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
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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

THIS AGREEMENT (this “Agreement”) is made and entered into this 22nd day of
April, 2004, by and between the CITY OF TUSTIN (“City”), a municipal corporation
organized under the laws of the State of California, acting in its capacity as the Local
Redevelopment Authority for the disposition and conveyance of portions of the former Marine
Corps Air Station Tustin, California, and the SOUTH ORANGE COUNTY COMMUNITY
COLLEGE DISTRICT (“SOCCCD”). The City and SOCCCD are sometimes referred to herein
individually as a “Party” and collectively as the “Parties”. The Parties agree as follows:

1.0 SUBJECT AND PURPOSE OF THIS AGREEMENT; APPLICABLE
REQUIREMENTS

1.1 Background for this Agreement.

1.1.1. Pursuant to the Defense Base Closure and Realignment Act of 1990 (Part A of
Title XXIX of Public Law 101-510; U.S.C. Section 2687 Note), as amended (the “Base Closure
Law”), the United States (the “Government”) determined to close the Marine Corps Air Station
Tustin (“MCAS Tustin”) located substantially within the City of Tustin. In 1992, the City was
designated by the Office of Economic Adjustment on behalf of the Secretary of Defense as the
local redevelopment authority (“LRA”) for preparation of a reuse plan for MCAS Tustin and in
order to facilitate the closure of MCAS Tustin and its reuse in furtherance of the economic
development of the City and surrounding region.

1.1.2. In its capacity as the LRA, the City served as the lead agency for preparing the
base reuse plan, the applicable environmental documents under California law, and other
documents related to the planning for the civilian reuse of MCAS Tustin. The City determined
that the most appropriate tool to guide the conversion of the base from military to civilian use
and to facilitate review and approval of entitlements, permits, and uses was the preparation of a
combined reuse plan and specific plan. The MCAS Tustin Reuse Plan (“Reuse Plan”) was
developed in accordance with federal procedures under the Base Closure Law and was adopted
by the City of Tustin City Council on October 16, 1996 and amended by Errata in September
1998. The Reuse Plan was subsequently reviewed and approved by the United States
Department of Housing and Urban Development. On February 3, 2003 the City approved and
adopted the MCAS Tustin Specific Plan/Reuse Plan by Ordinance No. 1257 setting forth the zoning and entitlement framework for future development of the former MCAS Tustin ("Specific Plan"). The portion of the former MCAS Tustin located within the City of Tustin is referred to herein as "Tustin Legacy". The Specific Plan conforms to and implements the Reuse Plan and the Tustin General Plan.

1.1.3. A Final Joint Environmental Impact Statement/Environmental Impact Report for the Disposal and Reuse of MCAS Tustin (the "Final EIS/EIR") and Mitigation Monitoring and Reporting Program for the Final EIS/EIR were adopted by the City on January 16, 2001. In March 2001, a Record of Decision was issued by the Department of the Navy (hereinafter, "Navy") approving the Final EIS/EIR and the Reuse Plan.

1.1.4. SOCCCD reviewed drafts of the Reuse Plan and Specific Plan, the attendant EIS/EIR, and other related and supporting documents. SOCCCD participated in the formulation of such documents, provided comments, and otherwise fully participated in the process that culminated in the certification of the environmental documents and the adoption and approval of the Reuse Plan and Specific Plan.

1.1.5. The Reuse Plan and Specific Plan include all detailed planning, policies, regulations, and implementation strategies and procedures necessary to guide the reuse and development of all property located within MCAS Tustin. The Reuse Plan and Specific Plan are intended to serve as both policy-oriented and regulatory documents and contain the development and reuse regulations that will govern all development, construction, and use of property at Tustin Legacy, subject to the provisions of Section 1.7.

1.1.6. Pursuant to the authority provided by section 2905(b)4 of the Base Closure Law and the implementing regulations of the Department of Defense (32 CFR Part 175), the Secretary of the Navy, on behalf of the United States of America, is authorized to convey surplus property at a closing installation to the LRA at no cost for economic development purposes.

1.1.7. In May 2002, the Navy approved an Economic Development Conveyance of Property ("EDC") and agreed to convey 1,153 acres of the former MCAS Tustin to the City. On May 13, 2002, a portion of this property was conveyed by the Navy to the City by Federal Deed, in accordance with the provisions of that certain Agreement Between The United States of America and the City of Tustin, California, For The Conveyance of a Portion of the Former Marine Corps Air Station Tustin ("Conveyance Agreement"), which sets forth the terms and conditions of the conveyance of portions of MCAS Tustin from the Navy to the City ("City Property"). A portion of the City Property was leased to the City by the Navy pursuant to the Conveyance Agreement and that certain Lease In Furtherance of Conveyance Between the United States of America and The City of Tustin, California For Portions of the Former Marine Corps Air Station Tustin (the "LIFOC").

1.1.8. The Conveyance Agreement contemplates that the City will, following conveyance of the applicable portion of the City Property from the Navy to the City, convey a
portion of the City Property to SOCCCD ("SOCCCD Property") for educational purposes in accordance with the Reuse Plan and Specific Plan.

1.2 Definitions: Attachments. Capitalized terms used herein, including in the Exhibits attached hereto, unless otherwise defined herein, shall have the respective meanings specified in the Glossary of Defined Terms attached hereto as Exhibit "A." Unless otherwise indicated, references in this Agreement to sections, paragraphs, clauses, exhibits, attachments and schedules are those contained in or attached to this Agreement and all exhibits and schedules referenced herein are incorporated herein by this reference as though fully set forth in this Agreement.

