

**Council Meeting: April 9, 2013**

SUBJECT: Discussion and Possible Actions to Implement the Amended Onizuka Redevelopment Plan: 1) Quitclaim Deeds from the Air Force for the Fire Station Expansion and Homeless Housing Sites; 2) Initiation of Election of Off-Site Accommodation for the Homeless Housing Program at the Armory Site at 620 East Maude Avenue; 3) Budget Modification No. 40 to Appropriate \$50,000 from the General Fund's Budget Stabilization Fund to a new project, Onizuka Site Transition Plan.

REPORT IN BRIEF

The proposed actions constitute the next steps for implementing the Amended Onizuka Redevelopment Plan that was approved by the City Council on December 13, 2011. The proposed actions include acceptance of three parcels (see Attachment A) at the former Onizuka Air Force Station through quitclaim deeds from the Air Force consisting of: 1) a public benefit conveyance for a 1.03-acre parcel at the north end of the property for expansion of the Fire Station No. 5 site (Parcel A); and 2) a homeless housing conveyance for two parcels totaling 5.02 acres at the south end of the property (Parcels D and E). Staff further recommends initiating the election of an Off-Site Accommodation at the Armory site for the homeless housing program per the Amended Legally Binding Agreement (LBA) between the City and the two homeless housing providers, MidPen Housing and Charities Housing. Actual approval of an Off-Site Accommodation would occur when the Council takes action on the lease and regulatory agreements and planning applications for the proposed Armory project.

Once the City assumes ownership of the parcels, minor property management costs are expected to be incurred for incidental administration, maintenance and security measures as needed. Staff recommends establishing an Onizuka Project Budget and appropriating an initial \$50,000 into this fund. Assuming the homeless housing claims are transferred to the Armory site, these costs are expected to be recovered by the City upon the future sale or lease of the property.

BACKGROUND

The Onizuka Air Force Station was designated by the federal government for closure in 2005. As part of the Base Realignment and Closure (BRAC) process, the City chose to form an Onizuka Local Redevelopment Authority (LRA) to prepare a local redevelopment plan and designate the preferred land uses for the property. A Redevelopment Plan was adopted by the City/LRA in December 2008 for an auto center. Along with that approval, the City/LRA also adopted a Housing Assistance Submission (HAS) that recognized the need for homeless housing in the community and approved a Legally Binding Agreement (LBA) that accepted the two homeless housing claims on the Onizuka site from MidPen Housing and Charities Housing. The LBA also included the option for an Off-Site Accommodation to transfer the claims to another location, but a site was not specified at that time.

On December 13, 2011, the City/LRA adopted an Amended Redevelopment Plan that replaced the auto center concept with preferred land uses as depicted in Attachment A. The Plan acknowledges the fed-to-fed transfer to the Department of Veteran Affairs for administrative offices (Parcel B) and a proposed public benefit conveyance to the Foothill-De Anza Community College District for an education center (Parcel C). The Plan includes the City receiving title to three parcels: a no-cost public benefit conveyance for emergency services for expansion of the fire station site (Parcel A); and a no-cost homeless conveyance to allow MidPen and Charities to construct a consolidated homeless housing program (Parcels D and E). The Plan indicated a preference to transfer the homeless housing to an off-site location. The City-owned Armory site (2.45 acres) was identified as a possible site when the National Guard terminated its lease with the City in June 2011. If the homeless housing claims are relocated to the Armory site, the preferred uses for Parcels D and E would be uses consistent with the Moffett Park Specific Plan, except for intensive offices.

Along with approving the Amended Redevelopment Plan, the Council also approved an Amended HAS and Amended LBA (Attachment B). These three documents with supporting material were submitted to the Department of Housing and Urban Development (HUD) for review and approval. HUD approval is necessary in order to proceed with plan implementation. It took close to a year to gain HUD approval, which was received on December 17, 2012 (Attachment C). With HUD clearance, the process of conveying the various parcels began in January 2013. Foothill-De Anza received title to their parcel on February 27, 2013, and the Veteran Affairs parcel is expected to be conveyed in the near future. The quitclaim deeds for the City parcels (A, D and E) are before the Council tonight and, if approved, title to these parcels could be received by May 2013. A budget modification is also requested to cover basic caretaker costs and miscellaneous expenses during the next several years as needed.

In September 2011 the City Council initiated a General Plan study to consider up to Very High Density Residential on the Armory site. Submittal of a development application was delayed pending HUD approval, but in February 2013 MidPen and Charities submitted their application for a consolidated affordable housing project on the Armory site. The actions before the Council tonight do not include review and consideration of the proposed project. A Planning Commission hearing is scheduled for this project on April 22 and a City Council hearing is scheduled on April 30. If approved, this project will also necessitate amending the General Plan and zoning designations for the property to increase the allowable residential density.

EXISTING POLICY

The following goals and policies are applicable and support the preferred land uses in the Amended Redevelopment Plan and the quitclaim deeds and homeless housing program.

GENERAL PLAN

- **Fire Station:**

Police and Fire Services and Emergency Response Policy SN-5.1 – Assure that equipment and facilities are provided and maintained to meet reasonable standards of safety, dependability and compatibility with fire service operations.

Police and Fire Services and Emergency Response Policy SN-5.2 – Provide training that is adequate for required duties.

- **Adequate Housing**

Goal HE-1 – Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale’s households of all income levels.

Policy HE-1.2 – Facilitate the development of affordable housing through regulatory incentives and concessions, and/or financial assistance.

Policy HE-1.7 – Support collaborative partnerships with non-profit organizations, affordable housing builders, and for-profit developers to gain greater access to various sources of affordable housing funds.

Moffett Park Specific Plan (MPSP)

The Onizuka site is designated Moffett Park General Industrial MP-I which is intended for general industrial development at a moderate FAR. The Onizuka site is limited to a maximum FAR of 35 percent. A variety of non-residential uses are allowed including offices, warehousing and general industrial

development. Other allowed uses include hotels, restaurants, financial institutions, retail sales and services intended for area employees, professional services and similar compatible uses. The preferred land uses in the Amended Redevelopment Plan, as shown in Attachment A, are consistent with the MPSP. The recommended actions will implement the Amended Redevelopment Plan.

DISCUSSION

The following discusses the documents that are before the City Council for review and consideration.

Quitclaim Deeds

Environmental Conditions: Both quitclaim deeds contain standard language pertaining to environmental disclosures, covenants and notices related to the federal Comprehensive Environmental Response, Compensation and Liability Act (CERLA) and other environmental conditions. A Final Supplemental Environmental Condition of Property Report and Environmental Baseline Survey was issued by the Air Force in August 2011. This report follows up on the Environmental Assessment that was completed to comply with the National Environmental Policy Act (NEPA) and is required as a prerequisite for property disposition. A subsequent environmental assessment for the entire site was conducted by Foothill-De Anza in 2012. The City's Fire Marshal has also reviewed the environmental reports with required follow-up testing, and is satisfied that the site conditions have been properly disclosed and characterized. Environmental remediation work has essentially been completed; remaining work related to asbestos and lead paint will be completed with building demolition.

Fire Station Expansion Site (Parcel A): An application for a public benefit conveyance (PBC) for an emergency management response use was submitted by the Department of Public Safety to the Federal Emergency Management Agency (FEMA) in December 2011. The request was to receive a no-cost conveyance for a 1.03-acre parcel at the north end of the Onizuka site to increase the amount of usable space at Fire Station No. 5. The additional space would be used for emergency training purposes and the movement of equipment and apparatus such as fire engines, trucks and command vehicles. Action on this application was delayed until HUD approval of the Amended Redevelopment Plan was obtained, and FEMA approval was recently received on February 13, 2013 (Attachment D). The quitclaim deed (Attachment E) grants the City fee ownership to Parcel A (for a cost of \$10) with a covenant that restricts the property for emergency management uses in perpetuity. The property could revert back to the Air Force if it is not used for this purpose. The site is currently paved with no structures, and no improvements are needed at this time.

Homeless Housing Site (Parcels D and E): The quitclaim deed (Attachment F) conveys two parcels totaling 5.02 acres to the City with a covenant that the property shall be used to serve homeless persons as defined in the federal McKinney-Vento Act. The specific covenants and restrictions regarding the homeless obligation are described in Section IX.I, Grantor's Right of Reversion and Reentry, and Section IX.J, Excess Profits Covenant. The covenant for homeless purposes will be in place for 30 years from the date of acceptance of the deed. The property could revert back to Air Force ownership if it is not used for this expressed purpose. It cannot be sold, leased, mortgaged, assigned or otherwise disposed of except to effectuate the use of the property for homeless purposes. However, a key provision is that the covenant recognizes the terms of the HUD-approved LBA for possible release and transfer of the homeless housing claims by MidPen Housing and Charities Housing. If the claims are released and, per the terms of the LBA, are transferred to an Off-Site Accommodation at the Armory site, the reversion clause is terminated.

Once the homeless housing claims are released and the reversion clause is terminated, the City can use, sell or lease the property for other purposes. The Amended Redevelopment Plan allows for various non-residential uses consistent with the Moffett Park Specific Plan. However, the quitclaim deed includes an Excess Profits Covenant that will be in place for three years from the date of release of the homeless use restriction. The Air Force established the value of Parcels D and E at \$7,690,000, which include the City's offer of \$800,000 to the Providers under the Amended LBA. If the City sells the property within three years, the Air Force is entitled to any "excess profits," which is calculated by subtracting from the gross sales price the above amount plus allowable "transaction expenses" incurred by the City. Transaction expenses are defined as site and building demolition costs, other necessary site preparation, marketing and sales transaction costs, and costs for obtaining the release and termination of the homeless housing claims.

LBA and Election Notice for Off-Site Accommodation

The Amended LBA is an agreement between the LRA, MidPen Housing and Charities Housing (Providers). It recognizes the Notices of Interest that were submitted by the Providers to implement a consolidated homeless program on the Onizuka site to construct permanent supportive housing for the homeless. The Amended LBA contains two options for achieving the homeless program:

1. Onizuka Site – Provider Property: Through a 90-year ground lease, the Providers would construct and operate at least 64 units of permanent housing for the homeless (MidPen – 44 units, Charities – 20 units) on Parcels D and E. The Providers would bear the full cost for design, construction and operation of the housing project. General lease terms and an implementation schedule are contained in Exhibits C and D of the LBA.

2. Off-Site Accommodation: The LRA at its sole discretion may elect to provide or approve an alternative location for the Providers to construct their consolidated homeless program. The Armory site has been identified by the City Council as a possible site for this Off-Site Accommodation. If this option is approved by the City, a similar 90-year ground lease would be entered into with the Providers. The Providers would be required to construct at least 46 units of permanent housing for the homeless (MidPen – 28, Charities – 18). HUD approved fewer homeless units for this site because it recognized that the proposed Armory project would be a considerably larger affordable housing project that would serve a broad lower income population. General lease terms and an implementation schedule are contained in Exhibits F and G of the LBA.

The Off-Site Accommodation includes potential financial assistance from the City totaling \$8.2 million from Housing Mitigation Funds, which have been budgeted since 2008 when the original LBA was approved. This assistance, less \$100,000 for pre-development costs, is contingent on approval of project entitlements, lease and regulatory agreements and release of the homeless claims on the Onizuka site. Most of the funds (\$7.4 million) would be transferred to the City's General Fund to cover the value of the Armory ground lease. The remaining \$800,000 would be available to the Providers to cover reimbursable design and development costs for the project. Supplemental County CDBG funds may be available to assist with the ground lease payment, which would then increase the amount of development funds for the Providers. Because Housing Mitigation Funds would be used for the Armory ground lease, this City property would be restricted for affordable housing purposes consistent with the restrictions for the use of these funds.

The Providers are extremely interested in the Off-Site Accommodation option because the Armory site is a much more favorable residential setting and is highly competitive for affordable housing financing. An application for a consolidated 121-unit affordable housing project is under staff review with a scheduled hearing before the City Council on April 30. Action by this date adheres to the Implementation Schedule in the LBA but, more importantly, allows the Providers to apply for upcoming grants and state tax credit funds for the project.

The next step for implementing the Off-Site Accommodation is for the City Council to approve an "election" to transfer the homeless housing program from the Onizuka site to the Armory site per Article 5 of the Amended LBA. Staff recommends that the City Council initiate this election and approve in form the Election Notice (Attachment G). Issuance of the Election Notice will not occur until the City Council has approved a project on the Armory site and the accompanying lease and regulatory agreements. Initiating election of the

Off-Site Accommodation will signify to the Providers that the City Council prefers this off-site option and allows staff to complete the necessary agreements. Initiating the election does not preclude the Providers from executing their homeless program on the Onizuka site, or the City from disapproving the Armory site project. These options remain until the City issues the Election Notice and the Providers release their claims on the Onizuka site.

FISCAL IMPACT

An amount of \$8.2 million has been reserved in the City's Housing Mitigation Fund to provide financial assistance to the Providers for a potential Off-Site Accommodation in accordance with the terms of the LBA executed in 2008. If an off-site project is implemented at the Armory site, the City's General Fund would receive a lump sum payment of \$7.4 million from the Housing Mitigation Fund (including potential County CDBG funds) for a 90-year ground lease. This fund transfer would occur following release of the homeless claims on the Onizuka site and the execution of the lease and regulatory agreements for the Armory property. This revenue is not currently programmed into the General Fund's 20-year financial plan. Should this project be approved, this revenue will be incorporated into the FY 2013/14 Recommended Budget as a one-time revenue source, which means it will fall into the Capital Improvement Reserve to be utilized for one-time capital expenditures.

With approval of the quitclaim deeds, the City is expected to receive title to its Onizuka parcels by May 2013. Incidental caretaker costs are expected for items related to maintenance, minor repairs, and security. The District will likely oversee security during the demolition period, and once this work is completed, a shared arrangement could be agreed upon to reimburse the District for on-going security and related costs. Since it may be several years before the City sells or leases the property, staff recommends establishing a project budget of \$50,000 to cover incidental maintenance, operational costs, and professional services as needed. Funding for this project is recommended to be provided by the General Fund's Budget Stabilization Fund. These costs would be reimbursed to the General Fund following the sale or lease of the property. Budget Modification No. 40 has been prepared to appropriate \$50,000 from the Budget Stabilization Fund to a new project, Onizuka Site Transition Plan.

**BUDGET MODIFICATION NO. 40
FISCAL YEAR 2012/2013**

General Fund	<u>Current</u>	<u>Increase (Decrease)</u>	<u>Revised</u>
<u>Expenditures:</u>			
New Project – Onizuka Site Transition Plan	\$0	\$50,000	\$50,000
<u>Reserves:</u>			
Budget Stabilization Fund	\$51,664,276	(\$50,000)	\$51,614,276

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Authorize the City Manager to execute the quitclaim deeds from the Air Force for the fire station expansion site and homeless housing site (Attachments E and F) with allowance for minor clarifications if needed.
2. Initiate the election of the Off-Site Accommodation in accordance with the Amended LBA to transfer the homeless housing program from the Onizuka site to the Armory site, and approve in form the Election Notice (Attachment G).
3. Approve Budget Modification No. 40 to appropriate \$50,000 from the Budget Stabilization Fund to a new project, Onizuka Site Transition Plan.
4. Approve Alternatives 1-3 with modifications.
5. Do not approve the above alternatives and provide further direction to staff.

RECOMMENDATION

Alternatives 1, 2 and 3.

Approval of Alternatives 1-3 is consistent with the Amended Onizuka Redevelopment Plan, Amended Housing Assistance Submission and Amended Legally Binding Agreement between the City and the two homeless housing providers as approved by the City Council in December 2011. Review of the proposed General Plan and zoning amendments, project entitlements and draft lease and regulatory agreements for the Armory site would occur at a future Council meeting.

