have been identified as seismically unsafe. Thus the 340,740 GSF of research space available at the Palo Alto campus today will be reduced by 157,750 SF when seismically deficient buildings are razed. Additionally, the expected demolition in 2008 of building 205 (72,300 SF) and building 301 (7,600 SF) at VA's Menlo Park Division, will further constrain already tight research space.

It is expected that both research funding and outpatient encounters will continue to grow over the next few years, further constraining both Palo Alto and Menlo Park campuses. Needed square feet of research for 2005 based on funding was 346,667 SF, about 5,927 SF greater than current VA facilities accommodate. As research funding increases, the gap variance between actual space and needed space will grow.

Air Force BRAC Application for Transfer Requirements – Sunnyvale, CA

Relocating research functions that require limited to no patient studies from Palo Alto and Menlo Park will:

- 1) Enable the decompression of the Palo Alto and Menlo Park to provide more space for patient care
- 2) Facilitate the expansion of research facilities with ample parking and available space for an increasing number of research staff.
- 3) Provide a seismically safe space for current Palo Alto and Menlo Park research functions and allow for old research facilities to be razed.

d. A statement that the requested property would provide greater long-term economic benefits for the program than acquisition of a new facility or other property.

The combination of parking and accessibility to the other area VA facilities makes this location a priority.

The location of the Onizuka Air Force Station is central to both Palo Alto and Menlo Park campuses and has parking capacity of 100 spaces. This property is ideally located adjacent to Highway 237 and in close proximity to U.S. 101, resulting in a 10-15 minute commute from the Palo Alto and Menlo Park Divisions. VA Palo Alto Health Care System would have difficulty identifying and acquiring a similar parcel within the Cities of Palo Alto or Menlo Park. Palo Alto and Menlo Park remain among the most expensive locations in the United States in terms of property valuation because it is situated in the center of Silicon Valley.

e. A statement that the program for which the property is requested has long-term viability.

The Department's mission is to serve America's veterans and their families with dignity and compassion and to be their principal advocate in ensuring that they receive medical care, benefits, social support, and lasting memorials promoting the health, welfare, and dignity of all veterans in recognition of their service to this Nation. The estimated total veteran population was 24,793,000 as of September 30, 2004. This included 8,147,000 Vietnam era veterans, representing the single largest period-of-service component of the veteran population. Gulf War era veterans now comprise the second largest component, numbering 4,105,000. World War II veterans numbered 3,916,000, while Korean conflict veterans totaled 3,423,000. Regardless of the sequence of events in the future, VA remains dedicated to the core mission of serving our nation's veterans.

f. A statement that considerations of design, layout, geographic location, age, state of repair, and expected maintenance costs of the requested property clearly demonstrate that the transfer will prove more economical over a sustained period of time than acquiring a new facility.

For the reasons noted in statement "d" above, VA has estimated that transfer of the facility will prove more economical over a sustained period of time than acquiring a new facility.

In support of this determination, the attached inventory of buildings and structures includes descriptive elements such as age, size, construction, condition, current use, contents and any historical or other constraints that were used by VA in making this determination (please see

Air Force BRAC Application for Transfer Requirements – Sunnyvale, CA

chart after statement "j").

g. A statement that the size of the property requested is consistent with the actual requirement.

The VA Palo Alto Health Care System has identified the potential reuse of the site to accommodate only a portion of its non-wet lab research functions to alleviate space deficiencies elsewhere due to expanding research programs as well Exceptionally High Risk (HER) structures within the existing buildings. The total space need for its non-wet lab research functions is as high as 237,000 SF even though the available GSF at this location is only 50,560 GSF.

h. A statement that fair market value reimbursement to the Air Force will be made at the later of January 2008 or the time of transfer, unless this obligation is waived by the Office of Management and Budget and Air Force, or a public law specifically provides for a non-reimbursable transfer. (This requirement does not apply to requests from DOD Components).

Fair market value reimbursement to the Air Force will be made at the later of January 2008 or the time of transfer, unless this obligation is waived by the Office of Management and Budget and Air Force. This commitment is subject to Congressional appropriations and negotiations on the fair market value to fund the reimbursement.

i. A statement that the requesting DOD Component or Federal agency agrees to accept the care and custody costs for the property on the date the property is available for transfer, as determined by the Air Force.