1.3 General Intent of This Agreement.

1.3.1. Consistent with the Reuse Plan and Specific Plan, the City desires and intends to convey the SOCCCD Property to SOCCCD, and SOCCCD desires and intends to acquire the SOCCCD Property, to plan, develop, maintain, and use such property solely and continuously as an Advanced Technology Educational Campus. SOCCCD recognizes and acknowledges that pursuant to Government Code Section 54999 et seq., Article XIIID, Section 4(a) of the State Constitution, the California Environmental Quality Act, and other provisions of state law, SOCCCD is obligated, or may be obligated, to dedicate, install, construct, or otherwise contribute and fund such capital improvements and infrastructure as may be necessary to serve the SOCCCD Property and any development or use maintained on the SOCCCD Property, or to otherwise mitigate any adverse impacts development of the SOCCCD Property may cause or create, subject to the provisions of Section 4.7.1.

1.3.2. The City, acting in its capacity as the LRA, will coordinate with and assist SOCCCD in its development and use of the SOCCCD Property as an Advanced Technology Educational Campus provided the City receives assurances from SOCCCD that the SOCCCD Property will be developed and used in a manner consistent with the Reuse Plan and Specific Plan and that SOCCCD will participate in any financing plans or programs the City may devise or implement to fund infrastructure improvements necessary or desirable to provide municipal, utility, and public services to all property and development within the boundaries of the former MCAS Tustin, subject to the provisions of Section 4.7.1.

1.4 Purpose of This Agreement.

1.4.1. The purpose of this Agreement is (a) to effectuate the Reuse Plan and Specific Plan, in accordance with the terms and conditions set forth in the Conveyance Agreement, the Federal Deed and LIFOC, through the disposition and development of portions of Tustin Legacy as further described herein and (b) to provide for the conveyance to SOCCCD of the SOCCCD Property, for the maintenance of the SOCCCD Property by SOCCCD and the construction by SOCCCD on the SOCCCD Property of improvements that will support an Advanced Technology Educational Campus on the SOCCCD Property, including necessary infrastructure and other improvements as more particularly described herein.
1.4.2. This Agreement provides for the disposition by the City to SOCCCD of the
SOCCCD Property and further ensures that the SOCCCD Property is planned, developed,
maintained and used in a manner consistent with the Reuse Plan and Specific Plan. Subject to
the specific provisions set forth in this Agreement, this Agreement is intended to:

1. Identify the planning goals of SOCCCD and the City for the SOCCCD
   Property;

2. Identify the scope and schedule for short-range improvements and long-
   range development plans for the SOCCCD Property;

3. Establish a process for meaningful consultation on development and
   operational issues of mutual concern;

4. Identify capital infrastructure improvements, roadway, existing utility and
   new utility rights-of-way and easement dedications, as may be needed, and
   environmental impact report mitigation that will be required of SOCCCD;

5. Identify procedures necessary or desirable to implement this Agreement;
   and

6. Affirm SOCCCD’s commitment to return, directly to the City, the
   SOCCCD Property, or any portion thereof, not used for the purposes for
   which it was transferred in accordance with the Reuse Plan and Specific
   Plan.

1.4.3. This Agreement will ensure the implementation of the Reuse Plan and Specific
Plan, eliminate uncertainty in planning, provide for the orderly development of the SOCCCD
Property, eliminate uncertainty about the validity of the application of the rules and regulations
in the Reuse Plan and Specific Plan to the SOCCCD Property and SOCCCD, allow installation
of necessary or desirable improvements, provide for public services appropriate to the
development and use of SOCCCD, and generally serve the public interest within the City and the
surrounding region.

1.4.4. The Parties acknowledge that the consideration to be received by the City
pursuant to this Agreement and the consideration to be received by SOCCCD hereunder
constitute sufficient consideration to support the covenants and agreements of the City and
SOCCCD.
1.5 **Description of SOCCCD Property Affecting This Agreement.**

1.5.1. Initial Closing and Conveyance of SOCCCD Property. The initial closing and conveyance of the SOCCCD Property ("Initial Closing") will consist of approximately 37.66 acres, more or less, of the SOCCCD Property located in the City, County of Orange, California as more particularly described as Parcels I-E-1.1, I-E-3 and I-E-4, and legally described on Exhibit "B" ("Initial SOCCCD Parcels"). The Initial Closing by the City to SOCCCD will occur upon satisfaction of the requirements set forth herein for such transfer.

1.5.2. Subsequent Closing and Conveyance of SOCCCD Property. A subsequent closing and conveyance of the SOCCCD Property ("Subsequent Closing") will consist of approximately 30.71 acres, more or less, of the remaining SOCCCD Property located in the City, County of Orange, California as more particularly described as Parcels IV-J-4, IV-J-5, and IV-J-6, and legally described on Exhibit "C" ("Subsequent SOCCCD Parcels"). The Subsequent Closing by the City to SOCCCD will occur upon satisfaction of the requirements set forth herein for such transfer.

1.5.3. Pending conveyance of the Subsequent SOCCCD Parcels by the Navy to the City, SOCCCD agrees to sublease from the City at the Initial Closing the Subsequent SOCCCD Parcels in accordance with the Sublease.

1.6 **Federal Requirements Applicable to Tustin Legacy.** The Parties acknowledge and agree that this Agreement is entered into as part of the Economic Development Conveyance of certain property at Tustin Legacy to the City pursuant to the Base Closure Law, the Conveyance Agreement and the terms and conditions of the Federal Deed, including the Environmental Restriction pursuant to California Civil Code Section 1471 contained therein, and as required by the Reuse Plan and Specific Plan. Notwithstanding any provision to the contrary contained herein, this Agreement is and shall be subject to the terms and conditions of the Conveyance Agreement and the Federal Deed and the rights, obligations and remedies of the Federal Government thereunder, and nothing contained in this Agreement shall be construed in a manner that is inconsistent with the rights, obligations and remedies of the Federal Government thereunder, provided, that other than those obligations set forth in the Quitclaim Deed, SOCCCD shall not be deemed to have assumed any of the City's obligations to the Federal Government under the Conveyance Agreement or the Federal Deed.