Prepared by:

Hanson Hom
Director of Community Development

Reviewed by:

Kent Steffens
Director of Public Works

Reviewed by:

Frank Grgurina
Director of Public Safety

Reviewed by:

Grace Leung
Director of Finance

Approved by:

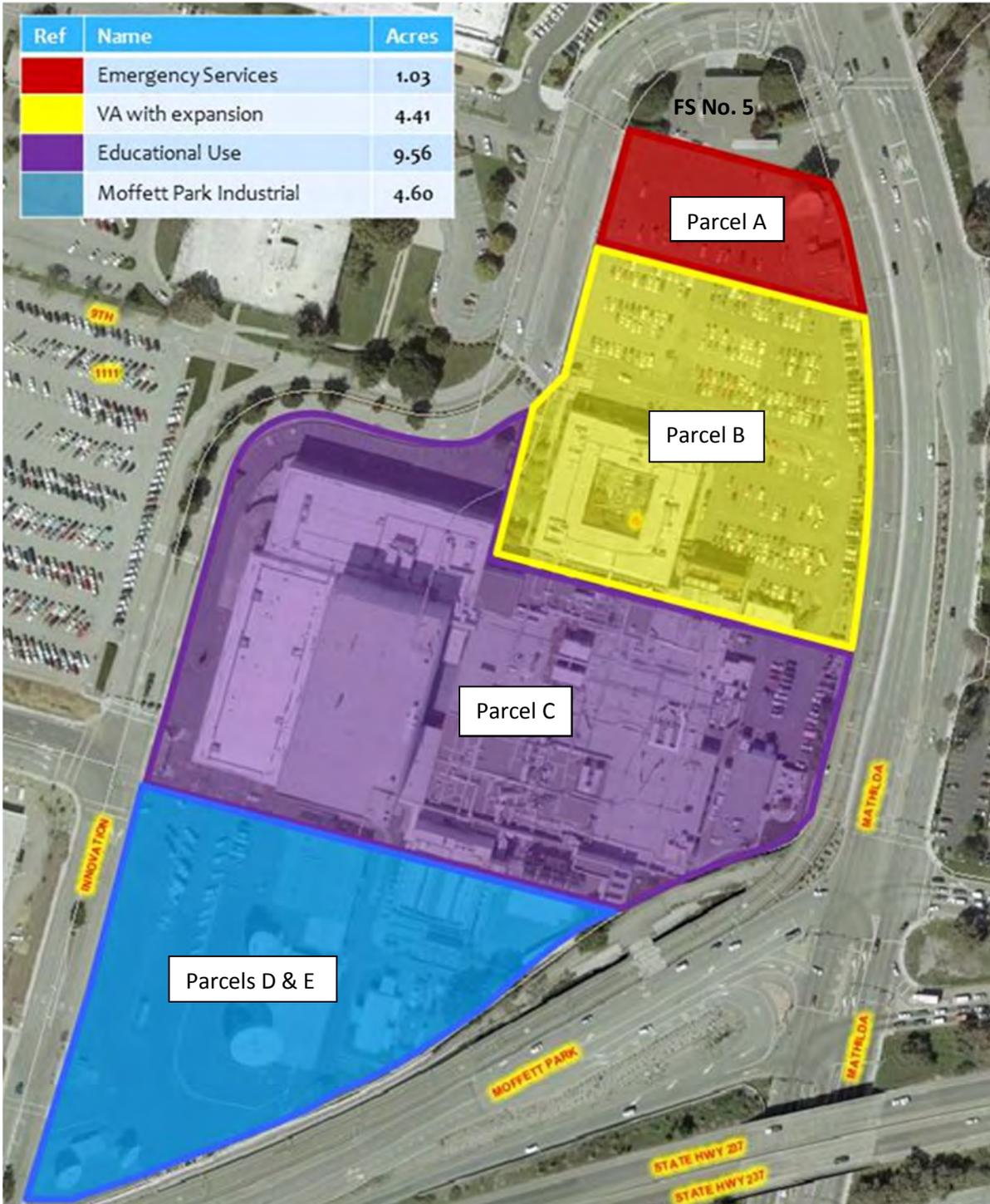
Gary M. Luebbers
City Manager

Attachments

- A. Amended Onizuka Redevelopment Plan, Figure 5-1: Preferred Onizuka Land Uses
- B. Legally Binding Agreement dated December 3, 2012 (as approved by HUD)
- C. HUD Approval Letter, December 17, 2012
- D. FEMA Approval Letter, February 13, 2013
- E. Quitclaim Deed for Fire Station Expansion Site
- F. Quitclaim Deed for Homeless Housing Site
- G. Form of Election Notice

Attachment A

Attachment A
Onizuka Air Force Station
Local Redevelopment Authority
Amended Redevelopment Plan (adopted December 13, 2011)
PREFERRED ONIZUKA LAND USES



Attachment B



CITY OF SUNNYVALE

OFFICE OF THE CITY ATTORNEY

P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707
TEL: (408) 730-7464 FAX: (408) 730-7468

December 6, 2012

Ms. Linda R. Charest
Base Realignment and Closure Coordinator
Office of Special Needs Assistance Programs, Room #7266
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

Supplement to the LRA's Homeless Assistance Submission for Onizuka Air Force Station in Sunnyvale, California

Dear Ms. Charest:

It is my opinion as a member of the bar of the State of California that the Legally Binding Agreement executed on December 3, 2012, between the Onizuka AFS Local Redevelopment Authority, Mid-Peninsula Housing Coalition and The Onizuka Partnership and submitted by the Onizuka AFS Local Redevelopment Authority as part of the Homeless Assistance Submission for the Onizuka Air Force Station in Sunnyvale, California, is binding and enforceable under the laws of the State of California.

Sincerely,

A handwritten signature in cursive script that reads "Joan Borger".

Joan Borger
City Attorney for the City of Sunnyvale
Counsel for the Onizuka Local Redevelopment Authority



**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 3rd
2 day of December, 2012, 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."

WITNESSETH

8
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;

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1 WHEREAS, pursuant to the screening process set forth in the Redevelopment Act and
2 the Base Closure Act, each Provider submitted a Notice of Interest (“NOI”) to the LRA, to use
3 portions of the AFS Property to carry out each Providers proposed homeless assistance program
4 (individually, a “Program” and collectively, the “Programs”);
5

6 WHEREAS, MidPen and Charities Housing submitted to the LRA revised NOIs to
7 consolidate their proposed homeless programs to construct permanent supportive housing for the
8 homeless and subsequently elaborated upon their proposed homeless programs in a letter dated
9 July 10, 2012 (collectively, the “Consolidated Program”), attached and made a part hereof as
10 Exhibit A, on approximately four and six-tenths (4.6) acres of land located on the southern
11 portion of the AFS Property (the “Provider Property” more particularly described at Exhibit B);
12

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

18 NOW, THEREFORE, the Parties hereby agree as follows:
19

20 **ARTICLE 1. LRA OBLIGATIONS.**
21

22 **1.1 Redevelopment Plan.** The LRA will continue to support the HAS and
23 Redevelopment Plan submitted for approval to DoD and HUD that includes the use of the
24 Provider Property by the Providers at no cost for the purposes set forth in the Consolidated
25 Program.
26

27 **1.2 Acquisition of the Provider Property.** Following HUD approval of the
28 Redevelopment Plan, the LRA shall seek to acquire title to the Provider Property from the Air
29 Force at no cost pursuant to a Government deed to the Provider Property (“Government Deed”)
30 for Homeless Purposes, as hereinafter defined, in accordance with the Base Closure Act, the
31 Redevelopment Act, the Redevelopment Plan, the Consolidated Program and this Agreement.
32

33 **1.3 Conveyance of the Provider Property.** Immediately upon receiving title to
34 the Provider Property from the Air Force, the LRA will execute and tender to each Provider
35 separate ninety (90) year ground leases for that Provider’s allocated portion of the Provider
36 Property in accordance with the preliminary lease terms set forth at Exhibit C (“Provider
37 Property Lease”) in accordance with the Base Closure Act, Redevelopment Act, the
38 Redevelopment Plan, the Consolidated Program and this Agreement, so the Providers may
39 implement the Consolidated Program at the Provider Property in a manner that will serve
40 homeless persons who meet the definition of “homeless persons” as set forth in the McKinney-
41 Vento Act (42 U.S.C. § 11301 et seq.) (“Homeless Purposes”) for the term of the leases.
42

43 **1.4 Environmental Condition of Property.** In the event that an environmental
44 analysis undertaken by the Air Force (or any other environmental regulator, as applicable),
45 indicates that the Provider Property is not suitable for its intended Homeless Purposes set forth in

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1 the Consolidated Program, then the Parties agree to make best efforts to negotiate an alternative
2 arrangement to accommodate the Consolidated Program.

3
4 **ARTICLE 2. PROVIDER OBLIGATIONS.**

5
6 **2.1 Implementation of Consolidated Program.** In consideration for the long-
7 term leases of the Provider Property to the Providers, the Providers covenant and agree to lease,
8 develop, improve and use the Provider Property to accomplish the goals set forth in the
9 Consolidated Program in accordance with the Redevelopment Plan, and this Agreement in a
10 manner that will serve Homeless Purposes for the term of the leases, all in accordance with the
11 Implementation Schedule ("Implementation Schedule") set forth as Exhibit D. It is understood
12 and agreed to by the Parties, that the Consolidated Plan shall consist of at least sixty-four (64)
13 residential housing units [Charities – twenty (20) and MidPen – forty-four (44)] that will serve
14 homeless persons who meet the definition of "homeless persons" as set forth in the McKinney-
15 Vento Act (42 U.S.C. § 11301 et seq.).

16
17 **2.2 Costs.** Providers shall be responsible for costs and expenses associated with the
18 design, construction and operation of the Provider's Project to implement the Consolidated
19 Program on the Provider Property from the effective date of the Provider Property Leases.

20
21 **2.3 Insurance.** From the effective date of, and in accordance with, the Provider
22 Property Leases, the Providers shall maintain a policy of commercial general liability, bodily
23 injury/property damage insurance for the Provider Property, and shall name the LRA as an
24 additional insured.

25
26 **2.4 Acceptance of Property.** The Providers will accept possession of the
27 Provider Property by means of the Provider Property Leases and agree to the terms, conditions,
28 covenants and use restrictions contained therein. Each Provider shall execute its Provider
29 Property Lease no later than the later of June 30, 2013 or the date the Air Force conveys the
30 Provider Property to the LRA, with the ability to request an extension at the discretion of the
31 City of Sunnyvale City Manager. Simultaneously with the execution of the Provider Property
32 Lease, the Providers shall each release all of their rights in and to the Provider Property by
33 executing a release in substantially the same form set forth in Exhibit E ("Provider Release").

34
35 **2.5 Transfer or Sublease.** Without the written consent of the LRA, which consent
36 shall not be unreasonably withheld, conditioned or delayed, the Providers may not transfer or
37 sublease any portion of the Provider Property to another party, either in whole or in part, except
38 to a wholly-owned affiliated entity or limited partnership of a Provider that assumes all
39 obligations of the Provider under this Agreement. The LRA shall have sixty (60) days from
40 receipt of such notice to object in writing to such a transfer or sublease. Failure of the LRA to so
41 object in writing within such sixty (60) day period shall be deemed consent.

42
43 **2.6 Communication by Providers** If any Provider makes any written
44 comments, or engages in any written communications, with any local, state, or federal agency
45 regarding the approval or implementation of any future development proposals, applications,

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1 approvals or permits (including any related environmental documentation) relating to the AFS
2 Property, or any proposed, approved, or existing uses to the AFS Property, upon request, such
3 Provider shall immediately provide complete copies of such written comments or
4 communications to the LRA; provided, however, that all Provider communications with HUD
5 shall be immediately provided to the LRA.
6

7 **2.7 Indemnification.** The Providers shall indemnify and save the LRA harmless
8 against any and all claims, demands, suits, judgments of sums of money to any party accruing
9 against the LRA for loss of life or injury or damage to persons or property growing out of,
10 resulting from, or by reason of any act or omission or the operation of the Providers, their agents,
11 servants or employees while engaged in or about or in connection with the discharge or
12 performance of the Provider Project or the implementation of the Consolidated Program by the
13 Providers hereunder (unless the foregoing results from the intentional acts or negligence of the
14 LRA). The Providers shall also hold the LRA harmless from any and all claims and/or liens for
15 labor, services, or materials furnished to the Providers in connection with the performance of the
16 Providers obligations under this Agreement and any obligations of the Providers by reason of a
17 default under this Agreement.
18

19 **ARTICLE 3. CONTINGENCIES**
20

21 **3.1 Contingencies.** The obligations of the Parties set forth under this
22 Agreement are contingent upon the following events occurring (the "Contingencies"):
23

24 **3.1.1** Approval of the LRA's Homeless Assistance Submission, including this
25 Agreement and the Redevelopment Plan, by HUD;
26

27 **3.1.2** The closure of Onizuka AFS and the disposal of the Provider Property by
28 the Air Force in accordance with the Redevelopment Plan;
29

30 **3.1.3** The conveyance of the Provider Property to the LRA at no cost for
31 Homeless Purposes in accordance with the Base Closure Act, the Redevelopment Act, the
32 Redevelopment Plan, the Consolidated Program and this Agreement; and
33

34 **3.1.4** The designation by the Air Force (and any other environmental regulator,
35 as applicable) that the Provider Property is environmentally suitable for the intended
36 purposes set forth in the Consolidated Program.
37

38 **ARTICLE 4. FAILURE BY THE PROVIDERS TO USE PROVIDER PROPERTY FOR**
39 **HOMELESS PURPOSES.**
40

41 **4.1 Notifications to LRA.** If the Providers (i) determine that they will no
42 longer use the Provider Property for Homeless Purposes, (ii) are notified by the Air Force that
43 they are failing to comply with any Government Deed covenants on the Provider Property, or
44 (iii) are notified by an agency of the United States or the State of California that they are failing

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1 to comply with the terms and conditions of the Consolidated Program or this Agreement, then
2 the Providers shall promptly notify the LRA of such event in writing.

3 4 4.2 Return of Property to the LRA.

5
6 4.2.1 In the event that the Providers determine that they will no longer use the
7 Provider Property in accordance with the Provider Property Leases for Homeless
8 Purposes in accordance with the Consolidated Program and this Agreement, then the
9 Providers shall promptly relinquish possession of the Provider Property to the LRA.

10
11 4.2.2 In the event that the LRA alleges that the Providers (i) have abandoned the
12 Provider Property or (ii) are not using the Provider Property in accordance with the
13 Provider Property Leases, the Consolidated Program, and this Agreement or (iii) are not
14 in compliance with one or more restrictions contained in the Government Deed, or (iv)
15 transferred or subleased the Armory Property in violation of Section 2.5 (collectively, an
16 "Alleged Default"), then the LRA shall send written notice to the Providers specifying in
17 detail the nature of such Alleged Default (the "Provider Default Notice"). The
18 Providers shall have ninety (90) days from receipt of the Provider Default Notice to cure
19 an Alleged Default. In the event the Providers do not cure the Alleged Default within the
20 time period, then there shall exist an "Event of Default" and the LRA shall be entitled to
21 seek any and all legal remedies necessary to enforce the terms of this Agreement.

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

27
28 4.4 Acquisition of Property by LRA. In the event the Providers rights under the
29 Provider Property Leases are extinguished and possession of the Provider Property is vested in
30 the LRA, the LRA shall take all appropriate actions and use its best efforts to secure, to the
31 maximum extent practicable, the utilization of the Provider Property and the buildings and
32 improvements located on such property, by other representatives of the homeless to assist
33 "homeless persons" in accordance with the Base Closure Act, the Redevelopment Act, the
34 Redevelopment Plan and the Homeless Assistance Submission; however, the LRA itself shall not
35 be required to utilize the Provider Property or the buildings and improvements located on the
36 Provider Property to establish and operate a program to assist homeless persons.

37 38 ARTICLE 5. OFF-SITE ACCOMMODATION.

39
40 5.1 Off-Site Program: In addition to their NOIs, MidPen and Charities Housing
41 submitted to the LRA a description of a proposed housing program to construct permanent
42 supportive housing for persons of various income levels ("Off-Site Program") on property
43 owned by the City of Sunnyvale at the former National Guard Armory site located at 620 E.
44 Maude Avenue described more fully in Exhibit F ("Armory Property"). It is understood and
45 agreed to by the Parties, that the Off-Site Program shall consist of at least forty-six (46)

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1 residential housing units [Charities – eighteen (18) and MidPen – twenty-eight (28)] that will
2 serve homeless persons who meet the definition of “homeless persons” as set forth in the
3 McKinney-Vento Act (42 U.S.C. § 11301 et seq.).
4

5 **5.2 Pre-Development Costs.** Following execution of this Agreement, the LRA
6 shall reimburse each Provider up to fifty thousand (\$50,000.00) dollars for eligible
7 administrative and out-of-pocket costs associated with predevelopment activities approved by the
8 LRA to study and develop the Armory Property, whether or not the LRA delivers to the
9 Providers an Election Notice.
10

11 **5.3 Off-Site Accommodation:** The LRA, at its sole discretion, may provide to the
12 Providers an off-site accommodation (“**Off-Site Accommodation**”) to allow the Providers to
13 implement the Off-Site Program at the Armory Property, in lieu of implementing the
14 Consolidated Program at the Provider Property, by providing the Providers with an election
15 notice (“**Election Notice**”) as follows:
16

17 **5.3.1** As part of the Election Notice, the LRA shall deliver to each Provider an
18 executed (a) ninety (90) year ground lease for that Provider’s allocated portion of the
19 Armory Property in accordance with the Armory lease terms set forth at Exhibit G
20 (“**Armory Lease Terms**”) and (b) a regulatory agreement with the City (“**Regulatory**
21 **Agreement**”), all in accordance with the Base Closure Act, Redevelopment Act, the
22 Redevelopment Plan, the Off-Site Program and this Agreement, so the Providers may
23 implement the Off-Site Program at the Armory Property.
24

25 **5.3.2** If the LRA provides the Providers with the Election Notice, each Provider
26 shall execute its Armory Property Lease no later than the later of December 31, 2013 or
27 the date the City grants Land Development Approval (as defined in Exhibit H), with the
28 ability to request an extension at the discretion of the City of Sunnyvale City Manager.
29 Simultaneously with the execution of the Armory Property Lease, and to the extent they
30 have not done so previously, the Providers shall each release all of their rights in and to
31 the Provider Property by executing a release in substantially the same form set forth in
32 Exhibit E (“**Provider Release**”).
33

34 **5.3.3** Immediately following the execution by the Providers of the Armory
35 Property Lease and the Provider Release, the LRA’s delivery of its Financial
36 Contribution, the City’s grant of Land Development Approval, the determination that the
37 Armory Property is environmentally suitable for the Off-Site Program, as well as any
38 other approvals or permits necessary to construct the Project and implement the Off-Site
39 Program, the Parties will request the United States to release the Provider Property from
40 any and all homeless use restrictions placed on the Provider Property by the United
41 States, in consideration for the placement of similar homeless use restrictions on the
42 Armory Property.
43

44 **5.3.4** In consideration for the long term leases of the Armory Property to the
45 Providers, the Providers covenant and agree to lease, develop, improve and use the

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1 Armory Property, to implement the Off-Site Program and this Agreement in a manner
2 that will serve Homeless Purposes for the term of the leases, all in accordance with the
3 schedule ("Off-Site Schedule") set forth as Exhibit H.

