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13 UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

14  
15 GREGORY VALENTINI, et al.,  
Plaintiffs,  
16 vs.  
17 ERIC SHINSEKI, et al.,  
Defendants

) Case No.: CV-11-04846-SJO-MRW  
)  
) CERTIFICATION OF THE  
) ADMINISTRATIVE RECORD

18 )  
19 )  
20 ) [Before the Honorable James S. Otero]  
21 )  
22 )

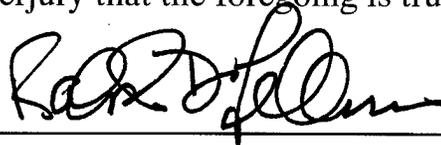
1 I, Ralph D. Tillman, do hereby declare:

2 1. I am employed by the U.S. Department of Veterans Affairs ("VA"),  
3 and have served as the Chief of Communications And External Affairs for the  
4 Greater Los Angeles Healthcare System ("GLAHS") since November 2009 . From  
5 January 2000 to November 2009, I previously served as the Chief of Asset  
6 Management for GLAHS. During the timeframe January 2000 to January 2012  
7 I've been a warranted VA Contracting Officer for the GLAHS. In that capacity as  
8 to VA's Enhanced Sharing Authority, I was authorized to enter into land use-  
9 related and other types of Enhanced Sharing Agreements ("ESAs") on VA's  
10 behalf, with sharing partners at VA's West Los Angeles ("WLA") campus. In that  
11 regard, my authority and responsibilities included conducting negotiations with  
12 potential sharing partners, including for contemplated land use ESAs on the WLA  
13 campus; determining with input from other VA personnel, whether VA should  
14 agree to enter proposed ESAs; and serving as VA's authorized signatory for  
15 consummated ESAs. I also assist with administering executed ESAs.

16 2. I hereby certify that the attached administrative record, to the best of  
17 my knowledge, information, and belief, reflects the non-privileged information and  
18 materials (exclusive of information and materials that implicate the privacy of third  
19 parties, or that constitute or consist of confidential business information)  
20 considered by VA in reaching decisions to enter into each of the eleven ESAs  
21 identified in the administrative record as the subjects of that record.

22 I certify under penalty of perjury that the foregoing is true and correct.

23  
24 Dated: October 22, 2012



25  
26  
27  
28  
Ralph D. Tillman

# **ADMINISTRATIVE RECORD**

*Valentini v. Shinseki*

2:11-cv-04846

**ADMINISTRATIVE RECORD**  
**TABLE OF CONTENTS**

I. Authorities and Guidance .....	000001
A. Selected Legal Authorities .....	000002
B. Agency Guidance .....	000015
C. Reports to Congress .....	000089
D. Other Materials .....	000140
II. Enhanced Sharing Agreements in Effect as of June 2011 .....	000190
A. Brentwood School.....	000191
1. Proposal Documents .....	000192
2. Agency Review Documents.....	000196
3. Executed Agreement.....	000247
4. Revenue Report .....	000290
B. Rancho Santa Ana Botanical Garden.....	000292
1. Proposal Documents .....	000293
2. Agency Review Documents.....	000299
3. Executed Agreement.....	000310
C. Sodexo Marriot Laundry Services, Inc. ....	000332
1. Proposal Documents .....	000333
2. Agency Review Documents.....	000336
3. Executed Agreement.....	000340
4. Revenue Report .....	000379
D. The Regents of University of California.....	000382
1. Proposal Documents .....	000383
2. Agency Review Documents.....	000388
3. Executed Agreement.....	000414
4. Revenue Report .....	000445
E. The Salvation Army – Building 212.....	000447
1. Proposal Documents .....	000448
2. Agency Review Documents.....	000451
3. Executed Agreement.....	000459
4. Revenue Report .....	000520

F. The Salvation Army – Building 207 .....	000522
1. Proposal Documents .....	000523
2. Agency Review Documents.....	000527
3. Executed Agreement.....	000585
4. Revenue Report .....	000610
G. Twentieth Century Fox Television .....	000612
1. Proposal Documents .....	000613
2. Agency Review Documents.....	000618
3. Executed Agreement.....	000647
4. Revenue Report .....	000666
H. US Vets Initiative.....	000668
1. Proposal Documents .....	000669
2. Agency Review Documents.....	000754
3. Executed Agreement.....	000791
I. Veterans Park Conservancy .....	000824
1. Proposal Documents .....	000825
2. Agency Review Documents.....	000829
3. Executed Agreement.....	000860
J. Westside Breakers Soccer Club .....	000877
1. Proposal Documents .....	000878
2. Agency Review Documents.....	000882
3. Executed Agreement.....	000894
4. Revenue Report .....	000916
K. Westside Services .....	000918
1. Proposal Documents .....	000919
2. Agency Review Documents.....	001010
3. Executed Agreement.....	001046

I.  
AUTHORITIES AND GUIDANCE

I.A.  
SELECTED LEGAL AUTHORITIES

**C****Effective: January 23, 2002**

United States Code Annotated Currentness

Title 38. Veterans' Benefits (Refs &amp; Annos)

Part VI. Acquisition and Disposition of Property (Refs &amp; Annos)

<sup>κ</sup> Chapter 81. Acquisition and Operation of Hospital and Domiciliary Facilities; Procurement and Supply; Enhanced-Use Leases of Real Property        <sup>κ</sup> Subchapter IV. Sharing of Medical Facilities, Equipment, and Information (Refs & Annos)

→ → § 8152. Definitions

For the purposes of this subchapter--

(1) The term "health-care resource" includes hospital care and medical services (as those terms are defined in section 1701 of this title), services under sections 1782 and 1783 of this title, any other health-care service, and any health-care support or administrative resource.

(2) The term "health-care providers" includes health-care plans and insurers and any organizations, institutions, or other entities or individuals who furnish health-care resources.

(3) The term "hospital", unless otherwise specified, includes any Federal, State, local, or other public or private hospital.

## CREDIT(S)

(Added Pub.L. 89-785, Title II, § 203, Nov. 7, 1966, 80 Stat. 1373, § 5053, and renumbered Pub.L. 102-40, Title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub.L. 102-54, § 14(f)(8), June 13, 1991, 105 Stat. 288; Pub.L. 103-210, § 3(b), Dec. 20, 1993, 107 Stat. 2497; Pub.L. 104-262, Title III, § 301(b), Oct. 9, 1996, 110 Stat. 3191; Pub.L. 107-135, Title II, § 208(e)(8), Jan. 23, 2002, 115 Stat. 2464.)

Current through P.L. 112-174 (excluding P.L. 112-140, 112-141, and 112-166) approved 9-20-12.

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END OF DOCUMENT

**C****Effective: January 4, 2011**

United States Code Annotated Currentness

Title 38. Veterans' Benefits (Refs &amp; Annos)

Part VI. Acquisition and Disposition of Property (Refs &amp; Annos)

<sup>Ⓜ</sup> Chapter 81. Acquisition and Operation of Hospital and Domiciliary Facilities; Procurement and Supply; Enhanced-Use Leases of Real Property        <sup>Ⓜ</sup> Subchapter IV. Sharing of Medical Facilities, Equipment, and Information (Refs & Annos)            → → **§ 8153. Sharing of health-care resources**

**(a)(1)** To secure health-care resources which otherwise might not be feasibly available, or to effectively utilize certain other health-care resources, the Secretary may, when the Secretary determines it to be in the best interest of the prevailing standards of the Department medical care program, make arrangements, by contract or other form of agreement for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual.

**(2)** The Secretary may enter into a contract or other agreement under paragraph (1) if such resources are not, or would not be, used to their maximum effective capacity.

**(3)(A)** If the health-care resource required is a commercial service, the use of medical equipment or space, or research, and is to be acquired from an institution affiliated with the Department in accordance with section 7302 of this title, including medical practice groups and other entities associated with affiliated institutions, blood banks, organ banks, or research centers, the Secretary may make arrangements for acquisition of the resource without regard to any law or regulation (including any Executive order, circular, or other administrative policy) that would otherwise require the use of competitive procedures for acquiring the resource.

**(B)(i)** If the health-care resource required is a commercial service or the use of medical equipment or space, and is not to be acquired from an entity described in subparagraph (A), any procurement of the resource may be conducted without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring the resource, but only if the procurement is conducted in accordance with the simplified procedures prescribed pursuant to clause (ii).

**(ii)** The Secretary, in consultation with the Administrator for Federal Procurement Policy, may prescribe simplified procedures for the procurement of health-care resources under this subparagraph. The Secretary shall publish such procedures for public comment in accordance with section 1707 of title 41. Such procedures shall permit all responsible sources, as appropriate, to submit a bid, proposal, or quotation (as appropriate) for the resources to be procured and provide for the consideration by the Department of bids, proposals, or quotations so submitted.

(iii) Pending publication of the procedures under clause (ii), the Secretary shall (except as provided under subparagraph (A)) procure health-care resources referred to in clause (i) in accordance with all procurement laws and regulations.

(C) Any procurement of health-care resources other than those covered by subparagraph (A) or (B) shall be conducted in accordance with all procurement laws and regulations.

(D) For any procurement to be conducted on a sole source basis other than a procurement covered by subparagraph (A), a written justification shall be prepared that includes the information and is approved at the levels prescribed in section 3304(e) of title 41.

(E) As used in this paragraph, the term "commercial service" means a service that is offered and sold competitively in the commercial marketplace, is performed under standard commercial terms and conditions, and is procured using firm-fixed price contracts.

(b) Arrangements entered into under this section shall provide for payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government. Any proceeds to the Government received therefrom shall be credited to the applicable Department medical appropriation and to funds that have been allotted to the facility that furnished the resource involved.

(c) Eligibility for hospital care and medical services furnished any veteran pursuant to this section shall be subject to the same terms as though provided in a Department health care facility, and provisions of this title applicable to persons receiving hospital care or medical services in a Department health care facility shall apply to veterans treated under this section.

(d) When a Department health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is not eligible for such care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment to such facility for such care or services or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.

(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines--

(1) that veterans will receive priority under such an arrangement; and

(2) that such an arrangement--

(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

(B) will result in the improvement of services to eligible veterans at that facility.

(f) Any amount received by the Secretary from a non-Federal entity as payment for services provided by the Secretary during a prior fiscal year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.

(g) The Secretary shall submit to the Congress not later than February 1 of each year a report on the activities carried out under this section during the preceding fiscal year. Each report shall include--

(1) an appraisal of the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise; and

(2) recommendations for the improvement or more effective administration of such activities.

#### CREDIT(S)

(Added Pub.L. 89-785, Title II, § 203, Nov. 7, 1966, 80 Stat. 1374, § 5053; amended Pub.L. 91-496, § 4, Oct. 22, 1970, 84 Stat. 1092; Pub.L. 93-82, Title III, § 303, Aug. 2, 1973, 87 Stat. 195; Pub.L. 94-581, Title I, § 115(a)(1), Title II, §§ 206(c), 210(e)(11), Oct. 21, 1976, 90 Stat. 2852, 2859, 2865; Pub.L. 96-151, Title III, § 304, Dec. 20, 1979, 93 Stat. 1096; Pub.L. 97-295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub.L. 98-160, Title VII, § 702(20), Nov. 21, 1983, 97 Stat. 1010; Pub.L. 99-576, Title II, § 231(c)(1), Oct. 28, 1986, 100 Stat. 3264; Pub.L. 101-366, Title II, § 202(b), Aug. 15, 1990, 104 Stat. 438; renumbered § 8153, Pub.L. 102-40, Title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub.L. 102-54, § 14(f)(9), June 13, 1991, 105 Stat. 288; Pub.L. 102-83, § 4(a)(3), (4), (b)(1), (2)(D), (E), Aug. 6, 1991, 105 Stat. 404, 405; Pub.L. 103-210, § 3(c), Dec. 20, 1993, 107 Stat. 2498; Pub.L. 104-262, Title III, § 301(c), (d)(1), Oct. 9, 1996, 110 Stat. 3191 to 3193; Pub.L. 105-114, Title IV, § 402(d),(e), Nov. 21, 1997, 111 Stat. 2294; Pub.L. 106-419, Title IV, § 404(b)(2), Nov. 1, 2000, 114 Stat. 1866; Pub.L. 108-170, Title IV, § 405(d), Dec. 6, 2003, 117 Stat. 2063; Pub.L. 111-350, § 5(j)(8), Jan. 4, 2011, 124 Stat. 3850.)

Current through P.L. 112-174 (excluding P.L. 112-140, 112-141, and 112-166) approved 9-20-12.

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**C**

**Effective:[See Text Amendments]**

Code of Federal Regulations Currentness  
Title 38. Pensions, Bonuses, and Veterans' Relief  
Chapter 1. Department of Veterans Affairs  
(Refs & Annos)

Part 17. Medical (Refs & Annos)

Delegations of Authority

→ **§ 17.142 Authority to approve sharing agreements, contracts for scarce medical specialist services and contracts for other medical services.**

The Under Secretary for Health is delegated authority to enter into

(a) Sharing agreements authorized under the provisions of 38 U.S.C. 8153 and § 17.210 and which may be negotiated pursuant to the provisions of 41 CFR 8-3.204(c);

(b) Contracts with schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Department of Veterans Affairs health care facilities (including, but not limited to, services of physicians, dentists, podiatrists, optometrists, nurses, physicians' assistants, expanded function dental auxiliaries, technicians, and other medical support personnel); and

(c) When a sharing agreement or contract for scarce medical specialist services is not warranted, contracts authorized under the provisions of 38 U.S.C. 513 for medical and ancillary services. The authority under this section generally will be exercised by approval of proposed contracts or agreements nego-

tiated at the health care facility level. Such approval, however, will not be necessary in the case of any purchase order or individual authorization for which authority has been delegated in § 17.99. All such contracts and agreements will be negotiated pursuant to 41 CFR Chapters 1 and 8.

(Authority: 38 U.S.C. 512, 513, 7409, 8153)

[45 FR 6938, Jan. 31, 1980; 61 FR 21965, May 13, 1996; 62 FR 17072, April 9, 1997]

SOURCE: 54 FR 34978, Aug. 23, 1989; 57 FR 31015-31018, July 13, 1992; 57 FR 38610, Aug. 26, 1992; 57 FR 41701, Sept. 11, 1992; 59 FR 28265, June 1, 1994; 59 FR 49579, Sept. 29, 1994; 59 FR 53355, Oct. 24, 1994; 61 FR 21965, May 13, 1996; 70 FR 71774, Nov. 30, 2005; 73 FR 65553, Nov. 4, 2008; 74 FR 30228, June 25, 2009; 75 FR 69883, Nov. 16, 2010, unless otherwise noted.

AUTHORITY: 38 U.S.C. 501, and as noted in specific sections.

38 C. F. R. § 17.142, 38 CFR § 17.142

Current through October 4, 2012; 77 FR 60802

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END OF DOCUMENT

SEC. 224. PROHIBITION ON DISPOSAL OF DEPARTMENT OF VETERANS AFFAIRS LANDS AND IMPROVEMENTS AT WEST LOS ANGELES MEDICAL CENTER, CALIFORNIA. (a) IN GENERAL.—The Secretary

of Veterans Affairs may not declare as excess to the needs of the Department of Veterans Affairs, or otherwise take any action to exchange, trade, auction, transfer, or otherwise dispose of, or reduce the acreage of, Federal land and improvements at the Department of Veterans Affairs West Los Angeles Medical Center, California, encompassing approximately 388 acres on the north and south sides of Wilshire Boulevard and west of the 405 Freeway.

(b) SPECIAL PROVISION REGARDING LEASE WITH REPRESENTATIVE OF THE HOMELESS.—Notwithstanding any provision of this Act, section 7 of the Homeless Veterans Comprehensive Services Act of 1992 (Public Law 102–590) shall remain in effect.

(c) CONFORMING AMENDMENT.—Section 8162(c)(1) of title 38, United States Code, is amended—

(1) by inserting “or section 224(a) of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008” after “section 421(b)(2) of the Veterans’ Benefits and Services Act of 1988 (Public Law 100–322; 102 Stat. 553)”; and

(2) by striking “that section” and inserting “such sections”.

(d) EFFECTIVE DATE.—This section, including the amendment made by this section, shall apply with respect to fiscal year 2008 and each fiscal year thereafter.

P.L. 105-368, Section 707:

**SEC. 707. MASTER PLAN REGARDING USE OF DEPARTMENT OF VETERANS AFFAIRS LANDS AT WEST LOS ANGELES MEDICAL CENTER, CALIFORNIA.**

(a) **REPORT.**—The Secretary of Veterans Affairs shall submit to Congress a report on the master plan of the Department of Veterans Affairs relating to the use of Department lands at the West Los Angeles Department of Veterans Affairs Medical Center, California.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall set forth the following:

(1) The master plan referred to in that subsection, if such a plan currently exists.

(2) A current assessment of the master plan.

(3) Any proposal of the Department for a veterans park on the lands referred to in subsection (a), and an assessment of such proposals.

(4) Any proposal to use a portion of those lands as dedicated green space, and an assessment of such proposals.

(c) **ALTERNATIVE REPORT ELEMENT.**—If a master plan referred to in subsection (a) does not exist as of the date of the enactment of this Act, the Secretary shall set forth in the report under that subsection, in lieu of the matters specified in paragraphs (1) and (2) of subsection (b), a plan for the development of a master plan for the use of the lands referred to in subsection (a) over the next 25 years and over the next 50 years.

Shell Lake Municipal Airport, Shell Lake, WI.

A recently-completed boundary survey of the airport found that a privately-owned structure encroaches onto land owned by the airport. This finding has resulted in a proposal to transfer the affected parcel of airport land to the neighboring owner in exchange for that owner transferring a parcel of its own land to the airport. Release of the 0.101 acre parcel from land assurances would allow the encroaching structure to remain standing. The parcel to be acquired by the airport in the land exchange (0.021 acres) would give the airport ownership of a key parcel of land located within the 14 CFR part 77-defined, primary surface of Runway 14/32.

A categorical exclusion for this land release action was prepared by Wisconsin Dept. of Transportation—Bureau of Aeronautics and issued on February 28, 2011.

The aforementioned land is not needed for aeronautical use, as shown on the Airport Layout Plan. There are no impacts to the airport by allowing the airport to dispose of the property.

The parcel to be released was originally acquired with local funds in 1961. To compensate for the uneven exchange of land area (0.101 acres to be released by the airport vs. 0.021 acres to be acquired by the airport), the airport will receive \$1,000 in additional compensation to be used at the airport for maintenance and/or improvement purposes.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

**DATES:** Comments must be received on or before July 25, 2011.

**ADDRESSES:** Mr. Daniel J. Millenacker, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450-2706. Telephone Number (612) 713-4350/Fax Number (612) 713-4364. Documents reflecting this FAA action may be reviewed at the following locations: Federal Aviation Administration, Minneapolis Airports District Office, Delta F Building, 7200 34th Ave. So., Suite B, Minneapolis, MN 55450; or at the Wisconsin Department of Transportation, 4802 Sheboygan Ave., Room 701, Madison, WI 53707.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel J. Millenacker, Program Manager, Federal Aviation Administration,

Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450-2706. Telephone Number (612) 713-4350/Fax Number (612) 713-4364. Documents reflecting this FAA action may be reviewed at the following locations: Federal Aviation Administration, Minneapolis Airports District Office, Delta F Building, 7200 34th Ave. So., Suite B, Minneapolis, MN 55450; or at the Wisconsin Department of Transportation, 4802 Sheboygan Ave., Room 701, Madison, WI 53707.

**SUPPLEMENTARY INFORMATION:** Following is a description of the subject airport property to be released at Shell Lake Municipal Airport in Shell Lake, Wisconsin and described as follows:

Parcel of land in Government Lot 3, Section 36, T38N, R13W, 4th Principal Meridian extended, City of Shell Lake, Washburn County, Wisconsin.

Said parcel subject to all easements, restrictions, and reservations of record.

Issued in Minneapolis, MN on May 31, 2011.

**Steven J. Obenauer,**  
Manager, Minneapolis Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2011-15744 Filed 6-22-11; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF VETERANS AFFAIRS

### West Los Angeles VA Medical Center Veterans Programs Enhancement Act of 1998; Master Plan

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final Notice.

**SUMMARY:** On January 19, 2011, the Department of Veterans Affairs (VA) published a notice in the **Federal Register** inviting public comment on the Draft Master Plan (DMP) for the West Los Angeles VA Medical Center. This document responds to the public comments received and affirms as final, with no changes, that Draft Master Plan.

**FOR FURTHER INFORMATION CONTACT:** For Master Plan issues, contact Ralph Tillman, Chief of Communications and External Affairs, Greater Los Angeles Healthcare System (00PA), Department of Veterans Affairs, 11301 Wilshire Boulevard, Los Angeles, CA 90073. Telephone: (310) 268-3340 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** In a notice published on January 19, 2011 [76 FR 3209], VA presented its Draft Master Plan for the West Los Angeles VA Medical Center campus (hereafter "WLA campus") of the VA Greater Los Angeles Healthcare System (VA

GLAHS), and solicited public comment on the DMP for a period of 30 days. The purpose of the DMP was to satisfy the legislative mandate of the Veterans Programs Enhancement Act of 1998 regarding "a master plan for the use of the lands \* \* \* over the next 25 years and over the next 50 years." This is a land use plan that guides the physical development of the campus to support its mission of patient care, teaching, and research. The plan reflects legislative restrictions on the property and discusses developmental goals and design objectives for the campus. The plan includes guidelines and criteria for land use and reuse on the campus, which provides a variety of services including inpatient and outpatient medical care, rehabilitation, residential care, mental health care and long-term care services. In addition, the campus serves as a center for medical research and education.

We received 29 comments on the DMP. All of the comments opposed at least one portion of the DMP. The majority of comments included one or more of the following topics: homeless housing for veterans on the WLA campus, existing land use, bicycle access within or through the campus, and the plan's level of detail regarding specific projects. The subject matter of most of the comments can be grouped into several categories, and we have organized our discussion of the comments accordingly.

### Comments Concerning Homeless Housing

There were a number of comments regarding how the DMP addressed homeless housing for veterans, particularly permanent housing on the grounds of the WLA campus. A single commenter expressed concern that increasing services to homeless veterans would negatively impact the surrounding community, stating that the VA already attracts "homeless pedestrians" who "offend customers by requesting donations." The eradication of homelessness among veterans has been deemed a priority mission by Secretary Shinseki, and it is only in pursuing that mission that vagrancy problems are likely to be eliminated. We therefore make no change based on this comment.

The majority of commenters believed the DMP should address the increased need for housing and services by veterans who are homeless. The DMP did address this issue, under the heading, "Community Care/Homeless Programs." (p. 38) This section details the numbers of emergency shelter beds (55), transitional housing beds (1,500),

Department of Housing and Urban Development (HUD) Section 8 permanent housing vouchers (940), and community residential beds for veterans with chronic disabilities (300). In addition, under the heading, "Domiciliary Residential Rehabilitation and Treatment," the plan describes the existing 321-bed facility, which houses both male and female veterans and provides coordinated, integrated, rehabilitative, and restorative mental health care in a residential program. (p. 38)

Several commenters expressed concern that plans to renovate Building 209 were not sufficient to meet the need for homeless veterans housing. Citing a pressing need and possible cost efficiencies, several commenters suggested that Buildings 205 and 208 be renovated at the same time as building 209. The DMP states that Buildings 205, 208, and 209 have been identified for potential renovation, to serve as housing for homeless veterans. As stated in the DMP, VA " \* \* \* does not commit to any specific project, construction schedule, or funding priority." As projects are further evaluated and authorized, both the needs of the veterans and the historical and environmental impacts of the projects will be considered. We therefore make no change based on this comment.

Some commenters suggested that VA was negligent in its responsibility towards homeless veterans, specifically stating that VA GLAHS was remiss in not providing shelter. In response, we note that VA GLAHS has one of the most recognized programs in the nation for serving homeless veterans, called the Comprehensive Homeless Center. The Comprehensive Homeless Center has many components dedicated to providing shelter for homeless veterans including: access to extended residential care for veterans with serious mental health and medical problems through the aforementioned VA GLAHS Domiciliary, which has 321 beds; case management of over 1,500 veterans with mental health issues living independently in the community through the HUD-VA Supported Housing Program; case management of approximately 300 veterans with a diagnosis of mental illness in board and care and assisted living facilities; same-day access to primary care, mental health care, and housing placement at the centralized screening clinic; and specialty dual diagnosis housing programs for veterans with both mental health and substance abuse issues. In particular, we note that VA operates a widely recognized transitional housing program on the WLA campus, where

approximately 1,200 community transitional housing beds have been secured for homeless veterans. Veterans in transitional housing programs stay for 3-to-18 months while receiving a range of medical, mental health and rehabilitative services; a high percentage of veterans who complete this transitional housing program move on to independent housing.

In addition, the Comprehensive Homeless Center helps homeless veterans develop the skills they need to find jobs that will keep them off the streets. Homeless veterans are provided access to vocational rehabilitation and job-finding programs through private agencies with funding provided by the VA and the Department of Labor's Homeless Veterans Reintegration Program.

The Comprehensive Homeless Center has an active outreach program. Great efforts are made to locate homeless veterans at homeless congregating areas like shelters and rescue missions. Outreach efforts also include area jails for incarcerated homeless veterans.

Because VA GLAHS is already providing these extensive programs to end homelessness among veterans, we make no changes based on these comments.

One commenter was concerned with the fact that the WLA campus has a zero-tolerance policy toward alcohol and drug use on campus, and how that policy affects our programs for homeless veterans.

Substance abuse is a persistent and recurring issue among homeless veterans, especially those coping with mental health problems such as PTSD. The WLA campus is a drug- and alcohol-free campus, and as such does not support a "housing first" model of care. The "housing first" approach provides housing for individuals regardless of whether or not they are currently abusing drugs and/or alcohol. This model differs from traditional approaches that require clients to reach a certain level of functioning through treatment before receiving long-term housing. In order to maintain a substance-free campus for the benefit of veterans undergoing treatment, VA GLAHS partners with various off-campus organizations and agencies throughout Greater Los Angeles to safely house and work with veterans who fall within the "housing first" criteria. We therefore make no change based on this comment.

#### Comments on Existing Land Use Agreements

A number of commenters expressed concerns regarding existing land use

agreements on the WLA campus. These commenters listed the various agreements, and called for the cancellation of all agreements with " \* \* \* all commercial, non-profit, special-interest, non-Veteran entities," expressing the belief that these agreements were a misappropriation of veterans land. The approved Capital Asset Realignment Enhanced Services (CARES) plan, which included public participation, allowed for retaining existing Enhanced Sharing Agreements (ESA) until their respective expiration. It is expected that renewal of these ESAs, as well as any new ESAs will need to adhere to the guiding principles and criteria set forth in the DMP, once the DMP is finalized. Furthermore, each of the existing agreements was executed pursuant to and in accordance with 38 U.S.C. 8151-8153 (commonly referred to as VA's enhanced sharing authority). The existing agreements benefit the veterans' community in some way. For example, the ESA with the University of California at Los Angeles (UCLA) that covers the Jackie Robinson Memorial Stadium provides veterans' organizations such as the American Legion with access to athletic facilities, as well as providing free admission to veterans for all home baseball games.

We also received comments regarding the Veterans Park Conservancy (VPC) agreement. These commenters each brought up a misperception that the VPC agreement will create a park for the public and not for veterans. To clarify, the Veterans Memorial Park exists and is being used for the benefit of veterans, to enhance and support patient-centered care, recreation therapy and mental health programs and staff. The area will have limited public access, as does the rest of the WLA campus. There was concern expressed by one commenter regarding Megan's Law, should children be present on the campus where veterans who are convicted sex offenders may reside. Again, the campus is a place for veterans to heal, and is not available for traditional public use. The development of a Veterans Memorial Park does not in any way change the local policy on public use of the grounds. Megan's Law applies the same today as it will when the VPC project is completed.

One commenter stated that the "inclusion of the State Veterans Home as Federal VA land in all maps" was not consistent with the DMP, which states that 13.5 acres were transferred to the State of California via a quitclaim deed for the use of the State Veterans Home. The acreage in question was in fact deeded to the State of California in March 2007. The transfer took place

prior to congressionally imposed restrictions on the use of the 388 acres composing West LA, *i.e.* Section 224 (a) of the Consolidated Appropriations Act, 2008, Public Law 110-161. The section of the DMP that covers Zone 2, the zone that borders the State Veterans Home, contains a map that reflects this transfer and defines the Zone as "up to the new California State Veterans Home." The 13.5 acre area on which the State Veterans Home is located is not included as within the boundary of Zone 2, as it is in fact State property. (pg. 28)

We also received comments about the parking lot at Barrington Park, which is under the jurisdiction and control of, and operated by, the City of Los Angeles. Some commenters reported that potentially homeless individuals sleep in cars and other vehicles overnight in the lot. As that parking lot is not within VA's jurisdiction and control, we make no change to the DMP due to this information.

We received one comment regarding the Army Reserve area adjacent to the west side of the south area of the WLA campus. Specifically, the commenter asked whether this area will become VA property, should the Army Reserve no longer have need for this area. The land was part of an inter-agency transfer of property to the U.S. Corps of Engineers in 1955. VA does not have a legal interest in the disposition of that property. Therefore, we make no change in the DMP due to this comment.

#### Comments That the DMP Lacks Specificity

There were a number of comments regarding the specific details of projects and land use programs addressed in the DMP. The DMP is a general use plan, and is inherently not project-specific.

Commenters sought more detail on the heights of buildings, the operating hours of projects once completed, the distance from proposed project sites to residential homes, square footage of projects, cost projections, environmental and historical impact, and many other project-specific details.

As stated in the plan, VA "does not commit to any specific project, construction schedule, or funding priority." As projects are further evaluated and authorized, both the needs of the veterans and the historical and environmental impacts of the projects will be considered. Several of these comments were in regard to the specific prioritization and timeline for conversion of Buildings 205, 208 and 209.

One commenter expressed concern that the DMP inhibited new programs

on the WLA campus by creating a "maze of redundant processes and unnecessary roadblocks to Veteran-friendly development." The DMP incorporates legislative decisions such as Public Law 100-322, section 421(b) (2), which restrict development with respect to public-private partnerships. VA GLAHS will abide by the guidelines and criteria set forth in the DMP with respect to land use opportunities that provide direct benefit for veterans.

One commenter was concerned that the DMP did not advance the CARES plan, expressing that the CARES process should have included a needs assessment of all under-utilized and vacant asset on the WLA campus. A needs assessment was indeed performed during the CARES process, during VA's subsequent Strategic Capital Investment Planning (SCIP) process, and preparation of the DMP, to identify the assets that can be redirected to better serve the needs of veterans. Therefore, we make no changes based on these comments.

#### Concerns That the DMP Fails To Abide by Restrictions of the 1888 Deed

Several commenters felt that the 1888 deed granting the West Los Angeles land formed a charitable trust that requires VA, as trustee of the purported trust, to maintain a National Home for Veterans. Some of these commenters felt that the DMP was a violation of that purported trust by suggesting the land be used for purposes other than housing veterans. VA disagrees with the assertion that the 1888 deed rendered VA a charitable trustee for the WLA campus. The 1888 deed contained certain language expressing the donor's desire that a National Home for Veterans (NHV) be built on the underlying property that was donated to the United States, which land is now under VA's jurisdiction and control. The donor's desire, while merely an expression of purpose and intent of the donation, has been satisfied, as a NHV was built on the WLA campus. Notably, the NHV still exists on the campus.

Moreover, in *Farquhar v. United States*, 912 F.2d 468 (9th Cir. 1990), descendants of the original land donors previously challenged the ability of the United States to transfer a portion of the land donated under the 1888 deed. In denying the descendants' position, the U.S. Court of Appeals for the Ninth Circuit held that the creation of the NHV (*i.e.*, the Pacific Branch of the National Home for Disabled Volunteer Soldiers) in the same year that the land was originally deeded to the United States, satisfied the donor's desire (*i.e.*,

purpose and intent) for donating the land to the United States.

Based on the foregoing, we make no change based on this comment.

#### Comments on Transit Services and Traffic Issues

Several commenters weighed in on transit services and traffic issues, particularly regarding potential bicycle access on the WLA campus and on the grounds of the Los Angeles National Cemetery. The majority of these comments expressed a desire to include in the DMP access that reflects " \* \* \* the needs of the cycling community." Several commenters expressed a desire to use the National Cemetery as a thoroughfare for cyclists. While we would encourage certain of our veterans to cycle for their health, to encourage cycling on campus and on National Cemetery property would almost exclusively benefit the public, and not veterans. The additional traffic and security concerns that would accompany any increase in cycling activity, combined with the fact that it is not primarily of benefit to veterans, makes including this kind of access for cycling on campus undesirable; however, as projects are further developed and approved, this issue will be further evaluated through VA's compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.* Therefore, we make no changes to the DMP based on these comments.

We also received comments seeking more information on the proposed Los Angeles County Metropolitan Transit Authority (Metro) Purple Line expansion, which eventually will travel the length of Wilshire Boulevard to Santa Monica. As mentioned in the DMP, (pg. 28) the project is in the initial planning phase and there are no details to provide. Metro has proposed building a station on the WLA campus as part of this expansion project and has identified a few locations that might serve its needs. However, any such station affecting the campus would be subject to applicable law and statutory restrictions, and must not interfere with the VA GLAHS priority of maintaining the peaceful and healing environment of our health care campus.

One commenter asked if the VA would "cooperate with the surrounding governmental jurisdictions to complete traffic studies and provide traffic mitigation for the increased traffic" that may result from any increased land use. As stated in the DMP, traffic, parking, and circulation studies will be conducted as part of VA's compliance with NEPA. (pg. 18) Though the WLA

campus is under the jurisdiction of the Federal Government. Federal agencies generally consider State and local zoning laws and codes when undertaking any new project. We therefore make no change based on these comments.

#### **Comments on the Need for Separate Facilities for Female Veterans**

One commenter expressed concern that separate supportive housing was not available for female veterans and their children. To clarify, there is dedicated housing for women veterans as part of our Domiciliary Residential Rehabilitation and Treatment Program facility, located on the north campus in Buildings 217 and 214. The program serves male and female veterans with mental health issues such as substance abuse and/or combat trauma.

While there is no specific on-campus housing for female veterans with children, VA GLAHS has an extensive network of off-campus providers who meet this need through HUD-VA Supported Housing and Grant and Per Diem programs throughout Los Angeles County and neighboring counties. VA GLAHS's Comprehensive Homeless Center also includes a dedicated outreach team for homeless female veterans. VA GLAHS has adequate programs in place to meet the housing needs of women veterans with children.

A commenter stated that there was a need for a separate facility dedicated to the general healthcare needs of female veterans. The VA GLAHS's Women Veterans Health Program has dedicated clinicians, programs and facilities to meet the unique needs of female veterans in a safe, women-only environment. Services offered include gynecology services, breast exams and mammography, reproductive health care, and menopause treatment. Additionally, mental health services including treatment for post-traumatic stress disorder and substance abuse are also available for women. Through the Women Veterans Health Program, VA GLAHS provides female veterans the health care and mental health services they need in a safe and supportive, women-only environment. We therefore make no change based on this comment.

#### **Comments on the National Cemetery Administration Columbarium Project**

There were several comments seeking clarification regarding the National Cemetery Administration's columbarium project. The U.S. Department of Veterans Affairs is comprised of three administrations: the Veterans Health Administration, the Veterans Benefits Administration, and

the National Cemetery Administration. The columbarium enables VA to support the provision of Federally guaranteed benefits offered by the Veterans Benefits Administration and the National Cemetery Administration. One commenter expressed dismay that the project would lower surrounding real estate values. Another commenter felt that the columbarium project was depriving living veterans of land that might be converted to housing for the homeless. Again, the burial benefits offered veterans are entitlements provided by the Federal Government. The land designated for columbaria does not contain any structures that have been identified as potential homeless housing, so the use of the land for columbaria does not in any way deprive homeless veterans of potential living space. As projects such as the columbarium are further evaluated and authorized, both the needs of the veterans and the historical, environmental, and socio-economical impacts of the projects will be considered.

Some commenters wanted to know the exact location of the columbarium. Regarding requests for specific details regarding the size, hours of operation, and access points for this potential project that is only a concept at this stage, VA has not finalized details beyond the information that was contained in the DMP. The NEPA process is complete. The draft Environmental Assessment was released for public comment with none received. The resultant Finding of No Significant Impact was signed on February 2, 2011. We make no change to the DMP due to these comments.

#### **Comments About Including the Public in the Planning Process**

Several commenters expressed concerns that the public was not being afforded adequate time to offer input on the DMP during the public comment process. The Federal Register process in which VA GLAHS engaged to obtain comments from veterans and the public is the most public and transparent process available for including veterans and the public in the development of this DMP. Additionally, the DMP that was published on January 19, 2011, fully incorporates the approved CARES plan, which included a series of public hearings and meetings as part of its approval process. The DMP is also consistent with the recently released SCIP. Finally, VA GLAHS has ongoing meetings with Veteran Service Organizations, community groups, and other local stakeholders, at which

recurring updates on land use at the WLA campus are provided.

Several commenters suggested that a new DMP be created. We have reviewed these comments, and while we respect the opinions of the individual commenters, VA is of the position that this DMP, once finalized, will address the mandate and meet the criteria to be submitted and serve as a final Master Plan for the WLA campus. Therefore, we make no changes based on these comments. As projects outlined in the Master Plan are further evaluated and authorized, both the needs of the veterans and the historical, environmental, and socio-economical impacts of the projects will be considered. Details of these projects will be developed and released to the public for comment through VA's compliance with NEPA.

#### *Comments That the DMP Serves the Needs of the Community Over Those of Veterans*

There were several comments to the effect that the DMP serves the needs of outside interests over those of veterans. Particularly, these comments referenced a misperception that the agreement with Veterans Park Conservancy would result in the development of a "public park." This DMP provides for land use and reuse for the direct benefit of veterans, and puts in place guidelines and criteria that will assure the land is used to support the mission of offering the highest quality health care, research, education and disaster response to serve the needs of veterans and the community. The 10 Guiding Principles of the DMP clearly state the criteria that VA GLAHS will use in considering any land use or reuse, (p. 24) and none of these 10 principles reflects serving the community as a priority. While the WLA campus does exist within a community and VA GLAHS is proud to be a part of encouraging healthy communities, serving the needs of the community never takes precedence over serving the needs of the veterans. Therefore, we make no change based on these comments.

#### *Comments That the DMP Does Not Address Therapeutic Recreation Areas for Veterans*

We received several comments regarding recreation for Veterans on campus. Specifically, these commenters wanted to see the development of more outdoor sports facilities for veterans, such as a fitness center and tennis courts, etc.

The DMP addressed both planned recreation areas for veterans and green space where veterans can engage in

therapeutic outside activities. A fitness and recreation area, completed in 2010, is located adjacent to the west side of Building 500. It includes machines and stations where veterans can work out at their own pace, as well as a padded surface for a safe area for less ambulatory veterans to get exercise. It is open every day from dawn until dusk.

Regarding outside recreation activities, VA GLAHS continues the long tradition of having a golf course on campus for veterans. The course, operated by United States Veterans Initiative (U.S. Vets), is open from sun-up to sun-down 7 days a week, and Veteran residents and inpatients receive first priority for play. The Veteran community has second priority, finally followed by the general public as space is available. VA also has beneficial use of the athletic facilities at the Brentwood School and MacArthur Field as part of the land use agreements for those spaces.

A planned future recreational and therapeutic area for veterans is provided for under the agreement with Veterans Park Conservancy. The development of a Veterans Memorial Park will be designed in coordination with VA patient-centered care, recreation therapy and mental health programs and staff. An initial phase of the project, the historic Rose Garden, will be completed in fall of 2011. This area, located just across the street from the Domiciliary, will include meditative gardens, tables for chess and checkers, and soothing fountains, making it a space ideal for both for recreational and therapeutic use. Also on the north campus is the

Japanese Garden, a peaceful environment with lush plants, waterfalls, and Koi fish for veterans to enjoy. Finally, on the south campus, adjacent to the American Red Cross facility, there are walking trails, succulent gardens and colorful native plants for veterans, as well as loved ones staying in the Fisher House, to enjoy year-round.

The agreement with UCLA for the Jackie Robinson Stadium includes free admission to home baseball games for veterans.

Physical Therapy and Recreation Therapy programs also exist to provide veterans with unique recreation experiences in a safe and supportive environment. Through these programs, veterans are able to participate in skiing, surfing, and compete in the Golden Age Games each year.

We believe that the DMP adequately addressed therapeutic recreation opportunities for veterans. Therefore, we make no changes based on these comments; however, as projects are further evaluated and authorized, opportunities to provide additional recreational areas to veterans may be considered as part of VA's compliance with NEPA.

#### *Comments Regarding the Legality of Sharing Agreements*

Two commenters challenged VA's authority to use ESAs as a contracting vehicle for land use programs on the WLA campus. ESAs are legally authorized under 38 U.S.C. 8153, a Federal statute that deals with VA land sharing agreements. All existing

agreements have been legally reviewed and approved at local and national levels, and all future agreements will follow the same approval process. Therefore, we make no changes based on these comments.

#### *Conclusion*

For the foregoing reasons, we adopt the DMP without change as the Master Plan for the West Los Angeles VA Medical Center. The Master Plan is available at <http://www.losangeles.va.gov/>. The Master Plan conforms to the relevant laws in effect on the date of publication. A change in law, such as the Administration's proposed Civilian Property Realignment Act, could impact this property. If these laws change, VA will update the Master Plan accordingly.

#### *Signing Authority*

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on May 19, 2011, for publication.

#### **William F. Russo,**

*Deputy Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

[FR Doc. 2011-15739 Filed 6-22-11; 8:45 am]

**BILLING CODE P**

I.B.  
AGENCY GUIDANCE

Department of Veterans Affairs  
Veterans Health Administration  
Washington, DC 20420

VHA DIRECTIVE 97-015

March 12, 1997

## ENHANCED HEALTH CARE RESOURCES SHARING AUTHORITY

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive implements provisions of Public Law (Pub. L.) 104-262, "The Veterans Health Care Eligibility Reform Act of 1996," which significantly expand the Department of Veterans Affairs (VA) health care resources sharing authority in Title 38 United States Code (U.S.C.) Sections 8151 through 8153.

**2. BACKGROUND:** Section 301 of Pub. L. 104-262, dated October 9, 1996, contains provisions which eliminate existing barriers and disincentives to the sharing of health care resources with non-VA entities. The types of resources that can be shared, and who qualifies as a sharing partner, are expanded effective with this directive.

a. VA will publish regulations establishing simplified competitive acquisition procedures applicable to sharing contracts, as permitted by Pub. L. 104-262. Following publication of final regulations, directives implementing these simplified procedures will be issued.

b. Besides providing additional flexibility in the acquisition of services, the statute expands the opportunity for VA health care facilities to sell services and generate revenue, thereby maintaining and expanding services to veterans. *NOTE: One effect of such measures could be the preservation of jobs that otherwise would have to be eliminated to meet budget reductions and cost efficiency targets.*

### 3. DEFINITIONS

a. The primary purposes of the health care resources sharing authority are to strengthen VHA medical programs and to improve the quality of health care provided to eligible veterans. Under this authority, health care providers are defined to include health care plans and insurers, and any organizations, institutions, or other entities or individuals who furnish health care resources. VHA may enter into sharing agreements or contracts with any health care provider, or other entity or individual. VHA may enter into sharing contracts to acquire ("buy") health care resources, to provide ("sell") health care resources, or to exchange health care resources.

b. The term "health care resources" includes hospital and ambulatory care, mental health services, medical and surgical services, examinations, treatment, rehabilitative services, dental services and appliances, preventive health care, prosthetics, and other health care services and supplies. The term also includes any health care support and administrative resources, as well as medical equipment or space. Health care support and administrative resources include those services, apart from direct patient care, determined necessary for the operation of VA facilities. Whereas health care support resources serve medically related purposes (e.g. biomedical equipment repair, patient transport), administrative resources include services not unique to the provision of medical care, but deemed necessary to support such care (e.g. security guard services, grounds maintenance). *NOTE: Nursing home care is to be acquired solely under the authority of 38 U.S.C. 1720; however,*

*nursing homes are appropriate sharing partners under this authority for the purchase or sale of health care resources as described in this paragraph.*

#### 4. POLICY

a. VA may enter into non-competitive sharing contracts with affiliated health professional schools ("affiliates"), practice groups and other entities associated with an affiliate (e.g., another hospital which has a residency training program with the VA affiliate), blood banks, organ banks, and research centers for health care resources consisting of commercial services, the use of medical equipment, space, or research. The term "commercial services" includes medical or professional services as well as other services. For these non-competitive contracts, a written determination citing the use of 38 U.S.C. Section 8153, and stating the sharing partner meets the above criteria, is required. For all other purchases, established competitive procedures must be followed unless a written sole source justification, containing the information and approved at the levels prescribed in Federal Acquisition Regulation Subpart 6.3, is prepared. The justification shall be maintained in the contract file.

b. When using the sharing authority to acquire or purchase health care resources that previously have been provided by VHA employees, all of the following conditions must be met:

(1) The contract must be cost effective. A cost analysis of existing, in-house services must be performed to determine the actual cost of performing the service or function. This analysis will be used as a basis for comparison of costs with contract providers, including VA affiliates. In deciding which services to provide "in-house," and which services to provide by contract (that is, a "make or buy" decision), services currently provided by contract should not be overlooked. If services being acquired by contract can be provided more cost-effectively by VHA employees, those services should be brought in-house, unless there are significant reasons (such as those identified in subparagraph 3b(2)) not to do so. **NOTE:** See Attachment A for additional guidance on how to determine cost effectiveness.

(2) The contract must be in the best interest of veterans. In addition to an analysis of "in-house" costs, other considerations such as ease of access, service satisfaction, quality of care, continuity of services, and the desirability of maintaining educational programs should be considered and compared to contracted services.

(3) Assistance to displaced employees must be provided. As in the case of contracts covered by 38 U.S.C. Section 8110(c)(8), contractors will be required to give hiring priority to employees displaced by the award of the contract when fulfilling their employment needs. If any such displaced employee cannot be hired by the contractor, the facility or Veterans Integrated Service Network (VISN) will assist the displaced employee in obtaining other employment or entrance (if eligible) into job training programs which may be available, or provide other legally appropriate transitional assistance.

(4) The service being acquired may not be on VHA's list of A-76 Commercial Activities. The sharing authority may not be used to obtain any service, activity or function identified in VHA's current or future inventory of commercial services to be reviewed under the Office of Management and Budget (OMB) Circular A-76. These activities must be handled in accordance with VHA's guidance on A-76.

(5) The contract must be in the best interest of the government. From a broad perspective, and considering the issues identified above, any contract must be in the best interest of the government. The decision to acquire services through a sharing contract is complex. VA management must make this decision based not on any one factor, but by carefully weighing all issues, such as quality of care, ease of access, cost-effectiveness, non-monetary costs, and other issues, some of which have been discussed in the above subparagraphs.

c. The sharing authority may be used to provide or "sell" health care resources to any eligible sharing partner.

(1) Contracts to provide or "sell" health care resources to other than eligible veterans may be executed only if a specific determination is made:

(a) That veterans will receive priority for the services being provided (e.g. no contract will result in the diminution of existing levels of services to veterans), and

(b) That the agreement is either necessary to maintain an acceptable level and quality of service to veterans, or will result in the improvement of services to eligible veterans.

(2) The contract file shall include a certification from the VISN or medical center director that these conditions have been met. The certification will accompany all "provide" contracts submitted to VA Central Office. Proceeds from providing or selling services are credited to the appropriate medical appropriation at the facility providing the service.

*NOTE: A separate VHA directive will be issued with additional guidance on selling VA health care resources.*

d. The Veterans Health Care Eligibility Reform Act of 1996 allows VA, in consultation with the Administrator of Federal Procurement Policy, to establish simplified procedures for the acquisition of health care resources consisting of commercial services or the use of medical equipment or space. The procedures will not apply to the acquisition of supplies or the leasing of medical equipment or space. VA must publish the simplified acquisition procedures for public comment in accordance with 41 U.S.C. 418b. Until these procedures are finalized, the Federal Acquisition Regulation and the VA Acquisition Regulation shall continue to apply to contracts with non-affiliated entities.

e. Pub. L. 104-262 contains a provision requiring Medicare to reimburse either VA or the sharing partner (as provided in the terms of the sharing contract) at established Medicare rates for Medicare covered services provided to Medicare beneficiaries, other than veterans eligible for VA medical care, under a sharing contract. A separate VHA Directive will be issued to implement provisions for billing Medicare. Until this specific VHA Directive is issued, no claims should be submitted to Medicare Fiscal Intermediaries for payment for services provided under sharing agreements.

f. Any amount VA receives as payment for services provided by VA during a prior fiscal year under a sharing contract may be obligated during the fiscal year in which VA receives the payment.

- g. Reimbursement rates and procedures for payment will be negotiated in the best interest of the government. VA facilities will consider local commercial market rates for similar services, as well as the VA cost in providing the services, when negotiating reimbursement rates.
- h. The number of Full-time Employee Equivalent (FTEE) involved in providing services under sharing agreements are not to be counted in the FTEE total for the Department for downsizing under the Federal Workforce Reduction Act of 1994.
- i. Where other authorities exist that also could be used for the sale or purchase of health care resources, the Medical Sharing Office or the Office of the General Counsel should be consulted to determine the appropriate authority.

## 5. ACTION

- a. VHA facilities may use the revised definitions as they appear above for the sharing of health care resources in developing contracts under the authority of 38 U.S.C. Section 8153.
- b. Because of the greater flexibility provided under 38 U.S.C. Section 8153 by Pub. L. 104-262, VHA facilities should consider using this authority instead of that in 38 U.S.C. section 7409 to obtain the services of scarce medical specialists.
- c. All of the management controls and pricing guidelines for medical resources sharing and for scarce medical specialist contracting (such as conflict of interest and the protection of rights and privileges of permanent employees) contained in previously published directives and in MI, Part 1, Chapter 34 remain in effect. VA medical centers and/or VISNs should be especially alert to potential conflicts if interest, and should consult with Regional Counsel if there are any questions or concerns in this regard.
- d. The delegation of contract review and approval authority to field facilities for non-competitive contracts valued below \$500,000 and for competitive contracts valued below \$1.5 million remains in effect. The following exceptions, regardless of dollar amount, will continue to require VA Central Office review and approval prior to solicitation:
  - (1) Any agreement for the VA to provide or sell inpatient services.
  - (2) Any agreement for the purchase or sale of administrative resources, the use of medical equipment or space, prosthetics, supplies, or laundry services. VA medical centers and/or VISNs considering a sharing contract to provide or acquire the use of space are encouraged to call the Medical Sharing Office to help identify the appropriate legal authority. In some circumstances, the Enhanced Use Leasing Authority (38 U.S.C. Sections 8161 through 8169) may provide significant advantages. *NOTE: Further guidance for sharing space and other administrative resources is being developed. When this guidance is issued, review and approval authority within established dollar thresholds will be delegated to the field.*
  - (3) Any non-competitive purchase agreement with an "entity associated with an affiliate," other than a practice group or institution having a

residency training program with the affiliate. Practice groups and institutions having a residency training program with the affiliate have been determined to meet the definition of "an entity associated with an affiliate." If VA medical centers and/or VISNs anticipate entering into a non-competitive contract with another type of "entity associated with an affiliate," they are encouraged to consult with the Medical Sharing Office for a preliminary determination on whether the entity meets the statutory requirements. When further guidance on defining "entities associated with an affiliate" is developed and published, review and approval authority within established dollar thresholds will be delegated to the field.

*NOTE: In many instances, VA Central Office review and approval for proposals below the delegated dollar thresholds identified in subparagraphs 4d(1) through (3) can be obtained by fax or telephone by contacting the Rapid Response Team composed of representatives from the Medical Sharing Office (166), Office of the General Counsel (025), and Acquisition Resources Service (95E).*

e. Contracts for the purchase of primary care services at a site away from an existing VA facility may not be executed unless prior approval is obtained for the establishment of a Community Based Outpatient Clinic.

f. As is currently required, copies of all executed sharing agreements and supporting documentation must be forwarded to the Medical Sharing Office (166) within 5 days of final award.

## 6. REFERENCES

- a. Title 38 U.S.C. Sections 8151-8153.
- b. Public Law 104-262, Section 301.
- c. M-1, Part 1, Chapter 34.
- d. VHA Handbook 1660.4.

**7. RESPONSIBLE OFFICE:** The Director, Medical Sharing Office (166) is responsible for the contents of this Directive. VA medical center Directors and VISN Directors are responsible for compliance with this directive at the local level. Questions may be referred to the Medical Sharing Office at (202) 273-8404 or fax: (202) 273-9056.

**8. RESCISSION:** This VHA Directive will expire on March 12, 2002.

/s/ by Thomas Garthwaite, M.D. for  
Kenneth W. Kizer, M.D., M.P.H.  
Under Secretary for Health

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## ATTACHMENT A

### COST GUIDELINES

1. This attachment is to provide general guidance on determining the cost effectiveness of contracting functions or activities under the enhanced sharing authority.
2. Cost effectiveness is determined by performing a cost analysis of in-house costs and comparison to potential contract costs. The level of detail of a cost analysis should be proportionate to the size, type or dollar value of the activity or function under review. A smaller activity may have a less detailed cost analysis and, therefore, a larger activity may have a more detailed cost analysis. Two reference documents that may be utilized are the 'Cost-Benefit Analysis Handbook,' dated August 1989, published by the Assistant Secretary for Finance and Planning, and the 'Revised Supplemental Handbook,' OMB Circular A-76, dated March 1996.
3. There are four general categories of costs: non-recurring, recurring, sunk and non-monetary costs. Each of these categories of cost is described as follows:
  - a. **Non-recurring Costs.** Includes costs such as equipment procurement and installation, site preparation, one-time overtime, sale or scrap of equipment, conversion to contract and other one-time costs.
  - b. **Recurring Costs.** Includes costs such as personnel, fringe benefits, expendable supplies, normal maintenance and repair, utilities, contract administration, rent, travel and other costs of maintaining and operating the function, activity or system.
  - c. **Sunk Costs.** Includes costs such as repairs that have been made on a system that is still not functioning and other costs that have been expended or incurred as a result of past decisions. Sunk costs should not be discounted or included in a cost-benefit ratio. They must, however, be included in the total life cycle costs.
  - d. **Non-monetary Costs.** Includes those costs that cannot be quantified and given a dollar value such as ease of veteran access, service satisfaction, community benefit and/or welfare, best interests of the veteran and quality of care. While these costs cannot be included in

cost-benefit calculations, they are very important and must be considered in determining "make or buy" decisions in the best interests of veterans and the Government. Quality of care issues may result in "make or buy" decisions that are financially more costly but provide better level of service or care to veterans.

4. The preceding identified costs are examples of costs in each category, not a comprehensive listing. Adapt the number and types of costs to your particular cost analysis. Reduced operating or overhead costs from building closures or reduced administrative support to the function or activity under a "buy" scenario should also be considered.

5. Both referenced handbooks provide several samples for summarizing costs, cost-benefit ratios, etc. These formats or other formats may be utilized, or modified, to meet the needs of a specific function or activity under review. Field staff should contact their local Chief Financial Officer for assistance preparing cost analyses or obtaining referenced handbooks.



[ [Policy and Regulation Index](#) | [Policies Table of Contents](#) | [OA&MM Home](#) ]  
 [ [VA FOIA Electronic Reading Room](#) | [E-mail](#) | [Top of Page](#) ]

August 3, 2000

**ENHANCED HEALTH CARE RESOURCES SHARING AUTHORITY - SELLING**

- 1. PURPOSE:** This Veterans Health Administration (VHA) Directive further implements provisions of Public Law (Pub. L.) 104-262, "The Veterans Health Care Eligibility Reform Act of 1996," which significantly expands the Department of Veterans Affairs (VA) health care resources sharing authority in Title 38 United States Code (U.S.C.) Sections 8151 through 8153.
- 2. SUMMARY OF CHANGES:** Expansion of Pub. L. 104-62 and VA health care resource sharing authority requires definition of new guidelines. Veterans Integrated Service Network (VISN) and medical center Directors are responsible for compliance with the requirements outlined in this Directive, for meeting all requirements of law and policy, for meeting all labor management responsibilities, for the establishment of appropriate and legally sound contract terms, for making sound business decisions, for ensuring that staff are properly trained and are fully capable of exercising any delegated authority, for ensuring adequate documentation of the contracting process, and for contract and performance monitoring.
- 3. RELATED ISSUES:** VHA Handbook 1660.1.
- 4. RESPONSIBLE OFFICE:** The VHA Chief Financial Officer (17) is responsible for the contents of this Directive.
- 5. RESCISSIONS:** M 1, Part 1, Chapter 34, Section II, is rescinded.
- 6. RECERTIFICATION:** This document is scheduled for recertification on or before the last working day of August 2005.

S/ Melinda L. Murphy for  
Thomas L. Garthwaite, M.D.  
Acting Under Secretary for Health

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### 2. BACKGROUND

a. Section 301 of Pub. L. 104-262, dated October 9, 1996, contains provisions which eliminate barriers and disincentives to the sharing of health care resources with non-VA entities. VHA Directive 97-015, dated March 12, 1997, contains information on the types of resources that can be shared, and who qualifies as a sharing partner under the expanded authority, but addresses issues primarily related to VA's acquisition of health care resources. This Directive deals primarily with issues related to VA's selling of health care resources.

b. VHA may enter into sharing agreements or contracts for the sale of VHA health care resources with any health care provider, or other entity, group of individuals, corporation, association, partnership, Federal, State or local governments, or individual. For this purpose, a health care provider is defined as including health care plans and insurers, and any organizations, institutions, or other entities or individuals who furnish health care. VHA may not enter into any sharing contracts with prohibited foreign entities (e.g., Cuba, Iran) or with partisan political entities.

c. VHA may enter into sharing agreements or contracts for the sale of health care resources, including hospital and ambulatory care, mental health services, medical and surgical services, examinations, treatment, rehabilitative services and appliances, preventive health care, prosthetics, and other health care services. Services may be offered to a sharing partner for non-veterans only if the service is within the scope of VA's authority and is authorized by law for veterans.

d. The term "health care resources" also includes health care support and administrative resources, the use of medical equipment, or the use of space. Health care support and administrative resources include those services, apart from direct patient care, determined necessary for the operation of VA facilities. (Examples of services provided by VA that are not needed for the operation of VA facilities include child care, fitness centers, and job placement services for displaced workers. These kinds of services may not be included in sharing contracts.) Health care support resources serve medically related purposes (e.g., biomedical equipment repair, patient transport). Administrative resources include services not unique to the provision of medical care, but deemed necessary to support the operation of a medical center (e.g., transcription services, grounds maintenance).

### 3. POLICY

#### a. Contracts to Sell Health Care Resources

(1) Contracts to sell health care resources may be executed only if a specific determination is made:

(a) That veterans will receive priority for services under such an agreement (e.g., no contract will result in the diminution of existing levels of services to veterans); and

(b) That the agreement is necessary either to maintain an acceptable level and quality of service to veterans, or will result in improvement of services to veterans.

(2) The contract file must include a certification from the Veterans Integrated Service Network (VISN) Director, or the medical center Director, that the preceding conditions have been met. A copy of this certification must be submitted electronically, along with a copy of the executed contract, to the Office of Finance Sharing and Purchasing Office (SPO) (175), VHA Headquarters, within 5 work days of the contract award.

(3) All concept proposals to sell VA resources under this authority must be approved by the Rapid Response Team (RRT), consisting of staff from the SPO, Office of General Counsel (025) and Acquisitions and Material Management (095). The concept proposal must be e-mailed over Microsoft Exchange to the SPO and is to be approved by the VISN and/or medical center Director, or their designees.

