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2018000255183 9:38 am 07/12/18

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DECLARATION OF COVENANTS, CONDITIONS

AND RESTRICTIONS

FOR

ADVANCED TECHNOLOGY & EDUCATION PARK

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EXHIBIT A – Legal Description of the Land

EXHIBIT B – Legal Description of the Covered Property

EXHIBIT C – Project Common Area

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ADVANCED TECHNOLOGY & EDUCATION PARK**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ADVANCED TECHNOLOGY & EDUCATION PARK (this “*Declaration*”) is made as of this 9th day of July, 2018 (the “*Effective Date*”) by SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT, a public agency (“*Declarant*”). This Declaration is made with reference to the facts set forth in the following Preamble. All capitalized terms set forth in the Preamble and not otherwise defined therein shall have the meaning set forth in Article I below.

P R E A M B L E

A. Declarant is the owner of fee title, a subleasehold interest or other interest in certain real property located in the City of Tustin, County of Orange, State of California as more particularly described in Exhibit A attached hereto (the “*Land*”) on which Declarant intends to establish an integrated mixed-use development consisting of both educational and commercial uses known as the “Advanced Technology & Education Park” or “ATEP.”

B. Declarant desires that all of the Land now or hereafter included within the Project shall be occupied, used and maintained in accordance with the provisions of this Declaration.

C. Declarant intends that the Project is and shall continue to be held, conveyed, encumbered, leased, used and improved subject to the limits, restrictions, reservations, rights, easements, conditions and covenants in this Declaration in furtherance of a general plan for the operation, protection and maintenance of the Project as more particularly set forth in Section 12.1 below. Notwithstanding the foregoing, Declarant does not intend that the Project shall be deemed a “common interest development” within the meaning of the California Commercial and Industrial Common Interest Development Act unless and until the occurrence of the “*Transfer Date*” pursuant to Section 11.4.1 below.

**ARTICLE I
DEFINITIONS AND INTERPRETATION**

1.1 DEFINITIONS. Unless otherwise expressly provided, the following words and phrases when used in this Declaration have the following meanings.

1.1.1 Adjustment Threshold. For purposes of determining the maximum amount the Annual Budget for Common Expenses for any fiscal year may be increased over the prior fiscal year without Majority Approval, an amount equal to six percent (6%) of the total amount of the Common Expenses actually incurred by the Project Operator in the prior year.

1.1.2 Allocable Share. That portion (expressed as a percentage) of the Project Expenses to be allocated to each Project Occupant pursuant to Section 5.2.2 below.

1.1.3 Annexation Declaration. A Supplemental Declaration recorded pursuant to Section 11.3 below to annex additional real property into the Covered Property.

1.1.4 Annexed Territory. Any portion of the Land or other real property in the vicinity thereof which is made subject to this Declaration by annexation into the Covered Property pursuant to Section 11.3 below.

1.1.5 Annual Adjustment Date. July 1st of each calendar year.

1.1.6 Annual Budget. A reasonably detailed budget of the Common Expenses and other Project Expenses projected by the Project Operator to be incurred during any fiscal year in the operation of the Project, which Annual Budget shall be prepared and maintained by the Project Operator pursuant to Section 5.2.3 below.

1.1.7 Approving Authority. The Project Operator or such other employee or agent of Declarant to which Declarant or Project Operator may delegate the authority under Article IV below to review and approve Submittals and/or inspect any Premises Improvements or Premises Alterations constructed in connection therewith.

1.1.8 Asset Management Agreement. The agreement to be entered into between Declarant and the Project Operator, as amended from time to time, establishing the scope and terms of the Project Operator's authority and obligations as the agent of Declarant for purposes of fulfilling the obligations of the Project Operator as set forth therein or in this Declaration.

1.1.9 Assessments. Any charge levied against a Project Occupant and its Premises pursuant to Article V below, including Regular Assessments, Capital Improvement Assessments, Extraordinary Assessments, Compliance Assessments and Special Benefit Assessments.

1.1.10 Association. A California nonprofit mutual benefit corporation, a California nonprofit public benefit corporation, or an unincorporated association that satisfies the requirements of an "Association" under California Civil Code Section 6528 to which Declarant may assign and transfer all authority and obligations of the Project Operator hereunder pursuant to Section 11.4 below.

1.1.11 Association Supplemental Declaration. A Supplemental Declaration to be recorded by Declarant against the Covered Property upon transfer of the Project Operator's authority and obligations to an Association pursuant to Section 11.4 below. Such Supplemental Declaration shall set forth matters reasonably necessary and appropriate for operation of the Association and exercise of the Association's authority and performance of its obligations hereunder, as contemplated in Section 11.4.3 below.

1.1.12 Building Area. The total horizontal floor area of all floors within any Premises Improvements, including the exterior walls thereof, measured in square feet (but exclusive of trash enclosures, covered malls, roofed patio areas, parking structures or covered parking, covered driveways and covered loading areas), determined based on the then-current standard method of measurement for office buildings, as promulgated by the Building Owners

and Managers Association International (ANSI/BOMA Z65.1) or such other standards as may be reasonably selected and consistently applied by the Project Operator.

1.1.13 Capital Improvement. Any permanent structure constructed within the Project Common Area or any other improvement or fixture attached to or otherwise incorporated into any Common Maintenance Item and not easily removable without damage thereto, along with any replacements, additions or upgrades thereto. Capital Improvements may include off-site improvements required as a condition to development of the Project.

1.1.14 Capital Improvement Assessment. An Assessment imposed pursuant to Section 5.3.6 below to finance restoration, replacement or reconstruction of Common Maintenance Items or to otherwise construct or install Capital Improvements for the benefit of the Project.

1.1.15 Casualty Event. The occurrence of damage to, or destruction of, improvements or property within the Project due to fire, wind, rain, wrongful acts of third parties or other causes typically covered by property casualty insurance.

1.1.16 Central Orange County Area. The geographical area encompassed by the cities of Tustin, Irvine and Costa Mesa.

1.1.17 CID Act. The California Commercial and Industrial Common Interest Development Act (Cal. Civ. Code §6500 et. seq.).

1.1.18 City. The City of Tustin, California, and its various departments, divisions, employees and representatives.

1.1.19 Common Expenses. Recurring costs and expenses incurred by the Project Operator on behalf of Declarant in the management and operation of the Project as more particularly described in Section 5.2.1 below, which Common Expenses shall be reimbursed by, the Project Occupants on the terms set forth in Section 5.2 below.

1.1.20 Common Maintenance Item(s). Those components of the Project to be maintained by the Project Operator pursuant to Section 3.1.1 below.

1.1.21 Compliance Assessment. A charge imposed against a particular Project Occupant to recover costs incurred by the Project Operator due to violations of the Governing Documents by such Project Occupant or its Permittees or any other costs or expenses for which such Project Occupant may be responsible, as more particularly described in Section 5.3.5 below.

1.1.22 Contractor's Manual. Rules governing the conduct of construction activity within the Project promulgated by Declarant pursuant to the Conveyance Documents for each Premises prior to initial development thereof, along with any updates, amendments or supplements thereto issued by Declarant from time to time.

1.1.23 Conveyance Documents. Any ground lease, quitclaim deed or other instrument or agreement transferring a fee or ground leasehold interest or other exclusive

occupancy right in any Premises from Declarant to any Project Occupant, as well as any development covenants, conditions, restrictions or other agreements or instruments entered into between Declarant and such Project Occupant as a condition to such transfer.

1.1.24 Corrective Action. Any repair, reconstruction, maintenance, monitoring, enforcement or other action undertaken by the Project Operator (a) to cure any violation of the Governing Documents by any Project Occupant or its Permittee or to prevent, remedy or mitigate the impact thereof, or (b) otherwise required due to any actions, inactions or activities of such Project Occupant or such Project Occupant's Permittees within the Project which results in damage to any Common Maintenance Item or the need for additional maintenance or repair thereof in excess of what would otherwise be required due to normal wear and tear.

1.1.25 Covered Property. All of the real property subject to this Declaration from time to time. The Covered Property shall include that certain real property legally described in Exhibit B attached hereto, along with any additional property added to the Covered Property and made subject to this Declaration upon recordation of a Supplemental Declaration against such additional real property pursuant to Section 11.3 below.

1.1.26 CPI Index. The Consumer's Price Index - All Items, for the Los Angeles-Riverside-Orange County Area, All Urban Consumers (1982-1984 = 100). If the base year of the CPI Index is changed, then the calculation hereunder shall be made utilizing the appropriate conversion factor published by the Bureau of Labor Statistics (or successor agency) to reflect the base year of the CPI Index herein specified. If no such conversion factor is published, then the Parties shall, if possible, make the necessary calculation to achieve such conversion. If such calculation is not possible, or if publication of the CPI Index is discontinued, or if the basis of calculating the CPI Index is materially changed, the term "CPI Index" shall mean comparable statistics on the cost of living as computed by an agency of the United States Government performing a function similar to the Bureau of Labor Statistics or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result which would have been obtained using the CPI Index.

1.1.27 Declarant. South Orange County Community College District, a public agency, or any other entity to which the SOCCCD may transfer, directly or by operation of law, all or substantially all of its right, title and interest in the Project Common Area or any other party to which the Declarant named herein or any successor-in-interest thereto may assign its rights hereunder by an express assignment recorded in the Official Records.

1.1.28 Design Guidelines. Guidelines setting forth architectural standards and design requirements for all Premises Improvements and other improvements to be constructed or installed within the Project, along with submittal requirements, review procedures and other provisions relating to design review thereof.

1.1.29 Development Agreement. That certain "Development Agreement and Amended and Restated Agreement between the City of Tustin and the South Orange County Community College District for Conveyance of a Portion of MCAS Tustin and the Establishment of an Advanced Technology Educational Campus" by and between City and

Landlord dated May 22, 2013 and recorded in the Official Records on May 23, 2013 as Instrument No. 2013000312295, as amended by Amendment No. 1 thereto dated July 8, 2014 and recorded in the Official Records on July 9, 2014 as Instrument No. 2014000272537, and re-recorded in the Official Records on August 7, 2014 as Instrument No. 2014000318112, as amended from time to time.

1.1.30 Discretionary Restoration. Any repair or restoration of any Common Maintenance Item following occurrence of a Casualty Event which the Project Operator is not obligated to perform pursuant to Section 3.4.2 below but which the Project Operator, in its sole discretion, otherwise elects to perform for the benefit of the Project.

1.1.31 District Use. Any educational operations conducted by Declarant or any affiliate thereof on any portion of the Covered Property, along with any administrative uses in support of such educational operations.

1.1.32 Environmental Requirements. Any and all (i) federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of courts, ordinances, rules, codes, orders, decrees, directives, guidelines, plans, risk management plans, recorded property covenants and/or restrictions, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future relating to health, safety or the environment or to any Hazardous Substances which at any time are or otherwise become applicable to the Project, the Project Occupants or their Permittees, including without limitation, any requirements of the National Pollutant Discharge Elimination System ("NPDES") adopted pursuant to the Federal Clean Water Act and/or any best management practices described in any Storm Water Pollution Prevention Plan ("SWPPP") or Water Quality Management Plan ("WQMP") applicable to the Project and/or in the California Storm Water Best Management Practices Handbook or equivalent guidelines, as well as (ii) any environmental covenants, conditions and restrictions now or hereafter contained in the Environmental Restrictions.

1.1.33 Environmental Restrictions. The Navy Deed, the City Deed, the Second Navy Deed, the Second City Deed, any Covenant to Restrict Use of Property recorded in connection therewith (each, a the "CRUP") and any amendments, restatements or replacements thereto, as well as any other environmental covenants, conditions and restrictions now or hereafter recorded against the Covered Property or any portion thereof pursuant thereto, as amended, restated or supplemented from time to time.

1.1.34 Excess Proceeds. Any Restoration Proceeds recovered by Declarant which exceed the total amount of (i) associated Restoration Costs incurred by the Project Operator plus (ii) the cost of recovering such Restoration Proceeds.

1.1.35 Exclusive Use Area. Any portion of the Project reserved, by easement, license or otherwise, for the exclusive use of any Project Occupant or its Permittees, but located outside of the Premises transferred to the Project Occupant by lease or other Conveyance Document.

1.1.36 Extraordinary Assessment. An Assessment imposed to fund payment of any emergency costs or other unanticipated but necessary expenses pursuant to Section 5.3.7 below.

1.1.37 First Mortgage (First Mortgagee). Any deed of trust or mortgage lien recorded against any given Parcel within the Project as security for payment or performance of any obligations of the Project Occupants or Permittees thereof, but only to the extent such deed of trust or mortgage lien holds a senior or “first position” priority over all other monetary liens or encumbrances (other than tax or assessment liens) recorded against such Parcel. A “First Mortgagee” shall be the holder of a beneficial interest in such Parcel pursuant to such First Mortgage.

1.1.38 Governing Documents. This Declaration, as amended by any Supplemental Declarations thereto, as well as any Rules and Regulations issued by Declarant or the Project Operator pursuant hereto.

1.1.39 Governmental Authority. Any federal, state or local governmental or quasi-governmental body or authority having jurisdiction over the Project, including without limitation, the United States of America acting through the Department of the Navy (the “*Navy*”), the California Division of the State Architect and the City.

1.1.40 Hazardous Substances. Any hazardous or toxic substances, materials or wastes which are or become regulated by any local governmental authority, the State of California or the United States Government, including, without limitation, any material or substance which is (i) defined as “Hazardous Waste,” “Extremely Hazardous Waste” or “Restricted Hazardous Waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a “Hazardous Substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presly-Tanner Hazardous Substance Account Act), (iii) defined as a “Hazardous Material” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a “Hazardous Substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) defined as “Hazardous Waste” or “Extremely Hazardous Waste” pursuant to Article 2 of Title 22 of the California Code of Regulations, Division 4.5, Chapter 10 (viii) pesticides, (ix) polychlorinated biphenyls, (x) solvents, (xi) defined as a “Hazardous Substance” pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), (xii) defined as a “Hazardous Waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., (xiii) defined as a “Hazardous Substance” pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., (xiv) defined as a “Hazardous Substance” pursuant to Section 401.15 of the Clean Water Act, 40 C.F.R. 116, (xv) included in the list of “Extremely Hazardous Substance” issued pursuant to Section 302 of the Superfund Amendments and Reauthorizations Act of 1986, 42 U.S.C. Section 11002 et seq.

1.1.41 Hearing. A hearing before Declarant or any panel of neutral Project Occupants or independent consultants or other disinterested Persons designated by Declarant conducted in accordance with Section 10.1.3 below to hear and resolve disputes between Project Occupants or between one or more Project Occupants and the Project Operator regarding allocation of maintenance obligations or any alleged non-compliance with the provisions of the Governing Documents or violations thereof, or responsibility for such violation or non-compliance.

1.1.42 Legal Requirements. The Environmental Requirements and any other laws, rules, regulations, orders, ordinances, subdivision requirements, zoning restrictions, mitigation measures, subdivision or entitlement conditions or other requirements of the City or any other federal, state or local Governmental Authority having jurisdiction over the Project as may be applicable thereto, including without limitation any conditions, requirements or restrictions imposed under the Development Agreement or any Environmental Requirements applicable to the Project, as the same may be amended, restated, supplemented or superseded from time to time.

1.1.43 Lien Notice. A notice to be recorded by the Project Operator against any Parcel within the Covered Property or Premises located therein in accordance with Section 10.2.3 below regarding delinquent Assessments allocated to such Premises.

1.1.44 Majority Approval. The written approval of Project Occupants holding in aggregate more than fifty percent (50%) of all Allocable Shares within the Project, determined as of the first day of the calendar month in which such written approval is requested by the Project Operator.

1.1.45 Notice of Delinquent Amount. A notice issued by the Project Operator to a Project Occupant regarding any delinquent Assessments in accordance with Section 10.2.2 below.

1.1.46 Notice of Non-Compliance. A notice recorded by the Project Operator pursuant to Section 10.1.1.2 below against the Parcel or Premises of any Project Occupant who fails to cure any non-compliance with or violation of the terms of this Declaration within the time set forth in the Notice of Violation previously delivered to such Project Occupant.

1.1.47 Notice of Violation. A written notice issued by the Project Operator and delivered to a Project Occupant pursuant to Section 10.1.1 below regarding any condition of non-compliance or violation of the terms of this Declaration by such Project Occupant or any Permittee thereof.

1.1.48 Occupant Infrastructure Improvements. Any telecommunications lines, equipment or facilities, street improvements, drainage improvements or other utility lines, equipment or facilities located anywhere within the Project which exclusively serve any single Premises. The Occupant Infrastructure Improvements shall include the point of connection with any telecommunications or other utility lines, pipes, conduits, equipment or facilities constituting Project Infrastructure Improvements.

1.1.49 **Occupant Maintenance Items.** The Premises Improvements and any other component of the Project to be maintained by the Project Occupant pursuant to Section 3.1.2 below.

1.1.50 **Occupant-Maintained Insurance.** All insurance carried by any Project Occupant or its Permittee as required by Section 8.2 below.

1.1.51 **Parcel.** Each separate legal lot within the Covered Property as shown on any subdivision maps now or hereafter recorded against the Covered Property or any portion thereof.

1.1.52 **Parking and Traffic Rules.** Rules and Regulations issued by the Project Operator from time to time to govern the parking and operation of vehicles within the Covered Property, as contemplated in Section 6.9 below.

1.1.53 **Payment Policy.** A written policy distributed by the Project Operator pursuant to Section 5.4.1 below setting forth policies for billing, payment and collection of Assessments, including due dates, installment options and payment methods, as well as late charges and other consequences for delinquent payments.

1.1.54 **Permittees.** Any person from time to time (i) entitled to the use and occupancy of any Premises within the Covered Property (or any portion thereof) under any sublease, license or other arrangement with a Project Occupant, and (ii) any tenant, subtenant employee, owner, officer, agent, licensee, concessionaire, contractor, customer, student, visitor or other invitee of a Project Occupant or any Permittee thereof.

1.1.55 **Permitted Use.** Any use of a Premises permitted under applicable Legal Requirements and the Conveyance Documents applicable thereto and otherwise not in violation of any restriction set forth in Article VI below.

1.1.56 **Person.** Person means a natural individual or any partnership, limited liability company, corporation, association or other form of business entity recognized under California law. When the word "person" is not capitalized, the word only refers to natural persons.

1.1.57 **Premises.** Any portion of the Covered Property subject to a leasehold or fee interest held by a Project Occupant (or jointly by two or more Project Occupants as co-tenants thereof) pursuant to a ground lease, deed or other instrument executed by Declarant to convey or otherwise create such interest. The Premises transferred to any Project Occupant may encompass all or only a portion of a particular Parcel. In the event that Declarant conveys fee title to any Parcel or portion thereof to a Project Occupant, whether upon termination of a Ground Lease or otherwise, such portion of the Covered Property shall nonetheless be referred to herein as the "Premises."

1.1.58 **Premises Alteration.** Any alteration, installation, construction, reconstruction, replacement, relocation, demolition or removal of any existing Premises Improvement previously approved pursuant to this Declaration or the Conveyance Documents applicable thereto.

1.1.59 Premises Improvements. Any buildings, structures or other Improvements constructed on any Premises by a Project Occupant or agents thereof, including without limitation the following: (a) any Occupant Infrastructure Improvements, grading improvements, landscaping, hardscaping and irrigation improvements and street improvements located on such Parcel and dedicated to the exclusive use of the Project Occupant and Permittees thereof; (c) any sidewalks, walkways, and other accessways located on such Parcel; (d) all environmental control systems or other improvements required to be incorporated into any building or other structure in order to comply with the Design Guidelines, the Environmental Requirements or any other requirements of the applicable Conveyance Documents; and (e) any replacements, reconstruction or restorations of any of the foregoing.

1.1.60 Project. The integrated educational and commercial project developed on the Covered Property, including all Premises Improvements, Project Facilities and Project Common Area now or hereafter located thereon.

1.1.61 Project Common Area. That portion of the Covered Property owned by Declarant (either in fee or by sublease) and designated by Declarant for management and control by the Project Operator in accordance with this Declaration. The Project Common Area shall not include (i) any portion of the Covered Property retained by Declarant or any affiliate thereof for District Use, (iii) any vacant or undeveloped portion of the Covered Property or (iv) any portion of the Covered Property conveyed in fee or otherwise subject to a ground leasehold interest or exclusive use easement held by any Project Occupant (provided that the Project Common Area may, to the extent so designated by Declarant, include any such portion of the Covered Property which is subject to easements for the benefit of the other Project Occupants and their Permittees pursuant to Article VII below). Exhibit C attached hereto depicts the Project Common Area as of the initial recordation of this Declaration. Exhibit C may be amended or supplemented from time to time to designate additional portions of the Covered Property as Project Common Area by a Supplemental Declaration executed and recorded by Declarant.

1.1.62 Project Expenses. All expenses incurred by the Project Operator to (a) install, maintain, repair, restore or replace Common Maintenance Items, (b) provide services for the benefit of the Project, the Project Occupants or their Permittees, (c) manage and operate the Project Common Area or (d) otherwise fulfill the responsibilities assigned to the Project Operator hereunder, all for the benefit of the Project.

1.1.63 Project Facilities. Any buildings or structures constructed on the Project Common Area by or on behalf of Declarant, which buildings or structures are operated for the common use or benefit of Project Occupants or Permittees thereof. Project Facilities may include, without limitation, bus shelters, bike racks or other transit facilities, parking facilities, meeting or assembly facilities, shade structures, outdoor dining areas, food service facilities or recreational facilities. Notwithstanding the foregoing, the Project Facilities shall not include any buildings, structures or other improvements which are (i) exclusively reserved for the conduct of any District Use or (ii) constructed within any Exclusive Use Area for the exclusive use of the Project Occupant or Permittees of any Premises to which such Exclusive Use Area may be appurtenant.

1.1.64 Project Infrastructure Improvements. All lines, pipes, conduits and other equipment or facilities reasonably required to provide water, electricity, gas, sewer, telecommunications, data communication or other necessary utility services to the Project Common Area or any two (2) or more Premises within the Covered Property, as well as all drainage improvements, street or access improvements, power generation or storage equipment, or other infrastructure facilities or improvements located within the Project Common Area, or pursuant to any easements reserved in Section 7.2.3 below, on any other portion of the Covered Property, which serve any two or more Premises within the Covered Property. Project Infrastructure Improvements shall not include any facilities or improvements constituting Occupant Infrastructure Improvements.