4
5 **5.3.5** As part of the Off-Site Accommodation, the LRA will provide each
6 Provider with a financial contribution in the amount of four million and one hundred
7 thousand (\$4,100,000.00) dollars ("Financial Contribution"), to be used by the Provider
8 for the predevelopment, entitlement and long-term lease of the Armory Property and the
9 construction of suitable facilities ("Facilities"). Collectively, the Armory Site and
10 Facilities are referred to as the "Project." All aspects of each Provider's Project shall
11 comply with the terms and conditions contained in the Armory Property Leases and the
12 Regulatory Agreement.

13
14 **5.3.6** The total Financial Contribution shall be comprised of:

15
16 (a) A non-recourse fifty thousand (\$50,000.00) dollar loan paid to each
17 Provider to reimburse eligible administrative and out-of-pocket costs associated with
18 predevelopment activities set forth in Section 5.2 above.

19
20 (b) Not more than ninety (90) days after the LRA delivers the Election Notice,
21 and the Providers execute the Armory Property Leases and the Regulatory Agreement,
22 the LRA shall reimburse each Provider up to a non-recourse three hundred fifty thousand
23 (\$350,000.00) dollar loan for eligible costs approved by the LRA for each Provider's
24 Project, for performing necessary technical studies, obtaining land use entitlements,
25 preparing construction documents and cost estimates, paying development and permit
26 fees, performing site remediation and clearance and constructing the Project.

27
28 (c) Not more than ninety (90) days after the City approves the land use
29 entitlements and Regulatory Agreement for the Armory Property, and the Providers
30 execute the Armory Property Lease and the Regulatory Agreement, and contingent upon
31 the sufficiency of the City's Housing Assistance Fund balance, the LRA shall make a
32 three million seven hundred thousand (\$3,700,000.00) dollar contribution in the form of a
33 deferred or residual receipts loan to each Provider. This \$3,700,000.00 shall be used by
34 the Providers to make one-time lump sum rent payments to the City under the terms of
35 the Armory Property Leases and Regulatory Agreement.

36
37 **5.4 Effect of Election Notice.** In the event the LRA delivers the Election Notice to
38 the Providers, the Providers immediately will process through the City the required General Plan
39 Amendment, zoning and project entitlements and approvals necessary to construct the Project
40 and implement the Off-Site Program on the Armory Property.

41
42 **5.5 Costs.** Providers shall be responsible for costs and expenses associated with the
43 design, construction and operation of the Provider's Project to implement the Off-Site Program
44 on the Armory Property from the effective date of the Armory Property Leases, using their own
45 resources together with resources made available to the Providers under this Agreement.

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1
2 **5.6 Insurance.** From the effective date of, and in accordance with, the Armory
3 Property Leases, the Providers shall maintain a policy of commercial general liability, bodily
4 injury/property damage insurance for the Armory Property, and shall name the LRA as an
5 additional insured.
6

7 **5.7 Transfer or Conveyance.** Without the written consent of the LRA, which
8 consent shall not be unreasonably withheld, conditioned or delayed, the Providers may not
9 transfer or sublease any portion of the Armory Provider Property to another party, either in
10 whole or in part, except to a wholly-owned affiliated entity or limited partnership of a Provider
11 that assumes all obligations of the Provider under this Agreement. The LRA shall have sixty
12 (60) days from receipt of such notice to object in writing to such a transfer or sublease. Failure
13 of the LRA to so object in writing within such sixty (60) day period shall be deemed consent.
14

15 **5.8 Indemnification.** The Providers shall indemnify and save the LRA harmless
16 against any and all claims, demands, suits, judgments of sums of money to any party accruing
17 against the LRA for loss of life or injury or damage to persons or property growing out of,
18 resulting from, or by reason of any act or omission or the operation of the Providers, their agents,
19 servants or employees while engaged in or about or in connection with the discharge or
20 performance of the Provider Project or the implementation of the Off-Site Program by the
21 Providers hereunder (unless the foregoing results from the intentional acts or negligence of the
22 LRA). The Providers shall also hold the LRA harmless from any and all claims and/or liens for
23 labor, services, or materials furnished to the Providers in connection with the performance of the
24 Providers obligations under this Agreement and any obligations of the Providers by reason of a
25 default under this Agreement.
26

27 **5.9 Environmental Condition of Property.** In the event that an environmental
28 analysis undertaken by any environmental regulator indicates that the Armory Property is not
29 suitable for its intended Homeless Purposes set forth in the Off-Site Program, then the Parties
30 agree to make best efforts to negotiate an alternative arrangement to accommodate the
31 Consolidated Program.
32

33 **5.10 Return of Property to the LRA.**
34

35 **5.10.1** If the Providers determine that they will no longer use the Armory
36 Property for Homeless Purposes in accordance with the Off-Site Program or this
37 Agreement, then the Providers shall promptly notify the LRA of such event in writing
38 and promptly relinquish possession of the Provider Property to the LRA.
39

40 **5.10.2 Default.** In the event that the LRA alleges that the Providers (i) have
41 abandoned the Armory Property or (ii) are not using the Armory Property in accordance
42 with the Armory Property Leases, the Off-Site Program, and this Agreement or (iii)
43 transferred or subleased the Armory Property in violation of Section 5.7 (collectively, an
44 "Alleged Default"), then the LRA shall send written notice to the Providers specifying in
45 detail the nature of such Alleged Default (the "Provider Default Notice"). The

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1 Providers shall have ninety (90) days from receipt of the Provider Default Notice to cure
2 an Alleged Default. In the event the Providers do not cure the Alleged Default within the
3 time period, then there shall exist an "Event of Default" and the LRA shall be entitled to
4 seek any and all legal remedies necessary to enforce the terms of this Agreement and the
5 Armory Property Lease.
6

7 **5.10.3 Right to Property.** Upon the occurrence of an Event of Default, the
8 LRA shall have an immediate right of entry to all or any portion of the Armory Property
9 and, at the option of the LRA, possession of the Armory Property shall vest immediately
10 in the LRA, pursuant to the terms of the Armory Property Leases.
11

12 **5.11 Acquisition of Property by LRA.** In the event the Providers rights under the
13 Armory Property Leases are extinguished and possession of the Armory Property is vested in the
14 LRA, the LRA shall take all appropriate actions and use its best efforts to secure, to the
15 maximum extent practicable, the utilization of the Armory Property and the buildings and
16 improvements located on such property, by other representatives of the homeless to assist
17 homeless persons in accordance with the Base Closure Act, the Redevelopment Act, the
18 Redevelopment Plan and the Homeless Assistance Submission; however, the LRA itself shall not
19 be required to utilize the Armory Property or the buildings and improvements located on the
20 Armory Property to establish and operate a program to assist homeless persons.
21

22 **ARTICLE 6. ENTIRE AGREEMENT, AMENDMENT, WAIVER**
23

24 **6.1** This Agreement contains the entire agreement and understanding of the Parties
25 with respect to all rights and responsibilities associated with the AFS Property, and may not be
26 amended, modified or discharged, nor may any of its terms be waived except by an instrument in
27 writing signed by the Party to be bound thereby. The Parties hereto shall not be bound by any
28 terms, conditions, statements, warranties or representations, oral or written, not contained herein.
29 This Agreement supersedes and replaces any prior agreements by the Parties.
30

31 **ARTICLE 7. NOTICES**
32

33 **7.1** Any notice, request, demand, instruction or other document to be given or served
34 hereunder or under any document or instrument executed pursuant hereto shall be in writing and
35 delivered personally (including by messenger) or sent by United States registered or certified
36 mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to
37 the parties at their respective addresses set forth below, and the same shall be effective upon
38 receipt if delivered personally or by messenger or two (2) business days after deposit in the mails
39 if mailed. A party may change its address for receipt of notices by service of a notice of such
40 change in accordance herewith.
41

42 If to the LRA: City Manager
43 City of Sunnyvale
44 456 West Olive Avenue
45 P.O. Box 3707

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Sunnyvale, CA 94088-3707

With a copy to:

George R. Schlossberg, Esq.
Kutak Rock, LLP
1101 Connecticut Ave, NW, Suite 1000
Washington, DC 20036

If to MidPen:

MidPen Housing Corporation
303 Vintage Park Drive
Suite 303
Foster City, CA 94404
Attn: President

If to Charities:

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

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1 **ARTICLE 8. MISCELLANEOUS.**

2
3 **8.1 Survival and Benefit.** All representations, warranties, agreements,
4 obligations and indemnities of the Parties shall, notwithstanding any investigation made by any
5 Party hereto, survive the execution of the Provider Property Leases or the Armory Property
6 Leases, as appropriate, and the same shall inure to the benefit of and be binding upon the
7 respective successors and assigns of the Parties.

8
9 **8.2 Assignment.** Without written consent of the LRA, this Agreement is not
10 assignable by any Provider, either in whole or in part. The LRA may, in its reasonable
11 discretion, assign this Agreement to another public entity provided that such public entity
12 assumes and agrees to perform the LRA's obligations hereunder.

13
14 **8.3 Applicable Law.** This Agreement shall be governed by and construed in
15 accordance with federal law and the laws of the State of California, as applicable.

16
17 **8.4 Severability.** If any term or provision of this Agreement or the application
18 thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the
19 remainder of this Agreement, or the application of such term or provision to persons or
20 circumstances other than those as to which it is held invalid or unenforceable, shall not be
21 affected thereby, and each such term and provision of this Agreement shall be valid and be
22 enforced to the fullest extent permitted by law.

23
24 **8.5 Entire Understanding of the Parties.** This Agreement constitutes the entire
25 understanding and agreement of the Parties with respect to the implementation of those portions
26 of the Redevelopment Plan related to homeless needs and facilities pursuant to the Base Closure
27 Act and the Redevelopment Act. If any provision of this Agreement conflicts with a provision of
28 the Consolidated Program, the Off-Site Program or the Redevelopment Plan, the provisions of
29 this Agreement shall control to the extent of such conflict.

30
31 **8.6 Title of Parts and Sections.** Any titles of the sections or subsections of this
32 Agreement are inserted for convenience of reference only and shall be disregarded in interpreting
33 any part of the Agreement's provisions.

34
35 **8.7 Time is of the Essence.** In the performance of this Agreement, time is of the
36 essence.

37
38 **8.8 Multiple Originals; Counterparts.** This Agreement may be executed in
39 multiple originals, each of which is deemed to be an original, and may be signed in counterparts.
40
41

1 **ARTICLE 9. EXHIBIT LIST**

2
3 **9.1** The following exhibits are attached hereto and made a part of this Agreement:

- 4
5 **Exhibit A Consolidated Homeless Program**
6 **Exhibit B Description of the Divided Provider Property**
7 **Exhibit C Provider Property Lease Terms**
8 **Exhibit D Implementation Schedule**
9 **Exhibit E Form of Provider Release**
10 **Exhibit F Armory Property**
11 **Exhibit G Armory Lease Terms**
12 **Exhibit H Off-Site Schedule**
13

14
15 **IN WITNESS WHEREOF**, the Parties have approved this Legally Binding Agreement
16 on the _____ day of _____, 2012.

17
18
19 **CITY OF SUNNYVALE**

20
21 _____
22 **By:**

23
24 **Date:** _____
25

26
27 **MIDPEN HOUSING CORPORATION**

28
29 _____
30 **By:**

31
32 **Date:** _____
33

34
35 **CHARITIES HOUSING DEVELOPMENT CORPORATION**

36
37 
38 **By:**

39 **Date:** 11/12/12
40
41

1 **ARTICLE 9. EXHIBIT LIST**
2

3 9.1 The following exhibits are attached hereto and made a part of this Agreement:
4

- 5 **Exhibit A Consolidated Homeless Program**
6 **Exhibit B Description of the Divided Provider Property**
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8 **Exhibit D Implementation Schedule**
9 **Exhibit E Form of Provider Release**
10 **Exhibit F Armory Property**
11 **Exhibit G Armory Lease Terms**
12 **Exhibit H Off-Site Schedule**
13
14

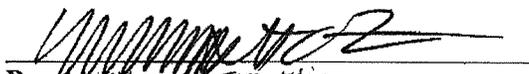
15 **IN WITNESS WHEREOF**, the Parties have approved this Legally Binding Agreement
16 on the ____ day of _____, 2012.
17

18
19 **CITY OF SUNNYVALE**
20

21 _____
22 **By:**

23
24 **Date:** _____
25

26
27 **MIDPEN HOUSING CORPORATION**
28

29 
30 **By:** Matthew G. Franklin

31
32 **Date:** 11-13-12
33

34
35 **CHARITIES HOUSING DEVELOPMENT CORPORATION**
36

37 _____
38 **By:**

39
40 **Date:** _____
41

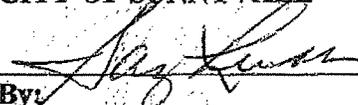
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2
3 **9.1** The following exhibits are attached hereto and made a part of this Agreement:

- 4
5 **Exhibit A Consolidated Homeless Program**
6 **Exhibit B Description of the Divided Provider Property**
7 **Exhibit C Provider Property Lease Terms**
8 **Exhibit D Implementation Schedule**
9 **Exhibit E Form of Provider Release**
10 **Exhibit F Armory Property**
11 **Exhibit G Armory Lease Terms**
12 **Exhibit H Off-Site Schedule**
13

14
15 **IN WITNESS WHEREOF**, the Parties have approved this Legally Binding Agreement
16 on the 30 day of December, 2012.

17
18
19 **CITY OF SUNNYVALE**

20
21 
22 By: _____

23
24 Date: 11-30-10
25

26
27 **MIDPEN HOUSING CORPORATION**

28
29 _____
30 By:

31
32 Date: _____
33

34
35 **CHARITIES HOUSING DEVELOPMENT CORPORATION**

36
37 _____
38 By:

39
40 Date: _____
41

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EXHIBIT A
Consolidated Homeless Program



CHARITIES HOUSING



July 10, 2012

Hanson Hom
Director of Community Development
City of Sunnyvale
456 W. Olive Avenue
Sunnyvale, CA 94088-3707

Re: Affordable Housing Proposals for the Onizuka Air Force Station & the Armory Site

Mr. Hom:

This letter serves to clarify our current affordable housing proposals for the Onizuka Air Force Station (Onizuka) and the Armory Site (Armory). We have detailed below our specific plans for each site, including information on number of units, bedroom configurations, area median income (AMI) targets, homeless unit designation, financing sources and total cost of development. We have included sections on supportive service provision, and marketing and outreach plans. Finally, we have provided definitions to include in the appropriate development documents. Please note the definitions of the following capitalized terms:

"Housing Providers" collectively refers to Charities Housing and MidPen Housing.

"Homeless" assumes a HUD McKinney Vento definition of homelessness.

"Homeless Unit" means a rental unit dedicated to a Homeless household.

This letter outlines both MidPen and Charities proposed unit distribution, number of homeless units, affordability schedule and sources and uses for the projects proposed for the Onizuka site and the Armory site. These proposals have been refined based on our conference call from last week as well as from recent conversations with the County of Santa Clara Department of Mental Health.

Supportive services, marketing and outreach for the development are detailed in sections below.

I. Onizuka Proposal – Charities Housing

Charities Housing's Onizuka Development will contain 21 total units. Of these units, 14 will be studios (0-BR), 6 will be one-bedrooms (1-BR), and there will be one two-bedroom (2-BR) manager unit. With the exception of the manager unit, 100% of the Onizuka Development will be utilized as Homeless Units. The development will contain 10 Section 8 project based vouchers (PBV) and seven Mental Health Services Act (MHSA) units. The planned unit configuration is as follows:

- 5 0-BR units at 20% AMI (all PBV units)
- 9 0-BR units at 30% AMI (includes 7 MHSA units)
- 5 1-BR units at 30% AMI (all PBV units)
- 1 1-BR unit at 50% AMI
- 1 2-BR unit manager unit

The proposed residential building will be one story and includes an office and community space. The total development cost is approximately \$6,300,000 and assumes a \$0 cost for land acquisition. The planned permanent funding sources include the following. Committed sources are referenced in GREEN.