(a) The concept proposal should include the following:

1. The resource to be sold;
2. Name of the sharing partner;
3. The term of the agreement; and
4. The costing methodology or basis of rate reimbursement.

(b) The SPO will e-mail the results of the RRT review to the facility submitting the contract for review and this response shall be part of the contract file. *NOTE: Concept approval by the RRT is not a legal or technical review nor approval of the sharing agreement; field facilities will be notified when concept approval for a specific resource is no longer needed.*

(4) Contracts valued at \$500,000 or more may be executed only after legal and technical review by VA Central Office (legal review will be conducted by General Counsel, VA Central Office). Local officials are responsible for incorporating any changes required by the legal and/or technical review before the contract is executed. Contracts requiring legal and technical review should be sent to the Sharing and Purchasing Office over Microsoft Exchange or mailed on a computer disk to VA Central Office. That office (175) is responsible for coordinating the

review and communicating the results to the facility submitting the contract for review. Following legal and technical review, an appropriately designated VA selling official may execute the contract.

(5) General Counsel field attorneys must have a final review of all contracts with a total value less than \$500,000 before they are executed. Approval authority for all contracts to sell services having a total value of less than \$500,000 over the period covered by the contract (initial year plus any option years) is delegated to the field.

(6) Proposals to sell inpatient services to non-veterans require the approval the Secretary of Veterans Affairs and the Under Secretary for Health. These proposals might also require presentations to representatives of national veteran service organizations and congressional delegations. The SPO will coordinate these presentations and provide technical assistance on the information required.

b. **Enhanced Sharing Agreements for the Use of VA Space.** Enhanced sharing agreements for the use of VA space (including parking, outdoor recreational facilities, and vacant land) are authorized under 38 U.S.C. Section 8153.

(1) In sharing the use of VA space under this authority, VA must consider the use to which the space would be put by the potential partner to the contract. Potentially controversial uses are to be avoided. For example, VA facilities should not sell use of space for any illegal activity, abortion services, the sale of alcohol or firearms, gambling activities, partisan political activities, correctional-system activity, storage or processing of hazardous materials, billboards, or purposes which would violate community standards. VA facility managers should also consider impacts on patient privacy, VA computer systems, telecommunications and data, parking, and fire, health, and safety, and security and law enforcement issues in sharing the use of VA space.

(2) Sharing partners may use their own resources to make capital improvements to existing VA space. However, VA must approve the proposed capital improvements in advance and must ensure that the project is an overall "good business" decision for VA. VA must require that the sharing partner comply with the minimum wage requirements of the Davis-Bacon Act (40 U.S.C. Section 276a) when renovating or improving VA space, even though Federal appropriated dollars will not be directly expended on the construction project.

(3) VA may use medical care appropriation funds under the non-recurring maintenance (NRM) program to make improvements to VA space for use by a sharing partner. Neither major nor minor construction funds may be used to improve space solely for the purpose of use by a sharing partner.

(4) All proceeds from contracts for the use of VA space under the enhanced sharing authority will be deposited into the medical care appropriation account at the VA facility.

(5) It may be appropriate, as sound business practice, for VA to pay damages to a sharing partner in the event that VA must terminate a use of space contract before the time specified for the contract, particularly if the sharing partner has made a significant capital investment in the

space, but only if provisions for damages are included in the terms of the initial contract. Such contracts cannot provide for unlimited liability or indemnification. The following provisions must be included in any sharing contract involving liability payments from VA: first, set a dollar limit on the amount of damages that the facility will pay in each year if the agreement is terminated; second, limit VA's liability to the amount of appropriated funds available to the facility at the time payment is made; and third, state that VA does not promise that Congress will appropriate additional funds to meet any deficiency in the event that damages must be paid. In the event that damages are to be paid in accordance with the terms of a contract, the medical center will be responsible for the payment of the damages from the Medical Care Account.

(6) Contracts for use of VA space by a sharing partner to provide inpatient hospital care to their own patients may be developed under this authority, if the space in question is discrete from VA inpatient beds, the space is staffed by the sharing partner's physicians and nurses, and the partner operates their own admission and discharge system. VA may provide support services, such as housekeeping, food service, or lab and x-ray services to the sharing partner using such space. Contracts of this nature are considered to be use of space, equipment and support services contracts and not contracts for VA to provide inpatient care. Under no circumstances may a sharing partner sub-let use of VA space obtained through an enhanced sharing contract to a third party without prior approval from the Rapid Response Team, VA Central Office.

(7) Use of space sharing agreements for up to 20 years total may be executed under this authority. The Under Secretary for Health may grant an exception to the 20-year term limit. The VA Central Office RRT must approve the concept for proposed use of space agreements totaling 10 to 20 years. A detailed cost-benefit analysis, market survey results, and a statement of how revenue generated will be used shall be submitted with these requests. Proposals involving new construction and not just renovation of existing space, shall be submitted under the Enhanced-Use Lease Program and not under sharing.

(8) A use of space agreement for ten years or longer requires an early termination clause.

(9) Use of space proposals that exceed \$600,000 annually, \$4 million over term, or \$4 million in investment are subject to the VA Capital Investment Process and review by the VA Capital Investment Board.

c. **Contracts for Use of VA Equipment.** Contracts for use of VA equipment may be executed under the enhanced sharing authority. Appropriate terms should be included in the contract, addressing responsibility for equipment maintenance or loss. The sale, resale, or other disposition of VA or Government property or equipment (such as new or used computers or torn linens) is not authorized under enhanced sharing. Disposition of Government property is governed by Federal Property Management Regulation Title 41 Code of Federal Regulations (CFR) 101 or Federal Management Regulations 41 CFR Parts 102-1 through 102-22. Contracts for the use of equipment may be executed for up to five years or for the useful life of the equipment, whichever is longer.

d. **Contracts for the Sale of VA Direct Patient Care Services.** Contracts for the sale of VA direct patient care services (inpatient or outpatient care) may be executed under the enhanced

sharing authority. However, without the express permission of the Under Secretary for Health and of the Secretary of Veterans Affairs, no contracts for the sale of VA inpatient services for non-veterans will be considered or executed under the health care resources sharing authority.

**NOTE.** *TRICARE agreements are VA-Department of Defense (DOD) sharing agreements under 38 U.S.C. Section 8111 and are encouraged.*

(1) VA facilities seeking to sell services to non-VA health care facilities under enhanced sharing contracts may obtain State permits and licenses where State law requires those non-VA health care facilities to purchase services from entities permitted and/or licensed by the State. VA facilities may pay applicable service charges and fees in obtaining these permits and/or licenses.

(2) VA facilities may enter into contracts with Health Maintenance Organizations (HMOs), other types of managed care organizations, or other types of health care providers to sell hospital and outpatient care. If a veteran is enrolled with VA and elects to receive care from VA as a veteran, that individual must be treated as a veteran regardless of membership in an HMO. The treatment of such a patient would be subject to VA protocols, not the protocols of the HMO. The veteran also would be required to pay VA any co-payments imposed by VA. Alternatively, the veteran could elect to receive hospital or outpatient care from VA as a member of the HMO that has contracted with VA. Any care for non-service connected conditions furnished to individuals as veterans must be billed under the Medical Care Cost Recovery (MCCR) Program. If the veteran elects to receive care pursuant to the HMO contract as an HMO member, VA co-payments would not apply, but the individual would be subject to any co-payments the HMO might impose. Finally, if the veteran is not enrolled with VA, the veteran must be treated as an HMO patient pursuant to the terms and conditions of VA's sharing agreement with the HMO, unless an exception listed in 38 CFR Section 17.37 applies. The groups of veterans listed in 38 CFR Section 17.37 need not be enrolled with VA for some or all VA care. To the extent that a veteran is being treated "as a member" of an HMO pursuant to a sharing contract, and not "as a veteran," VA must bill the HMO. **NOTE:** *Contracts must require payment to VA from the HMO of the full contract amount for services furnished and may not require VA to coordinate insurance benefits or to pursue third party insurance billings and collections for care furnished to non-veterans.* An appropriate Release of Medical Information form must be signed by the patient before information from VA medical records is released to the referring HMO. The provision in subparagraph 4a.(1) that "veterans receive priority for services under such an agreement" does not require that facility to give preferential treatment to persons receiving care as a member of an HMO or other health care plan with whom VA has a contract to provide services if those persons happen to be veterans. The person may choose to be treated as a veteran or as a member of the health care plan. The choice made by the veteran will determine the amount of any required co-payments and the extent of hospital care or outpatient care available.

(3) Contracts may be executed for VA to provide outpatient care, including outpatient diagnostic and consultative services to individual patients referred by a sharing partner (e.g., a community physician wanting to send patients to VA for laboratory work) provided the contract with the community sharing partner stipulates that the sharing partner will be responsible for directly paying VA the full contract amount for services rendered to non-veterans. No contracts will be executed which require VA to coordinate insurance benefits or to pursue third party

insurance billings and collections. In the event that a community provider refers a non-veteran for diagnostic or consultative services, no billing under the sharing authority to either the non-veteran or to the non-veteran's third party insurance carrier will be undertaken. An appropriate Release of Medical Information form must be signed by the patient before information from VA medical records is released to the referring sharing partner.

(4) Unless the sharing partner is a State veterans home, VA may provide supplies, drugs, and prosthetics only if the items are integral to the provision of medical services to be furnished by VA under a sharing agreement (e.g., flu shots, chemotherapy, emergency short-term prescriptions, but only as part of a services contract where VA is providing preventive, oncological, or medical treatment services).

(5) VA may sell the professional services of VA pharmacists and may provide mail-out pharmacy and pharmacy benefits management services to a sharing partner provided the sharing partner buys or provides the drugs and/or supplies. VA may not re-sell pharmaceuticals or supplies.

(6) VA may sell radio-pharmaceuticals produced by VA for use outside of a VA facility provided all necessary approvals from the Food and Drug Administration and the Nuclear Regulatory Commission are obtained for the manufacture of the items as a new drug.

(7) VA may enter into agreements with State Medicaid programs to provide services to State Medicaid beneficiaries. If a Medicaid beneficiary referred to VA for care is also a veteran, the beneficiary may request VA care as a veteran. If VA enrolls the veteran, or if the veteran is eligible for the VA care in question without being enrolled, VA would be prohibited from billing Medicaid for the care provided to the veteran. *NOTE: Any agreement to provide inpatient care to non-veterans requires the express approval of the Under Secretary for Health and of the Secretary of Veterans Affairs (see subpar. 3d.).*

(8) The sale of patient care services involves special consideration of medical records generated by VA.

(a) All contracts for the sale of direct patient care services by VA employees in VA-owned or leased space must specify that:

1. VA owns the records of care provided;
2. Individually identified and retrieved patient records are protected by the Privacy Act, 5 U.S.C. 552a;
3. Where VA is treating an individual for one of the medical conditions covered by 38 U.S.C. Section 7332, Section 7332 also applies to the treatment records; and
4. Where these statutes apply, the facility may release these records only as authorized under these statutes.

(b) Records generated by VA employees providing services to the general public at non-VA facilities are not VA records and are not covered by either the Privacy Act or 38 U.S.C. Section 7332.

(c) Records generated by VA employees providing services to the general public are not protected by 38 U.S.C. 5701, the VA benefits records confidentiality statute.

*NOTE: Questions concerning ownership of, and application of Federal confidentiality laws to, records created by VA employees in the performance of a sharing agreement subject to this Directive should be referred to the Field Office of the General Counsel.*

(9) Service contracts may be executed for periods up to five years.

e. **Selling of Services.** VHA may sell support services and professional, managerial, and administrative services performed by VHA staff. These service contracts may be executed for periods up to five years.

(1) Duties of VA staff under terms of the contract may not include responsibility for personnel actions, such as hiring, firing, or disciplinary actions on behalf of the sharing partner, representing the sharing partner in public venues, or setting policy for the sharing partner.

(2) VHA may sell education services provided the educational program is part of veteran patient or staff continuing education. Examples include smoking cessation classes, Cardiopulmonary Resuscitation (CPR) certification training, nursing assistant training, seminars for Continuing Medical Education (CME) credit, and some support services certification internship programs. Appropriate reimbursement rates will be established and collected for these services. A sharing contract must be executed either with each individual receiving these education services, in which case the individual will be responsible for payment in advance to VA, or with a sponsoring organization which would assume responsibility for payment to VA.

(3) In all circumstances where there is a request for catering services for a meeting or other function on VHA property or for food service for employees or for visitors, Canteen Service shall have the right of first refusal. Only after Canteen Service has indicated that they are not interested or cannot provide the requested service, can a medical center's food and nutrition service enter into a sharing contract to provide a catering food service on VA grounds.

(4) Because VA police officers have law enforcement authority only on Department property, VA may only sell police and security services to sharing partners who are physically located on VA property. VA police and security units may perform security assessments and provide consultative and training services to any sharing partner at any location.

(5) VA may not sell agent cashier services. VA may not hold money for another party or pay out money on its behalf. This would create a fiduciary relationship and, except for very limited circumstances, such as for the joint acquisition of high-tech medical equipment with a sharing partner, VA is not authorized by law to perform such "banking" functions.

(6) All sharing agreements under 8153 and 8111 authorities for human immunodeficiency virus (HIV) testing service alone or as part of medical evaluations, clinical care or screening programs shall include as part of this service pre-test counseling and post-test counseling to be conducted by VA HIV test counselors or appropriately trained VA personnel. Elements of pre- and post-HIV test counseling are defined in the HIV test provisions of Circular 10-88-151, Section e (for pre-test counseling) and Section f (for post-test counseling) and Section g (for documentation requirements). If there are questions when considering the development of sharing agreements that may include HIV testing services, please consult with Director, VA AIDS Service (132), Dr. Lawrence Deyton at 202 273-8567.

f. **State Veterans Homes (SVH)**

(1) VA may not enter into a sharing agreement to manage a SVH.

(2) SVHs may be granted direct access to Federal Supply Schedule (FSS) contracts for services, equipment and supplies, including pharmaceuticals, after the SVH has executed a sharing contract under this authority to purchase use of space, use of equipment, or services from a VA facility. Once such a contract has been executed, the Office of Finance Sharing and Purchasing Office (175) in VHA Headquarters will arrange with the National Acquisition Center (NAC) for that SVH to be added to the list maintained by the NAC of SVH's authorized to buy from the FSS.

g. **Reimbursement Rates.** Reimbursement rates (i.e., prices) and procedures will be negotiated in the best interest of the Federal Government.

(1) VA facilities will consider local commercial market rates for similar services, as well as the full cost as defined by the Federal Accounting Standards Advisory Board for providing the service when negotiating reimbursement rates (see par. 5). Facilities are encouraged to maximize revenue generated from the sale of use of space or equipment and services under this authority. Prices may be established above full cost.

(2) Depending on the services(s) covered by the contract, per procedure pricing, capitated rates, hourly rates, Full-time Employee Equivalent (FTEE) rates, payment for specified deliverable (e.g., a report), or other reimbursement rate methodologies are considered appropriate for these contracts. *NOTE: Using rates established by the Health Care Financing Administration (HCFA) is encouraged.*

(3) In setting any reimbursement rates, VA must be sensitive to private sector perceptions that Federal funds are being used to subsidize operation costs, that VA pays no State, local, or Federal taxes, that VA is not borrowing money at interest to finance construction and new equipment purchases, and that VA is able to set an artificially low price for services.

(4) Less than full cost may be considered in setting a price for services only if the contract is necessary to maintain the level of quality or to keep a program in existence for veteran care. *NOTE: For example: less than full cost may be acceptable for the sale of a surgical service if there is insufficient veteran caseload to maintain an acceptable skill level of the surgical staff*

*and additional caseload is needed for quality of care.* In no instance will any contract be executed where the reimbursement rate is determined to be less than the local direct cost which is defined as the Decision Support System (DSS) fixed direct, variable labor, variable supply, and depreciation costs for the service under consideration. Local direct cost can also be considered as average total cost.

(5) The rationale and justification for all price determinations shall be fully explained and documented and maintained in the contract file and shall be sent with a copy of the executed contract to the Sharing and Purchasing Office (175).

(6) When VHA facilities choose to set reimbursement rates using a capitation methodology, they must carefully consider and include factors such as stop loss, reinsurance, or similar measures to ensure that appropriated dollars are not used to cover unanticipated operational losses resulting from capitated contracts.

(7) Pub. L. 104-262 contains a provision requiring Medicare to reimburse either VA or the sharing partner (as provided in the terms of the sharing contract) at established Medicare rates for Medicare covered services provided to Medicare beneficiaries who are not veterans eligible for VA medical care. **NOTE:** *Until additional guidance is issued in a future VHA Directive, no claims should be submitted by VA facilities to Medicare Fiscal Intermediaries for payment for services provided under sharing contracts. Accordingly, facilities should not agree to terms in proposed sharing agreements that would require VA to bill Medicare.*

h. **Proceeds.** All proceeds generated by health resources sharing contracts will be credited to the appropriate medical or research appropriation at the facility providing the service and will be immediately available for use by the facility. Any amount received as payment for services provided by VA in a prior fiscal year may be obligated during the fiscal year in which the payment is received. It may be to the medical center's advantage to include terms in the contract for VA to receive payments normally made in September on or after October 1.

i. **Regional Counsel Consultation.** In all cases where VA would be selling services, resources, or use of space or equipment to an entity which has an existing contract to sell or provide other services to VA, the designated enhanced sharing regional counsel staff attorney will be consulted early in the process of developing the contract, and certainly in advance of execution of the contract, regarding any possible conflict of interest. The designated enhanced sharing regional counsel staff attorney also will be consulted in all cases where VA is proposing to sell services, resources, or use of space to part-time or to full-time VA staff or to individuals who may have a personal or close financial relationship with VA staff. When VA sells to its employees, questions reasonably may be raised regarding the fairness of the selling process. For this reason, contracts for the sale of use of space or equipment, or services to individuals with any kind of employment relationship to VA are prohibited except for medical research purposes. When facilities decide to consider such agreements, prices must be set at the commercial market rate or at full cost, whichever is higher.

j. **Additional FTEE or Contract Staff.** Additional FTEE may be hired or VA may contract for staff to provide services to non-veterans as long as no statute or appropriation prohibits the

hiring and the activity falls within VA's mission. The use of term or temporary appointments is preferred over the hiring of permanent new staff in the event that contracts are not successful or if they are not renewed after the first year. However, any "new hires" must be approved by the VISN Director who must take into account impacts from reductions in staff relating to veterans care. Facilities may employ the services of veterans in the Compensated Work Therapy (CWT) program provided the CWT program fund is paid for the veterans' time. However, because CWT workers are not considered VA employees or VA contractors, CWT workers cannot have any access to patient records.

k. **Additional Equipment.** Additional equipment may be purchased through the already established processes. Existing procedures may be used to reprogram funds as needed.

l. **Commercial Loans.** VA facilities may not enter into commercial loans for any purpose. VHA may not make capital investments in either facility improvements or in the purchase of additional equipment to accommodate unknown future requirements solely for the purpose of selling services (i.e., a VA facility cannot create or establish a new service just to sell it).

m. **VA Response to Proposals and Bids.** VA may respond with proposals and bids to solicitations for services issued by any appropriate potential sharing partner.

n. **Marketing.** VISNs and medical centers are encouraged to develop a long-term marketing strategy. Marketing should make potential partners in their local communities aware of opportunities to buy services from VA and enhance the reputation of the VA health care system as a reliable business partner.

(1) VISNs and facilities are encouraged to consider opportunities with local businesses and governments that may not be involved in direct health care. The opportunities could include such services as pre-employment physicals to an industrial manufacturer; or nursing assistant training to a public housing authority as part of a welfare-to-work program.

(2) VA policy on paid media advertising is set forth in VA Manual MP-1, Part I, Chapter 4, subparagraph 4e. VHA facilities may purchase media advertising to sell VA health-care resources to non-VA health-care providers. VHA facilities must consult with and receive written or electronic approval from the Office of Public Affairs (OPA) Regional Office for all such advertisements

o. **Competitive Process.** Although there is no requirement for VA to follow a competitive process in selling the use of space, equipment, or services, facilities should consider doing so when appropriate.

p. Contracts for the sale of services shall not be signed without prior approval from the Rapid Response Team, VA Central Office.

#### 4. ACTION

a. Medical centers and VISNs are strongly encouraged to use a concurrent team approach in selling health care resources. When an opportunity to sell a resource is under serious consideration, a business team shall be established, as appropriate, to coordinate the activity. The determination of the membership of the team shall be at the discretion of the facility or VISN; however, the following functions must be included:

(1) **Coordination of Facility-wide Activities.** An individual with sufficient knowledge of the facility's operations must be part of the team. This person will ensure that services to veterans will not be compromised, that the opportunity to sell health care resources is consistent with the overall mission of the facility, that politically sensitive issues have been considered, and that coordination with stakeholders has occurred.

(2) **Authority to Sell.** A person with authority to commit VA to a binding sales agreement will be included (see subpar. 4g.).

(3) **Financial Analysis.** A person with the ability to determine the financial feasibility of the opportunity will be a member of the team.

(4) **Legal Support.** The team shall seek legal advice from the Office of the General Counsel Washington, DC, or General Counsel field staff, from the beginning of the concept development through execution of the agreement.

(5) **Human Resources and Union Representatives.** In situations where selling a resource may affect employees (e.g., change in work site), a human resources representative will be part of the team. If any of the affected employees are bargaining unit members, the exclusive representative(s) will be included.

(6) **Program Officials.** When not prohibited by a conflict of interest or other bar, the individual responsible for the organizational element that will provide the resource will be included on the team. If that individual cannot participate, a designee will be included.

b. The team will meet to discuss the initial proposal and throughout the process. Meetings need not be face-to-face but may be conducted electronically or by conference calls.

c. Teams are required to make several critical determinations and to ensure that proper documentation exists to support each determination.

(1) **Determination of Capacity.** The team shall determine that sufficient capacity exists or can be generated to handle the work associated with the selling opportunity. This will include a determination that the proposed activity will not diminish existing levels of services to veterans and that the contract is necessary either to maintain an acceptable level or quality of care or to improve services to veterans. Any revenue generated from the contract will be used to benefit veterans. Decisions to sell resources should be based on sound business principles. The team must be able to document how VA benefits from the sale of the resource.

(2) **Determination of Costs.** Both local direct costs and full costs must be determined. There is no single costing methodology that will fit all circumstances. Good judgement must be exercised in choosing the methodology most appropriate to the resource in question. The methodology chosen for determining costs shall be documented and cost worksheets maintained in the contract file. For facilities that have fully implemented DSS, the DSS is a good source of cost information for clinical services. DDS may not serve as well for support or administrative services. The Cost Accounting and Medical Rates Division (0476C2) within VA Central Office is available to assist medical centers and VISNs with costing of contracts. This office also has the responsibility for conducting biennial user fee reviews.

(3) **Determination of a Fair Price.** In establishing a price for the resource, the team will take into account local direct costs, full costs, and local market prices for the same resource. Local market prices can be obtained through market surveys, third party and Medicare reimbursement rates, etc. Penalties for failure to perform or the cost of equipment replacement are examples of items that may or may not be appropriate to include in developing costs for a given proposal. In most instances, prices should be set comparable to prices in the commercial market. VA is not limited to recovering full cost in setting a price. The team must determine a price that is in the best interest of the Federal Government. If, and only if, the agreement is necessary to maintain an acceptable level or quality of care, it may be determined to be in the best interest of the Federal Government to establish a price that is below full cost. Otherwise, the price must be established at or above full cost. The team will document the rationale used in determining a price.

(4) **Determination of a Negotiating Range.** The team will develop a range of prices to be used in negotiations and in developing a negotiating strategy. The range may include considerations, such as volume discounts or a multi-tiered pricing structure, community needs, and effects on relationships with potential sharing partners. It may be necessary to identify a break-even point and establish a price floor below which VA will not negotiate, even if the end result is failure to reach agreement. In no instance will any contract be executed if revenues received do not recover local direct costs.

(5) **Determination of Marketing Approach.** Market research may be a critical step involving an assessment of the existence of potential partners, or an assessment of community needs or potential niche markets as examples. Any market research should be documented. When VA chooses to offer services on the open market, reasonable competition will occur. Potential buyers will be afforded the opportunity to offer bids for a VA resource. Notice may be made to the public through the CBD (Commerce Business Daily), VA web sites, or other media as appropriate. In other circumstances where a potential partner approaches VA, VA may decide to sell the resource directly to the soliciting buyer. Factors to be considered in making these decisions may include the relationship with the potential buyer, the market demand for the resource, the political sensitivity of the potential agreement, community needs, or other factors that may make the offer in the best interest of the Federal Government based on criteria other than price. VA may prepare and submit bids in response to solicitations announced and open to the public for response.

(6) **Determination of the Impact of the Proposed Sale on Accreditation.** The team must make an assessment of any potential impact of the proposed sale on accreditation, such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists (CAP); facility licensing; licensing of employees; credentialing and privileging; risk management; etc.

(7) **Determination of Conflict of Interest.** The team, in consultation with General Counsel Washington, DC, or General Counsel field staff, must make an assessment of any potential conflicts of interest. A provision of the criminal code would prohibit an employee from participating in the selling process if the employee has any financial relationships with the non-VA parties involved. Such an individual may provide the team with workload or technical information, however, as determined by General Counsel VA Central Office or General Counsel field staff.

(8) **Determination of Impact.** The team must make a determination of impact of the proposed sale on other programs or elements in the facility.

(9) **Determination of Potential Liability.** The team must make a determination of the potential liability for failure to perform under the terms of the contract as well as other liability issues. Contingency plans should be developed to allow the facility to meet performance requirements under foreseeable circumstances or the contract should detail circumstances under which VA would not be expected to perform.

d. The team is responsible for making a written recommendation to the VISN Director or medical center Director, as appropriate, on whether or not to sell the resource in question, that recommendations to sell are in the interest of VA, and that the proposal meets the provisions of law, regulation and policy, taking the preceding factors into consideration. The VISN or medical center Director must certify the recommendation, as described in subparagraph 3a., as being necessary to maintain or improve services to veterans. A certification by the VISN Director or medical center Director is required, stating that the proposal is a sound business decision. VISN and medical center Directors may delegate the certification of the business decision to product line managers, or equivalent, for contracts with a total value of less than \$25,000.

e. Upon receipt of approval to sell a resource, a marketing plan will be developed, to include mechanisms for identifying buyers and a negotiating strategy. Strategy considerations include such factors as price, additional business opportunities, existing relationships, financial stability of potential purchasers, etc. The plan will be included as documentation in the contract file.

f. All contracts for the sale of health care resources must be in writing. No oral agreements are permitted. Terms to be included in the contract include: the ability to cancel the contract if the terms result in VA failing to meet requirements of law, particularly in regard to the diminution of services to veterans; time period covered by the contract; any mechanisms for adjusting prices; and liability assumed by VA for failure to perform. Other terms and conditions should address quantities, billing and payment terms, deadlines, quality issues, hours of operation, manpower commitments, ability to deliver services as required, and others as appropriate. With very few exceptions, all terms and conditions are negotiable.

g. In accordance with VA Handbook 7401.3, only the Deputy Assistant Secretary for Acquisition and Materiel Management (the Procurement Executive) is authorized to appoint or to terminate individuals as VA selling officials for health care resources sharing contracts. Only these individuals are vested with the authority to execute selling contracts on behalf of the Government. Senior level (unlimited) contracting officers are delegated this authority by virtue of their appointment through the Contracting Officer Certification Program (COCP), referenced at VA Acquisition Regulations (VAAR) 801.690. Other selling officials may be appointed by the Procurement Executive upon the request of medical center or VISN Directors. Requests for appointment or termination of selling officials may be made to the Procurement Executive through the Acquisition Training and Career Development Team (95) within VA Central Office. When recommending a candidate to be a selling official, the medical center or VISN Director shall follow procedures outlined in VA Handbook 7401.3.

h. Once the contract is executed, performance should be monitored closely. This involves the ongoing collection and maintenance of data. Facilities should monitor performance in the following areas and take appropriate action to correct problems promptly:

- (1) Are services to veterans being improved?
- (2) Are financial goals being met?
- (3) Are customers satisfied?
- (4) Are the terms of the contract being met?
- (5) Is the team involved and committed to success?
- (6) Is there ongoing risk assessment?

i. The Office of Finance SPO (175) is responsible for the preparation of an annual report to Congress on activities carried out under the health care resources sharing program. The annual report is prepared based on information furnished by each medical center at the end of each fiscal year. In response to an annual data call, each medical center shall report a description of the health care resource sold and the amount of money collected from the sale of that resource. Medical centers also are requested to furnish comments on the effectiveness of the program, the degree of cooperation from other sources (financial and otherwise), and any recommendations for the improvement or more effective administration of the program. This information is required for the Annual Report to the Congress per 38 U.S.C. Section 8153(g).

j. The following Financial Management System (FMS) Resource Codes are to be used for reporting revenue received in the medical center or VISN under this authority:

- (1) 8002 – Inpatient services.
- (2) 8006 – Out patient services.

(3) 8035 – Sharing all other. (NOTE: 8035 includes vacant land and space for roof top antennas).

#### 4. REFERENCES

- a. Title 38 U. S. C. Sections 8151-8153.
- b. Public Law 104-262, Section 301.
- c. VAAR 801.602 and 801.690.
- d. VA Directive 7401.3.
- e. VA Handbook 7401.3.
- f. VA Directive 8500.
- g. VA Directive 4560.
- h. VA Handbook 4560.1.
- i. VA Handbook 8500.
- j. The Managerial Cost Accounting Implementation Guide.
- k. M-1, Part VII, Chapter 6.

#### 5. DEFINITIONS

a. **Full Cost.** This term is defined by the Federal Accounting Standards Advisory Board (FASAB) in the Statement of Federal Financial Accounting Standards No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government, as "The sum of the costs of:

(1) Resources consumed by the segment that directly or indirectly contribute to the output, and

(2) Identifiable supporting services provided by other responsibility segments within the reporting entity, and by other entities."

*NOTE: The Managerial Cost Accounting Implementation Guide, issued jointly by the Government Chief Financial Officer (CFO) Council and Joint Financial Management Implementation Program (JFMIP) in February 1998, is a technical practice aid intended to assist Federal entities in implementing cost accounting. The Guide elaborates on the FASAB definition of full cost, by indicating that "Full cost is the sum of all costs required by a cost object including the costs of activities performed by other entities regardless of funding sources.*

*It includes direct costs (costs specifically identified with the output) and indirect costs (costs used to produce multiple outputs). The direct and indirect costs can be funded, reimbursed, unfunded, or non-reimbursed."*

b. **Local Direct Cost.** The DSS fixed direct, variable labor and variable supply are included in the local direct cost.

c. **Variable Overhead.** The portion of total overhead that varies directly with changes in volume. Examples are supplies and power.

d. **Fixed.** The portion of total overhead that remains constant over a given time period without regard to changes in the volume of activity. Examples are depreciation and rent.

## HEALTH CARE RESOURCES SHARING AUTHORITY - SELLING

- 1. PURPOSE:** This Veterans Health Administration (VHA) Directive further implements provisions of Public Law (Pub. L.) 104-262, "The Veterans Health Care Eligibility Reform Act of 1996," which significantly expands the Department of Veterans Affairs (VA) health care resources sharing authority in Title 38 United States Code (U.S.C.) Sections 8151 through 8153.
- 2. SUMMARY OF CHANGES:** Expansion of Pub. L. 104-262 and VA health care resource sharing authority requires definition of new guidelines. Veterans Integrated Service Network (VISN) and medical center Directors are responsible for compliance with the requirements outlined in this Handbook, for meeting all requirements of law and policy, for meeting all labor management responsibilities, for the establishment of appropriate and legally sound contract terms, for making sound business decisions, for ensuring that staff are properly trained and are fully capable of exercising any delegated authority, for ensuring adequate documentation of the contracting process, and for contract and performance monitoring.
- 3. RELATED ISSUES:** VHA Handbook 1820.1, Sharing The Use of Space.
- 4. RESPONSIBLE OFFICE:** The VHA Chief Prosthetics and Logistics Officer (10FL) is responsible for the contents of this Directive.
- 5. RESCISSIONS:** VHA Handbook 1660.1, dated July 17, 1997.
- 6. RECERTIFICATION:** This VHA Handbook is scheduled for recertification on or before the last working day of October 2012.

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Under Secretary for Health

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CONTENTS

HEALTH CARE RESOURCES SHARING AUTHORITY - SELLING

PARAGRAPH	PAGE
1. Purpose .....	1
2. Background .....	1
3. Definitions .....	2
4. Responsibilities .....	2
5. Contracts to Sell Health Care Resources .....	3
6. Sharing Agreements for the Use of VA Space .....	4
7. Contracts for Use of VA Equipment .....	4
8. Contracts for the Sale of VA Direct Patient Care Services .....	5
9. Medical Records .....	7
10. Selling of Services .....	8
11. State Veterans Homes (SVH) .....	9
12. Reimbursement Rates .....	9
13. Proceeds .....	10
14. Regional Counsel Consultation .....	10
15. Additional FTE or Contract Staff .....	10
16. Additional Equipment .....	11
17. Commercial Loans .....	11
18. VA Response to Proposals and Bids .....	11
19. Marketing .....	11
20. Competitive Process .....	11

## CONTENTS Continued

PARAGRAPH	PAGE
21. Selling Health Care Resources .....	11
22. Determinations .....	14
a. Determination of Capacity .....	14
b. Determination of Costs .....	14
c. Determination of a Fair Price .....	14
d. Determination of a Negotiating Range .....	15
e. Determination of Marketing Approach .....	15
f. Determination of the Impact of the Proposed Sale on Accreditation .....	15
g. Determination of Conflict of Interest .....	16
h. Determination of Impact .....	16
i. Determination of Potential Liability .....	16
23. Annual Report to Congress .....	16
24. References .....	16

## HEALTH CARE RESOURCES SHARING AUTHORITY - SELLING

### 1. PURPOSE

This Veterans Health Administration (VHA) Handbook updates guidance procedures which implemented the provisions of Public Law (Pub. L.) 104-262, "The Veterans Health Care Eligibility Reform Act of 1996," regarding the Department of Veterans Affairs (VA) health care resources sharing authority in Title 38 United States Code (U.S.C.) Sections 8151 through 8153.

- a. No contracts will be executed that require VA to coordinate insurance benefits or to pursue third-party insurance billings and collections.
- b. Service contracts may be executed for periods up to 5 years
- c. Contracts for the sale of services are not to be signed without prior approval from the Rapid Response Team (RRT), VA Central Office (see subpar 3f).

### 2. BACKGROUND

a. VHA may enter into sharing agreements or contracts for the sale of VHA health care resources with any health care provider, or other entity, group of individuals, corporation, association, partnership, State or local governments, or individual. VHA does not enter into sharing agreements with Federal agencies under 38 U.S.C. Section 8153. Agreements to provide services to other Federal agencies must be under the Economy Act. For this purpose, a health care provider is defined as including health care plans and insurers, and any organizations, institutions, or other entities or individuals who furnish health care. VHA may not enter into any sharing contracts with prohibited foreign entities (e.g., Cuba, Iran) or with partisan political entities.

b. VHA may enter into sharing agreements, or contracts, for the sale of health care resources, including hospital and ambulatory care, mental health services, tele-radiology, medical, surgical services, examinations, treatment, rehabilitative services and appliances, preventive health care, prosthetics, and other health care services. Services may be offered to a sharing partner for non-veterans only if the service is within the scope of VA's authority and is authorized by law for veterans.

c. The term "health care resources" includes health care support and administrative resources, the use of medical equipment, or the use of space. Health care support and administrative resources include those services, apart from direct patient care, determined necessary for the operation of VA facilities. (Examples of services provided by VA that are not needed for the operation of VA facilities include child care, fitness centers, and job placement services for displaced workers. These kinds of services may not be included in sharing contracts.) Health care support resources serve medically-related purposes (e.g., biomedical equipment repair, patient transport). Administrative resources include services not unique to the provision of medical care, but deemed necessary to support the operation of a medical center (e.g., transcription services, grounds maintenance).

### 3. DEFINITIONS

a. **Full Cost.** "Full cost" is defined by the Federal Accounting Standards Advisory Board (FASAB) in the Statement of Federal Financial Accounting Standards Number 4, Managerial Cost Accounting Concepts and Standards for the Federal Government, as "The sum of the costs of resources consumed by the segment that directly or indirectly contribute to the output and identifiable supporting services provided by other responsibility segments within the reporting entity, and by other entities."

*NOTE: The Managerial Cost Accounting Implementation Guide, issued jointly by the Government Chief Financial Officer (CFO) Council and Joint Financial Management Implementation Program (JFMIP) in February 1998, is a technical practice aid intended to assist Federal entities in implementing cost accounting. The Guide elaborates on the FASAB definition of full cost, by indicating that "Full cost is the sum of all costs required by a cost object including the costs of activities performed by other entities regardless of funding sources. It includes direct costs (costs specifically identified with the output) and indirect costs (costs used to produce multiple outputs). The direct and indirect costs can be funded, reimbursed, unfunded, or non-reimbursed."*

b. **Local Direct Cost.** The Decision Support System (DSS) fixed direct, variable labor and variable supply are included in the local direct cost.

c. **Variable Overhead.** Variable overhead is the portion of total overhead that varies directly with changes in volume. Examples are supplies and power.

d. **Fixed.** "Fixed" is the portion of total overhead that remains constant over a given time period without regard to changes in the volume of activity. Examples are depreciation and rent.

e. **Inpatient Care.** Inpatient care is defined as any inpatient services lasting more than 23 hours and 59 minutes.

f. **Rapid Response Team (RRT).** In reviewing a facility concept proposal, the RRT ensures that the facility has an appropriate reimbursement scheme, is selling a health care resource under the statute, and is not putting VA at risk.

### 4. RESPONSIBILITIES

Veterans Integrated Service Network (VISN) and medical center Directors are responsible for:

- a. Compliance with the requirements outlined in this Handbook,
- b. Meeting all requirements of law and policy,
- c. Meeting all labor management responsibilities,

- d. The establishment of appropriate and legally sound contract terms,
- e. Making sound business decisions,
- f. Ensuring that staff is properly trained and fully capable of exercising any delegated authority,
- g. Ensuring adequate documentation of the contracting process, and
- h. Contract and performance monitoring.

## 5. CONTRACTS TO SELL HEALTH CARE RESOURCES

a. Contracts to sell health care resources may be executed only if a specific determination is made:

(1) That veterans receive priority for services under such an agreement (e.g., no contract will result in the diminution of existing levels of services to veterans); and

(2) That the agreement is necessary either to maintain an acceptable level and quality of service to veterans, or will result in improvement of services to veterans.

b. The contract file must include a certification from the VISN Director, or the medical center Director, that the preceding conditions have been met.

c. All concept proposals to sell VA resources under this authority must be approved by the RRT, consisting of staff from the Prosthetics and Clinical Logistics Office (P&CLO) (10FL), Office of General Counsel (025), Acquisitions and Material Management (049), and a representative of the appropriate clinical office in VHA Patient Care Services. The concept proposal must be e-mailed over Microsoft Exchange to the P&CLO and must be approved by the VISN and/or medical center Director, or their designees.

(1) The concept proposal needs to include the following:

(a) The resource to be sold,

(b) Name of the sharing partner,

(c) The term of the agreement, and

(d) The costing methodology or basis of rate reimbursement.

(2) The P&CLO e-mails the results of the RRT review to the facility submitting the contract for

review; this response must be part of the contract file. **NOTE:** *Concept approval by the RRT is not a legal or technical review nor the approval of the sharing agreement; field facilities are notified when the concept approval for a specific resource is no longer needed.*

d. Contracts valued at \$500,000 or more may be executed only after legal and technical review by VA Central Office (legal review is conducted by General Counsel, VA Central Office). Local officials are responsible for incorporating any changes required by the legal and/or technical review before the contract is executed. Contracts requiring legal and technical review must be sent to the P&CLO over Microsoft Exchange. The P&CLO (10FL) is responsible for coordinating the review and communicating the results to the facility submitting the contract for review. Following legal and technical review, an appropriately designated VA selling official may execute the contract.

e. General Counsel field attorneys must have a final review of all contracts with a total value less than \$500,000 before they are executed. Approval authority for all contracts to sell services having a total value of less than \$500,000 over the period covered by the contract (initial year plus any option years) is delegated to the field. (Contracts valued under \$500,000 need not be sent to Central Office for review)

f. Proposals to sell inpatient services to non-veterans require the approval of the Secretary of Veterans Affairs and the Under Secretary for Health. Providing inpatient services to non-veterans is not recommended. However, there may be national or community circumstances that warrant consideration. These proposals might also require presentations to representatives of national veteran service organizations and congressional delegations. The P&CLO coordinates these presentations and provides technical assistance on the information required.

## 6. SHARING AGREEMENTS FOR THE USE OF VA SPACE

Sharing agreements for the use of VA space, including parking, outdoor recreational facilities, and vacant land, are authorized under 38 U.S.C. Section 8153 (see VHA Handbook 1820.1).

## 7. CONTRACTS FOR USE OF VA EQUIPMENT

a. Contracts for use of VA equipment may be executed under the sharing authority. Appropriate terms need to be included in the contract, addressing responsibility for equipment maintenance or loss. The sale, resale, or other disposition of VA or Government property or equipment (such as new or used computers or torn linens) is not authorized under sharing.

**NOTE:** *Disposition of Government property is governed by Federal Property Management Regulation Title 41 Code of Federal Regulations (CFR) 101, or Federal Management Regulations 41 CFR Parts 102-1 through 102-22.*

b. Contracts for the use of equipment may be executed for up to 5 years or for the useful life of the equipment, whichever is longer.

## 8. CONTRACTS FOR THE SALE OF VA DIRECT PATIENT CARE SERVICES

Contracts for the sale of VA direct patient care services (inpatient or outpatient care) may be executed under the enhanced sharing authority. However, without the expressed permission of the Under Secretary for Health and the Secretary of Veterans Affairs, no contracts for the sale of VA inpatient services for non-veterans will be considered or executed under the health care resources sharing authority.

a. VA facilities seeking to sell services to non-VA health care facilities under sharing contracts may voluntarily obtain State permits and licenses where State law requires those non-VA health care facilities to purchase services from entities permitted and/or licensed by the State. VA facilities may pay applicable service charges and fees in obtaining these permits and/or licenses.

b. VA facilities may enter into contracts with Health Maintenance Organizations (HMOs), other types of managed care organizations, or other types of health care providers to sell hospital and outpatient care.

(1) If a veteran is enrolled with VA and elects to receive care from VA as a veteran, that individual must be treated as a veteran regardless of membership in an HMO. The treatment of such a patient would be subject to VA protocols, not the protocols of the HMO. The veteran also would be required to pay any co-payments imposed by VA. Alternatively, the veteran could elect to receive hospital or outpatient care from VA as a member of the HMO that has contracted with VA. Any care for non-service connected conditions furnished to individuals as veterans must be billed under the Medical Care Cost Recovery (MCCR) Program. If the veteran elects to receive care pursuant to the HMO contract as an HMO member, VA co-payments would not apply, but the individual would be subject to any co-payments the HMO might impose.

(2) Before entering into an agreement with an HMO or other types of managed care organizations that require co-payments, VA facilities must make provisions to ensure that they will have the capability to bill for and collect the co-payments. Finally, if the veteran is not enrolled with VA, the veteran must be treated as an HMO patient pursuant to the terms and conditions of VA's sharing agreement with the HMO, unless an exception listed in 38 CFR Section 17.37 applies. The groups of veterans listed in 38 CFR §17.37, should not be enrolled with VA for partial or total VA care. To the extent that a veteran is being treated "as a member" of an HMO pursuant to a sharing contract, and not "as a veteran," VA must bill the HMO. *NOTE: Contracts must require payment to VA from the HMO of the full contract amount for services furnished and may not require VA to coordinate insurance benefits or to pursue third party insurance billings and collections for care furnished to non-veterans.*

(3) An appropriate Release of Medical Information form must be signed by the patient before information from VA medical records is released to the referring HMO. The provision in subparagraph 5a(1) that "veterans receive priority for services under such an agreement" does not require that facility to give preferential treatment to persons receiving care as a member of an

HMO or other health care plan with whom VA has a contract to provide services if those persons happen to be veterans.

(4) The person may choose to be treated as a veteran or as a member of the health care plan. The choice made by the veteran determines the amount of any required co-payments and the extent of hospital care or outpatient care available.

c. Contracts may be executed for VA to provide outpatient care, including outpatient diagnostic and consultative services to individual patients referred by a sharing partner (e.g., a community physician wanting to send patients to VA for laboratory work) provided the contract with the community sharing partner stipulates that the sharing partner is responsible for directly paying VA the full contract amount for services rendered to non-veterans. No contracts will be executed which require VA to coordinate insurance benefits or to pursue third party insurance billings and collections. In the event that a community provider refers a non-veteran for diagnostic or consultative services, no billing under the sharing authority to either the non-veteran or to the non-veteran's third-party insurance carrier will be undertaken.

d. An appropriate Release of Medical Information form must be signed by the patient before information from VA medical records is released to the referring sharing partner.

e. Unless the sharing partner is a State veterans home, VA may provide supplies, drugs, and prosthetics only if the items are integral to the provision of medical services to be furnished by VA under a sharing agreement (e.g., flu shots, chemotherapy, emergency short-term prescriptions, but only as part of a services contract where VA is providing preventive, oncological, or medical treatment services).

f. VA may not enter a 38 U.S.C. § 8153 sharing agreement with Bureau of Prisons and the Indian Health Service for the use of VA medical space, medical equipment and the medical expertise to use that equipment.

g. VA may enter a 38 U.S.C. § 8153 sharing agreement for health care resources with any tribal council that represents a sovereign nation recognized by Indian Health Service and receives health care funds from Health and Human Services.

h. VA may sell the professional services of VA pharmacists and may provide mail-out pharmacy and pharmacy benefits management services to a sharing partner provided the sharing partner buys or provides the drugs and/or supplies. VA may not re-sell pharmaceuticals or supplies.

i. VA may sell radio-pharmaceuticals produced by VA for use outside of a VA facility provided all necessary approvals from the Food and Drug Administration and the Nuclear Regulatory Commission are obtained for the manufacture of the items as a new drug.

j. VA may enter into agreements with State Medicaid programs to provide services to State Medicaid beneficiaries. If a Medicaid beneficiary referred to VA for care is also a veteran, the beneficiary may request VA care as a veteran. If VA enrolls the veteran, or if the veteran is eligible for the VA care in question without being enrolled, VA would be prohibited from billing

Medicaid for the care provided to the veteran. *NOTE: Any agreement to provide inpatient care to non-veterans requires the express approval of the Under Secretary for Health and of the Secretary of Veterans Affairs (see subpar. 3d).*

- k. Service contracts may be executed for periods up to 5 years.

## 9. MEDICAL RECORDS

The sale of patient care services involves special consideration of medical records generated by VA.

- a. All contracts for the sale of direct patient care services by VA employees in VA-owned or leased space must specify that:

- (1) VA owns the records of care provided;
- (2) Individually-identified and retrieved patient records are protected by the Privacy Act, 5 U.S.C. 552a;
- (3) Where VA is treating an individual for one of the medical conditions covered by 38 U.S.C., Sections 7332 and 7332 also applies to the treatment records; and
- (4) Where these statutes apply, the facility may release these records only as authorized under these statutes.

- b. Individually-identifiable patient records created by VA employees in VA-owned or leased space in the course of providing direct patient care services, are protected by the Privacy and Security Rules promulgated by the United States Department of Health and Human Services (HHS) under the authority of the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Parts 160 and 164.

- c. Records generated by VA employees providing services to the general public at non-VA facilities are not VA records and are not covered by either the Privacy Act or 38 U.S.C. § 7332.

- d. Records generated by VA employees providing services to the general public are not protected by 38 U.S.C. § 5701, the VA benefits records confidentiality statute.

- e. Records generated by VA employees providing direct patient care services to the general public at non-VA facilities are also covered by the HIPAA regulations at 45 CFR Parts 160 and 164.

- f. Agreement for the sale of direct patient care services must provide that the parties comply with the HIPAA Administrative Requirements contained in 45 CFR Part 162.

*NOTE: Questions concerning ownership of, and application of Federal confidentiality laws to, records created by VA employees in the performance of a sharing agreement subject to this Handbook need to be referred to the Field Office of the General Counsel.*

## 10. SELLING OF SERVICES

VHA may sell support services and professional, managerial, and administrative services performed by VHA staff. These service contracts may be executed for periods up to 5 years.

a. The duties of VA staff under terms of the contract may not include responsibility for personnel actions, such as hiring, firing, or disciplinary actions on behalf of the sharing partner, representing the sharing partner in public venues, or setting policy for the sharing partner.

b. VHA may sell education services provided the educational program is part of veteran patient or staff continuing education. Examples include smoking cessation classes, Cardiopulmonary Resuscitation (CPR) certification training, nursing assistant training, seminars for Continuing Medical Education (CME) credit, and some support services certification internship programs. Appropriate reimbursement rates must be established and collected for these services. A sharing contract must be executed either with each individual receiving these education services, in which case the individual is responsible for payment in advance to VA, or with a sponsoring organization which assumes responsibility for payment to VA.

c. In all circumstances where there is a request for catering services for a meeting or other function on VHA property, or for food service for employees or for visitors, Canteen Service must have the right of first refusal. Only after Canteen Service has indicated that they are not interested or cannot provide the requested service, can a medical center's food and nutrition service enter into a sharing contract to provide a catering food service on VA grounds.

d. Because VA police officers have law enforcement authority only on VA property, VA may only sell police and security services to sharing partners who are physically located on VA property. VA police and security units may perform security assessments and provide consultation and training services to any sharing partner at any location.

e. VA may not sell agent cashier services. VA may not hold money for another party or pay out money on its behalf. This would create a fiduciary relationship and, except for very limited circumstances, such as for the joint acquisition of high-tech medical equipment with a sharing partner, VA is not authorized by law to perform such "banking" functions.

f. All sharing agreements under 38 U.S.C. § 8153 for human immunodeficiency virus (HIV) testing service alone or as part of medical evaluations, clinical care or screening programs must include as part of this service pre-test counseling and post-test counseling to be conducted by VA HIV test counselors or appropriately trained VA personnel.

## 11. STATE VETERANS HOMES (SVH)

a. VA may not enter into a sharing agreement to manage a SVH.

b. SVHs may be granted direct access to Federal Supply Schedule (FSS) contracts for services, equipment and supplies, including pharmaceuticals, after the SVH has executed a sharing contract under this authority to purchase use of space, use of equipment, or services from a VA facility. Once such a contract has been executed, the P&CLO in VHA Central Office makes arrangements with the National Acquisition Center (NAC) for that SVH to be added to the list maintained by the NAC of SVH's authorized to buy from the FSS.

## 12. REIMBURSEMENT RATES

Reimbursement rates (i.e., prices) and procedures are to be negotiated in the best interest of the Federal Government.

a. VA facilities must consider local commercial market rates for similar services, as well as the full cost as defined by the Federal Accounting Standards Advisory Board for providing the service when negotiating reimbursement rates (see par. 10). Facilities are encouraged to maximize revenue generated from the sale of use of space, or equipment, and/or services under this authority. Prices may be established above full cost.

b. Depending on the services(s) covered by the contract, per procedure pricing, capitated rates, hourly rates, Full-time Equivalent (FTE) employee rates, payment for specified deliverable (e.g., a report), or other reimbursement rate methodologies are considered appropriate for these contracts. *NOTE: Using rates established by the Centers for Medicare and Medicaid Services (CMS,) formerly the Health Care Financing Administration (HCFA), is encouraged.*

c. In setting any reimbursement rates, VA must be sensitive to private sector perceptions that Federal funds are being used to subsidize operation costs, that VA pays no State, local, or Federal taxes, that VA is not borrowing money at interest to finance construction and new equipment purchases, and that VA is able to set an artificially low price for services.

d. Less than full cost may be considered in setting a price for services only if the contract is necessary to maintain the level of quality or to keep a program in existence for veteran care. *NOTE: For example: less than full cost may be acceptable for the sale of a surgical service if there is insufficient veteran caseload to maintain an acceptable skill level of the surgical staff and additional caseload is needed for quality of care.* In no instance will any contract be executed where the reimbursement rate is determined to be less than the local direct cost which is defined as the DSS fixed direct, variable labor, variable supply, and depreciation costs for the service under consideration. Local direct cost can be considered as average total cost.

e. The rationale and justification for all price determinations must be fully explained and documented and maintained in the contract file, which must be sent with a copy of the executed contract to the Sharing and Purchasing Office (175).

f. When VHA facilities choose to set reimbursement rates using a capitation methodology, they must carefully consider and include factors such as stop loss, or similar measures to ensure that appropriated dollars are not used to cover unanticipated operational losses resulting from capitated contracts.

g. Pub. L. 104-262 contains a provision requiring Medicare to reimburse either VA or the sharing partner (as provided in the terms of the sharing contract) at established Medicare rates for Medicare-covered services provided to Medicare beneficiaries who are not veterans eligible for VA medical care. *NOTE: Until additional guidance is issued in a future VHA Directive, no claims should be submitted by VA facilities to Medicare Fiscal Intermediaries for payment for services provided under sharing contracts. Accordingly, facilities are not to agree to terms in proposed sharing agreements that require VA to bill Medicare.*

### **13. PROCEEDS**

All proceeds generated by health resources sharing contracts must be credited to the appropriate medical or research appropriation at the facility providing the service, and are to be immediately available for use by the facility. Any amount received as payment for services provided by VA in a prior fiscal year may be obligated during the fiscal year in which the payment is received. It may be to the medical center's advantage to include terms in the contract for VA to receive payments normally made in September on or after October 1.

### **14. REGIONAL COUNSEL CONSULTATION**

In all cases where VA would be selling services, resources, or use of space or equipment to an entity which has an existing contract to sell or provide other services to VA, the designated enhanced sharing regional counsel staff attorney must be consulted early in the process of developing the contract, and again in advance of execution of the contract, regarding any possible conflict of interest. The designated enhanced sharing regional counsel staff attorney must also be consulted in all cases where VA is proposing to sell services, resources, or use of space to part-time or to full-time VA staff or to individuals who may have a personal or close financial relationship with VA staff. When VA sells to its employees, questions reasonably may be raised regarding the fairness of the selling process. For this reason, contracts for the sale of use of space or equipment, or services to individuals with any kind of employment relationship to VA are prohibited. When facilities decide to consider such agreements, prices must be set at the commercial market rate or at full cost, whichever is higher.

### **15. ADDITIONAL Full-Time Employee (FTE) OR CONTRACT STAFF**

Additional FTE employee(s) may be hired or VA may contract for staff to provide services to non-veterans as long as no statute or appropriation prohibits the hiring, the activity falls within VA's mission, and these are services being offered to veterans at the facility. VA may not hire or contract for new services that are not provided at the facility. The use of term or temporary appointments is preferred over the hiring of permanent new staff in the event that contracts are not successful or if they are not renewed after the first year. However, any "new hires" must be approved by the VISN Director who must take into account impacts from reductions in staff

relating to veterans care. Facilities may use the services of veterans in the Compensated Work Therapy (CWT) program provided the CWT program fund is reimbursed for the veterans' time. However, because CWT workers are not considered VA employees or VA contractors, CWT workers cannot have access to patient records.

## 16. ADDITIONAL EQUIPMENT

Additional equipment may be purchased through the already established processes. Existing procedures may be used to reprogram funds as needed.

## 17. COMMERCIAL LOANS

VA facilities may not enter into commercial loans for any purpose. VHA may not make capital investments in either facility improvements or in the purchase of additional equipment to accommodate unknown future requirements solely for the purpose of selling services (i.e., a VA facility cannot create or establish a new service just to sell it).

## 18. VA RESPONSE TO PROPOSALS AND BIDS

VA may respond with proposals and bids to solicitations for services issued by any appropriate potential sharing partner after legal review of the bid documents. Most state, local and corporate bid documents contain clauses unacceptable to the Federal Government.

## 19. MARKETING

a. VISNs and medical centers are encouraged to develop a long-term marketing strategy. Marketing should make potential partners in their local communities aware of opportunities to buy services from VA and enhance the reputation of the VA health care system as a reliable business partner.

b. VISNs and facilities are encouraged to consider opportunities with local businesses and governments that may not be involved in direct health care. The opportunities could include such services as: pre-employment physicals to an industrial manufacturer, or nursing assistant training to a public housing authority as part of a welfare-to-work program.

## 20. COMPETITIVE PROCESS

Although there is no requirement for VA to follow a competitive process in selling the use of space, equipment, or services, facilities need to consider doing so when appropriate.

## 21. SELLING HEALTH CARE RESOURCES

a. Contracts for the sale of services are not to be signed without prior approval from the RRT, VA Central Office.

b. Medical centers and VISNs are to use a concurrent team approach in selling health care resources. When an opportunity to sell a resource is under serious consideration, a business team must be established, as appropriate, to coordinate the activity. The determination of the membership of the team is at the discretion of the facility Director or VISN Director; however, the following functions must be included:

(1) **Coordination of Facility-wide Activities.** An individual with sufficient knowledge of the facility's operations must be part of the team. This person ensures that services to veterans will not be compromised and that the opportunity to sell health care resources is consistent with the overall mission of the facility. This person also ensures that politically sensitive issues have been considered and that coordination with stakeholders has occurred.

(2) **Authority to Sell.** A person with authority to commit VA to a binding sales agreement must be included.

(3) **Financial Analysis.** A person with the ability to determine the financial feasibility of the opportunity must be a member of the team.

(4) **Legal Support.** The team must seek legal advice from the Office of the General Counsel Washington, DC, or General Counsel field staff, from the beginning of the concept development through execution of the agreement.

(5) **Human Resources and Union Representatives.** In situations where selling a resource may affect employees (e.g., change in work site), a human resources representative must be part of the team. If any of the affected employees are bargaining unit members, the exclusive representative(s) is to be included.

(6) **Program Officials.** When not prohibited by a conflict of interest or other barrier, the individual responsible for the organizational element that provides the resource must be included on the team; if that individual cannot participate, a designee must be included.

c. The team must meet to discuss the initial proposal and throughout the process. Meetings need not be face-to-face but may be conducted electronically or by conference calls.

d. Teams are required to make several critical determinations and to ensure that proper documentation exists to support each determination (see par. 22).

e. The team is responsible for making a written recommendation to the VISN Director or medical center Director, as appropriate, on whether or not to sell the resource in question, that recommendations to sell are in the interest of VA, and that the proposal meets the provisions of law, regulation and policy, taking the preceding factors into consideration. The VISN or medical center Director must certify the recommendation, as described in subparagraph 5a, as being necessary to maintain or improve services to veterans. A certification by the VISN Director or medical center Director is required, stating that the proposal is a sound business decision. VISN and medical center Directors may delegate the certification of the business decision to product line managers, or equivalent, for contracts with a total value of less than \$25,000.

f. Upon receipt of approval to sell a resource, a marketing plan must be developed, to include mechanisms for identifying buyers and a negotiating strategy.

(1) Strategy considerations include such factors as: price, additional business opportunities, existing relationships, financial stability of potential purchasers, etc.

(2) The plan must be included as documentation in the contract file.

g. All contracts for the sale of health care resources must be in writing. No oral agreements are permitted.

(1) Terms to be included in the contract include: the ability to cancel the contract if the terms result in VA failing to meet requirements of law, particularly in regard to the diminution of services to veterans; time period covered by the contract; any mechanisms for adjusting prices; and liability assumed by VA for failure to perform.

(2) Other terms and conditions need to address quantities, billing and payment terms, deadlines, quality issues, hours of operation, manpower commitments, ability to deliver services as required, and others as appropriate.