1.1.65 Project Insurance. Any insurance coverage maintained by Declarant pursuant to Section 8.1 below affording coverage against (i) damage, loss or other casualties affecting the Project Facilities or any other portion of the Project Common Area, (ii) liabilities arising from use or occupancy of the Project Facilities or any other portion of the Project Common Area or (iii) any other insurable liabilities, costs or expenses incurred by the Project Operator in connection with occupancy, use, operation and maintenance of the Project pursuant to this Declaration.

1.1.66 Project Obligations. Indebtedness incurred on behalf of Declarant for payment of Project Expenses exceeding the amount of available Project Revenues at any time.

1.1.67 Project Occupant. Any person or entity holding fee title to any Premises within the Covered Property as well as any person or entity holding a ground leasehold interest in any Premises through a direct ground lease with Declarant as ground lessor. In the event that Declarant or any affiliate thereof develops any Premises for purposes of conducting a District Use thereon, Declarant or such affiliate shall constitute a Project Occupant for purposes of such Premises only. In the event that fee title or a ground leasehold interest in any Premises is jointly held by two or more persons or entities, each such party shall be a Project Occupant and the liability of each such Project Occupant under this Declaration shall be joint and several. The term Project Occupant shall not include any sublessee, space tenant, licensee, or other Permittee of any Project Occupant; provided that a Project Occupant may, with the consent of Declarant which may be withheld in Declarant's sole discretion, assign its rights hereunder to a sublessee of all (but not less than all) of a Project Occupant's interest in a particular Premises pursuant to a written assignment executed by the assigning Project Occupant, such sublessee and Declarant. No such assignment shall relieve the assigning Project Occupant from liability for payment of any charges, fines or other costs and expenses allocable to the Project Occupant's Premises hereunder. The term "Project Occupant" shall not include a mortgagee of any Premises notwithstanding the prior commencement of any actions or proceedings to foreclose upon the interest of a Project Occupant in such Premises unless and until title to the mortgaged interest passes to such mortgagee.

1.1.68 Project Operator. The corporation or other entity designated by Declarant pursuant to Section 2.1 below to have authority as Declarant's agent over, and responsibility for, operation and maintenance of the Project, enforcement of this Declaration and performance of all other obligations assigned to the Project Operator as set forth in this Declaration or in the Asset Management Agreement.

1.1.69 Project Revenues. All revenues received by the Project Operator (as Declarant's agent) from operation of the Project, including Assessments collected from Project Occupants, amounts charged to Project Occupants due to noncompliance with the Governing Documents, and revenues derived from operation of the Project Facilities or any other component of the Project Common Area (including revenues or other amounts collected from third-party operators thereof).

1.1.70 Regular Assessment. A charge levied against the Project Occupants on an annual basis to fund payment of Common Expenses.

1.1.71 Remediation Facilities. Pipelines, pumps, monitoring wells, treatment facilities and other equipment and facilities, including associated utility improvements, installed or operated by the City, the United States of America (acting by and through the Department of the Navy), or any other governmental agency or authority, for purposes of monitoring or remediating environmental conditions within the Project.

1.1.72 Required Restoration. Any repair or restoration of any Common Maintenance Item which the Project Operator is obligated to perform pursuant to Section 3.4.2 below.

1.1.73 Replacement Reserves. Replacement Reserves means those Assessment funds set aside pursuant to Section 5.2.1.1 below for the purposes contemplated therein.

1.1.74 Restoration Costs. All costs incurred by the Project Operator to repair any damage to, or for replacement of, any Common Maintenance Item damaged or destroyed due to a Taking or Casualty Event.

1.1.75 Restoration Proceeds. Any amounts recovered by Declarant in connection with a Taking or Casualty Event affecting a Common Maintenance Item, including insurance proceeds, condemnation proceeds, reimbursement of Restoration Costs from the responsible Project Occupant(s) and any damages recovered from any other responsible third party.

1.1.76 Rules and Regulations. Any rules, regulations, policies or procedures (or amendments thereof) that the Project Operator may issue from time to time, pursuant to the authority established in Section 2.2.1 below, regarding occupancy, use or maintenance of any Premises, Project Common Area or other portions of the Project. Rules and Regulations may include, without limitation, the Parking and Traffic Rules and any maintenance standards promulgated by the Project Operator from time to time.

1.1.77 Sign Program. Any design guidelines or signage program implemented by Declarant or the Project Operator from time to time as contemplated in Section 6.11 below.

1.1.78 Special Benefit Area. Any group of one or more Premises within the Project, as designated by the Project Operator in its reasonable discretion pursuant to Section 5.3.4 below, who receive special services or other benefits provided by the Project Operator which are not otherwise provided to all other Premises within the Project.

1.1.79 **Special Benefit Assessment.** An Assessment imposed on the Premises located within a Special Benefit Area to recover costs allocated to the Special Benefit Area pursuant to Section 5.3.4 below.

1.1.80 **Submittal.** Any plans, specifications, drawings, documents or other data that must be submitted to the Approving Authority pursuant to the Design Guidelines as a condition to review and approval of Premises Improvements or Premises Alterations pursuant to Section 4.1 below.

1.1.81 **Supplemental Declaration.** An instrument executed and recorded by Declarant to add additional real property to the Covered Property or to otherwise amend or supplement all or any portion of the provisions of this Declaration in accordance with Article XI below.

1.1.82 **Taking.** Any condemnation by exercise of the power of eminent domain or any sale under threat of the exercise of the power of eminent domain which has the effect of transferring title to any portion of the Covered Property from Declarant or any Project Occupant thereof to any other federal, state or local governmental authority or public or private utility, or which otherwise results in the transfer thereto of any easements or other exclusive use rights over any portion of the Covered Property.

1.1.83 **Total Building Area.** The aggregate amount of Building Area within all Premises Improvements within the Project for which Assessments have commenced pursuant to Section 5.3.1.1 below.

1.1.84 **Transfer Date.** The effective date for the transfer of the rights and obligations of the Project Operator hereunder to an Association formed by Declarant pursuant to Section 11.4.1 below.

1.2 INTERPRETATION.

1.2.1 **General Rules.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for operating a commercial common interest development and for maintaining the Project. As used in this Declaration, the singular includes the plural and the plural, the singular. The masculine, feminine and neuter each includes the others, unless the context dictates otherwise. Any reference in this Declaration to time of performance of obligations or to elapsed time means consecutive calendar days, months or years, as applicable, unless otherwise expressly provided.

1.2.2 **Articles, Sections and Exhibits.** The Article and Section headings have been inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. Exhibit A through Exhibit C attached to this Declaration are incorporated herein by this reference.

1.2.3 **Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and any Rules and Regulations issued by the Project Operator from time to time, the more restrictive provision shall prevail provided such Rules and Regulations are

otherwise in compliance with Section 2.2.1 below. If there are direct conflicts or inconsistencies between the terms of the Conveyance Documents for a particular Premises and the provisions of this Declaration (as amended or supplemented by any Supplemental Declaration recorded against such Premises) or any Rules or Regulations issued pursuant thereto, the terms of the Conveyance Documents will prevail.

1.2.4 **Severability.** The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

1.2.5 **Statutory References.** All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

ARTICLE II PROJECT MANAGEMENT

2.1 RESERVATION AND DELEGATION OF MANAGEMENT AUTHORITY.

Declarant hereby reserves the right, power and authority to take all actions reasonably required to manage operation of the Project, as more particularly described in this Article II. Without limiting the foregoing, pursuant to the Asset Management Agreement, Declarant has designated ATEP Facilities Corporation, a California nonprofit public benefit corporation, as the "*Project Operator*" and has delegated to the Project Operator the authority and responsibility to (i) operate the Project Facilities, (ii) maintain the Common Maintenance Items, (iii) enforce the provisions of this Declaration, as amended from time to time, as well as any Rules and Regulations or other guidelines issued pursuant hereto, and (iv) otherwise exercise all authority and satisfy all responsibilities delegated to the Project Operator pursuant to this Asset Management Agreement and this Declaration. Declarant may delegate to the Project Operator such additional authority or responsibilities as may be reserved to Declarant in the Conveyance Documents for any Premises(s) within the Project; provided (i) such delegation is expressly set forth in the applicable Conveyance Documents or in a Supplemental Declaration recorded against the affected Premises and (ii) any additional expenses associated with the Project Operator's exercise of such rights or performance of such obligations shall be assessed only against the Project Occupant(s) of the affected Premises(s) and shall not be included in Common Expenses chargeable to all Project Occupants.

2.1.1 **Granting Rights.** Declarant expressly reserves the sole right and power to grant exclusive or nonexclusive easements and, either directly or through the Project Operator as its duly-authorized agent, licenses, rights-of-way or other access rights within the Project to the extent reasonably required: (a) for the provision of utilities and other services to the Project, (b) in connection with construction and development of Premises Improvements or Project Facilities, (c) for purposes of conformity with the as-built location of Project Facilities or Premises Improvements (but only to extent such Premises Improvements are approved by and constructed in accordance with the applicable Conveyance Documents or otherwise authorized by Declarant or the Project Operator), (d) in connection with any lawful lot line adjustment, or (e) for other purposes consistent with the intended use and development of the Covered Property.

The foregoing authority and power includes the right to create and convey easements or licenses over portions of the Project Common Area to one or more Project Occupants, provided that no such easements or licenses affecting the Project Common Area shall unreasonably impede access to the Premises Improvements located on any other Premises or otherwise materially adversely and unreasonably impair occupancy thereof.

2.2 AUTHORITY AND RESPONSIBILITIES OF THE PROJECT OPERATOR.

Pursuant to the Asset Management Agreement, Declarant has assigned to the Project Operator the following responsibilities and authority (provided that such responsibilities and authority shall not constitute an obligation unless specifically stated herein):

2.2.1 Rulemaking Authority. The Project Operator shall have the authority to establish Rules and Regulations for the operation, maintenance, occupancy and use of the Project, subject to approval thereof by Declarant as well as the limitations set forth in Section 2.2.1(a) below. The foregoing rulemaking authority shall include the authority to modify, rescind or create exceptions to any such Rules and Regulations. The Rules and Regulations may include Parking and Traffic Rules, maintenance standards, restrictions on use of the Project or regulation of any other aspects of the Project over which the Project Operator has responsibility or control pursuant to the Governing Documents.

(a) **Limitations.** The Rules and Regulations established by the Project Operator shall be enforceable only to the extent they are consistent with the terms of the Governing Documents and do not otherwise violate (or require any Project Occupant to violate) any Legal Requirements applicable to the Project. No issuance of new Rules and Regulations or modifications to existing Rules or Regulations (but expressly excluding any clarifications of pre-existing Rules or Regulations) shall require a Project Occupant to dispose of personal property or Premises Improvements located on such Project Occupant's Premises prior to the issuance of the new or modified Rule or Regulation if such personal property or Premises Improvements otherwise complied with the Governing Documents and the applicable Conveyance Documents prior to issuance or modification of such Rule or Regulation; provided that the foregoing exemption shall apply only during the term of such Project Occupant's occupancy of the applicable Premises and shall not apply to subsequent Project Occupants who acquires the right to occupy such Premises thereafter. Nothing in this Section 2.2.1(a) shall be deemed to exempt any Project Occupant from the obligation to fully comply with the Environmental Requirements or other applicable Legal Requirements, including any subsequent additions to or modifications of any such Environmental Requirements or other Legal Requirements.

(b) **Exculpation.** Neither Declarant nor the Project Operator shall be liable in damages to any Project Occupant, or to any other Person subject to or affected by this Declaration, on account of the establishment of (or failure to establish) any Rules or Regulations or amendments, restatements, deletions, and/or waivers thereof in accordance with this Section 2.2.1.

2.2.2 Enforcement/Compliance Authority. The Project Operator shall have the authority to enforce the Governing Documents in accordance with Article X below, including the right to impose fees or fines for any violations of the Governing Documents. Such enforcement authority shall include the authority to enforce any Parking and Traffic Rules

implemented for or otherwise applicable to the Project as set forth in Section 6.9 below. The Project Operator shall further have authority, subject to the direction and control of Declarant, to monitor compliance with all Legal Requirements applicable to the Project and any related obligations imposed under the Conveyance Documents, such as use restrictions, development conditions, environmental restrictions, non-discrimination covenants and covenants regarding the provision of educational opportunities. Any breach or other non-performance of such obligations arising hereunder or under applicable Legal Requirements as to any Premises shall constitute a breach under the applicable Conveyance Documents in addition to a violation hereof, provided that the foregoing shall not be deemed to limit the rights or remedies of Declarant or the Project Operator hereunder in connection with any such violation.

2.2.3 Contracting Authority. The Project Operator shall have the authority to enter into contracts or other agreements with third-party providers in order to obtain required goods or services for the benefit of the Project or the Project Occupants, including (but not limited to) property management services, marketing services, information technology services, utilities, design/architectural services and security services, as well as contracts for maintenance and repair of the Project Common Area or Project Infrastructure Improvements within the Project (including contracts for maintenance and operation of any Project Facilities). The Project Operator shall further have the authority to enter into mutual benefit agreements, cost-sharing agreements or other agreements with adjacent property owners or Governmental Authorities regarding common maintenance, shared improvements, reciprocal or non-reciprocal use or access, environmental remediation or any other matter concerning the Project and/or benefitting the Project Occupants. Finally, the Project Operator shall have the authority to enter into agreements with a Project Occupant regarding the provision of special services or benefits to such Project Occupant which the Project Operator is not otherwise obligated to provide pursuant to the Governing Documents, provided that such agreement shall require that all costs thereof be reimbursed by, or otherwise solely allocated to, the Project Occupant receiving such special services or benefits.

2.2.4 Risk Management Authority. The Project Operator shall have the authority and responsibility to manage the Project Insurance required pursuant to Section 8.1 below. The Project Operator's risk management authority shall further include the authority to file or settle insurance claims and, subject to the direction and control of Declarant, the authority to commence, prosecute, defend or settle litigation matters relating to operation of the Project on behalf of the Declarant, including any personal injury, property damage, condemnation or other claims filed against or accruing to the benefit of the Project or Declarant.

2.2.5 Financial Management Authority. The Project Operator shall have control of the financial management of the Project in accordance with Article V below, including without limitation, the authority to take the following actions for the benefit of the Project:

- (a) determine Annual Budgets for Common Expenses;
- (b) collect Assessments from Project Occupants on behalf of Declarant to fund payment of Common Expenses;
- (c) establish and maintain Replacement Reserves to fund long-term repairs and replacements;

- (d) manage payment of Common Expenses; and
- (e) assist Declarant in obtaining and managing Project Obligations.

2.2.6 Architectural and Construction Control Authority. The Project Operator shall have the authority to implement and enforce the Design Guidelines developed by the Declarant as well as any other architectural controls for construction of Premises Improvements and Project Facilities hereafter approved by Declarant. Project Operator shall further have the authority to implement and enforce the provisions of the Contractor's Manual providing for management of construction activity within the Project, in accordance with Article IV below; provided that Declarant shall have the sole power to approve amendments to the Design Guidelines and the Contractor's Manual to incorporate any additions or revisions which the Project Operator may determine to be reasonably required and in the best interest of the Project.

2.2.7 Management Authority over Project Common Area. The Project Operator shall have the authority and obligation to maintain and operate the Project Common Areas and all Project Facilities and Project Infrastructure Improvements located within the Project, including vehicular and pedestrian accessways, parking areas, transit facilities or other Project Facilities, on behalf of Declarant. The foregoing shall include the authority to design, construct, operate, maintain, repair and restore Project Facilities. The Project Operator shall further have the authority to permit or restrict use of the Project Facilities, including the right to license portions of the Project Facilities for short-term use by one or more Project Occupants or other Persons, for the conduct of special events, construction staging or other temporary uses.

2.2.8 Authority to Operate Project-Wide Programs. The Project Operator, acting on behalf of Declarant, shall have the authority to design, implement and operate Project-wide programs for the benefit of the Project and the Project Occupants, such as dedicated transit shuttles, ridesharing or other traffic management programs, as well as recycling/sustainability or other environmental education programs. The Project Operator shall further have the authority to conduct social and cultural activities and other Project-wide programs for the benefit of the Project Occupants to serve the educational, environmental, cultural and civic goals of the Project.

2.2.9 Political Activities. The Project Operator, with the approval of the Declarant, shall have the right to engage in federal, state or local political activities or activities intended to influence a governmental action directly related to development, operation and occupancy of the Project, including endorsement or support of legislative or administrative actions affecting such matters; provided that the Project Operator may not engage in any activities, make political contributions (including in-kind contributions) or otherwise expend any portion of the revenues collected from the Project Occupants pursuant to Article V below in support of any particular candidate(s) for political office.

2.3 FORMATION OF COMMITTEES; DELEGATION. Subject to any approval requirements or other limitations as may be set forth in the Asset Management Agreement, the Project Operator may appoint committees of Project Occupants and/or employees or agents of Declarant or the Project Operator, in each case to advise the Project Operator on any matters

within the Project Operator's jurisdiction; provided that such appointment shall not constitute a further assignment or delegation of the Project Operator's authority or responsibilities hereunder.

ARTICLE III PROJECT MAINTENANCE, SERVICES AND RESTORATION

3.1 MAINTENANCE OBLIGATIONS.

3.1.1 **Maintenance Obligations of the Project Operator.** The Project Operator shall be responsible for maintenance and repair of the Project Common Area, including any Project Facilities or landscaping areas located therein. Declarant may from time to time designate additional components of the Project to be maintained by the Project Operator. The components of the Project to be maintained by the Project Operator pursuant to this Declaration (collectively, the "**Common Maintenance Items**") shall include, without limitation, (a) interior and exterior maintenance of Project Facilities and (b) maintenance, repair and replacement of walkways, drive aisles, parking areas and other hardscape areas within the Project Common Area as well as irrigation and maintenance of any landscape areas located thereon. The Common Maintenance Items shall not include maintenance of: (i) any Exclusive Use Areas or improvements located therein which are controlled or used exclusively by the Project Occupant or Permittees of the Premises to which such Exclusive Use Area is appurtenant, (ii) any portion of the Project Common Area dedicated to and accepted for maintenance by the City or any other Governmental Authority, (iii) any portion of the Project Common Area subject to the easement rights of any party to the extent the holder of such easement is responsible for maintenance thereof, (iv) any vacant land not yet conveyed (in fee or leasehold) to any Project Occupant for development and use thereof, or (v) any portion of the Project dedicated exclusively to a District Use.

3.1.1.1 Damage by Project Occupants. Each Project Occupant shall be liable for all costs incurred by Declarant or the Project Operator arising out of (i) damage to any portion of the Project Common Area or other Common Maintenance Item, or (ii) damage to, disturbance of, or interference with, the operation of any Remediation Facilities within the Project, in each case arising due to the acts or omissions of such Project Occupant or its Permittees. The Project Operator may levy a Compliance Assessment on the Premises of the responsible Project Occupant in an amount sufficient to recover such costs and expenses; provided however, that no such Compliance Assessment shall relieve the responsible Project Occupant for personal liability therefor. No such Compliance Assessment may be levied without ten (10) days' prior written notice to the responsible Project Occupant and a reasonable opportunity for such Project Occupant to request a Hearing pursuant to Section 10.1.3 below to dispute responsibility for the alleged damage, disturbance or interference. In connection with any such damage, disturbance or interference, the Project Operator shall further have the right, but not the obligation, to submit an insurance claim for recovery of associated costs and expenses against the Project Insurance or any insurance carried by or on behalf of the responsible Project Occupant. In the event that the Project Operator so elects to file an insurance claim, the responsible Project Occupant shall remain responsible for any deductible payable on such claim as well as any other uninsured portions of the Project Operator's associated costs or liabilities. If

the fee or leasehold interest in any Premises is jointly held by two or more Project Occupants, the liability of its Project Occupants for such costs shall be joint and several.

3.1.1.2 Maintenance Standards. The Common Maintenance Items shall be maintained in compliance with all applicable Legal Requirements and otherwise in a clean, safe, sanitary and attractive condition reasonably consistent with maintenance standards for similarly-situated educational or commercial office projects in the Central Orange County Area. Subject to the foregoing, the Project Operator shall determine, in its reasonable discretion, the frequency and level of maintenance for the Common Maintenance Items. Each Project Occupant shall notify the Project Operator immediately upon discovery of any dangerous or defective condition within any portion of the Project Common Area which could cause injury to persons or property occupying, entering or otherwise located on such Premises. The Project Operator shall have the right to enter onto any Premises within the Project (including entry into interior portions of any Premises Improvements) to the extent reasonably required for purposes of maintaining any Common Maintenance Items located on or adjacent to such Premises.

3.1.2 **Project Occupant Maintenance Obligations**. Each Project Occupant shall be responsible for maintaining the Premises Improvements located on such Project Occupant's Premises or within any Exclusive Use Areas appurtenant thereto, as well as such other areas located on or adjacent to such Project Occupant's Premises as may be designated for maintenance by the Project Occupant in the applicable Conveyance Documents or any Supplemental Declaration recorded against such Premises (collectively, the "*Occupant Maintenance Items*"). The Occupant Maintenance Items shall include, without limitation, maintenance of any landscaping areas, parking areas, walkways or other hardscape located on such Premises or any Exclusive Use Area appurtenant thereto. In no event shall the Project Operator have any obligation to maintain any Occupant Maintenance Item; provided that the foregoing shall not limit the right of the Project Operator, as contemplated in Section 3.1.2.2 below, to perform maintenance of an Occupant Maintenance Item upon the failure of the responsible Project Occupant to do so. The Project Operator, in its sole discretion, may enter into a written agreement with any Project Occupant to maintain one or more Occupant Maintenance Items on behalf of such Project Occupant, provided that such agreement obligates the Project Occupant to fully reimburse the Project Operator for all expenses incurred in connection therewith. In the event that any single Premises within the Project is occupied by two (2) or more Project Occupants, the responsibility for maintaining the Occupant Maintenance Items associated with such Premises shall be the joint and several responsibility of each such Project Occupant unless otherwise set forth in a Supplemental Declaration executed by Declarant and such Project Occupants.