- \$2,323,000 in Tax Credit Equity from Investor (4%)
- \$660,000 in Perm Loan
- ~~\$267,000 in deferred Developer Fee/GP Equity contributed by Charities~~
- \$1,000,000 in State MHP or other State Source
- \$728,000 in County MHSA Capital Dollars and an additional \$728K in COSR
- \$422,000 in County HOME (\$205,646 committed)
- \$600,000 in County CDBG (\$400,000 committed)
- \$300,000 in Federal Home Loan Bank AHP

II. Onizuka Proposal – MidPen Housing

MidPen Housing's Onizuka Development will contain 45 total units. Of these units, 24 will be studios (0-BR), 20 will be one-bedrooms (1-BR), and there will be one two-bedroom (2-BR) manager unit. With the exception of the manager unit, 100% of the Onizuka Development will be utilized as Homeless Units. The development will contain 25 Section 8 project based or VASH vouchers (PBV) of which 14 will be targeted to formerly homeless meeting both the Federal McKinney-Vento homeless definition and the State's definition under the Mental Health Services Act (MHSA). The planned unit configuration is as follows:

- 10 studio units at 15 % AMI (all PBV units of which 8 are MHSA)
- 14 studio units at 30% AMI
- 20 1-BR units at 30% AMI (includes 15 PBV units of which 6 MHSA units)
- 1 2-BR unit manager unit

The proposed residential building will be two story, wood frame garden style apartments with surface parking. The building program will also include management and services office space and community space. The total development cost is approximately \$10,566,715 and assumes a \$0 cost for land acquisition. The planned permanent funding sources include the following. Committed sources are referenced in ~~GREEN~~.

- \$5,039,842 in Tax Credit Equity from Investor (4%)
- \$1,787,300 in Perm Loan funded by Project Based Section 8 rental income
- \$400,101 in deferred Developer Fee/GP Equity contributed by MidPen
- \$1,000,000 in Affordable Housing Program (AHP) funds
- \$1,839,472 in County MHSA Capital Dollars
- \$500,000 in Santa Clara Housing Trust Funds

III. Armory Proposal- Charities Housing

Charities Housing's Armory Development will contain 60 studio units and one two-bedroom manager unit for a total of 61 units. Of these units, 18 will be dedicated Homeless Units. Unit configuration as follows:

- 18 0-BR units at 30% AMI (Homeless Units, includes 7 MHSA units)
- 42 0-BR units at 45% AMI (Low-Income Rental Units)
- 1 2-BR managers unit

The proposed residential building will be three stories and includes an office and community space. The total development cost is approximately \$20,460,000, including approximately \$3,600,000 for land acquisition. The planned permanent funding sources include:

- \$13,686,000 in Tax Credit Equity from Investor (9%)
- \$527,000 in Perm Loan
- \$369,000 in deferred Developer Fee/GP Equity contributed by Charities
- \$4,100,000 in City of Sunnyvale Funding (approximately)
- \$728,000 in County MHSA Capital Dollars and an additional \$728K in COSR
- \$450,000 in County HOME (\$205,646 committed)
- \$600,000 in County CDBG (\$400,000 committed)

Charities Housing will make best efforts to obtain Section 8 PBV/VASH vouchers for the development. In addition, the County of Santa Clara's Director of Homeless Systems has indicated the County will refer homeless individuals to this development from several of their programs. In this event, the individuals will come with tenant based rental assistance, enabling them to effectively pay the restricted rent (30% of median). The County has a very aggressive program to end homelessness in Santa Clara County. Through this program they currently lease units in scattered site, market rate apartments around the County. By concentrating these individuals in this development, the County can more cost effectively and efficiently provide supportive services on site. The County has indicated they will commit to refer qualified homeless individuals *on a preferred basis* to the Onizuka or Armory development.

IV. Armory Proposal Units – MidPen Housing

MidPen's proposed development at the Armory will contain 60 family apartments. The unit mix will include 17 1-BR units, 18 2-BR units and 24 3-BR units plus one 2-BR manager's units. Of these units, 14 will be dedicated Homeless Units which also qualify under the State's definition of Mental Health Services Act, 7 of which will be Project Based Section 8/VASH assisted. An additional 14 will be dedicated Homeless Units. Unit configuration as follows:

- 6 1-BR units at 30% AMI (all Homeless Units; all MHSA units; 3 assisted with PBV)
- 3 1-BR units at 40% AMI (all Homeless Units)
- 8 1-BR units at 50% AMI (2 with Homeless Units)
- 8 2-BR units at 30% AMI ((all Homeless Units; all MHSA units, 4 assisted with PBV)
- 3 2-BR units at 40% AMI (Homeless)
- 7 2-BR units at 50% AMI
- 6 3-BR units at 40% AMI (Homeless)
- 18 3-BR units at 50% AMI
- 1 2-BR manager's unit

It is important to note that although the MHSA units are technically restricted at 30% AMI, the rents are set at 15% AMI level. The additional funding from the County for operations, called COSR (capitalized operating reserve), which in this scenario is \$639,000, funds the difference between the 15% rent that the tenant pays and the cost of operations for those units.

In addition, the County of Santa Clara's Director of Homeless Systems has indicated the County will refer homeless individuals to this development from several of their programs. In this event, the individuals will come with tenant based rental assistance, enabling them to effectively pay the restricted rent (40% of median). The County has a very aggressive program to end homelessness in Santa Clara County. Through this program they currently lease units in scattered site, market rate apartments around the County. By concentrating these individuals in this development, the County can more cost effectively and efficiently provide supportive services on site. The County has indicated they will commit to refer qualified homeless individuals *on a preferred basis* to the Onizuka or Armory development.

The proposed residential building will be three stories with structured parking, management and services office space and community space. The total development cost is approximately \$27,471,000, including approximately \$3,700,000 for land acquisition. MidPen Housing believes it is reasonable to assume that we will be successful in securing 7 Project Based Section 8/VASH vouchers for this development. We have already begun working with the County to put forward this request to the Housing Authority. Committed funds are marked in GREEN.

The planned permanent funding sources include:

- \$ 16,960,422 in Tax Credit Equity from Investor (9%)
- \$2,855,396 in Perm Loan
- \$684,928 in additional Perm Loan funded by Project Based Section 8

- * \$200,000 in deferred Developer Fee/GP Equity contributed by MidPen
- * \$4,100,000 in City of Sunnyvale Funding (approximately)
- * \$1,200,000 in County MHSA Capital dollars and an additional \$639K in COSR
- * \$1,000,000 in Affordable Housing Program (AHP) Funds
- * \$500,000 in Santa Clara County Housing Trust Funds

V. Supportive Services – Both Charities Housing and MidPen Housing

The Housing Providers intend to contract with qualified Homeless Services Providers to deliver onsite supportive services to the Homeless tenants. The supportive services will be the same regardless of whether the units are built at the Onizuka or Armory site. Service can include, but are not limited to:

- Assist potential tenants in the application process including submitting complete applications, responding to requests for information and other necessary activities.
- Provide individualized case management, addiction diversion classes, computer classes, parenting and nutrition education, ESL and lifestyle classes.
- Application assistance including but not limited to employment, governmental benefits (general assistance, medical, social security, disability etc.), education, rental assistance, and utilities discounts.
- Mediation services for an applicants and residents for disputes with the Housing Providers or between residents.
- Referrals to social service providers and life skills education which may include but is not limited to employment preparation, resume writing, interview practice, and financial education.
- Case plans and goals for tenants requiring more than 3 hours of service in a quarter.
- Wellness checks where needed.
- Help provide furniture and household items to new households if necessary
- Hold at least one community building event per month.
- Respond to resident services requests within one business day.
- Conduct annual client satisfaction survey.
- Assist with the identification of potential applicants that meet the Homeless definition as well as the Housing Providers' Tenant Selection requirements.
- Provide reports, as requested, based on services and referrals provided to units.

Armory residents residing in the remaining low-income units will not receive the same scope of services described above. At the Charities Housing development they will receive services from a part-time on-site Service Coordinator who will refer residents to available and appropriate services in the community. These services include benefits assistance, education classes and employment training, computer classes, case management and healthcare. At the MidPen Housing development they will receive services from MidPen Services, including afterschool programs, health and wellness education, educational classes such ESL, enrichment classes such as cooking, nutrition and fitness and resident leadership development programs.

VI. Marketing and Outreach— Both Charities Housing and MidPen Housing

The typical marketing and outreach approach utilized by the Housing Providers is summarized below:

- Consistent with the resident population the development was designed to serve, the marketing of each development will ensure equal access to appropriate size units for all persons in any category protected by federal, state, and local laws governing discrimination.
- There will be no local residency requirements for applicants nor will preference be given to local residents for this development.
- Special marketing outreach consideration will be given to the following underserved populations:
 - MHSA eligible households (outreach by the Department of Mental Health)
 - Disabled Persons
 - Minority communities
- Marketing shall include the use of newspapers of general circulation in Sunnyvale and the Bay Area and electronic media to reach potential residents. Other neighborhood and non-English language sources may be targeted.
- The Housing Providers will contact the Santa Clara County Collaborative on Housing and Homeless Issues and may contact other local civic and community organizations representative of the ethnic, age, social and cultural diversity of the area in order to disseminate information about the developments.
- The Housing Providers will publish its marketing materials in multiple languages in order to better reach potential applicants in the area with language limitations. However the leasing process will be conducted in English. Those applicants needing the assistance of an interpreter will be asked to have someone accompany them who can assist them in this process.
- All advertising shall display the Equal Housing Opportunity logo or the phrase "Equal Housing Opportunity."

In the case of the Onizuka or Armory developments, where all or a percentage of the resident population will be Homeless, the Housing Providers will outreach to organizations in the community and departments within in local government that serve homeless populations. Those organizations/departments include but are not limited to:

Vietnam Veterans of California, One Step Center
InnVision Shelter Network, Inc.
Sunnyvale Community Services
Sunnyvale "Neat Streets" Team
Columbia Neighborhood Center
EHC LifeBuilders
Family Supportive Housing, Inc.
Palo Alto Veterans Administration
Catholic Charities, Mission Rebuild
County of Santa Clara, Mental Health Department

County of Santa Clara, Drug and Alcohol Program
County of Santa Clara, Criminal Justice Department

These organizations will refer their clients to the Housing Providers for tenancy and will assist their clients in being successful permanent housing residents.

VII. Administration of Housing Programs

The Housing Providers and the City of Sunnyvale, as the Federally recognized local reuse authority for Onizuka AFS, have acknowledged to each other that providing homeless housing services in accordance with the homeless housing assistance programs attached and made a part of the Legally Binding Agreement over the entire ninety (90) year lease term may require certain accommodations and revisions to keep the programs current, relevant and responsive through the end of this Century. Accordingly, the Providers are pleased that the City has assured the Providers that it will continue to work cooperatively with them to address the needs of the homeless and the needs of the Providers throughout the entire lease term as new and unanticipated circumstances arise.

VIII. Conclusion

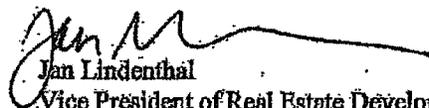
If you have any questions about the information provided, please do not hesitate to contact us. Kathy can be reached at 408-550-8311 and at krobinson@charitieshousing.org and Jan can be reached at 650-356-2919 or at jlindenthal@midpen-housing.org.

Thank you for your continued support of Charities Housing and MidPen Housing and we look forward to working with the City of Sunnyvale on these very important affordable housing developments.

Sincerely,



Kathy Robinson
Director of Housing Development
Charities Housing



Jan Lindenthal
Vice President of Real Estate Development
MidPen Housing

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EXHIBIT B

Description of Divided Provider Property

Preliminary
Onizuka Partition Plan B
May 18, 2011

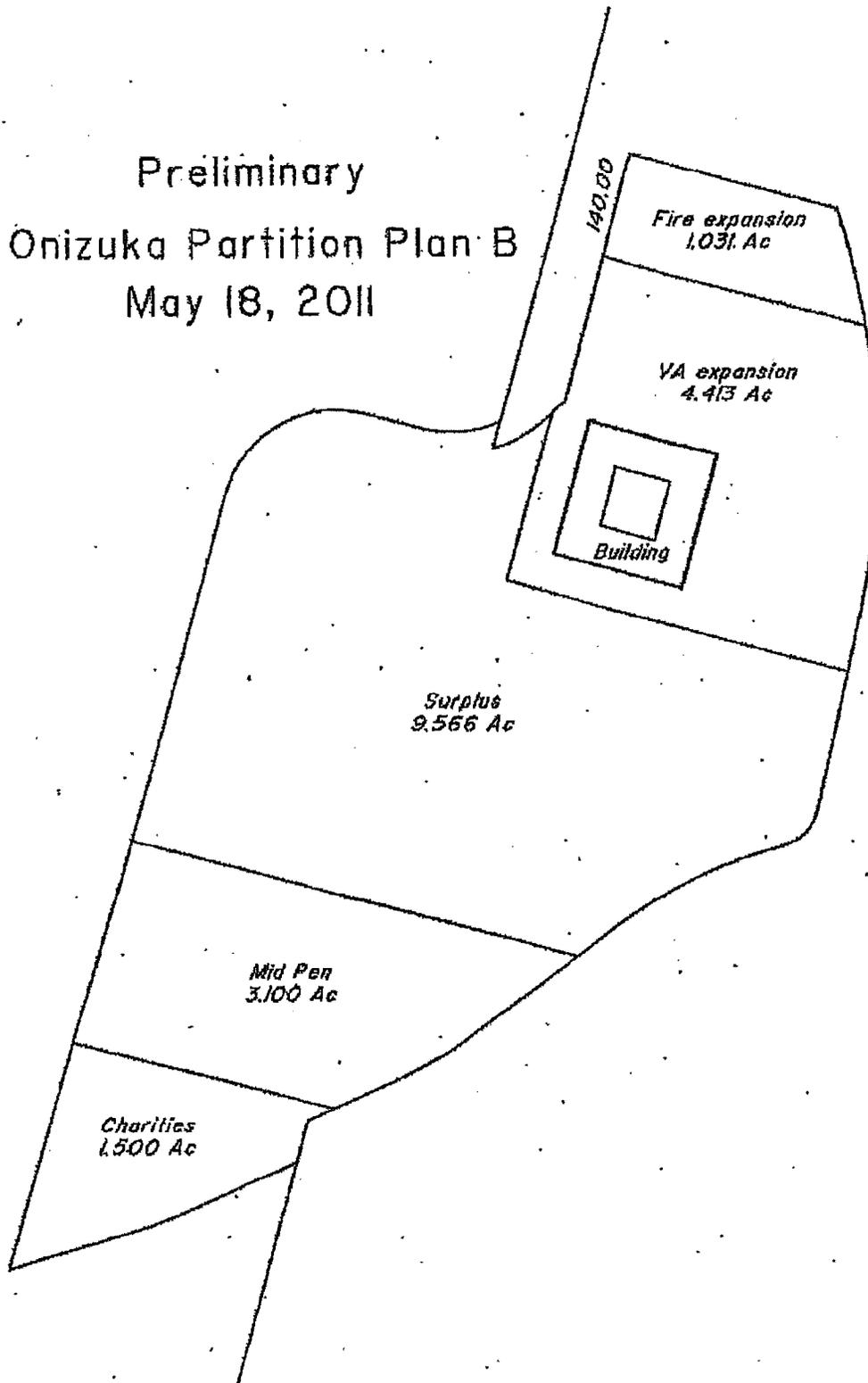


EXHIBIT C

PROVIDER PROPERTY LEASE TERMS

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1. Property See Exhibit A
Title in improvements to vest in Lessee during term of Lease
2. Term 90 years
3. Transfer of possession Lessee shall take possession pursuant to the terms set forth in the Legally Binding Agreement ("LBA")
4. Rent \$1 per year
5. Use Property shall be used for the Lessee's homeless assistance program as set forth in the NOI, the Consolidated Program, and the LBA in a manner that will serve homeless persons who meet the definition of "homeless persons" as set forth in the McKinney Vento Act (42 U.S.C. Section 11301 et. seq.).
6. Taxes All taxes paid by Lessee. Lessor will cooperate as necessary to allow Lessee to obtain property tax exemption.
7. Insurance Customary and reasonable insurance to be maintained by Lessee
8. Utilities Lessee responsible for all utility expenses and utility connections to Property
9. Encumbrances Fee interest in land may not be encumbered. Leasehold interest may be encumbered for purposes of financing the improvements without prior consent of Lessor
10. Default provisions Lessee shall have a defined period of time to cure defaults as set forth in the LBA

ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

Page 17.

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

Implementation Schedule for Provider Property

	Milestone	Date for Completion
1	LRA submits revised Legally Binding Agreement ("LBA") to HUD.	July 30, 2012
2	HUD Approves LRA's Homeless Submission.	August 30, 2012
3	Air Force Conveys Provider Property to LRA by Quitclaim Deed.	October 1, 2012.
4	Providers make application to City of Sunnyvale for Zoning and Design Review Approval ("Land Development Approval").	Within ninety (90) days following the date the Air Force conveys the Provider Property to the LRA, unless the City Manager indicates the LRA is processing the Off-Site Election Notice.
5	LRA Leases Provider Property to Providers; Providers execute Provider Release.	The later of June 30, 2013, or the date the City grants Land Development Approval.
6	Providers submit first application for Low Income Housing Tax Credits.	Within 150 days of Land Development Approval
7	Providers submit subsequent applications for Low Income Housing Tax Credits.	Twice annually if initial application is not successful until tax credit award is secured.
8	Providers commence construction of Project.	Two (2) years following receipt of Land Development Approvals with ability to extend for an additional two (2) years if Provider is not in default under the LBA.
9	Providers complete construction of Project.	Fifteen (15) months following commencement of construction of Project.
10	Providers commence operation of Project by placing first homeless housing unit in service in accordance with NOI.	Upon certification of occupancy for first housing unit.
11	Providers place the last homeless housing unit in service.	Five (5) years from Lease of Provider Property to Providers with additional extension depending on need, as provided in Section 8 above.