*NOTE: With very few exceptions, all terms and conditions are negotiable.*

h. In accordance with VA Handbook 7401.3, only the Deputy Assistant Secretary for Acquisition and Materiel Management (the Procurement Executive) is authorized to appoint or to terminate individuals as VA selling officials for health care resources sharing contracts. Only these individuals are vested with the authority to execute selling contracts on behalf of the Government.

(1) Senior level (unlimited) contracting officers are delegated this authority by virtue of their appointment through the Contracting Officer Certification Program (COCP), referenced at VA Acquisition Regulations (VAAR) 801.690.

(2) Other selling officials may be appointed by the Procurement Executive upon the request of medical center or VISN Directors. Requests for appointment or termination of selling officials may be made to the Procurement Executive through the Acquisition Training and Career Development Team (049A5E) within VA Central Office. *NOTE: When recommending a candidate to be a selling official, the medical center or VISN Director must follow procedures outlined in VA Handbook 7401.3.*

i. Once the contract is executed, performance should be monitored closely; this involves the ongoing collection and maintenance of data. Performance is to be monitored in the following areas and appropriate action taken to correct problems promptly:

(1) Are services to veterans being improved?

(2) Are financial goals being met?

- (3) Are customers satisfied?
- (4) Are the terms of the contract being met?
- (5) Is the team involved and committed to success?
- (6) Is there ongoing risk assessment?

## 22. DETERMINATIONS

a. **Determination of Capacity.** The team must determine that sufficient capacity exists, or can be generated to handle the work associated with the selling opportunity. This includes a determination that the proposed activity will not diminish existing levels of services to veterans and that the contract is necessary either to maintain an acceptable level or quality of care or to improve services to veterans. Any revenue generated from the contract must be used to benefit veterans. *NOTE: Decisions to sell resources needs to be based on sound business principles.* The team must be able to document how VA benefits from the sale of the resource.

b. **Determination of Costs.** Both local direct costs and full costs must be determined. There is no single costing methodology that fits all circumstances. Good judgment must be exercised in choosing the methodology most appropriate to the resource in question. The methodology chosen for determining costs must be documented and cost worksheets maintained in the contract file. For facilities that have fully implemented Decision Support System (DSS), the DSS is a good source of cost information for clinical services. DSS may not serve as well for support or administrative services. The Cost Accounting and Medical Rates Division (0476C2), within VA Central Office, is available to assist medical centers and VISNs with costing of contracts, and for conducting biennial user-fee reviews.

c. **Determination of a Fair Price.** In establishing a price for the resource, the team must take into account local direct costs, full costs, and local market prices for the same resource.

(1) Local market prices can be obtained through market surveys, third party and Medicare reimbursement rates, etc. Penalties for failure to perform or the cost of equipment replacement are examples of items that may or may not be appropriate to include in developing costs for a given proposal.

(2) In most instances, prices need to be set comparable to prices in the commercial market. VA is not limited to recovering full cost in setting a price. The team must determine a price that is in the best interest of the Federal Government.

(3) If, and only if, the agreement is necessary to maintain an acceptable level or quality of care, it may be determined to be in the best interest of the Federal Government to establish a price that is below full cost. Otherwise, the price must be established at or above full cost.

(4) The team must document the rationale used in determining a price.

d. **Determination of a Negotiating Range.** The team must develop a range of prices to be used in negotiations and in developing a negotiating strategy.

(1) The range may include considerations, such as: volume discounts or a multi-tiered pricing structure, community needs, and effects on relationships with potential sharing partners.

(2) It may be necessary to identify a break-even point and establish a price floor below which VA will not negotiate, even if the end result is failure to reach agreement.

(3) In no instance will any contract be executed if revenues received do not recover local direct costs.

e. **Determination of Marketing Approach.** Market research may be a critical step involving an assessment of the existence of potential partners, or an assessment of community needs or potential niche markets as examples.

(1) Any market research needs to be documented. When VA chooses to offer services on the open market, reasonable competition occurs, and potential buyers are afforded the opportunity to offer bids for a VA resource. Notice may be made to the public through the Federal Business Opportunities database located at: <http://www.fedbizopps.gov>.

(2) In other circumstances where a potential partner approaches VA, VA may decide to sell the resource directly to the soliciting buyer. Factors to be considered in making these decisions may include the relationship with the potential buyer, the market demand for the resource, the political sensitivity of the potential agreement, community needs, or other factors that may make the offer in the best interest of the Federal Government based on criteria other than price.

(3) VA may prepare and submit bids in response to solicitations announced and open to the public for response.

f. **Determination of the Impact of the Proposed Sale on Accreditation.** The team must make an assessment of any potential impact of the proposed sale on accreditation, such as: The Joint Commission (TJC), College of American Pathologists (CAP), etc.; facility licensing; licensing of employees; credentialing and privileging; risk management; etc.

g. **Determination of Conflict of Interest.** The team, in consultation with General Counsel Washington, DC, or General Counsel field staff, must make an assessment of any potential conflicts of interest. A provision of the criminal code prohibits an employee from participating in the selling process if the employee has any financial relationships with the non-VA parties involved. Such an individual may provide the team with workload or technical information, however, as determined by General Counsel VA Central Office, or General Counsel field staff.

h. **Determination of Impact.** The team must make a determination of impact of the proposed sale on other programs or elements in the facility.

i. **Determination of Potential Liability.** The team must make a determination of the potential liability for failure to perform under the terms of the contract as well as other liability

issues. Contingency plans need to be developed to allow the facility to meet performance requirements under foreseeable circumstances, or the contract needs to detail circumstances under which VA would not be expected to perform.

### 23. ANNUAL REPORT TO CONGRESS

a. The P&CLO (10FL) is responsible for the preparation of an annual report to Congress on activities carried out under the Health Care Resources Sharing Program.

b. The annual report is prepared based on information furnished by each medical center Director at the end of each fiscal year. In response to an annual data call, each medical center Director must report a description of the health care resource sold and the amount of money collected from the sale of that resource. Comments are requested on the effectiveness of the program, the degree of cooperation from other sources (financial and otherwise), and any recommendations for the improvement or more effective administration of the program. This information is required for the Annual Report to the Congress per 38 U.S.C. Section 8153(g).

c. The following Financial Management System (FMS) Resource Codes are to be used for reporting revenue received in the medical center or VISN under this authority:

(1) **8002** – Inpatient services.

(2) **8006** – Out patient services.

(3) **8035** – Sharing all other. *NOTE: FMS resource code 8035 includes vacant land and space for roof top antennas.*

### 24. REFERENCES

a. Title 38 U. S. C., Sections 8151-8153.

b. VAAR 801.602 and 801.690.

c. VA Handbook 4560.1, Cost Accounting.

d. VA Handbook 8500, Sharing Use of Space.

e. The Managerial Cost Accounting Implementation Guide.

March 7, 2005

## SHARING USE OF SPACE

**1. REASONS FOR ISSUE.** This Veterans Health Administration (VHA) Handbook establishes new application and review requirements for the Sharing Use of Space Program as authorized under Title 38 United States Code (U.S.C.) Section 8153. It discusses the new changes to policy regarding use of shared space as differing from other sharing as described in VHA Handbook 1660.1.

## 2. SUMMARY OF MAJOR CHANGES

a. Recent VHA organizational changes necessitate clarifying the application and review requirements of sharing use of space proposals. VA medical center Directors and Veterans Integrated Service Network (VISN) Directors are responsible for complying with the requirements outlined in this Handbook and meeting all requirements of law, including Public Law 104-262, codified under Title 38 U.S.C. Section 8153.

b. This Handbook identifies the Capital Asset Management and Planning Service (182C), in the Office of Facilities Management (18), as the primary coordinating and review office for field-based sharing use of space proposals. In addition, sharing proposals between VA medical centers and homeless veterans' service providers for use of space for supportive housing programs or service centers are to be given high priority consideration at all levels of VHA.

**3. RELATED ISSUES.** VHA Handbook 1660.1.

**4. RESPONSIBLE OFFICE.** Office of Facilities Management, Capital Asset Management and Planning Service (182C), is responsible for the contents of this Handbook. Questions may be referred to 202-565-8516.

**5. RESCISSIONS.** None.

**6. RECERTIFICATION.** This VHA Handbook is scheduled for re-certification on or before the last working day of March 2010.

S/Jonathan B. Perlin, MD, PhD, MSHA, FACP  
Acting Under Secretary for Health

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CONTENTS

SHARING USE OF SPACE HANDBOOK

PARAGRAPH	PAGE
1. Purpose .....	1
2. Background .....	1
3. Definitions .....	1
4. Scope .....	2
5. Responsibilities of the VA Medical Center Director .....	4
6. Responsibilities of VISN Directors .....	6
7. Responsibilities of VA Central Office .....	7
8. Post VA Central Office Approval: Preparing the Sharing Agreement .....	8
9. Post VA Central Office Approval: Agreement Stage .....	9
10. References .....	9

APPENDIXES

A General Format for Submitting Concept Papers Submitting and Execution of Concept Papers to Share Space .....	A-1
B Requirements for Submitting Proposals to Share Space for Antennas, Whether Ground-Based or to be Placed on Rooftops .....	B-1
C Sharing Agreement Procedures and Requirements for Limiting VA's Liability in the Event of Early Termination .....	C-1
D Reimbursement Rates .....	D-1
E Determinations Required Prior to Signing Sharing of Space Agreements .....	E-1
F Notes and References Regarding Historic Preservation .....	F-1
G Supportive Housing and Service Centers for Homeless Veterans .....	G-1

## SHARING USE OF SPACE

### 1. PURPOSE

This Veterans Health Administration (VHA) Handbook establishes new concept proposal application and certification requirements, review and routing procedures, and data entry for sharing the use of VHA space as authorized by Title 38 United States Code (U.S.C.) Section 8153. **NOTE:** *This Handbook also discusses new changes to policy regarding sharing use of space as differing from those described in VHA Handbook 1660.4 for sharing all other health care resources.*

### 2. BACKGROUND

a. This Handbook augments and clarifies sections of VHA Directive 1660.1, and VHA Handbook 1660.4. This Handbook transfers the VHA authority to establish application requirements for field-based sharing of space concept proposals to the Capital Asset Management and Planning Service (CAMPS) (182C). In addition, this Handbook transfers Department of Veterans Affairs (VA) Central Office review and coordination authority for sharing use of space proposals from the Medical Sharing Office (MSO) (176) to the CAMPS Office, (182C), in the Office of Facilities Management (18).

b. Proposals and agreements to share the use of VHA space (including parking, outdoor recreational facilities, and vacant land) are authorized under 38 U.S.C. Section 8153. Sharing use of space agreements do not include revocable licenses or permits. If these are sought in lieu of a sharing agreement, then all revenues from such locally-initiated licenses and permits (i.e., authorized by VA medical center Directors) will accrue exclusively to the United States (U.S.) Department of the Treasury.

### 3. DEFINITIONS

a. **Full Cost.** The Federal Accounting Standards Advisory Board in the Statement of Federal Financial Accounting Standards No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government, defines the term "full cost" as "The sum of the costs of:

(1) Resources consumed by the segment that directly or indirectly contribute to the output; and

(2) Identifiable supporting services provided by other responsibility segments within the reporting entity, and by other entities."

**NOTE:** *The Managerial Cost Accounting Implementation Guide, issued jointly by the Government Chief Financial Officer (CFO) Council and Joint Financial Management Implementation Program (JFMIP) in February 1998, is a technical practice aid intended to assist Federal entities in implementing cost accounting. The Guide elaborates on the definition of full cost by indicating that "Full cost is the sum of all costs required by a cost object, including the costs of activities performed by other entities regardless of funding sources. It*

*includes direct costs (costs specifically identified with the output) and indirect costs (costs used to produce multiple outputs). The direct and indirect costs can be funded, reimbursed, unfunded, or non-reimbursed."*

b. **Local Direct Cost.** Local Direct Cost includes the Decision Support System's (DSS)'s fixed direct, variable labor, and variable supply.

c. **Variable Overhead.** Variable Overhead is the portion of total overhead that varies directly with changes in volume. Examples are supplies and power.

d. **Fixed.** Fixed is the portion of total overhead that remains constant over a given time period without regard to changes in the volume of activity. Examples include depreciation and rent.

e. **Concept Proposals or Concept Papers (CPs).** All field-based CPs must contain answers to the questions required by Appendix A or Appendix B. Required certifications to be made by senior level VA medical center, Veterans Integrated Service Network (VISN) staff, or line managers must be either attached and accompany submitted CPs, or must be filed in VA medical center sharing agreement files, as noted in Appendix A and Appendix B.

f. **Federal Management Regulation (FMR).** FMR replaced the Federal Property Management Regulation (FPMR). It is the authority for how to manage and dispose of property (including equipment and supplies).

g. **Authority to Share or Sell Space.** Pre-certified contracting officers are the only persons with authority to commit VHA to a binding sale, i.e., sharing agreement. In accordance with VA Handbook 7401.3, only the Deputy Assistant Secretary for Acquisition and Materiel Management (the Procurement Executive) is authorized to appoint or to terminate individuals as VA selling officials for sharing use of space agreements. Only certified contracting officers are vested with the authority to execute selling agreements on behalf of the Government.

h. **Financial Analyst.** A Financial Analyst is a person with the ability to determine the financial feasibility of the proposed sharing opportunity.

#### 4. SCOPE

a. Based on a current market assessment, VHA space may be offered to a sharing partner for the benefit of veterans or non-veterans. If the former, high-priority needs to be given to partners who are offering to provide supportive housing or service centers for homeless veterans. If the latter, then this type of agreement must ensure that the service or space is within the scope of VHA's authority, and in no way will it negatively affect the care of veterans. It must actually benefit veterans, recoup operating expenses, represent the best deal possible, and be authorized by law for veterans.

b. The Sharing Authority under 38 U.S.C. Section 8153 is not to be used to acquire space, unless the term is less than 6 months and the space is required while a conventional lease is being

finalized. Sharing authority does not provide VHA sufficient property protection and should only be used as a temporary solution.

c. In sharing VHA space under this authority, VA medical centers and VISNs must consider the use to which the potential partner to the agreement would put the space. Potentially controversial uses are to be avoided. For example, VA medical centers will neither share nor sell the use of space for abortion services, the sale of alcohol or firearms, fireworks, gambling activities, partisan political activities, correctional-system activity, storage or processing of hazardous materials, billboards, or purposes which would violate community standards.

d. VA medical centers may use medical care appropriation funds only under the non-recurring maintenance (NRM) program to make improvements to VHA space for use by a sharing partner.

e. Sharing partners may use their own resources to make capital improvements to existing VHA space. However, VA Central Office must approve the proposed VA medical center-sponsored (NRM) or partner-sponsored capital improvements in advance.

f. VA medical centers must require that the sharing partner comply with the minimum wage requirements of the Davis-Bacon Act (40 U.S.C. Section 276a) when renovating or improving VHA space, even though Federal appropriated dollars will not be directly spent on the construction project.

g. Neither major nor minor construction program funds may be used to renovate or improve space solely for the purpose of use by a sharing partner.

h. Proposals involving new construction, not just renovation of existing space, must be submitted under the Enhanced Use Lease Program, and not under the sharing authority, in order to share the use of space, as defined by 38 U.S.C. Section 8153.

i. Sharing use of space proposals usually cannot entail providing the sharing partner with supplies. However, providing supplies may be considered only if the supply component is a minor portion of the total cost to the sharing partner.

(1) It is important to note that a VA medical center must be sharing or selling the use of space, not the related supplies under the guise of selling or sharing the use of space. For example, agreements for use of VHA space by a sharing partner to provide inpatient hospital care to their own patients may be developed under this authority, if the space in question is discrete from VHA inpatient beds, the space is staffed by the sharing partner's physicians and nurses, and the partner operates its own admission and discharge system.

(2) Agreements for the use of space cannot include provisions to furnish any supplies directly to the sharing partner (e.g., agreements can provide for furnishing prepared meals, but not for furnishing unprepared subsistence supplies).

(3) Agreements of this nature are considered to be use of space, equipment, and support services, not as agreements for VHA to provide inpatient care. This kind of proposal, i.e., one

which involves sharing both space and services, must be reviewed by the CAMPS Office and VHA's Medical Sharing Office (176) as well as VA Central Office's Rapid Response Team (RRT).

j. Under no circumstances may a sharing partner sublet the use of VHA space obtained through a use of space sharing agreement.

k. Historically, use of space sharing agreements for up to 20 years total have been executed under this Authority. However, it is now required that the initial or base period covered by a sharing agreement for the use of space is not to exceed 5 years, with VHA retaining options to renew the original agreement in 1 to 5 year increments after the first 5-year (base) period, for a total time period not to exceed 10 years. *NOTE: For base periods envisioned beyond 5 years or total time periods exceeding 10 years, VA medical centers and VISNs are required to utilize the Enhanced Use Lease Program.*

l. Use of space proposals that exceed \$700,000 annually, \$7 million over the life or term of the agreement, or \$1 million in capital investment (i.e., Non-recurring Maintenance (NRM) program funds) are subject to initial CAMPS review, followed by a VA Central Office technical and legal review of the draft sharing agreement, a VHA Capital Asset Board (CAB) review, as well as a review by the VA Capital Investment Board (CIB). Since this requires additional review time, VA medical centers and VISNs must submit such proposals at least 8 months in advance of desired agreement execution.

m. VA medical centers may not enter into commercial loans for any purpose. VHA may not make capital investments in either facility improvements or in the purchase of additional equipment to accommodate unknown future requirements solely for the purpose of obtaining remuneration for use of VHA space.

n. VA medical centers may respond with proposals and bids to solicitations for sharing space issued by any appropriate potential sharing partner. Such proposals must first receive concept approval from the CAMPS Office and RRT. Regional General Counsel must review any resulting draft agreement with projected revenues up to \$700,000 annually prior to submittal to the potential sharing partner for signature. After VA Central Office concept approval, draft agreements with projected revenues totaling over \$700,000 annually, or with NRM outlays in excess of \$1 million, must be submitted to all appropriate parties, including VA Central Office for technical and legal review, before any parties sign a use of space sharing agreement.

o. All use of space sharing proposals or CPs must contain the required information, and be accompanied by required certifications as outlined in Appendix A and Appendix B.

p. All proposals approved by VA Central Office proceed to the agreement stage, where they must comply with all VA and applicable other governmental regulations.

## 5. RESPONSIBILITIES OF THE VA MEDICAL CENTER DIRECTOR

Each VA medical center Director is responsible for:

a. Ensuring that if sharing agreements for VHA space with any health care provider (or virtually any other appropriate entity; group of individuals; corporations; associations; partnerships; Federal, State, or local governments; or individuals) are planned, they are not with VA or other Government agency employees for their personal use or the use of companies owned by them.

b. Giving high-priority consideration to sharing space with homeless veteran service providers that are planning to develop supportive housing programs or service centers, either through funding that can be made available through VA's Homeless Providers Grant and Per Diem Program, or through other Federal, State or local funding sources (see App. G).

c. Submitting completed and correctly formatted sharing of space CPs (see App. A and App. B) to the CAMPS Office by electronic mail at least 2 weeks prior to planned execution of the sharing agreement. At the time of electronic submission to the CAMPS Office, VA medical centers are required to send a simultaneous copy to the attention of the Office of the Assistant Deputy Under Secretary for Health for Operations and Management (10N). Sharing of space CPs that propose sharing space with homeless veteran service providers must also be forwarded simultaneously to the Associate Chief Consultant, Health Care for Homeless Veterans (116E). *NOTE: Proposals to share space with Child Care Contractors must be sent simultaneously to the National Child Care Program Manager (10A2).*

(1) **Exception 1** (to the submittal timing). Proposed use of space CPs that entail less than 1 week in duration and/or gross less than \$2,500 in total revenues may be submitted 1 week prior to planned execution. Examples include: 1 or 2-day rental of a parking lot for a community charity walk and/or run, or a one-time use of conference room or similar type of non-medical or technical space.

(2) **Exception 2.** Use of space proposals and resulting draft agreements with projected high revenues or high capital investment cost, as outlined in subparagraph 4l, need to be submitted with results of a formal market survey and cost benefit analysis, in addition to the requirements outlined in Appendix A and Appendix B for VA Central Office technical and legal review.

d. Ensuring that all proposals other than those of the type noted in subparagraph 5c(1) must be based upon an assessment of the current market and must utilize a business team approach employing the following individuals and skills: contracting officer with the authority to share or sell; financial analyst or business manager; Regional General Counsel; local human resources specialist, and as advisable, union representation; and an applicable program official, as appropriate. When a use of space proposal involves a homeless veteran service provider who intends to develop a supportive housing program or a service center, the VA business team considering the proposal needs to include the VA medical center's Health Care for Homeless Veterans (HCHV) Program Coordinator. *NOTE: The responsibilities and determinations to be made during the course of the business teamwork are outlined in Appendix E.*

e. Obtaining needed certifications and filing locally and/or submitting to VA Central Office (see App. A and App. B) with electronic submission of the concept proposal to the CAMPS Office within specified time frames (see subpar. 5a).

f. If the duration to share space exceeds 30 days, obtaining approval to submit the proposal from the VISN Director, or designee, prior to emailing to VHA's CAMPS Office. *NOTE: Any previously granted blanket pre-approval or permission to proceed to agreement stage without prior CAMPS Office approval is rescinded.*

g. If the duration to share space is less than 30 days, notifying the respective VISN as they are about to electronically submit a proposal to share space to the CAMPS Office. *NOTE: Including the VISN Office in the electronic mail simultaneously may be permitted if the VISN has pre-authorized such procedure.*

h. Securing Regional General Counsel review prior to all parties signing the agreement, following VA Central Office concept approval, for agreements totaling less than \$700,000 annually. For proposals projecting high revenue or high capital investment costs, VA medical centers must submit both the proposal and subsequent draft agreement to the CAMPS Office for VA Central Office technical and legal review prior to any party signing the agreement.

i. Incorporating any changes to proposed agreements as required by VA Central Office legal and technical review, if the agreement's projected revenues total more than \$700,000 annually, before the sharing agreement is signed and executed. If the proposal has projected revenues totaling less than \$700,000 annually, any changes required by the CAMPS Office, or Rapid Response Team (RRT), must be incorporated before the sharing agreement is signed and executed.

j. Surface mailing a copy of the signed sharing of space agreement to the CAMPS Office, within 5 business days of all parties signing the agreement.

k. Monitoring performance at least every quarter and taking appropriate action to correct problems promptly. This involves the ongoing collection and maintenance of data in the sharing agreement file at the VA medical center level and entering quarterly and year-end data into the database described in following subparagraph 5l.

l. Entering required data into the Office of Facilities Management Space and Functional database at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/> when submitting an electronic copy of a CP, and again within 5 business days of VA medical centers receiving CP approval from VA Central Office, as well as at the time the agreement is signed by all parties and quarterly thereafter until its conclusion. It is essential to VHA's credibility that its Space and Functional database is accurately and timely maintained in order to demonstrate VHA's commitment to responsible capital asset portfolio management, and provide needed information in response to short turn around Congressional, Government Accountability Office, and other information requests.

## 6. RESPONSIBILITIES OF VISN DIRECTORS

VISN Directors are responsible for ensuring that:

- a. VA medical center proposals to share space comply with known or anticipated mission analyses and preferred or approved Capital Asset Realignment for Enhanced Service (CARES) related options.
- b. VA medical center proposals represent the best deal for VA and America's veterans and taxpayers.
- c. VA medical center proposals to share space are given priority consideration to homeless veteran service providers who are planning to develop supportive housing programs or service centers for homeless veterans. Proposals to share space with homeless veteran service providers must identify modest prices for use of space that reflect the VA medical center's consideration of the value and cost effectiveness of community-based service organizations partnering with VA medical centers to jointly serve homeless veterans.
- d. All information required by VA Central Office must be submitted in the proper format at least 2 weeks or 9 months (the latter for high revenue and/or capital investment proposals) prior to the desired agreement execution date by any VA medical center within that VISN's jurisdiction. *NOTE: For exceptions see subparagraph 5c.*
- e. VA medical centers under the VISN's jurisdiction must adequately maintain VHA's Office of Facilities Management Space and Functional database.
- f. VA medical centers under the VISN's jurisdiction must provide appropriate monitoring to ensure an acceptable level of performance for sharing use of space agreements.

## 7. RESPONSIBILITIES OF VA CENTRAL OFFICE

- a. The CAMPS Office (182) is responsible for reviewing and notifying VA medical centers of the status of their proposal by electronic mail within 3 business days of receipt of their proposal. The CAMPS Office reviews concept proposals to verify all required information and certifications are present and acceptable. *NOTE: Typically a CAMPS Office review takes no more than 3 business days.* The CAMPS Office then forwards the proposal to the VA Central Office RRT.
- b. The VA Central Office RRT is responsible for reviewing and approving or disapproving the sharing use of space concept proposals generally within 5 working days of receipt of such proposals. The RRT is comprised of a representative of the CAMPS Office, VA's Office of General Counsel (025C) and VA's Office of Acquisition and Materiel Management (049A5A). When concept papers involve sharing space to accommodate research activities, the VA Central Office RRT review process must include the VHA Office of Medical Research Service (121D). When concept papers involve sharing space to accommodate homeless veterans, the VA Central Office RRT review process must include the VHA Office of Mental Health and Behavioral Science (116E). *NOTE: Proposals to share space with Child Care Contractors must be sent simultaneously to the National Child Care Program Manager (10A2).*
- c. The CAMPS Office notifies the proposal initiator by electronic mail of the decision reached by the RRT, CAB, and/or CIB within 2 business days of the VA Central Office decision.

## 8. POST VA CENTRAL OFFICE APPROVAL: PREPARING THE SHARING AGREEMENT DOCUMENT

a. Before it is signed by the VA medical center's designated contracting authority and the sharing partner, Regional General Counsel must have a final review of any proposed sharing agreement projecting revenues under \$700,000 annually, following CAMPS and RRT approval of the concept paper.

b. It may be appropriate for VA medical centers to pay prorated damages to a sharing partner in the event that VHA must terminate a use of space agreement before the time specified for the agreement, particularly if the sharing partner has made a significant capital investment in the space, but only if provisions for damages are included in the terms of the initial agreement.

*NOTE: See Appendix C for the provisions that must be included in any sharing agreement involving liability payments from a VA medical center.*

c. If a VA medical center chooses to utilize NRM funds to render the space acceptable to the sharing partner, after VA Central Office approval of the concept, the sharing agreement revenues need to reflect a prorata reimbursement of expended NRM funds over the term of occupancy.

d. A hard copy of certification(s) must be placed in the sharing agreement file maintained at the VA medical center, and in identified instances, must be submitted with the proposal, as indicated in Appendix A and/or Appendix B. In addition, a hard copy of the executed sharing of space agreement must be sent to the CAMPS Office (182C), within 5 workdays of the agreement award date.

e. All agreements for sharing space must be in writing.

f. Terms to be included in the agreement must include:

(1) The ability to cancel the agreement if unforeseen future circumstances result in VHA failing to meet the requirements of 38 U.S.C. 8153, i.e., particularly in regard to the unforeseen reduction of services to veterans, or as a result of mission analysis, among other extenuating conditions;

(2) The time period covered by the agreement;

(3) Any mechanisms for adjusting prices;

(4) What, if any, liability is to be assumed by VHA for failure to perform;

(5) Holding the sharing partner harmless and indemnifying VHA from claims, losses, damages, liabilities, costs, expenses or obligations arising out of or resulting from the sharing partner's wrongful or negligent conduct in the performance of this agreement; and

(6) Other items as: quantities, billing and payment terms, deadlines, quality, environmental issues, security, hours of operation, manpower commitments, ability to deliver services as required, performance management, reporting, and others as appropriate.

*NOTE: With very few exceptions, all terms and conditions are negotiable.*

## 9. POST VA CENTRAL OFFICE APPROVAL: AGREEMENT STAGE

a. All proceeds from agreements for the use of VA space under the use of space Sharing Authority must be deposited into the correct medical care appropriation account at the VA medical center in order to benefit veterans. These proceeds need to be coded as directed by VHA's Financial Management System (FMS), or any subsequent system developed and promulgated by VHA's Office of Financial Management (17).

b. Reimbursement Rates (e.g., prices or costs plus inflation, as applicable) must be negotiated in the best interest of VHA, America's veterans, and taxpayers.

c. VA medical centers must enter required data into the Office of Facilities Management Space and Functional database, at the Sharing Use of Space tab, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>, upon submittal of the proposal, 5 days after the agreement is signed, and at the end of each quarter thereafter for the life of the agreement.

## 10. REFERENCES

- a. Title 38 U.S.C. Section 8153.
- b. VA Acquisition Regulations (VAAR) at VAAR 801.602 and 801.690.
- c. VA Directive 7401.3.
- d. VA Handbook 7401.3.
- e. VA Directive 8500.
- f. VA Directive 4560.
- g. VA Handbook 4560.1.
- h. VA Handbook 8500.
- i. The Managerial Cost Accounting Implementation Guide.
- j. M-1, Part VII, Chapter 6.
- k. VHA Directive 1660.1.
- l. VHA Handbook 1660.4.

- m. VHA Handbook 1006.1.
- n. General Services Administration (GSA) Bulletin FPMR D-242: "Placement of Commercial Antennas on Federal Property."
- o. Title 38 Code of Federal Regulations (CFR) 61.0: "VA's Homeless Providers Grant and Per Diem Program."
- p. VA Handbook 7545.

## GENERAL FORMAT FOR SUBMITTING AND EXECUTION OF CONCEPT PAPERS TO SHARE SPACE

### 1. Requirements

a. Department of Veterans Affairs (VA) medical centers proposing to share the use of space entailing less than 30 days in duration and/or only grossing less than \$2,500 in total revenues, need to complete items in subparagraphs 2a through 2k, then electronically submit the concept paper to 182C, 1 week prior to the planned execution date.

b. For proposals with durations greater than 30 days, or grossing revenues less than \$700,000 annually, complete this Appendix. Electronically submit the concept paper to 182C, and file and/or mail certifications at least 2 weeks prior to planned execution date.

c. For proposals grossing greater than \$700,000, or needing greater than \$1.0 million in non-recurring maintenance (NRM) funds, submit Appendix A together with formal market survey results and cost benefit analysis at least 9 months prior to planned execution.

d. VA medical centers must enter required data into the Office of Facilities Management Space and Functional database, at the Sharing Use of Space tab, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>. The required data must be entered at the following times:

- (1) At the time the proposal is submitted;
- (2) Five days after the agreement is signed; and
- (3) At the end of each quarter thereafter for the life of the agreement.

2. **Submittal of Concept Paper.** In submitting a Concept Paper (CP), the VA medical center's sharing coordinator, or designee, must provide or identify the following:

- a. The VA medical center name and facility number requesting the concept approval.
- b. The Veterans Integrated Service Network (VISN) name and number endorsing the concept.
- c. The VA medical center and VISN contact persons and telephone numbers.
- d. The resource, gross square footage, and location of the asset to be sold or shared.
- e. The name and address of the sharing partner.
- f. The term of the agreement (base period and length of options in years). *NOTE: Sharing use of space proposals entails 1 to 5 years as the base period, and 1 to 5 year optional terms, as*

*appropriate, up to a total of 10 years. The time frame for notifying the sharing partner of VA's discretion to terminate the agreement can be 30, 60, or 90 days or, at maximum, 180 days.*

- g. The costing methodology or basis of reimbursement rate.
- h. The market rate in the private sector for comparable space (e.g., dollars per net usable square feet).
- i. The dollar and/or other Veterans Health Administration (VHA) outlays (e.g., construction and/or renovation, utilities, telephones, etc.) that are involved in this proposal. In addition, proposals must identify what, if any, capital improvements and cost will be incurred by the VA medical center and in which fiscal year.
- j. An estimate of the annual operating costs (e.g., utilities, security and maintenance).
- k. An estimate of the total gross revenues, by year, and for the life of the proposal (provide table) with inflation factor built into the charge for the space, if term exceeds 1 year.
- l. Identify sharing partner's proposed capital expenditure (if any) by year.
- m. Certify in the proposal and retain the evidence in the VA medical center's sharing agreement file if this proposal is:
  - (1) Recovering, at a minimum, all operating costs (utilities, space maintenance, security, etc.).
  - (2) Charging market rate for the space.
  - (3) Benefiting veterans.
  - (4) Ensuring that the partner complies with all applicable VHA and VA codes and regulations, including handicapped accessibility and historic preservation. **NOTE:** *VA medical centers may choose to make this part of the actual agreement, after VA Central Office approval of proposal.*
- n. Generally, all sharing agreements must be offered to the public, in order to obtain an outcome in the best interest of VHA, America's veterans, and taxpayers. If the sharing agreement is not offered to the public (competed), then proper justification must be provided.
  - (1) Simply stating that the proposed sharing agreement is with an affiliate or a homeless veteran service provider is adequate justification in this instance.
  - (2) In all other cases when the sharing agreement was not offered to the public, full justification must be provided.

o. Describe and quantify how current, not potential future, veterans will benefit from this proposed agreement. *NOTE: A narrative alone is not sufficient.*

p. Identify how patient privacy, VA computer systems, overall security of the space and those using it, will be handled if the public present potentially harmful or disruptive behavior, or if a participant becomes sick or injured and needs immediate attention.

q. Obtain VISN concurrence with the proposal. The proposal the VISN concurrence, and the VISN certification that this proposal conforms to mission analyses and preferred planning options must be submitted at the same time, either electronically or by surface mail, to the Capital Asset Management and Planning Service (182C) Office.

el

**3. Execution of Sharing Agreement.** Following VA Central Office's approval of the CP, the VA medical center's sharing coordinator, or designee, must:

a. Mail a copy of the signed sharing agreement to (182C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.

b. Retain in the sharing agreement file at VA medical center, the required established system of monitoring, evaluation, and correction (if needed) of the sharing partner's and the VA medical center's performance at least biannually.

c. Enter the required data into the Office of Facilities Management's Space and Functional Database, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>, at the following times:

- (1) At the time the proposal is submitted;
- (2) Five days after the agreement is signed; and
- (3) At the end of each quarter thereafter for the life of the agreement.

**REQUIREMENTS FOR SUBMITTING PROPOSALS TO SHARE SPACE FOR ANTENNAS, WHETHER GROUND-BASED OR TO BE PLACED ON ROOFTOPS**

Department of Veterans Affairs (VA) medical centers proposing to share use of space for antennas, with durations greater than 30 days and, if projected revenues or non-recurring maintenance (NRM) expenditures do not exceed the limits noted in Appendix A subparagraph 1c, must submit the information needed in Appendix A and Appendix B, at least 2 weeks prior to the desired execution of the sharing agreement. For antenna-related proposals grossing revenues greater than \$700,000 per year or generating over \$7 million in total revenues over the life of the proposed sharing agreement and/or needing greater than \$1 million in NRM funds, VA medical centers must complete and email the information needed in Appendix A and Appendix B at least 8 months prior to anticipated signing of the agreement. At the same time file and/or mail applicable certifications described in Appendix A and Appendix B.

1. **License.** If this is a concept paper (CP) for a license, medical centers are to follow Veterans Health Administration policy. *NOTE: Use of licenses results in revenues being paid to the United States Treasury, and not to the VA medical center.*

2. **Proposed Sharing Agreement.** If this is a proposed sharing agreement, the VA medical center sharing coordinator, or designee, must, through or with concurrent notification of the respective Veterans Integrated Service Network (VISN), complete the following:

a. Provide the information required in Appendix A.

b. Electronically or surface mail VA medical center statements certifying that the simultaneously mailed proposal complies with:

(1) Federal, State, and local ordinances. *NOTE: To facilitate each local agreement, VA medical centers must document that they have conferred with the county planning agency (concurrence with the VHA plan or proposal is recommended, but it is not required), and that they have placed a public notice in the main local newspaper advising the community of their intent, with a 30-day window for public comment.*

(2) Environmental Protection Agency guidelines and regulations governing such usage.

(3) General Services Agency (GSA) guidelines and regulations per GSA Bulletin Federal Property Management Regulation (FPMR) D-242, "Placement of Commercial Antennas on Federal Property."

(4) VA and Federal Historic Preservation Law and regulations. *NOTE: All monopoles or rooftop antennas must go through the Historic Preservation process outlined at Appendix F.*

c. If the projected revenues are greater than \$700,000 annually, and/or require NRM capital investment by the VA medical center totaling more than \$1 million, a cost benefit analysis and formal market survey results must be submitted and attached to the CP,

d. Obtain the VISN Director's, or designee's, concurrence with the proposal and VISN certification that this proposal conforms to mission analyses and to preferred planning options. Email this with the concept paper (App. A and App. B) to (182C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.

e. Enter the required data into the Office of Facilities Management's Space and Functional Database, found at: <http://vaww.vhacowebapps.cio.med.va.gov/cis/>, at the following times: at the time the proposal is submitted; 5 days after the agreement is signed; and at the end of each quarter thereafter for the life of the agreement.

**SHARING AGREEMENT PROCEDURES AND REQUIREMENTS FOR LIMITING  
VA'S LIABILITY IN THE EVENT OF EARLY TERMINATION**

1. Department of Veterans Affairs (VA) medical center contracting officers must:
  - a. Prorate the amount of damages that the VA medical center will pay if the agreement is terminated earlier than agreed upon;
  - b. Limit the Veterans Health Administration's (VHA) liability to the amount of appropriated funds available to the VA medical center at the time payment is made; and
  - c. State that VHA does not promise that Congress will appropriate additional funds to meet any deficiency in the event that damages must be paid.
2. In the event that damages are to be paid in accordance with the terms of an agreement, the VA medical center is responsible for the payment of the damages from the Medical Care Account.

### REIMBURSEMENT RATES

1. Department of Veterans Affairs (VA) medical centers must consider local commercial market rates for similar space, as well as the full cost as defined by the Federal Accounting Standards Advisory Board, for providing the service when negotiating reimbursement rates. VA medical centers must incorporate an annual inflation adjustment to multiple year agreements to ensure maintenance and operating costs, including utilities' future costs, continue to be at least recouped if not exceeded. VA medical centers are encouraged to maximize revenue generated from the sharing of space under this authority except when sharing space with homeless veterans service providers (see following par. 2). Prices may be established above full cost.
2. In setting reimbursement rates for homeless veteran service providers, VA medical centers are to be sensitive to the partner's ability to help VA meet its mission of providing assistance to this high priority patient population. In these cases, VA medical centers are not encouraged to maximize revenue generated from the sharing of space, but rather, are encouraged to recognize the value and cost effectiveness of the services that are being made available to homeless veterans. VA medical centers must take into consideration the potential costs that would be associated with residential services and support services that could be incurred by VA medical centers if these services were not made available by community-based partners. Local direct cost, associated with providing the services, needs to be the starting point for negotiating reimbursement rates.
3. In setting any reimbursement rates, VA medical centers must be sensitive to private sector perceptions that Federal funds are being used to subsidize operation costs, that the Veterans Health Administration (VHA) pays no State, local, or Federal taxes, that VHA is not borrowing money at interest to finance construction and new equipment purchases, and that VHA is able to set an artificially low price for services.
4. The rationale and justification for all price determinations must be fully explained, documented, and maintained in the agreement file. This must be sent, with a hard copy of the executed agreement, to either the Capital Asset Management and Planning Service Office (for sharing of space) or to the Medical Sharing Office (176) for sharing or selling health care resources other than space.

**DETERMINATIONS REQUIRED PRIOR TO SIGNING SHARING OF SPACE  
AGREEMENTS**

- 1. Determination of Capacity.** The Department of Veterans Affairs (VA) medical center team must determine that sufficient capacity exists, or can be generated, to handle the work associated with the sharing or selling opportunity. This includes a determination that the proposed activity will not diminish existing levels of services to veterans, and that the agreement is necessary either to maintain an acceptable level or quality of care or to improve services to veterans. Any revenue generated from the agreement must be used to benefit veterans. Decisions to share space need to be based on sound business principles. The team must be able to document how VA benefits from the sale of the resource.
- 2. Determination of Costs.** Both local direct costs and full costs must be determined. There is no single costing methodology that fits all circumstances. Good judgment must be exercised in choosing the methodology most appropriate to the resource in question. The methodology chosen for determining costs must be documented and the cost worksheets maintained in the agreement file.
- 3. Determination of a Fair Price.** In establishing a price for the resource, the team must take into account local direct costs, full costs, and local market prices for the same resource. Local market prices can be obtained through market surveys and third-party rates. In most instances, prices need to be set comparable to prices in the commercial market. VA is not limited to recovering full cost in setting a price. The team must determine a price that is in the best interest of the Federal Government. If, and only if, the agreement is necessary to maintain an acceptable level or quality of care, such as supportive housing and services available for homeless veterans in service centers, it may be determined to be in the best interest of the Federal Government to establish a price that is below full cost. Otherwise, the price must be established at, or above, full cost. The team must document the rationale used in determining a price.
- 4. Determination of a Negotiating Range.** The team must develop a range of prices to be used in negotiations and in developing a negotiating strategy. The range may include considerations, such as: volume discounts or a multi-tiered pricing structure, community needs, and effects on relationships with potential sharing partners. It may be necessary to identify a break-even point and establish a price floor below which VA will not negotiate, even if the end result is failure to reach agreement. In no instance will any agreement be executed if the revenues to be received do not recover local direct costs.
- 5. Determination of Space.** Determination that the space available has first been considered as a possible site for making supportive housing or service centers available to homeless veterans.
- 6. Determination of Marketing Approach.** Market research may be a critical step involving an assessment of the existence of potential partners, or an assessment of community needs or potential niche markets as examples. Any market research needs to be documented. When VA chooses to offer services on the open market, reasonable competition occurs.

a. Potential buyers are afforded the opportunity to offer bids for a VA resource. Notice may be made to the public through the Commerce Business Daily (CBD), or other media as appropriate. In other circumstances where a potential partner approaches VA, VA may decide to sell the resource directly to the soliciting buyer. Factors to be considered in making these decisions may include: the relationship with the potential buyer, the market demand for the resource, the political sensitivity of the potential agreement, community needs, the value and effectiveness of on-site community-based supportive housing or service centers for homeless veterans or other factors that may make the offer in the best interest of the Federal Government based on criteria other than price.

b. VA medical centers may prepare and submit bids in response to solicitations announced and open to the public for response.

**7. Determination of the Impact of the Proposed Sale on Accreditation.** The team must make an assessment of any potential impact of the proposed sale on accreditation, such as: the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists (CAP); facility licensing; licensing of employees; credentialing and privileging; risk management; etc.

**8. Determination of Conflict of Interest.** Government business must be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust, and an impeccable standard of conduct. The general rule is to strictly avoid any conflict of interest or even the appearance of a conflict of interest. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must be such that they would have no reluctance to make a full public disclosure of their actions. With regard specifically to sharing of space, buying and selling to the same entity violates this provision.

**9. Determination of Impact.** The team must make a determination of impact of the proposed sale on other programs or elements in the facility. In addition, VA medical centers and Veterans Integrated Service Networks (VISNs) must assess and base decisions upon the likely outcome of mission studies.

**10. Determination of Potential Liability.** The team must make a determination of the potential liability for failure to perform under the terms of the agreement as well as other liability issues. Contingency plans need to be developed to allow the facility to meet performance requirements under foreseeable circumstances, or the agreement needs to detail circumstances under which VA would not be expected to perform.

## NOTES AND REFERENCES REGARDING HISTORIC PRESERVATION

1. Department of Veterans Affairs (VA) medical centers and Veterans Integrated Service Networks (VISNs) are advised that when any visual change is being considered at a historic property, the Veterans Health Administration (VHA) must, by law, go through the National Historic Preservation Act Section 106 (codified at Title 36 Code of Federal Regulations Part 800) compliance process prior to any approvals for that change. For example, any monopole or rooftop antenna (past, present, future) must go through the process. Approving Officials in VA Central Office must see evidence that this compliance process has been completed by the requesting facility or by the VISN prior to granting approval.
2. National Historic Preservation Act Section 106 compliance information can be found in the Cultural Resource Management Directive and accompanying Handbook 7545. These can be accessed at: <http://www.va.gov/facmgt/historic/Requirements.asp>. This set of VA information and policy clearly places responsibility for ensuring historic preservation compliance on the VA medical center program official overseeing the action that affects the historic property.
3. The VA medical center program manager or approving official is responsible for documenting evidence of compliance and maintaining such documentation in the sharing agreement file. **NOTE:** *The requesting field officials are the ones in the best place to actually accomplish the compliance and start the paperwork and discussions with the preservation reviewers, beginning with the State Historic Preservation Officers.*
4. VHA's Historic Preservation Program Manager can be reached at 202-565-5680 for further information or guidance.

**SUPPORTIVE HOUSING AND SERVICE CENTERS FOR HOMELESS VETERANS**

1. Homelessness among veterans in the United States (U.S.) has been, and continues to be, a significant problem. Current estimates indicate that on any given night approximately 200,000 veterans are homeless and more than twice that number experience an episode of homelessness over the course of a year. Over 80 percent of homeless veterans suffer from serious mental illnesses or substance abuse disorders.
2. Among homeless veterans, approximately 35,000 veterans are estimated to be chronically homeless. The U.S. Interagency Council on Homelessness (ICH) defines a chronically homeless person as an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for 1 year or more or has experienced four or more episodes of homelessness over the course of 3 years. The President's Management Agenda has identified ending chronic homelessness by 2012 as a high priority. This priority is supported by a legislative goal for the Department of Veterans Affairs (VA) to assist in ending chronic homelessness among veterans within the same time frame.
3. Each year VA medical centers host a strategic planning meeting or series of meetings with representatives from other Federal agencies, state and local governments and community-based service providers to identify the unmet needs of homeless veterans and to develop action plans to meet those needs. This planning process, known as VA's Community Homelessness Assessment Local Education and Networking Groups (CHALENG) for Veterans, has identified access to supportive housing and service centers as two of the top unmet needs of homeless veterans for the past decade.
4. Making under utilized space available at a modest price to community-based homeless veterans service providers for supportive housing and service centers through sharing agreements supports the President's Management Agenda, VA's legislated goal, and VA-community planning strategies to address the needs of homeless veterans. VA medical centers and Veterans Integrated Service Networks' (VISNs') must give high priority for sharing use of space agreements with organizations that are planning to develop supportive housing or service centers for homeless veterans.
5. In determining charges to homeless veteran service providers who are planning to develop supportive housing programs or service centers, VA medical centers need to consider the therapeutic value of these services and the cost-effectiveness of partnering with community-based organizations to jointly address the needs of homeless veterans. Homeless veterans' access to supportive housing and service centers offers an alternative to prolonged and unnecessary hospitalizations. VA medical centers need to recognize that community-based service providers are most likely to be funded through Federal, State, or local grants and/or donations from charitable foundations. Many of these organizations may be seeking funds to establish and maintain programs through VA's Homeless Providers Grant and Per Diem Program. While these organizations may have multiple funding sources, they typically function with only minimal resources available to cover the cost of basic operating expenses. VA medical

centers must make every effort to charge modest prices to allow for reimbursement of the VA medical center's local direct cost associated with the sharing of space agreement. Modest charges for use of VA space allows community-based service providers to commit more of their resources to staffing and other direct support for homeless veterans.

**SELLING AUTHORITY CERTIFICATION PROCEDURES**

**1. REASON FOR ISSUE.** This handbook establishes the procedures for selection, appointment, and termination of selling officials. Selling officials are defined as those persons granted authority to enter into sales agreements, as referenced by Veterans Affairs Acquisition Regulation (VAAR) 801.602(a)(l).

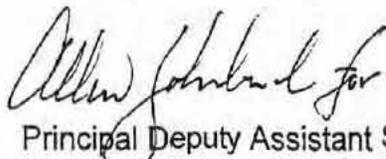
**2. SUMMARY OF CONTENTS/MAJOR CHANGES.** This handbook sets forth the procedures and requirements for the management control of the selection, appointment, and termination of selling officials recommended by their organizational sponsors to meet the needs of their respective organizations under Public Law (Pub. L.) 104-262, Sections 8151 through 8153 of 38 United States Code (U.S.C.), otherwise known as Enhanced Health Care Resources Sharing Authority.

**3. RESPONSIBLE OFFICE.** Acquisition Resources Service (95), Office of Acquisition and Materiel Management. Questions can be directed to the Acquisition Policy Team (95A) at (202) 273-8818.

**4. RELATED DIRECTIVE.** VA Directive 7401.3, Selling Authority Certification.

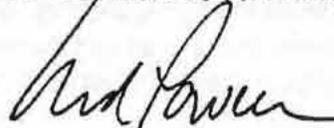
**5. REVISIONS.** None.

CERTIFIED BY:



Principal Deputy Assistant Secretary  
for Information and Technology

BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:



Edward A. Powell, Jr.  
Assistant Secretary for Management

Distribution: RPC 7029  
FD

## SELLING AUTHORITY CERTIFICATION PROCEDURES

### 1. Purpose.

The purpose of this handbook is to provide management control procedures for the selection, appointment, and termination of selling officials under the Enhanced Health Care Resources Sharing Authority (Public Law 104-262, Sections 8181 through 8153 of 38 United States Code) other than senior level (unlimited) contracting officers.

### 2. Requests for Appointment:

a. When recommending a candidate to be a selling official, the recommending official (the facility director or network director) shall submit, in writing, to the Procurement Executive, via the Acquisition Administration Team (95B), the following, as a minimum:

(1) Background information:

(a) Candidate's name, position title (give supervisory or organizational title if applicable), position series and grade.

(b) Summary of candidate's responsibilities, including responsibilities for selling materials and services under the Enhanced Health Care Resources Sharing Authority cited above.

(c) In cases of new appointments necessitated by change of facility or position, the candidate's current or prior selling official appointment, including facility, location, and date of appointment.

(2) A certification, required to be submitted by the recommending official, shall state that the candidate maintains high standards of conduct, and there are no documented problems of apparent and/or actual conflicts of interest.

(3) A separate qualification statement signed by the candidate shall accompany the recommending official's request. The qualification statement shall include the following information:

(a) Name of candidate.

(b) Relevant experience within the last 5 years. Relevant experience is that experience which bears upon the candidate's business acumen, such as management, contracting, finance, law, or marketing;

(c) Educational and training background, including details of specific courses, certificates, diplomas, or degrees pertaining to business knowledge, such as management, contracting, finance, law, or marketing;

(d) Candidate's signature and date of signature.

(4) Specific limitations, if any, requested to be placed upon the appointment, such as dollar limitation, expiration date, or items to be sold;

(5) A certification, required to be submitted by the recommending official, that the candidate has a working familiarity with the provisions of the Enhanced Health Care Resources Sharing Authority cited above, relevant to selling. This certification shall state how the candidate acquired the working familiarity (i.e., on-the-job training, experience, attendance at symposia or seminars, etc.).

### **3. Qualifications.**

The Acquisition Administration Team (95B) will review all requests for appointment before forwarding them to the Procurement Executive to ensure the statement of the candidate's qualifications and other details are clear and complete.

### **4. Appointment.**

a. The Procurement Executive is authorized to appoint selling officials in writing on Office of Acquisition & Materiel Management (OA&MM) letterhead.

b. Specific limitations, as deemed appropriate, may be imposed upon the authority of the selling official. Such limitations will be specified in the letter of appointment. Appointment of selling officials does not preclude the imposition of administrative reviews or other limitations for program management purposes.

c. The original letter of appointment will be provided to the appointed selling official. One copy of the letter shall be placed in the delegation of authority file and another copy will be furnished to the sponsoring official.

### **5. Termination.**

The Procurement Executive may revoke the appointment of a selling official at any time. Recommending officials or other management officials shall submit to the Procurement Executive, when requesting termination of a selling official, written recommendations based on:

a. The need for the appointment no longer exists;

b. Personnel actions such as resignation or retirement; or,

c. Cause (e.g., unsatisfactory performance, official misconduct pending criminal or administrative investigations).

d. Term limited appointments will automatically expire at the close of business on the last day of the appointed term. If the last day is on a holiday or weekend, the appointment will expire on the last business day preceding the weekend or holiday.



DEPARTMENT OF VETERANS AFFAIRS  
DEPUTY ASSISTANT SECRETARY FOR ACQUISITION AND MATERIEL MANAGEMENT  
WASHINGTON, DC 20420

IL 049-02-13  
August 1, 2002

**OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT INFORMATION LETTER**

**TO:** Under Secretary for Memorial Affairs, National Cemetery Administration; Chief Facilities Management Officer, Office of Facilities Management; Veterans Integrated Service Network Directors; Directors, VA Medical Center Activities, Domiciliary, Outpatient Clinics, Medical and Regional Office Centers, and Regional Offices; Directors, Denver Distribution Center, Austin Automation Center, Records Management Center, VBA Benefits Delivery Centers, and the VA Health Administration Center; and the Executive Director and Chief Operating Officer, VA National Acquisition Center

**ATTN:** Head of the Contracting Activity  
All VA Contracting Officers

**SUBJECT:** Clarification of Senior Level Contracting Officers as Selling Officials

1. This information letter (IL) clarifies VA Directive and Handbook 7401.3, Selling Authority Certification and Selling Authority Selling Certification Procedures dated December 3, 1998.
2. VA Directive 7401.3 identifies contracting officers warranted at senior level (unlimited) as designated selling officials by virtue of their appointment under the Contracting Officer Certification Program (COCP). This IL clarifies that, to the extent the contract action does not exceed the stated dollar limitation on their warrant, contracting officers holding senior level (limited) warrants are also considered to be "selling officials" by virtue of their appointment under COCP.
3. At the time the Directive and Handbook were written, all VA-issued senior level warrant holders had unlimited contracting authority. Since senior level (limited) contracting authority has similar training and education requirements as those currently needed for senior level (unlimited) authority, there is no need for a separate or additional authorization as a "selling official".
4. When VA Directive 7401.3 is reissued, this change will be included.

2.  
IL 049-02-13  
August 1, 2002

5. Direct any questions regarding this information letter to Patricia Ellis, Acquisition Policy Division (049A5A), at (202) 273-6058.

/s/ David S. Derr  
Associate Deputy Assistant Secretary  
for Acquisitions

Distribution: RPC 7029

I.C.  
REPORTS TO CONGRESS



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

May 21, 1999

The Honorable Bob Stump  
Chairman, Committee on  
Veterans' Affairs  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed is the Fiscal Year 1998 annual report on sharing of healthcare resources as required by 38 U.S.C. Section 8153(g).

The legislative changes enacted in 1996 to the Section 8153 Sharing Authority provided facility staff with a more flexible contracting format that can be used for all community healthcare resource contracting needs.

Our sharing programs grew 77 percent in FY 1998, and we expect that the trend will continue in FY 1999 as VA continues to increase healthcare value for our Nation's veterans and taxpayers.

Sincerely,

A handwritten signature in black ink that reads "Togo D. West, Jr." with a stylized flourish at the end.

Togo D. West, Jr.

Enclosure



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

May 21, 1999

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Veterans' Affairs  
United States Senate  
Washington, D.C. 20510

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Ranking Member, Committee on  
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United States Senate  
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Enclosure

**ANNUAL REPORT**  
**ON**  
**SHARING SPECIALIZED MEDICAL RESOURCES**  
**PURSUANT TO THE PROVISIONS OF**  
**38 U.S.C. SECTION 8153**  
**FISCAL YEAR 1998**

## TABLE OF CONTENTS

- I. INTRODUCTION
- II. BACKGROUND
- III. THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 1998
  - Chart 1. Health Care Resources Sharing Program
- IV. VA MEDICAL CENTERS AND SHARING
  - Table 1. VA Medical Centers—Sharing Agreement Total Volume
- V. SHARING HEALTH CARE RESOURCES
  - Purchasing Resources
  - Chart 2. Health Care Resources Purchased
  - Selling Resources
  - Chart 3. Health Care Resources Sold
  - New Initiatives
- VI. PROGRAM SUMMARY FOR 1998

## **I. INTRODUCTION**

Title 38, U.S.C. Section 8153(g) requires that a report on health care resources sharing be provided annually to the Congress. The information in this report is for Fiscal Year (FY) 1998.

## **II. BACKGROUND**

As an important health care resource, the VA's health care system provides each American community in which there is a VA medical facility with a vital part of that area's health care capability. The mandate and primary goal of the VA health care system is to furnish the Nation's veterans with timely medical care of uncompromised quality. A key component that has enabled VHA to attain this goal is the Health Care Resource Sharing Program. A direct benefit of this authority is to make available to veterans certain essential services that have not been readily obtainable at their local VA medical center. It also allows VA facilities to provide to the community health care resources that are not utilized to their maximum capacity.

Three types of sharing agreements are used by VA. They enable VA to: (1) purchase resources not available in a VA facility; (2) sell resources not fully utilized; or (3) exchange resources needed for resources not fully utilized.

VA's authority to share health care resources with any health care facility first was enacted in 1967 for the purpose of effectively utilizing Federal and community health care resources. In FY 1997, VA's authority to share health care resources under 38 U.S.C. 8153 was modified. Legislative changes allowed for greater flexibility in sharing arrangements. VA sharing partners now include any organization (including health care plans and insurers), institution, entity or individual. The legislative change also eliminated the restriction of sharing to specialized medical resources so that any health care service, or any health care support or administrative service may now be purchased or provided by VA. These changes greatly enhance VA flexibility and opportunity to purchase and to sell health care resources. And significantly, as the range of sharing opportunities has broadened, the cost effective delivery of high-quality medical care to VA patients has increased.

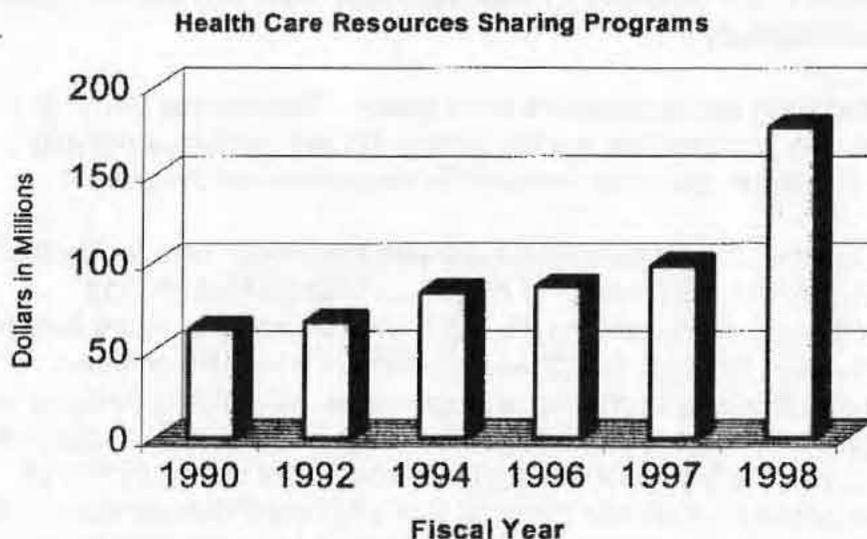
The VHA Medical Sharing and Purchasing Office initiates policy, furnishes technical assistance, and provides oversight of the health care resources sharing program. Veterans Integrated Service Networks (VISNs) and VA medical centers (VAMCs), however, have primary responsibility for initiating, managing, and accounting for sharing agreements with other institutions, health plans, or other entities.

Each VISN and medical facility includes sharing as an essential planning element and requires its professional and contracting staff to explore its potential role as a sharing partner in the community.

### III. THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 1998

Total sharing of health care resources for FY 1998 was \$173,649,111, with resources purchased totaling \$142,512,859 and resources sold totaling \$31,136,252. These totals represent a 77 percent increase in the sharing of health care resources in the VA over FY 1997. Chart 1 reflects the growth of the health care resource sharing program during the past ten years. The bars represent the total of health care resources services sold and purchased during a fiscal year.

Chart 1



In 1988, total health care resource sharing was \$53 million. Thus, in ten years, total sharing volume has increased over 225 percent.