3.1.2.1 Maintenance Standards. The Occupant Maintenance Items shall be maintained in a neat, safe and sanitary condition in compliance with applicable City codes and other Legal Requirements and in accordance with the provisions of the applicable Conveyance Documents as supplemented by any maintenance standards that may be promulgated by the Project Operator from time to time.

3.1.2.2 Failure to Maintain; Emergency Situations. The Project Operator shall periodically cause an inspection of the Project to be conducted to detect any violations of the Project Occupant's obligations under this Section 3.1.2. If any Project

Occupant permits an Occupant Maintenance Item to fall into disrepair or to become unsafe, unsightly or unattractive, or otherwise fails to maintain any such Occupant Maintenance Item in accordance with the requirements of this Section 3.1.2, then in addition to any other remedies available at law or in equity, the Project Operator shall have the authority, but not the obligation, to enter upon such Project Occupant's Premises or Exclusive Use Area to make such repairs or to perform such maintenance at the sole expense of the responsible Project Occupant. Prior to such entry, the Project Operator shall first provide ten (10) days' advance notice to the Project Occupant which notice shall afford the Project Occupant an opportunity to cure such failure and/or to request a Hearing pursuant to Section 10.1.3 below to dispute the alleged failure to maintain, or responsibility for maintenance of, the applicable component of the Project. Notwithstanding the foregoing, the Project Operator may perform the maintenance immediately, without prior notice or right to Hearing, (a) if the Project Operator reasonably determines that immediate maintenance is required to avoid a material risk or imminent threat of damage to any property or injury to any Persons within any other portion of the Project or (b) under any circumstances in which the failure to perform the required maintenance in a timely manner could constitute a default under any Legal Requirements or could expose Declarant or the Project Operator to liability for fines or penalties relating to a violation of applicable Legal Requirements, or (c) in any circumstance which otherwise constitutes an emergency situation. In addition, if a Project Occupant fails to maintain any Premises Improvement located within its Premises or any Exclusive Use Area appurtenant thereto, and the Project Operator reasonably determines that such Premises Improvement in its then-current condition poses a material risk of substantial injury to persons within any other portion of the Project, the Project Operator shall have the right to remove the Premises Improvement at the sole expense of the responsible Project Occupant. Any expenses incurred by the Project Operator in performing maintenance or repair of any Occupant Maintenance Item or taking any other action authorized by this Section 3.1.2.2 shall be reimbursed by the responsible Project Occupant upon demand and the Project Operator shall have the right to impose a Compliance Assessment on the Premises of the responsible Project Occupant if required to collect such amounts.

3.1.3 Maintenance of Utility and Infrastructure Improvements. The Project Operator shall maintain and repair, or cause the City or other responsible public or private utility operator to maintain and repair, all Project Infrastructure Improvements. Notwithstanding the foregoing, the Project Operator shall not be responsible for maintaining or repairing any Occupant Infrastructure Improvements. The Project Occupant of the Premises or Premises Improvements served by such Occupant Infrastructure Improvement shall be solely responsible for maintenance and repair thereof.

3.1.4 Disputes Regarding Maintenance Obligations. If a dispute arises between Project Occupants or between one or more Project Occupants and the Project Operator regarding the allocation of maintenance responsibilities pursuant to this Article III, or if any Project Occupant otherwise disputes responsibility for payment of any expenses incurred by the Project Operator pursuant to Section 3.1.1.1 or Section 3.1.2.2 above, any Project Occupant(s) involved in such dispute may request a Hearing to resolve such dispute in accordance with Section 10.1.3 below.

3.2 ENVIRONMENTAL COMPLIANCE. Each Project Occupant shall comply, and shall cause all of its Permittees to comply, with all Environmental Requirements applicable to

maintenance and occupancy of the Premises thereof. The Project Occupants shall not use or dispose of, nor permit the use or disposal by any of its Permittees of, any Hazardous Substances except in strict compliance with all Environmental Requirements. Each Project Occupant shall protect, indemnify, defend (with counsel reasonably acceptable to Declarant), and hold the Declarant and the Project Operator, and each of their respective directors, officers, employees, agents, lenders, successors and assigns, harmless from and against all claims, expenses, liabilities, loss, damage, and costs, including reasonable attorneys' fees, to the extent arising as a result (directly or indirectly) of, or in connection with, any violation of Environmental Requirements occurring on such Project Occupant's Premises (other than as a result of any activities of the Project Operator thereon) or, to the extent arising from actions of such Project Occupant or any Permittee thereof, elsewhere within the Project. Each Project Occupant shall in no event cause, and shall be responsible for preventing its Permittees from causing, any damage, disturbance or interference with the operation of any Remediation Facilities located on such Project Occupant's Premises or within any other location within the Project.

3.3 PROJECT SERVICES.

3.3.1 Services to Project Common Area. The Project Operator shall secure all electrical, water or other utility services necessary for operation and maintenance of the Project Common Area and any Project Facilities located therein. The Project Operator shall further ensure trash removal service for the Project Common Area and Project Facilities, whether through public municipal services or from private trash removal providers.

3.3.2 Services to Premises Improvements. The Project Operator shall have no obligation to provide utilities, trash removal or other services to any Premises or any Exclusive Use Areas appurtenant thereto. All such utilities and services shall be obtained by the Project Occupants directly from the City or other applicable public or private providers, at the sole expense of the Project Occupant or its Permittees.

3.3.3 Security Services. Each Project Occupant shall be solely responsible for providing security services for its respective Premises. The Project Operator shall have the authority, but not obligation, to provide security for the Project Common Area or any Project Facilities located therein provided that any such security services furnished by the Project Operator shall be subject to the disclaimer set forth in Section 12.8.5 below.

3.4 RESTORATION AFTER CASUALTY OR CONDEMNATION.

3.4.1 Restoration of Premises Improvements. Each Project Occupant shall be solely responsible for ensuring the repair and restoration of any Occupant Maintenance Item damaged or destroyed as a result of a Casualty Event or Taking. Such repair or restoration work shall be commenced and completed with due diligence in accordance with the terms of the applicable Conveyance Documents. In the event of any direct conflict between the provisions of this Section 3.4.1 and the provisions of the applicable Conveyance Documents, the provisions of the Conveyance Documents shall prevail. As soon as practical after the occurrence of any such Casualty Event or Taking, the Project Occupant of the affected Premises shall implement measures to ensure that the site is maintained in a secure and safe manner pending completion of the required repairs and/or reconstruction, including installation of appropriate fencing to screen

any affected portion of the Project Occupant's Premises from view of the Project Common Area or other Premises and to otherwise prevent entry onto the affected portions of such Premises by unauthorized persons. In the event that the responsible Project Occupant fails to secure the site in a safe condition as required above, the Project Operator shall have the right to install such fencing or other protective measures as the Project Operator determines are reasonably necessary at the sole expense of the responsible Project Occupant. All debris or rubble from any such damage or destruction shall be promptly removed from the Project by the Project Occupant of the affected Premises. In the event that such Project Occupant fails to remove such debris or rubble within thirty (30) days after the occurrence of the damage or destruction, the Project Operator shall have the right to cause removal of all such debris at the sole expense of the responsible Project Occupant. All expenses incurred by the Project Operator in installing safety measures or removing rubble or debris pursuant to this Section 3.4.1 shall be reimbursed by the responsible Project Occupant and may be recovered through imposition of a Compliance Assessment on the affected Premises.

3.4.2 Project Operator Obligations. Subject to the limitations set forth below, the Project Operator shall be responsible for repair and restoration of any Common Maintenance Item damaged or destroyed as a result of a Casualty Event or Taking; provided that the Project Operator's restoration obligations shall be limited to repair or restoration reasonably required to: (i) restore essential utility services and reasonable pedestrian and vehicular access to the Premises within the Project, (ii) ensure the Project's continued compliance with applicable Legal Requirements and (iii) otherwise provide a level of functionality and amenities comparable to similarly-situated educational or commercial office projects within the Central Orange County Area (in each case, a "**Required Restoration**"). The Project Operator shall further have the right, but not the obligation, to repair or restore any damaged Common Maintenance Items which do not otherwise constitute a Required Restoration (each, a "**Discretionary Restoration**"). In performing any Required or Discretionary Restoration, the Project Operator shall have authority to restore or replace the affected Common Maintenance Item in a manner different in design, location, configuration or function from the condition of such Common Maintenance Item prior to damage or destruction, provided that such restoration or repair otherwise complies with applicable Legal Requirements and, as to any Required Restoration only, satisfies the requirements for a Required Restoration set forth above.

3.4.3 Restoration Costs. All costs incurred by the Project Operator to perform any Required or Discretionary Restoration (collectively, "**Restoration Costs**") shall be funded through one or more of the following sources (collectively, "**Restoration Proceeds**"): (i) filing of an insurance claim; (ii) collecting Restoration Costs directly from the responsible Project Occupant (if any); or (iii) recovering damages at law against any third party responsible for such damage or destruction (including assertion of a claim for damages in condemnation or otherwise against a responsible Governmental Authority). In the event that Restoration Proceeds obtained through any of the foregoing methods are insufficient to fully fund the Restoration Costs for any Required Restoration, the Project Operator shall have the right to fund such excess Restoration Costs by either (a) incurring debt obligations, the payments on which shall be included in Common Expenses allocable to the Project Occupants pursuant to Section 5.2 below, (b) obtaining government grants or other funds from public sources, or (c) imposing a Capital Improvement Assessment or Extraordinary Assessment pursuant to Section 5.3.5 and Section 5.3.6 below in an amount sufficient to fund the excess Restoration Costs.

3.4.3.1 Insurance and Third Party Claims. Subject to Declarant consent and on behalf thereof, the Project Operator shall have full discretion and sole control over the filing, processing and settlement of any claim made against the Project Insurance or other sources for recovery of Restoration Costs. The Project Operator shall further have full discretion and sole control over filing, processing and settling claims against insurance coverage maintained by any Project Occupant responsible for the underlying damage or destruction pursuant to Section 3.1.1.1 above; provided that nothing herein shall obligate the Project Operator to file a claim against the Project Insurance prior to seeking recovery of Restoration Costs from the responsible Project Occupant. Any insurance proceeds or other amounts recovered by the Project Operator in connection with damage, destruction or Taking of a Common Maintenance Item shall remain under the sole possession and control of Declarant for application towards Restoration Costs relating thereto. In no event shall any Project Occupant or any mortgagee thereof have any claim against, or otherwise be entitled to payment of, any amounts recovered on behalf of Declarant in excess of Restoration Costs and associated costs of recovery and collection (“*Excess Proceeds*”); provided that a responsible Project Occupant who previously paid any portion of the associated Restoration Costs, either directly or by reimbursement to the Project Operator pursuant to Section 3.1.1.1 above, may be entitled to reimbursement for such payments up to, but not exceeding, the amount of Excess Proceeds, if any, recovered from such Project Insurance. Any Excess Proceeds remaining after completion of the required repair or restoration shall be applied towards payment of Project Expenses.

ARTICLE IV DESIGN REVIEW AND CONSTRUCTION ACTIVITY

4.1 ARCHITECTURAL REVIEW REQUIREMENTS.

4.1.1 Initial Premises Improvements. Construction of initial Premises Improvements shall be subject to approval and control of Declarant on the terms set forth in the Conveyance Documents; provided that such Conveyance Documents or any Supplemental Declaration recorded against the applicable Premises may delegate architectural approval of initial Premises Improvements to be constructed thereon to the Approving Authority, in which event such initial Premises Improvements shall be subject to the provisions of Section 4.1.2. Initial construction of Premises Improvements intended for District Use shall not be subject to architectural review by the Approving Authority provided that such Premises Improvements otherwise comply with the Design Guidelines established by Declarant as of the commencement of such initial construction.

4.1.2 Premises Alterations. From and after completion of such initial Premises Improvements, no Project Occupant shall cause or permit any portion of the Premises Improvements located on such Project Occupant’s Premises or any Exclusive Use Area appurtenant thereto to be constructed, installed, reconstructed, replaced, relocated, removed, demolished or otherwise altered in any manner (each, a “*Premises Alteration*”) except in strict compliance with all applicable Legal Requirements and the requirements of this Article IV, including any Design Guidelines implemented by the Project Operator pursuant to Section 4.2 below. The following types of Premises Alterations shall further require review and approval by the Approving Authority pursuant to Section 4.3 below:

- (a) any Premises Alterations affecting the exterior of any Premises Improvements or which would otherwise be visible from outside of any such Premises Improvements;
- (b) any Premises Alterations that would adversely impact the operation of Project Infrastructure Improvements, the Remediation Facilities or any utilities serving the Project Facilities or any other portion of the Project Common Area;
- (c) any Premises Alterations which would increase parking requirements for the Project or otherwise cause any other portion of the Project to be out of compliance with applicable Legal Requirements;
- (d) any Premises Alterations that would cause an increase in the cost of, or otherwise adversely affect coverage under, the Project Insurance or insurance to be carried by the Project Occupant of any other Premises within the Project;
- (e) any Premises Alterations which would materially adversely impact the use of the Project Common Area by other Project Occupants or Permittees thereof; and
- (f) any Premises Alterations which would otherwise materially impair the use and occupancy of any other Premises within the Project (other than temporary minor impacts resulting from construction activity related to such Premises Alterations), including without limitation any Premises Alterations which would unreasonably interfere with existing drainage patterns within the Project.

4.1.3 Alterations to the Project Common Area. No construction or other work of improvement which alters or adversely affects the Project Common Area, including any alterations to any Exclusive Use Area within the Project, shall be made or done without the prior written consent of the Project Operator, which consent may be withheld or conditioned in the Project Operator's sole discretion. In no event shall any Project Occupant have the right to install fences or other barriers across any portion of the Project Common Area in a manner which would impair pedestrian or vehicular circulation through the Project without the consent of the Project Operator.

4.1.4 Exemptions, Waivers and Variances. Except as set forth in Section 4.1.1 above, design review by the Approving Authority shall not be required for construction of any Premises Improvements approved by Declarant pursuant to the terms of the applicable Conveyance Documents. Declarant may exempt Premises Improvements within particular portions of the Project from the architectural approval requirements set forth in this Section 4.1, which exemption shall be set forth in the applicable Conveyance Documents or in a Supplemental Declaration recorded against the applicable Parcel(s). The Project Operator, subject to Declarant approval, may exempt specific categories of Premises Alterations from architectural approval requirements hereunder, including without limitation Premises Alterations reasonably required in connection with any regulatory or accreditation requirements associated with any District Uses, or may pre-approve certain types or classes of Premises Alterations if the Project Operator reasonably determines that such exemption or pre-approval would be

appropriate under the circumstances. The Approving Authority may further authorize variances from compliance with the Design Guidelines for a particular Premises Improvement or Premises Alteration when circumstances such as topography, natural obstructions, aesthetic or environmental considerations or hardship warrant such variance. The granting of such a variance will not waive any provisions of the Governing Documents for any purpose except as to the particular Premises Improvement and particular requirement of the Design Guidelines covered by the variance, nor will such variance affect the Project Occupant's obligation to comply with all applicable Legal Requirements or other provisions of the Governing Documents affecting the applicable Premises.

4.2 DESIGN GUIDELINES. Declarant may establish guidelines ("Design Guidelines") setting forth architectural standards and design requirements for all Premises Improvements within the Project. The Design Guidelines may, among other criteria, incorporate (directly or by reference) landscape criteria (including permitted plant specifications or other water conservation measures) or signage standards (either directly or by incorporation of a stand-alone Sign Program) or other criteria. In addition, the Design Guidelines shall specify the plans, specifications, drawings and other data (collectively, a "*Submittal*") that must be submitted to the Approving Authority for any Premises Improvement or Premises Alteration requiring review and approval pursuant to Section 4.1 above, as well as response times and other procedural matters applicable to the review process. Declarant shall have the right to update, supplement or modify the Design Guidelines from time to time; provided that no such modification shall require a Project Occupant to redesign or alter any previously-approved Premises Improvements or Premises Alterations which complied with the then-current Design Guidelines at the time of such approval.

4.3 APPROVAL PROCESS.

4.3.1 Approval Standards. The Approving Authority shall review any proposed Premises Improvement or Premises Alteration for conformance to the Design Guidelines, taking into consideration the location, nature, shape, height, width, materials and other design aspects thereof. Without limiting the foregoing, the Approving Authority may disapprove any Submittal if it determines in its sole discretion that the proposed Premises Improvement or Premises Alteration contemplated by such Submittal will not be in harmony or conformity with (a) other existing or proposed Premises Improvements within the Project, (b) the Design Guidelines, (c) applicable Legal Requirements, or (d) any applicable utility plans, circulation plans, parking requirements or other general criteria for the Project. The Project Operator may retain consultants or other persons to assist or advise the Approving Authority in performing its obligations under Article IV.

4.3.2 Required Submittals. Each Submittal shall include all documents, information and materials required by the Design Guidelines. At the discretion of the Approving Authority, partial Submittals may be made and approved, but construction of any Premises Improvement or Premises Alterations may not proceed beyond the scope of the approval received. The Design Guidelines may further require that all plans and specifications to be submitted to the Approving Authority shall be prepared by an architect or engineer licensed to practice in California, and signed by the Project Occupant or by an agent authorized by the Project Occupant in writing. As a condition of the Approving Authority's review of any

Submittal, the Project Operator may charge a reasonable architectural review fee to cover costs of reviewing the Submittal. All approvals or disapprovals by the Approving Authority shall be provided to the submitting Project Occupant in writing and shall, as to any disapproval, contain the reasons for the disapproval.

4.3.3 No Waiver of Future Approvals. The Approving Authority's approval of proposals, plans, specifications, drawings or other components of any Premises Improvement or Premises Alteration shall not waive the Approving Authority's right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

4.3.4 Compliance with Legal Requirements. Approval of any Submittal by the Approving Authority shall not constitute a representation or warranty that the proposed Premises Improvement or Premises Alteration, or Submittals therefor, comply with building codes or other applicable Legal Requirements. Each Project Occupant shall remain solely responsible for ensuring that all Premises Improvements and Premises Alterations are fully compliant with applicable Legal Requirements and for obtaining all required permits, licenses, inspections and approvals from the City. In the event that the City disapproves or otherwise requires any modifications or revisions to Submittals previously approved by the Approving Authority, the responsible Project Occupant shall provide written notice of the City's action to the Approving Authority (with copies of all revised plans and specifications for further review and approval by the Approving Authority).

4.3.5 Exculpation. Approval of any Submittal by the Approving Authority shall not constitute the assumption of any responsibility by, or impose any liability upon, Declarant, the Project Operator or the Approving Authority with respect to the accuracy or sufficiency of the Submittal. Neither Declarant, the Project Operator, the Approving Authority nor any Person retained by the Approving Authority in connection with the review and approval of any Premises Improvements or Premises Alterations pursuant to this Article, shall be liable in damages to anyone making Submittals as provided herein, or to any Project Occupant or other Person subject to or affected by this Declaration, on account of (a) the approval or disapproval of any Submittal; (b) any construction, performance or nonperformance by a Project Occupant of any Premises Improvement or Premises Alteration or other work within a Premises, whether or not pursuant to approved Submittals; (c) any mistake in judgment, negligence, action or omission in the Approving Authority's exercise of its authority hereunder; or (d) the enforcement of, or failure to enforce, any provisions of the Design Guidelines or other Governing Documents relating thereto. Every Person who makes Submittals for approval of a Premises Improvement or Premises Alteration agrees by reason of such Submittal, and every other Project Occupant of a Premises acquiring an interest in any Premises within the Project shall be deemed to have agreed, not to bring any suit or action seeking to recover any damages in connection with the approval or disapproval of any such Submittal against Declarant, the Project Operator or the Approving Authority or any Person retained by any of the foregoing in connection with the architectural review of such Submittals or other exercise of the authority conferred on the Project Operator and Approving Authority pursuant to this Article IV.

4.4 REGULATION OF CONSTRUCTION WITHIN THE PROJECT.

4.4.1 Construction of Premises Improvements and Premises Alterations.

All Premises Improvements and Premises Alterations shall be constructed or installed in a good and workmanlike manner in full compliance with the approved Submittals for such Premises Improvement or Premises Alteration as well as all Legal Requirements (including any Environmental Requirements) applicable thereto. The Project Occupant shall be responsible for obtaining all necessary permits, licenses and approvals from applicable Governmental Authorities and shall not permit construction to commence prior to obtaining all such required approvals. Without limiting any provisions of the Conveyance Documents relating to liens on the Premises, in no event shall the Project Occupant permit any mechanics' lien to be filed against the Project Common Area or any portion of the Project outside the applicable Premises in connection with any construction on such Premises. The Project Operator shall have the right to make any payments or otherwise take any actions as may be reasonable or appropriate to prevent or remove any such liens and to recover the costs incurred by the Project Operator in connection therewith from the responsible Project Occupant either directly or through imposition of a Compliance Assessment on the Project Occupant's Premises. Each Project Occupant, by acquiring an interest in any Premises within the Project, agrees to indemnify, defend (with counsel reasonably acceptable to Declarant) and hold harmless Declarant and the Project Operator against any losses, costs, expenses (including reasonable attorneys' fees) or liabilities incurred by Declarant or the Project Operator in connection with any such lien.

4.4.2 Contractor's Manual. All construction activity conducted anywhere within the Project by or on behalf of the Project Occupants or any Permittees thereof shall be conducted in accordance with the provisions of the Contractor's Manual issued to the Project Occupants by Declarant pursuant to the Conveyance Documents. The Contractor's Manual may include, without limitation, safety rules as well as licensing and insurance requirements for contractors, subcontractors and consultants. The Contractor's Manual may further regulate staging of construction materials, access routes and designated parking areas for construction-related vehicles, disposal of construction debris and construction wastewater, limitation on hours for construction activity, noise and dust mitigation measures and any other reasonable and appropriate regulations required to minimize the impact of such construction on the Project and the other Project Occupants. Pursuant to the Contractor's Manual, the Project Operator may further require that any Project Occupant responsible for a major construction project pay a reasonable Construction Management Fee to reimburse the Project Operator's costs incurred (either directly or payable to third parties) in performing inspections and otherwise monitoring compliance with the provisions of the Contractor's Manual. The Project Operator shall have the authority to enforce the Contractor's Manual as well as to issue updates thereto from time to time as approved by Declarant. Prior to commencing any construction activity on a Premises following completion of the initial Premises Improvements, the responsible Project Occupant shall obtain an updated Contractor's Manual from the Project Operator and shall thereafter be responsible for insuring compliance with the provisions thereof.