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ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

Page 19.

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EXHIBIT E

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

In accordance with that certain *Legally Binding Agreement Among the Onizuka Air Force Station Local Redevelopment Authority, MidPen Housing Corporation and Charities Housing Development Corporation, dated _____, 2012* ("LBA"), the undersigned applicant for surplus property at the Onizuka Air Force Station, located in the City of Sunnyvale, California, pursuant to the homeless screening conducted by the Onizuka Air Force Station Local Redevelopment Authority ("LRA") pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, hereby withdraws its Notice of Interest and any claim for surplus property at the Onizuka Air Force Station.

Dated: _____

[Signature of Authorized Official of Homeless Provider]

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EXHIBIT F
Description of Armory Property

ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT
Page 21.

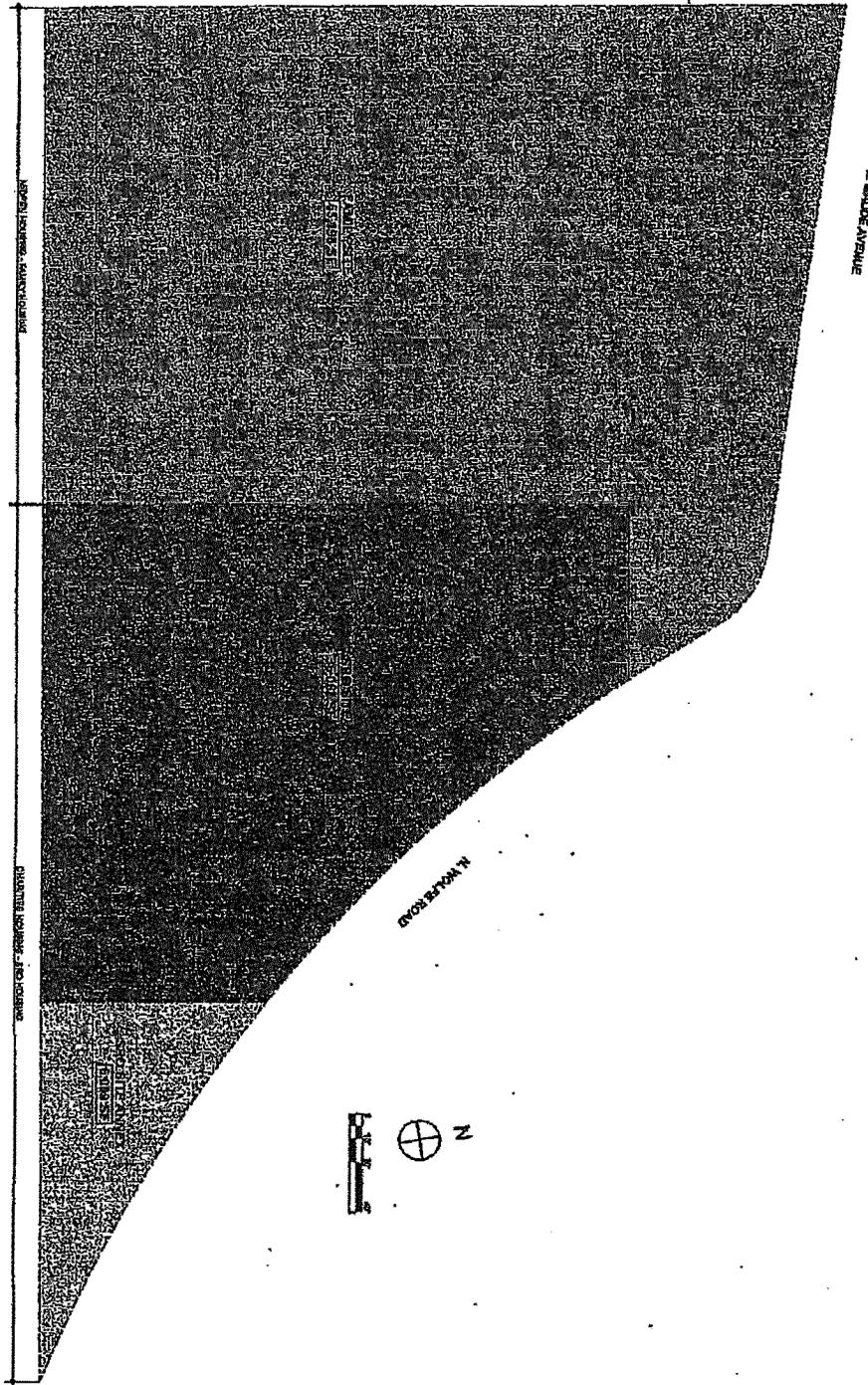


EXHIBIT G

ARMORY PROPERTY LEASE TERMS

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1. Property See Exhibit C
Title in improvements to vest in Lessee during term of Lease
2. Term 90 years
3. Transfer of possession Lessee shall take possession pursuant to the terms set forth in the Legally Binding Agreement ("LBA")
4. Rent \$3.7 million lump sum
5. Use Property shall be used for the purposes as set forth in the Lessee's Off-Site Program as described in the LBA and as approved by the City.
6. Taxes All taxes paid by Lessee. Lessor will cooperate as necessary to allow Lessee to obtain property tax exemption.
7. Insurance Customary and reasonable insurance to be maintained by Lessee
8. Utilities Lessee responsible for all utility expenses and utility connections for Property
9. Encumbrances Fee interest in land may not be encumbered. Leasehold interest may be encumbered for purposes of financing the improvements without the prior consent of Lessor
10. Default provisions Lessee shall have a defined period of time to cure defaults in accordance with the LBA
11. Mortgagee protections Lenders and investor shall have cure rights and other standard protections in event of Lessee default. [Language to be agreed upon by Lessor and Lessee]

ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

Page 23.

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2	12.	Maintenance and repair	Obligation on Lessor to maintain property until possession is transferred to Lessee
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5	13.	Risk of loss	Risk of loss transfers upon delivery of possession to Lessee
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8	14.	Indemnification	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
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13			Additional provisions to address environmental indemnification
14			
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16	15.	Sublease/Assignment	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
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21	16.	Start of Construction/Implementation	Failure to commence construction and implement the Off-Site Program in accordance with the Off-Site Schedule attached to the LBA shall be an event of default unless extended by mutual agreement.
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28	17.	Consents	Lessor agrees not to unreasonably withhold its consent.
29			
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31	18.	Reserves	Shall be maintained in accordance with the requirements of all lenders
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34	19.	Estoppel certificates	Lessor shall provide estoppel certificates reasonably requested by lenders or investor
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ONIZUKA AIR FORCE STATION LEGALLY BINDING AGREEMENT

Page 24.

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EXHIBIT H

Off-Site Schedule for Armory Property

	Milestone	Date for Completion
1	LRA submits revised Legally Binding Agreement ("LBA") to HUD.	July 30, 2012.
2	HUD Approves LRA's Homeless Submission.	August 30, 2012.
3	Air Force Conveys Provider Property to LRA by Quitclaim Deed.	October 1, 2012.
4	LRA provides Off-Site Election Notice to Providers.	Following Conveyance of Provider Property to the LRA.
5	Providers make application to City of Sunnyvale for Zoning and Design Review Approval ("Land Development Approval").	Within ninety (90) days following issuance of Off-Site Election Notice.
6	LRA Leases Armory Property to Providers; Providers execute Provider Release.	No later than December 31, 2013 or the date the City grants Land Development Approval.
7	Provider submits first application for Low Income Housing Tax Credits.	Within 150 days of Land Development Approval.
8	Provider submits subsequent applications for Low Income Housing Tax Credits.	Twice annually if initial application is not successful until tax credit award is secured.
9	Providers commence construction of Project.	Two (2) years following receipt of Land Development Approvals with ability to extend for an additional 2 years provided Provider is not in default under the LBA.
10	Providers complete construction of Project.	Fifteen (15) months following commencement of construction of Project.
11	Providers commence operation of Project by placing first homeless housing unit in service in accordance with NOI.	Upon certification of occupancy for first housing unit.
12	Providers place the last homeless housing unit in service.	Five (5) years from Lease of Armory Property to Providers with additional extension depending on need, as provided in Section 8 above.

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Attachment C



OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

DEC 17 2012

The Honorable Tony Spitaleri
Mayor of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94088-3707

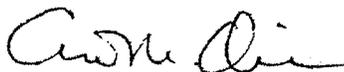
Dear Mr. Spitaleri:

I am pleased to inform you of the Department of Housing and Urban Development's final determination that the *Redevelopment Plan and Homeless Assistance Submission for the Onizuka Air Force Station* (the Plan) dated December 9, 2008, with supplemental information dated December 19, 2011, January 5, 2012, and December 3, 2012, complies with the requirements of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, 10 U.S.C. § 2687 note, as amended, and its implementing regulations found at 24 CFR Part 586. The City of Sunnyvale may move forward with implementing the Plan by pursuing public benefit conveyances for educational and emergency management uses. The Plan also accommodates interest in using the property for homeless assistance. The basis for HUD's determination is discussed below.

HUD has determined that the Plan appropriately balances the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in the community. The basis for this determination is the fact that that HUD's review of base closure plans is subject to the expressed interest and requests of Representatives of the Homeless (ROHs). Where all Notices of Interest from ROHs are accommodated, HUD will conclude that a base reuse plan balances in an appropriate manner the needs of the community for economic and other redevelopment with the needs of the homeless in the community. In this case, the legally binding agreement between the City and the ROHs provide for 65 units of homeless housing on 4.1 acres of Onizuka property or the City will commit \$8.1 million to support the homeless housing offsite. HUD is satisfied that the local redevelopment authority's outreach to the ROHs was conducted in the manner dictated by the Act and regulations and finds the LRA's balance determination to be appropriate.

Congratulations on your success in effectively carrying out the military base reuse planning process. I wish you continued success in implementing the Onizuka Air Force Station Redevelopment Plan. HUD stands ready to assist you in your efforts. If the Department can provide any further service please contact Ms. Maria Cremer, Community Planning and Development Director, in HUD's San Francisco Regional Office located at 600 Harrison Street, 3rd Floor, San Francisco, California 94104-1300. Ms. Cremer may be reached at (415) 489-6598.

Sincerely,



Ann Marie Oliva
Deputy Assistant Secretary
for Special Needs (Acting)

cc:

Kathleen I. Ferguson, DASAF/I
Patrick O'Brien, OEA

Attachment D



FEMA

February 13, 2013

Robert Hertzfeld
Project Manager
Office of Economic Adjustment
Western Region Office
1325 J Street, Suite 1500
Sacramento, CA 95814

Dear Mr. Hertzfeld:

Re: Onizuka Air Force Station

The Federal Emergency Management Agency (FEMA) has received, reviewed, and approved the City of Sunnyvale's application for a public benefit conveyance of approximately 1 acre of the Northern portion of APN 110-27-036, just south of APN 110-27-027. We understand the property requested is surplus to the needs of the United States Government and are forwarding the application for your action pursuant to 41 CFR **§102-75.795**.

We believe the City of Sunnyvale's application affirms a legitimate emergency management response use for this surplus property. The property will be utilized to expand the the useable space at Fire Station #5 and establish emergency management training space for personnel and equipment.

We assess the environmental impact of the identified use as minimal, if any. The description of the proposed use, as provided by the City of Sunnyvale, does not indicate any special issues that would suggest a different level of impact in this case. The City of Sunnyvale and any agency funding, issuing permits, or enacting the property transfer or project implementation should consider additional information as appropriate to comply with relevant State and Federal environmental laws and executive orders.

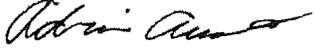
We recommend inserting the following clause into the transfer instrument.

*Grantee understands that the Property is being transferred pursuant to **40 U.S.C. §553** for emergency management response use and agrees that the Property will be used and maintained as an emergency management response facility in perpetuity, and that in event the Property ceases to be used or maintained as an emergency management response facility, all or any portion*

of the Property shall, in its then existing condition, at the option of the Grantor, revert to the Grantor.

If you desire additional information in support of this application, please contact Adrian Austin (202) 202-2099 or Tyrone Nunnally (202) 646-2637.

Sincerely,

 for Tyrone

Mr. Tyrone Nunnally
Section Chief, Real Property Division
Support Services and Facilities Management Division
Enclosures

Cc:
Lisa Lemmon
Sr. Office Assistant | Fire Administration
Sunnyvale Department of Public Safety
700 All America Way
Sunnyvale, CA 94086

Attachment E

**Entitled to Free Recording Under
California Government Code § 6103**

Recording Requested by,
and when recorded mail to:

APN: _____

Space Above Reserved for Recorder's Use Only

The undersigned Grantee declares: DOCUMENTARY TRANSFER TAX \$0; CITY TRANSFER TAX \$0;
recorded for the benefit of the City of Sunnyvale and is exempt from fee per California Government Code §§ 27383
and 6103.

computed on the consideration or full value of property conveyed, OR
 computed on the consideration or full value less value of liens and/or encumbrances remaining at the time of sale.
 unincorporated area; City of Sunnyvale, and

Signature of Declarant

QUITCLAIM DEED,

CERCLA 120(h) NOTICES, COVENANTS, and ACCESS

Parcel A

(Former Onizuka Air Force Station ("AFS"), California)

I. PARTIES

THIS DEED is made and entered into this ____ day of _____, 2013, by
and between THE UNITED STATES OF AMERICA (the "United States"), acting by and
through the Secretary of the Air Force, under and pursuant to the powers and authority contained
in Title XXIX of the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 101-510,
as amended (10 U.S.C. § 2687 note), and delegations and regulations promulgated thereunder
(the "Grantor"), and the CITY OF SUNNYVALE, a political subdivision of the State of
California (the "Grantee"). Unless the context otherwise specifically provides, when used in this
Deed, "Grantor" includes the assigns of the Grantor and "Air Force" includes any successor
entity to the Department of the Air Force or any successor to the Secretary of the Air Force, and
"Grantee" includes the successors and assigns of the Grantee.

II. CONSIDERATION AND CONVEYANCE

WITNESSETH, THAT FOR TEN DOLLARS (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby release and forever quitclaim to the Grantee all that real property known as Parcel A consisting of approximately 1.03 acres of land situated in the County of Santa Clara, State of California, as legally described and graphically depicted in **Exhibits A** and **A-1** to this Deed, as well as all oil, gas, or other mineral resources of any kind or nature associated with this parcel (collectively, the “mineral estate”).

III. APPURTENANCES

TOGETHER WITH all the buildings and improvements erected thereon and improvements hereunto belonging, or in any wise appertaining which, together with the real property and mineral estate above described, is called the “Property” in this Deed.

IV. EXCEPTIONS

AND EXCEPTING NOTHING THEREFROM.

V. RESERVATIONS

NONE.

VI. CONDITION

A. The Grantee agrees to accept conveyance of the Property subject to all covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, privileges, benefits, agreements, and encumbrances, whether or not of record.

B. The Grantee acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the Property, and that the Property is conveyed, “as is, where is,” without any representation, promise, agreement, or warranty, whether express or implied, on the part of the Grantor, or otherwise provided for by law or in equity, regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs, or additions. The Grantee further acknowledges that the Grantor shall not be liable for any latent or patent defects in the Property, except to the extent required by applicable law.

VII. NOTICES, DESCRIPTION, COVENANTS, AND ACCESS RIGHTS RELATED TO SECTION 120(h)(3) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (“CERCLA”) (42 U.S.C. § 9620(h)(3))

A. Property Covered by Notices, Description, Covenants, and Access Rights, Made Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)):

For the entirety of the Property, the Grantor provides the following notices, description, covenants, and retains the following access rights:

B. Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)):

Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)), available information indicates that no hazardous substances were stored, as defined in section 120(h), released or disposed of, on the Property.

C. Description of Remedial Action Taken, if Any, Pursuant to Section 120(h)(3)(A)(i)(III) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)):

Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), no remedial action was required or taken on the Property.

D. Covenants Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)):

Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)), the United States warrants that:

1. all remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to Section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this Deed; and

2. any additional remedial action found to be necessary after the date of this Deed shall be conducted by the United States.

E. Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)):

1. The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and its successors and assigns and shall run with the land.

2. In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the Grantee's work and the Grantee's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

3. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer or employee of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: provided, however, that nothing in this paragraph shall be considered as a waiver by the Grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

VIII. ENVIRONMENTAL NOTICES

A. Limitation on Warranty. The warranty set forth in subparagraph VII.D above is limited to response actions found to be necessary to protect human health and the environment from hazardous substances, pollutants or contaminants existing at the Property on the date this Deed is accepted. The obligation of the United States under such warranty does not extend to response actions required as a result of an act or omission of the Grantee, which act or omission (1) introduces new or additional contamination, or (2) increases the cost of the required response

action by its failure to provide timely notice of encountering contamination or by its improper management of any contamination or contaminated soil or water existing at the Property on the date this Deed is accepted from the United States.