The VA agrees to accept the care and custody costs for the property on the date the property is available for transfer, as determined by the Air Force. The VA reserves the right to negotiate with the Air Force for a specified period of time to resolve unidentified/unknown issues at the time of transfer.

j. A statement that the requesting agency agrees to accept transfer of the property in its existing condition, unless this obligation is waived by the Air Force.

Should the Air Force opt not to waive this obligation, the VA agrees to accept transfer of the property in its existing condition on the basis that all environmental, historic, cultural and archeological constraints have been identified by the Air Force prior to transfer. The VA reserves the right to negotiate with the Air Force for a specified period of time to resolve unidentified/unknown issues at the time of transfer.

Should the Air Force opt to waive this obligation, then the property shall be transferred in a condition agreed upon by the VA and the Air Force. This includes a resolution to all environmental, historic, cultural and archeological constraints identified by the Air Force or the VA prior to transfer. The VA still reserves the right to negotiate with the Air Force for a specified period of time to resolve unidentified/unknown issues at the time of transfer.

Air Force BRAC Application for Transfer Requirements – Sunnyvale, CA

Supporting Documentation for Air Force BRAC Application for Transfer Section f:

Building	Size	Description
Headquarters Building (1002)	50,560 SF	<u>Date constructed:</u> 1969 <u>Levels:</u> 2-story with no elevators <u>Walls:</u> Concrete block outside; Demountable partitions inside the building <u>Restrooms:</u> Men's and women's <u>Contents:</u> Administrative space throughout the building including refurbished space upstairs with dark wood, carpet, and conference rooms
Base Exchange (1018)	2,200 SF	<u>Date constructed:</u> 1981 <u>Levels:</u> 1-story <u>Construction:</u> Concrete/metal
Storage (1034)	4,205 SF	<u>Date constructed:</u> 1988 <u>Levels:</u> 2-story <u>Construction:</u> Metal
Total	56,965 SF	

CITY OF SUNNYVALE

*The Heart of Silicon Valley*SM

456 WEST OLIVE AVENUE SUNNYVALE, CALIFORNIA 94086 (408) 730-7480

Office of the City Manager

August 4, 2011

Mr. Stephen TerMaath
Chief, BRAC Program Management Division
Air Force Real Property Agency (AFRPA)
2261 Hughes Avenue, Suite 121
Lackland, AFB, TX 74236-9821

**Subject: Onizuka Air Force Station
Amended Department of Veteran Affairs Fed-to-Fed Request**

Dear Mr. TerMaath:

This letter confirms that the Onizuka Local Redevelopment Authority (LRA) supports the amended and enlarged fed-to-fed request, dated May 18, 2011 (Exhibit A), from the Department of Veteran Affairs (VA) to the Air Force Real Property Agency (AFRPA) for the transfer to the VA of an approximately 4.4-acre site at the former Onizuka AFS as depicted on the attached exhibit prepared by AFRPA.

Endorsement and support of the amended and enlarged VA site is provided with the following understanding:

1. The transfer to VA excludes any right-of-way that may need to be reserved to access Innovation Way.
2. That no development restrictions or easements will be imposed on any of the lands immediately to the north or south of the VA site that would encumber or restrict future development of these properties.
3. It is noted that the south property line for the VA site crosses through existing building(s). The VA shall bear full responsibility for demolishing all portions of buildings located on its property and shall fully secure and structurally stabilize any building that will remain partially demolished.

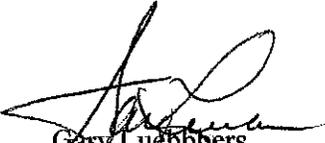
August 4, 2011

**Subject: Onizuka Air Force Station
Amended Department of Veteran Affairs Fed-to-Fed Request**

4. Finally, the VA shall bear full responsibility for securing and fencing its property as may be required.

Please call Hanson Hom, Director of Community Development, if you have any questions. Your support and cooperation throughout the LRA planning process has been much appreciated. We look forward to completion of the BRAC process and final disposition of the parcels.

Sincerely,



Gary Luebbbers
City Manager

Cc: Hanson Hom, Director of Community Development
David Kahn, City Attorney
George Schlossberg, Kutak Rock
Steve Mayer, AFRPA/WREC

Exhibit A: Onizuka Air Force Station - Proposed Parcels, dated May 18, 2011

Exhibit A

Preliminary
Onizuka Partition Plan B
May 18, 2011