4.4.3 Construction Security. Prior to permitting a Project Occupant to commence construction on any Premises, and as a condition thereto, the Project Operator may require the Project Occupant to post a reasonable deposit, bond or other form of security ("Construction Security") to secure compliance with the Contractor's Manual and to protect

against damage to, or liens against, the Project Common Area or other portions of the Project resulting from construction on the Project Occupant's Premises. The Project Operator shall be entitled to draw upon the Construction Security for payment of: (i) fines or charges imposed for violations of the Contractor's Manual and (ii) any costs incurred by the Project Operator to (A) remove liens against the Project Common Area, (B) repair damage to the Project Common Area or (C) take any actions reasonably required to prevent damage to property or injury to persons within the Project, in each case resulting from construction on the Project Occupant's Premises.

4.5 ENFORCEMENT.

4.5.1 Inspection Rights. The Project Operator, either directly or through designated agents, shall have the right to enter onto the Premises to inspect all Premises Improvements or Premises Alterations during the course of construction thereof to confirm that the Premises Improvements or Premises Alterations are being constructed in accordance with the approved Submittals and to otherwise ensure compliance with the Contractor's Manual. The foregoing right to inspect shall include the right to require the responsible Project Occupant to take such action as may be necessary to remedy any noncompliance to the Project Operator's reasonable satisfaction. Upon completion of any Premises Improvements or Premises Alterations and inspection thereof by the Project Operator, the Project Occupant shall have the right to obtain an estoppel certificate from the Project Operator confirming approval of such Premises Improvements or Premises Alterations as so completed.

4.5.2 Remedies for Noncompliance. In the event that any construction is commenced or otherwise performed in violation of the approval requirements set forth in Section 4.1 above or otherwise in a manner failing to comply with all applicable Legal Requirements and provisions of the Contractor's Manual, the Project Operator may issue a Notice of Violation to the responsible Project Occupant in accordance with Section 10.1.1 below. Subject to such responsible Project Occupant's right to request a Hearing to dispute such violation pursuant to Section 10.1.3 below, should the responsible Project Occupant fail to remedy the noncompliance described in such Notice of Violation within the time period specified therein, then in addition to any remedies provided under the applicable Conveyance Documents, the Project Operator may record a Notice of Non-Compliance against the applicable Premises pursuant to Section 10.1.1.2 below and/or pursue all other remedies available at law or equity, including without limitation, an action for injunctive relief. Without limiting the foregoing, the Project Operator may impose fines on a Project Occupant for any violation of the provisions of the Contractor's Manual in the amounts and (as to ongoing or recurring violations) with the frequency specified in the Contractor's Manual. If any noncompliant construction or any other violation of the provisions of the Contractor's Manual poses an immediate risk of damage to property or injury to persons within the Project, the Project Operator shall further have the right, but not the obligation, to take such actions as may be reasonably required to prevent such damage or injury, and may recover all costs incurred in connection therewith from the responsible Project Occupant through a Compliance Assessment or application of the Construction Security or any other appropriate method selected by the Project Operator.

ARTICLE V

FINANCIAL MANAGEMENT; ASSESSMENTS

5.1 FINANCIAL MANAGEMENT OF THE PROJECT. The Project Operator shall manage and control all financial aspects of Project operations on behalf of Declarant, including, without limitation, the following activities:

- (a) making expenditures or incurring contractual payment obligations in order to maintain the Common Maintenance Items, provide services for the benefit of the Project, the Project Occupants and their Permittees, manage and operate the Project Common Area or otherwise fulfill the Project Operator's responsibilities under this Declaration (collectively, "*Project Expenses*");
- (b) determining and collecting Assessments or fines from the Project Occupants as well as revenues from operation of Project Facilities (collectively, "*Project Revenues*");
- (c) preparing, tracking and updating Annual Budgets for Project Expenses and Project Revenues and otherwise maintaining accounting records and other financial systems to track and manage Project Revenues and Project Expenses;
- (d) maintaining deposit accounts or other banking relationships or financial arrangements for purposes of managing Project Revenues, including the authority, but not the obligation, to establish one or more operational accounts for the benefit of Declarant as reasonably necessary to provide for payment of Common Expenses or Special Benefit Area expenses as well as one or more Replacement Reserve accounts for the purposes contemplated in Section 5.2.1.1 below;
- (e) disbursing Project Revenues in payment of Project Expenses; and
- (f) facilitating Declarant's efforts to arrange or incur Project Obligations.

5.2 RECOVERY OF COMMON EXPENSES.

5.2.1 Scope of Common Expenses. The Project Occupants shall reimburse that portion of the Project Expenses that are reasonably anticipated to be regularly incurred on an annual or more frequent basis (the "*Common Expenses*") through payment of Regular Assessments pursuant to Section 5.3.1 below. Common Expenses shall include the following:

- (a) The cost of maintaining the Project Common Area and any Project Facilities located thereon in accordance with Section 3.1.1 above;
- (b) The cost of insuring and operating the Project Common Area and any Project Facilities located thereon (including reasonable operating reserves);
- (c) The cost of providing utilities to the Project Common Area and Project Facilities;

(d) The cost of providing transportation, security or other Project-wide services, as well as expenses incurred in conducting educational, environmental or other Project-wide programs for the benefit of the Project Occupants and their Permittees;

(e) The cost of satisfying any Project-wide environmental monitoring, inspection or mitigation obligations imposed by applicable Environmental Requirements;

(f) Expenses and fees attributable to managing and administering the Project, including compensation of any professional managers engaged by the Project Operator as well as accounting or audit fees, legal fees, and fees of general contractors, subcontractors, engineers or other consultants providing services to the Project under the direction of the Project Operator;

(g) The cost of any insurance or bonds covering the Project or the Project Operator or any agents or consultants thereof;

(h) Taxes, assessments or other governmental charges levied against the Project Common Area or otherwise payable by Declarant as the owner thereof (if any);

(i) Amounts paid by the Project Operator on behalf of Declarant for discharge of any lien or encumbrance levied against the Project Common Area or any portion thereof; and

(j) All other expenses to be incurred by the District or the Project Operator on a recurring basis for the benefit of the Project or for the common benefit of the Project Occupants or their Permittees.

Notwithstanding the foregoing, Common Expenses shall not include (i) any costs allocated to a Special Benefit Area pursuant to Section 5.3.3 below; (ii) any costs paid or reimbursed by third parties pursuant to cost-sharing agreements or other contracts or agreements entered into by the Project Operator, or (iii) costs paid or reimbursed directly to Declarant pursuant to the terms of any Conveyance Documents.

5.2.1.1 Replacement Reserves. Common Expenses may include a reasonable “**Replacement Reserve**” component if determined by the Project Operator to be advisable to accumulate sufficient amounts to fund (i) payment of non-recurring expenses which would not otherwise be included in the Annual Budget for maintenance, repair or replacement of Common Maintenance Items, (ii) self-insured retentions or deductible obligations under the Project Insurance policies, (iii) the cost of performing upgrades to Common Maintenance Items or (iv) otherwise installing additional Capital Improvements to the Project Common Area. The amount of Replacement Reserves to be maintained will be determined annually by the Project Operator in accordance with prudent property management practices generally applied for similarly-situated educational or commercial office projects in the Central Orange County Area.

5.2.2 **Annual Budget**. Not later than thirty (30) days prior to the end of each fiscal year, the Project Operator shall prepare and distribute to the Project Occupants a reasonably detailed budget (an “**Annual Budget**”) showing the Common Expenses and other Project Expenses that the Project Operator anticipates will be incurred during the following year.

The Project Operator may include a reasonable operating reserve in the Annual Budget to cover unanticipated increases in Common Expenses as well as the Replacement Reserve component as contemplated in Section 5.2.1.1 above. The Annual Budget shall further include an estimate of Project Revenues from Project Facilities or other sources that the Project Operator anticipates will be available to pay a portion of the Project Expenses set forth in the Annual Budget. The Project Operator shall not increase the Annual Budget for Common Expenses for any given fiscal year by an amount exceeding the Adjustment Threshold unless such increase either (a) results from increases in Common Expenses beyond the Project Operator's reasonable control (such as increases in utility costs or insurance premiums for existing insurance coverage) or (b) is otherwise approved by Majority Approval of the Project Occupants.

5.2.2.1 Mid-Year Adjustments to the Budgeted Project Expenses.

The Project Operator may adjust the amount of the Project Expenses set forth in the Annual Budget at any time (but not more frequently than once every six (6) months) if the Project Operator determines in its reasonable discretion that the Assessments being collected for the then-current fiscal year, plus any existing operating reserves or other projected Project Revenue for such fiscal year, will not be sufficient to pay all Project Expenses to be incurred by the Project Operator during such fiscal year. In the event of any such adjustment, the Regular Assessments payable by the Project Occupants for the remaining balance of the fiscal year shall be adjusted pursuant to Section 5.3.3 below.

5.2.3 Inspection Rights of Project Occupants. Each Project Occupant shall have the right to inspect and make copies of all records pertaining to the Project Expenses for a particular fiscal year; provided that any demand for such inspection shall occur within one (1) year after the fiscal year in which such Project Expenses were incurred. Such right of examination shall be exercised during reasonable business hours at the principal records office of the Project Operator and on reasonable prior notice thereto.

5.3 ASSESSMENT OBLIGATIONS.

5.3.1 Nature of Assessment Obligation. Each Project Occupant, by taking leasehold or other title to any Premises within the Project, shall be deemed to covenant to pay such Assessments as may be established from time to time pursuant to this Declaration, including all Regular Assessments, Special Benefit Assessments, Compliance Assessments, Capital Improvement Assessments or Extraordinary Assessments allocated to or otherwise imposed upon such Project Occupant's Premises pursuant to this Section 5.3. All Assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall constitute a charge and a continuing lien on the Premises against which such Assessment is made. Each Assessment, together with interest, costs and reasonable attorneys' fees, is also the personal obligation of the Person who was the Project Occupant of the Premises when the Assessment accrued. The personal obligation for delinquent Assessments may not pass to any purchaser of, or other third-party successor to, all or any portion of the Project Occupant's interest in the Premises unless expressly assumed by such purchaser or successor Project Occupant, or unless the purchaser or successor Project Occupant has actual or constructive knowledge of delinquent Assessments, whether by virtue of the recordation of a Lien Notice pursuant to Section 10.2.3 below or receipt from the Project Operator of an estoppel certificate disclosing such delinquent Assessment.

5.3.1.1 Commencement; Continuation of Occupancy. The obligation to pay Assessments for each Premises shall commence as of the first day of the first calendar month after all or any portion of the Premises Improvements initially constructed on such Premises are completed in accordance with the applicable Conveyance Documents and otherwise available for occupancy for their intended use (the "**Commencement Date**"). Assessments imposed on such Premises for the fiscal year in which the Commencement Date occurs shall be prorated based on the remaining number of months in such fiscal year. Once commenced, the Assessment obligations of such Premises shall continue notwithstanding that all or any portion of the Premises Improvements located on the Premises may be subsequently vacated or occupancy thereof is otherwise discontinued at any time. Without limiting the foregoing, no Project Occupant may exempt himself from personal liability for Assessments duly levied by the Project Operator, nor release such Project Occupant's Premises from the liens and charges thereof, by discontinuing occupancy of such Premises or the Premises Improvements located thereon.

5.3.2 Allocation of Assessments to Project Occupants. Except as otherwise expressly provided in Section 5.3.4, Section 5.3.5 and Section 5.3.6 below, Assessments shall be allocated among the Project Occupants based on the "**Allocable Share**" assigned to each Premises within the Project. Such Allocable Share shall be equal to the ratio of (a) the Building Area of the Premises Improvements constructed on such Premises to (b) the Total Building Area of all Premises within the Project for which Assessments have commenced at the time such allocation is determined. The Allocable Share for each Premises shall be initially determined as of the Commencement Date for such Premises (based on the Total Building Area within the Project as of such date). The Allocable Share assigned to such Premises shall be recalculated as of each Annual Adjustment Date thereafter to reflect the Total Building Area of all Premises within the Project for which Assessments have commenced as of such Annual Adjustment Date (including any new or increased Building Area added to the Project during the preceding fiscal year).

5.3.2.1 Annual True-Up. On each Annual Adjustment Date, the Project Operator shall recalculate the total Assessments payable by the Project Occupant of each Premises for the prior fiscal year based on the Allocable Share of such Premises as of such Annual Adjustment Date. Such recalculation shall reflect any prorations of Assessments first commencing during such prior fiscal year pursuant to Section 5.3.1.1 above. In the event that the total Assessments actually paid by the Project Occupant of any Premises during the prior fiscal year exceed the total amount of Assessments allocated to such Premises pursuant to the foregoing recalculation, the Project Occupant shall be entitled to a credit against Assessments payable for then-current fiscal year in an amount equal to the amount of any such overpayment.

5.3.3 Regular Assessments. Each Project Occupant shall pay Regular Assessments in each fiscal year in an amount equal to: (a) the total Common Expenses set forth on the Annual Budget for such fiscal year (less offsetting Project Revenues) multiplied by (b) the Allocable Share assigned to the Project Occupant's Premises. Written notice of the amount of the Regular Assessment for the each fiscal year shall be sent to each Project Occupant at least thirty (30) days before the end of the prior fiscal year. Such written notice shall include a copy of the Project Operator's then-current Payment Policy.

5.3.3.1 Mid-Year Adjustments to Regular Assessments. In the event of any mid-year increase in the Annual Budget for any fiscal year pursuant to Section 5.2.3.1 above, the Regular Assessment or Special Benefit Assessments (as applicable) imposed upon each Premises within the Project for such fiscal year shall be adjusted to reflect such increase. Upon such adjustment, the Project Operator shall deliver revised statements to the Project Occupants confirming (i) the amount of the adjusted Regular Assessment payable by each Project Occupant, (ii) the remaining balance owed by such Project Occupant and (iii) to the extent that Regular Assessments are collected in periodic installments, the amount of each remaining installment to be paid by the Project Occupant. Written notice of any change in the amount of any installment of Regular Assessments payable by the Project Occupants shall be sent via first-class mail to each Project Occupant not less than thirty (30) days before the first installment of such adjusted Regular Assessment becomes due.

5.3.4 Special Benefit Area Assessments. If the Project Operator, in its reasonable discretion, determines that any one (1) or more Premises within the Project, or the Project Occupants or Permittees of such Premises, exclusively or disproportionately benefit from special maintenance, services or other benefits provided by the Project Operator, then the Project Operator may designate a "*Special Benefit Area*" consisting of the Premises so benefitted for purposes of tracking and allocating the cost of such special services or other benefits. Following the establishment of a Special Benefit Area, the Project Operator's cost of providing such special services or benefits to Premises within such Special Benefit Area shall be allocated only to the Project Occupants of such Premises through the imposition of a "*Special Benefit Assessment*." The Project Operator may also levy a Special Benefit Assessment to fund the cost of constructing additional Project Facilities, Project Infrastructure Improvements or other Capital Improvements to the Project Common Area which will serve only certain Premises within the Project (or repaying any Project Obligations to finance construction costs related thereto). Any Project Revenues generated by Project Facilities included within such Special Benefit Area shall be applied to offset the costs otherwise allocated to the Special Benefit Area and shall not be applied to reduce Common Expenses. Such Special Benefit Assessment shall be in addition to the Regular Assessment payable by the Project Occupants of Premises within the Special Benefit Area. Special Benefit Assessments shall be allocated among the Premises within a Special Benefit Area based on the ratio of the Allocable Shares of each such Premises bears to the total Allocable Shares of all Premises within such Special Benefit Area unless the Project Operator determines, in its reasonable discretion, that another method of allocation is reasonable or appropriate under the circumstances of the special services or benefits afforded to such Premises. The additional administrative and operating costs of any Special Benefit Area shall be included in the Special Benefit Assessments allocated to each Premises within such Special Benefit Area.

5.3.5 Compliance Assessments. In addition to the obligation to pay Regular Assessments in accordance with Section 5.3.3 above, each Project Occupant shall also be responsible for paying any costs incurred by the Project Operator pursuant to Section 10.1.1.2 below due to (a) any violation of this Declaration by the Project Occupant or the tenants or other Permittees of such Project Occupant's Premises, or (b) Corrective Actions taken on account of a breach of this Declaration or any other Governing Document or other actions, omissions or activities in violation thereof, in each case following delivery of a written Notice of Violation to the responsible Project Occupant pursuant to Section 10.1.1 below and failure to cure such breach or violation within the time period set forth therein. Any such expenses shall not be

included in the Common Expenses to be reimbursed by the other Project Occupants through Regular Assessments but instead shall be paid directly by the responsible Project Occupant or its Permittee and, if not so paid within ten (10) days after written demand by the Project Operator, may be levied against the Premises of the responsible Project Occupant as a Compliance Assessment. The amount of the Compliance Assessment shall be equal to the cost incurred by the Project Operator in connection with the associated violation or required Corrective Action. Compliance Assessments shall not include any fines or fees exceeding the actual costs (including associated administrative fees as set forth in Section 10.1.1.1 below) incurred by the Project Operator as a result of any such breach or violation; provided that the foregoing shall not limit the authority of the Project Operator to impose or collect fees or fines, in addition to any Compliance Assessment, from any Project Occupant or Permittee for repeated violations of the Governing Documents. Imposition of a Compliance Assessment against any Premises shall be subject to the applicable Project Occupant's right to request a Hearing pursuant to Section 10.1.3 below to dispute the asserted default or violation or responsibility for the required Corrective Action.

5.3.6 Capital Improvement Assessments. In the event that Replacement Reserve funds or Regular Assessments otherwise collected from the Project Occupants are not sufficient to pay the cost of repairing, reconstructing or replacing any Project Facilities or other Common Maintenance Item, or to fund the cost of constructing any off-site Capital Improvements required as a condition to development of the Project, then the Project Operator may levy a Capital Improvement Assessment to defray all or any part of such costs. Such Capital Improvement Assessment shall be payable in addition to the amount of Regular Assessments otherwise payable by the Project Occupants pursuant to Section 5.3.3 above. The Project Operator may not impose a Capital Improvement Assessment exceeding, on a cumulative basis with any other Capital Improvement Assessment payable during such fiscal year, more than twenty percent (20%) of the Regular Assessments otherwise paid by the Project Occupants without Majority Approval of the Project Occupants. Unless otherwise determined by the Project Operator to be reasonable or appropriate under the circumstances, Capital Improvement Assessments shall be levied in the same proportions as Regular Assessments; provided that any Capital Improvement Assessment to be imposed in connection with repair, replacement, restoration or construction of any Common Maintenance Item, the costs for which have been allocated to a Special Benefit Area, shall be allocated only to the Premises within such Special Benefit Area in the same proportion as the Special Benefit Assessments applicable thereto. Funds collected by the Project Operator through Capital Improvement Assessments may not be used to fund any Common Expenses incurred by the Project Operator unless otherwise approved by Majority Approval of the Project Occupants.

5.3.7 Extraordinary Assessments. Extraordinary Assessments shall mean a charge which the Project Operator may levy against the Project Occupants and their Premises to fund payment of any emergency costs or other expenses which cannot be funded through payment of insurance proceeds, Compliance Assessments, Replacement Reserve funds or other sources. Unless otherwise determined by the Project Operator to be reasonable or appropriate under the circumstances, Extraordinary Assessments shall be levied in the same proportions as Regular Assessments.

5.4 COLLECTION OF ASSESSMENTS.

5.4.1 Payment Procedures. The Project Operator shall have the authority to establish and implement policies regarding billing, payment and collection of Assessments (collectively, the “*Payment Policy*”). Such Payment Policy may address, among other matters, available payment methods, installment options and due dates as well as late charges and other consequences for delinquent payments and procedures for requesting an accounting of, or otherwise disputing, amounts owing. Each Project Occupant shall pay Assessments at such frequency and in such amounts and by such methods as may be provided for in the Payment Policy. If the Project Operator incurs additional expenses because of a payment method selected by a Project Occupant, the Project Operator may charge that expense to the Project Occupant and shall not be required to include such additional expense as a part of the Common Expenses. A Project Occupant may request a written statement at any time confirming the amount of the Assessments allocated to the Project Occupant’s Premises (or otherwise payable by such Project Occupant) and the outstanding balance thereof.

5.4.2 Partial Payments. The Project Operator is under no obligation to accept tender of a partial payment of any Assessments or other amounts owed to the Project Operator from any Project Occupant. Acceptance of any such partial tender shall not waive the Project Operator’s right to demand and receive full payment thereafter or affect any collection actions commenced for collection of delinquent amounts prior thereto.

5.4.3 Delinquent Assessments. Any Assessments or any other payment required to be made by a Project Occupant hereunder shall be delinquent if not paid in full within thirty (30) days of the date due. Any such payment, together with all reasonable costs of collection (including attorneys’ fees) incurred by the Project Operator, shall be subject to such late charges and/or accrual of interest as may be provided for in the Payment Policy. Without limiting the foregoing, the Project Operator may bring an action at law against the Project Occupant personally obligated to pay the same, or may impose and enforce a lien against the Premises of such Project Occupant, or may pursue such other remedies and exercise such other rights as may be set forth in Section 10.2 below.

5.4.4 Uncollectable Assessments. At such time as Project Operator determines, in its good faith discretion, that any unpaid Assessments have become commercially impracticable to collect (due to bankruptcy, loss of lien rights or otherwise), such unpaid amount shall thereafter constitute a Common Expense allocable to all other Project Occupants.

5.5 PROJECT OBLIGATIONS Declarant shall have the exclusive power and right to incur indebtedness or enter into other financing arrangements to fund the cost of constructing Project Facilities, Project Infrastructure Improvements, Capital Improvements or other extraordinary Project Expenses (“*Project Obligations*”).

ARTICLE VI USE RESTRICTIONS

6.1 PERMITTED USES. Subject to compliance with all other terms of this Declaration and except as specifically prohibited in Section 6.2 below, the Premises within the

Project may be developed and used for any educational, commercial, public-serving or other uses permitted under (a) the applicable Conveyance Documents for such Premises and (b) subject to Section 6.1.1 below, any Legal Requirements applicable to the Project.