B. State Access to Property. The easement and right of access retained and reserved to the United States in subparagraph VII.E above may be exercised by agencies of the United States, including, but not necessarily limited to the Air Force and the U.S. Environmental Protection Agency. Furthermore, because the easement and right of access retained and reserved to the United States is assignable, the United States hereby assigns its easement and access right to environmental regulatory agencies of the State of California. The Air Force will extend to such State regulatory agencies, as necessary, the right to use the easement and access retained and reserved in subparagraph VII.E above. This grant of easement and right of access to the Property is for purposes of effectuating the warranty in subparagraph VII.E and shall be consistent with the Installation Restoration Program (“IRP”) of the Air Force.

IX. OTHER COVENANTS AND NOTICES

A. Asbestos Containing Material (“ACM”). The Grantee is warned that the Property may contain current and former improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground that may contain ACM. The Grantee covenants and agrees that in its use and occupancy of the Property, it will comply with all applicable federal, state, and local laws relating to asbestos. The Grantee is cautioned to use due care during property development activities that may uncover pipelines or other buried ACM. The Grantee covenants and agrees that it will notify the Grantor promptly of any potentially friable ACM that constitutes a release (or potential release) under CERCLA. The Grantor's responsibility under this Deed for friable ACM is limited to friable ACM in demolition debris associated with past Air Force activities and is limited to the actions, if any, to be taken in accordance with the covenants contained in paragraph VII of this Deed. The Grantee is warned that the Grantor will not be responsible for removing or responding to ACM in or on utility pipelines. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured.

B. General Lead-Based Paint and Lead-Based Paint-Containing Materials and Debris (collectively “LBP”).

1. Lead-based paint was commonly used prior to 1978 and may be located on the Property. The Grantee is advised to exercise caution during any use of the Property that may result in exposure to LBP.

2. The Grantee covenants and agrees that in its use and occupancy of the Property, the Grantee is solely responsible for managing LBP, including LBP in soils, in accordance with

all applicable federal, state, and local laws and regulations. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, contact, disposition, or other activity involving LBP on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured. The Grantee further agrees to notify the Grantor promptly of any discovery of LBP in soils that appears to be the result of Grantor activities and that is found at concentrations that may require remediation. The Grantor hereby reserves the right, in its sole discretion, to undertake an investigation and conduct any remedial action that it determines is necessary.

C. Wastewater. The Property is served by underground sanitary sewer piping connected to a publicly operated or owned sanitary sewer system. After the date of this Deed, the Grantee assumes ownership and responsibility for all underground piping and shall submit any required applications for discharges to the sanitary sewer system and then assume full responsibility and liability for meeting all applicable discharge permit standards.

D. Pesticides. Pesticides have been applied to the Property and may continue to be present thereon. Where a pesticide was applied by the Air Force or at the Air Force's direction, to the best of the Air Force's knowledge, the registered pesticide was managed and applied in accordance with its intended purpose and consistent with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA – 7 U.S.C. §136, et seq.), as well as any other applicable laws. If the Grantee takes any action with regard to the Property, including demolition of structures or any disturbance or removal of soil, and if any associated acts or omissions cause a release of, threatened release of, or create exposure to, any such pesticide, the Grantee assumes all resulting responsibility and liability therefor, as may be required under applicable law.

E. Non-Discrimination. The Grantee covenants and agrees not to discriminate upon the basis of race, color, religion, national origin, sex, age, or handicap in the use, occupancy, sale, or lease of the Property, or in its employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit, nor shall it apply with respect to religion if the Property is on premises used primarily for religious purposes. The United States shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Property.

X. USE RESTRICTION AND REVERTER AFFECTING THE PROPERTY

A. Emergency Management Use Restriction. Grantee understands that the Property is being transferred pursuant to 40 U.S.C. § 553 for emergency management response use and agrees that the Property will be used and maintained as a part of an emergency management response facility and/or in direct support of the activities at an emergency management response facility in perpetuity (each an "Emergency Management Use").

B. Grantor's Right of Reversion and Reentry. Grantee, by acceptance of this Deed, covenants and agrees for itself, its successors and assigns, with respect to the Property or any part thereof—

1. The Property must be used and maintained for an Emergency Management Use in perpetuity from the date of the Grantee's acceptance of this Deed. In the event that the Property, or any portion thereof, ever ceases to be used for an Emergency Management Use, as determined by the Grantor, then the Property, in its entirety may revert to the Grantor, at the option of, and upon written demand of the Grantor in accordance with this subparagraph (the "Demand"). This reversion includes the Property, in its then existing condition, and any Grantee improvements thereon or made thereto. The Grantor's right to make its Demand is independent of the reason for the Property, or any portion thereof, ceasing to be used for an Emergency Management Use. Moreover, the Grantor's right to make its Demand is independent of whether it is caused by the legal inability of the Grantee, its successor or assigns, to use the Property for an Emergency Management Use.

a. The right of reversion may be exercised if the Property, or a portion thereof, ever ceases to be used for an Emergency Management Use, and such is not cured to the reasonable satisfaction of Grantor within thirty (30) days of Grantee or its successor receiving a Demand from Grantor stating Grantor's assertion in reasonable detail that Grantee is using the Property, or any portion thereof, in violation of this Deed. After such thirty (30) day period, at the option of Grantor, all right, title and interest in and to the Property shall, upon recording of a Notice of Entry or its equivalent by Grantor, pass to and become the property of Grantor, which shall have an immediate right of reentry upon the Property, and the Grantee, its successors or assigns, shall forfeit all right, title, and interest in and to the Property and in any and all improvements and appurtenances thereunto belonging.

b. The failure of the Grantor to insist upon complete performance and strict compliance with each and every covenant, agreement, condition and restriction in this Deed shall not be construed as a waiver or relinquishment of future performance or compliance thereof, but the obligation of the Grantee, its successors or assignees, with respect to such future performance or compliance shall continue in full force and effect, particularly with respect to the Grantor's right of reversion and reentry, as stated in this subparagraph.

C. Grantee's Right to Seek Abrogation of Use Restriction. Grantee may seek abrogation of the Emergency Management Use restriction stated in this subparagraph by:

1. Obtaining the advanced consent of the Grantor along with a release of the use restriction in a recordable instrument; and

2. Payment to the United States of a sum of money equal to the fair market value of the Property as of the effective date of the proposed abrogation.

D. Grantor's Rights with Respect to Transfers of an Interest in the Property. Grantee, by acceptance of this Deed, covenants and agrees for itself, its successors and assigns, with respect to the Property or any part thereof—

1. The Property shall not be sold, leased, mortgaged, assigned, or otherwise disposed of except to another local government agency for the same Emergency Management Use, and only then with the requirement that any such subsequent successor or assignee assume all the obligations imposed by the covenants, agreements, conditions, restrictions, and reservations in this Deed, unless any such obligations are released or modified in a recordable instrument from the Grantor.

2. If the Property is ever sold, leased, mortgaged, assigned, or otherwise disposed of for any purpose other than an Emergency Management Use without the prior consent and release of the use restriction in a recordable instrument from the Grantor, all proceeds therefrom and the reasonable value, as determined by Grantor, of any other benefits to Grantee deriving directly or indirectly from such sale, lease, mortgage, assignment, or other disposal shall be considered to have been received and held in trust by Grantee for the United States and shall be subject to the direction and control of Grantor; provided, however, the provisions of this subparagraph shall not impair or affect the rights reserved to Grantor under any other provision in this Deed.

XI. MISCELLANEOUS

Each covenant and agreement in this Deed, including any that benefits a third party, shall inure to the benefit of the Grantor and such third party; shall be binding upon and enforceable against the Grantee, its successors and assigns; shall be deemed to touch and concern the land; and shall run with the land.

XII. LIST OF EXHIBITS

The following exhibits are attached to and made a part of this Deed:

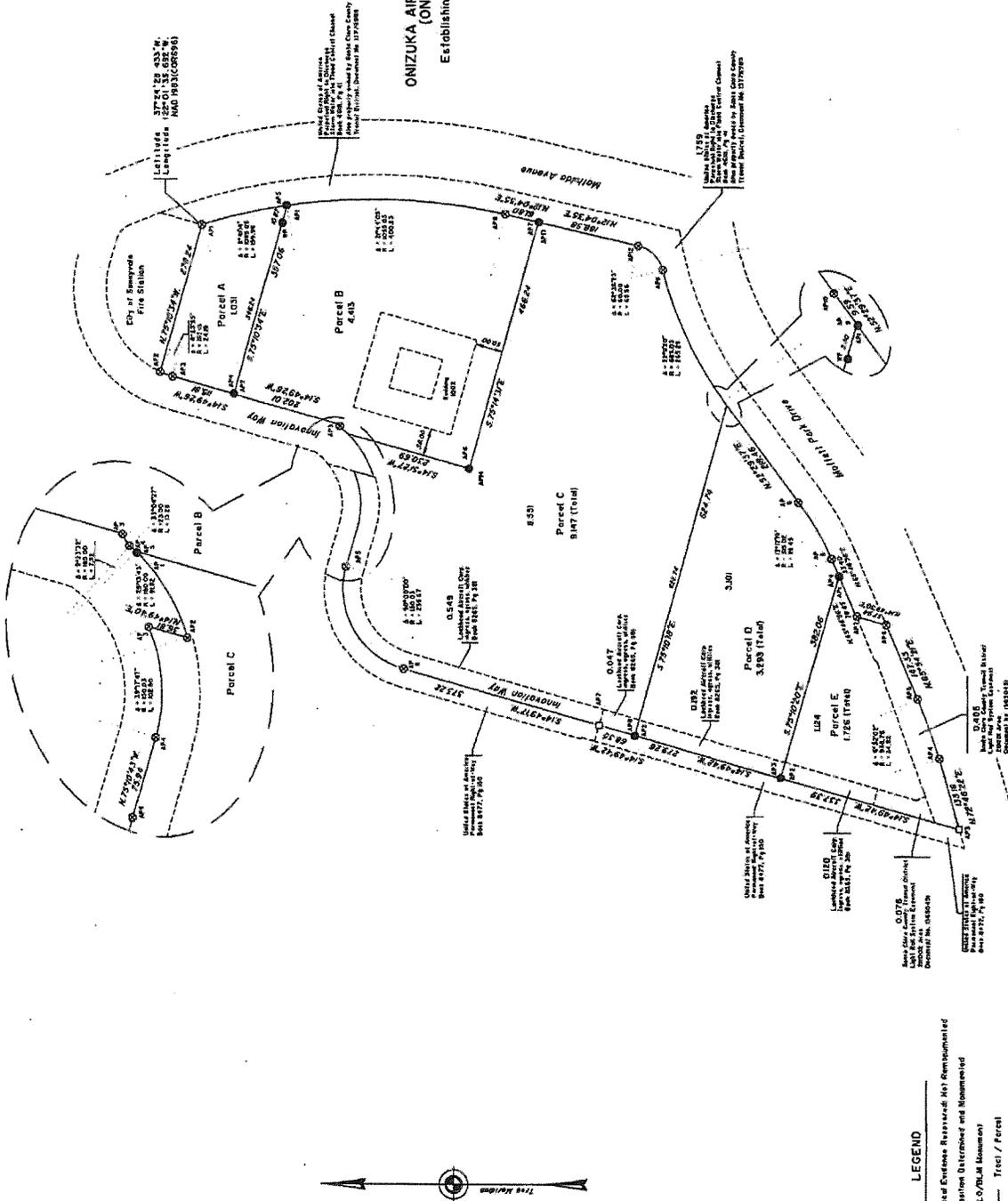
Exhibit A – Plat of the Former Onizuka AFS including the Property
Exhibit A-1 – Legal Description and Depiction of Parcel A

[Remainder of page intentionally left blank]

ORIGINAL

TOWNSHIP 6 SOUTH, RANGE 2 WEST, OF THE MOUNT DIABLO MERIDIAN, CALIFORNIA.

SUPPLEMENTAL PLAT



**ONIZUKA AIR FORCE STATION TRACT
(ONIZUKA TRACT)**
Establishing Parcels A, B, C, D, and E.

This supplemental plat, showing assessments for light rail and perimeter roadways relative to the Onizuka Air Force Station Tract, Township 6 South, Range 2 West, Mount Diablo Meridian, California, is based on a preliminary title report dated 05/11/11 by the California Automated Geospatial Information System (CAGIS), which documents the availability of Onizuka Air Force Station personnel, and the two plats accepted September 30, 2011 for Group No. 1897, California. The location of Matchless Avenue and Moffatt Park, the Onizuka Air Force Station Tract, and the Onizuka Air Force Station Tract. There is no guarantee as to the completeness of the assessment documentation provided to us and depicted on this plat.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Sacramento, California

This plat, having been correctly prepared in accordance with the requirements of law and this Bureau, is hereby accepted.

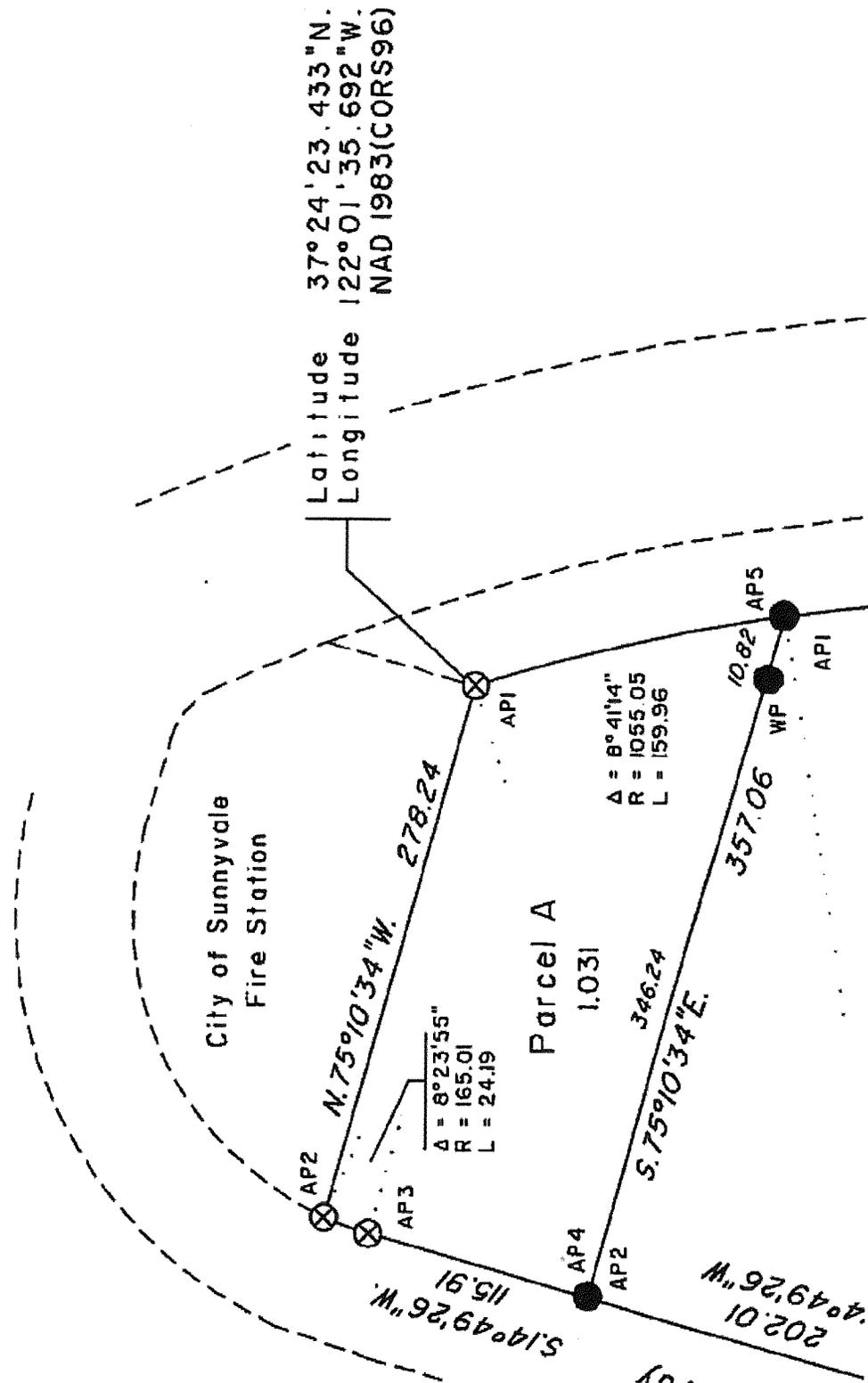
For the Director
John G. P. [Signature] November 3, 2011
Chief Cadastral Surveyor-California



- LEGEND**
- Local Evidence Reserved; Not Reexamined
 - Pasture Delineated and Reexamined
 - ⊙ O.G./P.L.M. (Monument)
 - Tract / Parcel
 - Easement

Exhibit A-1

Expanded View of Parcel A of TOWNSHIP 6 SOUTH, RANGE 2 WEST,
OF THE MOUNT DIABLO MERIDIAN, CALIFORNIA Plat dated November 3, 2011



Attachment F

**Entitled to Free Recording Under
California Government Code § 6103**

Recording Requested by,
and when recorded mail to:

APN: _____

Space Above Reserved for Recorder's Use Only

The undersigned Grantee declares: DOCUMENTARY TRANSFER TAX \$0; CITY TRANSFER TAX \$0; recorded for the benefit of the City of Sunnyvale and is exempt from fee per California Government Code §§ 27383 and 6103.

computed on the consideration or full value of property conveyed, OR
 computed on the consideration or full value less value of liens and/or encumbrances remaining at the time of sale.
 unincorporated area; City of Sunnyvale, and

Signature of Declarant

QUITCLAIM DEED,

CERCLA 120(h) NOTICES, COVENANTS, and ACCESS

Parcels D and E

(Former Onizuka Air Force Station ("AFS"), California)

I. PARTIES

THIS DEED is made and entered into this _____ day of _____, 2013, by and between THE UNITED STATES OF AMERICA (the "United States"), acting by and through the Secretary of the Air Force, under and pursuant to the powers and authority contained in Title XXIX of the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 101-510, as amended (10 U.S.C. § 2687 note), and delegations and regulations promulgated thereunder (the "Grantor"), and the CITY OF SUNNYVALE, a political subdivision of the State of California (the "Grantee"). Unless the context otherwise specifically provides, when used in this Deed, "Grantor" includes the assigns of the Grantor and "Air Force" includes any successor

entity to the Department of the Air Force or any successor to the Secretary of the Air Force, and “Grantee” includes the successors and assigns of the Grantee.