The total volume of health care resources sharing for FY 1998 represents the increasing reliance of VISNs and VAMCs to purchase health care resources and to generate revenue by selling services through the health care resources sharing authority. The flexibility of the sharing authority to purchase resources is reflected in the continuing trend of VISNs/VAMCs to purchase primary care services for community based outpatient clinics (CBOCs), as well as cost-effective contracting for other medical and health care services.

The sharing authority is also a key mechanism for VISNs and VAMCs in generating revenues. For instance, a major trend is the selling of specialized space to health care and other community entities through sharing agreements.

Finally, the trend to procure the services of medical specialists such as anesthesiologists or surgeons through the sharing authority (rather than employing 38 U.S.C. Section 7409) is increasing and was also a factor in the substantial increase in health care resources sharing in FY 1998.

#### IV. VA MEDICAL CENTERS AND SHARING

Table 1 presents the VA medical centers with the largest volume of shared services.

**Table 1**

VA Medical Centers—Sharing Agreement Total Volume

VAMC	<u>Resources</u>	<u>Resources</u>	<u>Total</u>
	<u>Purchased</u>	<u>Sold</u>	
Albany	\$12,304,368	\$189,258	\$12,493,626
San Antonio	5,610,265	3,811,470	9,421,735
Albuquerque	7,436,444	651,000	8,087,444
Dallas	5,625,553	2,300,000	7,925,553
Nashville	5,219,162	913,204	6,132,366
Little Rock	4,797,694	1,162,827	5,960,521
Portland	2,599,278	3,198,318	5,797,596
Denver	2,928,436	607,000	3,535,436
Greater Nebraska	3,206,000	328,630	3,534,630
Pittsburgh	3,309,079	204,307	3,513,386

Total volume of sharing agreements for these ten VAMCs represents over one-third of the nation-wide total volume, although sharing increased substantially across the entire system. In FY 1998, 45 VA medical centers had sharing agreements exceeding \$1,000,000 in total volume. Twelve medical centers purchased resources in excess of \$3,000,000; eight VAMCs sold resources in excess of \$1,000,000. The Albany VAMC purchased the largest volume of services for FY 1998, expending \$12.3 million for outpatient medical and surgical services. The VAMC San Antonio continued to administer a large sharing program, purchasing \$5.6 million in resources and selling \$2.3 million. The Portland VAMC managed the most balanced sharing program in the VA system, purchasing \$2.6 million in radiation therapy, magnetic resonance imaging, and diagnostic radiology, and selling \$3.2 million of liver transplant surgery, specialized space, and other resources.

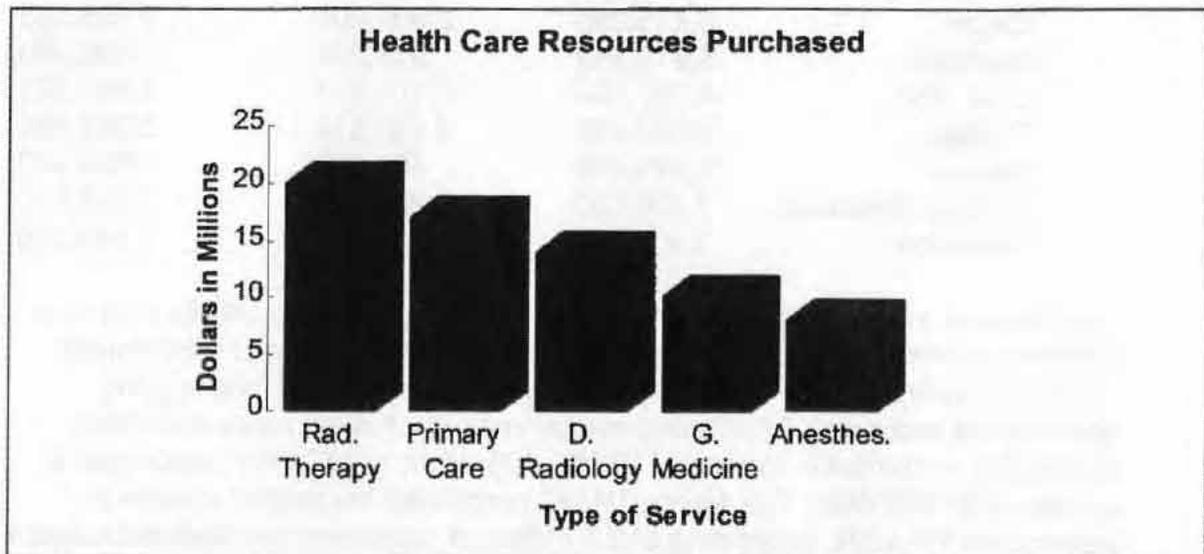
Traditionally, large affiliated VA medical centers are more likely to have more extensive and expensive sharing arrangements. The referral system of medical practice enhances the size of these sharing programs as patients flow from smaller hospitals and clinics to tertiary care centers. The diversity of sharing arrangements is also influenced by the special capability of large academic centers to manage difficult medical care problems. VA medical centers in small metropolitan areas rely heavily on sharing agreements to offset their medical capability deficits. These centers admit fewer patients, have less complex facilities, and often pay less for contract services. The total dollar amount per contract is generally small; most are less than \$25,000. These contracts are primarily in the following areas: radiation therapy, diagnostic radiology, clinical and anatomic pathology, magnetic resonance imaging, primary care services, and general medicine. Patients from small hospitals in need of specialty services such as open-heart surgery are often referred to large, affiliated medical centers.

## V. SHARING HEALTH CARE RESOURCES

### Purchasing Resources

The following were the health care resources purchased in greatest volume by VA in FY 1998:

**Chart 2**



Over the past ten years, radiation therapy and diagnostic radiology have consistently been the resources purchased in greatest dollar volume by VA under the sharing authority. The trend continued in FY 1998, with radiation therapy and diagnostic radiology accounting for over \$34.8 million or 21 percent of total resource purchases under the sharing authority. Primary care services

(\$17.4 million), general medicine (\$9.9 million), and anesthesiology (\$8.2 million) are among those resources contracted for that have greatly increased in the last two years as VA professional and contracting staff have cost-effectively employed sharing agreements to obtain these resources for their medical centers and clinics. VAMC staff have availed themselves of the flexibility of the enhanced sharing authority to contract out for primary care services at CBOCs or for specialized services such as anesthesiology that were formerly purchased under the Scarce Medical Specialist Authority (38 U.S.C. Section 7409).

The Albany, Albuquerque, Dallas, San Antonio, and Nashville VAMCs were the largest purchasers of health care resources in FY 1998, together accounting for \$36.2 million, or 25 percent of the total.

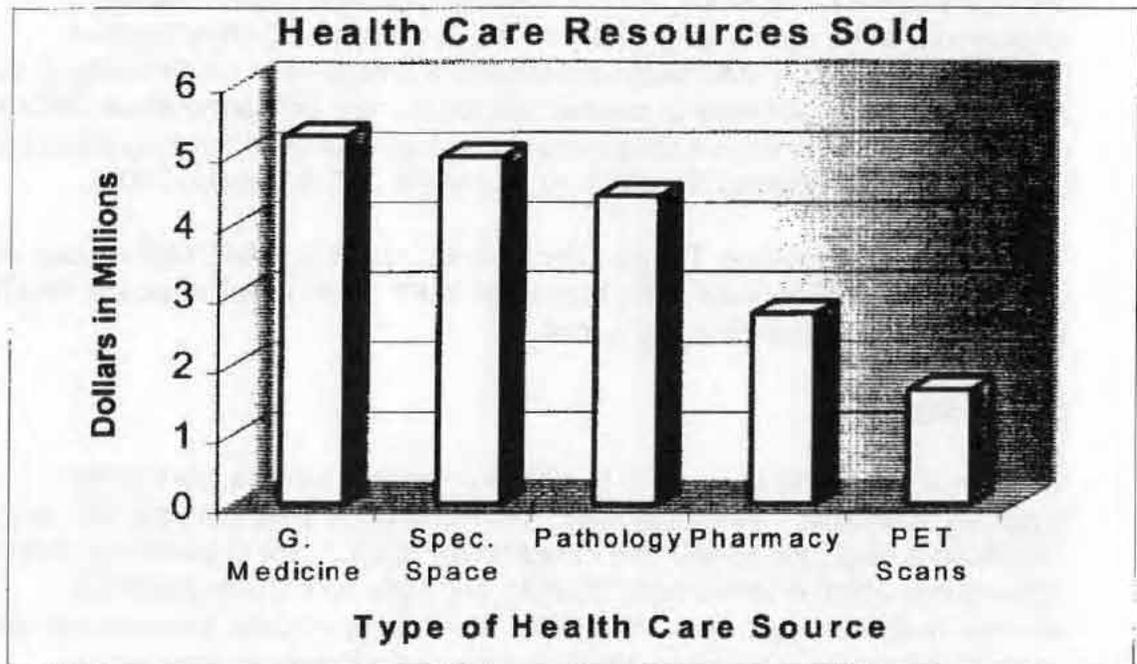
### Selling Resources

VA provides a variety of services to affiliated medical schools, community hospitals, and other sharing partners. These services are often specialty areas specific to a particular VAMC, but increasingly, VAMCs are establishing sharing agreements which creatively and fruitfully generate revenue by providing services to sharing partners. VA facilities that have particular services that are not fully utilized for the care of veterans may share these services with community health care facilities and provide services to patients referred as beneficiaries of the sharing partner. Such resources are used more cost effectively when shared. In addition, payments for the use of VA services are retained at the VAMC providing the service and are applied to its medical services.

VAMCs have traditionally sold specialized medical resources that have not been fully utilized or were in excess capacity at their facilities--such as PET scans and clinical laboratory services. The modification of the sharing authority in 1997, however, greatly enhanced the opportunities of VA to sell its resources to not only offset its costs and to share its resources with the community, but to also establish revenue streams. These new revenues are retained at the VAMCs providing the services where they can, in turn, be used to enhance its services to its veteran beneficiaries.

The following chart presents health care resources that VAMCs sold in greatest dollar volume to health care facilities and other sharing partners in FY 1998.

Chart 3



General medicine, specialized space, laboratory and clinical pathology, pharmacy, and PET Scan services together accounted for \$19.4 million or 62 percent of the health care resources sold by VA in FY 1998. VAMC San Antonio continued to sell the greatest volume of health care resources (\$3.8 million). The Portland VAMC established creative sharing agreements selling ward and other medical space to its affiliated medical school, as well as roof top space to a private cellular communications company. These contracts totaled \$1,048,000.

The San Antonio, Portland, Dallas, Columbia (MO), and Palo Alto VAMCs, the largest sellers of health care resources for the VA in FY 1998, together accounted for \$12.9 million, or 41 percent of the total.

#### New Initiatives

The necessity of VISNS and VAMCs to cut costs and to generate revenue streams has fostered new and creative sharing arrangements with community providers and other business entities. The enhanced sharing authority has facilitated the establishment of these sharing agreements, providing local VA staff with a flexible mechanism for "doing business" within their communities.

The Asheville VAMC, for instance, has contracted with its county Meals on Wheels agency providing meals and a nutritional support program for the community's frailest and poorest senior citizens. In doing so, the VAMC has made effective use of its excess food service capacity, generated a new source of revenue for the medical center, and has provided a valuable service to the Meals on Wheels clients, many of whom are veterans.

The VA North Texas Health Care System (VANTHCS), which includes the Dallas and Bonham VAMCs, has initiated several innovative sharing agreements with local health care providers and other organizations. Partnering with the Texas Council of Governments, the VANTHCS provides certified Nursing Assistant training to low income residents who are interested in working in local nursing homes. Sharing agreements with Grayson Community College and with Education Skills Plus, a local agency, have enhanced educational opportunities for VA staff, patients, as well as for the community.

The sharing authority has been a vital mechanism in the establishment of Community Based Outpatient Clinics. The Albany VAMC, for instance, has opened several new CBOCs in the rural counties that it serves. These clinics provide primary care at sites that are significantly closer to many veterans than the medical center and have been greeted with enthusiasm by veterans as a means to improve the delivery of care by the VA.

Other new sharing arrangements in FY 1998 included the creation of hospice care partnerships between VA and local agencies, the provision of driver training by VA to private and public rehabilitation programs, as well as the innovative use of excess VA facility space to health care providers and other entities. These new agreements have been a valuable source of new revenue to the VA, thereby expanding and improving services for veterans. They have also enhanced the standing of VA in the community.

## **V. PROGRAM SUMMARY FOR 1998**

Total sharing of health care resources for FY 1998 was \$173,649,111, with resources purchased totaling \$142,512,859 and resources sold totaling \$31,136,252. These totals represent a 77 percent increase in the total sharing of health care resources in the VA over FY 1997. Resources purchased increased 75 percent over FY 1997, while resources sold increased 87 percent over the prior fiscal year.

These figures also reflect the increasing reliance of VISNs and VAMCs to purchase health care resources and to generate revenue by selling services through the health care resources sharing authority. The flexibility of the sharing authority to purchase resources is reflected in the continuing trend of VISNs/VAMCs to purchase primary care services for community based

outpatient clinics, as well as cost-effective contracting for other medical and health care services.

The trend to procure the services of medical specialists such as anesthesiologists or surgeons through the sharing authority (rather than employing 38 U.S.C. Section 7409) is increasing and was also a factor in the substantial increase in health care resources sharing in FY 1998.

The sharing authority is also a key mechanism for VISNs and VAMCs in generating revenues. For instance, a major trend is the selling of specialized space to health care facilities and other community entities through sharing agreements. Innovative sharing initiatives throughout the VA system, such as the VAMC Asheville/Meals on Wheels contract and the new VA North Texas Health Care System sharing agreements, have provided new revenue streams, improved services to veterans, and enhanced the standing of VA in the community.

The VHA Medical Sharing and Purchasing Office is continuing its efforts to strengthen the VA sharing program and has proposed several initiatives that will improve health care resources sharing. It has proposed a legislative change that will allow revenue receivables collected by VAMCs during a fiscal year to be available at any time (i.e., not just for the fiscal year in which they are collected). It has also proposed the non-competitive purchase/use of space, equipment, or services from state veterans homes, which is currently not allowed under sharing law, to facilitate the creation of community based clinics that may be used by VA as well as veterans residing at the homes. In addition, a contract has recently been awarded to automate data input and collection by VAMCs to facilitate the compilation of this Annual Sharing Report. Finally, the VHA Sharing and Purchasing Office, in conjunction with the Office of the Secretary and other elements within VHA, continues to explore viable opportunities for the provision of excess VA inpatient capacity to the health care community.



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

April 28, 2000

The Honorable Arlen Specter  
Chairman  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Enclosed is the Department of Veterans Affairs (VA) "Fiscal Year (FY) 1999 Annual Report on Sharing of Health Care Resources" as required by 38 U.S.C. Section 8153(g).

The sharing authority provided facility staff with a flexible contracting format that can be used for all community health care resource contracting needs.

The sharing programs showed significant growth during the last two years, and we expect that the trend will continue in FY 2000 as VA continues to increase health care value for our Nation's veterans and taxpayers.

Similar packages have also been sent to the Chairman and Ranking Democratic Member of the House Committee on Veterans' Affairs and Ranking Member of the Senate Committee on Veterans' Affairs.

Sincerely,

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Togo D. West, Jr.

Enclosure



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**DEPARTMENT OF VETERANS AFFAIRS (VA)**

**ANNUAL REPORT**

**ON**

**SHARING OF**

**HEALTH CARE RESOURCES**

**PURSUANT TO THE PROVISIONS OF**

**38 U.S.C. SECTION 8153**

**FISCAL YEAR 1999**

*[Faint signature and illegible text]*

TABLE OF CONTENTS

- I. INTRODUCTION
- II. BACKGROUND
- III. THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 1999
  - Chart 1. Health Care Resources Sharing Program
- IV. VA HEALTH CARE FACILITIES AND SHARING
- V. SHARING HEALTH CARE RESOURCES – PURCHASING AND SELLING
  - Purchasing Resources
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  - Chart 3. Health Care Resources Sold
- VI. PROGRAM SUMMARY FOR 1999

## **I. INTRODUCTION**

Title 38, U.S.C. Section 8153(g) requires that a report on health care resources sharing be provided annually to Congress. The information in this report is for Fiscal Year (FY) 1999.

## **II. BACKGROUND**

As an important health care resource, VA's health care system provides each American community in which there is a VA medical facility with a vital part of that area's health care capability. The mandate and primary goal of the VA health care system is to furnish the Nation's veterans with timely medical care of uncompromised quality. A key component that has enabled Veterans Health Administration (VHA) to attain this goal is the Health Care Resource Sharing Program. A direct benefit of this authority is to make available to veterans certain essential services that have not been readily obtainable at their local VA medical center. It also allows VA facilities to provide to the community VA health care resources that are not utilized to their maximum capacity.

In FY 1997, VA's authority to share health care resources under 38 U.S.C. 8153 was modified. Legislative changes allowed for greater flexibility in sharing arrangements. VA sharing partners could now include any organization (including health care plans and insurers), institution, entity or individual. The legislative change also eliminated the restriction to share to specialized medical resources, so that any health care service, or any health care support or administrative service can now be purchased or provided by VA. These changes greatly enhanced VA's flexibility and opportunity to purchase and to sell health care resources. Significantly, as the range of sharing opportunities has broadened, the cost-effective delivery of high-quality medical care to VA patients has increased.

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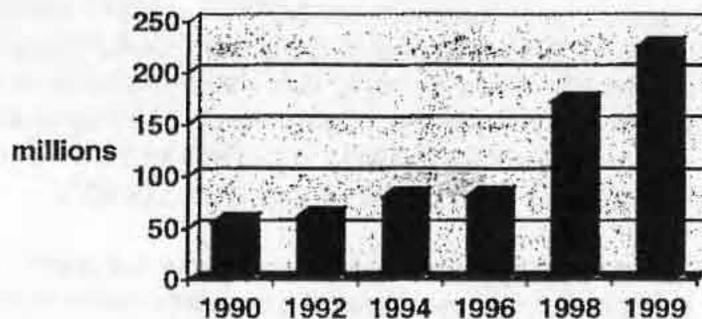
Each VISN and medical facility includes sharing as an essential planning element and requires its professional and contracting staff to explore its potential role as a sharing partner in the community.

### III. THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 1999

Total sharing of health care resources for FY 1999 was \$227,204,913, with resources purchased totaling \$191,858,299 and resources sold totaling \$35,346,614. These totals represent a 31% increase in the sharing of health care resources in VA over FY 1998. Chart 1 reflects the growth of the Health Care Resource Sharing Program during the past 9 years. The bars represent the total of health care resources services sold and purchased during a fiscal year.

Chart 1

#### Health Care Resources Sharing Program



In nine years total health care resource sharing has increased from \$57 million to \$227 million. The total volume of health care resources sharing for FY 1999 represents the increasing reliance of VISNs and VAMCs to purchase health care resources and to generate revenue by selling services through the health care resources sharing authority. The flexibility of the sharing authority to purchase resources is reflected in the continuing trend of VISNs/VAMCs to purchase primary care services for community-based outpatient clinics (CBOCs), as well as cost-effective contracting for other medical and health care services. The sharing authority is also a key mechanism for VISNs and VAMCs in generating revenues. For instance, a major trend that continued in 1999 is the selling of specialized space to health care and other community entities through sharing agreements.

Finally, the trend to procure the services of scarce medical specialists such as anesthesiologists or surgeons through the sharing authority continues and was also a factor in the substantial increase in health care resources sharing in FY 1999.

#### **IV. VA HEALTH CARE FACILITIES AND SHARING**

Since the establishment of VISNs in 1995, VAMCs have realigned and, in many instances, have merged or integrated with other VAMCs or facilities. Also, several VISNs have consolidated the acquisition and selling of health care resources at the VISN level. Consequently, the reporting entity for total health care services purchased or provided may currently be by VISN, VAMC or "VA Health Care System." It is thus difficult at this point to provide a comparative analysis of data on sharing for past years for some individual facilities. However, the Enhanced Sharing Authority of 1997 has greatly facilitated the establishment of sharing agreements at the VAMC, regional and Network levels.

The South Texas Health Care System and the Great Lakes Health Care System established sharing agreements that total \$26.35 million (\$18.15 million in purchased services; \$8.2 million in sold services). Six facilities purchased more than \$6 million in services. The Palo Alto Health Care System and the Portland VAMC sold the highest total of health care resources under the enhanced sharing agreement, providing approximately \$7 million in health care resources and services to sharing partners.

While sharing agreements may represent VISN-wide business arrangements, VAMCs continue to negotiate and establish large sharing agreements. The VA South Texas Health Care System, which includes the San Antonio and Kerrville VAMCs, purchased over \$9.1 million in primary care, general medicine, surgery, anesthesiology, and radiation therapy services.

Traditionally, large affiliated VA medical centers are more likely to have more extensive and expensive sharing arrangements. The referral system of medical practice enhances the size of these sharing programs as patients flow from smaller hospitals and clinics to tertiary care centers. The diversity of sharing arrangements is also influenced by the special capability of large academic centers to manage difficult medical care problems. VA medical centers in small metropolitan areas rely heavily on sharing agreements to offset their medical capability deficits. These contracts are primarily in the following areas: radiation therapy, diagnostic radiology, clinical and anatomic pathology, magnetic resonance imaging, primary care services, and general medicine. Patients from small hospitals in need of specialty services such as open-heart surgery are often referred to large, affiliated medical centers.

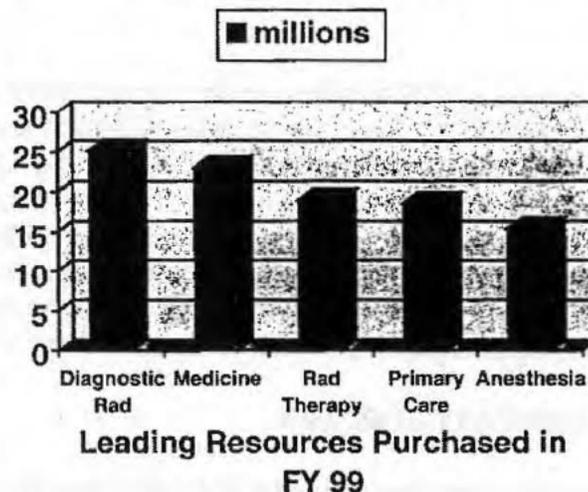
## V. SHARING HEALTH CARE RESOURCES -- PURCHASING AND SELLING

### Purchasing Resources

Chart 2 presents the health care resources purchased in greatest volume by VA in FY 1999. VA purchased resources totaling \$191,858,299 in 1999; this total is 34% higher than 1998.

Chart 2

### Health Care Resources Purchased



Over the last two years, diagnostic radiology, general medicine, radiation therapy, primary care and anesthesia have been the resources purchased in the greatest dollar volume by VA under the sharing authority. In FY 1999, VA spent \$85 million for radiation therapy, diagnostic radiology and primary care/medicine, or 44% of the total resources purchased under the sharing authority. In 1998, VA spent \$15 million on diagnostic radiology and \$27.3 million for primary care/medicine services. In 1999, VA spent \$25.2 million for diagnostic radiology and \$41.7 for primary care/medicine services. This increase was mostly caused by activating an additional 91 community-based outpatient clinics (CBOCs) during 1999. VA staff operated 54 new clinics and 37 clinics were operated under an all-inclusive sharing agreement with contract staff. Facilities report services provided in CBOCs as either primary care or medicine.

Diagnostic radiology is typically contracted for/by CBOCs staffed by VA employees.

VAMC staff continues to use the flexibility of the enhanced sharing authority to contract for specialized services such as anesthesiology and cardiac surgery that were formerly purchased under the Scarce Medical Specialist Authority (38 U.S.C. Section 7409). The anesthesia services purchased in 1999 increased from \$8.2 million in 1998 to \$15 million in 1999. The cardiac surgery services purchased in 1999 increased from \$7.6 million to \$13.3 million. In addition, the Grand Island and Lincoln VAMCs have established enhanced use sharing agreements for the purchase of all of inpatient services available at their facilities. Grand Island and Lincoln, Nebraska, VAMC and the outpatient clinic in Anchorage, Alaska, purchased \$12.5 million in inpatient services in 1999.

### Selling Resources

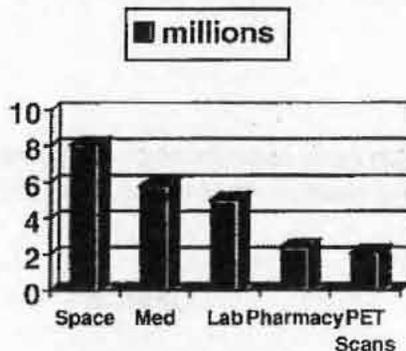
VA provides a variety of services to affiliated medical schools, community hospitals, and other sharing partners. These services are often specialty areas specific to a particular VISN or VAMC, but increasingly, VA facilities are establishing sharing agreements that creatively and fruitfully generate revenue by providing services to sharing partners. VA facilities that have particular resources that are not fully utilized for the care of veterans may share these resources with other community entities and provide resources to patients referred by the sharing partner. Such resources are used more cost-effectively when shared. In addition, payments for the use of VA services are retained at the VISN or VAMC providing the service and are applied to its medical services.

VA facilities have traditionally sold specialized medical resources that have not been fully utilized or were in excess capacity at their facilities, such as PET scans and clinical laboratory services. The modification of the sharing authority in 1997, however, greatly enhanced the opportunities of VA to sell its resources to not only offset its costs and to share its resources with the community, but also to establish revenue streams. These new revenues are retained at the VISNs or VAMCs providing the services where they can, in turn, be used to enhance services to veteran beneficiaries.

The following chart presents health care resources that VISNs or VAMCs sold in the greatest dollar volumes to health care facilities and other sharing partners in FY 1999.

Chart 3

Health Care Resources Sold



Leading Resources Sold in FY 99

VA facilities sold a total of \$35.4 million to sharing partners, which represents a 13% increase over FY 1998. Specialized medical space was the resource sold in the greatest volume by VA in FY 1999, totaling over \$8 million and accounting for 22% of resources sold to sharing partners. The provision of general medicine, including primary care services, totaled \$5.8 million; the sale of laboratory services, including clinical lab and pathology, totaled \$5 million. The VAMCs at Columbia (MO) and Leavenworth (KS) established large sharing agreements providing pharmacy services to State Veterans Homes.

VI. PROGRAM SUMMARY FOR 1999

Total sharing of health care resources for FY 1999 was \$227,204,913, with resources purchased totaling \$191,858,299 and resources sold totaling \$35,346,614. These totals represent a 31% increase in the sharing of health care resources in VA over FY 1998.

This trend represents the increasing utilization of VISNs and VAMCs of purchased health care resources and revenue generation by selling services through the health care resources sharing authority. The flexibility of the sharing authority to purchase resources is reflected in the continuing trend of VISNs/VAMCs to purchase diagnostic radiology, and primary care/medicine services for community-based outpatient clinics, as well as cost-effective contracting for other medical and health care services.

The sharing authority is also a key mechanism for VISNs and VAMCs in generating revenues. For instance, a continuing trend is the selling of specialized space to health care facilities and other community entities through sharing agreements.

Finally, the sharing authority continues to be a vital mechanism in the establishment of community-based outpatient clinics. These clinics provide primary care at sites that are significantly closer to many veterans than the medical center and have been greeted with enthusiasm by veterans as a means to improve their access to VA health care.



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON  
June 6, 2011

The Honorable Patty Murray  
Chairman  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

Dear Madam Chairman:

In accordance with the requirements of title 38, United States Code, section 8153 (g), enclosed is the Department of Veterans' Affairs (VA) report on Sharing of Health Care Resources, as well as the required statement of cost for preparing the report.

Total sharing of health care resources for FY 2010 was approximately \$1.54 billion, with resources purchased totaling \$1.49 billion, and resources sold totaling \$49 million. The total of \$1.54 billion represents a 106 percent increase over the total in sharing of health care resources in FY 2009.

This report has also been sent to other leaders on the House and Senate Committees on Veterans' Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric K. Shinseki".

Eric K. Shinseki

Enclosures



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON  
June 6, 2011

The Honorable Richard M. Burr  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Burr:

In accordance with the requirements of title 38, United States Code, section 8153 (g), enclosed is the Department of Veterans' Affairs (VA) report on Sharing of Health Care Resources, as well as the required statement of cost for preparing the report.

Total sharing of health care resources for FY 2010 was approximately \$1.54 billion, with resources purchased totaling \$1.49 billion, and resources sold totaling \$49 million. The total of \$1.54 billion represents a 106 percent increase over the total in sharing of health care resources in FY 2009.

This report has also been sent to other leaders on the House and Senate Committees on Veterans' Affairs.

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Eric K. Shinseki

Enclosures



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON  
June 6, 2011

The Honorable Jeff Miller  
Chairman  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

In accordance with the requirements of title 38, United States Code, section 8153 (g), enclosed is the Department of Veterans' Affairs report on Sharing of Health Care Resources. Also enclosed is the required statement of cost for preparing the report.

Total sharing of health care resources for FY 2010 was approximately \$1.54 billion, with resources purchased totaling \$1.49 billion, and resources sold totaling \$49 million. The total of \$1.54 billion represents a 106 percent increase over the total in sharing of health care resources in FY 2009.

This report has also been sent to other leaders on the House and Senate Committees on Veterans' Affairs.

Sincerely,

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Eric K. Shinseki

Enclosures



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON  
June 6, 2011

The Honorable Bob Filner  
Ranking Democratic Member  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Filner:

In accordance with the requirements of title 38, United States Code, section 8153 (g), enclosed is the Department of Veterans' Affairs report on Sharing of Health Care Resources. Also enclosed is the required statement of cost for preparing the report.

Total sharing of health care resources for FY 2010 was approximately \$1.54 billion, with resources purchased totaling \$1.49 billion, and resources sold totaling \$49 million. The total of \$1.54 billion represents a 106 percent increase over the total in sharing of health care resources in FY 2009.

This report has also been sent to other leaders on the House and Senate Committees on Veterans' Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric K. Shinseki". The signature is fluid and cursive, with a large initial "E" and "S".

Eric K. Shinseki

Enclosures

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**DEPARTMENT OF VETERANS AFFAIRS (VA)  
ANNUAL REPORT  
ON  
SHARING OF  
HEALTH CARE RESOURCES  
PURSUANT TO THE PROVISIONS OF  
38 U.S.C. SECTION 8153**

**FISCAL YEAR 2010**

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	BACKGROUND .....	1
III.	THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 2010.....	1
	• Chart 1. Health Care Resources Sharing Program.....	2
IV.	VA HEALTH CARE FACILITIES AND SHARING .....	2
V.	SHARING HEALTH CARE RESOURCES – PURCHASING AND SELLING .....	3
	1. <u>Purchasing Resources</u> .....	3
	• Chart 2. Health Care Resources Purchased .....	4
	2. <u>Selling Resources</u> .....	4
	• Chart 3. Health Care Resources Sold .....	5
VI.	PROGRAM SUMMARY FOR FY 2010.....	5
VII.	PROGRAM EVALUATION AND RECOMMENDATION FOR IMPROVEMENT .....	6

## **I. INTRODUCTION**

Title 38, United States Code (U.S.C.) Section 8153(g) requires that a report on health care resources sharing agreements be provided annually to Congress. The information in this report is for Fiscal Year (FY) 2010.

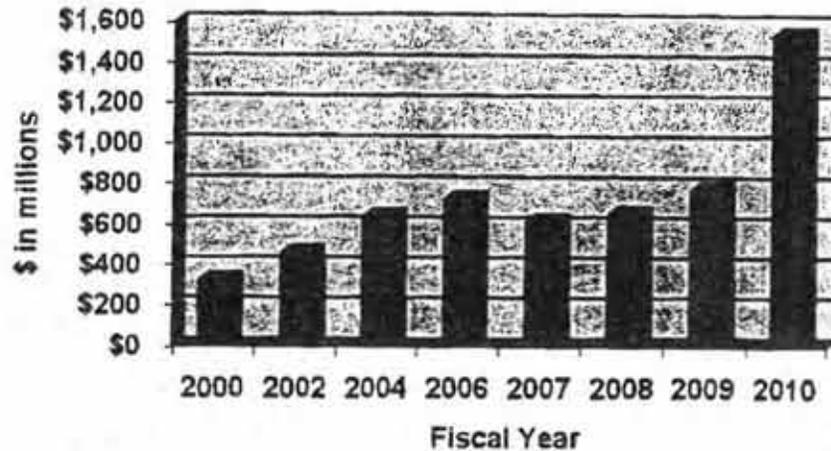
## **II. BACKGROUND**

1. As an important health care resource provider, the Department of Veterans Affairs (VA) health care system provides each American community in which there is a VA medical facility with a vital part of that area's health care capability. The mandate and primary goal of the VA health care system is to furnish the Nation's Veterans with timely and quality medical care. A key component that has enabled the Veterans Health Administration (VHA) to attain this goal is the Health Care Resources Sharing Program. A direct benefit of this authority is to make available to Veterans certain essential services that have not been readily obtainable at their local VAMC. It also allows VA facilities to provide to the community VA health care resources that are not utilized to their maximum capacity.
2. The VHA Procurement and Logistics Office initiates policy, furnishes technical assistance, and provides oversight of the Health Care Resources Sharing program. Veterans Integrated Service Networks (VISN) and VAMCs have primary responsibility for initiating, managing, and accounting for sharing agreements with other institutions, health plans, or other entities.
3. Each VISN and VAMC includes sharing medical services as an essential planning element and requires its professional and contracting staff to explore its potential role as a sharing partner in the community.

## **III. THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 2010**

1. Total sharing of health care resources for FY 2010 was approximately \$1.54 billion, with resources purchased totaling approximately \$1.49 billion and resources sold totaling approximately \$49 million. These totals represent a 93 percent increase in the resources purchased and 98 percent increase in the resources sold as compared to FY 2009. Total sharing of health care resources in FY 2009 was approximately \$775 million, with resources purchased totaling approximately \$750 million and resources sold approximately \$25 million. Chart 1 reflects the growth of the health care resources sharing program since 2000. The bars represent the total health care resources services sold and purchased during a fiscal year.

**Chart 1**  
**Health Care Resources Sharing Program**



2. The flexibility of the sharing authority to purchase resources is reflected in the continuing trend of VISNs and VAMCs to purchase primary care services for Community-Based Outpatient Clinics.

3. Also, the trend to procure the services of medical specialists, such as radiologists, cardiovascular surgeons, and anesthesiologists through the sharing authority continued in FY 2010.

4. The increase of 93 percent over FY 2009 can be attributed to several factors. As reported last year, VHA intended to use the Electronic Contract Management System (ECMS) as a reliable data source to track health care resource purchasing and selling under 38 U.S.C. 8153. Due to the significant changes to the data values in the application, this reporting method was not used for FY 2010. In lieu of using ECMS, medical services data were extracted from the system of record, Federal Procurement Data System (FPDS). The Enhanced Sharing Database used in previous years was deactivated in FY 2010. Based on a preliminary analysis, the Enhanced Sharing Database only included estimated award amounts, not actual expenditures. In addition, it is assumed that the database was not all inclusive of purchases made under 38 U.S.C. 8153 since the authority is very broad in scope.

**IV. VA HEALTH CARE FACILITIES AND SHARING**

1. Since the establishment of VISNs in 1995, some VAMCs have been realigned or have merged or integrated with other VAMCs or facilities. Recent realignment of acquisitions under the Service Area Offices has enhanced VHA's ability to monitor and consolidate the acquisition and selling of health care resources at the regional level. Consequently, the reporting entity for total health care

services purchased or provided may currently be by VISN, VAMC or VA Health Care System, and Service Area Office. The trend to centralize contracting at the network level has resulted in purchasing health care resources such as air ambulance, dialysis, and home health care for larger geographic areas including multiple facilities or an entire network. This trend will continue.

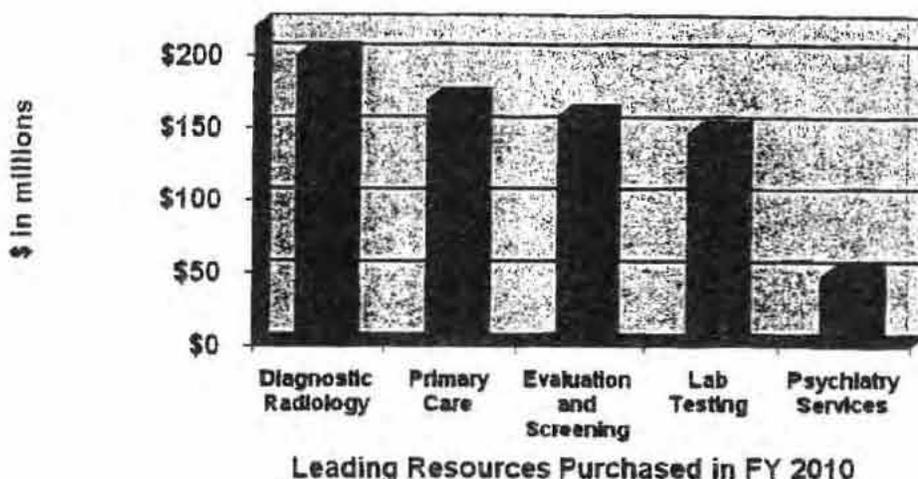
2. Traditionally, large affiliated VAMCs are likely to have more extensive sharing arrangements. The referral system of medical practice enhances the size of these sharing programs as patients flow from smaller hospitals and clinics to tertiary care centers. The diversity of sharing arrangements is also influenced by the special capability of larger academic medical centers to manage difficult medical care problems. VAMCs in small metropolitan areas rely heavily on sharing agreements to provide health care resources not available at the VA facility. These contracts are primarily in the following areas: radiation therapy, diagnostic radiology, cardiology, cardio-vascular surgery, anesthesiology and orthopedics. Patients from small hospitals in need of specialty services such as open heart surgery are often referred to large, affiliated medical centers under sharing authority. Recent reformation of negotiations at the VHA Medical Sharing Office will improve the overall oversight and ability for cost savings.

## **V. SHARING HEALTH CARE RESOURCES -- PURCHASING AND SELLING**

### **1. Purchasing Resources**

a. Chart 2 presents the leading resources purchased by VA in FY 2010. VA purchased health care resources totaled \$1.4 billion in FY 2010. This represents a 93 percent increase over FY 2009 when VA purchased \$775 million.

**Chart 2**  
**Health Care Resources Purchased**



b. The five leading resources purchased in FY 2010 include diagnostic radiology, primary care, evaluation and screening, laboratory testing, and psychiatry services.

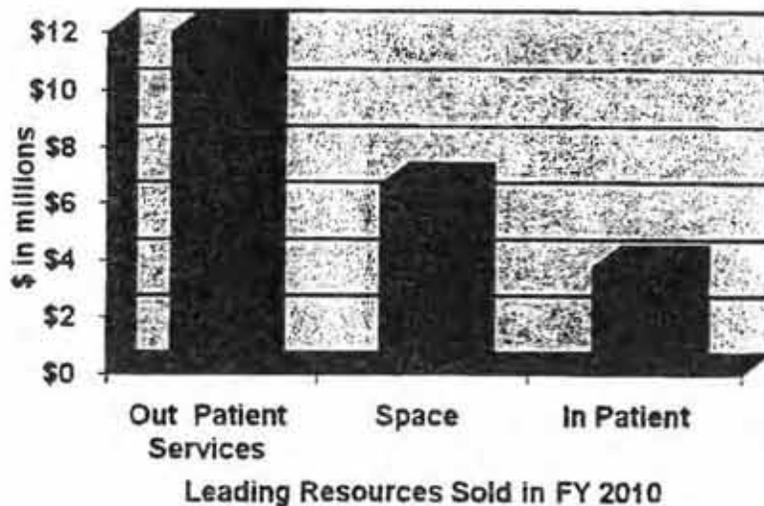
**2. Selling Resources**

a. VA provides a limited number of resources, including unused medical space, to affiliated medical colleges, community hospitals, and other sharing partners. VA facilities that have particular resources not fully utilized for the care of Veterans may share these resources with other community entities. Such resources are more cost-effective when shared.

b. VA facilities have traditionally sold specialized medical resources that have not been fully utilized, such as clinical laboratory services, pharmacy services to state Veterans' homes, and unused medical space. The revenues received from these sharing agreements are retained at the VISNs or VAMCs, providing the services where they can be used to enhance services that may otherwise be unfunded.

c. The following chart presents health care resources that VISNs or VAMCs sold in the greatest dollar volumes to other sharing partners in FY 2010.

**Chart 3**  
**Health Care Resources Sold**



d. VA facilities sold \$49 million to sharing partners in FY 2010. VA provides numerous resources to State Veterans Homes under sharing authority. In FY 2010, VA provided pharmacy services, medical space/land, and mental health to State Veterans Home residents that were not enrolled with VA. In FY 2009, the total revenue for resources sold was \$25 million. This increase of 98 percent suggests that more capacity was identified for revenue generation in FY 2010.

**VI. PROGRAM SUMMARY FOR FY 2010**

1. Total sharing of health care resources for FY 2010 was approximately \$1.54 billion, with resources purchased totaling \$1.49 billion, and resources sold totaling \$49 million. The total of \$1.54 billion represents a 106 percent increase over the total in sharing of health care resources in FY 2009.

2. Data for the annual report was obtained from the facility or VISN. The numbers reported are compared to estimated numbers in contracts executed and reported to the FPDS and totals reported by facilities in the Financial Management System (FMS). The dual database allows VA to be more responsive to Congressional questions throughout the year. However, to further enhance the capability of the database, VHA has established a platform where medical sharing resources agreements will be entered into the VA-wide ECMS that will allow importation of buying and selling data for FY 2011. With this capability, VA will realize a reduction in man-hours from capturing data from a single system.

## **VII. PROGRAM EVALUATION AND RECOMMENDATIONS FOR IMPROVEMENT**

1. Historically, data for the Sharing Authority Annual Report was collected from the VA Central Office contract database after the end of each fiscal year. Although this database was helpful for the annual report, it did not provide sufficient information to monitor the use of the sharing authority during the year, and it did not provide information for evaluating contract physician resources and productivity. In 2003, a Sharing Agreement Database was created specifically to meet these additional needs. To meet new contracting requirements, and in response to feedback from key stakeholders, including the Office of Inspector General and various VHA field users, this database was expanded in scope to include Scarce Medical Specialist agreements.
2. An evaluation of the Sharing Agreement Database was conducted in FY 2008 to validate its use in monitoring the use of sharing agreements. The evaluation indicated that the database was performing the function for which it was created. However, to further enhance the monitoring system, the Sharing Agreement Database will be abolished and all medical sharing resources agreements will be entered into the VA-wide ECMS.
3. In summary, the Health Care Sharing program (38 U.S.C. section 8153) is effective in maintaining Health Care Sharing relationships with affiliates. The evaluation work of the Sharing Agreement Review Committee, established in FY 2007, continues to provide value to the VHA Medical Sharing Program Office.
4. No recommended changes to U.S.C. Section 8153 are being made at this time.

REVISED03Report cost Form.XLS

A	B	C	D	E	F	G
<b>Short Title of Report:</b> Sharing of Health Care Resources						
<b>Report Required by:</b>						
Public Law 106-419						
<b>Section 1 - Manpower Estimate</b>						
<u>Grade Level</u>	<u>Hourly Rate</u> <sup>1</sup>	<u>Benefits Percent</u> <sup>2</sup>	<u>Salary + Benefit Rate</u>	<u>Approx. Number of Hours</u> <sup>3</sup>	<u>Subtotal (DxE)</u>	
GS-14/5	\$52.51	22.50%	\$ 64.32	40.0	\$2,573	
		21.40%	\$ -		\$0	
		21.40%	\$ -		\$0	
		21.40%	\$ -		\$0	
		21.40%	\$ -		\$0	
		21.40%	\$ -		\$0	
		21.40%	\$ -		\$0	
		21.40%	\$ -		\$0	
<b>Subtotal - Manpower</b>				40	\$2,573	
<sup>1</sup> Calculate this by dividing the annual salary rate by 2080 hours.						
<sup>2</sup> For FY 2005, use 25.10%; For FY 2006, use 25.5%; For FY 2007, use 22.6%; For FY 2008, use 21.4%.						
<sup>3</sup> Include all effort required to prepare the report. Once it moves forward in the supervisory chain for review and signature, do not include any of this effort in the cost.						
<b>Section 2 - Contract Costs</b>						
<u>Type of Contract</u>					<u>Cost</u>	
<b>Subtotal - Contract(s)</b>						
<b>Section 3 - Other</b>						
					<u>Cost</u>	
Identify _____	N/A					
<b>Subtotal - Other</b>						
<b>Total Estimated Cost to Prepare Report:</b>					<b>\$ 2,572.99</b>	

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**DEPARTMENT OF VETERANS AFFAIRS (VA)**

**ANNUAL REPORT**

**ON**

**SHARING OF**

**HEALTH CARE RESOURCES**

**FISCAL YEAR 2011**

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	BACKGROUND .....	1
III.	THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 2011 .....	1
	• Chart 1. Health Care Resources Sharing Program.....	2
IV.	VA HEALTH CARE FACILITIES AND SHARING .....	2
V.	SHARING HEALTH CARE RESOURCES – PURCHASING AND SELLING .....	3
	1. <u>Purchasing Resources</u> .....	3
	• Chart 2. Health Care Resources Purchased .....	4
	2. <u>Selling Resources</u> .....	4
	• Chart 3. Health Care Resources Sold .....	5
VI.	PROGRAM SUMMARY FOR FY 2011 .....	5
VII.	PROGRAM EVALUATION AND RECOMMENDATION FOR IMPROVEMENT .....	6

## **I. INTRODUCTION**

The Department of Veterans Affairs (VA) procures medical services to strengthen the medical programs at medical centers, improving the quality of health care provided to Veterans under title 38 United States Code (U.S.C.). Title 38 U.S.C. Section 8153(g) requires that a report on health care resources sharing agreements be provided annually to Congress. The authority for procuring services outside VA includes Section 1703, contracts for authorized hospital care and medical services in non-Department facilities; Section 7409, contracts for scarce medical specialist services; Section 8153, sharing of health care resources; 38 CFR 17.52, hospital care and medical services in non-VA care facilities; 38 CFR 17.55, payment for authorized public or private hospital care; and 38 CFR 17.56, payment for non-VA physician and other health care professional services. The information in this report includes services provided under these authorities for fiscal year (FY) 2011.

## **II. BACKGROUND**

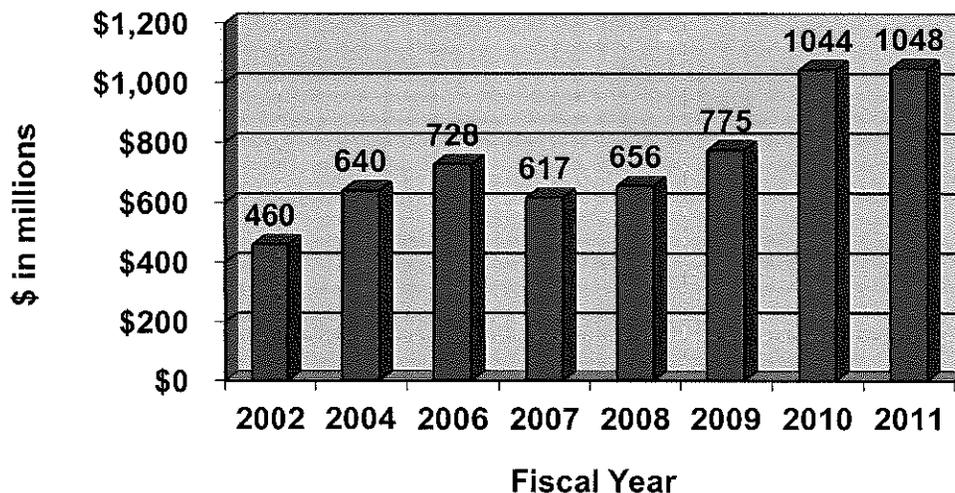
1. As an important health care resource provider, VA health care system provides each American community in which there is a VA medical facility with a vital part of that area's health care capability. The mandate and primary goal of VA health care system is to furnish the Nation's Veterans with timely and quality medical care. A key component that has enabled the Veterans Health Administration (VHA) to attain this goal is the Health Care Resources Sharing Program. VHA's Procurement and Logistics Office initiates policy, furnishes technical assistance, and provides oversight of the Health Care Resources Sharing program. Veterans Integrated Service Networks (VISN) Medical Centers (VAMC) have primary responsibility for initiating, managing, and accounting for sharing agreements with other institutions, health plans, or other entities.
2. A direct benefit of this program is to make available to Veterans essential services that have not been readily obtainable at their local VA medical centers. VA is then able to provide to the community health care access resources that have not been utilized to their maximum capacity.
3. Each VISN and VAMC includes sharing medical services as an essential planning element and requires its professional and contracting staff to explore its potential role as a sharing partner in the community.

## **III. THE HEALTH CARE RESOURCES SHARING PROGRAM – FY 2011**

1. The cost of total sharing of health care resources for FY 2011 was approximately \$1.05 billion, with resources purchased totaling approximately \$1.09 billion, and resources sold totaling approximately \$39 million. These totals represent the total obligations reported in FY 2011. Chart 1 reflects the

growth of the health care resources sharing program since 2002. The bars represent the total health care resources services sold and purchased during a fiscal year. An error was discovered in the FY 2010 reported data, and the total sharing of health care resources for FY 2010 was changed from \$1.54 billion to \$1.04 billion. This correction was attributed to data that was included in FY 2010 for other costs of services supporting administrations in VA to include Veterans Benefit Administration and National Cemetery Administration.

**Chart 1**  
**Health Care Resources Sharing Program**



2. The flexibility of the sharing authority to purchase resources is reflected in the continuing trend of VISNs and VAMCs to purchase primary care services for Community-Based Outpatient Clinics (CBOCs).

3. Also, the trend to procure the services of medical specialists, such as radiologists, cardiovascular surgeons, and anesthesiologists, continues through the sharing authority in FY 2011.

#### **IV. VA HEALTH CARE FACILITIES AND SHARING**

1. Since the establishment of VISNs in 1995, VAMCs have realigned under new management and, in certain instances, have merged or integrated with other VAMCs. Recent realignment of acquisitions under the Service Area Offices (SAO) has enhanced VA's ability to manage and monitor the acquisition and selling of health care resources at the regional level. Consequently, the reporting entity for total health care services purchased or provided may currently be by VISN, VAMC, or VA Health Care System, and by SAO. The Veterans Health Care Eligibility Reform Act of 1996 significantly expands VA's health care resources sharing authority in title 38 U.S.C., Sections 8151

through 8153. The trend to centralize contracting at the SAO and Network Contracting Office (NCO) level has resulted in purchasing health care resources such as air ambulance, dialysis, and home health care for larger geographic areas, including multiple facilities or an entire network. This trend will likely continue.

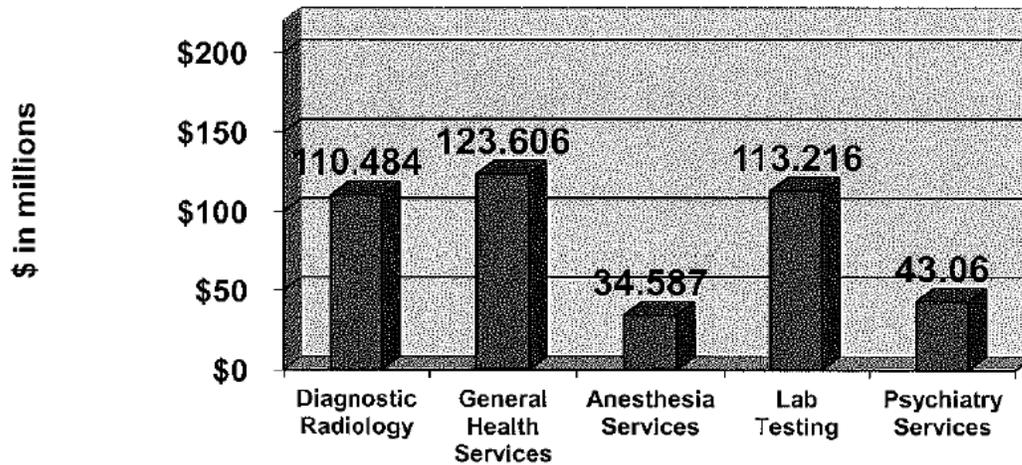
2. Traditionally, large affiliated VAMCs are more likely to have more extensive sharing arrangements. The referral system of medical practice enhances the size of these sharing programs as patients flow from smaller hospitals and clinics to large, tertiary care centers. The diversity of sharing arrangements is also influenced by the special capability of larger academic medical centers to manage difficult medical care problems. VAMCs in small metropolitan areas rely heavily on sharing agreements to provide health care resources not available at the VA facility. These agreements are primarily in the following areas: radiation therapy, diagnostic radiology, cardiology, cardio-vascular surgery, anesthesiology, and orthopedics. Patients from small hospitals in need of specialty services such as open heart surgery are often referred to large, affiliated medical centers under sharing authority. Recent reformation of the VHA Medical Sharing Office to include formal negotiation processes will improve the overall oversight and ability for cost savings. The total FY 2011 obligations for sole source affiliate contracts were approximately \$111 million, open market competitive approximately \$647 million, and Federal Supply Schedule procurements approximately \$250 million.

## **V. SHARING HEALTH CARE RESOURCES – PURCHASING AND SELLING**

### **1. Purchasing Resources**

a. Chart 2 presents the leading resources purchased by VA in FY 2011. VA-purchased health care resources totaled \$1.05 billion in FY 2011. This represents a less than one percent increase over FY 2010, when VA purchased \$1.04 billion.

**Chart 2**  
**Health Care Resources Purchased**



**Leading Resources Purchased in FY 2011**

b. The five leading resources purchased in FY 2011 were diagnostic radiology, general health services, anesthesiology services, laboratory testing, and psychiatry services.

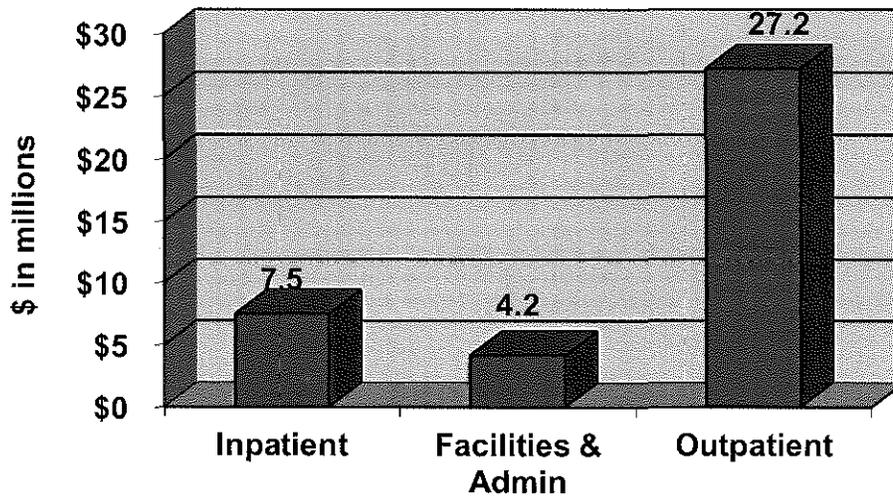
2. Selling Resources

a. VA provides a limited number of resources, including unused medical space to affiliated medical colleges, community hospitals, and other sharing partners. VAMCs that have particular resources not fully utilized for the care of Veterans may share these resources with other community entities. Such resources are more cost-effective when shared.

b. VAMCs have traditionally sold specialized medical resources that have not been fully utilized, such as clinical laboratory services, pharmacy services to state Veterans' homes, and unused medical space. The revenues received from these sharing agreements are retained at the VISNs or VAMCs, where they can, in turn, be used to enhance services that may otherwise be unfunded.

c. Chart 3 presents health care resources that VISNs or VAMCs sold in the greatest dollar volumes to other sharing partners in FY 2011.

**Chart 3  
Health Care Resources Sold**



**Leading Resources Sold in FY 2011**

d. VAMCs sold \$39 million to sharing partners in FY 2011. VA provides numerous resources to state Veterans homes under sharing authority. In FY 2011, VA provided pharmacy, medical space/land, and mental health services to residents of state Veterans homes that were not enrolled with VA. In FY 2010, the total revenue for resources sold was \$49 million. The decrease of approximately 20 percent suggests that fewer resources were available for sale and more capacity was required for Veteran care in-house by the VAMCs in FY 2011.

**VI. PROGRAM SUMMARY FOR FY 2011**

1. Total sharing of health care resources for FY 2011 was approximately \$1.05 billion, with resources purchased totaling \$1.09 billion, and resources sold totaling \$39 million. The total of \$1.05 billion represents a less than one percent increase over the total in sharing of health care resources in FY 2010.
2. The numbers reported are compared with estimated numbers in contracts executed and reported to the Federal Procurement Data System and totals reported by facilities in the Financial Management System. The dual database allows VA to be more responsive to Congressional questions throughout the year. However, to further enhance the capability of the database, VHA has established a platform where medical sharing resources agreements will be entered into the VA-wide Electronic Contract Management System (ECMS) that will allow importation of buying and selling data for FY 2011. With this

capability, VA will realize a reduction in person-hours associated with data capture.

## **VII. PROGRAM EVALUATION AND RECOMMENDATIONS FOR IMPROVEMENT**

1. Historically, data for the Sharing Authority Annual Report was collected from VA Central Office contract database after the end of each fiscal year. Although this database was helpful for the annual report, it did not provide sufficient information to monitor the use of the sharing authority during the year, and it did not provide information for evaluating contract physician resources and productivity. In 2003, a Sharing Agreement Database was created specifically to meet additional needs. In order to meet new contracting requirements, and in response to feedback from key stakeholders, including the Office of Inspector General and various VHA field users, an evaluation of the Sharing Agreement Database was conducted in FY 2008 to validate its use in monitoring the use of sharing agreements. The evaluation indicated that the database was performing the function for which it was created. However, to further enhance the monitoring system, the Sharing Agreement Database will be abolished and all medical sharing resources agreements will be entered into the VA-wide ECMS. Systems improvements for tracking, monitoring, and reporting health care resource buying and selling continue to be a major focus of VHA.

2. In summary, the Health Care Sharing Program is effective in maintaining Health Care Sharing relationships with affiliates. The evaluation work of the VHA Medical Sharing Program through collaboration with business and clinical VA partners continues to provide value in process improvement.

3. No recommended changes to 38 U.S.C., Section 8153 are being made at this time.

## Estimate of Cost to Prepare Congressionally-Mandated Report

Enclosure

**Short Title of Report:** Sharing of Health Care Resources

**Report Required By:** Veterans Benefits and Health Care Improvement Act of 2000

In accordance with Title 38, Chapter 1, Section 116, listed below is a statement of the cost for preparing this report and a brief explanation of the methodology used in preparing the cost statement are shown below.

<b>Manpower Cost:</b>	<u>\$1,992</u>
<b>Contract(s) Cost:</b>	<u>\$0</u>
<b>Other Cost:</b>	<u>\$0</u>
<b><u>Total Estimated Cost to Prepare Report:</u></b>	<u><u>\$1,992</u></u>

Brief Explanation of the methodology used in preparing this cost statement:

The cost for VA staff activities in preparing this report is based on approximately 45 staff hours at \$53.90 per hour. The level of staff ranges from GS-5 through GS-15.