6.1.1 Conditionally Permitted Uses. Any proposed use of a Premises that requires the issuance of a variance, conditional use permit or other discretionary approval by any Governmental Authority (including by the City's Community Development Director) shall not be permitted unless (a) the proposed use otherwise complies with this Declaration, the applicable Conveyance Documents, the Environmental Requirements and all other applicable Legal Requirements, and (b) the proposed use has been approved in writing by the Project Operator, or, as to any activities reasonably related to education processes associated with any District Use, Declarant, which approval may be withheld or conditioned in the sole discretion of the Project Operator or Declarant, as applicable. The Project Occupant shall be responsible for obtaining the written approval of the Project Operator or Declarant, as applicable, prior to submitting any application (or supporting or other related documents) for such variance, use permit or other discretionary approval to the City or any other Governmental Authority.

6.1.2 Change in Use. Declarant may authorize any change in use from that permitted in the Conveyance Documents for the applicable Premises provided such use (a) does not otherwise violate the requirements of this Section 6.1, (b) will not cause the Premises, or the Project as a whole, to violate the Environmental Requirements, parking requirements, traffic mitigation measures or other applicable Legal Requirements (including, as to each Premises, the Trip Budget allocated thereto), and (c) will not create a nuisance within the meaning of Section 6.4 below or otherwise violate the provisions thereof.

6.1.3 Special Events. Without limiting the provisions of Section 6.4 or Section 6.8 below, no Project Occupant or Permittee may sponsor, conduct or permit the conduct of any "Special Event" within any Premises or within any portion of the Project Common Area, without first providing notice to and obtaining the prior written consent of the Project Operator (or as to any Special Event to be conducted in connection with a District Use, Declarant), which consent may be withheld or conditioned in the sole discretion of the Project Operator or Declarant, as applicable. Such Project Occupant or Permittee shall further be solely responsible for obtaining, as a condition precedent to conducting any such Special Event, any license, permits or approvals required under any Legal Requirements applicable thereto and otherwise complying therewith. For purposes of this Section 6.1.3, "*Special Event*" shall mean any event or other activity outside the scope of activities normally conducted on such Premises which is reasonably likely to generate extraordinary levels of noise or a material increase in vehicular or pedestrian traffic or parking demand within the Project.

6.1.4 Enforcement of Use Restrictions. Neither Declarant nor the Project Operator shall be liable in damages to any Project Occupant or Permittees thereof for approving or disapproving any use pursuant to this Section 6.1 or Section 6.2 below. Commencement of any use not permitted by this Article VI shall constitute a material breach of the Governing Documents entitling the Project Operator to all remedies set forth in Article X below or otherwise available at law.

6.2 PROHIBITED USES.

6.2.1 Prohibited Uses. In no event shall the following operations or uses be permitted within the Project without the prior written approval of the Project Operator, or as to any operations or uses associated with a District Use, Declarant, which may be given, conditioned or withheld in the sole discretion of the Project Operator or Declarant (as applicable), notwithstanding that such uses may be otherwise permitted under applicable Legal Requirements:

- (a) Any business that is primarily sexually oriented, such as a business offering nude or semi-nude entertainment, a massage parlor, escort service, adult theater, adult bookstore selling "adults only" magazines, videos, books or other such paraphernalia or similar businesses;
- (b) Facilities or businesses providing rehabilitation or post-detention vocational services to convicted felons, facilities providing post-detention or transitional housing to convicted felons, bail bond agencies, or probation offices;
- (c) Businesses engaging in the on-site manufacture, sale, storage or distribution of firearms, munitions, ammunition, explosives or fireworks;
- (d) Clinics or other facilities for rehabilitation or treatment of, or otherwise related to, drug or alcohol addiction;
- (e) Businesses engaging in the manufacture, sale, storage or distribution of cannabis, cannabis derivatives or cannabis-containing products;
- (f) Veterinary offices or facilities, including animal training, boarding or grooming facilities;
- (g) Any residential use (other than dormitories or student housing);
- (h) Gambling or other activities prohibited by California Penal Code §330 et. seq. or any "controlled games" otherwise regulated by California Business & Professions Code §19800 et. seq. (provided that the foregoing shall not apply to the occasional conduct of gambling activities otherwise permitted by applicable Legal Requirements for fundraising purposes in support of a permitted educational use);
- (i) Commercial recycling facilities;
- (j) Automotive service stations or automotive inspection or repair facilities;
- (k) Any use generating parking requirements in excess of (i) the parking available on the Premises in which the use will be conducted plus, if applicable (ii) any off-site parking otherwise allocated to such Premises by the Project Operator;
- (l) Any use which would be deemed under applicable Legal Requirements to generate vehicular traffic in excess of the Trip Budget allocated to the Premises on which

the use is to be conducted in the Conveyance Documents applicable thereto or to otherwise require implementation of additional traffic mitigation measures for the Project; or

(m) Any use which would otherwise cause the Project as a whole to violate the Environmental Requirements or other Legal Requirements applicable thereto.

Notwithstanding the foregoing, neither Declarant nor the Project Operator shall be liable in damages to any Project Occupant, or to any other Person subject to or affected by this Declaration, on account of any waiver of restrictions on Prohibited Uses pursuant to this Section 6.2.

6.3 LEASING. In addition to any applicable requirements of the Conveyance Documents, no Project Occupant shall rent, lease or sublease all or any portion of the Premises Improvements located on such Project Occupant's Premises except pursuant to a written lease or rental agreement which expressly provides that any occupancy is subject to all of the provisions of this Declaration and the other Governing Documents, any violation of which on the part of any lessee, tenant, sublessee or other occupants pursuant thereto will constitute a breach of such lease or rental agreement. The Project Occupant of each Premises shall be responsible for ensuring compliance with the provisions of this Declaration and the other Governing Documents by the lessees, tenants or other Permittees of its Premises.

6.4 EXTERNAL EFFECTS; NUISANCES. Every use shall be operated (a) so that it does not emit any (i) electro-mechanical or electro-magnetic disturbance or radiation that would unreasonably interfere with uses or activities conducted on any real property outside of the Premises (as determined by the Project Operator in its reasonable discretion), or (ii) obnoxious or dangerous amount of noise, heat, glare, radiation, fumes or odors perceptible outside of the Premises Improvements within which the use is being conducted, and (b) so that ground vibration inherently and recurrently generated by such use is not perceptible, without instruments, at any point outside of the Premises Improvements within which the use is being conducted. Notwithstanding the foregoing, nothing in this Section 6.4 shall be interpreted so as to unreasonably restrict or prohibit temporary impacts resulting from the conduct of construction activity on any Premises which otherwise complies with the Contractor's Manual. No Project Occupant may use, or permit any of its Permittees to use, any Premises within the Project for any use which would in any way (i) constitute a nuisance to the Project Occupants or Permittees of other Premises within the Project or otherwise unreasonably interfere with the quiet enjoyment thereof (as determined by the Project Operator in its reasonable discretion), or (ii) increase the rate of insurance for the Project or any other Premises within the Project. Without limiting the foregoing, Declarant has determined that (A) possession of Restricted Weapons as described in Section 6.5 and (B) the unregulated presence of Required Registration Parties within Restricted Areas as described Section 6.6 below shall each constitute a nuisance and shall not be permitted except as expressly provided below. Notwithstanding the foregoing, neither Declarant nor the Project Operator shall be liable in damages to any Project Occupant, or to any other Person subject to or affected by this Declaration, on account of any determination made by the Project Operator in its reasonable discretion pursuant to this Section 6.4.

6.5 POSSESSION OF RESTRICTED WEAPONS. Declarant has determined that, due to the integrated nature of the educational and other commercial uses to be conducted within the Project, the entire Project shall constitute a “District Site” (hereinafter, the “*Project District Site*”) within the meaning of Administrative Policy 2125 adopted by the Board of Trustees of Declarant on August 31, 2009, as implemented by Administrative Regulation 2125 adopted by Declarant’s Board of Trustees on April 14, 2013 (collectively as amended, superseded or otherwise modified from time to time, the “*District Weapons Regulations*”). For purposes of this Declaration, the term “*Restricted Weapons*” shall include any and all firearms, knives, explosives or other weapons now or hereafter prohibited or otherwise regulated by the District Weapons Regulations or any provision of the California Penal Code, including without limitation, (i) any dirk, dagger, ice pick or knife with a blade exceeding two and one-half inches in length, (ii) any tasers, stun guns or other electronic weapons, or (iii) any facsimiles of any such prohibited or regulated weapons. Restricted Weapons shall further include personal firearms notwithstanding that such personal firearms may otherwise be permitted under certain circumstances pursuant to California Penal Code Sections 25605 and 26405 (or any other statutory provision which is a successor thereto or otherwise substantially similar thereto). In accordance with the District Weapons Regulations, Declarant finds that there is no legitimate purpose for any persons (other than “Permitted Users” as defined below) to use or possess any Restricted Weapons on the Project District Site. Accordingly, any such possession or use within the Project shall constitute an “unlawful use” within the meaning of California Penal Code Section 17500 and a nuisance, and is hereby expressly prohibited. The foregoing prohibition shall not apply to any on-duty law enforcement personnel, duly-appointed California peace officers or security personnel directly employed by Declarant or the Project Operator who are required to possess such weapon in the course of their employment and who are in possession of such firearms or other weapons for a lawful purpose (“*Permitted Users*”). Notwithstanding the foregoing, otherwise lawful use or possession of Restricted Weapons for the following purposes may be permitted upon prior notice to, and with the express prior written consent of, the employee or agent of Declarant designated by Declarant for such purpose (the “*Security Officer*”), which consent may be withheld, limited or otherwise conditioned as determined by the Security Officer to be reasonably necessary to uphold and preserve the intent and purposes of the District Weapons Regulations: (i) the conduct of a permitted educational use, (ii) the provision of private security services by duly-licensed personnel employed by or on behalf of any Project Occupant to protect such Project Occupant’s Premises, (iii) the conduct of on-site food preparation or consumption, or (iv) other lawful uses which are within the scope of the user’s employment while conducting activities at the Project District Site.

6.6 REGISTERED SEX OFFENDERS. As set forth in Section 6.5 above, Declarant has determined that, due to the integrated nature of the educational and other commercial uses to be conducted within the Project, the entire Project constitutes a “District Site” for the purposes specified herein. Access to the District Site by any person required to register as a sex offender pursuant to California Penal Code Section 290 et. seq. (a “*Required Registration Party*”) must be subject to notice requirements and other restrictions as set forth in this Section 6.6. Each Project Occupant shall be responsible for determining if any employee, agent, contractor or consultant thereof who will have a regular presence on the Premises at the behest of the Project Occupant (each, a “*Premises-Related Party*”) constitutes a Required Registration Party and if so determined, shall provide written notice thereof to the Security Officer. Such notice shall identify the applicable Premises-Related Party as a Required Registration Party, the nature or purpose of

such Premises-Related Party's activities within the Project, and the anticipated days and hours that such Premises-Related Party will be required to be present within the Project in connection therewith. After reviewing such notice, the Security Officer shall have the right (but not the obligation) (i) to designate portions of the Project which such Premises-Related Party may not occupy, use or enter, including without limitation, any Project Common Area which may be concurrently occupied, used or entered by students or other Permittees of any educational uses conducted within the Project which are minors (collectively, the "***Restricted Areas***") or (ii) to otherwise impose restrictions on such Premises-Related Party's use of the Restricted Areas. The Security Officer shall notify the Project Occupant in a timely manner of any access or other restrictions to be imposed on the Premises-Related Party. Upon notification from the Security Officer, the Project Occupant shall be responsible for (i) communicating such restrictions to the Premises-Related Party, (ii) obtaining the Premises-Related Party's written agreement to comply with the restrictions, and (iii) otherwise ensuring the Premises-Related Party's compliance therewith. Each Project Occupant shall be responsible for complying with the foregoing procedures prior to employing, engaging or otherwise permitting any Premises-Related Party who constitutes a Required Registration Party to make its initial entry upon the Project. Notwithstanding the foregoing, if any Project Occupant conducting a permitted educational use within the Project has established independent procedures for regulating the activities of Required Registration Parties on its Premises, then subject to approval of such independent procedures by the Security Officer, the Project Occupant shall be exempt from any obligation to separately comply with the procedures set forth in this Section 6.6.

6.7 ENVIRONMENTAL REQUIREMENTS. Without limiting the obligations of the Project Occupants under Section 3.2 above, and in addition thereto, Project Occupant shall not use, nor allow any Permittee thereof to use, its Premises or any part thereof in a manner which results in a violation of the Environmental Requirements, including any use, storage, handling, release, emission, discharge, disposal, generation, abatement, disposition or transportation of any Hazardous Substance in violation thereof. Each Project Occupant shall, at its own cost and expense, comply, and cause each of its tenants, licensees, concessionaires and/or other Permittees to comply, with the Environmental Requirements including, without limitation, obtaining and filing all applicable notices, permits, licenses and similar authorizations and maintaining all required records. Should any Project Occupant use or permit the use by any Permittee thereof of any Hazardous Substance in quantities requiring reporting or notice to any applicable Governmental Authority or agency, such Project Occupant shall provide such required notice to the appropriate Governmental Authority or agency and simultaneously send a copy of such notice to the Project Operator.

6.8 STORAGE AND HANDLING OF WASTES AND OTHER MATERIALS. No trash, wastes or other materials shall be stored on any Premises other than within the Premises Improvements constructed in accordance with the Design Guidelines or in a separate enclosures otherwise approved by the Project Operator or Approving Authority. Without limiting the foregoing, in no event may any trash, wastes or other materials be maintained on any Premises in such form or manner as to permit transfer of such materials off of the Premises by natural causes or forces. Pursuant to Section 3.3.2 above, the Project Occupants shall be responsible for ensuring regular trash collection services from, and maintenance of, such private trash collection facilities to avoid odors, insect infestation and decay of waste materials. Any outdoor storage of waste or other materials in violation of the foregoing or any other Rules or Regulations

implemented by the Project Operator relating thereto may be removed by the Project Operator at the expense of the responsible Project Occupant.

6.9 PARKING AND VEHICULAR REGULATIONS. The Project Operator may implement Rules and Regulations governing parking and operation of vehicles within the Project (the “*Parking and Traffic Rules*”). Such Parking and Traffic Rules shall be in addition to any traffic laws, parking codes or other Legal Requirements imposed by the City relating thereto and may include, without limitation, (a) designation of speed limits and other traffic control measures on private streets and accessways, (b) implementation of assigned parking, controlled access parking, visitor parking, “handicapped parking,” and “no parking” areas within the Project Common Area, (c) prohibitions on after-hours parking, storage of vehicles or parking or vehicle operation within the Project in a manner which the Project Operator may determine, in its sole discretion, to obstruct free traffic flow, constitute a nuisance, or otherwise create a safety hazard; and (d) prohibition against parking or operation of certain types of commercial vehicles within the Project. From and after implementation of any such Parking and Traffic Rules, no vehicles may be operated or parked within the Project except in compliance therewith. The Project Operator shall have the authority to enforce the Parking and Traffic Rules, including removing violating vehicles pursuant to California Vehicle Code Section 22658 or other applicable ordinances or statutes. Upon each failure of a Project Occupant to comply, or to cause its Permittees to comply, with such Parking and Traffic Rules, the Project Operator, after delivery of written notice to the responsible Project Occupant, may in addition to any other remedy, impose fines on the non-complying Project Occupant. The Project Operator may further impose a Compliance Assessment on the non-complying Project Occupant in an amount equal to the Project Operator’s costs of enforcing the applicable Parking and Traffic Rules against such Project Occupant, including the costs of towing, storage, attorneys’ fees, consultant fees and fees of property management personnel related thereto. Such fines and/or Compliance Assessments may be charged for each separate occurrence of a Project Occupant’s failure to comply with the Parking and Traffic Rules.

6.10 SUSTAINABILITY PROGRAMS. The Project Operator may implement recycling programs, ride-sharing/traffic management programs or other sustainability programs for the Project. All uses within the Project shall be conducted in accordance with any sustainability programs so implemented from time to time.

6.11 SIGNS. The Declarant may implement a signage program or other specific design guidelines for any identifying, directional or other signage installed on the exterior portions of any Premises (or visible from the exterior of any Premises Improvements located thereon) within the Project (a “*Sign Program*”). All signs displayed anywhere within the Covered Property must comply with (i) such Sign Program and (ii) all Legal Requirements applicable to the Project or the business of the applicable Project Occupant or Permittee (including, without limitation, Legal Requirements restricting any type of “balloon” or other aerial signs or any other signs extending above roof lines). Any sign shown or displayed from or visible from the outside of any Premises Improvement shall, to the extent required pursuant to the Sign Program, be subject to the prior written approval of the Approving Authority pursuant to Section 4.1 above. Except as expressly permitted by the Sign Program, no sign may be erected, hung or maintained on or over any portion of the Project Common Area without the prior written consent of the Project Operator which may be withheld in its sole discretion. The Sign Program shall not regulate the content of

political signs located within any Premises; provided that the Sign Program may regulate the time, place and manner of posting of such signs. Notwithstanding anything to the contrary set forth in the Sign Program, consent of the Approving Authority shall not be required to show or display any of the following types of signs or notices of customary and reasonable dimension and location on any Premises within the Project which otherwise comply with the Sign Program: (a) any sign which states that a Premises Improvement or any portion thereof is for rent or sale, (b) any Notices of Non-Responsibility pursuant to California Civil Code §8444, or (c) any required notices posted in connection with any legal proceedings affecting the Premises on which such notice is posted. Approval of a sign by the Approving Authority shall not affect the Project Occupant's independent duty to comply with any applicable Legal Requirements prior to sign installation. The Project Operator may summarily cause any unauthorized or otherwise noncompliant signs to be removed or destroyed. In no event shall any Project Occupant or Permittee thereof have or acquire any interest in or right to use the names "Advanced Technology & Education Park," "ATEP" or any related name or any permutation thereof in any sign or other advertising without the prior written consent of the Declarant which may be withheld by the Declarant in its sole discretion.

6.12 NON-DISCRIMINATION. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project or any portion thereof, nor shall any Project Occupant itself or any Permittee claiming under or through such Project Occupant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of any tenants, subtenants, lessees, sublessees or vendees of any portion of the Project.

6.13 FURTHER SUBDIVISION; ZONING OR LAND USE AMENDMENTS; VARIANCES. Without limiting the provisions of Section 6.1.1 above, no Project Occupant shall further subdivide any Parcel without the prior written approval of the Declarant, which may be granted or withheld in the Declarant's sole and absolute discretion. No request for a modification, waiver or variance of existing zoning requirements, or amendment or modification of the Development Agreement, Specific Plan or any other entitlements affecting any portion of the Project, may be initiated or proposed by any Project Occupant unless the application, petition or other proposal has been approved in writing by the Declarant, which approval may be given, conditioned or withheld in the Declarant's sole and absolute discretion.

ARTICLE VII EASEMENTS

7.1 PROJECT COMMON AREA EASEMENTS.

7.1.1 Project Occupants' Rights to Use and Enjoyment of Project Common Area. The Project Common Areas within the Project are subject to non-exclusive easements of use and enjoyment for the benefit of the Project Occupants and their Permittees for purposes of parking, ingress, egress, access, vehicular and pedestrian traffic and all other purposes contemplated by this Declaration. Such easements are appurtenant to and shall pass with leasehold or fee title to each Premises within the Project. The foregoing easements shall be

subject to all other rights and easements set forth in the Governing Documents, including without limitation, the following:

- (a) Easements as shown on any recorded subdivision map of the Covered Property, and any other easements now or hereafter recorded against the Covered Property, including without limitation, any easements, rights or restrictions provided for in this Declaration or in any other recorded Environmental Restrictions;
- (b) The Project Operator's exercise of its authority established hereunder;
- (c) Declarant's right, acting through the Project Operator, to approve or otherwise cause the repair, replacement, alteration or removal of any existing Project Facilities or Project Infrastructure Improvements and to approve or otherwise cause the construction of additional Project Facilities or Project Infrastructure Improvements, in each case for purposes consistent with the intended use of the Project as a mixed-use educational and commercial project;
- (d) The Project Operator's authority to reasonably restrict access to sensitive landscaped areas, parking areas, maintenance facilities and other portions of the Project Common Area, including without limitation (i) the right to establish Exclusive Use Areas within the Project Common Area for the exclusive use of the Project Occupant or Permittees of any Premises within the Project; and/or (ii) the right to restrict access to portions of the Project Common Area for purposes of conducting events thereon;
- (e) Compliance with any Rules and Regulations pertaining to the use of the Project Common Area which may be implemented from time to time by the Project Operator pursuant to the provisions of this Declaration, including Parking and Traffic Rules regarding use of shared parking facilities;
- (f) Declarant's right to grant, consent to, or join in the grant or conveyance of, easements, licenses or rights of way in, on or over the Project Common Area; and
- (g) Any easements, licenses or other rights otherwise now or hereafter reserved or established pursuant to this Article VII.

7.1.2 Further Easements. No Project Occupant shall grant any easements or dedications materially adversely impacting (a) any Project Common Area that may be located on or adjacent to the Premises or Exclusive Use Area of such Project Occupant, or (b) any easement rights of any other Project Occupant therein, in each case without the prior written approval of the Project Operator. Any such dedication or easement in violation of the foregoing provisions shall remain subordinate to the rights of the Project Operator and the Project Occupants over such portion of the Project pursuant to this Section 7.1.

7.1.3 Delegation of Use. Any Project Occupant entitled to the right and easement of use and enjoyment of the Project Common Area may delegate those rights and easements in writing to tenants or other Permittees occupying or otherwise using such Project

Occupant's Premises. No Project Occupant shall be exempted from personal liability for Assessments duly levied by the Project Operator, nor shall such Project Occupant's Premises be released from the liens and charges thereof, by such Project Occupant's waiver of its right to use and enjoyment of the Project Common Area or by any abandonment of the Premises Improvements located on such Project Occupant's Premises.

7.2 PROJECT OPERATOR EASEMENTS. The following easements are hereby established and reserved for the benefit of Declarant and the Project Operator and any designated agents, officers and employees thereof and may be further assigned on the terms set forth below:

7.2.1 Maintenance and Repair. A nonexclusive easement over each of the Premises within the Project for purposes of maintenance and repair of Project Common Area Improvements (including landscaping improvements) located thereon or adjacent thereto. The foregoing easement shall include an easement over any Project Infrastructure Improvements located on any such Premises.