II. CONSIDERATION AND CONVEYANCE

WITNESSETH, THAT FOR TEN DOLLARS (\$10.00), the observance and performance by the Grantee of the covenants, agreements, conditions, and restrictions herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby release and forever quitclaim to the Grantee all that real property known as Parcels “D” and “E” consisting of approximately 5.02 acres of land situated in the County of Santa Clara, State of California, as legally described and graphically depicted in **Exhibit A** to this Deed, as well as all oil, gas, or other mineral resources of any kind or nature associated with this parcel (collectively, the “mineral estate”).

III. APPURTENANCES

TOGETHER WITH all the buildings and improvements erected thereon and improvements hereunto belonging, or in any wise appertaining which, together with the real property and mineral estate above described, is called the “Property” in this Deed.

IV. EXCEPTIONS

AND EXCEPTING NOTHING THEREFROM.

V. RESERVATIONS

NONE.

VI. CONDITION

A. The Grantee agrees to accept conveyance of the Property subject to all covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, privileges, benefits, agreements, and encumbrances, whether or not of record.

B. The Grantee acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the Property, and that the Property is conveyed, “as is, where is,” without any representation, promise, agreement, or warranty, whether express or implied, on the part of the Grantor, or otherwise provided for by law or in equity, regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs, or additions. The Grantee further acknowledges that the Grantor shall not be liable for any latent or patent defects in the Property, except to the extent required by applicable law.

VII. NOTICES, DESCRIPTION, COVENANTS, AND ACCESS RIGHTS RELATED TO SECTION 120(h)(3) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (“CERCLA”) (42 U.S.C. § 9620(h)(3))

A. Property Covered by Notices, Description, Covenants, and Access Rights, Made Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)):

For the entirety of the Property, the Grantor provides the following notices, description, covenants, and retains the following access rights:

B. Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)):

Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time at which such substances were stored, released, or disposed of, as defined in section 120(h), is provided in **Exhibit B** (releases/disposals only), attached hereto and made a part hereof.

C. Description of Remedial Action Taken, if Any, Pursuant to Section 120(h)(3)(A)(i)(III) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)):

Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), after conducting investigations that included soil sampling, the United States determined with regulatory concurrence that no response/remedial action was necessary.

D. Covenants Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)):

Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)), the United States warrants that:

1. all remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to Section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this Deed; and
2. any additional remedial action found to be necessary after the date of this Deed shall be conducted by the United States.

E. Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)):

1. The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and its successors and assigns and shall run with the land.

2. In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the Grantee's work and the Grantee's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

3. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer or employee of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: provided, however, that nothing in this paragraph shall be considered as a waiver by the Grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

VIII. ENVIRONMENTAL NOTICES

A. Limitation on Warranty. The warranty set forth in subparagraph VII.D above is limited to response actions found to be necessary to protect human health and the environment from hazardous substances, pollutants or contaminants existing at the Property on the date this Deed is accepted. The obligation of the United States under such warranty does not extend to response actions required as a result of an act or omission of the Grantee, which act or omission (1) introduces new or additional contamination, or (2) increases the cost of the required response

action by its failure to provide timely notice of encountering contamination or by its improper management of any contamination or contaminated soil or water existing at the Property on the date this Deed is accepted from the United States.

B. State Access to Property. The easement and right of access retained and reserved to the United States in subparagraph VII.E above may be exercised by agencies of the United States, including, but not necessarily limited to the Air Force and the U.S. Environmental Protection Agency. Furthermore, because the easement and right of access retained and reserved to the United States is assignable, the United States hereby assigns its easement and access right to environmental regulatory agencies of the State of California. The Air Force will extend to such State regulatory agencies, as necessary, the right to use the easement and access retained and reserved in subparagraph VII.E above. This grant of easement and right of access to the Property is for purposes of effectuating the warranty in subparagraph VII.E and shall be consistent with the Installation Restoration Program (“IRP”) of the Air Force.

IX. OTHER NOTICES, COVENANTS AND AGREEMENTS

A. Petroleum Products and Derivatives Sites. The Grantee is notified that three (3) petroleum spill sites are present on the Property as identified in **Exhibit C**. The petroleum sites are IRP Sites FS-1, FS-2, and FS-3, which are non-CERCLA (i.e., petroleum and its derivatives contamination only). All 3 sites have been investigated, remediated, and closed with no further action.

B. Asbestos Containing Material (“ACM”). The Grantee is warned that the Property may contain current and former improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground that may contain ACM. The Grantee covenants and agrees that in its use and occupancy of the Property, it will comply with all applicable federal, state, and local laws relating to asbestos. The Grantee is cautioned to use due care during property development activities that may uncover pipelines or other buried ACM. The Grantee covenants and agrees that it will notify the Grantor promptly of any potentially friable ACM that constitutes a release (or potential release) under CERCLA. The Grantor's responsibility under this Deed for friable ACM is limited to friable ACM in demolition debris associated with past Air Force activities and is limited to the actions, if any, to be taken in accordance with the covenants contained in paragraph VII of this Deed. The Grantee is warned that the Grantor will not be responsible for removing or responding to ACM in or on utility pipelines. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured.

C. General Lead-Based Paint and Lead-Based Paint-Containing Materials and Debris (collectively “LBP”).

1. Lead-based paint was commonly used prior to 1978 and may be located on the Property. The Grantee is advised to exercise caution during any use of the Property that may result in exposure to LBP.

2. The Grantee covenants and agrees that in its use and occupancy of the Property, the Grantee is solely responsible for managing LBP, including LBP in soils, in accordance with all applicable federal, state, and local laws and regulations. The Grantee acknowledges that the Grantor assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Grantee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, contact, disposition, or other activity involving LBP on the Property, whether the Grantee has properly warned, or failed to properly warn, the persons injured. The Grantee further agrees to notify the Grantor promptly of any discovery of LBP in soils that appears to be the result of Grantor activities and that is found at concentrations that may require remediation. The Grantor hereby reserves the right, in its sole discretion, to undertake an investigation and conduct any remedial action that it determines is necessary.

D. Underground Storage Tanks/Above Ground Storage Tanks (“UST/AST”). There were originally two (2) USTs on the Property. All USTs were removed and received regulatory closure. There are no USTs remaining on the Property. There were originally ten (10) ASTs on the Property. There is one (1) empty/purged/vented AST remaining on the Property (i.e., a large natural gas tank southeast of building 1007). The Grantee covenants and agrees to assume full responsibility and liability for the remaining AST after the date that this Deed is accepted as a condition of receiving the tank in lieu of its removal.

E. Historic Property. Facility 1004 is partially located on the Property and was deemed eligible for listing on the National Register of Historic Places. A Memorandum of Agreement (“MOA”), effective from August 2011, between the U.S. Air Force, the Department of Veterans Affairs (“DVA”), the California State Historic Preservation Officer (“SHPO”), and the City of Sunnyvale (concurring party) was developed to document acceptable mitigations should this facility be demolished and the Property redeveloped. The Grantee acknowledges receipt of a copy of this MOA and agrees to comply with, and/or cooperate with the Air Force and DVA in complying with, its terms and conditions.

F. Wastewater. The Property is served by underground sanitary sewer piping connected to a publicly operated or owned sanitary sewer system. After the date of this Deed, the Grantee assumes ownership and responsibility for all underground piping and shall submit any required applications for discharges to the sanitary sewer system and then assume full responsibility and liability for meeting all applicable discharge permit standards.

G. Pesticides. Pesticides have been applied to the Property and may continue to be present thereon. Where a pesticide was applied by the Air Force or at the Air Force’s direction, to the best of the Air Force’s knowledge, the registered pesticide was managed and applied in accordance with its intended purpose and consistent with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA – 7 U.S.C. §136, et seq.), as well as any other applicable laws. If the Grantee takes any action with regard to the Property, including demolition of structures or any

disturbance or removal of soil, and if any associated acts or omissions cause a release of, threatened release of, or create exposure to, any such pesticide, the Grantee assumes all resulting responsibility and liability therefor, as may be required under applicable law.

H. Non-Discrimination. The Grantee covenants and agrees not to discriminate upon the basis of race, color, religion, national origin, sex, age, or handicap in the use, occupancy, sale, or lease of the Property, or in its employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit, nor shall it apply with respect to religion if the Property is on premises used primarily for religious purposes. The United States shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Property.

I. Homeless Purpose Use Restriction; Grantor's Right of Reversion and Reentry. The Grantee, by acceptance of this Deed, covenants and agrees for itself, its successors and assigns, with respect to the Property or any part thereof—

1. The Property must be used in a manner that will serve homeless persons who meet the definition of “homeless persons” as set forth in the McKinney-Vento Act (42 U.S.C. § 11301 et seq.) (collectively, a “Homeless Purpose”) for at least thirty (30) years from the date of the Grantee’s acceptance of this Deed. In the event that the Property, or any portion thereof, is being used for a purpose other than a Homeless Purpose, as determined by the Grantor, then the Property, in its entirety or such portion thereof, may revert to the Grantor, at the option of, and upon written demand of the Grantor in accordance with this subparagraph (the “Demand”). This reversion includes the Property, in its then existing condition, and any Grantee improvements thereon or made thereto. The Grantor’s right to make its Demand is independent of the reason for the Property, or any portion thereof, being used for a purpose other than a Homeless Purpose. Moreover, the Grantor’s right to make its Demand is independent of whether it is caused by the legal inability of the Grantee, its successor or assigns, to use the Property for a Homeless Purpose.

a. The right of reversion may be exercised if the Property, or a portion thereof, is being used for a purpose other than a Homeless Purpose, and such use is not cured to the reasonable satisfaction of Grantor within sixty (60) days of Grantee or its successor receiving a Demand from Grantor stating Grantor’s assertion in reasonable detail that Grantee is using the Property for a purpose other than a Homeless Purpose in violation of this Deed. After such sixty (60) day period, at the option of Grantor, all right, title and interest in and to such portion of the Property as to which such violation has occurred shall, upon recording of a Notice of Entry or its equivalent by Grantor, pass to and become the property of Grantor, which shall have an immediate right of reentry upon the Property, and the Grantee, its successors or assigns, shall forfeit all right, title, and interest in and to the Property and in any and all improvements and appurtenances thereunto belonging.

b. The failure of the Grantor to insist upon complete performance and strict compliance with each and every covenant, agreement, condition and restriction in this Deed shall not be construed as a waiver or relinquishment of future performance or compliance thereof, but the obligation of the Grantee, its successors or assignees, with respect to such future performance

or compliance shall continue in full force and effect, particularly with respect to the Grantor's right of reversion and reentry, as stated in this subparagraph.

2. The Property shall not be sold, leased, mortgaged, assigned, or otherwise disposed of except to effectuate use of the Property for a Homeless Purpose and with the condition that any such subsequent successor or assignee assumes all the obligations imposed in this Deed unless released in writing by the Grantor. If the Grantee sells, leases, mortgages, assigns, or otherwise disposes of the Property, or any portion thereof, without such prior written release from the Grantor, then the Property shall revert to the Grantor if the Grantor issues a Demand for reversion, as stated in this subparagraph.

3. If the parties to the Legally Binding Agreement, dated December 3, 2012, between the Grantee (acting as the federally recognized Local Redevelopment Authority), MidPen Housing Corporation ("MidPen") and Charities Housing Development Corporation ("Charities"), request in writing that the Grantor release the Property from any and all homeless use restrictions and transfer similar homeless use restrictions to an alternative off-site parcel (the "Release") and submit supporting documentation or later supply any reasonably requested supporting documents, then the Grantor's right of reversion contained in this subparagraph shall terminate and be extinguished (the "Termination"). All other covenants, agreements, conditions and restrictions in this Deed remain in full force and effect. The Grantor shall not unreasonably withhold or deny the requested Release. Within thirty (30) days of a request by the Grantee, the Grantor shall also deliver an appropriate document to memorialize the Termination. Said document shall be in such a form that it may be recorded by the Grantee.

J. Excess Profits Covenant. This covenant shall run with the land for a period of three (3) years from the date that any Release is received by the Grantor pursuant to the Homeless Purpose Use Restriction (the "Covenant Period").

1. With respect to the Property, or any portion thereof, if at any time within the aforementioned three (3) year period, the Grantee, or its successors or assignees, shall sell or enter into agreements to sell the Property, either in a single transaction or in a series of transactions, it is covenanted and agreed that the gross proceeds received, or to be received, by the Grantee or any proceeds designated to be received by an "Affiliate of the Grantee" (hereinafter defined) that are in excess of \$7,690,000 (i.e., the fair market value of the Property and \$800,000 in previously validated Transaction Expenses) plus any additional, allowable Transaction Expenses (the "Excess Profit") will be remitted to the Grantor without any further deductions within fifteen (15) business days of the closing of said purchase/sale transaction unless that Grantor has not yet determined the allowable Transaction Expenses nor calculated the final Excess Profits. The Grantor will provide specific written funding instructions to the Grantee at that time for the payment of any Excess Profits. For the purposes of this subparagraph, Transaction Expenses mean any actual, direct, reasonable Grantee expenses incurred for (a) preparing the Property for sale to include demolition of buildings/improvements conveyed by this Deed, (b) other necessary site preparations in advance of sale, (c) marketing the Property, (d) executing the purchase/sale transaction, and (e) obtaining the Release and ultimately a Termination as defined in subparagraph IX.I (collectively, the "Transaction Expenses"); provided, however, the Grantee must submit a comprehensive accounting for all

such claimed Transaction Expenses that is accompanied with substantiating documentation. The Grantor shall have ten (10) business days to review said documentation and determine which components of the claimed Transaction Expenses are allowable and the amount that will be allowed for each component. The Grantor will also provide its calculation of Excess Profits.

2. Within the aforementioned Covenant Period, prior to the closing of any purchase/sale transaction with respect to the Property, or any portion thereof, that may generate proceeds for the Grantee through the sale, or other conveyance of any right, title, or interest in or to all or any part of the Property, the Grantee shall provide the Grantor a review period of not less than thirty (30) calendar days. The Government, in its sole and absolute discretion, may request additional information about the structure of the conveyance. The Government expects all such conveyances to be negotiated in good faith, at arm's-length, and for fair value to the Grantee, as well as be structured and based on the local commercial real estate market's practices, and its conditions at that time.

3. Within the aforementioned Covenant Period, in the event of a sale of less than the entire Property, a pro rata portion of the \$7,690,000 plus any allowable Transaction Expenses shall be apportioned to that portion of the Property conveyed, and any Excess Profit will be calculated based on a fair and reasonable determination by the Grantor.

4. Within the aforementioned Covenant Period, without the prior written approval of the Grantor, the Grantee shall not sell, or otherwise convey any right, title, or interest in the Property, or any portion thereof, to a Person that is an Affiliate of the Grantee. Additionally, the Grantee shall not designate that any proceeds from the sale of the Property, or any portion thereof, go to a Person that is an Affiliate of the Grantee. For the purposes of this subparagraph: (i) "Person" means any natural person, firm, joint venture, limited liability company, association, trust, partnership, corporation, public body (other than the City of Sunnyvale) or any other legal entity, and (ii) "Affiliate of the Grantee" means (1) any Person that is related to or which is under common control with or controlled by a Person who holds a position of trust or responsibility with the Grantee; or, (2) any other Person that has an ownership interest in a Person described in 4(ii)(1) of this subparagraph. This subparagraph shall not apply to fully competitive sales by the Grantee conducted in accordance with all applicable laws.

X. MISCELLANEOUS

Each covenant and agreement in this Deed, including any that benefits a third party, shall inure to the benefit of the Grantor and such third party; shall be binding upon and enforceable against the Grantee, its successors and assigns; shall be deemed to touch and concern the land; and shall run with the land.