1.7 **Local Requirements.**

1.7.1 This Agreement is subject to all Government Requirements, including the Tustin General Plan, the Reuse Plan, the Specific Plan and any redevelopment plan hereinafter enacted with respect to the SOCCCD Property, each of which is incorporated herein by reference and made a part hereof as though fully set forth herein.

1.7.2 Notwithstanding any other provision of this Agreement, in the event SOCCCD processes plans for a particular structure with the California Division of the State Architect ("DSA"), as required or permitted under Section 81130-81149 of the California Education Code,
as it may be amended from time to time ("The Field Act"), or by DSA or another State of
California agency under another applicable statute that concerns the review and approval of
building plans for community college structures, then SOCCCD shall be exempt from processing
such plans for a particular structure with the City.

1.7.3 SOCCCD and the City acknowledge that the foregoing provisions of this Section
1.7 do not limit the City's right to exercise normal processing, review and approval rights, and
collection of normal fees in connection therewith, concerning matters not within DSA's
authority, including, but not limited to, plans for grading, drainage, siting of improvements,
alterations to a public right-of-way, circulation, parking and utilities connection.

1.7.4 SOCCCD shall provide copies of plans being processed by SOCCCD with DSA
to the City on a timely basis (either as part of the ongoing communication process provided for
in Section 4.5 or otherwise) for the City's courtesy review and comment.

1.7.5 The City shall exercise its processing, review and approval authority in a manner
that does not discriminate against SOCCCD as compared with other school districts developing
property within Tustin Legacy.

1.8 Not a Development Agreement. This Agreement is not a Development
 Agreement as provided in Government Code Section 65864 and is not a grant of entitlement,
land use approval or vested right in favor of SOCCCD. The City shall cooperate in good faith,
within applicable legal constraints and consistent with applicable City policies, and take such
actions as may be necessary and appropriate to effectuate and carry out this Agreement in a
timely manner.

2.0 EFFECT OF AGREEMENT IS BINDING

This Agreement, and all of the terms, covenants, obligations, rights, standards, and
conditions of this Agreement, shall run with the land comprising the SOCCCD Property and
shall be binding upon and inure to the benefit of the parties and their respective assigns, heirs,
other successors-in-interest, lessees, and all other persons or entities acquiring the SOCCCD
Property or any portion thereof or any interest therein. Nothing in this Agreement shall be
construed as a dedication or transfer of any right or interest in the title to the SOCCCD Property,
except as otherwise expressly provided in this Agreement. All of the provisions of this
Agreement shall be enforceable as equitable servitudes and shall constitute covenants running
with the land pursuant to applicable law, including, but not limited to, Section 1468 of the
California Civil Code. All of the burdens, obligations, duties, rights, and benefits of the parties
under this Agreement (including without limitation the right of SOCCCD to construct, develop,
and maintain an Advanced Technology Educational Campus) shall continue in full force and
effect, notwithstanding the completion of all or any portion of the Advanced Technology
Educational Campus, until such time as the City in its sole discretion determines that
enforcement of these burdens, obligations, duties, rights, and benefits is no longer equitable.

3.0 PLANNING GOALS
3.1 **General Planning Goals.** The SOCCCD Property is designated for development and use as an Advanced Technology Educational Campus and is located within and constitutes an integral part of Neighborhood A of the Reuse Plan and Specific Plan. Neighborhood A is part of a broader mix of public-serving uses in an educational environment that includes community college uses, an elementary school site, and County of Orange anticipated facilities including a Regional Law Enforcement Training Facility and an abused children's shelter. SOCCCD will plan, develop and maintain an Advanced Technology Educational Campus as defined in Exhibit A to this Agreement. SOCCCD will use reasonable efforts to plan, develop, and use the SOCCCD Property in a manner that is supportive of the intent of Neighborhood A and which is compatible with the other uses which may be developed and maintained within Neighborhood A in accordance with the Reuse Plan and the Specific Plan.

3.2 **Use of SOCCCD Property.** The Parties acknowledge and agree that the SOCCCD Property will be conveyed for use in perpetuity and continuously as an Advanced Technology Educational Campus. SOCCCD represents and agrees that its undertakings pursuant to this Agreement are for the purpose of developing such an Advanced Technology Educational Campus and not for speculation in land holding or for subsequent sale to other parties. SOCCCD acknowledges and agrees that no voluntary or involuntary successor in interest of SOCCCD shall acquire any rights or powers under this Agreement except as provided in Article 12.

4.0 **DEVELOPMENT AND REUSE**

4.1 **Development General Requirements.** Subject to the applicable provisions of this Agreement, development of the SOCCCD Property is subject to all Governmental Requirements including but not limited to the Tustin General Plan, the Reuse Plan and Specific Plan, Cooperative Agreement DO2-119 between the City of Tustin, Orange County Flood Control District and the County of Orange, Agreement Between the City of Irvine and The City of Tustin Regarding the Implementation, Timing and Funding of Transportation/Circulation Mitigation for the MCAS Tustin Project, Amendment to the Joint Exercise of Powers Agreement Between the City of Santa Ana and the City of Tustin Regarding the Tustin-Santa Ana Transportation System Improvement Authority, and any Redevelopment Plan(s) enacted hereafter with respect to the SOCCCD Property, each of which is incorporated herein by reference and made a part hereof as though fully set forth herein.