I.D.  
OTHER MATERIALS



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Health Administration**  
**Washington DC 20420**

In Reply Refer To: 116D

October 6, 2005

Charles M. Dorman, FACHE  
Medical Center Director  
Department of Veterans Affairs  
Greater Los Angeles Healthcare System  
11301 Wilshire Blvd.  
Los Angeles, CA 90073

SUBJ: VAMC W. LA Compensated Work Therapy Site Visit, September 20, 2005

On behalf of VA Central Office, Psychosocial Rehabilitation (MHSBG), Charles McGeough and Ralph Zaccheo would like to thank you for the invitation and opportunity to visit the Greater Los Angeles Healthcare System Compensated Work Therapy (West LA CWT) program. Mr. William Daniels and Mr. Joe Ciccone were very hospitable and helpful in coordinating our visit. The purpose for the September 20, 2005 site visit was to review current CWT program operations from a clinical and administrative perspective, and to assist in designing an efficient, effective model for integrated community based vocational rehabilitation services. In regard to the Compensated Work Therapy program, at this juncture, there appears to be a great opportunity to refine and solidify some program aspects and redesign others. The West LA CWT program has been selected as the VISN 23 Mentor/Trainer site for implementation of the Evidence Based Supported Employment model, and as such will provide employment opportunities for veterans with psychosis and training for other CWT programs in the Network. Supported Employment adds a facet to the continuum of CWT vocational services; however, it is currently focused on an underserved population of veterans with psychosis. In order to increase access to community employment opportunities for all other veterans with disabilities traditionally using CWT services, the CWT program will need to reallocate some of its existing resources and provision of services to this end. With a focus on community employment, full integration of CWT vocational services into the VA Medical Center and Mental Health care continuum, particularly in the context of the selection of the West LA CWT Program as the core mentor/training site for the VISN in the implementation of the supported employment model, will improve program access and utilization, increase successful employment outcomes and generally enhance stakeholder satisfaction.

The following report reflects our observations, recommendations and suggestions for developing and streamlining CWT services. This report is divided into four major sections: Clinical; Programmatic, Administrative; and General Observations. We feel that it is important to note that the West LA CWT program is being reviewed at the request of a new program management team and that our visit marks a departure from the previous program administration's philosophy and method of operation and toward the provision of outwardly focused community based vocational services.

**CLINICAL OBSERVATIONS:**

1. There were several work sites within the scope of CWT operations where veterans were utilized for long periods of time to augment program staff by filling critical support positions. Veterans in the CWT program are patients in the VA Medical Center, and whether it was clinically indicated or not have been allowed to remain in the program for extended periods of time; in some cases for several years functioning in a quasi-staff capacity. This extended utilization of patient services was observed in the golf course, sheltered workshop and Veterans Garden. Veteran participants in the CWT program should have individualized treatment plans with specific vocational goals and strategies to help them transition into community employment in a timely manner. The CWT program provides an opportunity for time limited employability assessment and, as appropriate, assistance in helping veterans with disabilities transition into community employment. A treatment plan review should be scheduled for every veteran participant in the CWT and IT programs every six months to consider treatment alternatives/revisions and the possibility of transition into competitive employment or a less restrictive vocational environment should be considered.

2. Currently CWT is contained in the VA medical center and offers no opportunity for community based transitional work experience. In that competitive jobs more often come from non-government community based business and industry, a recommendation is being made for the CWT program to allocate resources to develop community based transitional work and individualized competitive employment opportunities for CWT veterans not enrolled in the CWT/Supported Employment program.

3. Veterans participating in the Vets Garden program are concurrently assigned to the Incentive Therapy (IT) and Compensated Work Therapy (CWT) programs, and allowed to shift from one classification to the other. The efficacy of both these programs is compromised with this practice. It is recommended that veterans participating in the CWT program should have an individualized treatment or service plan reflecting a CWT assignment and veterans participating in IT should have a treatment plan reflecting an IT assignment. The mission and operating strategies of the IT and CWT program should be entirely different and unique from the other. Typically veterans in the IT program are more severely disabled, may or may not have a competitive employment goal, and function at a lower level than veterans participating in the CWT transitional work program. Program assignment into IT verses CWT should be based on sound clinical judgment and individual client need.

4. As reported, veteran referral within the CWT program is currently made based on availability of need for a particular work assignment in one of the established transitional work sites verses placement based on clinical suitability, expressed interest and individual need. This technique is counter to an evidence based best practice that uses a client-centered programming approach that considers individual interest and ability.

**PROGRAMMATIC OBSERVATIONS:**

1. The IT and CWT programs are not well defined and/or do not have a clear mission statement or focus. It is recommended that these programs develop or revise a Care Line Memorandum that specifies each program's mission and description; criteria for admission, work assignment descriptions, and probable outcomes. A recommendation is being made that management review each existing component of the CWT program to assess that component's value in terms of veteran benefit, training potential and cost to outcome ratio.

~~2. It is strongly recommended that staffing be maintained at full capacity. This recommendation is based on the current workload, potential for expansion and a shift to competitive community employment. There are current vacancies in the Veterans Garden, grounds and Cemetery and community development. It is suggested that VA Medical Center and Human Resources management move to fill existing CWT vacancies immediately. Staff assigned to community development and employment services would be responsible for developing transitional work and competitive employment opportunities for veterans participating in the CWT program with a primary diagnosis other than psychosis. Transitional based community work closely simulates a "real life" workplace culture, provides a work hardening vocational experience in a cost effective manner, and offers potential for a competitive employment outcome.~~

3. Program management should consider aligning the CWT program under the same CARF accreditation application as the Homeless programs. This will reduce duplication of effort and increase communication between these two programs. A recommendation is being made, in light of CWT's move toward community employment, for the CWT program to drop the CARF/ECS Organizational Employment Standard and incorporate Community Employment Services. CARF accreditation for the IT program is optional.

**GENERAL OBSERVATIONS:**

1. The CWT program should develop a single mission statement to more accurately reflect the provision and open access to vocational services for its various programs including work shop, transitional work and employment services. During our site visit staff suggested that a revision of the program name making it more consistent with provision of vocational and employment services might be a consideration. Not only would revising the CWT program name from Community Psychiatry and Rehabilitation Services to Veterans Community Employment Services be consistent with a vocational centered mission, it would help establish the program's identity as a provider of community employment services.

2. The CWT program must follow VHA Privacy Act guidelines regarding patient confidentiality and eliminate patient-to-patient access to confidential information and VA System of Records. Currently CWT patients provide escort services for VA medical center patients, and without a VA Release of Information this practice is not allowed. It is suggested that all CWT transitional work in the VA medical center be reviewed by the Greater Los Angeles Healthcare System Privacy Act Officer to ensure program compliance with VHA Privacy Act guidelines.

3. CWT participants are patients in the VA medical center and as such are not considered volunteers or appointees without compensation. Per the VHA Office of General Counsel (OGC), CWT patients are not allowed to drive a government vehicle on VA grounds or public roads, and as a CWT patient should not be considered as a participant in the Greater Los Angeles Healthcare System Volunteer Services concurrently with enrollment in the CWT program. This practice is counter to Volunteer Service policy and does not circumvent the restrictions of the OGC ruling regarding vehicle use.

4. The CWT program has an excess of wood working equipment stored in the CWT workshop facility. During a tour of this facility it was observed that storage of the woodworking equipment appeared unclean and in disarray; leaving an impression that it might not be in good working order and possibly unsafe for patient use. It is recommended that the stored wood working equipment, if deemed safe by the Greater Los Angeles Healthcare System Engineer Service, be cleaned and made ready for use or eliminated per VA policy as excess government property.

#### **ADMINISTRATIVE OBSERVATIONS:**

##### **1. Financial Issues:**

a. CWT operates under the authority of 38 USC Section 1718 to provide treatment for therapeutic and rehabilitative purposes. Office of General Counsel has ruled that CWT may not engage in any CWT-run commercial activity, function as a prime manufacturer, nor produce products for sale.

b. Golf course and Vets Garden is grossing approximately \$450,000 "cash" business annually. The responsibility for billing and receiving of funds for these programs should be delegated to Fiscal as soon as possible.

c. Cash and checks from sales are deposited in the CWT 36X0160 X4 account along with funds from the proceeds of CWT billings for CWT veteran's labor and sub-contracting manufacturing services. The funds in the CWT 36 X 0160 X 4 accounts are commingled and the ability to match CWT revenue to CWT expenses and bills of collection to vendors who utilize CWT services, is lacking. Separate fund control points for the various CWT accounts to track each separate CWT fiscal activity needs to be established by Fiscal Service. In meeting with Fiscal Service, the possible use of General Post funds for cash deposits was discussed as a temporary solution for deposit of funds from non-CWT sources.

d. Long range plans need to be explored to remove CWT from prime manufacture while continuing to provide CWT veteran rehabilitative treatment services

to operate Vets Garden, Golf Course, and CWT transitional work opportunities for VAMC and community.

e. Assistance to Vets Garden from non-profit Friends of Vets Garden and any ~~sources of donations to CWT program needs coordination with Volunteer Services.~~ We are not suggesting closing the Vets Garden and the Golf course.

f. CWT staff reports the use of petty cash funds. The authority, use, and control of these funds needs review by Fiscal.

g. Conduct an end of fiscal year annual Fiscal Audit of existing program operations of the CWT Account (36X0160), deposits from former STRAF 36X4048 account to 36X0160 account, billing and receivables, payroll functions and cost accounting of all work programs.

## 2. NEPEC Reporting:

In the past, CWT reporting on outcome status to NEPEC, a requirement for every CWT patient at discharge, has been unacceptably low, and CWT has been a significant outlier in reporting. In FY06, NEPEC will require reporting for all CWT program participants including the new Supported Employment components at intake, quarterly status update, and at discharge. NEPEC provides quarterly CWT reporting on intranet, and the CWT Program manger needs to set up a tracking system to insure 100% reporting compliance.

## 3. Workload Data Capture for Incentive Therapy and CWT:

a. Process for capturing of face-to-face encounters for Incentive Therapy and CWT was reviewed with CWT management.

b. Process for capturing number of hours in CWT treatment and hours worked in Supported Employment was also reviewed.

c. DSS staff was unavailable to meet during this site visit. DSS and IRM needs to establish Event Capture computer access to all CWT staff for capturing data to record encounters and workload for CWT/ Supported Employment activity as per VHA Directive 2005-012, "Encounter and Workload Capture for Psychosocial Rehabilitation Vocational Programs," dated March 10, 2005.

## 4. CWT Centralized Management Tracking System:

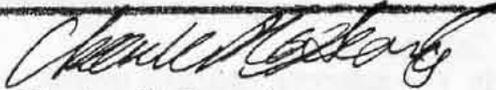
a. Establish a CWT management accountability system to monitor CWT fiscal activity, workload reporting, NEPEC compliance, and centralized database for IT and CWT RCN Annual Report, and MPCR cost reporting.

b. Perform continuous quality improvement evaluations and incorporate performance data into staff performance standards.

Again, we would like to thank you and your staff for the opportunity to visit the Greater Los Angeles Healthcare Systems' CWT program. In approximately one year a follow-up visit of the West LA CWT program is suggested to assess the level of progress made in complying with the recommendations made in this report and to provide continued guidance and consultation. Please do not hesitate to contact me via Outlook E-Mail or

by calling 214-857-0381, or contact Ralph Zaccheo via e-mail or by calling 978-446-0214, if you have any questions about the recommendations in this report.

Sincerely,



Charles McGeough  
National Director for Marketing and Operations  
Psychosocial Rehabilitation Svcs. MSHSG, VACO



Ralph Zaccheo  
Administrative Officer  
Psychosocial Rehabilitation Svcs. MSHSG, VACO

c: Dr. Mark Shelhorse  
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c: Robert T. Rubin, M.D.  
Chief, Mental Health  
Greater Los Angeles Healthcare System

c: William Daniels  
Chief, Community Based Care  
Greater Los Angeles Healthcare System

**VA West Los Angeles Medical Center, California  
Statutory Land Restrictions**

**January 15, 2008**

The property comprising the VA West Los Angeles Medical Center has been the subject of a number of legislatively imposed restrictions affecting its present and future use.

Section 224 (a) of Public Law 110 – 161 (the Consolidated Appropriations Act, 2008) imposes new restrictions on land use at VA's West Los Angeles, California campus. The section prohibits the Secretary from disposing of any portion of the West Los Angeles campus. Specifically, the law prevents the Secretary from declaring "as excess to the needs of VA or otherwise take action to exchange, trade, auction, transfer, or otherwise dispose of, or reduce the acreage of, Federal land and improvements at the Department of Veterans Affairs West Los Angeles Medical Center, California." The description of the land is set forth in section 224 (a) as follows: "approximately 388 acres on the north and south sides of Wilshire Boulevard and west of the 405 Freeway."

Further, section 224 (c) extends what previously was a limited prohibition on the Secretary's authority to enter into enhanced use leases to the entire 388 acres of the West Los Angeles campus. Previously, this restriction applied to 109 of the 388 acres under a law that was informally titled the "Cranston Amendment." The restriction now prevents VA from entering into enhanced use leases on any portion of the campus.

Section 224 (b) leaves in place the Secretary's authority to enter into (traditional) leases with representatives of the homeless, in accordance with section 7 of the Homeless Veterans Comprehensive Services Act of 1992 (Public Law 102 - 950). Consequently, the Secretary continues to have authority to lease property at the West Los Angeles Medical Center to representatives of the homeless, for the provision of services to homeless veterans and the families of such veterans for terms in excess of three years. The Act provides that the application of the representative for the use of the property must be approved by the Secretary of Health and Human Services in accordance with the McKinney – Vento Act, 42 U.S.C. § 14111, et seq. The McKinney – Vento Acts provides the legal framework for federal agencies to make unutilized and underutilized buildings and real property available for use by homeless assistance groups. It further provides that the Secretary of Housing and Urban Development, inter alia, is responsible for determining suitability of the property for use by homeless assistance groups. Additionally, it provides that the Secretary of Health and Human Services, inter alia, is responsible for the application process for use by homeless assistance groups.

The recently enacted Public Law does not limit the Secretary's authority to enter into traditional leases pursuant to 38 U.S.C. § 8122 nor "use of space" agreements pursuant to 38 U.S.C. §§ 8151 – 8153 (commonly referred to as "the Expanded Sharing Authority"). Further, VA also has the common law right to enter into revocable licenses.

### **Historical Background**

► The 1888 deed that caused the donation of 300 acres to VA that now comprises the West Los Angeles, California Medical Center requires that the property be used for veterans or it will revert to the grantors or their heirs. The deed provided that a branch home for disabled veterans would be constructed and permanently maintained on the property. In the late 1980's the heirs of a particular parcel sued to quiet title to approximately 2.13 acres of the 300 acres conveyed in an 1888 deed. When the San Diego Freeway was built, the 2.13 was sliced off of the property. The Government declared the 2.13 acres to be surplus property. The heirs argued that the deed contained a reverter clause and that the action caused the property to revert to the heirs. They contended that the deed created a condition subsequent giving the grantor a right of reentry. The Circuit Court concluded differently. The Circuit Court ruled, in an unpublished opinion, that the establishment and maintenance of a home for disabled veterans is a statement of purpose, rather than a condition subsequent. Hence, no reverter. 912 F.2d 268 (9<sup>th</sup> Cir. 1990)

► In 1988 Congress enacted section 421 (b) (2) of Public Law 100-322 (referred to as the Cranston amendment or the Cranston Act). The section precludes the Secretary from taking any action then or in the future to excess or dispose of approximately 109 acres of the West Los Angeles Medical Center and 46 acres of Sepulveda Medical Center.

► When enacted, section 8162 of title 38, United States Code, prohibited the enhanced-use leasing of any property at the West Los Angeles Medical Center identified in section 421 (b) ( 2) of Public Law 100-332 unless specifically authorized by law or the property is used for a childcare center.

► VA may enter into sharing agreements with other entities pursuant to 38 U.S.C. §§ 8151 – 8153 to provide the "use of space", whether developed structures or undeveloped land. The "use of space" agreements do not transfer interest in real property and VA may not dispose of or declare excess any VA property pursuant to a sharing agreement. Unlike the specifically legislated limitations on the exercise of VA's authority to enter into enhanced use leases on the West Los Angeles property, there are no specific restrictions on the sharing authority, for the use of the West Los Angeles property. Therefore, given that the "use of space" agreements consummated pursuant to the sharing authority are not tantamount to a disposal nor a transfer of interest in the property, the restrictions imposed by the Cranston amendment are not triggered. Accordingly,

the restrictions imposed by the 2008 Consolidated Appropriations Act do not prohibit the Secretary from exercising the expanded sharing authority.

### **Summary of Legal Authorities for Land Use at West Los Angeles, CA:**

**Public Law 110 – 161 § 224** prohibits declaring as excess or otherwise taking action to transfer, exchange, or otherwise dispose of any portion of the 388 acres comprising the VA West Los Angeles Medical Center. Further, the Secretary is prohibited from entering into enhanced use leases on any portion of the campus. However, the Secretary may lease to a representative of the homeless any real property for a term in excess of 3 years for use by homeless veterans and the families of such veterans and for which an application of the representative has been approved by the Secretary of Health and Human Services in accordance with the McKinney – Vento Act, 42 U.S.C § 11411.

**Public Law 102- 950 § 7** authorizes the Secretary "to lease to a representative of the homeless for a term in excess of three years any real property at the West Los Angeles VA medical center for which an application of the representative for the use of the property has been approved by the Secretary of Health and Human Services ... under 42 U.S.C. 11411. Further, the Secretary's authority to lease pursuant to this section is limited to leasing for the purpose of providing services to homeless veterans and the families of such veterans.

**Public Law 100 – 332 § 421 (b) (2)** (referred to as the Cranston amendment) precludes the Secretary from taking any action then or in the future to excess or dispose of approximately 109 acres of property on VA's West Los Angeles campus.

**38 USC §§ 8151 – 8153** authorizes VAVHA to enter into sharing agreements with other entities to provide the use of space, whether the property is developed or undeveloped. This unique authority provides that VA may enter into an agreement with an entity for the use of underutilized VHA space. Further, VA is authorized to retain the proceeds of the transaction. The expanded sharing authority "use of space" agreements are not lease agreements. There is no statutory limit on the duration of the agreement. However, VHA as a matter of policy has placed a 5-year limitation on the duration. OGC has opined that VA should place a cancellation provision in such agreements, whenever possible, should veterans needs arise that require the use of the space/site.

**38 USC § 8122** authorizes the Secretary to lease property (also referred to as outlease authority) up to 3 years. The revenues realized can not be retained by VA, but must be deposited in the U.S. Treasury.

**38 USC §§ 8161 – 8169** authorizes the Secretary to enter into enhanced use leases up to 75 years. However, VA is prohibited from entering into enhanced use leases on any portion of the 388 acres comprising the West Los Angeles, California Medical Center.

VA also has the common law right to enter into revocable licenses. However, such a license often is not commercially practical, because it is revocable at will.

Prepared by Phillipa L. Anderson  
Assistant General Counsel, PSG V  
The Government Contracts, Real Property, & Environmental Law  
Group

# **West Los Angeles VA Medical Center**

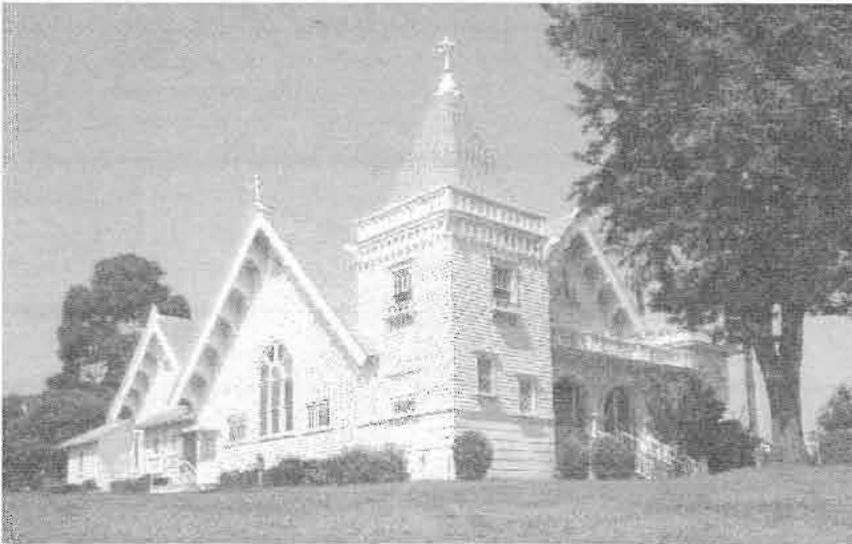
A DIVISION OF THE VA GREATER LOS ANGELES HEALTHCARE SYSTEM

## **Veterans Programs Enhancement Act of 1998 (VPEA) Master Plan**

(V.1.6 - 6/2011)



 **Department of  
Veterans Affairs**



BUILDING 20. OLD SOLDIERS CHAPEL



BUILDING 13

# Table of Contents

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<b>1</b>	<b>Executive Summary</b>	<b>05</b>	<b>5</b>	<b>Program and Facilities</b>	
			A.	Current Programs	22
<b>2</b>	<b>Background</b>		B.	Current Land Use Agreements	22
	A. VA Organization/Mission	06	C.	Proposed VA Facilities	22
	B. Locations/Sites/Facilities	06	D.	Current Priorities	23
	C. Project Site	06			
	D. VA Programs	08	<b>6</b>	<b>Reuse and Plan Recommendations</b>	
	E. Veteran Demographics	08	A.	Objectives	24
			B.	Guiding Principles	24
<b>3</b>	<b>The Master Plan Process</b>		C.	Master Plan Zones (1-4)	26-33
	A. What is the Veterans Programs Enhancement Act (VPEA) Master Plan?	10	D.	Land Use Guidelines	34
	B. Regulatory Background, Land Use Restrictions and Requirements	10	E.	Evaluation Process for Land Use Agreements	34
	C. Chronology of the Master Plan Process	11			
	D. Public Outreach	11	<b>7.</b>	<b>Appendix</b>	
<b>4</b>	<b>Site Analysis</b>				
	A. Site Description	12			
	B. Surrounding Context	12			
	C. Current Land Use	15			
	D. Natural Environment	15			
	E. Easements and Other Site Restrictions	15			
	F. Historical Districts and Facilities	16			
	G. Open Space	18			
	H. Traffic, Parking & Circulation	18			
	I. Existing Facilities	20			
	J. Utilities/Infrastructure	20			



# 1. Executive Summary

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The mission of the Veterans Health Administration (VHA) is to honor America's Veterans by providing exceptional health care that improves their health and well-being. VHA implements the medical care, research and education programs of the Department of Veterans Affairs (VA). The West Los Angeles Medical Center (WLA) campus is part of the larger VA Greater Los Angeles Healthcare System (GLAHS), serving Veterans in Los Angeles, Ventura, Santa Barbara, San Luis Obispo, and Kern Counties. The WLA campus provides a variety of medical services including inpatient and outpatient care, rehabilitation, residential care, and long-term care services. In addition, it serves as a center for medical research and education.

In 2009 GLAHS began a cultural transformation by incorporating a Patient-Centered model of care to provide an optimum healing environment for the body, mind, and spirit. This Veterans Programs Enhancement Act of 1998 (VPEA) Master Plan, here and after referred to as the "Master Plan," was mandated by the Veterans Programs Enhancement Act of 1998, supports the goal of creating a therapeutic and recovery oriented environment on the campus for Veterans to heal.

The WLA campus encompasses 388 acres in the heart of Los Angeles, California. There are 104 buildings across the campus of which, 39 are designated as historic, twelve are considered to be exceptionally high risk for a seismic event, and a number are vacant or closed. Currently, the WLA campus has 21 land use agreements, varying in length and contractual authority, with partners to deliver a variety of services to Veterans and the community. This does not include several non-recurring filming and single-day event agreements.

The purpose of the Master Plan is to satisfy the legislative mandate of the Veterans Programs Enhancement Act of 1998, requiring a "plan for the development of a master plan for the use of the lands...over the next 25 years and over the next 50 years." This Master Plan is a land use plan to guide the physical development of the campus to support its mission of patient-centered care, teaching, and research over the next 25 to 50 years. The plan considers potential initiatives as far into the future as possible given current Veteran demographic data, plans, and priorities. The plan reflects legislative restrictions on the property, which prohibits VA from the sale, transfer, or to reduce the acreage of land and improvements at the WLA campus, and defines development goals and design objec-

tives for the campus.

The Master Plan summarizes the work of previous planning studies to address future development for the limited, unplanned portions of the land and is based on the Capital Asset Realignment for Enhanced Services (CARES) process, and VA's subsequent Strategic Capital Investment Planning (SCIP) process which is a VA-wide planning tool for facilities and infrastructure. CARES delivered a comprehensive assessment of the campus, and through a public process resulted in a Capital or Construction Plan for the property. However, it did not address reuse, deliver recommendations for unplanned land or produce a summary document, as needed to satisfy the legislative mandate.

The Master Plan considers on-campus services that may evolve in the future with the changing demographics of the Veteran population. It discusses current land uses, facilities, and programs in the context of the CARES/SCIP capital plan. In addition, it outlines recommended actions for how to plan for the limited, unallocated land, and facilities in support of VA's mission.

The Master Plan conforms to the relevant laws in effect on the date of publication. A change in law, such as the Administration's proposed Civilian Property Realignment Act, could impact this property. If these laws change, VA will update the Master Plan accordingly.

## 2. Background



SECTION 2 FIGURE 1: ORIGINAL BARRY HOSPITAL OLD SOLDIERS' HOME (1839)

### A. VA Organization/Mission

VHA implements the medical care, research, and education programs of VA through the operation of numerous medical centers, hospitals, outpatient clinics, residential, and long-term health care facilities.

The mission of VHA is to honor America's Veterans by providing exceptional health care that improves their health and well-being. To accomplish this mission VHA provides comprehensive, integrated health care services grounded in quality, value, service, education and research, administered by a workforce that considers VHA an employer of choice.

### B. Locations/Sites/Facilities

WLA is part of the larger GLAHS that serves Veterans in Los Angeles, Ventura, Santa Barbara, San Luis Obispo, and Kern Counties. It is also a part of and serves Veterans from the Veterans Integrated Service Network 22 (Network 22), which includes facilities in Los Angeles, Long Beach, San Diego, Loma Linda, and Las Vegas. GLA is the largest integrated health care organization in the VHA consisting of a tertiary care hospital and medical center in West Los Angeles, three ambulatory care centers, and eight community clinics operated by 5,000 employees located throughout their service area.

The WLA campus is the largest medical center campus in the VA system. It provides a full continuum of medical services including state-of-the-art hospital and outpatient care, rehabilitation, residential care and long-term care services. It also serves as a center for medical research and education within the VHA.

### C. Project Site

The site was part of an original 640 acre land donation by John P. Jones, Arcadia B. DeBaker and John Wolfskills, derived from the Rancho San Jose De Buenos Aires and Rancho San Vicente y Santa Monica Land Grants. The property was donated to establish the Pacific Branch of the National Home for Disabled Volunteer Soldiers after the Civil War and was known as the "Old Soldiers Home". The Home opened in 1888 with original shingle style frame barracks. A streetcar depot and chapel, (which can still be found at the site) were built in 1890 and 1900 respectively. A hospital was built in sections from 1891 to 1909 and the treeless land was transformed with plantings of pines, palm trees, and eucalyptus groves. This original hospital was replaced by the Wadsworth Hospital in 1927 and the current hospital in 1977.

The Old Soldiers Home served as an attraction for both tourists and local real estate speculators. In 1904, the home was a popular tourist attraction. In 1905, residential lots and larger tracts were for sale and a new community grew up around the Old Soldiers Home where Veterans and their families could settle.

Over time, portions of the original site have been made available for the expansion of the Los Angeles National Cemetery (114 acres), and construction of a Federal office building, Department of Defense facilities, and the San Diego Freeway (Interstate 405). Today, as a result of these dispositions of land, the campus consists of 387 acres.

The WLA campus is sited at the intersection of Wilshire Boulevard and Interstate 405; standing at the crossroads of some of the busiest streets and highways in the United States. Within the framework of the surrounding urban environment, the site of the health care center has remained a relatively stable and undeveloped environment containing extensive open space etched with historic buildings

## 2. Background



SECTION 2 FIGURE 2: PRESIDENT MCKINLEY AT OLD SOLDIERS' HOME (MAY 9, 1901)



GENERAL VIEW OF THE SOLDIERS' HOME,  
NEAR SANTA MONICA.

SECTION 2 FIGURE 3: OLD SOLDIERS' HOME LOOKING NORTH (EARLY 1900'S)

## 2. Background

and districts. Due to the high visibility and valuation of the surrounding property and its location at the intersection of significant urban corridors, the center is perceived to be one of the most valuable parcels of real estate in the western United States.

### D. VA Programs

At WLA, comprehensive health care is provided to Veterans through primary, specialty, residential, and long-term care in areas of medicine, surgery, psychiatry, physical medicine and rehabilitation, neurology, oncology, dentistry, geriatrics, and extended care. WLA operates a world-class health research and educational program in association with University of California, Los Angeles (UCLA) and University of Southern California (USC) Schools of Medicine and many other academic institutions in Southern California.

### E. Veteran Demographics

GLA serves 1.4 million Veterans in Southern California and approximately 530,000 Veterans living in the Greater Los Angeles Area. In 2010, GLA treated 82,000 Veterans through 1.2 million outpatient visits. Of those Veterans 9,600 required hospitalization for various durations and reasons. Nationally, male Veterans make up 92 percent of those treated and 68 percent are ages 55 and older. Women Veterans make up 8 percent of the Veterans served and that number is expected to increase in the next 15 years when they will represent one of every 16 Veterans enrolled for care.

Veteran projection data for the counties that make up the GLA service area shows a 36% decline in enrolled Veterans over the next 16 years with the passing of World War II, Korean, and some Vietnam Veterans. This data reflects the impact of new Veterans from Op-

eration Enduring Freedom (OEF) or Operation Iraqi Freedom (OIF). According to the Department of Defense, approximately 13,000 Veterans from OEF or OIF live in the GLA service area of which 8,000 have sought VA care since 2001. Due to the advanced age of most Veterans and their increased health care needs, the number of Veterans served by GLA is expected to stay relatively stable or increase in areas such as outpatient primary care/geriatric/urgent care with the largest growth in outpatient mental health care and pharmacy.

### GLA Enrollment Projections by County and Fiscal Year\*

County	FY2009	FY2019	FY2029
Los Angeles, CA	123,937	109,365	95,122
Kern, CA	13,648	14,667	13,723
Ventura, CA	12,549	13,427	12,208
Santa Barbara, CA	7,547	7,098	6,220
San Luis Obispo, CA	6,256	6,263	5,658
<b>Total</b>	<b>163,937</b>	<b>150,820</b>	<b>132,930</b>

\* The Projected Veteran Utilization of GLA is the same for the WLA Campus because its facilities provide specialty diagnostic/treatment services and hospitalization for all GLA patients.

### Projected Veteran Utilization for VA Greater Los Angeles Healthcare System

Service	FY2009	FY2015	FY2020	FY2025
Acute Inpatient Medicine	31,550	26,261	23,060	20,130
Acute Inpatient Mental Health	12,846	11,179	9,658	8,248
Acute Inpatient Surgery	15,704	13,297	11,653	10,103
Outpatient Mental Health Programs	334,263	409,954	425,763	428,535
Outpatient Primary Care-Geriatrics-Urgent Care	265,070	301,459	311,565	313,454
Pharmacy	2.8mil	3.2mil	3.6mil	3.9mil

## 2. Background



SECTION 2 FIGURE 4: OLD SOLDIERS' HOME LOOKING EAST (EARLY 1900'S)



SECTION 2 FIGURE 5: LOS ANGELES PACIFIC RAILWAY BALLOON ROUTE TOURISTS AT OLD SOLDIERS' HOME (EARLY 1900'S)

# 3. The Master Plan Process

## A. What is the Veterans Programs Enhancement Act (VPEA) Master Plan?

The Veterans Programs Enhancement Act (VPEA) Master Plan, here and after referred to as the "Master Plan," is a land use plan that guides the physical development of the WLA campus to support its mission of patient-centered care, teaching, and research. It outlines development goals and design objectives, delineates campus land use zones and estimates the new building space proposed for each zone. The Master Plan is a flexible plan to guide development and it is not an implementation plan. It does not commit to any specific project, construction schedule, or funding priority. Each development proposal must be approved individually by the GLAHS Director, the Network Director, and national VA officials as required by VA regulation governing the specific project.

There is no single definition for a master plan. The requirements for a master plan are guided by the intended purpose of the document. This plan is unique given the legislative restrictions on the property, the prior completion of a capital plan which outlines a plan for a majority of the campus, and the legislative mandate requiring such a plan.

## B. Regulatory Background, Land Use Restrictions and Requirements:

### Regulatory Background:

The WLA Campus is under the jurisdiction of the Federal government. The City of Los Angeles and County of Los Angeles zoning does not apply to the property. However, Federal agencies generally are required to consider State and local zoning laws, codes, and or-

dinances in the construction or alteration of Federal buildings. Accordingly, cooperation with pertinent State and local governments, is a customary component of the development process at the WLA Campus.

While all 387 acres of the WLA Campus are ultimately the property of the United States, the 13.5-acre California State Veterans Home was deeded to the State of California in 2006. This deed was granted from the United States government (VA) to the State of California with the stipulation that the land revert back to the United States if it no longer used as a nursing home or for domiciliary uses, as agreed upon in the original deed.

Pursuant to the legislative mandate of Section 707 of the Veterans Programs Enhancement Act of 1998, Pub. L. 105-368, the Secretary of the VA must submit to the United States Congress a report on "the use of Department of Veterans Affairs lands at the West Los Angeles Department of Veterans Affairs Medical Center, California." The report must also address, in pertinent part, a "plan for the development of a master plan for the use of the lands...over the next 25 years and over the next 50 years." This Master Plan addresses the second part of this legislative mandate.

### Land Use Restrictions:

The property comprising the VA West Los Angeles campus has been the subject of a number of legislatively imposed restrictions affecting its present and future use. Legislation affecting land use are:

- Public Law 100-322, section 421 (b) (2), as amended (also referred to as the Cranston Act) limits the transfer of approximately 109 acres (roughly 29 percent of the total West LA



(SECTION 3) FIGURE 1: AERIAL VIEW OF VA CAMPUS

### 3. The Master Plan Process

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VAMC site area) to other government agencies and prohibits those acres to be declared "excess to the needs of the Veterans Administration." In addition, it requires congressional approval for any future disposition of this land.

- Sections 224 (a) and (c) of the Consolidated Appropriations Act, 2008, Public Law 110-161, which extends the original reach of the Cranston Act, prohibiting VA from the sale, transfer, or to reduce the acreage of land and improvements at the WLA campus.

#### **Legislative Requirements:**

Some of the current statutory and regulatory laws that govern development include:

- National Environmental Policy Act
- National Historic Preservation Act

Laws that apply to VA as a federal land holding agency regarding the presence and removal of hazardous substances on/in property under its jurisdiction. These statutes are:

- The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA")
- The Resource Conservation and Recovery Act ("RCRA")

While compliance with municipal and other local regulations are not required, VA considers regulations that may affect the planning and implementation of projects.

#### **C. Chronology of the Master Plan Process**

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##### **2000-2001 Planning Study:**

In 2000, in accordance with the 1998 Veteran Program Enhancement Act, a plan for the development of a 25-year general plan for the WLA campus was initiated. The plan developed a preliminary conceptual use plan for the development of a land use master plan. While this plan was completed in 2001, it was never approved for implementation by VA. The plan developed a number of valuable components of a master plan that were used in subsequent planning activities.

##### **2004-2007 CARES Plan:**

The CARES Plan was initiated by VA in 2004 as a nation-wide study of VA health care facilities. The WLA campus was a part of this national study that included a comprehensive assessment of Veteran needs and realignments of and upgrades to VA health care facilities. One of VA's objectives of the WLA CARES study was to satisfy the Master Plan requirement for the campus.

The CARES Study resulted in the development of six Business Plan Options (BPOs), which were subject to a public review and comment period. On September 27, 2007, former VA Secretary James Nicholson selected BPO 3 as the approved Capital Plan for the WLA Campus. While the plan was approved, funding was not specifically

allocated for these improvements, which must be accomplished through the standard VA construction planning process.

##### **The 2009-2011 Master Plan Development:**

While the CARES Plan provided an extensive Capital Development Plan that addressed most of the property, it did not address the small amount of remaining land or produce the summary document needed to satisfy the 1998 Act. This Master Plan summarizes the work of the previous planning studies and is supported by and consistent with VA's SCIP process.

The SCIP process is a VA-wide process designed to improve the delivery of services and benefits to Veterans, their families and survivors in the safest and most secure infrastructure, by addressing VA's most critical needs first; investing wisely in VA's future; and significantly improving the efficiency of VA's far-reaching and wide range of activities. SCIP serves as a comprehensive plan to improve the quality, access, and cost efficiency of the delivery of VA benefits and services through modern (i.e., newer and/or better conditioned) facilities, which match the location and demands, both current and future - where our Nation's Veterans live. Using gap analysis and projected utilization of services, SCIP identifies specific capital investment needs to close performance gaps in the areas of safety, security, utilization, access, seismic protection, facility condition assessments, parking and energy.

In addition, the goal of this current Master Plan is to create a flexible and usable planning tool for future development activities of the WLA Campus, which will strive to benefit the Veteran population in harmony with the surrounding community, and comply with all applicable laws, codes, ordinances, and regulations, including but not limited to pertinent environmental and historic preservation laws.

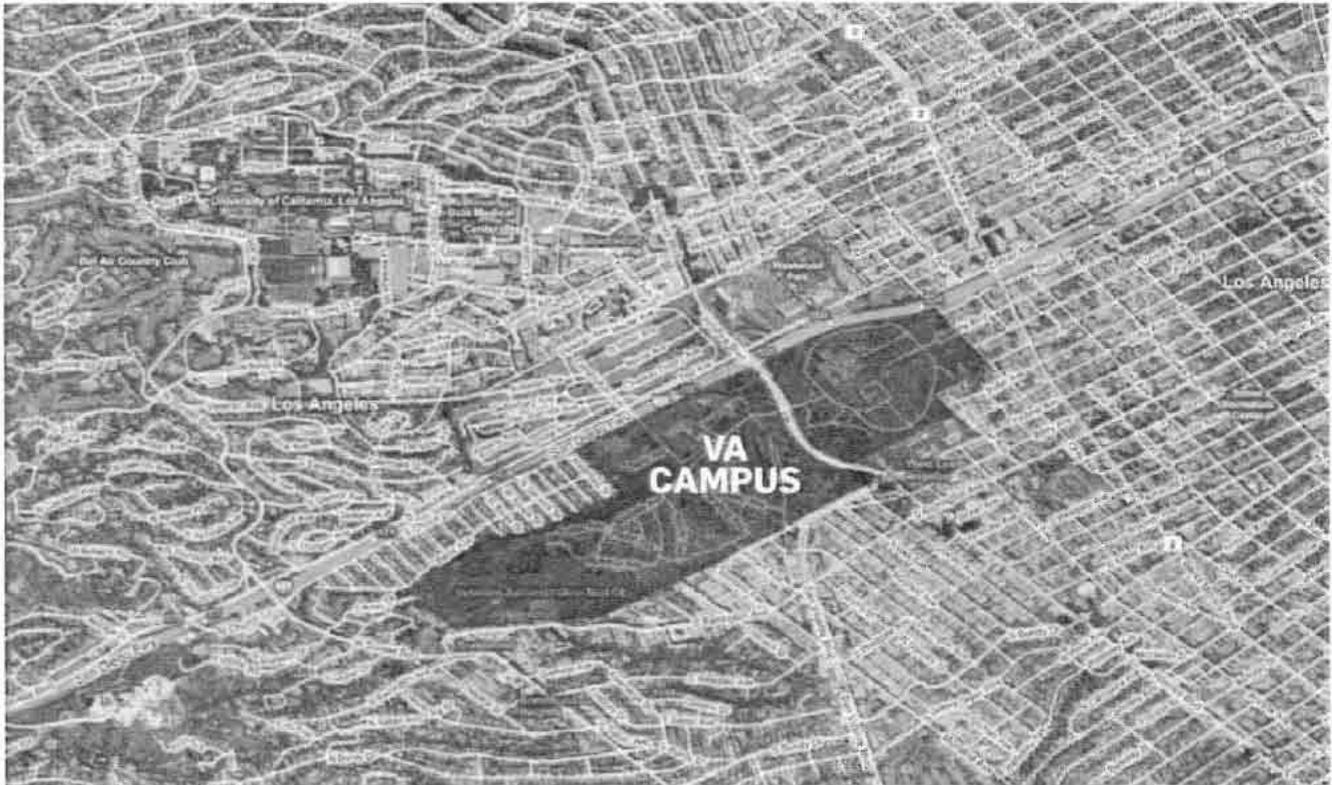
#### **D. Public Outreach**

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The master planning process for the WLA campus includes a public outreach component, in keeping with the campus' historic relationship with the surrounding community. The 2001 Planning Study included Veteran and community members on a Land Use Advisory Committee, while the CARES Plan included the establishment of a Local Advisory Panel. This Local Advisory Panel also included key community members, whose function was to obtain public input on the recommendations for addressing the needs identified in CARES. Two public meetings were held and a system for collecting public feedback was established. Secretary Nicholson's 2007 CARES decision reflected the recommendations from the Local Advisory Panel.

Updates on local projects are communicated to Veteran and community stakeholders through quarterly briefings by GLAHS leadership. Web and written communications supplement the quarterly briefings. Elected officials and Veteran Service Organizations work in partnership with GLAHS leadership in representing and communicating Veteran and community issues.

## 4. Site Analysis



SECTION 4 FIGURE 1: VICINITY MAP

### A. Site Description

The WLA campus is a 387-acre site located approximately two miles south of the Santa Monica Mountains between Sunset Boulevard to the north and Ohio Avenue to the south in an unincorporated area of Los Angeles County, surrounded by the City of Los Angeles. Wilshire Boulevard transects the lower one-third portion of the site. Interstate Highway 405 is located to the immediate east of the site and San Vicente Boulevard is to the west of the site.

The property is roughly rectangular in shape, extending northwest to southeast, along Interstate 405, which borders the northeast side of the property. The property is generally about three times as long as it is wide in a north-south direction, with some irregular boundaries from prior land sales and transfers.

The total building gross square footage of WLA facilities approach three million (2,842,769).

Open space is an important characteristic of the WLA Campus. Some of the low density areas that surround the Campus include Jackie Robinson Stadium, Veterans Garden, Veterans Memorial Park, Arroyo, Veterans Golf Course, and MacArthur Field.

### B. Surrounding Context

To the northeast of the site, UCLA encompasses approximately 480 acres, including a university parking lot immediately across Veteran Avenue from the Los Angeles National Cemetery north of Wilshire Boulevard. Due east of the VA property and to the north of Wilshire Boulevard is Westwood Village, a commercial, mixed-use, retail, office, and entertainment village. To the north of the VA property and east of Sunset Boulevard is the Barrington Village area, a small neighborhood serving commercial, community, convenience, retail, and services center.

In addition, numerous high-density multi-family residential urban areas surround the campus to the east, south and west sides of the campus.

Additional offsite facilities include the Federal Building on the south side of Wilshire Boulevard (between Veteran Avenue and Sepulveda); Westwood Park, immediately south of the Federal Building parking lot on the east side of Sepulveda; the portion of Westwood Park on the west side of Sepulveda, north of Ohio; and the Salvation Army transitional homeless housing project and daycare center on properties that were previously part of the VA property.

## 4. Site Analysis



SECTION 4 FIGURE 2: WLA CAMPUS MAP

## 4. Site Analysis



**Comprehensive Land Use Map**

	Los Angeles Architectural Set Historic District
	NHDVS Pacific Branch Historic District
	Land Use Agreements
	Current and Future Projects

SECTION 4 FIGURE 3: CURRENT LAND USE

## 4. Site Analysis

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### D. Current Land Use

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#### Current Land Use:

The WLA Campus includes 104 buildings distributed throughout the entire site. A majority of the buildings are more than 50 years old, with 39 considered historically significant. In addition, twelve buildings are designated as exceptionally high risk for a seismic event and a number are uninhabitable and closed.

The campus south of Wilshire houses the acute care delivery functions including a full service hospital, outpatient clinics, and associated diagnostic and treatment facilities. A small residential area adjacent to the hospital houses employees as well as the Fisher House, which provides accommodations to families of Veterans receiving treatment. The campus north of Wilshire includes long term and residential care, recreational, research, administrative services including a VA and State of California Nursing Homes, and VA domiciliary, research programs and additional residential programs operated by community providers. In addition, infrastructure support for the entire Campus, including the boiler plant and laundry facilities, are also found in this area.

Non-VA programs are operated throughout the property under leases, memorandums of understanding (MOUs), revocable licenses, or enhanced sharing agreements (ESAs).

### D. Natural Environment

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#### Geology/Topography/Faults:

The site is locally mantled by artificial fill. The fill consists of silt, clay and silty sand. The fill thickness varies from several feet to about 30 feet. The elevation changes appear to be a result of both cutting and filling operations to achieve the current grades.

The topography at the site is generally gently sloping to the south. However, locally, steeper slopes occur along existing ravines or drainage channels at the site. The property has a high point of 500 feet in elevation at the north corner of the site. The low point is located at the southwest corner of the site at Ohio Avenue, near the Southern California Edison Power Substation. The topography drops 240 feet in elevation from north to south, averaging about three percent slope in land (from the highlands of Sunset Boulevard down to the flats of Ohio Avenue.)

The nearest active fault is the North Branch of the Santa Monica fault zone. The fault traverses the south eastern most portion of the site.

#### Water Quality:

The site does not contain any perennial surface water flows. Surface water flows are the result of storm events, upstream irrigation and seasonal groundwater seepage. Surface flows are ultimately conveyed to Los Angeles County Flood Control channels located west and south of the site.

#### Biology:

The entire 387-acre site has been impacted by human alteration and activity. Open areas consist primarily of maintained lawns and ornamental landscaping. The only areas providing natural habitat are the arroyo and the escarpment along the east property line. However, the habitat quality of these areas has been diminished by extensive invasion of non-native species. In a 2001 Environmental Assessment, a field survey of the site for the Brentwood School Athletic Fields Project identified the presence of riparian (wetland) vegetation and habitat associated with the arroyo that runs through the northwest portion of the VA property.

### E. Easements and Other Site Restrictions

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#### Easements:

There are three key utility easements on the WLA Campus, summarized below:

- Southern California Edison (SCE) June, 1959; This conveys a utility easement to SCE to construct, use, maintain, alter, add to, repair, replace and or remove an underground electrical system, consisting of underground conduits, together with wires and other fixtures and appliances for the purpose of providing light, power, telephone and or other purposes. It describes VA as an unincorporated area of LA County and VA is referred to as land of the Veterans Administration Center reservation.
- City of Los Angeles, September 1974. This conveys a utility easement to the City of Los Angeles for the unincorporated area of Los Angeles County. The purpose of the easement is to construct, operate and maintain a sanitary sewer line and appurtenant structures. Today, this easement would have been between VA and the Los Angeles Department of Water and Power (DWP), which serves as a collection agency for a sewer authority that is independent from DWP and manages the sewer system in the area. This easement is for the same general easement where sewer leaves the WLA Campus at the Sawtelle gate. All internal campus sewer lines area owned by VA.
- VA and the City of Los Angeles, April 1950. This is for a utility easement for the purpose of water lines. The original document also refers to a prior easement dated back to December 1920. Today, this would also have been a utility easement between VA and DWP. The purpose is listed as an easement and right of way to construct, re-construct, maintain, operate, repair, renew, enlarge, remove and replace a line or lines of pipe of whatsoever nature, manholes, service and/or distribution or connections with all and every appendages, structures and equipment for the purpose of conveying and distributing water.

## 4. Site Analysis

### Other Restrictions:

The arroyo area on the north side of the property was previously used as a waste burial site in the 1950s and 1960s. While the Arroyo (a closed site) and the adjacent park have been subject to extensive testing over the years and have always been deemed safe to the public, low-level biomedical research waste has been found in very small, and non-harmful amounts.

There have been several surveys of this area done by many government agencies and Environmental Consultants over the past couple of decades. The first survey was conducted by the Nuclear Regulatory Commission (NRC) in 1981, which they concluded the site contents were all low level biomedical waste radiation and no threat to public health, then in 1992 the Environmental Protection Agency (EPA) conducted a similar survey to assess human health risk to the site and it was cited that there were no human risk due to the low levels of radioactive materials in the burial areas. In 2000, due to the Brentwood School project (20 acre ESA), all documents were reviewed and re-quantified by Locus Technologies Inc. and the same conclusion was found. These results are available on the Brentwood School's website. In 2007, Millennium Consultants Inc. conducted a surface survey and again re-quantified the burial area data and summarized all reports to find no hazard to the general public. In 2009, AllWest Geosciences Inc. conducted core drilling in the site for radioactive and chemical hazards. All results determined that there should be no potential human health risks associated with buried medical waste resulting from historic medical research and disposal at the WLA property.

### F. Historic Districts and Facilities

Approximately 120 acres of the WLA Campus meet National register criteria for historic district designation (figure 4). The site contains two designated historic districts, the Home Branch Historic District (HBHD) and the Los Angeles Architectural Set Historic District (LAASHD).

Section 106 of the National Historic Preservation Act (NHPA) requires the federal government consider the effects of its undertaking on historic properties, defined as districts, sites, buildings (more than 50 years old), structures and objects included in or eligible for inclusion in the National Register of Historic Places. Given the age of the WLA Campus, many buildings may be subject to the NHPA requirements. Of the 104 of total buildings, only 21 are less than 50 years old.

There are 39 existing buildings designated in the Capital Asset Inventory as historic structures or are considered historically eligible by National Trust for Historic Preservation and VA. Two of the 39 buildings designated as historic are listed on the National Register of Historic Places, the Trolley Station, and the Chapel.



SECTION 4 FIGURE 4: OLD SOLDIERS' HOME LOOKING SOUTH (EARLY 1900'S)

## 4. Site Analysis



### Historic Districts

- Los Angeles Architectural Set Historic District
- NHDVS Pacific Branch Historic District
- Historic Structure on National Register

SECTION 4 FIGURE 5: HISTORIC DISTRICTS

## 4. Site Analysis

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### G. Open Space

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Much of the WLA Campus is landscaped and forms an attractive park-like setting. The campus incorporates mature trees, established shrub plantings, and well maintained open areas, including a Golf Course and Koi Pond. Much of the site is either nearly level or gently rolling except at the northern portion of the site where there are some steep slopes.

### H. Traffic, Parking & Circulation (ON CAMPUS)

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Vehicular circulation to the campus is accessed from WLA by one primary entrance off of Wilshire Boulevard, which also connects the north and south campuses.

There are three secondary entrances to the north campus. Two are off of Bringham Ave to the west and the third is off of Sepulveda Blvd. to the east. Once on the campus, the circulation is provided by a series of several major paved roadways that connect a network of smaller local streets including Bonsall Avenue, a major north/south road that runs through the entire campus.

The south campus has a secondary entrance from the intersection of Ohio Avenue and Sawtelle Boulevard. The south campus' circulation is provided by a major loop roadway, Dowlen Drive, and Bonsall Avenue, which also provides an outlet to Wilshire Boulevard and Ohio Avenue.

Existing surface parking is dispersed around the campus, making it convenient for patients, family, and employees. Currently there are approximately 4,000 parking spaces on campus, an adequate amount to support the current programs.

Due to the large surface area of the WLA campus, a campus bus system provides transportation to employees and patients. There are multiple stops throughout the campus with a frequency of approximately 15 minutes. In addition, the City of Santa Monica "Big Blue Bus" stops at various locations throughout the north and south campuses. A VA parking lot, shared with an outside entity, provides parking services to businesses bordering the northern most campus. Veterans are employed by this contractor and revenue generated supports Veteran programs. In addition, as part of the CARES approved Capital Plan, a multi-level parking structure will be built to accommodate the patient and guest traffic for the main hospital building and the new Acute Bed Tower. Any new major construction project will include a traffic, parking, and circulation study.

# 4. Site Analysis



LOT NUMBER	AVAILABLE SPACES	LOT NUMBER	AVAILABLE SPACES
Lot 1*	110	Lot 18	235
Lot 2	250	Lot 19	60
Lot 5	100	Lot 20	125
Lot 6	700	Lot 28	35
Lot 7	250	Lot 29*	750
Lot 9 and Lot 35	100	Lot 38	185
Lot 10	75	Lot 42	460
Lot 11	75	Lot 43	375
Lot 15*	300	Lot 47	125
Lot 16	100	Lot 48	150
Lot 17	135	Laundry Area	100
<b>TOTAL</b>		<b>4805</b>	

\*These parking areas are under contract by multiple Sharing Partners

SECTION 4 FIGURE 6: PARKING



**Low Density "Green" Zones**

■ Designated Low Density Areas

Parcels	
G1	Cliff Bolivers Chapel
G2	Jackie Robinson Stadium (UCLA)
G3	Veterans Garden
G4	Veterans Golf Course and MacArthur Field
G5	Brentwood School and Barrington Park
G6	Arroyo
G7	Veterans Park
G8	VA Executive Housing
G9	Helicopter Pad
G10	American Red Cross
G11	Fisher House

SECTION 4 FIGURE 7: OPEN SPACE

## 4. Site Analysis

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### I. Existing Facilities

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#### VA and Other Facilities –

The total building gross square footage of WLA facilities approaches three million (2,842,769). Buildings range in size from a 144 square foot gatehouse to the 900,000 square foot Wadsworth Hospital (Building 500, built in 1976). Of the 104 buildings, twelve are listed as vacant and 13 are used as staff housing or garage. The majority of the buildings are considerably smaller than modern construction for most building types and may have limited opportunities for re-use based on the inefficiency of the small footprint, overall volume and current configuration.

### J. Utilities/Infrastructure

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**Electrical:** Electrical power is provided to the WLA campus through Southern California Edison (SCE).

There are three different substations serving the WLA campus.

Every building that provides patient care, research, therapy or administrative functions is served by primary selective switching of a preferred and alternate circuit. Every patient care building also has emergency generator power available. The research buildings have a backup generator and the main clinical treatment center, Building 500, has 2 primary generators that are capable of powering the entire building during an outage.

**Water Supply System:** Water is supplied by the Department of Water and Power. This water supply enters from the north side of the campus, while a second supply line for limited emergency purposes enters from the south side near Ohio Ave. There is a high pressure water line (8") that enters the campus from Wilshire Blvd. and is used to feed water to Building 500 and the south campus. There are also a series of water storage tanks that have a collective capacity of 800,000 gallons (north campus) and 164,000 gallons (Building 500).

**Natural Gas:** Natural gas is provided by the Southern California Gas Company. The gas supply line has a point of connection and pressure reducing station located in the engineering area. This station reduces the pressure from 30psi to 5psi for the medical center's operating pressure.

# 4. Site Analysis



### VA Use vs. Shared Use

- VA Use
- Shared Use

SECTION 4 FIGURE 8: EXISTING FACILITIES (VA & OTHER USES)

## 5. Program and Facilities



Location	Land Use Partner		
1	American Red Cross	11	State Veterans Home
2	Barnington Park	12	TCM, LLC (Farmer's Market)
3	BrietBurn Energy	13	Twentieth Century Fox
4	Brentwood School	14	UCLA - Jackie Robinson Stadium
5	New Directions, Inc. (2 Agreements)	15	U.S. Veterans initiative (Golf Course)
6	Rancho Santa Ana Botanic Garden (Veterans Garden)	16	Veterans Park Conservancy
7	Richmark Entertainment	17	Westside Breakers Soccer Club and Galaxy Alliance Soccer
8	Salvation Army (2 Agreements)	18	Westside Services LLC
9	Sodexo Marriott Laundry Services	—	Filming (Multiple Locations)
10	South Coast AQMD		

SECTION 5 FIGURE 1: CURRENT LAND USE AGREEMENTS

### A. Current Programs

WLA is a teaching hospital, providing a full range of patient care services, state-of-the-art technology, education, and research. Comprehensive health care is provided through primary, specialty, residential and long-term care in the areas of medicine, surgery, psychiatry, physical medicine and rehabilitation, neurology, oncology, dentistry, geriatrics, and extended care. WLA currently operates 740 beds, including 261 acute beds, 158 nursing home beds, and 321 inpatient residential and domiciliary beds.

The south campus houses the acute inpatient building, ambulatory care and other functions that support the provision of acute care. The north campus houses long-term care programs, domiciliary, research and administrative buildings. The north campus also has homeless, recreational and vocational programs, industrial yards, historic buildings, open space, and the California State Veterans Home.

### B. Current Land Use Agreements

There are currently 21 land use agreements with 18 partners for the WLA campus. This does not include several non-recurring event agreements. Each agreement varies in length and contractual authority. The Current Land Use Agreement Exhibit (Figure 1) identifies the location of each land use agreement.

### C. Proposed VA Facilities

The approved 2007 CARES Capital Plan and the current Strategic Capital Investment Plan (SCIP) for the WLA campus focus on meeting the future health care needs of Veterans by addressing the sprawling, aging infrastructure that compromises safety, hinders the care delivery process and reduces Veteran satisfaction.

### Renovations

The following have been identified for potential renovation:

- Building 500 for Ambulatory Care**  
 Seismic upgrade and consolidate projected ambulatory workload and services from the north campus.
- Existing Mental Health Care Facilities**  
 Consolidation of projected outpatient mental health care facilities to meet future utilization projections on the south campus.
- Existing Domiciliary Facilities**  
 Consolidation of projected domiciliary facilities to meet future utilization projections on the north campus.
- Buildings 205, 208, 209**  
 Renovation of these buildings to make them "available for homeless housing."

# 5. Program and Facilities

## New Construction

The following buildings have been identified for potential construction:

- **New Acute Bed Tower (Clinical Expansion)**  
Movement of inpatient acute care services on the south campus into a seismically safe structure.
- **New Nursing Home**  
Consolidation of nursing home facilities in a new state-of-the-art facility on the north campus.
- **New VA Research Facility**  
Relocation of the existing facility to the south campus to be closer to core patient care activities.
- **New Veterans Benefits Administration Facility**  
Potential construction on the south campus
- **Columbarium for the National Cemetery Administration**  
Potential construction on the north campus
- **Veterans Memorial Park**  
Beautification of the WLA grounds by building a Veterans Memorial Park.

Parking will need to be assessed and potentially reconfigured for these projects. The location and amount of parking that will be needed has not yet been determined.

## Unusable Property

As a result of construction projects identified in CARES and SCIP, the West LA Campus will have approximately 750,000 square feet of currently unusable, vacant space to be demolished or renovated for VA use such as homeless programs. The SCIP plan also identifies a need for VA to consider appropriate future use(s) and/or demolition of approximately 430,000 square feet of vacant space located in 7 buildings.

## D. Current Priorities

As a follow-up to the CARES Capital Plan and the current Strategic Capital Investment Plan (SCIP), to date, GLA has prepared five major construction project applications for funding. These priorities include:

- Construction of the new Acute Bed Tower and seismic correction and renovation of Building 500
- Construction of the new Research Building
- Construction of the new Nursing Home
- Seismic corrections to eleven buildings that are designated as "exceptionally high risk"



Facility Type	
	Inpatient/Domiciliary/Nursing Home
	Primary/Specialty Care Outpatient
	Mental Health Outpatient
	Research/Education
	Administration/Logistics
	Shared
	Vacant/Demolition
	Staff Housing

SECTION 5 FIGURE 2: CURRENT PROGRAMS

## 6. Reuse and Plan Recommendations

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### A. Objectives

Future development of vacant land and/or the reuse of existing facilities on the WLA campus will be guided by mission, physical, and operational objectives. These objectives will be applied based on three critical priorities in the following order: directly benefit Veterans, fulfill the mission of VA and be compatible with the community. The areas of the campus open for development or reuse are limited to a very small portion of the property that is not consumed by the CARES capital plan, VA's SCIP process, or existing long term land use agreements. It is the responsibility of VA management to carry out their fiduciary responsibility in managing the campus and ensuring that the terms of this plan are adhered to in a consultative and collaborative manner with Veteran and community stakeholders. VA Mission Objectives:

- Offer the highest quality health care, research, education and disaster response to serve the needs of Veterans and the community.
- Support the provision of benefits offered by the VA Veterans Benefits Administration and National Cemetery Administration.
- Build a strong, qualified workforce through training and professional programs and attention to the work environment.
- Support diversity in the Veteran community and the workforce through cultural awareness programs and unique health care initiatives.
- Develop a physical environment that supports the delivery of health care, education and research.
- Create a peaceful, healing environment in accordance with Patient Centered Care principles.
- Create harmonious sense of community where Veterans are honored for their service and supported in their healing.