7.2.2 Inspection Rights. A nonexclusive easement over the Premises within the Project (including any Premises Improvements located thereon) for purposes of access, inspection and maintenance as necessary to fulfill the responsibilities of the Project Operator pursuant to this Declaration, including without limitation, the right to inspect such Premises to confirm compliance with the requirements of this Declaration. Without limiting the foregoing, the easements reserved herein shall include nonexclusive easements over each of the Premises and Premises Improvements located thereon for purposes of satisfying any maintenance obligations of the Project Occupant of such Premises pursuant to Section 3.1.2 above or otherwise enforcing the provisions of this Declaration should the Project Occupant of such Premises fail to perform such maintenance or remedy any other noncompliance with this Declaration.

7.2.3 Utility Easements. The following non-exclusive easements which Declarant or the Project Operator may further assign, on a non-exclusive basis, to any public or private utility provider, Governmental Authority or, to the extent provided below, other Project Occupants:

(a) **Common Utility Easements.** Non-exclusive easements ("Common Utility Easements") for purposes of installing, repairing and maintaining Project Infrastructure Improvements as reasonably required for the delivery of utility services to the Project Common Area or any other Premises within the Project. The Project Operator shall have the right to permit other Project Occupants to install or maintain utility improvements or facilities within the designated Common Utility Easements located on any Premises (but not within any Premises Improvement) subject to approval of the plans and specifications for such utility improvements by the Approving Authority pursuant to Article IV above and further subject to full compliance with the limitations on entry and restoration obligations set forth in Section 7.4 below.

(b) **Easements for Public Utilities and Services.** Nonexclusive easements for ingress and egress over the Premises and the Project Common Area for the benefit of any public or private utility, mutual water district or public agency providing

utilities or related services to the Project for purposes of operation, maintenance and repair of utilities equipment, facilities or other improvements within the Project. The foregoing easements shall include a right of access for purposes of reading and maintaining meters, and using and maintaining fire hydrants located within the Project. Declarant reserves the right to grant additional easements and rights-of-way over the Project to utility companies and public agencies, as necessary for the proper operation of the Project.

Declarant, acting through the Project Operator, shall have the right to designate the location of the foregoing Common Utility Easements and easements for public utilities and services; provided that the Project Operator shall have no right to establish any such easements in a location which would interfere with existing Premises Improvements or otherwise materially adversely impair use or occupancy of such Premises for its intended purposes.

7.2.4 Telecommunications Easement. Nonexclusive blanket easements (the “*Telecommunications Easements*”) over the Covered Property for purposes of constructing, installing, locating, altering, operating, maintaining, inspecting, upgrading, removing and enhancing facilities for the delivery of telecommunications, internet and other forms of communication services. The Project Operator may license or assign (on a nonexclusive basis) all or any portion of the foregoing Telecommunications Easements to any third-party provider of such services. Notwithstanding the foregoing, any rights arising under the Telecommunications Easements may not be exercised in a manner which would unreasonably interfere with the reasonable use and enjoyment of any Premises for its intended purpose. If the exercise of a Telecommunications Easement results in damage to any Premises within the Project, then the assignee or licensee of the Telecommunications Easement causing the damage shall be responsible for the prompt repair thereof.

7.2.5 Construction Easement. A nonexclusive easement over the Covered Property as reasonably required for purposes of performing construction, restoration or replacement of any Project Infrastructure Improvements, Project Facilities or other improvements located thereon or on any portion of the Covered Property adjacent thereto (including construction of additional Project Infrastructure Improvements pursuant to Section 7.1.1(c) above); provided however, that the foregoing easement may not be exercised in such a manner as to materially impair the rights of the Project Occupant or Permittees of such Premises to access or occupy the Premises Improvements located thereon. The Project Operator may grant temporary sub-easements the foregoing construction easement to any Project Occupant constructing Project Infrastructure Improvements or Project Facilities on behalf of the Project Operator or otherwise conducting construction activity on any adjacent Premises subject to the compliance by such Project Occupant with the requirements of Section 7.4 below.

7.3 MISCELLANEOUS EASEMENTS. The following easements are further hereby established and reserved for the benefit of the Project Operator, each of the Premises within the Project and the Project Occupants thereof:

7.3.1 Drainage. All of the Premises within the Project are subject to reciprocal easements for the benefit of all other portions of the Covered Property for drainage of stormwater and other surface water over, across and upon adjacent Premises and/or the Project

Common Area resulting from the normal use of such Premises and Project Common Area. Such drainage shall be subject to compliance with all Legal Requirements including any drainage regulations or other Environmental Restrictions applicable thereto. No Premises Improvements or alterations thereto may be constructed on any Premises which would unreasonably interfere with the existing drainage patterns on such Premises without the express written consent of the Approving Authority pursuant to Article IV above.

7.3.2 Encroachments. All of the Premises within the Project are subject to reciprocal easements to accommodate minor encroachments (not to exceed three (3) feet) and maintenance thereof in the event that Premises Improvements located on any Premises or architectural features incorporated therein encroach upon any adjacent Premises as a result of (a) variances in original construction or approved reconstruction thereof, or (b) the repair, shifting, settlement or movement of such Premises Improvement following completion of the construction or approved reconstruction thereof. Use of the foregoing easements may not unreasonably interfere with the use or occupancy of the burdened Premises for its intended purpose.

7.3.3 Easements for Public Services. All of the Premises and Project Common Area within the Project shall be subject to nonexclusive access easements for purposes of public safety, inspections for compliance with Governmental Requirements and other governmental services or activities, including but not limited to, the right of law enforcement and fire protection personnel to enter upon any part of the Project for the purpose of carrying out their official duties.

7.4 LIMITATIONS ON ENTRY. Any entry onto an Project Occupant's Premises by the Project Operator or any other Project Occupant or Permittee thereof pursuant to the rights and easements reserved in this Article VII shall be conducted in a manner so as to minimize any damage to such Premises or Premises Improvements located thereon or disruption of the operations conducted thereon and shall further be subject to compliance with any reasonable requirements as to security of the Premises and the operations conducted thereon as may be imposed by the Project Occupant or its tenants. Entry into any Premises Improvement by or on behalf of the Project Operator pursuant to the rights and easements reserved in this Article VII may be made only upon at least three (3) business days advance written notice (the "*Entry Notice*") to the Project Occupant or Permittee of the Premises Improvement to be entered, except for emergency situations which shall not require advance notice. Without limiting the foregoing, the Project Occupant or Permittee of the Premises Improvement to be entered shall have the right to be present, or to have a designated representative present, during any such entry. In the event that the Project Occupant or Permittee of the Premises fails to have a representative present at the designated time, then the Project Occupant or Permittee shall be deemed to have waived the foregoing right to be present during such entry. Except in the case of an entry by the Project Operator for purposes of performing maintenance of an Occupant Maintenance Item due to the responsible Project Occupant's failure to do so, the Premises or Premises Improvement to be entered shall, following completion of the work to be performed by the entering party, be left in substantially the same condition as existed immediately preceding such entry. Any damage to a Premises caused by an entry pursuant to this Article VII shall be repaired by the Project Operator or responsible Project Occupant entering such Premises.

ARTICLE VIII INSURANCE

8.1 PROJECT INSURANCE. Declarant shall cause the following insurance coverages (collectively, the “*Project Insurance*”) to be maintained at all times for the benefit of the Project:

8.1.1 **Liability Insurance.** Commercial general liability insurance providing coverage against claims and liability for bodily injury, death or property damage arising out of activities of Declarant, the Project Operator, or any employee or agent thereof, as well as any Project Occupant or any Permittee thereof, on the Project Common Area, with such limits as the Project Operator determines in its sole discretion to be appropriate for the Project. Such policy shall be primary and not in excess of, or contributory with, other insurance carried by the Project Occupants pursuant to this Declaration. The liability limits of the insurance required pursuant to this Section 8.1.1 may be increased by Declarant, based on relevant factors including, without limitation, inflation, increased liability awards, and the advice of professional insurance advisors.

8.1.2 **Fire and Casualty Insurance.** Property casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Project Facilities or other insurable components of the Project Common Area. Declarant shall have no obligation to maintain property casualty insurance or any other coverage for any Premises Improvements installed by or on behalf of a Project Occupant on such Project Occupant’s Premises or on any Exclusive Use Area appurtenant thereto, which insurance shall be the sole responsibility of the Project Occupant of such Premises.

8.1.3 **Fidelity Insurance.** Declarant shall have the right to obtain fidelity insurance coverage for the Project Operator or any other Persons handling Project Revenues or any other funds on behalf of Declarant, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum amount of funds in the custody or under the control of such Persons during the term of the insurance.

8.1.4 **Other Insurance.** Declarant shall have the right, but not the duty, to obtain such additional insurance coverages as Declarant may determine in its reasonable discretion to be appropriate for the Project, including without limitation, earthquake insurance, flood insurance, terrorism coverage, environmental or pollution legal liability insurance or similar insurance with such coverage and limits as Declarant determines in its reasonable discretion to be appropriate for the Project. Declarant shall be entitled to rely on the advice of any professional insurance advisor engaged by Declarant or the Project Operator in determining the appropriate type and level of Project Insurance to be maintained by Declarant.

8.1.5 **Beneficiaries.** The Project Insurance policies shall be maintained in the name of, and the proceeds thereof shall be payable to Declarant. Casualty insurance proceeds shall be applied by the Project Operator as directed by Declarant for the repair or replacement of the property or credited against the Common Expenses allocated to the Project Occupants.

8.1.6 Insurance Premiums. All premiums or other allocable costs incurred by Declarant in maintaining the Project Insurance coverages, as well as any deductible amounts for claims made thereunder which are not otherwise allocable to a responsible Project Occupant, shall be allocated to all Project Occupants as part of the Common Expenses.

8.1.7 Claims Management. The Project Operator, in its capacity as agent of Declarant and under the direction and control thereof, shall have the exclusive authority to bind the Project and the Project Occupants thereof in respect to all matters affecting the Project Insurance, including without limitation, determining when to submit claims under the Project Insurance, negotiating loss settlements with insurance carriers on such claims, and the surrender, cancellation, and modification of any such Project Insurance. All insurance proceeds recovered under any Project Insurance provided for in this Section 8.1 shall be paid to Declarant and no Project Occupant or other Person shall have any right, title or interest therein or claim thereon.

8.2 PROJECT OCCUPANT INSURANCE OBLIGATIONS. Each Project Occupant shall maintain the following insurance:

8.2.1 Liability Insurance. Each Project Occupant shall maintain, at its sole cost and expense, commercial general liability insurance (occurrence form) insuring against (i) liability for activities and business operations of the Project Occupant or its Permittees in the Project (including the use of motor vehicles by such Project Occupant and its Permittees), and (ii) any and all activities within or upon any said Project Occupant's Premises. Such liability insurance shall not contain any exclusions for contractually-assumed liability and shall be written by insurance companies approved by the Project Operator in its reasonable discretion. Limits of liability (combined single limit and aggregate) under such liability coverage shall satisfy such minimum amounts as may be required by the Conveyance Documents applicable thereto or as otherwise customarily required for comparable improvements with similar uses in the Central Orange County Area. The required liability limits of the Project Occupant's liability insurance may be determined and, as appropriate, increased from time to time, by the Project Operator, based on relevant factors including, without limitation, the nature of the Project Occupant's use of the Premises, inflation, increased liability awards, and the advice of professional insurance advisors.

8.2.2 Fire and Casualty Insurance. Each Project Occupant shall maintain, at its sole cost and expense, standard form fire and casualty insurance with extended coverage endorsements as written in California, covering the Premises Improvements within such Project Occupant's Premises and, if applicable, any Exclusive Use Area appurtenant thereto. Such insurance shall provide coverage, in an amount not less than one hundred percent (100%) of the full replacement cost thereof, against any peril included within the classification "Special Causes of Loss," including without limitation, coverage for flood damage, earthquake damage, sprinkler damage and theft. Such insurance shall indemnify the policyholder for losses on a "replacement cost valuation" basis, and shall provide for periodic reappraisal to ensure maintenance of coverage at the appropriate level. All policies required under this Section 8.2.2 shall be written by insurance companies approved by the Project Operator in its reasonable discretion.

8.2.3 Worker's Compensation; Employer's Liability. Each Project Occupant shall maintain, and shall require its Permittees to maintain, Worker's Compensation and Employer's Liability Insurance, as required by law.

8.2.4 General Occupant Insurance Requirements.

(a) All insurance maintained by any Project Occupants or their Permittees (collectively, "*Occupant-Maintained Insurance*") shall be written as primary policies, not contributing with, and not in excess of any coverage afforded by the Project Insurance. Such Occupant-Maintained Insurance shall provide for reasonable and customary deductible amounts. If, on account of the failure of Project Occupant to comply with the provisions of this Section 8.2, Declarant is adjudged a coinsurer by its insurance carrier, then, in addition to all other remedies available to Declarant, any loss or damage Declarant shall sustain by reason thereof shall be borne by such Project Occupant and shall be immediately paid to Declarant by such Project Occupant upon receipt of a bill therefor and evidence of such loss.

(b) Coverage afforded under the Occupant-Maintained Insurance, whether or not required pursuant to this Section 8.2, may not adversely affect or diminish any coverage under any Project Insurance. If any loss intended to be covered by any Project Insurance policy and the proceeds payable thereunder are reduced due to coverage afforded by any Occupant-Maintained Insurance, such Project Occupant shall assign the proceeds payable under such Occupant-Maintained Insurance to Declarant, to the extent of such reduction, for application to the liabilities incurred by Declarant or the Project Operator which would otherwise have been covered by proceeds payable under the applicable Project Insurance.

(c) Any insurance required to be carried by a Project Occupant pursuant to this Section 8.2 may be carried by an Project Occupant or its Permittees under a blanket policy or under policies maintained by the Project Occupant or Permittees with respect to other property owned or operated by the Project Occupant or Permittees or their affiliates, provided that Declarant is not deprived of any insurance benefits hereunder. A Project Occupant may have the ability to provide the required coverages through a program of self-insurance subject to Declarant approval which may be withheld or conditioned in Declarant's sole discretion.

(d) All Occupant-Required Insurance shall provide that the Project Operator shall be given at least thirty (30) days' written notice prior to expiration, cancellation or material reduction in the coverage afforded thereunder. Each Project Occupant shall provide proper certificates evidencing the coverages required hereunder to the Project Operator. Such certificates shall name the Project Operator, Declarant, the City, the Navy, the California Community Colleges Board of Governors, their respective appointed and elected officials and their respective employees and volunteers (as applicable) as additional insureds (collectively, the "*Declarant-Related Additional Insureds*") and shall expressly provide that the interest of the same therein shall not be affected by breach by the Project Occupant or its Permittees (or any other Persons under their direction and control) of any provision of the policy for which such certificates evidence coverage.

(e) The insurance obligations of the Project Occupants set forth in this Section 8.2 shall be in addition to insurance requirements, if any, set forth in the Conveyance Documents applicable to the Premises of each such Project Occupant. In the event of any inconsistency or conflict between the applicable provisions of the Conveyance Documents and the provisions of this Article VIII, the more restrictive provision will apply.

(f) Nothing in this Declaration shall be deemed to preclude any Project Occupant from carrying any additional insurance as such Project Occupant may deem necessary or appropriate; provided such additional insurance otherwise complies with the requirements of this Section 8.2.4 and Section 8.3 below.

8.3 WAIVERS. All Occupant-Maintained Insurance policies shall include a waiver of subrogation of claims against the Declarant-Related Additional Insureds. As to each Project Insurance policy which will not be voided or impaired thereby, Declarant and the Project Operator hereby waive and release all claims against the Project Occupants, their Permittees, and the agents and employees of each of the foregoing, with respect to any loss covered by such Project Insurance, whether or not caused by the negligence of such Persons or breach of any agreement thereby, but only to the extent that insurance proceeds are received by Declarant in compensation for such loss. Without limiting the foregoing, any Project Insurance policies and Occupant-Maintained Insurance policies insuring against physical damage must provide, if reasonably possible, for waiver of:

- (a) any defense based on coinsurance;
- (b) any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Project Occupant in violation of this Article VIII;
- (c) any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Project Operator or any other Declarant-Related Additional Insured or any other Project Occupant or tenant or Permittee thereof, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured;
- (d) any right of the insurer to repair, rebuild or replace the applicable Premises Improvement or Project Facility, and, if not so repaired, rebuilt or replaced following loss, any right under the applicable insurance policy to pay an amount less than the replacement value of the Premises Improvement or Project Facility so insured;
- (e) any denial of a Project Occupant's claim because of negligent acts by the Project Operator or other Project Occupants; and
- (f) prejudice of the insurance by acts or omissions of any other Project Occupants or Permittees thereof that are not under the control of the Project Operator or the insured Project Occupant, as applicable.

8.4 PROJECT OCCUPANT INDEMNITY. In addition to any other indemnity obligations set forth elsewhere in this Declaration, each Project Occupant (the "*Indemnifying*

Party") shall, subject to Section 8.4.1 below, protect, indemnify, defend, and hold Project Operator, Declarant, the City, the Navy, the California Community Colleges Board of Governors, their respective appointed and elected officials and their respective employees, volunteers, agents, lenders, successors and assigns harmless from and against all claims, expenses, liabilities, loss, damage, and costs, including reasonable attorney fees, arising (directly or indirectly) as a result of or in connection with (i) use of the Indemnifying Party's Premise or any other portion of the Project by the Indemnifying Party or its Permittees, or (ii) the conduct of any business or work or things done, permitted or suffered in or about the Indemnifying Party's Premises or elsewhere in the Project by Permittees of the Indemnifying Party's Premises and (iv) any breach of this Declaration by the Indemnifying Party or any Permittee thereof.

8.4.1 Limitations. Notwithstanding anything to the contrary in this Article VIII, (a) no Person shall be entitled to indemnification for any damage arising from the gross negligence or willful misconduct of such Person or its Permittees and (b) Declarant, the Project Operator and each Project Occupant, for itself and its Permittees, waives any right of recovery against Declarant, Project Operator or any other Project Occupant or their Permittees for any loss, damage, or injury to the extent the loss, damage or injury is actually covered by insurance.

ARTICLE IX RIGHTS OF MORTGAGEES

9.1 GENERAL PROTECTIONS. No amendment or violation of this Declaration shall defeat or render invalid the rights or lien of a First Mortgagee under any First Mortgage encumbering any Premises within the Project made in good faith and for value, provided that after the foreclosure of any such First Mortgage, such Premises will remain subject to this Declaration.

9.1.1 The sale or transfer of any Premises pursuant to judicial or nonjudicial foreclosure of a First Mortgage or deed-in-lieu of foreclosure transferring the Premises to such First Mortgagee shall extinguish the lien of any delinquent Assessments as to payments which became due prior to such foreclosure or transfer. Any such delinquent Assessments that become commercially impracticable to collect (due to loss of lien rights, as herein described, or otherwise) shall thereupon constitute a Common Expense collectible from all of the Project Occupants. Notwithstanding the foregoing, no such foreclosure or other transfer to a First Mortgagee shall relieve such Premises from liability for Assessments accruing or due for any period thereafter nor relieve the Project Occupant of such Premises for payment of any portion of the unpaid Assessments reallocated to all Project Occupants within the Project as part of the Common Expenses pursuant to Section 5.2 above.

9.2 NOTICES. Each First Mortgagee, insurer or guarantor of a First Mortgage encumbering any Premises within the Project, on filing a written request for notification with the Project Operator, shall be entitled to written notice of: (a) any condemnation or casualty loss which affects either the Premises securing the First Mortgage or a material portion of the Project Common Area adjacent thereto; (b) any delinquency of sixty (60) days or more in the performance of any monetary obligation under the Governing Documents on the part of the Project Occupant(s) of the Premises securing the First Mortgage, including any delinquent Assessments or charges owed by such Project Occupant(s), which notice each Project Occupant

consents to and authorizes; (c) a lapse, cancellation, or material modification of any Project Insurance; (d) any abandonment of that portion of the Project within which the Premises securing the First Mortgage may be located; and (e) any proposed amendment to the Declaration that would amend the provisions of this Article.

ARTICLE X ENFORCEMENT

10.1 BREACH OF GOVERNING DOCUMENTS. Pursuant to the Asset Management Agreement, the Project Operator has been assigned sole authority by Declarant to enforce the Governing Documents on the terms set forth in this Article X. Failure to comply with any of the terms of the Governing Documents by a Project Occupant or any Permittee thereof (other than non-payment of Assessments which shall be governed by Section 10.2 below) shall be grounds for relief which may include, without limitation, an action for recovery of damages, injunctive relief, imposition and enforcement of a lien on the Premises of the violating Project Occupant, or any combination thereof.

10.1.1 Remedies. If the Project Operator determines that there is a condition of non-compliance or violation of the terms of this Declaration, then the Project Operator may give written notice to the responsible Project Occupant (the "*Notice of Violation*") identifying (i) the condition or violation complained of, and (ii) the length of time the Project Occupant has to remedy the violation. If the violating Project Occupant does not remedy such non-compliance or otherwise correct such violation as required by the Project Operator within the allotted time, the Project Operator may:

10.1.1.1 take any such Corrective Action appropriate to remedy such condition or violation, whereupon all expenses incurred by the Project Operator in connection therewith shall be reimbursed by the responsible Project Occupant, together with a five percent (5%) administrative fee, within ten (10) days of written demand therefor. Any amounts not so reimbursed may further constitute a Compliance Assessment on the Premises of the responsible Project Occupant enforceable in accordance with Section 10.2 below;

10.1.1.2 record a notice of noncompliance (a "*Notice of Noncompliance*") against title to the Parcel on which the Premises of the non-compliant Project Occupant is located . The Notice of Noncompliance shall attach a copy of the Notice of Violation previously issued by the Project Operator pursuant to this Section 10.1, and shall include (i) a good and sufficient legal description of such Premises (or the Parcel on which such Premises is located, as applicable), (ii) the name of the record Project Occupant or reputed Project Occupant holding fee or leasehold title thereto, (iii) the Project Operator's name and address, and (iv) if applicable, a brief description of the condition of non-compliance or violation. Recordation of the Notice of Noncompliance creates a lien on the Premises as contemplated in Section 2881 and Section 2884 of the California Civil Code, which may be enforced in accordance with the procedures set forth in Section 10.2.3 and Section 10.2.5 below. The Notice of Noncompliance shall be signed by an authorized officer or agent of Project Operator, and shall be mailed by certified mail to the record Project Occupant of the Premises no later than ten (10) calendar days after recordation. Project Operator shall not be liable to Project Occupant for any damages, costs, loss or injury resulting from the recording, in good faith, any

Notice of Noncompliance against title to a Parcel or any portion thereof, or enforcement of the lien created thereby; or

10.1.1.3 pursue any other legal or equitable remedies for damages or to compel compliance with the Governing Documents.