4.2 **Development Standards.** Subject to the applicable provisions of this Agreement, the maximum density and intensity of uses, the general location of uses, the number and size of legal lots, the maximum height and size of the proposed improvements, requirements for the dedication and reservation of land for public purposes and other standards of development applicable to the SOCCCD Property shall be in accordance with Chapter 2, Plan Description, and Chapter 3, Land Use and Development/Reuse Regulations, in the Reuse Plan.

4.3 **Development Process.**
4.3.1. SOCCCD shall prepare short-range and long-range academic and facilities plans for the SOCCCD Property ("Short-Range Plan" and "Long-Range Plan") that demonstrate SOCCCD's financial and management plans to implement the requirements of the Reuse Plan and Specific Plan. Such plans shall promote orderly growth and development of the SOCCCD Property and establish a framework for campus development. The facilities planning shall include but not be limited to the following components as applicable:

1. academic quads and classroom buildings
2. student/faculty housing
3. ancillary services
4. support commercial operations on the campus
5. recreation/open space
6. parking locations
7. roadways
8. security and maintenance/utility functional areas

The preparation of the Short-Range Plan is expected to take approximately two (2) years to complete with the preparation of the Long-Range Plan expected to take approximately five (5) years to complete. These time schedules may vary, contingent upon changes in academic needs, enrollment demand and availability of funding. Notwithstanding any such variations in time schedules, SOCCCD acknowledges and agrees that within five (5) years from the date of the Initial Closing it shall have completed the Short-Range Plan and Long-Range Plan, and shall have made significant progress towards the implementation of such plans. The Parties acknowledge that the provisions of the Short-Range Plan and Long-Range Plan will be subject to revision and refinement from time to time as development proceeds or SOCCCD's needs and plans evolve over time.

SOCCCD will consult with the City in preparation of its Short Range and Long-Range Plans and shall share a preliminary draft of such plans with the City for review and comment prior to its release to the public. SOCCCD agrees to give consideration to all comments received from the City on such plans. In adoption of its Short Range and Long-Range Plans, SOCCCD shall comply with all requirements of CEQA and its implementing regulations.

4.3.2 Prior to commencing the use of the SOCCCD Property or the construction or installation of any improvement on the SOCCCD Property and subject to the applicable provisions of this Agreement (including Section 1.7), SOCCCD shall comply with the Development Processing Requirements, including the requirement to prepare and submit a Concept Plan for an Advanced Technology Educational Campus on the SOCCCD Property in accordance with Section 4.2.1 of the Specific Plan and all requirements contained in Chapter 4 of the Specific Plan.

SOCCCD shall process all appropriate environmental documents for individual projects as required by CEQA and its implementing regulations. SOCCCD shall also notify the City of all projects on the SOCCCD Property as that term is defined by CEQA.
4.4 **Major Improvements.** Subject to the applicable provisions of this Agreement (including Section 1.7), SOCCCD shall not construct or make or permit the construction or making of any Major Improvements on the SOCCCD Property without providing the Community Development Director, as a courtesy, with all documents and information related to any such Major Improvements ("Construction Documents"), including concept drawings, design development drawings, and final construction designs and specifications. Subject to the applicable provisions of this Agreement (including Section 1.7), SOCCCD shall provide the Community Development Director, as a courtesy, with the Construction Documents at each phase of the development and drafting process, or upon a reasonable request by the Community Development Director or his/her designated representative. The City may provide comments to any Construction Documents and SOCCCD agrees to give full consideration to all such comments received by SOCCCD within thirty (30) days following receipt by the Community Development Director of the applicable Construction Documents and SOCCCD shall not begin construction of the Major Improvement(s) under review by the City prior to the expiration of such thirty (30) day review period.

4.5 **Development Coordination.** During the planning and development of the Advanced Technology Educational Campus on the SOCCCD Property, SOCCCD shall hold regular meetings, at least quarterly, with City representatives included the Assistant City Manager and the Community Development Director, and their representatives, to discuss the planning, development, and operational issues of mutual concern, including the preparation, submission and review of concept plans, the Short Range and Long Range Development Plans and Construction Documents. Such meetings shall serve as a forum for exchange of information concerning the design and development of the Advanced Technology Educational Campus as well as provide the opportunity for the City to advise SOCCCD of other development issues which may affect the SOCCCD Property.

4.6 **Existing Structures and Other Improvements.** Subject to the requirements of Chapter 3 of the Reuse Plan and Section 5.3 of this Agreement, SOCCCD shall demolish or upgrade existing structures on the SOCCCD Property to conform to the Uniform Building Code, as amended by the City, State of California Title 24 Access Compliance (handicapped provisions), and the requirements of the Americans with Disabilities Act ("ADA"). Existing buildings, open space areas, and other improvements on the SOCCCD Property shall be demolished or upgraded in accordance with Chapter 3 of the Specific Plan.

4.7 **Utilities and Infrastructure.**

4.7.1 **Backbone Infrastructure Improvements.**

4.7.1.1 SOCCCD acknowledges and agrees that the development of the SOCCCD Property, together with the development of the remainder of Tustin Legacy, will require the funding and construction of backbone infrastructure improvements located off the SOCCCD Property, including Tustin Legacy road improvements, traffic and circulation improvements, flood control channels and retention basins, and lighting and landscaping ("City’s Tustin Legacy Backbone Infrastructure Program").
4.7.1.2 Except for lighting and landscaping backbone infrastructure which may be funded by a City assessment district, the City hereby waives and agrees to relieve SOCCCD of its fair share obligation for the City’s Tustin Legacy Backbone Infrastructure Program, whether funded by City Community Facilities District(s), by City Assessment District(s), or by City capital facilities fees. SOCCCD agrees not to oppose a determination by the City to form an assessment district for lighting and landscaping, and to include the SOCCCD Property in such district, and agrees not to oppose the imposition of assessments on terms that do not discriminate against the SOCCCD Property as compared with other public agency property in the proposed district.