#### Physical Objectives:

- Ensure seismically and structurally safe facilities to support the mission/vision of the campus.
- Consolidate services to improve the efficiency and convenience of services delivered.
- Connect the campus with mass transportation through planned subway and bus lines.
- Reduce energy consumption through the construction of energy efficient buildings.
- Facilitate the conversion of vacant buildings to supportive, sober-living housing for Veterans in concert with community providers.
- Respect the architectural and historic traditions that give the campus its unique character.
- Maintain green space and buffer zones with the surrounding com-

munity.

- Provide recreational facilities for Veterans living on campus.
- Improve vehicular circulation and way-finding to promote safety and reduce congestion.
- Expand employee housing to support the recruitment and retention of high quality staff.

#### Operational Objectives:

- To the extent possible, accommodate program growth by expanding services at community clinics located close to Veterans.
- Ensure future projects maintain appropriate segregation of zones and functions to ensure the provision of a supportive therapeutic environment.
- Partner with the community to make the campus environment esthetically pleasing, showing respect for the service of Veterans.
- Plan, design and implement the proposed projects within practical constraints of available funding sources.
- Comply with the following requirements: National Environmental Policy Act (NEPA), Section 106 National Historic Preservation Act (NHPA), Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), Resource Conservation and Recovery Act ("RCRA"), EPA Hazardous Substances Reporting Requirements for Selling or Transferring Federal Real Estate.

### B. Priorities/Guiding Principles

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**All future land use at the West Los Angeles VA Medical Center campus will be evaluated based on three critical priorities in the following order:**

- **Direct benefit for Veterans**
- **Fulfillment of VA's mission**
- **Compatibility with the community**

Ten Guiding Principles to facilitate the application of the critical priorities and to serve as a tool to manage future development of the WLA campus:

1. VA will strictly adhere to: Public Law 110-161, Section 224 titled "Prohibition On Disposal Of Department Of Veterans Affairs Lands And Improvements At West Los Angeles Medical Center, California"; Section 421 (b)(2) of the Veterans' Benefits and Services Act of 1988 [PL 100-322]; and Section 401 of the Veterans' Benefits Programs Improvement Act of 1991 [PL 102-86]
2. Maintain current land use agreements and lease arrangements. When they individually expire, renewal will be based upon the criteria established in this Master Plan.

## 6. Reuse and Plan Recommendations

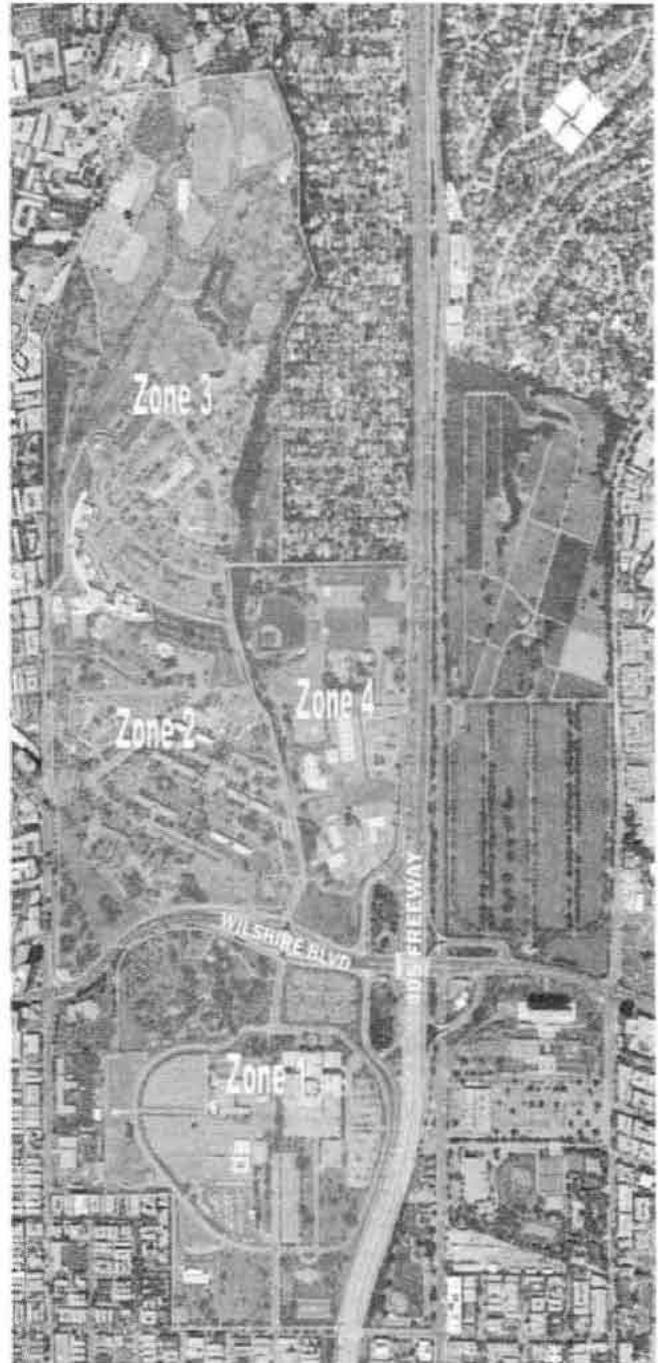
3. VA will abide by the National Historic Preservation Act (NHPA), and must meet the legal requirements of national historic preservation as it applies to the medical center.
4. Further development based on the Master Plan will comply with the National Environmental Protection Act (NEPA).
5. The Master Plan shall incorporate the VA Secretary's decision to adopt the CARES Capital Plan which specifies the VA capital plan for the medical center as it was recommended by the CARES Local Advisory Panel. This process will not be subject to reconsideration in the Master Plan process.
6. The plan will include a phased implementation of the CARES Plan and the resultant identification of land and buildings as they are made available for reuse.
7. New reuse proposals will be considered using a set of policies and principles outlined in this Master Plan.
8. The Master Plan will be guided by the establishment of reasonable height limits on the subject property.
9. VA will seek buffer zones (i.e. green space) or low density uses on areas bordering the residential community of the property.
10. Compatibility with the County's local zoning regulations for West Los Angeles VA Property will be a consideration for all projects.

### C. Master Plan Zones

The Master Plan of the WLA Campus identifies four zones that incorporate land use and development areas.

Zones were developed based on geography, function, and proposed projects. Zone 1 is located south of Wilshire Blvd. and includes acute medical activities. Zone 2 is north of Wilshire and includes long-term care functions. Zone 3 is the far north campus area and includes recreational space, therapeutic housing and historic buildings. Zone 4 is north of Wilshire Blvd. and adjacent to Interstate 405 and provides campus infrastructure support.

All future development will be consistent with the characteristics and functions of the zone in which they are located.



SECTION B FIGURE 1: MASTER PLAN ZONES

## 6. Reuse and Plan Recommendations

### Zone 1:

#### Characteristics of the Zone:

This zone encompasses the area south of Wilshire Boulevard. It is surrounded by green space that provides a buffer between the core enterprise and the community. In addition, the Interstate 405 runs along the east side of the zone, separating the zone from traffic.

#### Land Use:

It includes the core hospital enterprise area housing the six story acute hospital building and other space that supports the provision of complex inpatient and outpatient care. VA employee housing and short term patient family lodging is also located in this space.

#### Existing:

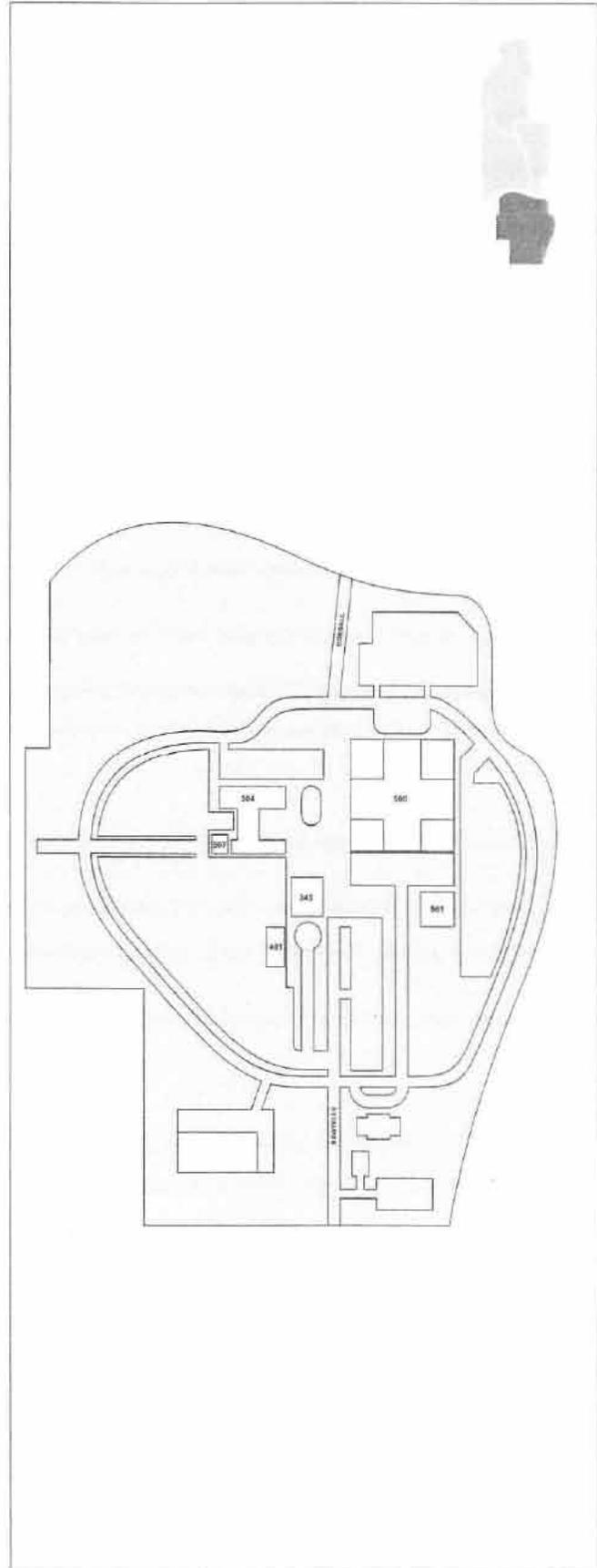
This Zone is the focus of acute medical care activities housing the inpatient hospital beds, outpatient medical and surgical clinics advanced diagnostic and support services. These services are concentrated in Buildings 500, 304, 507, and 345. The Fisher House is also located in this Zone and supports the acute services by providing the families of Veterans housing while they are receiving treatment. Employee housing is located in this zone and the Red Cross shared space for their headquarters.

#### Projects Under Consideration:

- New Acute Care Tower / Building 500 Seismic Correction and Renovation - Creates a new hospital bed tower addition, and seismically corrects and renovates Building 500 (B500). After completion of B500 renovation, the outpatient mental health facilities and all clinical outpatient services from the north side (Zone 3) of the West Los Angeles campus would be relocated to B500. This project also would include a parking structure and a logistics or infrastructure support building. Further, as an interim measure until the project is funded and built, up to six temporary buildings might be installed in this zone to house new mental health services.
- New Research Building – This project would replace old research buildings on the north campus (113, 114, 115, and 117) with a new building on the south campus.
- Veterans Benefit Administration Regional Office – This project would involve a new public service center being constructed next to the Red Cross building, to provide one-stop service for Veterans needing healthcare and claims services.

#### Future Development Characteristics:

Reasonable height limits will be maintained throughout the zone, taking into consideration existing building heights. In addition, a green buffer zone will be maintained around the perimeter. Also, a Red-Line Metro Stop is in the initial planning discussions (see Section 4 Figure 2). The proposed location, design, and footprint of this stop is undetermined at this point. However, the location chosen must be compatible with the medical center operations and security at the West LA campus.



SECTION 6 FIGURE 2. ZONE 1

## 6. Reuse and Plan Recommendations

### Zone 1:

#### Existing Buildings:

Below is a chart of the existing buildings within Zone 1.

<b>Building Number</b>	<b>Function Title</b>	<b>Year Built</b>	<b>Year Renovated</b>	<b>Floors</b>	<b>Total Gross Square Feet</b>
14	Single Garage	1900		1	200
23	Quarters	1900		1	3,448
90	Duplex Quarters	1927	1995	1	4,752
91	Duplex Quarters	1927	1995	1	4,752
304	Research	1957		3	89,267
307	Single Quarters	1955		1	1,200
308	Single Quarters	1955		1	1,728
309	Garage	1955		1	400
310	Garage	1955		1	400
311	Single Quarters	1994		1	1,400
312	Single Quarters	1994		1	1,400
318	Single Quarters	1994		1	1,400
306	Cafeteria/Post Office	1957		2	14,281
345	Radiation Therapy	1982		2	15,620
401	Administration & Mental Health	2009		2	30,000
500	Main Hospital	1976		7	900,000
501	Facilities Operations	1976		1	30,000
507	MRI Facility	1991		1	6,000
514	Quarters Storage			1	168
522	Single Quarters	2009		1	1,683
523	Fisher House	2009		2	16,000

## 6. Reuse and Plan Recommendations

### Zone 2:

#### Characteristics of the Zone:

This Zone encompasses the acreage adjacent to and north of Wilshire Boulevard along Federal Ave. up to the new California State Veterans Home and south along Bonsall road back to Wilshire Boulevard. It is surrounded by green space along Wilshire Boulevard and along Federal Boulevard that provides a buffer from the community.

#### Land Use:

This area is the focus of long term care, research and administrative services. Part of the green space includes the Wadsworth Theater and adjacent great lawn, Veterans Rose Garden and new Veterans Memorial Park Project.

#### Existing:

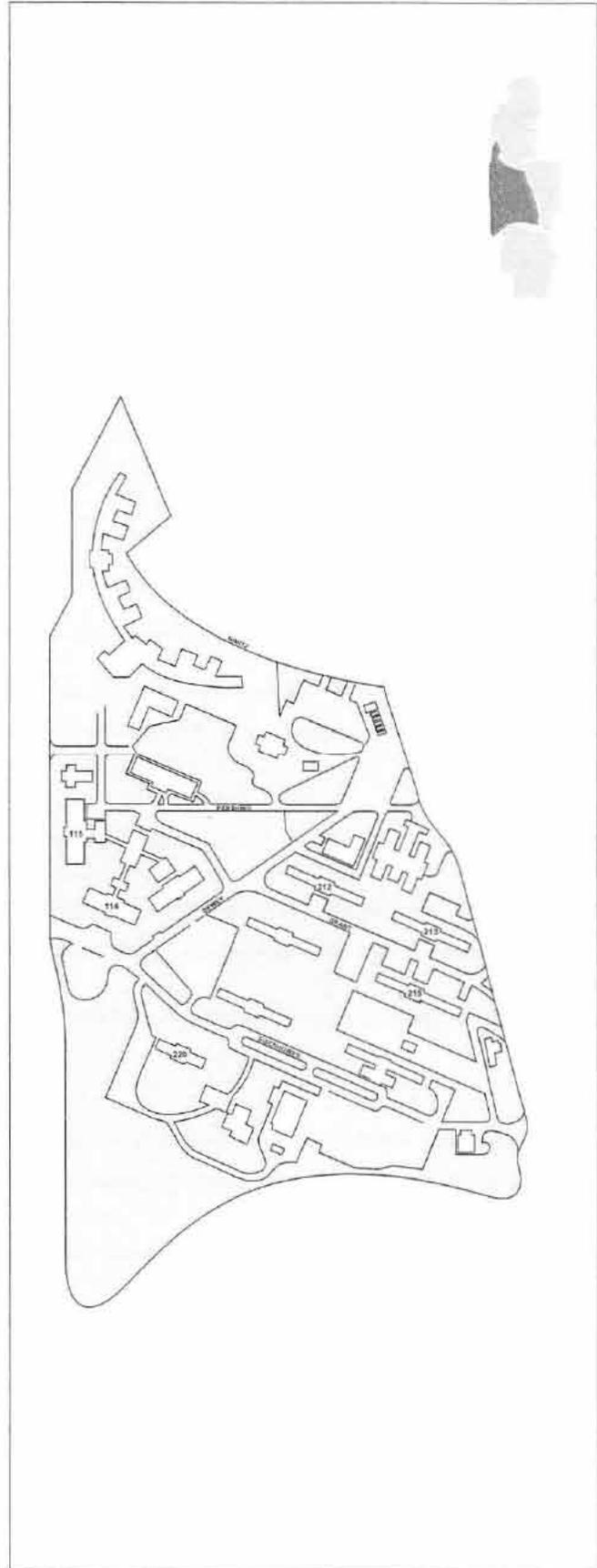
This area is the focus of long term care, research and administrative services including the VA Community Living Center (Nursing Home), Domiciliary, Research and State Veterans Home. A number of administrative buildings are also scattered in this Zone and it is the location of the Los Angeles Architectural Set Historic District and two historic structures on the national register.

#### Projects Under Consideration:

- a. New Community Living Center (Nursing Home) - This project would replace the existing Nursing Home Care Buildings 213 and 215.
- b. Seismic Correction of Buildings - This project would involve the required seismic retrofit of research and administrative buildings Building 212, and Building 114, as well as Buildings 257, 205, 258, 207, 208, 209, 300, 206 in Zone 3, and Building 222 in Zone 4. These buildings are currently designated as "exceptionally high risk" and at risk of substantial damage and / or possible collapse in the occurrence of a seismic event.
- c. Veterans Memorial Park Project - Phase I - perimeter fencing of the area has been completed and Phase II - restoring the Rose Garden and surrounding adobe brick wall is underway on the south side of Building 220. This project, when finished, will provide a healing environment for Veterans.

#### Future Development Characteristics:

Reasonable height limits will be maintained throughout the zone, taking into consideration existing building heights. In addition, a green buffer zone will be maintained around the perimeter. This zone includes a number of historic buildings, including the Trolley Station and Chapel. Restoration of these buildings has been proposed in partnership with the community. A Red-Line Metro Stop is in the initial planning discussions (see Section 4 Figure 2). The proposed location, design, and footprint of this stop is undetermined at this point. However, the location chosen must be compatible with the medical center operations and security at the West LA campus.



SECTION 6 FIGURE 3 - ZONE 2

## 6. Reuse and Plan Recommendations

### Zone 2:

#### Existing Buildings:

Below is a chart of the existing buildings within Zone 2.

<b>Building Number</b>	<b>Function Title</b>	<b>Year Built</b>	<b>Year Renovated</b>	<b>Floors</b>	<b>Total Gross Square Feet</b>
13	Storage/Vacant	1929		1	52,604
20	Chapel/Vacant	1900		1	8,758
33	Single Quarters/Vacant	1893	1995	1	1,200
66	Trolley Stop/Vacant	1898		1	600
111	Gate House/Vacant	1923		1	144
113	Research	1930		4	60,000
114	Research	1930		4	69,921
115	Research	1930		3	60,314
116	New Directions	1930	1997	3	60,309
117	Research	1930		2	20,873
199	Hoover Barracks/Storage	1932		2	3,600
212	Salvation Army	1938		4	62,560
213	Community Living Center	1938	1989	4	62,560
214	Domiciliary	1938	1990	4	53,000
215	Community Living Center	1938	1985	4	53,000
217	Domiciliary	1941	1990	4	58,608
218	Administration Building	1941		4	75,120
220	Dental/Research	1939		4	29,875
226	Wadsworth Theater	1940		1	20,875
236	Police HQ	1945		1	7,108
264	Vacant (Annex Theater)	1944		2	10,080
278	Vacant (To Be Demolished)	1943		1	3,000
301	AFGE Union	1951		2	2,649
337	Research	1962		1	6,772
340	Waste Storage			1	362
342	Waste Storage			1	240
346	Waste Storage			1	100
506	VA Regional Counsel	1992		1	9,320

## 6. Reuse and Plan Recommendations

### Zone 3:

#### Characteristics of the Zone:

This Zone encompasses the far northern part of the campus.

#### Land Use:

The Zone includes large areas of green space with buildings arranged in a residential type area providing transitional housing and outpatient treatment programs for Veterans. The facilities accommodate residential and outpatient treatment programs, as well as, recreational land uses. Green space buffers VA land from the community on all sides.

#### Existing:

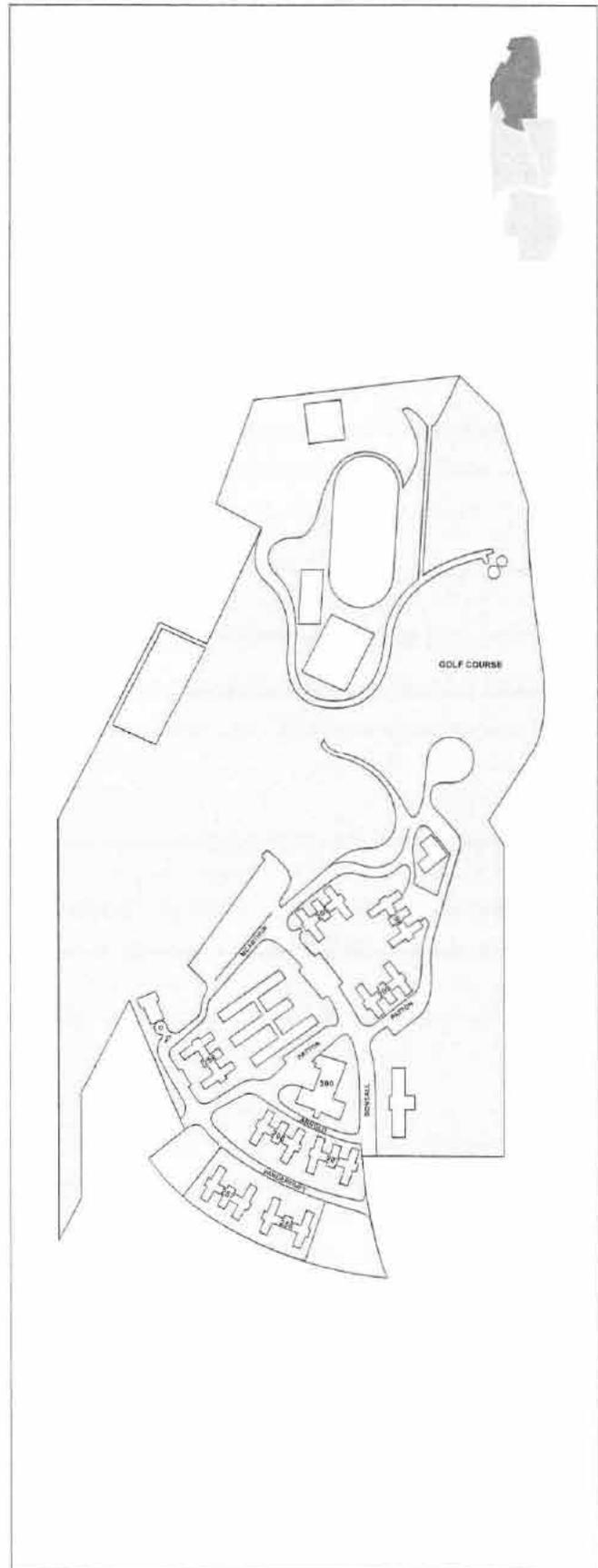
Zone 3 includes the NHDVS Pacific Branch Historic District with buildings from the 1920's, 1930's and 1940s that currently house outpatient mental health, homeless programs and community homeless providers. This zone also includes the Brentwood Theater, soccer and ball fields, Japanese Garden, golf course and space shared for parking and school sports park.

#### Projects Under Consideration:

Buildings 205, 208, 209 are designated for homeless therapeutic housing. Building 209 is the first that would be developed, with the others potentially becoming available over time as they become vacant.

#### Future Development Characteristics:

Reasonable height limits will be maintained throughout the zone taking into consideration existing building heights. In addition, a green buffer zone will be maintained around the perimeter. VA would consider enhancing Veteran centric recreational programs if and as more therapeutic housing is added.



SECTION 6 FIGURE 4 | ZONE 3

## 6. Reuse and Plan Recommendations

### Zone 3:

Existing Buildings:

Below is a chart of the existing buildings within Zone 3.

Building Number	Function Title	Year Built	Year Renovated	Floors	Total Gross Square Feet
156	Vacant	1921		3	60,000
157	Vacant	1928		3	60,000
158	Swing Vacant/Information & Technology	1921		3	55,886
205	Mental Health/Vacant	1937		3	53,047
206	Mental Heath Homeless	1940		3	47,099
207	Salvation Army	1940		3	47,015
208	Mental Health/Vocational Rehabilitation	1945		3	47,265
209	Swing/Vacant	1945		3	46,708
210	Research	1945		3	39,677
211	Brentwood Theater	1946		1	11,490
231	Grounds Maintenance Equipment			1	840
233	Storage			1	840
256	Day Treatment Center Mental Health	1946		3	47,675
257	Mental Health/New Directions/ Methadone	1946	1997	3	57,386
258	Mental Health Admin	1946		4	65,576
259	Compensated Work Therapy	1945		1	8,685
300	Dietetics	1952		3	68,824
329	Golf Club House	1955		1	265
334	Golf Course Storage			1	252

# 6. Reuse and Plan Recommendations

## Zone 4:

### Characteristics of the Zone:

This Zone runs between the Interstate 405 on the northeast side and Bonsall road on the west. Zone 4 includes one, two and three story buildings and industrial plants. Green space separates this area of the campus from the surrounding community.

### Land Use:

The Zone has extensive recreational uses. In addition, industrial and infrastructure support facilities are located throughout this zone. Green space separates this area of the campus from the surrounding community.

### Existing:

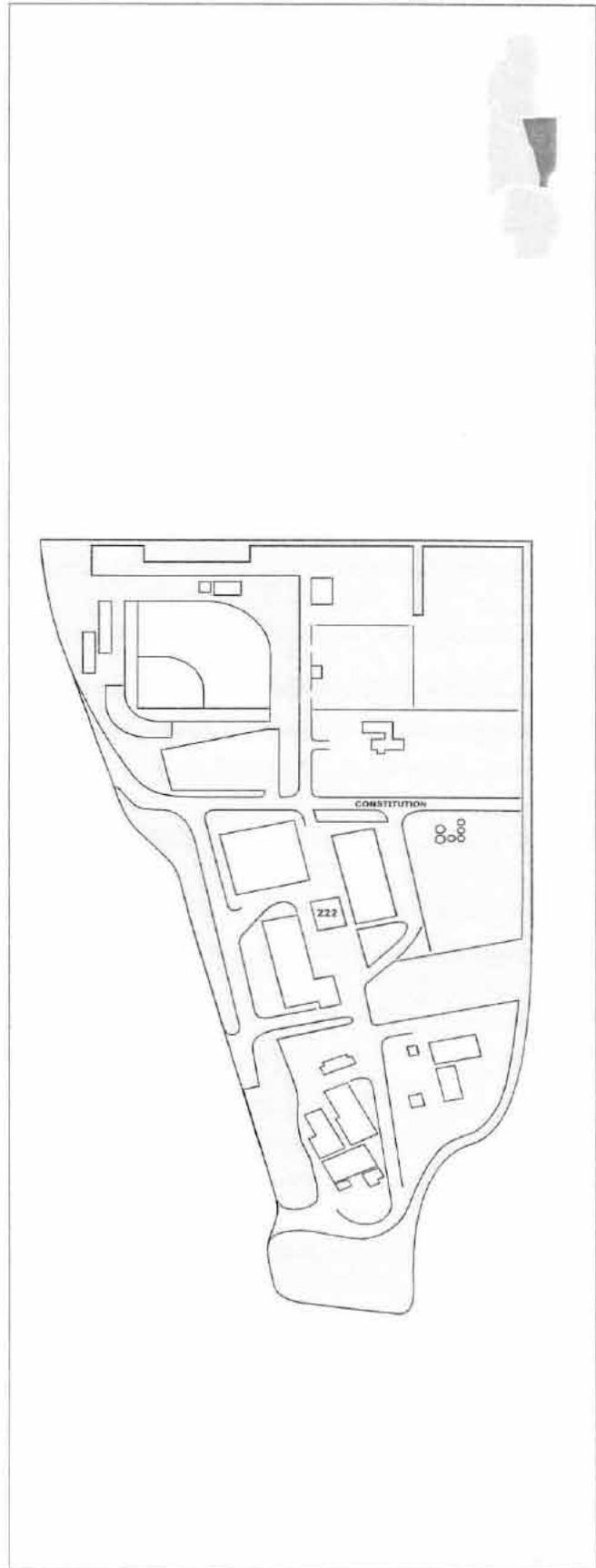
This area includes engineering shops, industrial yards, a boiler plant, laundry facilities, and an oil well. Also included is the Veterans Garden and Jackie Robinson baseball stadium.

### Projects Under Consideration:

Los Angeles National Cemetery Expansion – This project would place columbaria on a 13.28 acre parcel adjacent to the National Cemetery, on the medical center side of the Interstate 405 at Constitution Ave.

### Future Development Characteristics:

Reasonable height limits will be maintained throughout the zone, taking into consideration existing building heights.



SECTION 6 FIGURE 5: ZONE 4

## 6. Reuse and Plan Recommendations

### Zone 4:

#### Existing Buildings:

Below is a chart of the existing buildings within Zone 4.

Building Number	Function Title	Year Built	Year Renovated	Floors	Total Gross Square Feet
44	Engineering Shops	1897	2003	1	12,809
46	Engineering Shop	1922		1	11,034
63	Engineering	1959	2003	1	720
222	Occupational Safety & Health	1938		3	23,225
224	Laundry	1946		1	29,257
249	Greenhouse			1	2,800
250	Lath House Rehab Medicine			1	1,200
292	Water Treatment Plant	1946		1	864
295	Steam Plant	1947		1	5,720
296	Storage	1949		1	219
297	Warehouse	1948		1	32,700
298	Vacant (To Be Demolished)	1935		1	4,187
305	Transportation Offices	1955		1	1,920
314	Oil & Grounds Storage			1	415
315	Motor Pool	1948		1	3,600
319	Supply Storage	1956		1	800
325	Horticulture Restrooms			1	180
326	Horticulture Office			1	200
327	Horticulture Restrooms			1	80
333	Horticulture Tool Shed			1	192
336	Baseball Park Restrooms			1	190
505	Engineering	1986		1	5,000
508	Laundry	1998		1	45,000
509	Recycling Center	1999		1	3,750
510	Transportation	2002		1	4,782
511	Storage	2003		1	9,638
512	Bird Sanctuary Workshop	2008		2	700
513	Horticulture Tool Shed			1	81
515	Nursery Tool Shed			1	195
516	Rec Therapy Shed			1	100
518	Horticulture Trailer			1	360
519	Paint Shop Storage			1	216
520	Horticulture Storage			1	24
T79	Plant Nursery			1	1,550
T83	Welding shop	1958		1	1,300
T84	Laundry Annex	1967		1	1,580

## 6. Reuse and Plan Recommendations

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### **D. Land Use Guidelines**

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New projects or agreements for the limited use of land or buildings on the WLA campus, not covered by VA's SCIP process and/or CARES Capital Plan, will be evaluated against VA's mission and the Master Plan objectives and guiding principles established on pages 24 and 25. Projects will be considered based on the appropriateness for the Zone identified, and will consider the safety and security of the campus, its occupants and the surrounding community. Existing leases and agreements for the property will remain in effect until they expire. At that time, they will be evaluated and renewed based on the above criteria.

### **E. Evaluation Process for Land Use Agreements**

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All Land Use Proposals are internally screened against the priorities, guidelines and criteria outlined in the plan. Decisions on land use agreements will be made by appropriate VA officials.



## 7. Appendix

### Current Land Use Agreements

Sharing Partner	Scope & Shared Resources	Term of Agreement
1. <b>American Red Cross</b>	The American Red Cross operates its district headquarters building under a 50 year revocable license.	4/15/1989 - 4/14/2039
2. <b>Barrington Park</b>	The City of Los Angeles leased 12 acres of VA property with no current agreement in place. The park includes a dog run, baseball diamonds, athletic fields and a parking lot.	Negotiations Suspended
3. <b>BrietBurn Energy</b>	BrietBurn obtained a mineral rights lease from the Department of Energy to drill for oil and gas deposits on a 2.5 acre site in an industrial area of the campus. BrietBurn legally may drill until the production life of the field ends	No expiration date.
4. <b>Brentwood School</b>	Brentwood School utilizes 20 acres of land under an Enhanced Sharing Agreement for a period of ten (10) years with one (1) ten (10) year option. On this space, the school constructed an athletic complex which includes a swimming pool, track field, tennis courts, and baseball diamonds.	8/04/1999 - 6/19/2019
5. <b>Filming</b>	Filming agreements are short-term, non-recurring sharing agreements which utilize the campus for the purpose of photography and filming. There are approximately 30 agreements per year with each agreement lasting 1 to 7 days.	N/A
6. <b>New Directions, Inc.</b>	New Directions, a non-profit organization, provides transitional housing and comprehensive support services for homeless veterans with chronic substance abuse issues. Under a 50 year federal lease New Directions occupies Building 116 for their programs.	8/31/1995 - 8/31/2045
6. <b>New Directions, Inc.</b>	New Directions occupies the 1st floor of Building 257 under a Memorandum of Understanding for a period of five (5) years with one (1) five (5) year option. The primary use of this space is for their dual diagnosis program.	2/15/2002 - 2/15/2012
8. <b>Rancho Santa Ana Botanic Garden (Veterans Garden)</b>	Enhanced Sharing Agreement with a non-profit organization for one (1) year with five (5) 1-year options in direct support of a clinical patient program. The non-profit will train, hire and/or place Compensated Work Therapy patients in community nurseries while managing financial business of the Veterans Garden.	10/23/09 - 10/22/2014
9. <b>Richmark Entertainment</b>	On September 23, 2010, Richmark Entertainment and VA mutually Terminated for Convenience the Enhanced Sharing Agreement to manage both the Wadsworth and Brentwood Theatres. A Memorandum of Understanding (MOU) is now established to allow Richmark the use both theaters on an event by event basis, subject to VA's approval of the event. This MOU is for a period of six (6) years.	9/23/2010 - 9/22/2016
10. <b>Salvation Army</b>	This Enhanced Sharing Agreement provides the use of Building 207 to The Salvation Army for a period of ten (10) years with one (1) ten (10) year option. The Salvation Army provides housing and social services to veterans transitioning to appropriate housing and social services throughout the community.	6/22/2006 - 6/22/2026
11. <b>Salvation Army</b>	This is an expansion of the Salvation Army's original program stated above. Through an additional Enhanced Sharing Agreement, for a period of ten (10) years with one (1) ten (10) year option, the Salvation Army utilizes the 1st, 2nd, 3rd floors, and the east wing of the basement of Building 212	7/20/2004 - 7/20/2024
12. <b>Sodexo Marriot Laundry Services</b>	Sodexo Marriot operates an old laundry facility in Building 224 and an adjacent water softening unit for the primary purpose of processing hospitality linen. This Enhanced Sharing Agreement is for a period of ten (10) years with one (1) five (5) year option.	3/17/2000 - 3/17/2015
13. <b>South Coast AQMD</b>	South Coast Air Quality Management District conducts studies on pollution levels out of a temporary trailer occupying a 30' x 40' area on the south campus. This Revocable License is for a period of five (5) years.	4/01/2008 - 3/31/2013
14. <b>State Veterans Home</b>	VA transferred ownership of 13.5 acres of land, via a quitclaim deed, on the WLA Medical Center campus to construct a 396-bed State Nursing Home to include 252 Skilled Nursing beds, 60 Skilled Nursing-Dementia beds, and 84 assisted living beds.	Deeded Property
15. <b>TCM, LLC (Farmer's Market)</b>	Through an Enhanced Sharing Agreement, for a period of one (1) year, TCM utilizes approximately 1.5 acres of land in the Veterans Garden and adjacent parking areas for a community Farmer's Market. TCM is currently operating under 18 month extensions.	07/06/2006 - 18 month extensions

## 7. Appendix

### Current Land Use Agreements (Continued)

Sharing Partner	Scope & Shared Resources	Term of Agreement
<b>16. Twentieth Century Fox</b>	In August 2006, GLA entered into an Enhanced Sharing Agreement, for a period of ten (10) years with one (1) ten (10) year option, with Fox to build a temporary butler building for storage in the industrial area of the campus. This agreement will provide an opportunity for Compensated Work Therapy patients to learn real-life skills in the TV and Film industry and a gateway into union positions.	8/10/2006 -8/10/2016
<b>17. UCLA - Jackie Robinson Stadium</b>	UCLA currently utilizes the baseball stadium on the east side of the campus for their baseball program. Under an Enhanced Sharing Agreement UCLA utilizes the stadium for a period of five (5) years option with one (1) five (5) year option.	5/01/2001 - 4/30/2011
<b>18. U.S. Veterans Initiative (Golf Course)</b>	Enhanced Sharing Agreement with U.S. Veterans Initiative a non-profit organization for five (5) years with one (1) 5-year option. The Sharing Partner provides the business services to direct this clinical care program and will provide Compensated Work Therapy patients with training and placement in community golf courses.	8/26/2010 - 8/25/2020
<b>19. Veterans Park Conservancy</b>	Enhanced Sharing Agreement with Veterans Park Conservancy to build a Veterans Memorial Park and healing garden for veteran use on 16 acres of the campus in August 2007. This agreement is for a period of twenty (20) years with one (1) ten (10) year option.	8/24/2007 - 08/24/2037
<b>20. Westside Breakers Soccer Club and Galaxy Alliance Soccer</b>	Both soccer clubs have non-exclusive use of Macarthur Field and parking lot 38 located on the northwest side of the campus. This Enhanced Sharing Agreement is for a period of sixteen (16) months with no options.	08/05/09 - 16 Month extensions
<b>21. Westside Services, LLC</b>	Through an Enhanced Sharing Agreement, Westside Services operates vehicular parking areas throughout the WLA campus. The period of performance for this agreement is for ten (10) years with one (1) ten (10) year option.	7/15/2002 - 7/14/2022

# 7. Appendix

## Detailed Program Description

### Healthcare Programs at West Los Angeles Medical Center

Comprehensive health care is provided through primary care, tertiary care, and long-term care in areas of medicine, surgery, psychiatry, physical medicine and rehabilitation, neurology, oncology, dentistry, geriatrics, and extended care.

#### 1. Inpatient Care

The WLA medical center is the location for all acute inpatient medical, surgical, rehabilitative and mental health care for the GLA Healthcare System. It also serves as a regional referral center for the Network of VA facilities in Southern California and Southern Nevada especially for cardiac and neurosurgery as well as radiation oncology. The medical center provides the highest complexity of care offered in VA with the exception of transplants and burn treatment. Acute inpatient care is supported by state of the art diagnostic and treatment services. The medical staff holds academic appointments at UCLA or USC medical school and the care provided takes advantage of the most current medical practices. Inpatient care on the WLA campus is provided on the south side of Wilshire Boulevard in the large acute hospital Building 500. It is supported by on-campus community providers including: Red Cross provides blood products and supports the VA disaster preparedness mission; Fisher House provides housing for patient's families; and Salvation Army operates 245 shelter, transitional and board and care beds to provide recuperative care.

#### 2. Outpatient Care

GLA provides over 1.3 million outpatient visits a year at the WLA campus and at 8 community clinics. A majority of these visits occur at the WLA campus where specialists and subspecialist from all areas of medicine and surgery are available along with the most advanced diagnostic and treatment equipment. Gender specific care is provided to women Veterans. A complex referral and transportation system shuttles Veterans from smaller primary care outpatient clinics to the WLA campus for care on a daily basis. Depending on the condition, overnight lodging is provided on campus at the domiciliary or in the community.

#### 3. Polytrauma Network Site Level II Polytrauma Center

The WLA Polytrauma Site is one of twenty-one facilities in the country designed to provide long-term rehabilitative care to Veterans and service members with injuries to more than one physical region or organ system which results in physical, cognitive, psychological, or psychosocial impairments and functional disabilities.

#### 4. Psychiatry and Mental Health Programs

Psychiatry and Mental Health programs provide comprehensive and integrated mental health services to the largest mental health patient population within VHA. WLA provides an extensive continuum of mental health care, from emergency treatment to community living and supported employment. Many clinics also provide treatment for special problems such as alcohol and substance abuse, Post Traumatic Stress Disorder, and serious mental illness. Mental health care is supported by the following on-campus community provider: New Directions operates 208 transitional housing beds in leased space on the north campus for Veterans enrolled in the VA mental health, homeless and substance abuse programs.

#### 5. Domiciliary Residential Rehabilitation and Treatment

The 321 bed Domiciliary Residential Rehabilitation and Treatment Program (DRRTP) provides coordinated, integrated, rehabilitative, and restorative mental health care in a residential program. The program serves male and female Veterans who have mental health issues, such as substance abuse and/or combat trauma. The program also has a community reentry component to assist Veterans who have struggled with mental health issues to return to productive involvement in the community at large. The DRRTP program is supported by on-campus community recreation providers including: UCLA Jackie Robinson Baseball Stadium, offers Veterans free admission to all home games; Brentwood School athletic complex is available for Veteran therapeutic programs and was used as the primary venue for the Golden Age Games in 2002; and Brentwood and Wadsworth Theaters offer Veterans free or reduced admission to special events.

#### 6. Community Care/Homeless Programs

GLA has the largest Community Care Program in the nation that supports homeless Veterans. Outreach workers seek out Veterans in such places as the streets, shelters and jails. They inform the Veterans of such services as primary care, transitional housing, vocational rehabilitation, case management, and permanent community housing. Program resources include 55 emergency shelter beds, 1,500 transitional housing beds, 940 HUD Section 8 permanent housing vouchers, and 300 community, residential care facility beds for Veterans with chronic health conditions. These programs are supported by the following on-campus community provider: Veterans Community Employee Development Program (VCED) which provides Veterans with vocational and behavioral rehabilitation services in four programs: Transitional Work, Veterans Industries, Vets Garden, and Supported Employment. On-Campus groups that hire Veterans from this program include: Brentwood School, Veterans Garden and Westside Services (parking contractor).

# 7. Appendix

## Detailed Program Description (Continued)

### 7. Long Term Care Programs

GLA operates 296 skilled nursing home beds in two Community Living Centers (CLC) located at the WLA and Sepulveda campus. The CLCs provide longer term supportive, rehabilitation and hospice services to Veterans. GLA also manages the placement of Veterans in community nursing and residential care homes to be closer to their families. Home care, adult day health care and telemedicine services are provided in an effort to keep Veterans healthy and living in their own homes. Training Programs and Respite Care are offered to support caregiver's efforts to keep the Veteran in their own homes. To provide mutually supportive services to Veterans The State of California built a new 396 bed State Veterans Home (SVH) on 14 acres of the WLA medical center.

### 8. Research Programs

WLA operates a world class comprehensive research program focusing on such fields as Geriatrics, Mental Health, and Parkinson's disease. Research Programs have yearly expenditures equaling approximately \$33 million supporting 256 active investigators involved in nearly 662 projects. VA's research mission is supported by the presence of joint VA/UCLA research laboratories.

### 9. Academic Training Facility

WLA medical center is the only VA medical center to sponsor its own Accreditation Council for Graduate Medical Education (ACGME) physician residency training programs sponsoring 6 ACGME physician based residencies with 57 FTE positions. Furthermore, it supports 51 ACGME-approved physician based integrated residencies with its affiliated medical schools and hospitals - UCLA David Geffen School of Medicine with 164 FTE; USC Keck School of Medicine with 16 FTE; Cedars-Sinai Medical Center with 99 FTE; and Kern County Medical Center with 3 FTE. GLA also sponsors 6 allied health residencies (dentistry, podiatry, optometry, pharmacy, clinical psychology and dietetics with 85 FTE. GLA is affiliated with 45 colleges and universities and these institutions rotate more than 850 students and trainees to the site each year.

### 10. Ancillary Services

GLA provides support to other VA Healthcare Systems throughout Southern California through the operation of a Consolidated Network Textile Care Facility and Consolidated Food Services. A former laundry facility is operated by Sodexo Marriott Laundry Services through an Enhanced Sharing Agreement with the revenue supporting Veteran programs.

## Additional Demographic Information

Projected Veteran Population by county and Fiscal Year:

COUNTY	FY2009	FY2019	FY2029
LOS ANGELES, CA	359,271	259,622	197,603
KERN, CA	47,486	37,373	31,515
VENTURA, CA	52,797	42,287	34,121
SANTA BARBARA, CA	27,477	19,928	15,212
SAN LUIS OBISPO, CA	23,071	18,664	15,108
<b>Total</b>	<b>510,102</b>	<b>377,875</b>	<b>293,559</b>

The following are the top ten inpatient diagnosis treated at the WLA Medical Center:

Top 10 Inpatient Diagnosis
Psychosis
Alcohol/Drug abuse with Complications
Neuroses except Depressive
Depressive Neuroses
Cellulites
Heart Failure
Degenerative Nervous System Disorders
Kidney and Urinary Tract Infections
Organic Disorders & Mental Retardation
Renal Failure

The following are the top ten outpatient diagnosis treated at the WLA Medical Center:

Top 10 Outpatient Diagnosis*
Post Traumatic Stress Disorder (PTSD)
Opioid Type Dependence
Hypertension
Paranoid Schizophrenia
Diabetes Mellitus
Depressive Disorder
Chronic Airway Obstruction
Lumbar Pain/Back Pain
Alcohol Dependence
Impulsive Control Disorder

\*Primary diagnosis by number of visits.

II.  
ENHANCED SHARING  
AGREEMENTS IN EFFECT AS OF  
JUNE 2011

II.A.  
BRENTWOOD SCHOOL

II.A.1.  
PROPOSAL DOCUMENTS

**Statement of Work for Enhanced Sharing Project:  
Brentwood School Athletic Complex at West Los Angeles VA Medical Center**

**SCOPE**

The VA Greater Los Angeles Healthcare System is proposing an enhanced sharing project with the Brentwood School involving 20.0 acres at the West Los Angeles VA Medical Center for an athletic complex.

**BACKGROUND**

The West Los Angeles VA Medical Center has leased property to the Brentwood School since the mid 1970's and our Revocable License was signed in 1995 expires on July 31, 2000. The current Revocable License, No. 691-95-046LI, is for overflow parking and use of an athletic field, refer to Revocable License No. 691-95-046LI. The Medical Center wishes to now to expand and convert this Revocable License to an enhanced sharing agreement.

**APPLICABLE DOCUMENT**

No other documents are being provided other than a map describing the 20-acre parcel and a copy of the current Revocable License.

**TASKS**

Brentwood School would be responsible for the development, operation, maintenance, and scheduling the use of the athletic field areas, the adjacent parking area, and the access road. Brentwood School would be authorized, at their expense, to develop an estimated 125 space parking lot, relocation of the existing access road, development of outdoor athletic facilities, including a football field, a track, six tennis courts, two covered outdoor basketball/volleyball courts, one softball diamond, one baseball diamond, maintenance buildings, and one restroom facility. The plans would be subject to VA approval. The entire area would be fenced at the perimeter to prevent unauthorized use. Brentwood school would be required to provide all utilities.

The VA Greater Los Angeles Healthcare system would allow the use of the property by the Brentwood School for the five year period authorized by the Enhanced Sharing Authority.

The Brentwood School will comply with all applicable laws, ordinances, and regulations of the State, County and Municipality wherein the said property is located, with regard to sanitation, licenses and permits to conduct such recreational activities, and other matters.

The property should also be subject to the general supervision and approval of the VA Medical Center Director and to such rules and regulations as may be prescribed by her from time to time.

The VA should reserve the right to enter upon the property at any time for the purpose of inspection and when otherwise deemed necessary for the protection of the interests of the Government.

The VA should also reserve the right to use the property for VA activities and events provided that reasonable notice is given to the Brentwood School in advance of the event/activity.

#### **KEY PERSONNEL:**

Necessary personnel for this Agreement would include but not necessarily are limited to the following: Property Manager and supervisor for the daily operation of the facilities.

#### **CONTRACT DELIVERABLES**

The Medical Center expects to receive the highest possible monetary return for use of this space. Payments by the Vendor should be made on a monthly basis to the Medical Center.

The Medical Center has determined the approximate value of the property per acre per month would be between 5,000 to 15,000 dollars.

#### **VA FURNISHED FACILITIES AND SERVICES**

The VA will provide all real property described in the attached map.

#### **CONTRACTOR FURNISHED PROPERTY AND SERVICES**

All services and materials needed to operate and manage the facilities pursuant to this Agreement. Any renovation that is required will also be the responsibility of the Brentwood School. The VA reserves the right to use the facilities when the facilities are not reserved for use by the Brentwood School.

The agreement requires the approval of the Homeowner's Association and notification of the California Congressional delegation for the area.

#### **INSPECTION AND ACCEPTANCE CRITERIA**

Vendor must be fully insured for all types of liability up to 1,000,000.00 dollars. Vendor must show that they have the requisite experience to successfully perform the scope of work as required in this Statement of Work.

#### **PLACE OF CONTRACT PERFORMANCE**

Campus at the West Los Angeles VA Medical Center

**TASKS COMPLETION DATE**

December 31, 1998 or sooner

**PLACE OF INSPECTION AND ACCEPTANCE OF DELIVERABLES**

Any inspection/deliverables pursuant to this Agreement shall be made to the responsible Contracting Officer, Network Business Center, VISN 22, Long Beach VA Medical Center, 5901 East Seventh Street, Long Beach, Ca. 90822, Bldg. 149; Tel: (562) [REDACTED]

**SECURITY REQUIREMENTS**

None. The Brentwood School is responsible for security and law enforcement functions pertaining to the property in question.

**APPENDICES TO STATEMENT OF WORK**

All information that can be made available, as a matter of law will be provided the vendor on an "as needed basis."

II.A.2.  
AGENCY REVIEW DOCUMENTS

**TRANSMITTAL MEMORANDUM**

**To:** The Secretary of Veterans Affairs

**From:** Thomas L. Garthwaite, M.D., Deputy Under Secretary for Health (10/17)  
Leigh A. Bradley, General Counsel (02)

**Date:**

**SUBJ:** Review of Expanded Sharing Agreement between West Los Angeles  
Veterans Medical Center and the Brentwood School-- EDMS #78713 -  
**ACTION**

- Staff at the West Los Angeles VAMC first proposed a Sharing Agreement for vacant land to the Rapid Response Team in early 1998. Concept approval was first given in May 1998 for 25 acres of vacant land to the Brentwood School. In the initial proposal, there was no permanent construction. There are legislative restrictions preventing disposal of the land.
- Attached to the Memorandum to the Secretary is a Memorandum for the Record of a meeting between the General Counsel and the Minority Counsel, Oversight & Investigations Subcommittee and other Minority Congressional Staff. They and the Secretary have been informed that current procedures were not followed in the formation and execution of the Agreement.

Attorney-Client

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Attorney-Client

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- VHA Directive 97-015 sets forth the procedures for processing sharing concepts and agreements.

Attorney-Client

- Also attached to the Memorandum to the Secretary is a list of facilities reporting space agreements that resulted in revenue during FY 1999 and

reported in the annual report to Congress on medical resource sharing.  
According to our records, none of these Agreements were reviewed and  
approved by VACO.

- The Office of Inspector General has completed a review of the WAL agreement and has offered to share results before March 31 when a response is due to Congressman Lane Evans and Congresswoman Corrine Brown.
- The review makes several recommendations for corrective action. A directive on selling resources under this authority is at Headquarters waiting General Counsel concurrence.

CONCURRENCE: Congressional Affairs (009)

RECOMMENDATION: Approve corrective actions to be taken.

Proposing Officials:

\_\_\_\_\_  
 Thomas L. Garthwaite, M.D.  
 Acting Under Secretary for Health

\_\_\_\_\_  
 Leigh A. Bradley  
 General Counsel

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

Reviewed:

\_\_\_\_\_  
 Executive Secretary

\_\_\_\_\_  
 Special Assistant

Approved: \_\_\_\_\_

**CoS**

Disapproved: \_\_\_\_\_

See me: \_\_\_\_\_

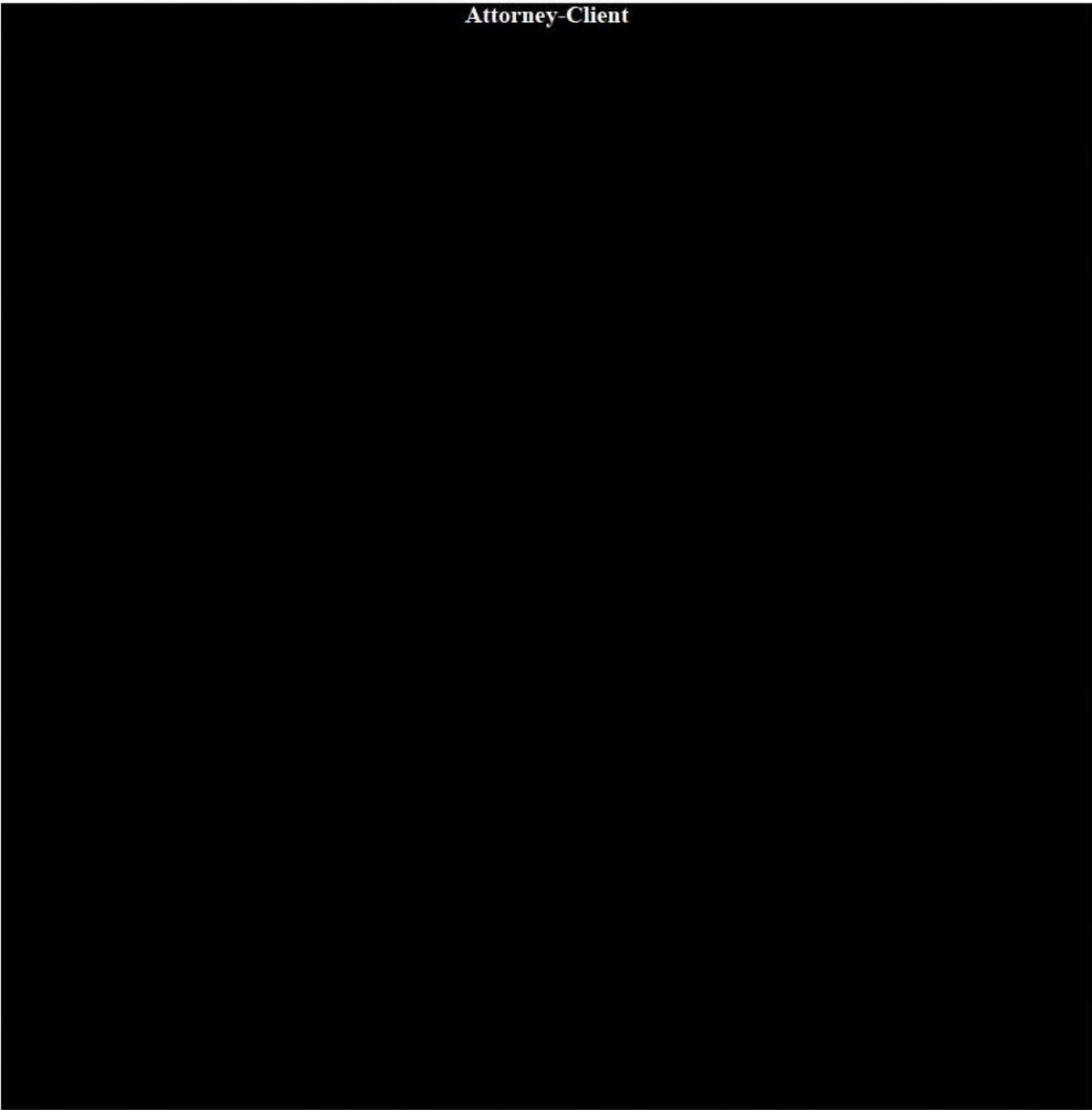
**DRAFT**  
**3<sup>RD</sup> REVISION**

Deputy Under Secretary for Health (10A)  
General Counsel (02)

Review of Expanded Sharing Agreement Between the Greater Los Angeles  
Healthcare System, West Los Angeles, California, and the Brentwood School

The Secretary of Veterans Affairs

Attorney-Client



## PRICE NEGOTIATION MEMORANDUM

The following Price Negotiation Memorandum was prepared in accordance with FAR 15.406-3 and is the record of the final negotiation meeting held with Brentwood Schools for the development of a sports/athletic field/complex on the grounds of the VA Greater Los Angeles Health Care System, West Los Angeles. This agreement is under the Enhanced Sharing Agreement authority.

### I. Purpose of Negotiation

To negotiate a fair and reasonable price and terms for the use of approximately 20 acres to be developed and used by the Brentwood School.

Background: The West Los Angeles VA Medical Center has leased property to the Brentwood School since the mid 1970's and a Revocable License was signed in 1995 and will expire on July 31, 2000. The current revocable License, #691-95-046LI, is for overflow parking and the use of an athletic field. The Medical Center is now seeking to expand and convert the existing Revocable License to an Enhanced Sharing Agreement with Brentwood Schools.

### II. Description of Acquisition

The DVA is providing to the Sharing Partner the use of approximately 20 acres of land (the "Shared Property") on a year round basis under an Enhanced Sharing Agreement.

In initial discussions with the School, the period of performance was for five (5) years. During negotiations, discussions were conducted and the period of performance ranged from five (5) years to twenty-five (25) years to the final negotiated term of twenty (20) years.

The Period of Performance shall be an initial ten (10)-year contract with one (1) ten (10)-year option exercisable only by mutual agreement of the parties.

Brentwood School shall be authorized, at its expense, to develop on the Shared Property an estimated 125 space parking lot (the "Parking Lot"), to relocate the existing access road, and to develop outdoor athletic facilities, including a football field, a track, six tennis courts, two covered outdoor basketball/volleyball courts, one softball diamond, one baseball diamond/soccer field, maintenance buildings, restroom facilities and other structures ancillary to the use of the Shared Property for athletic purposes (collectively the "Athletic Complex"), all substantially in accordance with the conceptual plan "Attachment L" of the Agreement. Final plans shall be subject to DVA approval. Brentwood School shall be responsible for the operation, maintenance, and scheduling the use of the Athletic Complex, the Parking Lot, and the access road. The Shared Property shall be fenced at the perimeter to prevent unauthorized use. Brentwood School shall be required to provide utilities. Once completed, Brentwood School shall be entitled to use the Athletic Complex, the Parking Lot, the access road (collectively, the "Capital Improvements") and the rest of the Shared Property for any school-related or school-

sponsored purpose or function. At the conclusion of the Sharing Agreement, ownership of all Capital Improvements revert to the DVA, subject to any obligation the DVA may have to compensate the Sharing Partner for the unamortized value of such Capital Improvements as provided elsewhere in this Sharing Agreement.

### **III. Parties in Negotiation**

#### **Government Representatives**

Ralph D. Tillman, Chief Construction Contracting, Jon M. Wilson, Contracting Officer, John Fitzgerald, Chief, Facilities Management and Brian Happy, Chief, Acquisition and Material Management

#### **Contractor's Representatives**

Richard Sandler, Legal Counsel, Maron & Sandler, Donald Winter, Assistant Headmaster, Business Affairs

### **IV. Contractor's Purchasing System**

N/A

### **V. Cost or Pricing Data**

The terms, conditions and pricing data submitted by Brentwood School was generally accurate and complete and the Contracting Officer used the data from the School as well as an appraisal of adjacent land (submitted by Hall & Associates) in negotiating the price. Those items that were deemed as discussion or negotiation items are identified in Section IX of this memorandum.