10.1.2 Additional Remedies. The Project Operator may adopt a schedule of fines or fees which, in its reasonable discretion, may be assessed against a Project Occupant for the failure of such Project Occupant or any Permittee of such Project Occupant's Premises to comply with the Governing Documents. Such fines or fees may only be assessed after delivery of a Notice of Violation and expiration of any cure period specified therein, provided that in the event of recurring violations of the same type by the same Project Occupant (or Permittees thereof), no additional notice or cure period shall be required after the Project Occupant's failure to cure the initial violation (or repeated violation after the initial cure) after receipt of the initial Notice of Violation. Payment of any such fines or fees shall constitute the personal obligation of the Project Occupant holding fee or leasehold title to the Premises as of the date of the violation. All remedies set forth in this Article X shall be in addition to any rights or remedies the Declarant may have under the Conveyance Documents arising from a default hereunder, including, without limitation, the right to terminate any ground leasehold interest in a Premises upon a breach of the Project Occupant's obligations under this Declaration on the terms set forth therein.

10.1.3 Hearing. Any Project Occupant who receives a Notice of Non-Compliance from the Project Operator or is otherwise the subject of any enforcement action by the Project Operator as a result of any alleged non-compliance with or violation of the provisions of the Governing Documents shall have the right to request a Hearing to dispute the existence of the alleged non-compliance, the occurrence of the alleged violation or responsibility for such violation or non-compliance on the part of the Project Occupant or its Permittees. The decision of the Hearing panel appointed by Declarant shall be binding on the Project Operator and all Project Occupants involved in the dispute.

10.1.4 No Waiver. Failure to enforce any provision hereof does not waive the right to enforce that provision, or any other provision hereof.

10.2 REMEDIES FOR NONPAYMENT OF ASSESSMENTS

10.2.1 Delinquent Amounts. In the event that any Assessments or other amounts owing to the Project Operator become delinquent, the Project Operator may (a) bring an action at law against the Project Occupant holding fee or leasehold title to such Premises at the time the delinquent Assessments were imposed (who shall be and remain personally obligated to pay the same notwithstanding any subsequent transfer of the Project Occupant's interest in such Premises), or (b) impose and enforce a lien against the Premises.

10.2.2 Notice of Delinquent Amount. Before the Project Operator may place a lien upon any Parcel to enforce the Project Occupant's payment of delinquent Assessments or other amounts, the Project Operator shall send a written notice (the "*Notice of Delinquent Amount*") to the Project Occupant by reputable overnight courier or certified mail which

contains the following information: (i) an itemized statement of the charges owed by the Project Occupant, including the original amount owed, any late charges incurred and any interest amounts having accrued on unpaid amounts up to date of the notice (showing the method of calculation), (ii) the collection practices that may be used by the Project Operator pursuant to the Payment Policy, (iii) a statement that the Project Operator may recover the reasonable costs of collection, along with reasonable detail showing the costs, including attorneys' fees, accrued through the date of the notice, and (iv) a statement that the Project Operator may record a lien against the Parcel for collection of such delinquent amount.

10.2.3 Lien Notice. No action may be brought to enforce any lien created in this Declaration unless at least thirty (30) days has expired following the date on which the Notice of Delinquent Amount is sent in accordance with Section 10.2.2. Following expiration of the 30-day period, Project Operator may record a notice of lien for nonpayment of the delinquent amounts (a "*Lien Notice*") against the Premises of the delinquent Project Occupant, which must attach a copy of the Notice of Delinquent Amount and must recite (a) a good and sufficient legal description of the Premises (or the Parcel on which such Premises is located, as applicable), (b) the record or reputed Project Occupant holding fee or leasehold title thereto, (c) the amount claimed by Project Operator as being due, and (d) the Project Operator's name and address. Recordation of the Lien Notice shall be deemed to create a lien on the Premises as contemplated in Section 2881 and Section 2884 of the California Civil Code, which lien shall continue until all delinquent amounts are paid in full or otherwise satisfied. The Lien Notice shall be signed by the Project Operator (in its capacity as the authorized agent of the Declarant), and shall be mailed by certified mail to the Project Occupant of the Premises shown on record title or otherwise pursuant to the Project Operator's records no later than ten (10) calendar days after recordation. The Project Operator shall not be liable to Project Occupant for any damages, costs, loss or injury resulting from the recording, in good faith, any Lien Notice against any Premises.

10.2.4 Priority of Liens. First Mortgages described in Section 9.1 above that are recorded prior to recording a Lien Notice by the Project Operator shall have priority over the lien in favor of the Project Operator with respect to said Lien Notice. Sale or transfer of any Premises or interest therein shall not affect the existence or priority of the lien, except that the sale or transfer of any Premises pursuant to judicial or nonjudicial foreclosure of a First Mortgage extinguishes the Project Operator's lien to the extent said lien secures payments that became due prior to such sale or transfer. No sale or transfer shall be deemed to relieve the transferred Premises from lien rights for any installments of Assessments (or other costs) thereafter becoming due. No Project Occupant who obtains an interest in any Premises pursuant to a judicial or nonjudicial foreclosure of a First Mortgage shall be personally liable for payment of any Assessments relating to the period prior to the acquisition of an interest in the Premises by such Project Occupant.

10.2.5 Enforcement of Lien. The Project Operator may enforce the lien arising hereunder in any manner permitted by law.

10.2.6 Curing of Default. The Project Operator shall record an appropriate Release of Lien upon payment by the defaulting Project Occupant of all delinquent amounts plus a reasonable fee to cover the cost of preparing and recording such release.

10.2.7 Cumulative Remedies. The foregoing lien rights shall be in addition to and not in substitution for all other rights and remedies which the Project Operator may have hereunder and by law, including a suit to recover a money judgment against the Project Occupant for unpaid Assessments or other delinquent amounts.

10.3 DISPUTE RESOLUTION. Any disputes which may arise under this Declaration or which otherwise relate to use or maintenance of the Project Common Area between (i) Declarant or the Project Operator and any director, officer, employee, representative or agent of either of them, on the one hand, and (ii) any Project Occupant or Permittee thereof, or any director, manager, partner, officer, employee, representative or agent of either of them, on the other hand, (Declarant, Project Operator, any Project Occupant or Permittee thereof and any of the foregoing which may be a party to any dispute subject to resolution pursuant to this Section 10.3 shall be referred to herein individually as a “*Party*” and collectively as the “*Parties*”) including but not limited to a determination of any and all of the issues in such dispute, whether of fact or of law, shall be resolved (and a decision shall be rendered) by way of a judicial reference proceeding as provided for in Part 1, Title 8, Chapter 6 (§§ 638 et. seq.) of the California Code of Civil Procedure, or any successor California statute governing resolution of disputes by a court appointed referee. The judicial reference proceeding shall be conducted in the following manner:

10.3.1 Authority of Referee. The referee in such judicial reference proceeding (each, a “*Reference Proceeding*”) shall award all costs of the reference, including but not limited to the referee’s fees, reasonable attorney’s fees and other costs, to the Party in whose favor the determination or decision shall be rendered by the referee. The referee shall try all issues of fact and law and report a statement of decision to the court. The referee shall be the only trier of fact and law in the reference proceeding, and shall have no authority to refer any issues of fact or law to any other court, arbitrator or other trier of fact unless all Parties to the judicial reference proceeding consent, or the referee determines that a conflict of interest has arisen which would make it inappropriate for the referee to act as the trier of fact or law concerning an issue or matter.

10.3.2 Place. The proceedings shall be heard in Orange County, California.

10.3.3 Selection of Referee. The referee shall be a retired judge who served on the Superior Court of the State of California for the County of Orange with substantial experience in the type of matter in dispute and without any relationship to the Parties, unless the Parties agree otherwise. The Parties to the judicial reference proceeding shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. Any dispute regarding the selection of the referee shall be resolved by the court in which the complaint is filed pursuant to California Code of Civil Procedure Section 640, or any successor statute, except that only one (1) referee shall be appointed.

10.3.4 Commencement and Timing of Proceeding. The referee shall commence the proceeding at the earliest convenient date and shall conduct the proceeding without undue delay.

10.3.5 Pre-hearing Conferences. The referee may require pre-hearing conferences.

10.3.6 Discovery. The Parties to the judicial reference proceeding shall be entitled to conduct discovery in the same manner as if the matter was being tried in a Superior Court of the State of California.

10.3.7 Motions. The referee shall have the power to hear and dispose of motions, including motions relating to discovery, provisional remedies, demurrers, motions to dismiss, motions for judgment on the pleadings and summary judgment and/or adjudication motions, in the same manner as a trial court judge. The referee shall also have the power to summarily adjudicate issues of fact or law including the availability of remedies whether or not the issue adjudicated could dispose of an entire cause of action or defense.

10.3.8 Record. A stenographic record of the hearing shall be made which shall remain confidential except as may be necessary for post-hearing motions and any appeals.

10.3.9 Statement of Decision. The referee's statement of decision shall contain an explanation of the factual and legal basis for the decision pursuant to California Code of Civil Procedure Section 632, or any successor statute. The decision of the referee shall stand as the decision of the court, and upon filing of the statement of decision with the clerk of the court, judgment may be entered thereon in the same manner as if the dispute had been tried by the court.

10.3.10 Remedies. The referee may grant all legal and equitable remedies and award damages in the judicial reference proceeding.

10.3.11 Post-hearing Motions. The referee may rule on all post-hearing motions in the same manner as a trial judge.

10.3.12 Appeals. The decision of the referee shall be subject to appeal pursuant to California Code of Civil Procedure Section 645 (or any successor statute) in the same manner as if the dispute had been tried by the court.

ARTICLE XI **ANNEXATIONS AND AMENDMENTS**

11.1 AMENDMENTS TO DECLARATION. This Declaration may be amended by recordation of a Supplemental Declaration or other written instrument executed and acknowledged by Declarant. If there is any conflict between any Supplemental Declaration and this Declaration, the provisions of the Supplemental Declaration shall control with respect to the real property described in such Supplemental Declaration. Declarant may execute and record Supplemental Declarations against all or any portion of the Covered Property (including real property being annexed into the Covered Property pursuant to Section 11.3 below) to modify certain provisions of this Declaration as applied to the real property described in such Supplemental Declaration; provided that any amendments or supplements to the terms of this Declaration set forth in a Supplemental Declaration recorded against only a portion of the Covered Property shall only apply to and be enforceable against those portions thereof

specifically described therein and expressly made subject to the provisions of such Supplemental Declaration. Without limiting the foregoing, any Supplemental Declaration recorded against the entire Project which contains amendments or supplemental terms that materially adversely impact the rights or increase the obligations of the Project Occupants shall further require Majority Approval of all Project Occupants within the Project. Any Supplemental Declaration recorded after conveyance of fee or leasehold interest in that portion of the Covered Property described therein to one or more Project Occupants shall require the Majority Approval of such Project Occupant(s) unless otherwise provided in the Conveyance Documents applicable thereto. Notwithstanding the foregoing, Majority Approval shall not be required for the Supplemental Declarations described in Section 11.2, Section 11.3 and Section 11.4 below.

11.2 FUNCTIONS OF SUPPLEMENTAL DECLARATIONS. Without limiting the generality of Section 11.1 above, Declarant shall have the right (but not the obligation) to record Supplemental Declarations against all or any portion of the Covered Property without the consent of the Project Occupants for any of the following purposes:

11.2.1 to annex additional real property to, or deannex any portion of the Covered Property from, the encumbrance of this Declaration pursuant to Section 11.3 below;

11.2.2 to confirm the Allocable Shares assigned to each of the Premises within the Project at any time (provided that any Supplemental Declaration purporting to change the methodology for determining Allocable Shares as set forth in Section 5.3.2 shall require Majority Approval);

11.2.3 To designate Special Benefit Areas pursuant to Section 5.3.4 above;

11.2.4 To modify existing easements or to establish additional easements not otherwise reserved or established in this Declaration;

11.2.5 To delegate to the Project Operator any rights or obligations reserved or assigned to Declarant in the applicable Conveyance Documents; or

11.2.6 To supplement or amend the description of the Project Common Area set forth in Exhibit C hereto or to otherwise establish additional Project Common Area (provided that establishment of additional Project Common Area on any Premises as to which a fee or leasehold interest has been transferred to a Project Occupant shall require the consent of the applicable Project Occupant).

11.3 ANNEXATION. Declarant shall have the right to add any portion of the Land (including any Project Common Area designated by Declarant therein) to the Covered Property (“*Annexed Territory*”) from time to time without the approval of the Project Occupants (or, following the Transfer Date, the Association) by recording a Supplemental Declaration against such Annexed Territory (an “*Annexation Declaration*”). Upon recordation of an Annexation Declaration, all provisions contained in this Declaration will apply to the Annexed Territory described therein in the same manner as if it were originally covered by this Declaration, subject only to such modifications or additions as may be expressly provided for in such Annexation Declaration. Thereafter, the rights, powers and responsibilities of the Project Occupants and Permittees of any Premises within the Annexed Territory will be the same as if the Annexed

Territory were originally included in the Covered Property subject to this Declaration, with only such modifications or additions as may be expressly provided for in such Annexation Declaration or in any other Supplemental Declaration recorded pursuant to Section 11.2 above in connection therewith.

11.3.1 Content. Each Annexation Declaration may contain such additions and modifications of the covenants, conditions, restrictions, reservation of easements and equitable servitudes contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexed Territory, or as Declarant deems appropriate in the development of the Annexed Territory, and as are consistent with the general plan of this Declaration. Each Annexation Declaration shall contain at least the following provisions:

(a) *Extension of Comprehensive Plan.* A statement that the provisions of this Declaration shall apply to the Annexed Territory described therein, subject to any addition, modification or deletions set forth therein; and

(b) *Designation of Project Common Area.* A description of the Project Common Area, if any, within the Annexed Territory; and

(c) *Allocation of Maintenance Obligations.* An allocation of maintenance obligations of the Project Operator and the Project Occupant(s) for improvements located within the Annexed Territory.

11.3.2 Deannexation. Declarant may unilaterally amend a Supplemental Declaration or delete all or a portion of the Project from the Covered Property subject to this Declaration provided that any such deannexation shall require a Declaration of Deannexation to be recorded describing the portion of the Project to be deannexed.

11.4 ESTABLISHMENT OF ASSOCIATION.

11.4.1 Transfer of Project Operator Obligations to Association. Declarant shall have the right at any time to transfer all or any portion of the Project Operator's authority and obligations hereunder to an "**Association**" formed pursuant to Section 11.4.2 below without the consent of the Project Operator or the Project Occupants (including fee owners or ground lessees of any portion of the Covered Property). Such transfer of authority and obligations to an Association shall be made on terms, and subject to any reservations, to be set forth in a Supplemental Declaration recorded by Declarant against the Covered Property as contemplated in Section 11.4.3 below (the "**Association Supplemental Declaration**"). Unless otherwise expressly set forth in such Association Supplemental Declaration, such transfer shall be limited to authority or obligations delegated to the Project Operator by this Declaration and the Asset Management Agreement and shall not include any authority, powers or rights (including approval or consent rights) which are retained or otherwise held by Declarant under this Declaration or the Conveyance Documents. The Association Supplemental Declaration shall specify the date (the "**Transfer Date**") on which the transfer of the Project Operator's authority and responsibilities to the Association shall become effective. From and after the Transfer Date, the Association shall be solely responsible for performing the Project Operator's responsibilities, including operation and maintenance of the Project Common Area and Project Facilities, and

Declarant and the Project Operator shall be relieved of all further liability for the performance or non-performance of any such responsibilities arising after the Transfer Date and all references in this Declaration to "Project Operator" shall thereafter be deemed to refer to the Association.

11.4.2 Association Incorporation. Prior to the Transfer Date, Declarant shall incorporate or organize the Association as a California nonprofit mutual benefit corporation, a California nonprofit public benefit corporation, or an unincorporated association that satisfies the requirements of an "Association" under California Civil Code Section 6528.

11.4.3 Association Supplemental Declaration. On or before the intended Transfer Date, Declarant shall record the Association Supplemental Declaration setting forth the manner in which the Project will be governed by the Association. Among other things, the Association Supplemental Declaration may include (a) the Association's Bylaws; (b) Association assessment and payment procedures (including assessment lien rights), (c) procedures for member meetings and member voting rights and (d) such other matters as are reasonably necessary and appropriate for the Association's operation of the Project Common Area, governance of the Project and discharge of the Project Operator's obligations hereunder. Subject to any limitations set forth in the Association Supplemental Declaration, each Project Occupant shall automatically become a member of the Association as of the Transfer Date. From and after the Transfer Date, operation of the Project and the rights and obligations of the Project Occupants hereunder shall be deemed modified by the terms of the Association Supplemental Declaration. Such Association Supplemental Declaration shall further confirm Declarant's intent that, effective from and after such Transfer Date, the Project shall be governed by CID Act.

11.4.4 Notice of Transfer. Declarant shall deliver written notice to each of the Project Occupants of transfer of the Project Operator's authority and responsibilities to the Association and the Transfer Date thereof, along with a copy of the Association Supplemental Declaration.

ARTICLE XII **MISCELLANEOUS**

12.1 EFFECT OF DECLARATION; BINDING COVENANTS RUNNING WITH THE LAND; EQUITABLE SERVITUDES. Every Person who holds, owns, occupies or acquires any right, title, estate or interest in or to any real property within the Covered Property does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limit, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to the Governing Documents is contained in the instrument by which such Person acquired an interest in the Covered Property or any portion thereof. Each and all of the restrictions, covenants, easements and other terms of this Declaration are imposed pursuant to a general plan for the improvement and use of the Covered Property designed for the mutual benefit of the Project Occupants. The covenants contained in this Declaration shall further constitute covenants running with the land for the mutual burden and benefit of all real property within the Covered Property; and shall be binding upon, and shall inure to the benefit of, the Project and any portion thereof or interest therein. The restrictions, covenants, easements and other terms set forth herein shall further constitute equitable servitudes binding on and inuring to the benefit of Declarant, the Project Occupants and all Persons having

or hereafter acquiring any interest in any portion of the Covered Property and each and all of their respective successors, assigns, mortgagees, and Permittees. Notwithstanding the foregoing, except as otherwise expressly provided herein, the rights or privileges conferred upon the Project Occupants by this Declaration shall not inure to the benefit of any Permittee or other Person who is not a Project Occupant, nor shall any Persons other than Declarant, the Project Operator or the Project Occupants be deemed to be a third party beneficiary of any of the provisions contained herein.

12.2 DURATION; TERMINATION. This Declaration and each term, easement, covenant, restriction and undertaking contained herein will remain in effect for a term of sixty (60) years from the Recordation hereof and will automatically be renewed for successive ten (10) year periods thereafter, unless Declarant and, from and after the Transfer Date, Project Occupants representing at least sixty percent (60%) of the voting power of the Association elect not to automatically renew the term of this Declaration prior to expiration thereof.

12.3 NO PUBLIC RIGHT OR DEDICATION. Nothing contained in this Declaration constitutes a gift or dedication of all or any part of the Covered Property to the public, or for any public use.

12.4 ATTORNEYS' FEES; COURT COSTS. If any action or proceeding is instituted to enforce or interpret this Declaration or for damages on account of the breach of this Declaration, the prevailing party in any such action or proceeding shall be entitled to recover from the other party its reasonable attorneys' fees and costs and expenses of litigation incurred in such action or proceeding (including any judicial reference proceeding conducted pursuant to Section 10.3 above).

12.5 FORCE MAJEURE. If the Project Operator, any Project Occupant or any Permittee thereof shall be delayed or hindered in or prevented from the performance of any act required to be performed by such Person under this Declaration by reason of acts of God, strikes, lockouts, unavailability of materials, failure of power, acts of any governmental agency, governmental laws or regulations, riots, insurrections, adverse weather conditions preventing the performance of work (as certified to by the licensed architect, engineer, or other individual overseeing the performance of the relevant work), war or other reason beyond such Person's control, then the time for performance of such act shall be extended for a period equal to the period of such delay. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such Person.

12.6 ESTOPPEL CERTIFICATE. The Project Operator shall, upon the written request of a Project Occupant, issue to the requesting party, or to any prospective mortgagee, purchaser or tenant of such requesting party's Premises, an estoppel certificate (i) stating whether the Project Operator knows of any default under this Declaration relating to or materially affecting the requesting party's Premises and, if there are known defaults, specifying the nature thereof, and (ii) confirming that (A) this Declaration is, at that time, in full force and effect, and (B) the Declaration has not been modified or amended (or, if applicable, specifying any Supplemental Declarations or amendments applicable to such Premises).

12.7 NOTICES. Except as otherwise provided in this Declaration, notice to be given to a Project Occupant must be in writing and may be delivered to the Project Occupant or designated representative thereof, personally or by any system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means, at the address provided to the Project Operator by such Project Occupant. If a Project Occupant does not furnish an address, notice may be sent to the street address of the Project Occupant's Premises. Each Project Occupant may change its address by written notice to the Project Operator given in the manner provided in this Section. Any notice to be given to the Project Operator may be sent by United States mail, postage prepaid, addressed to the Project Operator at such address as may be designated from time to time and circulated to all Project Occupants or sent by any system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means to such address or telephone number as the Project Operator may designate by written notice to the Project Occupants. Delivery of such notice to one (1) or more co-Project Occupants of a Premises, to any general partner of a partnership constituting the Project Occupant, or to a manager or managing member of a limited liability company constituting the Project Occupant, constitutes delivery to the Project Occupant. Delivery of such notice to any officer or agent for the service of process on a corporation constitutes delivery to the corporation. Alternatively, notice may be delivered by regular United States mail, postage prepaid, addressed to the Project Occupant at the most recent address furnished by such Project Occupant to the Project Operator. Any notice delivered by regular U.S. Mail shall be deemed delivered three (3) business days after the time of such mailing.