4.7.1.3 Capital facilities also needed to serve Tustin Legacy are facilities for water (domestic and reclaimed), sewer, electricity, gas, telephone, cable and telecommunications ("Other Entities’ Tustin Legacy Backbone Infrastructure Program"). SOCCCD shall pay its fair share contribution to the Other Entities’ Tustin Legacy Backbone Infrastructure Program to the full extent permitted by applicable law through connection fees of those entities or as otherwise required by each such entity’s rules and regulations for service.

4.7.1.4 This Agreement meets the EIS/EIR requirement that any development applicant enter into an Agreement to acknowledge its fair share contribution to funding the construction of backbone infrastructure at Tustin Legacy.

4.7.2 Horizontal Improvements. SOCCCD acknowledges and agrees that it shall be responsible for design, installation and construction of all Horizontal Improvements for development of the SOCCCD Property and as required by the City or other utility providers pursuant to any entitlement conditions, Development Permit, the Reuse Plan or any other governmental requirement, subject to the provisions of Section 1.7.

4.7.3 Utilities.

4.7.3.1 Provision of Utilities. SOCCCD shall be solely responsible for obtaining utility services to serve the SOCCCD Property. Any separate metering of utilities required by any utility service provider shall be the responsibility of SOCCCD. SOCCCD shall pay all service charges, and all initial utility deposits and fees, for water, electricity, sewage, janitorial, trash removal, gas, telephone, pest control and any other utility services furnished to the SOCCCD Property and the improvements on the SOCCCD Property ("Utilities"). The City shall not be liable for any reason for any loss or damage resulting from an interruption of any of these services. In order to facilitate upgrading of utility systems, the City may designate the provider of Utilities and in such event SOCCCD shall use such designated provider; provided that SOCCCD shall have no claim against the City, of any type, for any failure of such provider to provide such service, and SOCCCD’s remedy, if any, shall be limited to such provider.

4.7.3.2 Pre-existing Utility Systems. SOCCCD acknowledges and agrees that pre-existing water, electric, sewer, natural gas, and storm drainage systems may be present on the SOCCCD Property (“Utility Systems”) and that such Utility Systems will be transferred to
SOCCCD from the City as related personal property by a Bill of Sale at the Initial Closing. The
Utility Systems are to be upgraded or replaced with new systems as part of the planned
development and reuse of MCAS Tustin or may be used by the Government for the provision of
Utilities to support ongoing Government activities on MCAS Tustin. SOCCCD, its employees,
agents, or contractors, shall not alter, modify, repair, replace, or relocate any part of the Utility
Systems without the prior written consent of the City. Such consent is within the reasonable
discretion of the City and will not be granted where any such alteration, modification, repair,
replacement, or relocation may interfere with the development or reuse of MCAS Tustin.
SOCCCD shall be responsible for all costs related to such alteration, modification, repair,
replacement, or relocation. The City, the Government, and utility service providers shall at all
times have full access to the SOCCCD Property for operation, maintenance, repair and
replacement of these systems as may be required. An easement providing such access shall be
included in the quitclaim deed conveying the SOCCCD Property from the City to SOCCCD.
Such operation, maintenance, repair and replacement activities shall take priority over the
provision of Utilities to SOCCCD or any use of the SOCCCD Property by SOCCCD in the event
of any conflict and the City and the Government shall not be liable for any loss or damage
resulting from the disconnection or interruption of utility services to SOCCCD or any
interference with SOCCCD’s use of the SOCCCD Property necessitated by such activities. The
determination to disconnect or interrupt any of SOCCCD’s utility service or interfere with
SOCCCD’s use of the SOCCCD property is within the sole discretion of the City, provided that
the City will provide SOCCCD with fourteen (14) days’ prior notice of such determination,
except in the case of utility breakages and emergency interruptions not within the control of the
City.

5.0 CONSENT TO REGULATION AND FINANCING

5.1 SOCCCD Consent to Regulation. Subject to the applicable provisions of this
Agreement (including Section 1.7), SOCCCD acknowledges and consents to the City’s
regulation of the development and the use of the SOCCCD Property, notwithstanding any other
provision of state law or equity to the contrary, including any principle or right of sovereignty or
preemption that may otherwise inure to the benefit of SOCCCD under the laws of the State of
California. SOCCCD acknowledges that its compliance with the regulatory program as
described in this Agreement is required by the Reuse Plan and Specific Plan and is a primary
inducement in securing (1) the conveyance of the SOCCCD Property from the United States and
(2) the City’s support and approval of such conveyance.

5.2 Consent to Financing Participation. SOCCCD consents to and agrees to
participate in and shall not contest, oppose, or challenge any Funding Process the City may
initiate to finance the Tustin Legacy Backbone Infrastructure Program provided the terms of
such Funding Process do not discriminate against the SOCCCD Property as compared with other
portions of the City Property, and all subject to the provisions of Section 4.7.1.

5.3 No Opposition. SOCCCD shall not contest, oppose, or challenge, nor fund or
assist in any way any other person or entity to contest, oppose, or challenge before any local,
state, or federal agency, or file or maintain any actions or proceedings before a court or
administrative body to set aside, enjoin, challenge, appeal, or otherwise pursue any legal, equitable, or administrative remedies regarding the approval or implementation of any proposals, applications, approvals or permits (including any related environmental documentation) relating to the former MCAS Tustin, or regarding any proposed, approved, or existing uses at the former MCAS Tustin which are consistent with the Reuse Plan or Specific Plan including but not limited to development proposals on Parcel I-E-1 or any other parcel abutting the SOCCCD Property.