### **VI. Not Applicable**

### **VII. Not Applicable**

### **VIII. Summary of the Contractor's Proposal**

Original proposal submitted by Brentwood Schools on February 03, 1999.

The Offer requested a 25 year agreement and the financial offer stated:

Brentwood shall pay an annual rent equal to \$72,000 per year for the first five years of use for the Shared Property. Thereafter, the annual rent shall be increased by an amount equal to the percentage increase of the Consumer Price Index for Los Angeles County from commencement of the Sharing Agreement to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five year period during the existence of the Sharing Agreement.

Revised proposal submitted by Brentwood Schools on May 27, 1999.

The Offer requested a 20 year agreement and the financial offer stated:

Rent shall be \$300,000 per year for the first five (5) year period, payable at the rate of \$25,000 per month. Thereafter, the annual rent for the next five (5) year Period of Performance shall be increased by an amount equal to the percentage increase in the Consumer Price Index for Los Angeles County from the Contingency Date to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five (5) year period of Performance during the effectiveness of this Enhanced Sharing Agreement.

Best and Final offer as a result of negotiations was received on June 24, 1999.

The Offer requested a 20 year agreement and the financial offer stated:

Rent shall be \$150,000 for the first year of the first ten (10)-year Period of Performance, payable on the Contingency Date, and shall be \$300,000 per year for the next four (4) years of the first ten (10)-year Period of Performance, payable at the rate of \$27,084 per month (with the last month's payment in each applicable year being \$27,076). Thereafter, the annual rent for the next five (5) years of the first ten (10)-year Period of Performance shall be increased by an amount equal to the percentage increase in the Consumer Price Index for Los Angeles County from the Contingency Date to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five (5)-year period during the effectiveness of this Enhanced Sharing Agreement.

#### **IX. Pre Negotiation Price Objective and Negotiated Price**

The Government's goal was to negotiate a fair and reasonable price comparable with the Government estimate. The Government intended to define specific areas of the proposal that we believed were unreasonable.

There were four areas for discussion:

- Annual Compensation Schedule
- Length of Term of Agreement
- VA Approval Requirements
- Miscellaneous Terms (discussing and fine tuning)

**Annual Compensation Schedule:**

Brentwood Schools initial offer sought a twenty five (25) year agreement with an annual rent of \$72,000 per year for the first five years of use. Thereafter, the annual rent would be increased by an amount equal to the percentage increase of the Consumer Price Index for Los Angeles County from commencement of the Sharing Agreement to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five-year period during the existence of the Sharing Agreement.

The second offer from Brentwood sought a 20 year agreement and an annual rent of \$300,000 for the first five year period and thereafter, the annual rent would be increased by an amount equal to the percentage increase of the Consumer Price Index for Los Angeles County from commencement of the Sharing Agreement to the date of recomputation. The amount of annual rent would be adjusted in the same fashion at the end of each five-year period during the existence of the Sharing Agreement.

The accepted offer from Brentwood sought a 20 year agreement and rent amount of \$150,000 for the first year of the first ten (10)-year Period of Performance, payable on the Contingency Date, and shall be \$300,000 per year for the next four (4) years of the first ten (10)-year Period of Performance, payable at the rate of \$27,084 per month (with the last month's payment in each applicable year being \$27,076). Thereafter, the annual rent for the next five (5) years of the first ten (10)-year Period of Performance shall be increased by an amount equal to the percentage increase in the Consumer Price Index for Los Angeles County from the Contingency Date to the date of recomputation. The amount of annual rent would be adjusted in the same fashion at the end of each five (5)-year period during the effectiveness of the Enhanced Sharing Agreement.

The Executive Management at the VA GLA was initially seeking \$5,000 per acre per month, translating into \$100,000 per month or \$1.2 Million per year.

An appraisal of Barrington Park, (a similarly developed adjacent parcel of land owned by the VA), indicated a land value of approximately \$12,000 per acre annually or \$241,000 per year, based on a fully net lease.

Given the appraisal of similarly developed land, VA GLA concurred that the \$300,000 amount was acceptable.

**Length of Term of Agreement:**

Brentwood's Offer to the VA stated, "The DVA is providing to the Sharing Partner the use of approximately 20 acres of land (the "Sharing Partner") on a year round basis under an Enhanced Sharing Agreement. The Period of Performance shall be an initial five (5) year contract with four (4) five (5) year options exercisable only by mutual agreement of the parties. In the event that the DVA does not share the Sharing Partner's desire to exercise any one of the 5 year options, the DVA shall pay to the Sharing Partner at the end of the applicable period of Performance the unamortized value of the Capital Improvements in accordance with the amortization schedule set forth in Attachment K of the Sharing Agreement.

Attachment K: The actual costs will be amortized on a straight line basis at an annual rate of 1/25<sup>th</sup> of the actual cost of capital improvements. Capital Improvements shall include all costs of survey, grading, construction, fees and related work comprising the cost of developing and improving the Shared Property.

The initial position of the VA, (under the Enhanced Sharing Agreement authority), was that the term would have to be limited to a 5 year term with no compensation return to the Sharing Partner for early termination. The Contracting Officer received from Karen Walters in Central Office a draft of the forthcoming directive that indicated, "Use of space sharing agreements for up to 20 years total may be executed under this authority. Medical Center and VISN directors may give concept approval for use of space agreements which do not exceed a total of ten years. The VACO rapid response team must approve the concept for proposed use of space agreements totaling ten to twenty years; "...It may be appropriate, as sound business practice, for VA to pay damages to a sharing partner in the event that VA must terminate a use of space contract before the time specified for the contract, particularly if the sharing partner has made a significant capital investment in the space, but only if provisions for damages are included I the terms of the initial contract..."

A formal e-mail was received from Central Office (Karen Walters) stating, "the scope of the improvements is OK for enhanced sharing; however, you have this agreement for a total of 30 years, (10 plus two ten year options) - this agreement can only for twenty years total (10 plus only one 10 year option) under enhanced sharing."

The VA's initial desire was to limit the agreement to a maximum of 5 years under the current ESA Policy but after discussions with Central Office the decision was made to negotiate towards a 20 year agreement with compensation to the Sharing Partner for early termination.

**VA Approval Requirements**

Three conditions must be met before the project may proceed any farther:

- A meeting must be held with the Brentwood Homeowners Association and approval obtained from the Association. If the Homeowners Association objects to the proposed Sharing Agreement, the project cannot go forward; and
- The Congressional Delegation and U.S. Senators from California must be made aware of the Project.
- The VA is requiring that prior to the Final DVA approval that an accord is struck between the Brentwood School and the Brentwood Village Merchants Association and the opposition relating to the expansion. One such suggested way to accomplish this would be for the Brentwood School to share the new parking area with the merchants AND in doing so the existing parking agreement between the DVA and the Brentwood Village Merchants Association would be terminated.

The Brentwood School has indicated that they are in the process of complying with the first two items. Item number three would have to be discussed.

**Miscellaneous Items for Discussion**

Brentwood School has requested this final point be brought up for negotiation:

Creation of Attachment K: The actual costs will be amortized on a straight line basis at an annual rate of 1/25<sup>th</sup> of the actual cost of capital improvements. Capital improvements shall include all costs of survey, grading, construction, fees and related work comprising the cost of developing and improving the Shared Property.

**Discussions:**

The negotiations opened with discussion of all of the areas referenced below:

**1. Annual Compensation Schedule**

Brentwood agreed to revisit the rent that they proposed and returned with a Best and Final Offer of:

Rent shall be \$150,000 for the first year of the first ten (10)-year Period of Performance, payable on the Contingency Date, and shall be \$300,000 per year for the next four (4) years of the first ten (10)-year Period of Performance, payable at the rate of \$27,084 per month (with the last month's payment in each applicable year being \$27,076). Thereafter, the annual rent for the next five (5) years of the first ten (10)-year Period of Performance shall be increased by an amount equal to the percentage increase in the Consumer Price Index for Los Angeles County from the

Contingency Date to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five (5)-year period during the effectiveness of this Enhanced Sharing Agreement.

## **2. Length of Term of Agreement**

Brentwood and DVA mutually agreed to:

Ten Years with one (1) ten-year option beginning on the Contingency Date (as herein defined) if Sharing Partner decides to proceed, as provided in Section 2 of Attachment F.

## **3. VA Approval Requirements**

Brentwood agreed to comply with the first two requested items. The third point resulted in the re-working of a parking plan so as not to create any conflicts with the Brentwood Village Merchants Association. Richard Sandler stated in correspondence that, "In addition, with respect to the Brentwood Village Association, as we discussed, I informed Lisa Hill, who is the aide to Councilwoman Cindy Miscikowski, of our decisions regarding the village parking. Ms. Hill confirmed to me that she informed the Brentwood Village Association representatives at a community meeting and those representatives expressed appreciation for the fact that we were not going to be involved in expanding the existing parking lot".

## **4. Miscellaneous Items for Discussion**

All parties agreed to the following:

1. The actual costs of the Capital Improvements will be amortized at an annual rate of 1/10th of such actual costs per year for each of the first five (5) years after completion of the construction thereof and thereafter at an annual rate of 1/30th of such actual costs. The costs of the Capital Improvements shall include all costs of survey, grading, construction, fees, and related work comprising the cost of developing and improving the Shared Property.

2. VA Point for Discussion: The clause as written stated:

Termination: Either party may terminate this Contract by giving at least thirty (30) days prior written notice. In the event of termination, the Sharing Partner shall be responsible for payment for all services rendered VA Greater Los Angeles ... prior to the effective date of termination. In the event that this termination clause is exercised, each party will bear their own costs associated with the termination and will not seek damages or compensation from the other party caused by the termination.

Brentwood proposed the following language:

Either party may terminate this Contract for convenience by giving at least one hundred eighty (180) days prior written notice. In the event of termination, the Sharing Partner shall be responsible for all rent due the VA prior to the effective date of termination. In the event that this termination clause is exercised, each party will bear its own costs associated with the termination and will not seek damages or compensation from the other party caused by the termination, except that in the case of a termination by the VA (other than as provided in subparagraphs (I) or (II) below), Sharing Partner shall be entitled to receive from the VA concurrently with such termination the unamortized value of the Capital Improvements made by the Sharing Partner to the Shared Property (The "Capital Improvements") in accordance with the amortization schedule set forth in Attachment K to this Sharing Agreement.

VA's Negotiating Position was that they would entertain this termination language, including Attachment K but sought to shorten the Amortization Schedule referenced in Attachment K. Termination Language proposed was approved and Attachment "K" was modified from:

The Brentwood Proposal of:

The actual costs will be amortized on a straight-line basis at an annual rate of 1/25<sup>th</sup> of the actual cost of capital improvements. Capital improvements shall include all costs of survey, grading, construction, fees and related work comprising the cost of developing and improving the Shared Property.

To a mutually agreeable clause that states:

The actual costs of the Capital Improvements will be amortized at an annual rate of 1/10<sup>th</sup> of such actual costs per year for each of the first five (5) years after completion of the construction thereof and thereafter at an annual rate of 1/30<sup>th</sup> of such actual costs. The costs of the Capital Improvements shall include all costs of survey, grading, construction, fees and related work comprising the cost of developing and improving the Shared Property.

### **Conclusion**

A mutually agreeable Best and Final Price and acceptable terms and conditions were reached and were determined to be fair and reasonable.

Jon M. Wilson  
Contracting Officer

NEGOTIATION STRATEGY RFP 600-055-99

Enhanced Sharing Agreement – "Brentwood School Athletic Complex"

Purpose: To negotiate a fair and reasonable price for the Enhanced Sharing Agreement to be entitled the Brentwood School Athletic Complex.

1. The final negotiated price will include costs associated with all areas depicted by plans and specifications.
2. The Contractor's scope and price proposal (vs.) Engineering's estimate and scope has undergone analysis and is presented below and is outlined in Paragraph #3.

Three Major areas will need to be discussed:

Item Number 1: Annual Compensation Schedule

Item Number 2: Length of Term of Agreement

Item Number 3: VA Approval Requirements

Item Number 4: Miscellaneous Terms (discussing and fine tuning)

① 5 years w 3/5 years options  
②

**Item Number 1: Annual Compensation Schedule**

**VA Price Proposal Requirements**

VA is seeking \$5000 per acre per month. Calculates to \$100,000 per month or \$1.2 Million per year.

VA willing to accept \$300,000 per year, cash

Recent appraisal for Barrington Park and the City of Los Angeles has indicated a land value (undeveloped) of approximately \$12,000 per acre annually or \$241,000 per year, based on a fully net lease.

*UNDEVELOPED*

Recent appraisal for Barrington Park (developed as an apartment complex) places the value of that parcel (12 acres) at \$3,168,000 annually, based on a fully net lease.

*\$240,000*

*\$580,000*

**Brentwood Position:**

*Am* Brentwood shall pay an annual rent equal to \$72,000 per year for the first five years of use for the Shared Property. Thereafter, the annual rent shall be increased by an amount equal to the percentage increase of the Consumer Price Index for Los Angeles County from commencement of the Sharing Agreement to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five year period during the existence of the Sharing Agreement

*\* Boundaries  
w/ to defined  
during negotiations*

**Item Number 2: Length of Term of Agreement**

\*5 year w/ 3 5yr options

**VA Position**

VA is limited to a maximum term of 5 years under the current ESA Policy with no compensation return to the Sharing Partner for early termination.

**Brentwood Position**

The DVA is providing to the sharing partner the use of approximately 20 acres of land (the "Shared Property") on a year round basis under an Enhanced Sharing Agreement. The Period of Performance shall be an initial five (5)-year contract with four (4) five (5)-year options exercisable only by mutual agreement of the parties. In the event that the DVA does not share the Sharing partner's desire to exercise any one of the of the 5-year options, the DVA shall pay to the Sharing Partner at the end of the applicable period of Performance the unamortized value of the Capital Improvements in accordance with the amortization schedule set forth in Attachment K to the Sharing Agreement.

"Attachment "K":

1/20 FRONT END COST

Creation of Attachment K: The actual costs will be amortized on a straight line basis at an annual rate of ~~1/25~~<sup>1/20</sup> of the actual cost of capital improvements. Capital improvements shall include all costs of survey, grading, construction, fees, and related work comprising the cost of developing and improving the Shared Property.

20

1/2 VA

Item Number 3: VA Approval Requirements

**VA Position**

TWO CONDITIONS MUST BE MET BEFORE THE PROJECT PROCEEDS ANY FURTHER:

1: A MEETING MUST BE HELD WITH THE BRENTWOOD HOMEOWNERS ASSOCIATION AND APPROVAL OBTAINED FROM THE ASSOCIATION, AND,

2: THE LOCAL CONGRESSIONAL DELEGATION AND U.S. SENATORS FROM CALIFORNIA MUST BE MADE AWARE OF THE PROJECT. IF THE HOMEOWNERS ASSOCIATION OBJECTS TO THE PROPOSED SHARING AGREEMENT, THE PROJECT CANNOT GO FORWARD... "

*\* VA would reserve the right to amend the agreement should BHA not approve*

**NEW ITEM (3) BRENTWOOD VILLAGE MERCHANTS ASSOCIATION**

THE VA IS REQUIRING THAT PRIOR TO THE FINAL DVA APPROVAL THAT AN ACCORD IS STRUCK BETWEEN THE BRENTWOOD SCHOOL AND THE BRENTWOOD VILLAGE MERCHANTS ASSOCIATION AND THE OPPOSITION RELATING TO THE EXPANSION. ONE SUCH SUGGESTED WAY TO ACCOMPLISH THIS WOULD BE FOR BRENTWOOD SCHOOL TO SHARE THE NEW PARKING AREA WITH THE MERCHANTS AND IN DOING SO THE EXISTING PARKING AGREEMENT BETWEEN DVA AND \_\_\_\_\_ WOULD BE TERMINATED.

**BRENTWOOD SCHOOL POSITION**

BRENTWOOD SCHOOL HAS INDICATED THAT THEY ARE IN THE PROCESS OF COMPLYING WITH THE FIRST TWO ITEMS, ITEM NUMBER 3 WOULD NEED TO BE INTRODUCED TO THEM FOR DISCUSSION.

*Revocable license*

*\* McArthur Field and parking reverts back to VA when lease executed*

MISCELLANEOUS ITEMS FOR DISCUSSION

**Brentwood Point for Discussion**

Creation of Attachment K: The actual costs will be amortized on a straight line basis at an annual rate of 1/25<sup>th</sup> of the actual cost of capital improvements. Capital improvements shall include all costs of survey, grading, construction, fees, and related work comprising the cost of developing and improving the Shared Property.

VA Position: VA would be willing to entertain this suggestion

**VA Point for Discussion: Termination**

Termination: Either party may terminate this Contract by giving at least thirty (30) days prior written notice. In the event of termination, the Sharing Partner shall be responsible for payment for all services rendered VA Greater Los Angeles ... prior to the effective date of termination. In the event that this termination clause is exercised, each party will bear their own costs associated with the termination and will not seek damages or compensation from the other party caused by the termination.

**BRENTWOOD POSITION**

*Man* *→ 120 days*

EITHER PARTY MAY TERMINATE THIS CONTRACT FOR CONVENIENCE BY GIVING AT LEAST ONE HUNDRED EIGHTY (180) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT OF TERMINATION, THE SHARING PARTNER SHALL BE RESPONSIBLE OR PAYMENT FOR ALL RENT DUE THE VA PRIOR TO THE EFFECTIVE DATE OF TERMINATION. IN THE EVENT THAT THIS TERMINATION CLAUSE IS EXERCISED, EACH PARTY WILL BEAR IS OWN COSTS ASSOCIATED WITH THE TERMINATION AND WILL NOT SEEK DAMAGES OR COMPENSATION FROM THE OTHER PARTY CAUSED BY THE TERMINATION, EXCEPT THAT IN THE CASE OF A TERMINATION BY THE VA (OTHER THAN AS PROVIDED IN SUBPARAGRAPHS (I) OR (II) BELOW), SHARING PARTNER SHALL BE ENTITLED TO RECEIVED FROM THE VA CONCURRENTLY WITH SUCH TERMINATION THE UNAMORTIZED VALUE OF THE CAPITAL IMPROVEMENTS MADE BY THE SHARING PARTNER TO THE SHARED PROPERTY (THE "CAPITAL IMPROVEMENTS") IN ACCORDANCE WITH THE AMORTIZATION SCHEDULE SET FORTH IN ATTACHMENT K TO THIS SHARING AGREEMENT.

**VA POSITION**

ESA Draft INDICATES THAT THIS CAN BE ENTERTAINED. ASSET MANAGEMENT BOARD FELT THAT THIS IS SOMETHING THAT SHOULD BE CONSIDERED BUT SHORTEN THE SCHEDULE TO REDUCE THE RISK TO THE VA. FURTHER ALAN AND JOHN FITZGERALD HAD CONCERNS OVER THE FUNDING OF SUCH A CONCESSION.

*1/2 of responsibility*

*COUNTER PROPOSAL = IN WRITING*

OTHER MISCELLANEOUS ITEMS THAT REMAIN RELATE TO SECURITY INSPECTIONS OF PROPERTY,  
THE RIGHT FOR A PRIVATE ARMS BEARING SECURITY FORCE AND THE APPLIABILITY OF DVA  
PARKING AND MOTOR VEHICLE POLICY.

THE BOARD OF DIRECTORS OF THE UNIVERSITY OF CALIFORNIA  
AND THE PRESIDENT AND CHANCELLOR OF THE UNIVERSITY OF CALIFORNIA  
DO HEREBY CERTIFY THAT THE FOLLOWING IS A TRUE AND CORRECT COPY  
OF THE ORIGINAL AS FILED IN THE OFFICE OF THE CLERK OF THE BOARD  
OF DIRECTORS OF THE UNIVERSITY OF CALIFORNIA

**Contracting Officer**

ESA Statement	Brentwood Statement	VA Position/Discussion
Period of Performance: One Year with four (4) one-year options beginning XXXX	Period of Performance: Five years with (4) five-year options beginning XXXXX	<b>Central Office is presently considering allowing ESA's to be written for periods longer than 5 years.</b>
VA Price Proposal format: See Attached	Brentwood shall pay an annual rent equal to \$72,000 per year for the first five years of use for the Shared Property. Thereafter, the annual rent shall be increased by an amount equal to the percentage increase of the Consumer Price Index for Los Angeles County from commencement of the Sharing Agreement to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five year period during the existence of the Sharing Agreement.	VA is seeking \$5000 per acre per month. Calculates to \$100,000 per month or \$1.2 Million per year.
VA Approval Requirement: "The Medical Center received approval of its concept proposal for the above project. However, the approval stated that two conditions must be met before the project proceeds any further: 1: A meeting must be held with the Brentwood Homeowners Association and approval obtained from the Association, and, 2: the local Congressional delegation and U.S. Senators from California must be made aware of the project. If the Homeowners Association objects to the proposed sharing agreement, the project cannot go forward..."		It has also been brought to the attention of the DVA that the Brentwood Merchants may have a problem with the development.
No Position Stated in the ESA.	Creation of Attachment K: The actual costs will be amortized on a straight line basis at an annual rate of 1/25 <sup>th</sup> of the actual cost of capital improvements. Capital improvements shall include all costs of survey, grading, construction, fees, and related work comprising the cost of developing and improving the Shared Property.	<b>ESA DRAFT indicates that this can be entertained. Asset Management Board felt that this is something that should be considered but shorten the schedule to reduce the risk to the VA. Further Alan and John Fitzgerald had concerns over the funding of such a concession.</b>

<p>Page 4: Termination: Either party may terminate this Contract by giving at least thirty (30) days prior written notice. In the event of termination, the Sharing Partner shall be responsible for payment for all services rendered VA Greater Los Angeles ... prior to the effective date of termination. In the event that this termination clause is exercised, each party will bear their own costs associated with the termination and will not seek damages or compensation from the other party caused by the termination.</p>	<p>Either party may terminate this Contract for convenience by giving at least one hundred eighty (180) days prior written notice. In the event of termination, the Sharing Partner shall be responsible or payment for all rent due the VA prior to the effective date of termination. In the event that this termination clause is exercised, each party will bear is own costs associated with the termination and will not seek damages or compensation from the other party caused by the termination, except that in the case of a termination by the VA (other than as provided in subparagraphs (I) or (ii) below), Sharing Partner shall be entitled to received from the VA concurrently with such termination the unamortized value of the capital improvements made by the Sharing Partner to the Shared Property (the "Capital Improvements") in accordance with the amortization schedule set forth in Attachment K to this Sharing Agreement.</p>	<p>ESA DRAFT indicates that this can be entertained. Asset Management Board felt that this is something that should be considered but shorten the schedule to reduce the risk to the VA. Further Alan and John Fitzgerald had concerns over the funding of such a concession.</p>
<p>Page 2: Restriction the Department of Veterans Affairs (hereinafter; "DVA") prohibits the use of VA property for the purpose of carnivals (i.e., amusement rides of any kind and animal displays/acts). The DVA prohibits the parking of vehicles on grass and tree areas of the grounds, unless prior approval has been obtained and such approval is incorporated into this Contract. The DVA prohibits the carrying of firearms by any person(s) employed or hired by the Sharing partner, other than duly sworn law enforcement personnel such as LAPD or LA County Sheriff. No explosive devices, smokescreens, etc. will be permitted on Government property. No tobacco smoking is permitted in Government buildings. Photography within patient areas or of patients is strictly prohibited. There will be no disruption of Medical Center operations. Courtesy to patients,</p>	<p>The Department of Veterans Affairs (hereinafter "DVA") prohibits the use of the Shared Property for the purpose of carnivals, (i.e. amusement rides of any kind and animal displays/acts). Sharing Partner shall not allow the parking of vehicles on grass and tree areas within the Shared Property except in connection with permitted uses of the Shared Property which require parking in excess of that provided in the Parking Lot (as defined in the attached requirements and Scope of Work). The DVA prohibits the carrying of firearms by any person(s) employed or hired by the Sharing Partner, other than duly sworn law enforcement personnel such as LAPD or LA County Sheriff or the duly authorized employees of a duly licensed private security firm retained by the Sharing Partner. No pyrotechnics(explosive devices, smokescreens, etc) will be permitted on Government property.</p>	<p>Alan had concerns with persons other than DVA Police, LA Police or LA Sheriff's carrying firearms and felt that this was something that should be negotiated out.</p>

visitors, and employees is MANDATORY.		
Page 1: This Contract provides for the use of VA Greater Los Angeles Healthcare System, West Los Angeles building space, land use and/or other resources, as specified in subparagraph 1B below. The terms of the Contract are as follows:	This Contract provides for the use of VA Greater Los Angeles Healthcare System, West Los Angeles (the "VA") land (the "Shared Property") and other resources, as specified in section 1B below. The terms of the Contract are as follows:	Restatement of opening phrase. No impact or financial risk seen.
Security: The DVA shall provide security, and may patrol the performance area. Should other security arrangements be necessary, this Contract will specify such arrangements. Random inspections by the Contracting Officer, the Contracting Officer's Technical Representative (COTR) or VA Greater Los Angeles Healthcare System, West Los Angeles security Police may be conducted during the period of performance.	The Sharing partner shall provide security, and may patrol the Shared Property. Random inspections by the CO, the CO's Technical Representative ("COTR") or VA Security Police may be conducted during the period of Performance.	Will require review from WLA Police before position can be provided.

<p>Page 3: Remedies for Breach of Insurance requirements. If Sharing Partner, for any reason, fails to maintain insurance coverage, which is required pursuant to this Sharing Agreement, the same shall be deemed a material breach of contract. Department of Veterans Affairs, at its sole option, may terminate this Sharing Agreement and obtain damages from the Sharing Partner resulting from said breach.</p>	<p>If Sharing Partner, for any reason, fails to maintain insurance coverage which is required pursuant to this Sharing Agreement, the same shall be deemed a material breach of contract. The DVA, at its sole option exercisable any time after Sharing Partner's failure to cure said breach within (30) thirty days after receiving written notice thereof, may terminate this Sharing Agreement and obtain damages, if any, from the Sharing Partner resulting from said breach.</p>	<p>Length of Notice to be approved by Asset Management Board.</p>
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<p>Page 4: Termination for cause: The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed as termination for convenience.</p>	<p>The VA may terminate this Contract, or any part hereof, for cause in the event of any material default by the Sharing Partner, or if the sharing Partner fails to provide the VA, upon written request, with adequate assurances of future performance, by giving at least ninety (90) days prior written notice. In the event of termination for cause, the Sharing Partner shall be liable to the VA for any and all rights and remedies provided by law. If is determined that the VA improperly terminated this Contract for default, such termination shall be deemed a termination for convenience.</p>	<p>Length of Notice to be approved by Asset Management Board.</p>
<p>Page 5: Independent Contractor: VA Greater Los Angeles ... is an independent contractor with respect to the services performed under this Contract. Nothing contained herein shall be construed as an employment relationship partnership between VA ... and Sharing Partner.</p>	<p>Brentwood requests that this be struck from the agreement.</p>	<p>Independent status must be stated and agreed upon.</p>
<p>Statement of Work Opening Statement: The Department of Veterans Affairs, (hereinafter "DVA") is providing to the Sharing Partner the use of 20 acres of land on a year round basis under an Enhanced Sharing Agreement. The period of performance shall be an initial (1) one-year contract with four (4) one-year options.</p>	<p>The DVA is providing to the sharing partner the use of approximately 20 acres of land (the "Shared Property") on a year round basis under an Enhanced Sharing Agreement. The Period of Performance shall be an initial five (5)-year contract with four (4) five (5)-year options exercisable only by mutual agreement of the parties. In the event that the DVA does not share the Sharing partner's desire to exercise any one of the of the 5-year options, the DVA shall pay to the Sharing Partner at the end of the applicable period of Performance the unamortized value of the Capital Improvements in accordance with the amortization schedule set forth in Attachment K to the Sharing Agreement.</p>	<p><b>Brentwood is requesting a longer agreement period and is introducing their position on reimbursement for early cancellation/termination.</b></p> <p><b>The negotiation of this item will have to be coterminous with the other Capital Improvement clauses.</b></p>

<p>This Enhanced Sharing Agreement is exclusive of and apart from any DVA contracted filming ["location"] agreements. The VA will not share revenue generated by filming {"location"} agreements with the Contractor.</p>	<p>During the Period of Performance of this Enhanced Sharing Agreement, the DVA shall not enter into any filming ["location"] agreements that affect or involve the shared Property or Brentwood School's use thereof without first obtaining Brentwood School's approval, which approval which shall not be unreasonably withheld. Provided that the DVA has obtained such approval, the DVA shall not be required to share revenue generated by filming ["location"] agreements with Brentwood School.</p>	<p>Restating DVA position on filming and the statement that approval from Brentwood is required. Further, Brentwood is acknowledging that they cannot gain financially from the filming. No impact or risk seen at this time.</p>
		<p>Attachment "B" to be researched and correctly identified.</p>
<p>Attachment "D" Motor vehicle Traffic and Parking Policy</p>	<p>Brentwood Requests that this entire Attachment be struck from the agreement.</p>	<p>To be reviewed by Security from WLA prior to opinion being rendered.</p>
<p>Attachment G Additional Clauses (2) That the Sharing Partner has inspected and knows the condition of the Shared property, and understands that the same is hereby shared without any representations or warranty by the Government whatsoever and without obligation on the part of the Government to make any alterations, repairs, or additions thereto, prior to occupancy by Sharing Partner.</p>	<p>That the Sharing partner shall have up to sixty (60) days from the effective date of this Enhanced Sharing Agreement (the "Contingency Date") in which to conduct due diligence and inspect the Shared Property in order to determine (i) if the shared Property can feasibly be utilized for the uses contemplated in the Conceptual Plan and (ii) whether the Athletic Complex, Parking Lot and relocated access road can in fact be constructed on the Shared Property at a reasonable cost. Sharing Partner shall notify the CO of its determinations in this regard in writing on or before the Contingency Date. Sharing Partner's failure to so notify the CO shall be deemed to be a disapproval resulting in the automatic cancellation of this Enhanced Sharing Agreement. However, assuming the Sharing Partner decides to proceed, the Sharing Partner shall be deemed to have inspected and known the condition of the shared Property, and understands that the same is hereby shared without any representations or warranty by the Government whatsoever and without obligation on the part of the Government to make any alterations, repairs, or additions thereto, prior to occupancy by Sharing Partner.</p>	<p>Brentwood is requesting a period of due diligence, no impact on agreement or financial risk to DVA seen at this time.</p>

Joe Wilson (562) Fax # [Redacted]

Veterans Health Administration

Review of Expanded Sharing Agreement Between West Los Angeles Veterans Administration Medical Center, and the Brentwood School

Secretary of Veterans Affairs

- 1. You have directed my office to coordinate with General Counsel and determine if the sharing agreement complies with existing VA policy, including stakeholder involvement. Additionally, you have directed my office to determine whether the negotiated fee is a reasonable one.

Compliance With VA Policy

- 2. VA policy for implementing Sharing Authority under Title 38, Section 8153 is contained in VHA Directive 97-015. The agreement with the Brentwood School did not comply with the full intent of this policy or current program procedures.
- 3. All facilities are required to receive concept approval to provide ("sell") health care resources under sharing authority from the Rapid Response Team composed of representatives from the Medical Sharing Office (175), Office of the General Counsel (025), and Acquisition Resources Service (95E). The Enhanced Use Lease Authority under Title 38, Section 8161 was not considered appropriate because permanent construction was not being proposed and because of legislative restrictions. The West Los Angeles VAMC first received concept approval for the use of vacant land for a term of 5 years in May 1998.
- 4. Paragraph 5.d. of VHA Directive 97-015 requires that all contracts in excess of \$500,000, including option years be submitted to VA Central Office for formal review and approval. Furthermore, paragraph 5.d. (2) requests VA Central office approval for the use of space. VA Central Office, including the Office of General Counsel, should have formally reviewed this agreement. There are several e-mail messages between the Rapid Response Team and staff at the medical center, but this e-mail traffic does not constitute VA Central Office approval of the actual agreement.

5. Notification of Congressional delegations regarding a sharing agreement is not covered in this directive and is not normal procedure. However, considering the history of this property staff was advised to informally contact the congressional delegation and the Brentwood Homeowners Association. They were advised to drop the proposal if anyone objected. They were also advised to contact VA Central Office Congressional Affairs and to keep them informed. The clause in the agreement requiring The Brentwood Homeowners Association to formally notify the congressional delegation was inappropriate and would have been removed during a formal Central Office review or disapproved in any discussions with the Rapid Response Team. Veteran Service Organizations (VSOs) were notified and approved of the agreement. Notification of VSO's for providing (selling) VA resources is required.
6. Title 38, Section 8153 grants VA the authority to negotiate a rate that is in the best interest to the government. Paragraph 4.g. of VHA Directive 97-015 requests all facilities to consider local market rates for similar resources. The rate established is based on an appraisal completed February 10, 1999 by Hall and Associates for vacant land that is also adjacent to the VA medical center. Hall and Associates is a licensed appraiser in Newport Beach, California. Based on these facts, we believe the negotiated fee is reasonable.

#### Corrective Actions to be Taken

7. Continue VA training on selling VA health care resources under Expanded Sharing of Health Care Resources. Over the last two years VA has made over 40 presentations and one satellite broadcast to VA staff, including VHA financial managers, contracting officers, regional counsel and private attorneys representing companies that contract with the Veterans Health Administration. During 1999 presentations were coordinated with the Enhanced Use Lease Program. This year, presentations on selling health care resources under 8153 Authority are part of two day conferences at the VISN level to improve VISN implementation and proposal submissions for Enhanced Sharing, Enhanced Use Lease, Capital Investment Board and VISN Strategic Plans.
8. Issue a new directive on selling health care resources under 8153 Authority following this review and the results from the Inspector General Office investigation requested by Congressman Lane Evans.

9. **Require medical center director or VISN director approval before a concept is presented to the Rapid Response Team by FAX. The new directive will also clarify that concept approval by the Rapid Response Team does not constitute legal and technical review by VA Central Office and that significant changes to the concept approved by the Rapid Response Team must be re-submitted for review.**
  
10. **Continue plans to improve VHA electronic data base on facility activity under 8153 Sharing Authority. Title 38 Section 8153 (g) requires an annual report to Congress, including recommendations to improve the administration of these activities. This last year was the first year that data was collected electronically. Plans this year include more detailed facility information and a source for sharing best practices. This database also allows VA Central Office to respond more accurately and timely to Congressional inquiries regarding sharing activity. A Directive and instructions to the field will be issued this year.**

STANLEY N. MARON  
RICHARD V. SANDLER  
JIM L. BAKER

LAW OFFICES OF  
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TELEPHONE (310) 440-5475

TELECOPIER  
(310) 440-5490

DATE SENT: August 3, 1999

PLEASE DELIVER THE FOLLOWING MATERIAL AS SOON AS POSSIBLE

TO: Jon Wilson  
Veterans Administration

FAX NO: 562-494-5828

FROM: Richard Sandler

NUMBER OF PAGES EXCLUDING  
THIS COVER PAGE: 10

COMMENTS:

THIS TRANSMISSION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN CONFIDENTIAL INFORMATION BELONGING TO THE SENDER WHICH IS PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, IMMEDIATELY NOTIFY US BY TELEPHONE TO ARRANGE FOR ITS RETURN.

PLEASE NOTIFY US IMMEDIATELY IF NOT RECEIVED PROPERLY  
BY CALLING (310) 440-5477

OUR TELECOPIER NUMBER IS (310) 440-5490

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JIM L. BANKS  
DAVID S. KYMAN

OF COUNSEL  
KEVIN J. MADIGAN  
ADMITTED NY AND CO ONLY

August 3, 1999

Mr. Jon Wilson  
Veterans Administration  
VIA FAX TO: 562-494-5828

Dear Jon:

With respect to the proposed Enhanced Sharing Agreement, enclosed please find the following documents:

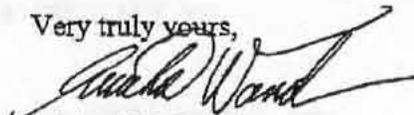
1. Letter dated June 16, 1999 to Representative Henry Waxman informing him of our proposed agreement.
2. Letter dated June 16, 1999 to Senator Dianne Feinstein informing her of our proposed agreement.
3. Letter dated June 16, 1999 to Senator Barbara Boxer informing her of our proposed agreement.
4. Recent letter to Hugh Snow with Request For Approval. I have received the verbal approval from Mr. Snow, but am waiting for the signed copy.

The letters to each of the Congressional offices were sent by Federal Express and the receipts can be made available if you need them.

In addition, with respect to the Brentwood Village Association, as we discussed, I informed Lisa Hill, who is the aide to Councilwoman Cindy Miscikowski, of our decisions regarding the village parking. Ms. Hill confirmed to me that she informed the Brentwood Village Association representatives at a community meeting and those representatives expressed appreciation for the fact that we were not going to be involved in expanding the existing parking lot.

This letter should satisfy the conditions of the Enhanced Sharing Agreement regarding informing Congressional and community associations.

Very truly yours,



Richard V. Sandler

RVS:jr

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JIM L. BANKS  
DAVID S. KYMANOF COUNSEL  
KEVIN J. MADIGAN  
ADMITTED NY AND CO ONLY

June 16, 1999

Representative Henry A. Waxman  
8436 W. Third Street, #3670  
Los Angeles, CA 90048

Dear Representative Waxman:

I am the Vice Chairman of the Board of Trustees of the Brentwood School. Our main campus is contiguous to the West Los Angeles facility operated by the VA Greater Los Angeles Healthcare System (the "VA"). The purpose of this letter is to notify you, at the request of the VA, of our continued discussions with the VA regarding an Enhanced Sharing Agreement.

The Brentwood School is a K through 12 non-profit private school located in West Los Angeles serving approximately 950 students. The school is operated from two facilities. The facility which is the subject of this letter houses the 7<sup>th</sup> through 12<sup>th</sup> grades consisting of approximately 650 students. Although Brentwood School is a private school, it has made a concerted effort to reflect the diversity of the Los Angeles community through its admission process and generous scholarship program.

For approximately 20 years, the Brentwood School has had a relationship with the VA. We have used a portion of the VA property for parking for our students and for certain athletic events and other school events over the years. In fact, our conditional use permit from the City of Los Angeles requires us to utilize VA property for a minimal number of parking spaces.

Up until now, our relationship has been on a year-to-year, event-by-event basis. Approximately 3-1/2 years ago we began to explore a more permanent, formal and long term association with the VA to allow Brentwood School to provide for the expanding needs of our boys and girls athletic teams including those participating in football, soccer, baseball, softball,

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DAVID S. KYMAN

OF COUNSEL  
KEVIN J. MADIGAN  
ADMITTED NY AND CO ONLY

June 16, 1999

Senator Dianne Feinstein  
United States Senator  
525 Market Street, #3670  
San Francisco, CA 94105

Dear Senator Feinstein:

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Representative Henry A. Waxman

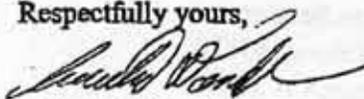
June 16, 1999

Page 2

tennis, and basketball. Hopefully, this effort will result in a mutually satisfactory agreement within the next several weeks.

If you have any questions regarding this matter, please do not hesitate to contact me.

Respectfully yours,



Richard V. Sandler

RVS:jr

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KEVIN J. MADIGAN  
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June 16, 1999

Senator Barbara Boxer  
United States Senator  
1700 Montgomery Street, #240  
San Francisco, CA 94111

Dear Senator Boxer:

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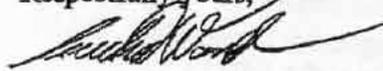
**Maron & Sandler**

Senator Dianne Feinstein  
June 16, 1999  
Page 2

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Richard V. Sandler

RVS:jr

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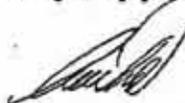
July 15, 1999

Mr. Hugh J. Snow  
Brentwood Homeowners Association  
Post Office Box 49427  
Los Angeles, CA 90049-0427

Dear Hugh:

Per our conversation, enclosed is the corrected Request for Approval. Please sign and return to me a signed copy of this documents. Thanks for all your help.

Very truly yours,



Richard V. Sandler

RVS:jr  
Encl.

Maron & Sandler

Senator Barbara Boxer

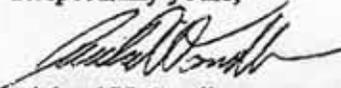
June 16, 1999

Page 2

tennis, and basketball. Hopefully, this effort will result in a mutually satisfactory agreement within the next several weeks.

If you have any questions regarding this matter, please do not hesitate to contact me.

Respectfully yours,



Richard V. Sandler

RVS:jr

## REQUEST TO THE BRENTWOOD HOMEOWNERS ASSOCIATION

### FOR PRELIMINARY APPROVAL OF EXPANSION PLAN

Brentwood School (the "School") hereby respectfully requests that the Brentwood Homeowners Association (the "BHA") give its preliminary approval to the School's plan for development of approximately 20 acres of adjacent property for athletic facilities pursuant to agreement to be negotiated between the School and the Veterans Administration (the "VA"). The School's plan includes the following features:

1. The School will enter into an agreement with the VA allowing it to use and improve the subject property for athletic facilities and parking consistent with the Plot Plan which is attached hereto. Then a final Plot Plan consistent with the present Plot Plan will be prepared and presented to the BHA. The development will conform to the final Plot Plan.
2. The Plan will include not less than 125 new parking spaces in addition to, and immediately adjacent to, the parking area that is presently available for customers and merchants of Brentwood Village. The new spaces will be available to the public whenever they are not being used for School parking. These new spaces will replace the present 95 spaces that the School is using on the VA land.
3. Unless otherwise approved by the BHA, the athletic facilities on the property will not include any lights that would permit utilizing those facilities for night time events. This restriction applies to all of the VA land used by the School except the parking lot. Lighting will be used only for security and safety purposes, and the lights will be installed in a way that will not disturb the quiet enjoyment of adjacent residential properties.
4. The improvements to the property will include a balanced grading plan or as close thereto as reasonably practical, so there will be no import or export of dirt.
5. Before reaching final agreement with the VA, the School will conduct appropriate soils and environmental due diligence. If any contaminants are encountered, the contaminants will be removed or the School will not use the VA land.
6. The site will be used by students of the Brentwood School as well as students with whom the students of the Brentwood School are competing. There may be occasional use by the employees and residents of the Veterans Administration Hospital. Additionally, the City of Los Angeles, Council District 11, on behalf of community residents, are actively seeking limited public use of this site during times in which Brentwood School is not utilizing the facilities. The possibility of making the property available to the public requires further investigation and consideration by the affected parties. The Brentwood

School and Brentwood Homeowners Association are willing to participate in further discussions on this issue.

7. The site will not be used before 9:00 a.m. on Saturday mornings without the prior consent of BHA. In addition, in order to minimize any disturbances to neighboring properties on Sundays or holidays, without the prior consent of BHA, the site will not be used on Sundays or holidays more than three times per calendar year for an organized event (i.e., team sports competition, school picnic, etc.). All activities on other Sundays and holidays shall be casual in nature, that is: there shall be no team practice, no audience, no noise that is disturbing to the neighbors, and there will not be more than thirty persons using the site at any one time. In no event, without the prior consent of BHA, shall any permitted Sunday or holiday use begin before 10:00 a.m.
8. The Brentwood School will provide adequate security for the site to prohibit use by unauthorized persons.
9. No loud amplified sound or loudspeakers shall be used anywhere within 100 feet of any residential lot not owned by the School if such use will cause noise in excess of the ambient sound in the residential area. This provision does not prohibit amplified sound where speakers are more than 100 feet from residential properties such as during sporting events, dinner gatherings on the field, graduation or the candle lighting ceremony. It is not intended that the School will provide any amplified sound on Sundays originating from the soccer/baseball fields planned to be developed on the site.
10. No structure on the VA land will be used for any other purpose other than ancillary to the use of the site for athletic facilities (i.e., maintenance, storage, restroom facilities, etc.).
11. No development will be started on the VA land until final BHA approval is given to the development.

BRENTWOOD SCHOOL

  
 \_\_\_\_\_  
 VKE (BHA. APPROVAL)

Preliminary approval to the athletic facilities plan is given, upon the conditions stated above. The BHA will give final approval to the Plan when the BHA is satisfied that the final development plan meets the eleven features listed above.

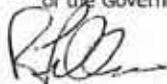
BRENTWOOD HOMEOWNERS ASSOCIATION

Department of  
Veterans Affairs

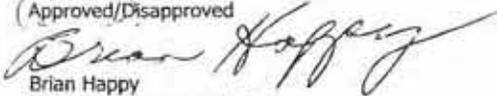
Memorandum

DATE: August 3, 1999  
FROM: Chief, Construction Contracting (NBC/CC)  
SUBJ: Authorization for Enhanced Health Care Resources Sharing Authority - Selling  
TO: Chief Executive Officer, VA Greater Los Angeles Healthcare System (691)

1. The purpose of this memorandum is to request authorization for Enhanced Health Care Resources Sharing Authority-Selling for a Land Sharing Agreement with Brentwood Schools, beginning on the date of agreement execution and ending on/about 10/2019. The revenue that will be generated under this agreement is \$300,000 per year (after the completion of the development).
2. This acquisition will conform to all requirements of Section 301 of Public Law 104-262, Title 38 U.S.C. Section 8153, and VHA Directive 97-015 dated March 12, 1997.
3. Your approval will act as certification indicating that specific determination is made that: (1) That veterans will receive priority for services under such an agreement and (2) That the agreement is necessary either to maintain an acceptable level and quality of service to veterans or will result in improvement of services to veterans. The conditions listed above have been met and are a sound business decision in the best interest of the Government and are a community benefit.



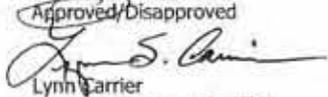
Ralph Tillman  
Approved/Disapproved



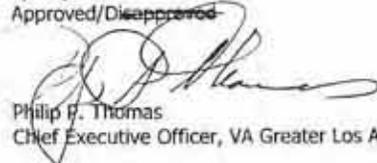
Brian Happy  
Approved/Disapproved



John Fitzgerald  
Approved/Disapproved



Lynn Carrier  
Approved/Disapproved



Philip F. Thomas  
Chief Executive Officer, VA Greater Los Angeles Healthcare System

99 AUG - 9 AM 10: 57

RECEIVED  
AUG 10 1999

**Wilson, Jon**  
**From:** Achen, Alan  
**Sent:** Wednesday, January 06, 1999 10:22 AM  
**To:** Wilson, Jon  
**Subject:** RE: ESA - Brentwood Athletic Complex

Approved. Alan K. Achen, Regional Counsel

-----Original Message-----  
**From:** Wilson, Jon  
**Sent:** Wednesday, January 06, 1999 4:12 PM  
**To:** Achen, Alan  
**Cc:** Tillman, Ralph  
**Subject:** RE: ESA - Brentwood Athletic Complex

Good Morning Alan,

Ralph would also like to be in on the call.

When is a good time to call you today? Ralph will be in a meeting from 2 - 4 but outside of that he should be around.

Please let me know.

Thanks,

Jon M Wilson  
Contract Specialist  
Telephone: (562) [REDACTED]  
Facsimile: (562) 494-5828

-----Original Message-----  
**From:** Achen, Alan  
**Sent:** Tuesday, January 05, 1999 1:10 PM  
**To:** Wilson, Jon  
**Cc:** Tillman, Ralph; Monroe, Pamela  
**Subject:** RE: ESA - Brentwood Athletic Complex

I want to talk by phone on this one....no approval until we talk....At your convenience. Alan.

-----Original Message-----  
**From:** Wilson, Jon  
**Sent:** Tuesday, January 05, 1999 5:39 PM  
**To:** Achen, Alan  
**Cc:** Tillman, Ralph; Monroe, Pamela  
**Subject:** ESA - Brentwood Athletic Complex

Alan,

Attached to this e-mail is the ESA for the proposed Brentwood Athletic Complex.

Pam and Ralph have reviewed the document and I have made their requested changes.

Ralph has asked that I Federal Express the document to Brentwood School today so that they can begin preparing a response.

Please review and provide your comments.

If you have any concerns I can address them as "modifications/changes".

Thank you,

Jon

<< File: Alternate ESA.doc >>

**Wilson, Jon**

**From:** Walters, Karen  
**Sent:** Thursday, July 29, 1999 4:31 AM  
**To:** Fitzgerald, John E.; Wilson, Jon  
**Cc:** Achen, Alan; Tillman, Ralph  
**Subject:** RE: Request for Rapid Response Opinion - Brentwood School Athletic Complex

*Changes made.  
FAXed to Karen Walters  
7/29/99. RWT*

The contract itself has not yet been thru legal review in here. Please change the time period to show 20 years total so I can get it to GC for legal review. They won't even look at it until that's changed. The concept is OK and we've agreed it's sharing so major hurdles are overcome but please resubmit a corrected copy.

-----Original Message-----

**From:** Fitzgerald, John E.  
**Sent:** Tuesday, July 27, 1999 4:43 PM  
**To:** Walters, Karen; Wilson, Jon  
**Cc:** Achen, Alan; Tillman, Ralph  
**Subject:** RE: Request for Rapid Response Opinion - Brentwood School Athletic Complex  
**Importance:** High

What is our next step? Jon I believe we need to get this "closed out" ASAP!

-----Original Message-----

**From:** Walters, Karen  
**Sent:** Tuesday, July 27, 1999 12:49 PM  
**To:** Wilson, Jon  
**Cc:** Achen, Alan; Fitzgerald, John E.; Tillman, Ralph  
**Subject:** RE: Request for Rapid Response Opinion - Brentwood School Athletic Complex

The scope of the improvements is OK for enhanced sharing; however, you have this agreement for a total of 30 years (10 plus two ten year options) - this agreement can only be for twenty years total (10 plus only one 10 year option) under enhanced sharing.

-----Original Message-----

**From:** Wilson, Jon  
**Sent:** Wednesday, July 14, 1999 1:05 PM  
**To:** Walters, Karen  
**Cc:** Achen, Alan; Fitzgerald, John E.; Tillman, Ralph  
**Subject:** RE: Request for Rapid Response Opinion - Brentwood School Athletic Complex

There will be minimal buildings erected, the conceptual layout is discussed on page 8 of the agreement. Also, the Sharing Partner has requested a feasibility study period once the agreement has been signed. During this period they will be bringing in different building disciplines to determine the true viability of the project, (financial, etc.). If after they have done their due diligence and it is determined that the project really cannot be constructed for the construction budget that they have anticipated the deal is off. However, if after the due diligence is completed and the project is deemed viable, the VA begins to collect money during the development and construction phase and at the conclusion of the construction phase the compensation amount increases.

*Jon M Wilson*

Contract Specialist  
Telephone: (562) [REDACTED]  
Pager: (949) [REDACTED]  
Facsimile: (562) 494-5828

-----Original Message-----

**From:** Walters, Karen  
**Sent:** Wednesday, July 14, 1999 10:00 AM  
**To:** Wilson, Jon  
**Cc:** Tillman, Ralph; Fitzgerald, John E.; Achen, Alan  
**Subject:** RE: Request for Rapid Response Opinion - Brentwood School Athletic Complex

I guess I didn't get that far in what I saw. I know that Brian Happy did talk to me about this in the past. I am under the impression that the sports complex consists of various fields (football, soccer etc) and no buildings are being erected. I am aware that the partner is a fancy school. However, if my understanding of this is not correct and they are proposing to build a permanent structure (like big gym), we have to also touch base with Tony Kushnir in Enhanced Use Lease. Can you clarify please?

-----Original Message-----

**From:** Wilson, Jon  
**Sent:** Wednesday, July 14, 1999 10:23 AM  
**To:** Walters, Karen  
**Cc:** Tillman, Ralph; Fitzgerald, John E.; Achen, Alan  
**Subject:** RE: Request for Rapid Response Opinion - Brentwood School Athletic Complex

Karen,

A little more background, I guess I was under the impression (as this has been in the discussion stage for years) that at some point someone had given you a head's up on this agreement. The sharing partner is a very elite private school.

This is for the development by the Sharing Partner of a parcel of land at the West Los Angeles facility. This particular parcel is directly adjacent to the Sharing Partner's School grounds and is quite removed from the hospital area. The sharing partner is going to develop an athletic complex, access road and parking area.

Your concerns about carnivals, alcohol and waste removal are addressed under Miscellaneous Requirements, (which I think is on page 10 of the agreement). As far as food handling, it would be limited to concessions and we have already put them on notice that any buildings or structures would have to conform to VA requirements. Further, Los Angeles City and County are extremely strict when it comes to food establishments.

*Jon M Wilson*

Contract Specialist  
Telephone: (562) [REDACTED]  
Pager: (949) [REDACTED]  
Facsimile: (562) 494-5828

-----Original Message-----

**From:** Walters, Karen  
**Sent:** Wednesday, July 14, 1999 5:35 AM  
**To:** Wilson, Jon  
**Cc:** Tillman, Ralph; Fitzgerald, John E.; Achen, Alan; Foley, Dennis  
**Subject:** RE: Request for Rapid Response Opinion - Brentwood School Athletic Complex

Please go back and look at this again before I send it thru for a legal review on this use of space agreement. I think you have a total term in here of 30 years not 20. Include provisions for no alcohol and, if this is for a circus/carnival, you need to be sensitive to sideshows that feature people with deformities or disabilities. Also please check with you mental health people about games of chance and gambling addiction.

I also didn't see anything in here for cleanup and trash/animal waste removal or for licensing for things like food vendors (that's a safety issue for things like propane tanks and food handling).

I've included Dennis Foley from GC in the message .Thanks.

-----Original Message-----

**From:** Wilson, Jon  
**Sent:** Tuesday, July 13, 1999 11:09 AM  
**To:** Walters, Karen  
**Cc:** Tillman, Ralph; Fitzgerald, John E.; Achen, Alan  
**Subject:** Request for Rapid Response Opinion - Brentwood School Athletic Complex

Karen,

Per the request from Ralph Tillman, I am forwarding the attached ESA to you for your rapid review/response.

Please provide your comments to me[as Ralph will be out of the office the rest of this week] at your earliest convenience. All necessary local VA staff have reviewed the document and are in agreement with it.

Thank you,

<< File: Brentwood Final.doc >>

*Jon M Wilson*

Contract Specialist

Telephone: (562) [REDACTED]  
Pager: (949) [REDACTED]  
Facsimile: (562) 494-5828



A Division of VA Desert Pacific  
Healthcare Network

## Self-Certification Review Checklist Enhanced Sharing Contracts

**Contract Number : V691S-171**

**Sharing Partner Name: The Brentwood School**

**Contract Amount: \$5,850,000 + CPI**

**Contract Type: Enhanced Sharing Agreement**

**Reviewed by: Ralph D. Tillman**

**Signature/Date: August 4, 1999**

Item	Yes	No	N/A	Comments
Is a copy of the executed contract available in the contract file?	X			
Does the contract include the following terms: <ul style="list-style-type: none"> <li>The ability to cancel/amend the contract if the terms result in VA failing to meet requirements of law.</li> <li>The time period covered by the contract.</li> <li>The liability assumed by VA for failure to perform.</li> <li>Other terms such as quantities, deadlines, quality issues, hours of operation, manpower commitments and ability to deliver services as required?</li> <li>If the contract is for the use of equipment, does it address the responsibility for equipment maintenance or loss?</li> </ul>	X	X	X	
Is concept approval from VACO Rapid Response Team documented in the contract file?	X			
Is the contract for the sale of VA inpatient services for non-veterans? If so, was the permission of the Undersecretary for Health and Secretary of VA obtained and documented in the contract file?		X		
Is the basis of pricing included in the contract file?	X			
Does documentation exist to support local market rates assessment?	X			

**Self-Certification Review Checklist  
Enhanced Sharing Contracts.**

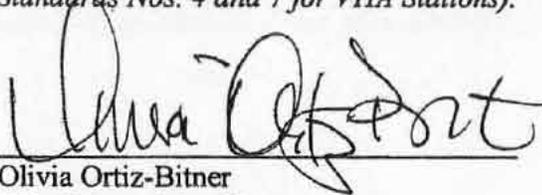
Item	Yes	No	N/A	Comments
Does the contract recover full cost?	X			
Is the full cost data included in the contract file?	X			
What is the source of cost information used for pricing?				Market Analysis
If full cost is not recovered, what cost components are excluded from pricing consideration?			X	
What is the justification for not recovering full cost? <ul style="list-style-type: none"> <li>• The services or goods are being sold to maintain essential clinical skills or to continue programs essential to the veteran population.</li> <li>• Prices are set by law or executive order and are not based on full cost or market price.</li> <li>• Other</li> </ul>				
Is the market price being charged? If so: <ul style="list-style-type: none"> <li>• Was the justification for using market price fully documented in the contract file?</li> <li>• Does the contract recover at least the local direct costs, i.e. fixed direct variable supply and variable labor costs?</li> </ul>	X			
Is the Regional Counsel's approval documented in the contract? If yes, review the results.	X			
What is the composition of the business team?				NBC, CEO (WLAGHS), CFO, and Regional Counsel
Does the contract file contain a written recommendation from the Business Team to the VISN or Medical Center Director on whether to sell the resources and that the proposal meets the provisions of laws, regulations and policies?	X			
If the contract value is more than \$500,000 was the General Counsel's approval obtained?	X			
Are the services of the veterans in the Compensated Work Therapy (CWT) Program used in performance of this contract? If so, was CWT program reimbursed for the veterans' time?			X	
Does the contract file contain a copy of the Marketing Plan?	X			
Was the contract revenue recorded in the general ledger?	X			
Can revenue be tracked back to the specific products sold?	X			

**Self-Certification Review Checklist  
Enhanced Sharing Contracts.**

Item	Yes	No	N.A	Comments
What billing and collection procedures are used?				Business Affairs Office
What systems are used to record accounts receivable?	X			Recurring Alternative Revenue Report
Are provisions made for uncollectable accounts?	X			
Is the debtor being provided with due process notification?	X			

**Certification of Compliance with Federal and VA Pricing Guidelines for VHA  
Enhanced Health Care Sharing Contracts**

I, Olivia Ortiz-Bitner, Chief Financial Officer, certify that the pricing policies for the VA Greater Los Angeles Healthcare System materially  comply/  do not comply VHA Directive 97-015, *Enhanced Health Care Resources Sharing Authority* and OMB Circular A-25, *User Charges*, and the Chief Financial Officers Act of 1990 (P.L. 101-576) (CFO Act). I further certify that I have reviewed and understand how these authorities apply to Enhanced Health Care Sharing contracts entered into by this facility. Instances where this facility does not comply with Federal and VA pricing policies are disclosed under the certification for compliance with the Statement of Federal Accounting Standards Nos. 4 and 7 (see *OF Bulletin 01GC2.03, Self-Certification Compliance with Statement of Accounting Standards Nos. 4 and 7 for VHA Stations*).



Olivia Ortiz-Bitner  
Chief Financial Officer  
VA Greater Los Angeles Healthcare System  
310-478-3711 [REDACTED]

4/5/07

Date



Ralph Tillman  
Director, Asset Management  
VA Greater Los Angeles Healthcare System  
310-[REDACTED]

4/5/07

Date

II.A.3.  
EXECUTED AGREEMENT

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 1 of 30*

**Network Business Center  
VA Long Beach Healthcare System, West Los Angeles  
Enhanced Health Care Resources Sharing Agreement**

1. **Sharing Agreement:** This Contract (V691S-171) is a Sharing Agreement pursuant to Title 38, U.S.C. Section 8153.