12.8 DISCLAIMERS AND DISCLOSURES.

12.8.1 No Representations or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Declarant, the Project Operator or their agents or employees in connection with the Project, or any portion thereof, its physical condition, zoning, compliance with Applicable Laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof except as specifically and expressly set forth in this Declaration.

12.8.2 Hazardous Substance Notification. As noted in the deed executed by the City conveying title to the Land to Declarant (as amended or restated from time to time, the "*City Deed*"), the deed executed by the U.S. Government to convey the real property within which the Land is located to the City (as amended or restated from time to time, the "*Navy Deed*") contained the following express notice:

"Pursuant to 42 U.S.C. §9620(h)(3)(A) and the provision of 40 C.F.R. part 373, the [U.S. Government] hereby gives notice that hazardous substances were stored for one year or more, released or disposed of on the Property."

The Navy Deed further included additional information regarding the type and quantity of hazardous substances, the time at which such storage, release or disposal took place and a description of the remedial action taken, if any. Neither Declarant nor Project Operator shall be deemed to have made any representations or warranties regarding the accuracy of the information disclosed in the Navy Deed. Each Project Occupant shall be solely responsible for reviewing the disclosures in the Navy Deed and otherwise performing its own evaluation of the

environmental condition of their respective Premises prior to commencing development, use or occupancy thereof.

12.8.3 Disclaimer of Common Interest Development. Prior to the Transfer Date, the Project shall not constitute a “common interest development” within the meaning of, or otherwise be subject to, the CID Act; and Declarant expressly disclaims any intent to operate the Project as common interest development subject thereto. The rights of the Project Occupants to use of the Project Common Area established under this Declaration or any Conveyance Documents shall not constitute an “interest in common area” within the meaning of the CID Act.

12.8.4 Additional Provisions. Declarant makes no representations or warranties regarding the future enforceability of any provision in the Governing Documents. The Project Occupants should be aware that there may be applicable Legal Requirements, including from and after the Transfer Date, the CID Act, which may supplement or override the Governing Documents.

12.8.5 Security Disclaimer. Services provided by the Project Operator and Project Facilities constructed or maintained by the Project Operator may provide access control or other security benefits to the Project and its occupants and users; however, these services and Project Facilities do not provide security for Persons, personal property or Premises within the Project. Declarant and the Project Operator do not undertake to provide security for Project nor do they make any representations or warranties whatsoever concerning the security or safety of the Project Common Area or Project Facilities or any other portion of the Project. Neither Declarant nor the Project Operator shall be liable to any person, and each Project Occupant on behalf of itself and its Permittees waives any claim against Declarant and the Project Operator, for (i) any unauthorized or criminal entry of third parties into the Project or any portion thereof, or (ii) any damage, injury or death of any person, or any loss of property in and about the Project or any portion thereof, to the extent caused by any unauthorized or criminal acts of third parties, regardless of any action, inaction, failure, breakdown, malfunction or insufficiency of any security services provided by Declarant or the Project Operator from time to time.

SIGNATURES ON FOLLOWING PAGE

SIGNATURE PAGE
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ADVANCED TECHNOLOGY & EDUCATION PARK

This Declaration is dated for identification purposes July 9, 2018.

DECLARANT: SOUTH ORANGE COUNTY COMMUNITY COLLEGE
 DISTRICT, a public agency

By: Ann-Marie Gabel
Name: Ann-Marie Gabel
Title: Vice-Chancellor, Business Services

NOTARY ACKNOWLEDGEMENTS ON FOLLOWING PAGE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF ORANGE

On JULY 09, 2018, before me, S. SEMBIAZZA
(here insert name and title of the officer)

personally appeared ANN-MARIE GABEL

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature

(Seal)

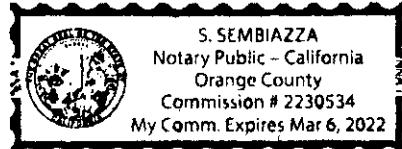


EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

EXHIBIT A

LEGAL DESCRIPTION

S.O.C.C.C.D. ATEP CAMPUS (APN 430-283-10, 11, 22, & 23; POR. APN 430-283-9 & 21)

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF TUSTIN, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING PORTIONS OF PARCEL I-E-1.1 AND PARCEL I-E-2.1 AS DESCRIBED IN LOT LINE ADJUSTMENT NO. 03-01 RECORDED APRIL 15, 2003 AS INSTRUMENT NO. 2003000418455, TOGETHER WITH A PORTION OF PARCEL IV-J-6 AND ALL OF PARCELS IV-J-7 AND IV-J-8 ALL AS DESCRIBED IN SHORT FORM NOTICE OF LEASE IN FURTHERANCE OF CONVEYANCE RECORDED MAY 14, 2002 AS INSTRUMENT NO. 20020404590, ALL OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "SOUTH 49°22'21" EAST, 131.81 FEET" IN THE GENERAL NORTHERLY LINE OF SAID PARCEL I-E-1.1 BEING ALSO THE SOUTHEASTERLY LINE OF REDHILL AVENUE;

THENCE ALONG SAID GENERAL NORTHERLY LINE OF PARCEL I-E-1.1 THROUGH THE FOLLOWING COURSES:

- 1) SOUTH 49°22'21" EAST, 131.81 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET;
- 2) EASTERLY ALONG SAID CURVE, 13.54 FEET, THROUGH A CENTRAL ANGLE OF 31°01'38";
- 3) SOUTH 80°23'59" EAST, 76.58 FEET;
- 4) SOUTH 86°54'41" EAST, 259.66 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 14.50 FEET;
- 5) EASTERLY AND NORTHEASTERLY ALONG SAID CURVE, 21.89 FEET, THROUGH A CENTRAL ANGLE OF 86°28'53" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 362.00 FEET;
- 6) NORTHEASTERLY ALONG SAID CURVE, 214.11 FEET, THROUGH A CENTRAL ANGLE OF 33°53'18"
- 7) NORTH 40°29'44" EAST, 282.84 FEET TO THE GENERAL NORTHEASTERLY LINE OF SAID PARCEL I-E-1.1;

THENCE LEAVING SAID GENERAL NORTHERLY LINE OF PARCEL I-E-1.1, ALONG THE GENERAL NORTHEASTERLY AND SOUTHEASTERLY LINES OF SAID PARCELS I-E-1.1, IV-J-6, AND IV-J-8 THROUGH THE FOLLOWING COURSES:

- 1) SOUTH 47°19'39" EAST, 44.34 FEET;
- 2) NORTH 85°40'06" EAST, 24.04 FEET;
- 3) SOUTH 49°19'54" EAST, 9.97 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 3,108.59 FEET;
- 4) SOUTHEASTERLY ALONG SAID CURVE, 124.86 FEET, THROUGH A CENTRAL ANGLE OF 02°18'05" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 3,092.59 FEET;

PAGE 1 OF 5

- 5) SOUTHEASTERLY ALONG SAID CURVE, 124.22 FEET, THROUGH A CENTRAL ANGLE OF $02^{\circ}18'05''$;
- 6) SOUTH $49^{\circ}19'54''$ EAST, 313.83 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 1,447.04 FEET;
- 7) SOUTHEASTERLY ALONG SAID CURVE, 35.31 FEET, THROUGH A CENTRAL ANGLE OF $01^{\circ}23'53''$;
- 8) SOUTH $04^{\circ}58'49''$ EAST, 24.35 FEET;
- 9) SOUTH $54^{\circ}27'57''$ EAST, 56.24 FEET;
- 10) NORTH $83^{\circ}15'15''$ EAST, 22.96 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 1,447.04 FEET, A RADIAL LINE THROUGH SAID BEGINNING OF CURVE BEARS SOUTH $35^{\circ}44'30''$ WEST;
- 11) SOUTHEASTERLY ALONG SAID CURVE, 300.53 FEET, THROUGH A CENTRAL ANGLE OF $11^{\circ}53'59''$;
- 12) SOUTH $66^{\circ}09'29''$ EAST, 52.51 FEET;
- 13) SOUTH $21^{\circ}09'25''$ EAST, 24.04 FEET;
- 14) SOUTH $68^{\circ}17'15''$ EAST, 62.36 FEET;
- 15) NORTH $64^{\circ}09'20''$ EAST, 23.85 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 1,090.18 FEET, A RADIAL LINE THROUGH SAID BEGINNING OF CURVE BEARS SOUTH $19^{\circ}14'54''$ WEST;
- 16) EASTERLY ALONG SAID CURVE, 94.07 FEET, THROUGH A CENTRAL ANGLE OF $04^{\circ}56'38''$ TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 1,464.04 FEET;
- 17) EASTERLY ALONG SAID CURVE, 17.78 FEET, THROUGH A CENTRAL ANGLE OF $00^{\circ}41'45''$ TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 142.00 FEET;
- 18) EASTERLY ALONG SAID CURVE, 29.51 FEET, THROUGH A CENTRAL ANGLE OF $11^{\circ}54'29''$;
- 19) SOUTH $64^{\circ}29'00''$ EAST, 15.88 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 158.00 FEET;
- 20) EASTERLY ALONG SAID CURVE, 41.02 FEET, THROUGH A CENTRAL ANGLE OF $14^{\circ}52'27''$;
- 21) SOUTH $79^{\circ}21'27''$ EAST, 218.54 FEET
- 22) THENCE SOUTH $31^{\circ}20'58''$ EAST, 40.12 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 1,354.04 FEET, A RADIAL LINE THROUGH SAID BEGINNING OF CURVE BEARS SOUTH $73^{\circ}20'33''$ EAST;
- 23) SOUTHERLY ALONG SAID CURVE, 48.37 FEET, THROUGH A CENTRAL ANGLE OF $02^{\circ}02'49''$ TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 42.00 FEET;
- 24) SOUTHWESTERLY ALONG SAID CURVE, 11.87 FEET, THROUGH A CENTRAL ANGLE OF $16^{\circ}11'24''$;
- 25) THENCE SOUTH $34^{\circ}53'40''$ WEST, 33.43 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 58.00 FEET;
- 26) SOUTHWESTERLY ALONG SAID CURVE, 13.90 FEET, THROUGH A CENTRAL ANGLE OF $13^{\circ}44'05''$ TO THE BEGINNING OF A REVERSE CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 1,342.04 FEET;

- 27) SOUTHERLY ALONG SAID CURVE, 57.52 FEET, THROUGH A CENTRAL ANGLE OF $02^{\circ}27'21''$ TO THE BEGINNING OF A REVERSE CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 58.00 FEET;
- 28) SOUTHERLY ALONG SAID CURVE, 13.90 FEET, THROUGH A CENTRAL ANGLE OF $13^{\circ}44'05''$;
- 29) SOUTH $09^{\circ}52'51''$ WEST, 33.43 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 42.00 FEET;
- 30) SOUTHERLY ALONG SAID CURVE, 11.87 FEET, THROUGH A CENTRAL ANGLE OF $16^{\circ}11'28''$ TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1,354.04 FEET;
- 31) SOUTHWESTERLY ALONG SAID CURVE, 981.34 FEET, THROUGH A CENTRAL ANGLE OF $41^{\circ}31'31''$;
- 32) SOUTH $67^{\circ}35'50''$ WEST, 139.46 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1,446.04 FEET;
- 33) SOUTHWESTERLY ALONG SAID CURVE, 215.66 FEET, THROUGH A CENTRAL ANGLE OF $08^{\circ}32'42''$ TO THE NORTHEASTERLY LINE OF VICTORY ROAD IN THAT OFFER OF DEDICATION TO THE CITY OF TUSTIN RECORDED FEBRUARY 28, 2017 AS INSTRUMENT NO. 2017000082670 OF OFFICIAL RECORDS IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE LEAVING SAID SOUTHEASTERLY LINE OF PARCEL IV-J-6, ALONG SAID NORTHEASTERLY LINE OF VICTORY ROAD THROUGH THE FOLLOWING COURSES:

- 1) NORTH $77^{\circ}47'22''$ WEST, 36.94 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 1,446.00 FEET, A RADIAL LINE THROUGH SAID BEGINNING OF CURVE BEARS NORTH $55^{\circ}22'08''$ EAST;
- 2) NORTHWESTERLY ALONG SAID CURVE, 235.69 FEET, THROUGH A CENTRAL ANGLE OF $09^{\circ}20'20''$;
- 3) NORTH $00^{\circ}53'21''$ WEST, 23.94 FEET;
- 4) NORTH $46^{\circ}05'07''$ WEST, 73.00 FEET;
- 5) SOUTH $88^{\circ}43'07''$ WEST, 23.51 FEET;
- 6) NORTH $49^{\circ}21'14''$ WEST, 78.15 FEET;
- 7) SOUTH $40^{\circ}38'46''$ WEST, 0.31 FEET;
- 8) NORTH $49^{\circ}45'56''$ WEST, 17.18 FEET;
- 9) NORTH $50^{\circ}48'31''$ WEST, 545.11 FEET;
- 10) NORTH $05^{\circ}04'38''$ WEST, 24.34 FEET;
- 11) NORTH $49^{\circ}20'45''$ WEST, 62.00 FEET;
- 12) SOUTH $40^{\circ}39'15''$ WEST, 2.45 FEET;
- 13) SOUTH $84^{\circ}55'22''$ WEST, 23.73 FEET;
- 14) NORTH $50^{\circ}48'31''$ WEST, 419.94 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 1,354.00 FEET;
- 15) NORTHWESTERLY ALONG SAID CURVE, 33.94 FEET, THROUGH A CENTRAL ANGLE OF $01^{\circ}26'10''$;
- 16) THENCE NORTH $49^{\circ}22'21''$ WEST, 196.34 FEET
- 17) NORTH $03^{\circ}17'29''$ WEST, 37.48 FEET TO THE GENERAL NORTHWESTERLY LINE OF SAID PARCEL I-E-2.1 BEING ALSO SAID SOUTHEASTERLY LINE OF RED HILL AVENUE;

THENCE LEAVING SAID NORTHEASTERLY LINE OF VICTORY ROAD, ALONG THE GENERAL NORTHWESTERLY LINES OF SAID PARCELS I-E-2.1 AND I-E-1.1 NORTH 40°37'39" EAST, 451.48 FEET TO THE **POINT OF BEGINNING**;

TOGETHER WITH THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF TUSTIN, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING PORTIONS OF PARCEL I-E-1.1 AND PARCEL I-E-2.1 AS DESCRIBED IN LOT LINE ADJUSTMENT NO. 03-01 RECORDED APRIL 15, 2003 AS INSTRUMENT NO. 2003000418455, OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF THAT CERTAIN TARC PARCEL DESCRIBED IN ATTACHMENT A OF SPECIAL WARRANTY DEED TO THE UNITED STATES OF AMERICA RECORDED APRIL 9, 2015 AS INSTRUMENT NO. 2015000182843 AND RECORDED APRIL 28, 2015 AS INSTRUMENT NO. 2015000216931, BOTH OF OFFICIAL RECORDS, ALSO BEING A POINT ON THE NORTHWESTERLY LINE OF SAID PARCEL I-E-2.1;

THENCE ALONG THE NORTHEASTERLY LINE OF SAID TARC PARCEL SOUTH 49°20'45" EAST, 718.34 FEET TO THE NORTHWESTERLY LINE OF THAT CERTAIN SOCCCD-COUNTY EXCHANGE PARCEL (FEE) DESCRIBED IN EXHIBIT B-1 OF DEVELOPMENT AGREEMENT AND AMENDED AND RESTATED AGREEMENT RECORDED MAY 23, 2015 AS INSTRUMENT NO. 2013000312295 OF OFFICIAL RECORDS IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE ALONG SAID NORTHWESTERLY LINE OF EXCHANGE PARCEL (FEE) NORTH 40°39'16" EAST, 597.64 FEET TO THE SOUTHWESTERLY LINE OF VICTORY ROAD IN THAT OFFER OF DEDICATION TO THE CITY OF TUSTIN RECORDED FEBRUARY 28, 2017 AS INSTRUMENT NO. 2017000082670 OF OFFICIAL RECORDS IN SAID OFFICE OF THE COUNTY RECORDER;

THENCE ALONG THE SAID SOUTHWESTERLY LINE OF VICTORY ROAD THROUGH THE FOLLOWING COURSES:

- 1) NORTH 49°20'45" WEST, 31.02 FEET;
- 2) NORTH 05°04'38" WEST, 24.35 FEET;
- 3) NORTH 50°48'31" WEST, 416.72 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 1,446.00 FEET;
- 4) NORTHWESTERLY ALONG SAID CURVE, 36.24 FEET, THROUGH A CENTRAL ANGLE OF 01°26'10";
- 5) NORTH 49°22'21" WEST, 190.34 FEET;
- 6) SOUTH 84°32'48" WEST, 37.48 FEET;
- 7) SOUTH 40°37'39" WEST, 179.11 FEET;
- 8) SOUTH 43°18'58" WEST, 21.32 FEET TO THE NORTHEASTERLY TERMINUS OF THAT CERTAIN COURSE DESCRIBED AS "NORTH 40°37'39" EAST, 720.00 FEET" IN SAID NORTHWESTERLY LINE OF PARCEL I-E-2.1;

THENCE LEAVING SAID SOUTHWESTERLY LINE OF VICTORY ROAD, ALONG SAID NORTHWESTERLY LINE OF PARCEL I-E-2.1 SOUTH 40°37'39" WEST, 376.02 FEET TO THE **POINT OF BEGINNING**;

CONTAINING AS A WHOLE: 61.290 ACRES

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART
HEREOF.

DATED THIS 30TH DAY OF MAY 2018.



KURT R. TROXELL L.S. 7854
FUSCOE ENGINEERING



EXHIBIT B

LEGAL DESCRIPTION OF THE COVERED PROPERTY



May 1, 2018
BKF No. 20122006-13
Page 1 of 2

COLLEGE PARCEL 1

Tustin, CA

Portion of APN: 430-283-10

Real property situated in the City of Tustin, County of Orange, State of California, described as follows:

BEING a portion of PARCEL I-E-1.1 as said parcel is described in that certain document entitled "QUIT CLAIM DEED AND ENVIRONMENTAL RESTRICTION PURSUANT TO CIVIL CODE SECTION 1471," filed for record on April 29, 2004 in Document No. 2004000369376, Records of Orange County, more particularly described as follows;

COMMENCING at a point in the southeasterly line of Red Hill Avenue being also the northerly terminus of the northwesterly line of said PARCEL I-E-1.1, described as North 40°37'39" East, 253.20 feet, as described in said document;

Thence continuing along said northwesterly line the following four (4) courses:

1. South 49°22'21" East, 131.81 feet to the beginning of a tangent curve concave to the northeast, having a radius of 25.00 feet;
2. Along said curve, through a central angle of 31°01'38", for an arc length of 13.54 feet;
3. South 80°23'59" East, 76.58 feet;
4. South 86°54'41" East, 259.66 feet the beginning of a tangent curve, having a radius of 14.50 feet;

Thence leaving said northwesterly line South 57°41'43" East, 61.42 feet to the **TRUE POINT OF BEGINNING**;

Thence the following nine (9) courses:

- 1) South 86°57'10" East, 19.17 feet;
- 2) South 72°01'17" East, 31.06 feet to the beginning of a non-tangent curve, concave to the south, having a radius of 105.00 feet, from said point a radial line bears South 2°41'38" West;
- 3) Easterly along said curve, through a central angle of 20°45'15", an arc length of 38.03 feet;
- 4) South 66°33'07" East, 161.43 feet;
- 5) South 11°15'32" West, 105.48 feet to a point North 50°31'16" West, 75.62 feet from the northerly terminus of the northeasterly line described as North 9°21'06" East, 1,360.64 feet;
- 6) South 21°15'32" West, 79.58 feet;
- 7) North 68°44'28" West, 243.29 feet;

- 8) North 18°06'13" East, 67.16 feet;
- 9) North 11°15'32" East, 111.10 feet to the POINT OF BEGINNING.

Containing an area of 46,022 square feet or 1.057 acres, more or less.

Being a portion of Assessor's Parcel Numbers 430-283-10.

As shown on "Schedule 1" attached hereto and made a part hereof.

For: BKF Engineers

By:

Davis Thresh, P.L.S. No. 6868
DThresh@bkf.com

Date: 5. 1. 2018

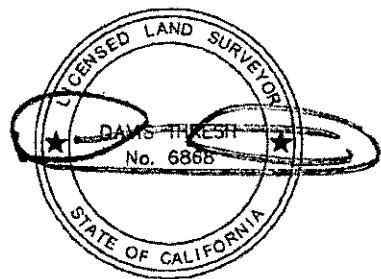


PARCEL J-E-2
DOC. NO. 20020404595

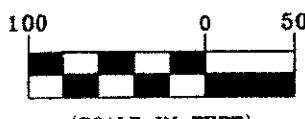
LINE TABLE		
	DIRECTION	LENGTH
L1	S86°57'10"E	19.17'
L2	S72°01'17"E	31.06'

LEGEND

APN ASSESSOR'S PARCEL NUMBER
P.O.C. POINT OF COMMENCEMENT
T.P.O.B. TRUE POINT OF BEGINNING



PARCEL J-E-11
DOC. NO. 20020404595
APN 430-283-10



(SCALE IN FEET)

RED HILL AVENUE

P.O.C.

N40°37'39"E

253.20'

131.81'
S49°22'21"E

R=25.00'
Δ=31°01'38"
L=13.54'

S80°23'59"E
76.58'

LANDS OF ORANGE
COUNTY RESCUE MISSION
DOC. NO. 20080297610

S86°54'41"E
9.66'

R=14.50'
Δ=86°28'53"
L=21.89'

S57°41'43"E
61.42'

T.P.O.B.

N18°06'13"E, N11°15'32"E
67.16', 111.10'

(R) S2°41'38"W

R=105.00'
Δ=20°45'15"
L=38.03'

COLLEGE PARCEL 1
46,022 SQ. FT. ±
1.057 ACRES ±

N68°44'28"W
243.29'

S66°33'07"E
161.43'

79.58' S11°15'32"W
21°15'32"W, 105.48'

N50°31'16"W
74.62'

N9°21'06"E, 1,360.64'
PARCEL IV-J-6
DOC. NO. 20020404590

EXHIBIT C

PROJECT COMMON AREA

[NONE FOR THIS PHASE]