6.0 ENVIRONMENTAL PROVISIONS

6.1 As Is, Where Is, With All Faults.

6.1.1 SOCCCD acknowledges and agrees that SOCCCD has examined the Property and will accept the property in an “AS IS, WHERE IS, WITH ALL FAULTS” condition, in its present state and condition and with all faults, if any. SOCCCD further acknowledges and agrees, except as otherwise provided in this Agreement, that the City has not made and does not make and specifically negates and disclaims any representations, warranties, promises, agreements or guarantees of any kind or character, whether express or implied, oral or written, past, present or future, whether by the City or any of its agents, elected or appointed officials, or representatives or employees.

6.1.2 Environmental Condition of SOCCCD Property; Restrictions. SOCCCD acknowledges and agrees that the acquisition of the SOCCCD Property by SOCCCD will be subject to other conditions, restrictions, and clauses contained in many of the environmental reports prepared for the City Property, including without limitation the Conveyance Agreement, the Environmental Baseline Study (“EBS”), the Finding of Suitability to Transfer (“FOST”), any quitclaim deed for the SOCCCD Property from the Navy, the Finding of Suitability to Lease (“FOSL”), and the EIS/EIR (“Environmental Reports”), and that the City has provided, or provided access to, all such Environmental Reports known to the City.

6.2 Environmental Mitigation. SOCCCD shall install, contribute, dedicate, improve, or otherwise provide all necessary Environmental Mitigation as applicable for the use and development of the SOCCCD Property. Such mitigation shall be fully installed or completed as identified in the Final EIS/EIR. The Environmental Mitigation required for the SOCCCD Property is described in the EIS/EIR and the quitclaim deed conveying the SOCCCD Property from the Government to the City, which, in relevant part, is set forth verbatim in the quitclaim deed attached as Exhibit “D” to this Agreement (“Quitclaim Deed”).

6.3 Adequacy of the EIS/EIR. SOCCCD acknowledges that the EIS/EIR is a legally adequate and sufficient document, prepared, certified, and approved in a manner consistent with all applicable provisions of federal and state law, and SOCCCD and the City acknowledge that the EIS/EIR is the controlling program environmental document governing this Agreement and the conveyance of the SOCCCD Property to SOCCCD from the City, but only to the extent SOCCCD uses the SOCCCD Property in the manner provided in Section 4 of this Agreement. SOCCCD acknowledges and agrees that it is also required to comply with all requirements of
CEQA and its implementing regulations in adopting the program document and any additional required supplemental documentation for the acquisition of the SOCCCD Property and for individual projects on the SOCCCD Property.

7.0 TRANSFER AND CONVEYANCE

7.1 Schedule. The City agrees to convey that portion of the SOCCCD Property owned by the City to SOCCCD in an initial closing (the "Initial Closing") no later than thirty (30) days after the execution of this Agreement; at such Initial Closing, the City also will transfer possession to SOCCCD, by Sublease, of that portion of the SOCCCD Property held by the City under the terms of that certain Lease in Furtherance of Conveyance dated May 13, 2002. The City agrees to transmit to SOCCCD a deed for the conveyance of the remaining portion of the SOCCCD Property to SOCCCD in a subsequent closing ("Subsequent Closing(s)") no later than forty-five (45) days after the City receives title from the Government of such remaining portion(s) of the SOCCCD Property.

Upon written acceptance of this Agreement, this Agreement shall constitute the joint escrow instructions of SOCCCD and the City to Escrow Holder (First American Title) to open an escrow. Escrow Holder shall not prepare any further escrow instructions restating or amending this Agreement unless specifically so instructed by the City and SOCCCD in writing. Any such supplemental escrow instructions must be in writing and signed by the City and SOCCCD and accepted by the Escrow Holder as effective.

7.2 Quitclaim Deed. The SOCCCD Property shall be conveyed by one or more good and sufficient quitclaim deeds in substantially the form of the Quitclaim Deed attached hereto and made a part hereof as Exhibit "D".

7.3 Sublease. That portion of the SOCCCD Property not owned in fee by the City at the time of the Initial Closing shall be transferred to SOCCCD by the sublease attached hereto and made a part hereof as Exhibit "E" ("Sublease"). The Parties shall also record a short form notice of the Sublease against the portions of the SOCCCD subleased from the City to SOCCCD in substantially the form of Exhibit "F," attached hereto and made a part hereof ("Short Form Notice of Sublease").

7.4 Personal Property. The City’s right, title and interest in the Personal Property shall be transferred to the SOCCCD at the Closings pursuant to the terms and conditions of a Bill of Sale, in substantially the form attached hereto and made a part hereof as Exhibit "G".

7.5 Surveys and Title Insurance. SOCCCD shall have the right to request and obtain an ALTA extended coverage owner’s policy of insurance and any other title endorsements as SOCCCD deems necessary; provided that the issuance of an ALTA Policy shall not delay the Close of Escrow and shall not be a condition precedent to the Close of Escrow. Any title insurance that may be desired by SOCCCD shall be procured at its sole cost and expense. The City shall cooperate with SOCCCD or its authorized agent and shall permit examination and inspection of any documents relating to the title of the SOCCCD Property as it may have
available. If such searches disclose title exceptions that appear to be in error to SOCCCD, the City agrees to cooperatively work with SOCCCD to have the title exceptions removed, released, or insured over recognizing that the SOCCCD Property is being conveyed by the City “As Is”.