This Contract provides for the use of **VA Greater Los Angeles Healthcare System, West Los Angeles** (the "VA") land (the "Shared Property") and other resources, as specified in section 1B below. The terms of the Contract are as follows:

- A. **Parties:** Sharing Partner and **VA Greater Los Angeles Healthcare System, West Los Angeles.**
- B. **Resources to be shared:** Refer to Requirements and Scope of Work attached hereto.
- C. **Period of Performance:** Ten Years with one (1) ten-year option beginning on the Contingency Date (as herein defined) if Sharing Partner decides to proceed, as provided in Section 2 of Attachment F hereto.
- D. **Pricing and Payment Terms:** In accordance with the Rent Schedule attached hereto as Attachment J.

Payment of rent shall commence upon the Contingency Date. Rent monies will be paid in advance, due on the 1st of each month and will be considered late if not paid by the 10th.

- E. **Payment.** The Sharing Partner shall make all rent payments payable to VA GREATER LOS ANGELES HEALTHCARE SYSTEM, WEST LOS ANGELES AGENT CASHIER, and shall submit the initial rent payment as mutually negotiated and agreed following full execution of this Contract. Payment(s) shall be in the form of a certified or cashier's check, bank draft, US Post Office money order or US currency and delivered to VA Greater Los Angeles Healthcare System, West Los Angeles: Attention: Agent Cashier, 11301 Wilshire Blvd., Bldg. 500, Los Angeles, CA 90073.
- F. **Authorization to Act on Behalf of the VA GREATER LOS ANGELES HEALTHCARE SYSTEM, WEST LOS ANGELES:** The Contracting Officer (hereinafter: "CO") is the only United States Government (hereinafter: "Government") official who shall be authorized to enter into, modify, administer and terminate this Contract and to give any and all direction required of the VA under this Contract.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 2 of 30*

- G. Restriction:** The Department of Veterans Affairs (hereinafter: "DVA") prohibits the use of the Shared Property for the purpose of carnivals (i.e., amusement rides of any kind and animal displays/acts). Sharing Partner shall not allow the parking of vehicles on grass and tree areas within the Shared Property except in connection with permitted uses of the Shared Property which require parking in excess of that provided in the Parking Lot (as defined in the attached Requirements and Scope of Work). The DVA prohibits the carrying of firearms by any person(s) employed or hired by the Sharing Partner, other than duly sworn law enforcement personnel such as LAPD or LA County Sheriff or, provided they are approved by the DVA, the duly authorized employees of a duly licensed private security firm retained by the Sharing Partner. No pyrotechnics (explosive devices, smokescreens, etc.) will be permitted on Government property.
- H. Security.** The Sharing Partner shall provide security, and may patrol the Shared Property. Random inspections by the CO, the CO's Technical Representative ("COTR") or VA Security Police may be conducted during the Period of Performance after giving the Sharing Partner reasonable prior notice thereof, but in the case of a patient emergency, the CO, the COTR and/or the VA Security Policy may enter the Shared Property without prior notice to the Sharing Partner. Notwithstanding the foregoing, the CO, the COTR and/or the VA Security Police, as the case may be, shall make a good faith effort to notify the Sharing Partner before such entry.
- I. Insurance.** Sharing Partner shall furnish, at its own expense, original certificates of insurance to the DVA, five (5) days prior to the use of the Shared Property. The term of the insurance must be for the duration of the period of performance covered by this Sharing Agreement.

1. Types and Limits of Insurance

The following types and limits of insurance are required:

- a. Comprehensive or commercial general liability insurance to include the following coverages; premise/operations, products/completed operations (when applicable), contractual personal injury, broad form property damage, with limits not less than One Million Dollars, (\$1,000,000.00) combined single limit for bodily injury and property damage.
- b. Workers Compensation Insurance and Employer's Liability Insurance, as required by the Labor Code of the State of California and Employer's Liability limits of One Million Dollars (\$1,000,000.00) per accident.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 3 of 30*

- c. Comprehensive Automobile Liability Insurance with limits of not less than \$1,000,000.00 each occurrence combined single limit for bodily injury and property damage, including coverage or owned, non-owned and hired vehicles, including loading and unloading operations.
- d. The DVA may require other insurance coverage deemed appropriate for a specific event.
- e. The CO or his or her designee is hereby authorized to reduce the requirements set forth herein in the event that they determine that such reduction is in DVA's best interest. Such reduction shall not be binding unless in writing and signed by the CO or his or her designee.

2. Coverage

- a. The DVA, its boards and commissions, officers, agents, employees and volunteers must be named as additional insureds and are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Sharing Partner; products and completed operations of the Sharing Partner; and premises owned or used by the Sharing Partner. The coverage shall contain no special limitations on the scope of protection afforded to the DVA, its boards and commissions, officers, agents, employees and volunteers.
- b. Sharing Partner's insurance coverage shall be primary insurance as respects the DVA, its boards and commissions, officers, agents, employees and volunteers. Any insurance or self-insurance maintained by the DVA, its boards and commissions, officers, agents, employees and volunteers shall be in excess of Sharing Partner's insurance and shall not contribute with it.
- c. Coverage shall state that Sharing Partner's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. Each insurance policy required by this Section II shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the DVA.
- e. Subcontractors. Sharing Partner shall include each of its subcontractors as insureds under the policies of insurance required, or alternatively shall provide to the DVA certificates of insurance and binding endorsements evidencing satisfactory compliance by each subcontractor with insurance requirements stated herein.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 4 of 30*

3. Waiver of Subrogation (For Workers Compensation Coverage Only)

The insurer shall agree to waive all rights of subrogation against the DVA, its boards and commissions, officers, agents, employees and volunteers for losses arising from activities and operations of Sharing Partner in the performance of services under this Sharing Agreement.

4. Acceptability of Insurers

Insurance is to be placed with insurers rated A-7 or better by A.M. Best's rating service.

5. Verification of Coverage

Sharing Partner shall furnish the DVA with certificates of insurance complying with this Section 11. The certificates for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms provided by the DVA and are to be received and approved by the DVA five (5) days prior to the first use day.

6. Remedies for Breach of Insurance Requirements

If Sharing Partner, for any reason, fails to maintain insurance coverage which is required pursuant to this Sharing Agreement, the same shall be deemed a material breach of contract. The DVA, at its sole option exercisable any time after Sharing Partner's failure to cure said breach within thirty (30) days after receiving written notice thereof, may terminate this Sharing Agreement and obtain damages, if any, from the Sharing Partner resulting from said breach.

- J. Sharing Partner shall be responsible for all damages to VA property, including without limitation the Shared Property, caused by its gross negligence or willful misconduct and any repairs, if necessary, shall be at the expense of Sharing Partner.

2. **General Terms and Conditions:** shall be as follows:

- A. **Relationship.** The relationship of the parties is not and shall not be construed or interpreted to be a partnership, joint venture, or agency. The relationship of the parties shall be an independent contractor relationship.
- B. **Termination.** Either party may terminate this Contract for convenience by giving the other party prior written notice thereof on or before the first day of May of the year in which the end of the applicable Period of Performance will occur. In the event of termination, the Sharing Partner shall be responsible for payment for all rent due the VA prior to the effective date of termination. In the event that this termination clause is exercised, each party will bear its own costs associated with the termination and will

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 5 of 30*

not seek damages or compensation from the other party caused by the termination, except that in the case of a termination by the VA (other than as provided in subparagraphs (i) or (ii) below), Sharing Partner shall be entitled to receive from the VA concurrently with such termination the unamortized value of the capital improvements made by the Sharing Partner to the Shared Property (the "Capital Improvements") in accordance with the amortization schedule set forth in Attachment K to this Sharing Agreement.

- (i) Termination for cause. The VA may terminate this Contract, or any part hereof, for cause in the event of any material default by the Sharing Partner, or if the Sharing Partner fails to provide the VA, upon written request, with adequate assurances of future performance, by giving at least ninety (90) days prior written notice. In the event of termination for cause, the Sharing Partner shall be liable to the VA for any and all rights and remedies provided by law. If it is determined that the VA improperly terminated this Contract for default, such termination shall be deemed a termination for convenience.
  - (ii) The DVA reserves the right to unilaterally terminate this agreement immediately if Sharing Partner has caused Government owned assets or the public to be endangered.
- C. **Modification:** This Contract may need to be modified during the Period of Performance. All modifications shall be in writing and, except for termination, have the written consent of both parties.
- D. **Governing Law:** This Contract shall be governed, construed, and enforced in accordance with Federal law.
- E. **Contractor Disputes:** All disputes arising under or relating to this Contract shall be resolved in accordance with this Section.
- 1. As used herein, "controversy or claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of Contract Terms, or other relief, arising or relating to the Contract.
  - 2. Any controversy or claim arising out of or relating to this Contract on behalf of the Sharing Partner shall be presented initially to the CO for consideration. The CO shall furnish a written reply on the claim to the Sharing Partner.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 6 of 30*

3. In the event the parties cannot amicably resolve the matter, any controversy or claim arising out of or relating to this Contract, or breach thereof, shall be settled by arbitration at the VA Board of Contract Appeals in accordance with procedures set forth in the Alternative Disputes Resolution Act of 1996, and judgment upon any award rendered by the Arbitrator(s) may be entered into any court having jurisdiction thereof.
- F. **Use of the VA's Name (Advertising):** Sharing Partner shall not use any marketing material, logo, trade name, service mark, or other materials belonging to DVA, directly or indirectly, in any form of advertising without the written consent of the DVA (Endorsements (advertising) subject to 5 C.F.R. 2635.702).
- G. **Indemnification:** Sharing Partner shall hold harmless and indemnify the VA from any and all claims, losses, damages, liabilities, costs, expenses, or obligations arising out of or resulting from Sharing Partner's wrongful or negligent conduct in the performance of this Contract.
- H. **Independent Contractor.** The VA is an independent contractor with respect to the services performed under this Contract. Nothing contained herein shall be construed as an employment relationship or partnership between the VA and Sharing Partner.
- I. **Notification:** All legal notices to be given by either party to the other shall be made in writing by hand delivery or by registered or certified mail, return receipt requested or by other method reasonably capable of proof of receipt thereof and addressed to the attention of:

VA Contact Person

Ralph Tillman, Contracting Officer  
Network Business Center  
Construction Contracting Section (NBC/CC)  
5901 East Seventh Street, Building 149  
Long Beach, CA 90822  
Telephone: (562) [REDACTED]  
Facsimile: (562) 494-5828

Sharing Partner

Donald P. Winter  
Assistant Headmaster,  
Business Affairs  
Brentwood School  
100 South Barrington Place  
Los Angeles, California 90049  
Telephone: (310) [REDACTED]  
Facsimile: (310) 476-4087

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 7 of 30*

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date(s) indicated below.

United States of America  
Department of Veteran Affairs  
VA Greater Los Angeles Healthcare System, WLA

Sharing Partner:  
Brentwood School

By



\_\_\_\_\_  
Ralph Tillman  
Contracting Officer  
Network Business Center

Date

\_\_\_\_\_  
8/4/99

By



\_\_\_\_\_  
Donald P. Winter  
Assistant Headmaster, Business Affairs  
Brentwood School

Date

\_\_\_\_\_  
7/29/99

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 8 of 30*

**Requirements and Scope of Work**

The DVA is providing to the Sharing Partner the use of approximately 20 acres of land (the "Shared Property") on a year round basis under an Enhanced Sharing Agreement. The Period of Performance shall be an initial ten (10)-year contract with one (1) ten (10)-year option exercisable only by mutual agreement of the parties. In the event that the DVA does not share the Sharing Partner's desire to exercise the 10-year option, the DVA shall pay to the Sharing Partner at the end of the applicable Period of Performance the unamortized value of the Capital Improvements in accordance with the amortization schedule set forth in Attachment K to the Sharing Agreement. If the DVA does not wish to exercise the 10-year option because it intends to accept a proposal for the Shared Property from a third party, Brentwood School shall nevertheless have a right, for a period of sixty (60) days after receiving notice thereof from the DVA, to match such proposal. If Brentwood School matches such proposal, the parties shall meet and confer and attempt in good faith to negotiate a new Enhanced Sharing Agreement based thereon. In addition, if the DVA does not wish to exercise the 10-year option because it intends, because it is legally required to do so, to solicit proposals from third parties through a bid or similar public process, then Brentwood shall be entitled to participate in such process and submit a proposal on an equal basis as all other parties. Finally, if the regulations governing the terms and conditions upon which the DVA is allowed to enter into this kind of Enhanced Sharing Agreement are revised in a manner that gives the DVA more discretion and authority to enter into an agreement that is more favorable to both parties (e.g., the discretion and authority to enter into a longer term), then the DVA shall promptly notify Brentwood thereof, and the parties shall meet and confer and attempt in good faith to negotiate a new Enhanced Sharing Agreement to replace and supersede this Contract.

1. Brentwood School shall be authorized, at its expense, to develop on the Shared Property an estimated 125 space parking lot (the "Parking Lot"), to relocate the existing access road, and to develop outdoor athletic facilities, including a football field, a track, six tennis courts, two covered outdoor basketball/volleyball courts, one softball diamond, one baseball diamond/soccer field, maintenance buildings, restroom facilities and other structures ancillary to the use of the Shared Property for athletic purposes (collectively the "Athletic Complex"), all substantially in accordance with the conceptual plan attached hereto as Attachment L (the "Conceptual Plan"). Final plans shall be subject to DVA approval. Brentwood School shall be responsible for the operation, maintenance, and scheduling the use of the Athletic Complex, the Parking Lot, and the access road. The Shared Property shall be fenced at the perimeter to prevent unauthorized use. Brentwood School shall be required to provide utilities. Once completed, Brentwood School shall be entitled to use the Athletic Complex, the Parking Lot, the access road (collectively, the "Capital Improvements") and the rest of the Shared Property for any school-related or school-sponsored purpose or function. At the conclusion of the Sharing Agreement, ownership of all Capital Improvements revert to the DVA, subject to any obligation the DVA may have to compensate the Sharing Partner for the unamortized value of such Capital Improvements as provided elsewhere in this Sharing Agreement.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex*

*Agreement Number V69IS-17I*

*Page 9 of 30*

2. Brentwood School shall comply with all applicable laws, ordinances, and regulations of the State, County, and Municipality wherein the Shared Property is located, with regard to sanitation, licenses and permits to conduct such recreational activities and other matters.
3. The DVA reserves the right to enter upon the Shared Property at any time for the purpose of inspection and when otherwise deemed necessary for the protection of the interests of the DVA.
4. This Sharing Agreement requires the approval of the Brentwood Homeowner's Association and notification of the California Congressional delegation for the area.
5. Brentwood School shall provide the Capital Improvements indicated on Attachment E at its own expense. Any additional improvements to the Shared Property must be requested in writing and shall require approval of the DVA.
6. Brentwood School shall make every effort to increase public awareness of the DVA's role in making the premises available to the Brentwood School. Brentwood School will develop an information board at the Athletic Complex to update patrons on Veterans Affairs and shall refer to the Athletic Complex in advertisements and programs as being located on the DVA grounds.
7. All other uses of the Athletic Complex, the Parking Lot, the access road and the rest of the Shared Property by Brentwood School shall be contingent upon approval by the DVA, which approval shall not be unreasonably withheld.
8. The DVA shall have the right to schedule uses of the Athletic Complex or portions thereof at mutually convenient times to be agreed upon in advance which do not interfere with Brentwood School's use of the Athletic Complex.
9. During the Period of Performance of this Enhanced Sharing Agreement, the DVA shall not enter into any filming ["location"] agreements that affect or involve the Shared Property or Brentwood School's use thereof without first obtaining Brentwood School's approval, which approval shall not be unreasonably withheld. Provided that the DVA has obtained such approval, the DVA shall not be required to share revenue generated by filming ["location"] agreements with Brentwood School.
10. Brentwood School shall be responsible for all costs associated with gas, water, and electricity consumption in connection with Brentwood School's use of the Shared Property, including the Athletic Complex and the Parking Lot. In the event that the DVA uses the Athletic Complex, the DVA will compensate Brentwood School for utilities consumed during the event. The rate will be calculated on actual consumption and not an average of service.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 10 of 30*

**General Marketing Requirements**

Brentwood School shall not use any marketing material, logo, trade name, service mark, or other materials belonging to DVA, directly or indirectly, in any form of advertising without the written consent of the DVA. Endorsements (advertising) subject to 5 C.F.R. 2635.702. The DVA reserves the right to approve/reject any/all such advertising presented by Brentwood School.

Brentwood School shall adhere to the guidelines on Attachment C, "Sign Posting for Special Events".

**Miscellaneous Requirements:**

Brentwood School is responsible for ensuring that the following policies are strictly adhered to:

The DVA prohibits the use of the Shared Property for the purpose of carnivals (i.e., amusement rides of any kind and animal displays acts).

Brentwood School shall not allow the parking of vehicles on grass and tree areas within the Shared Property except in connection with permitted uses of the Shared Property which require parking in excess of that provided in the Parking Lot.

The DVA prohibits the carrying of firearms by any person(s) employed or hired by the Sharing Partner, other than duly sworn law enforcement personnel such as LAPD or LA County Sheriff or the duly authorized employees of a duly licensed private security firm retained by the Sharing Partner.

No pyrotechnics (explosive devices, smokescreens, etc.) will be permitted on the Shared Property without prior written approval from both the DVA and the Los Angeles County Fire Department.

The sale or consumption of alcohol is strictly prohibited on the Shared Property.

Brentwood School shall be responsible for:

Complete custodial maintenance of the Athletic Complex.

Providing a written report to the DVA as to the condition of the Athletic Complex. This report will detail the overall condition of the premises. This report will be provided at intervals no less than every 3 months.

Brentwood School is an independent contractor, engaged for the sole purpose of using the Shared Property as, and performing the services, described in this Enhanced Sharing Agreement.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 11 of 30*

Brentwood School shall at all times act in good faith and in the best interests of the DVA, and shall use its best efforts and exercise all due care and sound business judgment in the use of the Shared Property and in performing its duties under this Enhanced Sharing Agreement. Brentwood School shall at all times comply with DVA policies, procedures and directives which are set forth in Attachments C, F, G, H and I to this Enhanced Sharing Agreement and are incorporated by reference and made part of this Agreement.

**Parking:**

For evening/weekend events at the Brentwood Athletic Complex, Brentwood School will utilize the Parking Lot only, unless the event generates more parking than can be accommodated in the Parking Lot.

**Personnel**

**Key Personnel**

The following key personnel are essential to the proper performance of Brentwood School's obligations under this Agreement ("Key Personnel") and shall perform the roles specified below:

- 1. Don Winter, (Title), Assistant Headmaster, Business Affairs
- 2. Pat Brown, (Title), Director of Athletics
- 3. Nelson Jovel, (Title), Manager of Facilities Maintenance
- 4. \_\_\_\_\_, (Title), \_\_\_\_\_

Brentwood School agrees to make the Key Personnel available as long as Brentwood School employs such persons. Prior to diverting or reassigning any Key Personnel to any other projects, Brentwood School shall notify the CO in writing at least fourteen (14) days in advance and shall submit the name of the proposed substitute individual with a description of his/her educational and professional background.

**DVA Personnel**

DVA "COTR". The term "COTR" (Contracting Officer Technical Representative) means the person designated in writing by the CO to represent the DVA for the purpose of monitoring technical performance under this Enhanced Sharing Agreement. The "COTR" is not authorized to issue any instructions or directions which effect any increase or decrease in the rent due under this Enhanced Sharing Agreement or which changes the Period of Performance.

DVA Contracting Officer. The term "Contracting Officer" means a person with DVA-delegated authority to enter into, modify, administer, and terminate contracts and orders.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 12 of 30*  
**Representations**

Representations of Brentwood School.

Brentwood School represents as follows:

1. The execution, delivery and performance of this Enhanced Sharing Agreement have been duly authorized by all necessary corporate action of Brentwood School.
2. Brentwood School currently possesses all necessary licenses, permits and approvals required to execute, deliver and perform its duties under this Enhanced Sharing Agreement and is qualified to do business in all jurisdictions where such qualification is required for Brentwood School's performance of its obligations under this Enhanced Sharing Agreement.
3. At the time of execution of this Enhanced Sharing Agreement, there has been no change in any of the Certifications Brentwood School submitted to the DVA with its proposal. Brentwood School agrees to notify the CO immediately, in writing, of any changes to Brentwood School's Certifications.

**Exercise of Option**

If either party desires to exercise the option to extend the Period of Performance, it shall notify the other party, in writing, of its intent on or before the first day of May of the year in which the initial (and subsequent, if any) Period of Performance will expire. Unless both parties desire to exercise said option, this Enhanced Sharing Agreement shall terminate at the end of the applicable Period of Performance. If such termination occurs solely because the DVA does not desire to exercise said option, then concurrently with such termination, the DVA shall pay to Brentwood School the unamortized value of the Capital Improvements in accordance with the amortization schedule set forth in Attachment K to this Enhanced Sharing Agreement.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 13 of 30*

**Attachment Schedule**

Attachment A: Intentionally omitted.

Attachment B: Shared Property Legal Description

Attachment C: Signage Policy

Attachment D: Area Map

Attachment E: Schedule of Capital Improvements

Attachment F: Additional Clauses

Attachment G: Equal Opportunity (52.222-26)

Attachment H: Liability Information

Attachment I: Disputes Clause

Attachment J: Rent Schedule

Attachment K: Capital Improvement Amortization Schedule

Attachment L: Conceptual Plan

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 14 of 30*

**Attachment A**

**Proposed Equipment/Accessories**

[Intentionally omitted.]

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 15 of 30*

**Attachment B**

**Shared Property Legal Description**

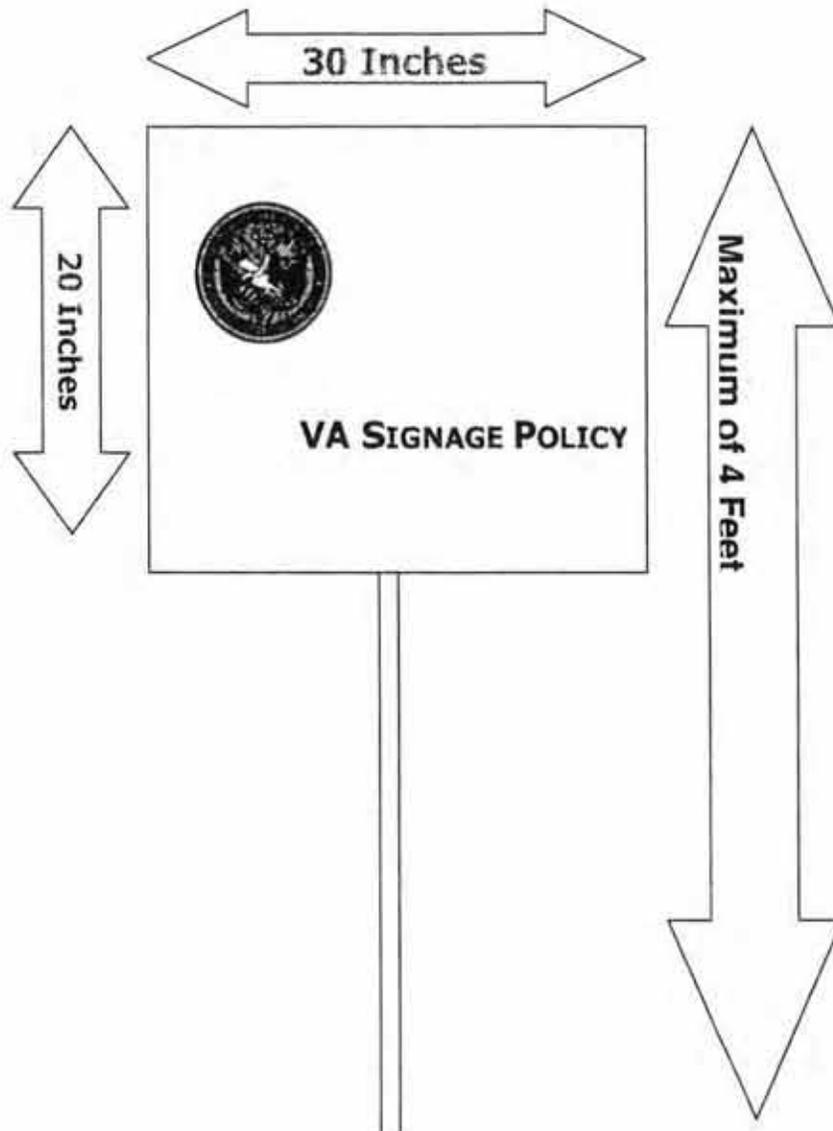
That portion of the 235.5 acres tract of land conveyed to The National Home for Disabled Volunteer Soldiers, by deed recorded in Book 1368, page 163 of Deeds, in the Rancho San Vicente, in the County of Los Angeles, State of California, described as follows:

[To be prepared by the VA]

Contains \_\_ acres.

## Attachment C

### Sign Posting for Special Events



Signage indicating events or directions will be constructed of 20' X 30' foam core or poster board mounted on four (4) foot wooden or metal stakes using staples, nails or ties, (nylon or wire twist).

Event signage will flank any existing VA sign by at least 24 inches.

Never place event signage ON or in front of any existing VA signs!

**Attachment D**

Area Map

**ATTACHMENT E**

**CAPITAL IMPROVEMENTS SCHEDULE**

Development on the Shared Property of the Capital Improvements is estimated to cost approximately \$2,500,000.

When actual costs are known, a new Attachment E will be prepared and substituted for this Schedule.

**ATTACHMENT F  
ADDITIONAL CLAUSES**

The parties hereto for the consideration hereinafter mentioned do covenant and agree as follows:

1. That the use and occupancy of the Shared Property shall be subject to the general supervision and approval of the CO and to such reasonable rules and regulations as may be prescribed by him/her from time to time.
2. That the Sharing Partner shall have up to sixty (60) days from the effective date of this Enhanced Sharing Agreement (the "Contingency Date") in which to conduct due diligence and inspect the Shared Property in order to determine (i) if the Shared Property can feasibly be utilized for the uses contemplated in the Conceptual Plan and (ii) whether the Athletic Complex, Parking Lot and relocated access road can in fact be constructed on the Shared Property at a reasonable cost. Sharing Partner shall notify the CO of its determinations in this regard in writing on or before the Contingency Date. Sharing Partner's failure to so notify the CO shall be deemed to be a disapproval resulting in the automatic cancellation of this Enhanced Sharing Agreement. However, assuming the Sharing Partner decides to proceed, the Sharing Partner shall be deemed to have inspected and known the condition of the Shared Property, and understands that the same is hereby shared without any representations or warranty by the Government whatsoever and without obligation on the part of the Government to make any alterations, repairs, or additions thereto, prior to occupancy by Sharing Partner.
3. That no permanent alterations or improvements shall be made to the Shared Property by the Sharing Partner (other than listed in Attachment E) without the prior written consent of the CO, which consent shall not be unreasonably withheld.
4. That the Sharing Partner shall comply with all applicable laws, ordinances and regulations of the State, County and municipality wherein the Shared Property is located, with regard to construction, sanitation, licenses or permits to do business and all other matters.
5. That the right is hereby reserved to the DVA, its officers, agents, and employees to enter upon the Shared Property at any time with reasonable advance notice, except in case of an emergency, for the purpose of inspection and inventory and when otherwise deemed necessary for the protection of the interests of the DVA, and the Sharing Partner shall have no claim of any character on account thereof against the DVA or any officer, agent or employee thereof.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 19 of 30*

6. That the Sharing Partner shall be responsible for the cost of all utilities, repairs, and maintenance associated with its use of the Shared Property. The DVA shall provide the Sharing Partner with information regarding the appropriate points of connection for all utility systems. These points of connection shall be, in all cases, located on DVA property. The Sharing Partner shall be responsible for all costs associated with the installation of the utility system connections on DVA property. The Sharing Partner shall be responsible for the maintenance and any required inspections associated with the maintenance and operation and those portions of the utility systems that are located on the Shared Property. The Sharing Partner must also install and maintain metering for all installed utility systems. The DVA shall be responsible for providing and maintaining all utilities, which the Sharing Partner connects to the Shared Property.
7. That the Sharing Partner shall neither transfer nor assign this Enhanced Sharing Agreement or any property on the Shared Property, nor sublet the Shared Property or any part thereof, or any property thereon, nor grant any privilege whatsoever in connection with this Enhanced Sharing Agreement, without submitting a request in writing 30 days in advance, for approval by the CO. The terms of this paragraph shall not apply to contracts with third parties in connection with Sharing Partner use and management of the Shared Property.
8. That in the event the DVA terminates this Enhanced Sharing Agreement, prior to the date of expiration thereof, an equitable adjustment in the rent, utilities or services paid or thereafter to be paid under this Enhanced Sharing Agreement shall be made, in addition to any other obligations of the DVA required hereunder.
9. That if the Shared Property is destroyed by fire or other casualty so as to render the Shared Property untenable, Sharing Partner may terminate this Enhanced Sharing Agreement in its entirety by serving written notice upon the VA within thirty (30) days or in part, by supplemental agreement hereto, if approved by the CO.
10. That any property of the DVA damaged or destroyed by the Sharing Partner incident to the Sharing Partner's use and occupation of the Shared Property shall be promptly repaired or replaced by the Sharing Partner to the satisfaction of the CO or, in lieu of such repair or replacement, the Sharing Partner shall, if so required by the DVA, pay to the DVA money in an amount sufficient to compensate for the loss sustained by the DVA by reason of damages to or destruction of DVA property. The Sharing Partner shall make all payments payable to VA GREATER LOS ANGELES HEALTHCARE SYSTEM, WEST LOS ANGELES AGENT CASHIER. Payment(s) shall be in the form of a certified or cashier's check, bank draft, US Post Office money order or US currency and delivered to VA Greater Los Angeles Healthcare System, West Los Angeles; Attention: Agent Cashier, 11301 Wilshire Blvd., Bldg. 500, Los Angeles, CA 90073.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 20 of 30*

11. That the Sharing Partner shall cut no timber, conduct no mining or drilling operations, remove no sand, gravel, or similar substances from the ground, except in the exercise of mineral rights theretofore reserved to the record owner thereof, commit no waste of any kind, or in any manner substantially change the contour or condition of the Shared Property, except changes required in connection with the development of the Athletic Complex, the Parking Lot and the relocated access road or in carrying out soil and water conservation measures.
  
12. That, on or before the date of expiration of this Enhanced Sharing Agreement, or its termination by the Sharing Partner or by the DVA, the Sharing Partner shall vacate the Shared Property and remove the personal property of the Sharing Partner therefrom.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 21 of 30*

13. That no member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Enhanced Sharing Agreement or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, if the Enhanced Sharing Agreement be for the general benefit of such corporation or company.
14. That the Sharing Partner warrants that no person or selling agency has been employed or retained to solicit or secure this Enhanced Sharing Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the DVA shall have the right to annul this Enhanced Sharing Agreement without liability or in its discretion to require the Sharing Partner to pay, in addition to the Enhanced Sharing Agreement rental or consideration, the full amount of such commission, percentage, brokerage or contingent fee.
15. If this Enhanced Sharing Agreement has been negotiated without advertising, the Sharing Partner agrees that the Comptroller General of the United States, the Administrator of Veterans Affairs or any of their duly authorized representatives shall, until expiration of three years after final payment under this Enhanced Sharing Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of this Enhanced Sharing Agreement involving transactions related to this Enhanced Sharing Agreement.
16. The Sharing Partner further agrees to include in all his subcontracts hereunder, if any, a provision to the effect that the subcontractor agrees that the Comptroller General of the United States, the Administrator of Veterans Affairs, or their representatives shall, until the expiration of three years after final payment under this Enhanced Sharing Agreement with the DVA, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor involving transactions related to the subcontract.
17. That the Sharing Partner shall pay to the proper authority, when and as the same become due and payable, all taxes, assessments and similar charges, which at any time during the term of this Enhanced Sharing Agreement, may be taxed, assessed or imposed upon the DVA or upon the Sharing Partner with respect to or upon the Shared Property. In the event any taxes, assessments, or similar charges are imposed with the consent of the Congress upon property owned by the Government and included in this Enhanced Sharing Agreement (as opposed to the interest of the Sharing Partner in said property), this Enhanced Sharing Agreement shall be renegotiated so as to accomplish an equitable reduction in the rental provided above, which shall not be greater than the difference between the amount of such taxes, assessments or similar charges which were imposed upon such Sharing Partner with respect to its interest in the Shared Property as a result of

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 22 of 30*

this Enhanced Sharing Agreement prior to the granting of such consent by the Congress; provided that in the event that the parties thereto are unable to agree within 90 days from the date of the imposition of such taxes, assessment or similar charges on a rental which in the opinion of the CO, constitutes a reasonable return to the Government on the Shared Property, then in such event, the CO shall have the right to determine the amount of the rental, which determination shall be binding on the Sharing Partner subject to appeal.

18. Contract Disputes Clause: this Enhanced Sharing Agreement shall be subject to the Contract Disputes Clause attached hereto and made a part hereof as Attachment I.
19. Any activity, program or use made of the Shared Property by the Sharing Partner will be in compliance with the provisions of Federal Acquisition Regulation Section 52.222-26, Equal Opportunity, a copy of which is attached hereto as Attachment G, and made part hereof.
20. This Enhanced Sharing Agreement is not subject to the reporting requirements of 38 U.S. Code 5022(a)(2)(A).
21. In the event of a conflict between terms of the Attachments and the provisions of this Enhanced Sharing Agreement, the terms of the Attachments shall control.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 23 of 30*

**ATTACHMENT G  
EQUAL OPPORTUNITY (52.222-26)**

If, during any 12-month period (including the 12 months preceding the award of this Contract), the Contractor has been or is awarded nonexempt Federal Contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

During performing this Contract, the Contractor agrees as follows:

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.

The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or natural origin. This shall include, but not be limited to (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) election for training, including apprenticeship.

The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

The Contractor shall furnish to the contracting agency all information required by the Executive Order 11246, as amended, and by the rules, regulations and orders of the Secretary of Labor. Standard Form 100 (Eeo-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 24 of 30*

The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations and orders.

If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules regulations, and orders of the secretary of labor, or as otherwise provided by law.

The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontract or vendor.

The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interest of the United States.

Notwithstanding any other clause in this Contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60.1.1.

**ATTACHMENT H  
LIABILITY INFORMATION**

1. That the use and occupancy of the Shared Property shall be subject to the general supervision and approval of the DVA Medical Center Director and to such rules and regulations as may be prescribed by him/her from time to time, provided that such rules and regulations do not interfere with the purpose for which this Enhanced Sharing Agreement is granted. However, at no time will the Sharing Partner conduct any activity or event that is deemed adverse to the interests of the United States Government (the "Government") or to the mission and program responsibilities of the DVA. Disputes to what rules and regulations constitute interference with use and occupancy of the Shared Property shall be subject to Contract Disputes Clause 52.233-1.
2. That the Sharing Partner shall obtain and keep in force and effect Public Liability Insurance coverage in the amount of \$1,000,000 to protect the Government from property damage and bodily injury claims arising out of use of the property by the Sharing Partner, except those property damage and injury claims arising out of the negligent acts of the Government, its employees, patients, invitees, agents and/or contractor.
3. That the Government shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupancy of the Shared Property, or for damages to property of the Sharing Partner or for injuries to the person of the Sharing Partner (if an individual), or for damages to the property or injuries to the person of Sharing Partner's officers, agents, servants or employees or others who may be on the Shared Property at their invitation or the invitation of anyone of them arising from Governmental activities, save and except that such provisions shall not apply to damage to property or injuries to persons that result from or is caused by the negligent or intentional acts or omissions of the Government. The Sharing Partner shall indemnify and hold the Government harmless from any and all claims resulting from the negligent acts or omissions of the Sharing Partner, its officers, agents, students, employees, guests or invitees other than those who are DVA employees, patients and necessary attendants of guests. The Sharing Partner's indemnification of the Government, however, shall only apply in proportion to and to the extent of such acts or omissions.

**ATTACHMENT I  
DISPUTES (52.233-1)**

This Contract is subject to the Contract Disputes Act of 1978, as amended (4) U.S.C. 601-613.

Except as provided in the Act, all disputes arising under or relating to this Contract shall be resolved under this clause.

“Claim”, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by Brentwood School (hereinafter referred to as the “Contractor”) seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

A claim by the Contractor shall be made in writing and submitted to the CO for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the CO.

Contractor shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim, exceeding \$50,000; or regardless of the amount claimed, when using arbitration conducted pursuant to 5 U.S.C. 575-580; or any other alternative means of Dispute Resolution (ADR) technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).

The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

The certification shall state as follows: “I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief, that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.”

*Enhanced Sharing Agreement*

*Brentwood Athletic Complex  
Agreement Number V691S-171  
Page 27 of 30*

The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

For Contractor claims of \$50,000 or less, the CO must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the CO must within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

The CO's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

At the time a claim by the contractor is submitted to the CO or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use ADR. When using arbitration pursuant to 5 U.S.C. 575-580 or when using any other ADR technique that the agency elects to handle in accordance with the ADRA, any claim, regardless of amount, shall be accompanied by the certification described in subparagraph (d)(2)(iii) of this clause and executed in accordance with subparagraph (d) (3) of this clause.

The Government shall pay interest on the amount found due and unpaid from (1) the date the CO receives the claim (certified, if required); or (2) the date the payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the CO initially receives the claim. Simple interest in claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the CO received the claim and then at the rate applicable for each 6 month period as fixed by the Treasury Secretary during the pendency of the claim.

The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any request for relief, claim appeal or action arising under the Contract, and comply with any decision of the CO.

**ATTACHMENT J  
RENT SCHEDULE**

Rent shall be \$150,000 for the first year of the first ten (10)-year Period of Performance, payable on the Contingency Date, and shall be \$300,000 per year for the next four (4) years of the first ten (10)-year Period of Performance, payable at the rate of \$25,000 per month. Thereafter, the annual rent for the next five (5) years of the first ten (10)-year Period of Performance shall be increased by an amount equal to the percentage increase in the Consumer Price Index for Los Angeles County from the Contingency Date to the date of recomputation. The amount of annual rent shall be adjusted in the same fashion at the end of each five (5)-year period during the effectiveness of this Enhanced Sharing Agreement.

**ATTACHMENT K  
CAPITAL IMPROVEMENT AMORTIZATION SCHEDULE**

The actual costs of the Capital Improvements will be amortized at an annual rate of 1/10th of such actual costs per year for each of the first five (5) years after completion of the construction thereof and thereafter at an annual rate of 1/30th of such actual costs. The costs of the Capital Improvements shall include all costs of survey, grading, construction, fees, and related work comprising the cost of developing and improving the Shared Property.

**ATTACHMENT L  
CONCEPTUAL PLAN**



**AMENDMENT TO ENHANCED SHARING AGREEMENT  
BRENTWOOD ATHLETIC COMPLEX AGREEMENT NO. V691S-171**

This Amendment amends certain provisions of the above-referenced Enhanced Health Care Resources Sharing Agreement ("Sharing Agreement") by and between Brentwood School, a California non profit corporation, as the "Sharing Partner" and the VA Greater Los Angeles Healthcare System, West Los Angeles (hereinafter "VA"), as follows:

1. Paragraph 1.A. of the Agreement is hereby amended to read as follows:

"A. Parties: Brentwood School, a California non profit corporation, as Sharing Partner and the VA Greater Los Angeles Healthcare System, West Los Angeles ("VA")."
  
2. Paragraph 1.D. of the Agreement is hereby amended to read as follows:

"D. Pricing and Payment Terms: In accordance with the Payment Schedule attached hereto as Attachment J.

Payments hereunder shall commence upon the Contingency Date. All payments will be paid in advance, due on the 1<sup>st</sup> of each month and will be considered late if not paid by the 10<sup>th</sup>."
  
3. Paragraph 1.E. of the Agreement is hereby amended to read as follows:

"E. Payment: The Sharing Partner shall make all payments payable to VA GREATER LOS ANGELES HEALTHCARE SYSTEM, WEST LOS ANGELES AGENT CASHIER, and shall submit the initial payment as mutually negotiated and agreed following full execution of this Contract. Payment(s) shall be in the form of a certified or cashier's check, bank draft, US Post Office money order or US currency and delivered to VA Greater Los Angeles Healthcare System, West Los Angeles: Attention: Agent Cashier, 11301 Wilshire Blvd., Bldg. 500, Los Angeles, CA 90073."

4. Paragraph 1.1.2.a. of the Agreement is hereby amended to read as follows:
  - "a. The DVA is to be covered as an additional insured as respects: liability arising out of activities performed by or on behalf of the Sharing Partner; products and completed operations of the Sharing Partner; and premises owned or used by the Sharing Partner. The coverage shall contain no specific limitations on the scope of protection afforded to DVA."
  
5. Paragraph 1.1.2.b. of the Agreement is amended to read as follows:
  - "b. Sharing Partner's insurance coverage shall be primary insurance as respects the DVA. Any insurance or self-insurance maintained by the DVA shall be in excess of Sharing Partner's insurance and shall not contribute to it."
  
6. Paragraph 1.1.3 of the Agreement is amended to read as follows:
  - "3. Waiver of Subrogation (For Workers Compensation Coverage Only)  
  
The insurer shall agree to waive all rights of subrogation against the DVA for losses arising from activities and operations of Sharing Partner in the performance of services under this Sharing Agreement."

7. Paragraph 2.B of the Agreement is amended to read as follows:

"B. Termination. Either party may terminate this Contract for convenience by giving the other party prior written notice thereof on or before the first day of May during any year during the Period of Performance. In the event of termination, the Sharing Partner shall be responsible for all payments due to the VA hereunder prior to the effective date of termination. The effective date of termination shall be the end of the school year (i.e., the Monday following the date of graduation ceremonies) following the date of receipt of notification of termination for convenience hereunder; provided that if the party giving said notice of termination is the VA and said date of receipt of notification is between May 1 and the end of the school year following said May 1, the effective date of termination shall be the end of the following school year (e.g., if the date of receipt of notice is May 15, 2002, the effective date of termination shall be the end of the school year 2003; if the date of receipt of notice is April 30, 2002, the effective date of termination shall be the end of the school year in 2002). In the event that this termination clause is exercised, each party will bear its own costs associated with the termination and will not seek damages or compensation from the other party caused by the termination, excluding payments owed to VA by Brentwood School for use of the space up until Brentwood School vacates the property, except that in the case of a termination by the VA (other than as provided in subparagraphs (i) or (ii) below), Sharing Partner shall be entitled to receive from the VA concurrently with such termination the unamortized value of the capital improvements made by the Sharing Partner to the Shared Property (the "Capital Improvements") in accordance with the amortization schedule set forth in Attachment K to this Sharing Agreement; subject to the availability of funds. It is the intent of the parties that this clause shall not violate 13 U.S.C. '1341. Should Brentwood School terminate the agreement, VA will not be held liable by Brentwood School for the unamortized value of the capital improvements set forth in Attachment K to this Sharing Agreement.

- (i) Termination for cause. The VA may terminate this Contract, or any part thereto, for cause in the event of a material default by the Sharing Partner which is not cured within 90 days of receipt from the VA of written notification of any such default. If any such default cannot practically be cured within said 90 day period, it shall be deemed cured if during said 90 day period the Sharing Partner gives the VA written assurances that said default will be cured and Sharing Partner commences to cure said default during said 90 day period and proceeds in good faith to complete said cure. A material default shall include any failure by the Sharing Partner to make payments as required hereunder or any failure or refusal by the Sharing Partner to follow VA regulations or reasonable instructions from the Contracting Officer concerning the use of space. In the event of termination for cause, the VA shall not be liable to the Sharing Partner for any payments pursuant to the amortization schedule set forth in Attachment K to this Sharing Agreement. If it is determined that the VA improperly terminated this Contract for default, such termination shall be deemed a termination for convenience subject to the provisions of this Paragraph 2.B above. Upon termination for cause, Brentwood School shall vacate the property immediately.
  - (ii) The DVA reserves the right to unilaterally terminate this Agreement immediately if Sharing Partner has caused Government owned assets or the public to be endangered."
8. Paragraph 2.H of the Agreement is hereby deleted.
9. Paragraph 2.J is to be added to the Agreement to read as follows:

"J. This Agreement includes the Requirements and Scope of Work and the following attachments hereto:

- ! Attachment A: VA Provided Property: Attachment "A" shall state that VA shall not furnish any equipment or accessories to Brentwood School.
- ! Attachment B: Shared Property Legal Description
- ! Attachment C: Signage Policy
- ! Attachment D: Area Map
- ! Attachment E: Schedule of Capital Improvements
- ! Attachment F: Additional Clauses
- ! Attachment G: Attachment Deleted
- ! Attachment H: Liability Information
- ! Attachment I: Attachment Deleted
- ! Attachment J: Rent Schedule
- ! Attachment K: Capital Improvement Amortization Schedule
- ! Attachment L: Conceptual Plan

The parties agree that said Requirements and Scope of Work and said Attachments A through L are to be initialed by the parties and are incorporated herein and by this reference made a part of this Agreement."

10. The last sentence under *Exercise of Option* on page 12 of the Agreement is hereby amended to read as follows:

"If such termination occurs solely because the DVA does not desire to exercise said Option, then concurrently with such termination, subject to availability of funds the DVA shall pay to the Sharing Partner the unamortized value of the Capital Improvements in accordance with the amortization schedule set forth in Attachment K to this Enhanced Sharing Agreement. It is the intent of the parties that this clause shall not violate 13 U.S.C. ' 1341."

11. Paragraph 2 of Attachment F is hereby amended by adding at the end thereof the following:

"The parties agree that the Contingency Date shall be June 20, 2000. The parties have further agreed as follows:

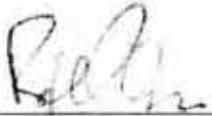
- A. VA has conducted an environmental site assessment of the Shared Property and, based upon this investigation, has determined that the Shared Property appears to comply with the requirements of all applicable environmental laws and regulations.
  - B. VA, without expense to the Sharing Partner, will have qualified personnel present as appropriate on the Shared Property during grading by the Shared Partner to observe the grading activities for the potential presence of hazardous materials on the property. If such materials are encountered, the parties will consult and mutually agree as to how the materials will be evaluated. If it is agreed that soil borings are appropriate, VA will consult with the Sharing Partner regarding the appropriate number, distribution, and depth for such borings and the contaminants to be analyzed for before proceeding with such activities. For the purposes of this agreement, hazardous materials shall be considered the same as those materials defined as such pursuant to applicable statute and regulation.
  - C. Since this agreement does not transfer an interest in real property to the Sharing Partner and all real property interests regarding the Shared Property remain with VA, should hazardous materials be discovered in the Shared Property, VA shall take appropriate action with respect to such materials pursuant to the requirements of applicable laws and regulations. If it is determined that VA has clean up responsibilities for hazardous materials, such responsibilities shall not exceed the requirements of applicable laws and regulations. The obligations of the Sharing Partner to make payments hereunder shall be suspended during any period when the Sharing Partner is unable to use the Shared Property as a result of the presence of hazardous materials.
12. Paragraphs 13, 15 and 16 of Attachment F are hereby deleted in their entirety.
  13. The last sentence of Attachment F, paragraph 17, starting with "In the event any taxes and ending with "shall be binding on the Sharing Partner subject to appeal" is hereby deleted.

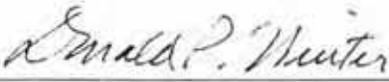
14. The last sentence of Attachment F, paragraph 7, "The terms of this paragraph shall not apply to contracts with third parties in connection with Sharing Partner use and management of the Shared Property" is hereby deleted.
15. Attachment G is hereby deleted in its entirety and the following shall be substituted therefor:  
  
"The Sharing Partner shall not discriminate against any contractor or employee working for the Sharing Partner on the Shared Property because of race, color, religion, sex, or national origin."
16. Paragraph 4 shall be added to Attachment H to read as follows:  
  
"4. In the event of any inconsistencies between the terms of this Attachment H and Paragraph 1.I of the Agreement above relating to insurance, the provisions of Paragraph 1.I shall prevail and supercede the provisions of this Attachment H."
17. Attachment I to the Agreement is hereby deleted in its entirety.
18. Attachment J to the Agreement is hereby amended to read as follows:  
  
"Payment for the first year of use of the Shared Property shall be \$150,000, payable on the Contingency Date. Thereafter, Sharing Partner shall make payments for use of the Shared Property in the amount of \$300,000 per year for the next 4 years of the first 10 year Period of Performance, payable at the rate of \$25,000 per month commencing June 1, 2001. Thereafter, the annual payments for the next 5 years of the first 10 year Period of Performance shall be increased by an amount equal to the percentage increases in the Consumer Price Index for Los Angeles County from June 1, 2000 to the date of recomputation. The amount of annual payments shall thereafter be adjusted in the same fashion at the end of each 5 year period during the effectiveness of this Enhanced Sharing Agreement."
19. Attachment K is hereby amended by adding at the end thereof the following:  
  
It is hereby agreed that for purposes of this Attachment K, the cost of Capital Improvements shall not exceed \$4.5 Million or the actual cost of the construction whichever is less. Sharing Partner shall submit to the DVA the final construction contract price for review and incorporation into the Agreement as the "Capital Improvement" cap.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date(s) indicated below.

United States of America  
Department of Veterans Affairs  
VA Greater Los Angeles Healthcare System, WLA

Sharing Partner:  
Brentwood School

By:   
Ralph D. Tillman  
Chief, Construction Contracting

By:   
Donald P. Winter  
Assistant Headmaster

0/27 00  
Date

6/20/00  
Date



DEPARTMENT OF VETERANS AFFAIRS  
Greater Los Angeles Healthcare System  
11301 Wilshire Boulevard  
Los Angeles, CA 90073

*Mailed 5/14/10*

May 13, 2010

In Reply Refer To: 691/10A5

Mr. Rick Torkelson  
Director of Operations  
Business Affairs  
100 South Barrington Place  
Los Angeles, CA 90049

Dear Mr. Torkelson,

This letter serves to inform you that VA Greater Los Angeles Healthcare System (VA GLAHS) has approved your March 1, 2010 request to exercise the option to extend Enhanced Sharing Agreement V691S-171 for an additional ten (10) years, with an effective date of June 20, 2010, and a termination date of June 19, 2020.

Additionally, per the Agreement, VA GLAHS must revise the fee schedule for each five-year period based on the Consumer Price Index (CPI). Per the United States Bureau of Labor Statistics (BLS), the CPI for Urban Consumers for the past 12 months is 2.3. Therefore, for the first five-year period of this ten-year option, which lasts until June 19, 2015, the monthly facility fee due to VA GLAHS by Brentwood School will be \$31,969.00, which is the previous monthly rate of \$31,250.00 multiplied by the current CPI rate of 2.3%. For the month of June, 2010, the invoice will be pro-rated to reflect the new rental rate that will go into effect on June 20, 2010.

All terms, conditions and regulations shall remain in force and are part of this extension period of ten (10) years. If you have any questions, please feel free to contact Jeffrey Blake at our Asset Management office at (310) [REDACTED]

Sincerely,

Ralph D. Tillman  
Chief of Communications & External Affairs

Bakersfield Community  
Based Outpatient Clinic  
1801 Westwind Drive  
Bakersfield, CA 93301  
(661) 632-1800

Los Angeles Ambulatory  
Care Center  
351 E. Temple Street  
Los Angeles, CA 90012  
(213) 253-2677

Santa Barbara Community  
Based Outpatient Clinic  
4440 Calle Real  
Santa Barbara, CA 93110  
(805) 683-1491

Sepulveda Ambulatory Care  
Center and Nursing Home  
16111 Plummer Street  
North Hills, CA 91343  
(818) 891-7711

West Los Angeles  
Healthcare Center  
11301 Wilshire Boulevard  
Los Angeles, CA 90073  
(310) 478-3711



Michael D. Pratt, Ph.D., *Head of School*

March 1, 2010

Mr. Ralph D. Tillman  
Chief of External Affairs  
V.A. Greater Los Angeles Healthcare System  
11301 Wilshire Blvd.  
Building 220  
Los Angeles, CA 90073

Re: Exercise of Option  
Brentwood School Athletics Complex  
Agreement No.: V6915-171

Dear Ralph:

The purpose of this letter, when counter-signed by you or another authorized representative of the Department of Veterans Affairs, is to extend the Period of Performance outlined on page 12 of the Enhanced Sharing Agreement executed August 4, 1999 by the Department of Veterans Affairs and Brentwood School. This extension will cover a period of 10 years starting in June, 2010 through June, 2020.

Sincerely,

Michael D. Pratt, Ph.D.

AGREED TO AND ACCEPTED:

United States of America  
Department of Veterans Affairs  
VA Greater Los Angeles Healthcare System, WLA

Sharing Partner:  
Brentwood School

By: \_\_\_\_\_  
Ralph D. Tillman  
Chief of External Affairs

By:   
Michael D. Pratt, Ph.D.  
Head of School

\_\_\_\_\_  
Date

3/1/10  
\_\_\_\_\_  
Date

II.A.4.  
REVENUE REPORT

**VA Greater Los Angeles Healthcare System**  
**Asset Management Alternative Revenue Recurring Report**  
 January 1, 2011 to September 1, 2012

Name Account #	Type	Date	Num	Terms	Debit	Credit	Balance
							0.00
Brentwood School							31,969.00
V691S-171	Invoice	1/3/2011	K1025JX	February	31,969.00		31,969.00
V691S-171	Payment	1/27/2011	69766			31,969.00	0.00
V691S-171	Invoice	2/1/2011	K102TT6	March	31,969.00		31,969.00
V691S-171	Payment	2/22/2011	69996			31,969.00	0.00
V691S-171	Invoice	3/1/2011	K103HRY	April	31,969.00		31,969.00
V691S-171	Payment	4/1/2011	70385			31,969.00	0.00
V691S-171	Invoice	4/1/2011	K104DM9	May	31,969.00		31,969.00
V691S-171	Payment	4/22/2011	70501			31,969.00	0.00
V691S-171	Invoice	5/2/2011	K10563M	June	31,969.00		31,969.00
V691S-171	Payment	5/31/2011	70908			31,969.00	0.00
V691S-171	Invoice	6/1/2011	K105XEU	July	31,969.00		31,969.00
V691S-171	Payment	6/22/2011	71152			31,969.00	0.00
V691S-171	Invoice	7/11/2011	K106Y5A	August	31,969.00		31,969.00
V691S-171	Payment	7/27/2011	71428			31,969.00	0.00
V691S-171	Invoice	8/1/2011	K107KYW	September	31,969.00		31,969.00
V691S-171	Payment	8/25/2011	71638			31,969.00	0.00
V691S-171	Invoice	8/29/2011	K108AQG	October	31,969.00		31,969.00
V691S-171	Payment	9/13/2011	71791			31,969.00	0.00
V691S-171	Invoice	9/27/2011	K10919I		54,714.50		54,714.50
V691S-171	Payment	9/27/2011	71967			54,714.50	0.00
V691S-171	Invoice	10/4/2011	K2005XY	November	35,187.50		35,187.50
V691S-171	Payment	10/20/2011	72231			35,187.50	0.00
V691S-171	Invoice	11/1/2011	K200VIT	December	35,187.50		35,187.50
V691S-171	Payment	11/29/2011	72639			35,187.50	0.00
V691S-171	Invoice	12/1/2011	K201LKF	January	35,187.50		35,187.50
V691S-171	Payment	12/19/2011	72898			35,187.50	0.00
V691S-171	Invoice	1/3/2012	K202DA7	February	35,187.50		35,187.50
V691S-171	Payment	2/1/2012	73377			35,187.50	0.00
V691S-171	Invoice	2/1/2012	K20383B	March	35,187.50		35,187.50
V691S-171	Payment	2/23/2012	73554			35,187.50	0.00
V691S-171	Invoice	3/1/2012	K2041R1	April	35,187.50		35,187.50
V691S-171	Payment	3/27/2012	73932			35,187.50	0.00
V691S-171	Invoice	4/2/2012	K204XET	May	35,187.50		35,187.50
V691S-171	Payment	4/26/2012	74175			35,187.50	0.00
V691S-171	Invoice	5/2/2012	K205PP7	June	35,187.50		35,187.50
V691S-171	Payment	5/30/2012	74521			35,187.50	0.00
V691S-171	Invoice	6/1/2012	K206HFO	July	35,187.50		35,187.50
V691S-171	Payment	6/19/2012	74694			35,187.50	0.00
V691S-171	Invoice	7/3/2012	K207CNM	August	35,187.50		35,187.50
V691S-171	Payment	7/30/2012	75050			35,187.50	0.00
V691S-171	Invoice	8/2/2012	K2084X6	September	35,187.50		35,187.50
V691S-171	Payment	8/17/2012	75252			35,187.50	0.00
Total Brentwood School					729,498.00	729,498.00	0.00

II.B.  
RANCHO SANTA ANA  
BOTANCIAL GARDEN

II.B.1.  
PROPOSAL DOCUMENTS

Approved  
10/10/05

Greater Los Angeles Healthcare System  
**Veterans Garden**  
&  
**Rancho Santa Ana Botanical Garden**  
Facility: 691 VISN 22

March 24, 2009

This is a sharing agreement with the Rancho Santa Ana Botanical Garden (RSABG), a non-profit organization, to perform the business and financial administration of the Veterans Garden on the West Los Angeles Campus of the Veteran Administration's Greater Los Angeles Healthcare System. The need for this agreement is a result of the attached directives from VA Central Office, dated October 6, 2005.

1. **The resource to be sold/shared:**

The resource to be shared is the business and financial administration of the Veterans Garden located on the grounds of the VA Greater Los Angeles Healthcare System, 11301 Wilshire Boulevard, Los Angeles, CA 90073.

2. **Name of the sharing partner:**

Rancho Santa Ana Botanical Garden (RSABG).

3. **Term of the agreement:**

The term of the agreement is <sup>16</sup>24 months.

4. **Costing Methodology or basis of rate reimbursement:**

The expected reimbursement is solely for the labor provided through the CWT (Compensated Work Therapy) program. RSABG is responsible for all other operating costs (please see #7). The rate of reimbursement is based on the state minimum wage plus 8.5%. Reimbursement will be generated through VA General Post Fund to cover CWT payments that will be made to the veterans participating in the program. Monies will go to the General Post Fund which will be reimbursed to the CWT control point through the Medical Care Cost Recovery Fund. The number of veterans employed by this program will be determined by the amount of revenue that is generated by RSABG. The initial agreement will be to provide four (4) CWT workers. As the business progresses, two of the veterans from the pool of CWT workers will become employed by

RSABG. Ultimately, there will always be two veterans permanently employed from our pool of CWT workers participating in the program. To reiterate, there will be an initial pool of four CWT workers, which will eventually increase depending on the level of revenue generated by RSABG.

Reimbursement for labor will be ensured through a Memorandum of Understanding between the CWT program and RSABG. Therefore, all veterans employed in this program will be guaranteed reimbursement for their labor.

5. **The current market rate in the private sector for comparable space:**

Not applicable. The total value of the initial services (training and job placement) and financial reimbursements to the veteran population provided by RSABG should be approximately \$130,000 per year. This amount exceeds the market rate for leasing property of comparable space in the local community.

6. **Net usable square footage being shared:**

12 acres

7. **Will the proposal cover all operating costs?**

Yes. RSABG will cover all operating costs to include any advertising, products, equipment, supplies and any related maintenance and utilities. Any maintenance that needs to be done in order to get the space up to code for use by RSABG will be the financial responsibility of RSABG.

8. **Are we charging market rate for the space?**

While we are not charging for the space, the reimbursement by RSABG for CWT labor alone will most likely provide us with a fair market value for this space. In addition to the reimbursement for labor, RSABG will provide valuable services to veterans participating in this program by providing them with training in specialized horticulture and assistance in placing veterans in competitive employment through networking efforts between RSABG and other local Nurseries within the community (see #5).

9. **What are the annual operating costs (utilities & maintenance) for this space?**

At the present time, this program has been managed by CWT and on average, annual operating costs have exceeded \$30,000/year.