XI. LIST OF EXHIBITS

The following exhibits are attached to and made a part of this Deed:

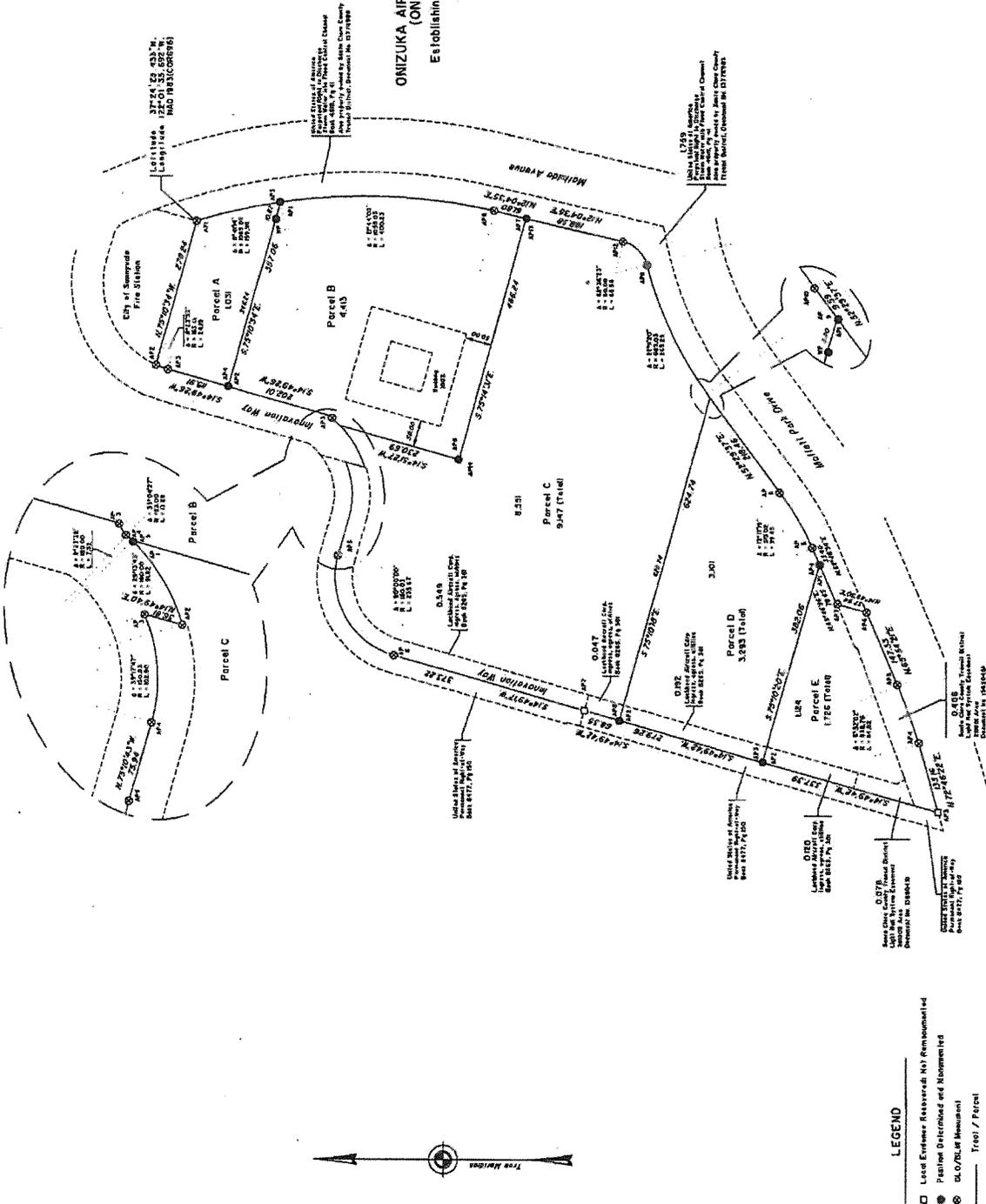
Exhibit A – Plat of the Former Onizuka AFS including the Property
Exhibit B – Notice of Hazardous Substances Released/Disposed
Exhibit C – Petroleum Products and Derivatives Sites (non-CERCLA)

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ORIGINAL

TOWNSHIP 6 SOUTH, RANGE 2 WEST, OF THE MOUNT DIABLO MERIDIAN, CALIFORNIA.

SUPPLEMENTAL PLAT



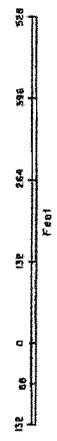
ONIZUKA AIR FORCE STATION TRACT (ONIZUKA TRACT) Establishing Parcels A, B, C, D, and E.

This supplemental plat showing easements for light rail and perimeter roadways relative to the Onizuka Air Force Station Tract, Township 6 South, Range 2 West, Mount Diablo Meridian, California, is based on a preliminary title report prepared by the County of Sacramento, California (CSA) realty documents made available by Onizuka Air Force Station personnel, and the two plats accepted September 30, 2011 for Group No. 1897, California. The location of the perimeter roadways and light rail easements are shown on this plat. The Onizuka Air Force Station Tract. There is no guarantee as to the completeness of the easement documentation provided to us and depicted on this plat.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Sacramento, California

This plat, having been correctly prepared in accordance with the requirements of law and this Bureau, is hereby accepted.

For the Director
John G. Hitz November 3, 2011
Chief Cadastral Surveyor-California



T. 6 S., R. 2 W., M.D.M.

CA210060S0020W00506

Exhibit A-1

Expanded View of Parcels D & E of TOWNSHIP 6 SOUTH, RANGE 2 WEST,
OF THE MOUNT DIABLO MERIDIAN, CALIFORNIA Plat dated November 3, 2011

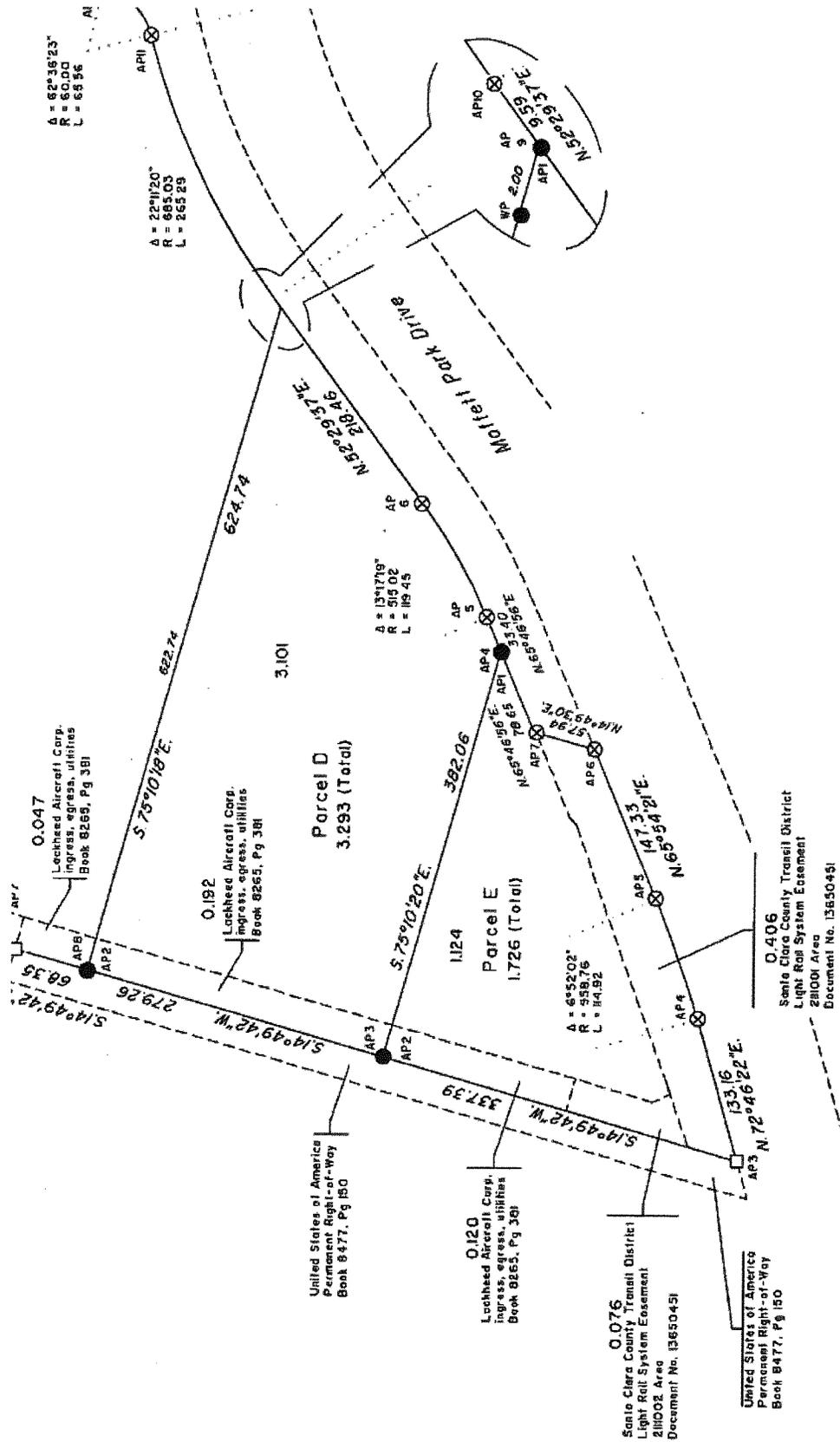


Exhibit B

NOTICE OF HAZARDOUS SUBSTANCES RELEASED/DISPOSED

This notice provides a list of hazardous substances that are known to have been released on Onizuka AFS, and the dates the releases took place. The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA) or "Superfund" 42 U.S.C section 9620(h). Based on sample analysis and investigations at these sites, it was determined that contaminant concentrations were below action levels and no response action occurred.

Substance	Regulatory Synonym(s)	CASRN	Quantity	Date	EPA Hazardous Waste Codes	Response	Remarks
Barium	NA	54-26-21	Unknown	NA	NA	No	Identified in sampling of storm water in Manhole-C (likely from rodent poison in storm drains as Onizuka AFS never used barium)
Filter backwash containing suspended solids and water treatment chemicals	Potassium Hydroxide	1310-25-3	Estimated at 2250 gallons per day	1979 to 1982	NA	No	AOC SD-1 (Storm drain at Facility 1007, Cooling Tower Filter Backwash) NFA DD 2/17/1989. The products used in the cooling tower water were Betz Entec 179, Betz Entec 349, and Betz Entec 367.
	Phosphoric acid	2809-21-4			NA		
	1-H-benzotriazole, methyl	29385-43-1			NA		
	Dodecylguanidine Hydrochloride	6317-18-6			NA		
	Methylene bis(thidcyanate)	13590-97-1			NA		
	Isopropyl alcohol	67-63-0			NA		
	Bromo-3-chloro-5, 5-dimethylhydantoin	16079-88-2			NA		

AFS = Air Force Station

AOC = Area of Concern

CASRN = Chemical Abstract Registry Number

DD = Decision Document

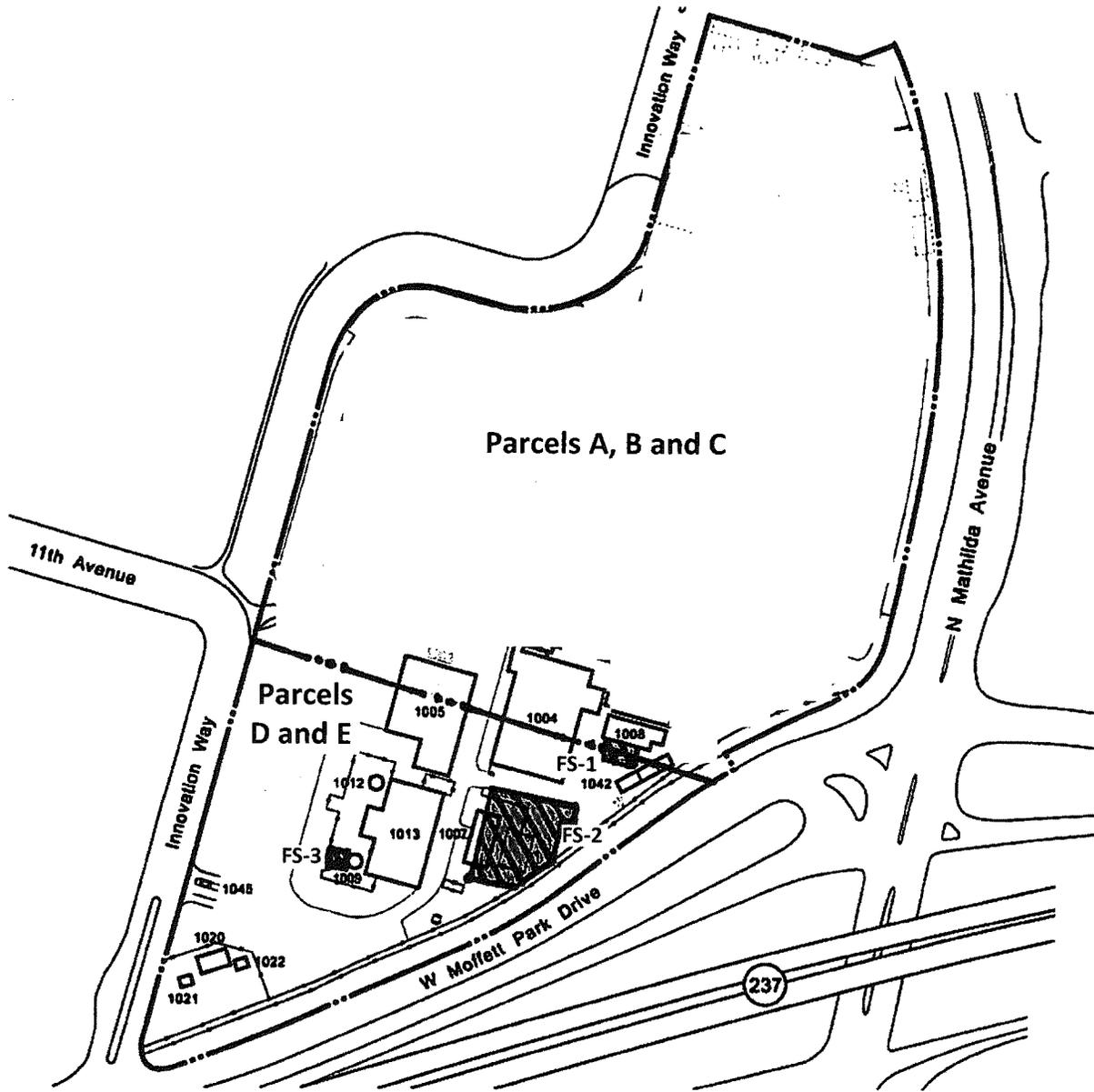
EPA = U.S. Environmental Protection Agency

NA = not applicable

NFA = No Further Action

Former Onizuka AFS, CA

Exhibit C



EXPLANATION

--- Installation Boundary

 Petroleum products, release or disposal (ECP Area Type 2) (approximately 0.3 acre)



Onizuka AFS

Former Onizuka AFS, CA

Exhibit C, Quitclaim Deed
(Parcels D & E, 5.02 ac)

Attachment G

**ELECTION NOTICE
UNDER
LEGALLY BINDING AGREEMENT
AMONG
THE CITY OF SUNNYVALE, CALIFORNIA, ACTING AS
THE ONIZUKA AIR FORCE STATION LOCAL REDEVELOPMENT AUTHORITY,
MIDPEN HOUSING CORPORATION
AND
CHARITIES HOUSING DEVELOPMENT CORPORATION**

In accordance with that certain *Legally Binding Agreement Among the City of Sunnyvale, California, acting as the Onizuka Air Force Station Local Redevelopment Authority, MidPen Housing Corporation and Charities Housing Development Corporation, dated December 3, 2012* (“LBA”), the City of Sunnyvale (“City”) hereby elects to provide MidPen Housing Corporation (“MidPen”) and Charities Housing Development Corporation (“Charities”) (“Charities” and “MidPen,” collectively the “Providers”), with an Off-Site Accommodation to allow the Providers to implement the Off-Site Program at the Armory Property, in lieu of implementing the Consolidated Program at the Provider Property, as such terms are defined in the LBA.

Pursuant to the terms of Section 5.3 of the LBA, attached hereto as:

1. Exhibit A is the executed ninety (90) year ground lease between the City and MidPen in accordance with the Armory Lease Terms included as “Exhibit G” to the LBA for MidPen’s allocated portion of the Armory Property (“MidPen Armory Property Lease”);
2. Exhibit B is the executed ninety (90) year ground lease between the City and Charities in accordance with the Armory Lease Terms included as “Exhibit G” to the LBA for Charities allocated portion of the Armory Property (“Charities Armory Property Lease”);
3. Exhibit C is the regulatory agreement between the City and MidPen (“MidPen Regulatory Agreement”); and
4. Exhibit D is the regulatory agreement between the City and Charities (“Charities Regulatory Agreement”).

MidPen and Charities shall each execute its respective Armory Property Lease no later than December 31, 2013 or the date the City grants Land Development Approval, as such term is

defined in the LBA. Simultaneous with the execution of each Armory Property Lease, MidPen and Charities shall each release all of their rights in and to the Provider Property by executing the Provider Release attached as "Exhibit E" to the LBA.

Dated: _____

CITY OF SUNNYVALE, CALIFORNIA

By: _____