8.0 ESCROW CLOSING

8.1 City Document Deliveries. The City shall deliver to the Initial Closing and Subsequent Closing, as appropriate, the following documents reasonably satisfactory to SOCCCD and in a form previously reviewed and approved by SOCCCD, duly authorized, executed, and notarized:

A. Quitclaim Deed in the form set forth in Exhibit “D” conveying fee ownership of the SOCCCD Property to SOCCCD.

B. Bill of Sale for the Personal Property that will be conveyed to SOCCCD in the form set forth in Exhibit “G.”

C. Sublease in the form set forth in Exhibit “E” transferring possession of the leased SOCCCD Property to SOCCCD.

D. Short Form Notice of Sublease in the form set forth in Exhibit “F”.

E. A Federal “FIRPTA” Affidavit executed by the City certifying that the City is not a “foreign person” under the Foreign Investment in Real Property Tax Act.

F. California’s Real Estate Withholding Exemption Certificate Form 597-W.

G. Such proof of the City’s authority and authorization to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals(s) executing and/or delivering any instruments, documents or certificates on behalf of the City to act for and/or bind the City as may be reasonably required by the Title Company and/or SOCCCD.

H. Certificate confirming that the City’s representations in this Agreement are true and correct as of the date of the Closing in substantially the form set forth in Exhibit “H-1”.

I. Such other documents or instruments as Escrow Holder may reasonably request to consummate the transaction contemplated herein.

8.2 SOCCCD Document Deliveries. SOCCCD shall deliver to the Initial Closing and Subsequent Closing, as appropriate, the following documents reasonably satisfactory to the City and in a form previously reviewed and approved by the City, duly authorized, executed, and notarized:
A. Quitclaim Deed in the form set forth in Exhibit "D" conveying fee ownership of
the SOCCCD Property to SOCCCD.

B. Bill of Sale for the Personal Property that will be conveyed to SOCCCD in the
form set forth in Exhibit "G."

C. Sublease in the form set forth in Exhibit "E" transferring possession of the leased
SOCCCD Property to SOCCCD.

D. Short Form Notice of Sublease in the form set forth in Exhibit "F".

E. Such proof of the SOCCCD's authority and authorization to enter into this
Agreement and to consummate the transactions contemplated hereby, and such power and
authority of the individuals(s) executing and delivering any instruments, documents or
certificates on behalf of SOCCCD to act for and/or bind SOCCCD as may be reasonably
required by the Title Company and/or the City.

F. Certificate confirming that the SOCCCD representations in this Agreement are
true and correct as of the date of the Closing in substantially the form set forth in Exhibit "H-2".

G. Such other documents or instruments as Escrow Holder may reasonably request to
consummate the transaction contemplated herein.

8.3 Procedures for Conveyance of SOCCCD Property from City to SOCCCD.

8.3.1 Costs and Expenses. All costs and expenses of Closing shall be the responsibility
of SOCCCD.

8.3.2 Other Actions of Escrow Holder. At the Close of Escrow and subject to
satisfaction or waiver by the benefited party of any of the document delivery requirements noted
in Section 8.1 or 8.2, Escrow Holder shall promptly undertake the following in the manner
indicated below:

8.3.2.1 Funds. Debit all expenses of escrow to SOCCCD to be deposited with
the Escrow Holder by SOCCCD.

8.3.2.2 Recording. Cause the Quitclaim Deed, the Short Form Notice of
Sublease and other documents which SOCCCD and the City may mutually direct, or which may
be required to be recorded by the terms of this Agreement, to be recorded in the Official
Records, obtain conformed copies thereof and distribute same to SOCCCD and the City.

8.3.2.3 Title Policy. If requested by SOCCCD, direct the Title Company to
issue SOCCCD's Title Policy to SOCCCD. Concurrent with the issuance of the Title Insurance
Policy and the City's Title Insurance Policy, if any, the Title Company shall provide
endorsements as may be requested by the respective insured parties.
8.3.2.4 Delivery of Documents to SOCCCD and City. Deliver to SOCCCD and the City original counterparts (and conformed copies, if applicable) of the Quitclaim Deed, the Short Form Notice of Sublease, the FIRPTA Certificate, the California Form 597-W and other documents (or copies thereof) deposited into Escrow by SOCCCD or the City pursuant hereto, and deliver to SOCCCD and the City a certified copy of their respective Escrow closing statements.

8.3.2.5 Other Actions. Take such other actions as the SOCCCD and the City direct pursuant to mutually executed supplemental escrow instructions.

9.0 RESERVED EASEMENTS

The Quitclaim Deed conveying the SOCCCD Property to SOCCCD shall contain any necessary reservations of easements by the City that the City determines are required to implement the Reuse Plan and Specific Plan and facilitate redevelopment of MCAS Tustin.

10.0 COVENANTS AND RESTRICTIONS

10.1 Use Covenant. SOCCCD covenants for itself and its successors that SOCCCD, and its successors, shall use the SOCCCD Property only for those uses specified in Section 3.2 of this Agreement.

10.2 Maintenance Covenant. From and after the date of acquisition by SOCCCD of any portion of the SOCCCD Property, SOCCCD and its successors shall: (i) maintain the portions of the SOCCCD Property owned by it in a clean and weed-free condition; (ii) maintain any improvements on the SOCCCD Property under construction consistent with construction industry practice; and (iii) upon completion of all or any portion of improvements, maintain improvements in the same aesthetic and same condition or better as the condition of the improvements at the time a certificate of occupancy is issued on the improvements, reasonable wear and tear excepted.

10.3 Non-Discrimination and Equal Opportunity.

10.3.1 SOCCCD covenants and agrees, for itself and its successors, that (a) it shall not discriminate against any employee or applicant for employment on any basis prohibited by law and (b) it has received and read, understands and agrees to be bound with respect to the entirety of the SOCCCD Property by the Non-Discrimination Covenant contained in the Navy Deed.

10.3.2 SOCCCD shall provide equal opportunity in all employment practices.

10.3.3 Obligation to Refrain from Discrimination. SOCCCD covenants and agrees for itself and its successors that 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 use, occupancy, tenure, or enjoyment of the SOCCCD
Property nor shall SOCCCD itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, subtenants, sublessees or vendees of the SOCCCD Property.

10.3.4 Redevelopment Law: Form of Nondiscrimination and Nonsegregation Clauses. All deeds, leases or contracts that SOCCCD enters into that affect the SOCCCD Property shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

10.3.4.1 In Deeds:

"The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that 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 land herein conveyed, nor shall the grantee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

10.3.4.2 In Leases:

"The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that 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 leasing, subleasing, renting, transferring, use, occupancy, tenure or enjoyment of the land herein leased, nor shall lessee itself, or any person claiming under or through it, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the land herein leased."

10.3.4.3 In Contracts:

"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 land, nor shall the transferee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or
segregation with reference to the selection, location, number, use or 
occupancy of tenants, lessees, subtenants, sublessees or vendees of the 
land."

11.0 DEED RESTRICTIONS/COVENANTS RUNNING WITH THE LAND

The obligations of SOCCCD set forth in this Agreement shall be covenants running with 
the land, shall be set forth in the Quitclaim Deed and shall be binding upon SOCCCD and all 
subsequent owners of the SOCCCD Property or any part thereof. The Quitclaim Deed shall 
convey the SOCCCD Property subject to reservations, covenants and restrictions set forth in the 
quitclaim deed transferring the SOCCCD Property from the Navy to the City, the Conveyance 
Agreement and this Agreement.

12.0 CHANGES TO OWNERSHIP AND CONTROL BY SOCCCD

12.1 Restrictions on Rights and Powers Under Agreement. SOCCCD agrees that 
no voluntary or involuntary successor in interest of SOCCCD shall acquire any rights or powers 
under this Agreement or in the SOCCCD Property except as set forth in this Article 12.

12.2 Restrictions on Transfer. SOCCCD and its successors-in-interest shall not 
effect, or agree to effect, any transfer, sale, assignment, gift or other conveyance of all or any 
portion of the SOCCCD Property or any improvements thereon or any interest therein, or any 
right or interest under this Agreement, whether voluntarily, involuntarily or by operation of law 
or otherwise (collectively, a "Transfer"), unless such Transfer is a Permitted Transfer. 
"Permitted Transfer" shall mean only any of the following:

(a) Any mortgage, deed of trust, pledge, hypothecation or other similar 
transfer (including sale-leaseback financing transactions) for the purpose of providing security 
for the repayment of indebtedness and related obligations incurred to finance or refinance the 
aquisition, development or construction of the SOCCCD Property or improvements thereon in 
accordance with the provisions of this Agreement, provided, that such mortgage, deed of trust, 
pledge, hypothecation or other similar transfer (including sale-leaseback financing transactions) 
shall:

(I) be subordinate to this Agreement, and

(II) provide that the proceeds of such mortgage, deed of trust, pledge, 
hypothecation or other similar transfer (including sale-leaseback financing transactions) shall be 
used solely for the purposes set forth in Article 12.2(a).

(b) Granting of easements or similar rights to public utilities or governmental 
or quasi-governmental entities in the ordinary course of development or operation of the 
SOCCCD Property in accordance with the provisions of this Agreement.
(c) Leases or subleases for use of the SOCCCD Property only as permitted under this Agreement, provided that the City has approved the lessee or sublessee, which approval shall not be unreasonably withheld. In the event SOCCCD or a successor desires to effect a lease or sublease, SOCCCD or such successor shall submit to the City the name of the proposed lessee or sublessee and such other information as the City may reasonably request for the purposes of determining that such lessee or sublessee has the capability and resources necessary to carry out its obligations under the proposed lease or sublease. The information that may be requested by the City shall include, but not be limited to, (i) current financial statements of the proposed lessee or sublessee to the extent existing (and if not, then other reasonable evidence of financial resources), (ii) the names of the persons or entities who manage or control the affairs of the proposed lessee or sublessee and (iii) information regarding the experience of the proposed lessee or sublessee (and the persons managing or controlling such lessee or sublessee) in owning or operating enterprises such as or similar to the enterprises to be pursued under the proposed lease or sublease. Within twenty (20) business days after receipt of the relevant information reasonably requested by the City, the City shall give SOCCCD or its successor written notice of approval or disapproval of the proposed lessee or sublessee.

(d) Any other Transfer as to which SOCCCD or its successor in interest receives the prior written consent of the City, which consent may be withheld by the City for any reason whatsoever.

12.3 Other Transfers. For the purposes of this Agreement, “Transfer” also shall include any of the following:

(a) If SOCCCD is or becomes bankrupt or insolvent or if any involuntary proceeding is brought against SOCCCD (unless, in the case of a petition filed against SOCCCD, the same is dismissed within ninety (90) days), or SOCCCD makes an assignment for the benefit of creditors, or institutes a proceeding under or otherwise seeks the protection of federal or State bankruptcy or insolvency laws, including the filing of a petition for voluntary bankruptcy or instituting a proceeding for reorganization or arrangement;

(b) If a writ of attachment or execution is levied on this Agreement or on the SOCCCD Property, or on any portion thereof, where such writ is not discharged within ninety (90) days;

(c) If, in any proceeding or action in which a Party is a party to such proceeding or action, a receiver is appointed with authority to take possession of the SOCCCD Property, or any portion thereof, or any improvements thereon, where possession is not restored to the Party within ninety (90) days; or

(d) If SOCCCD experiences any change in status, ownership or control after which SOCCCD does not continue to be engaged as a duly authorized provider of college-level educational services under applicable law.
12.4 Remedies for Improper Transfers. Any purported Transfer that is not a Permitted Transfer shall, at the election of the City, be null and void. If there is any Transfer that is not a Permitted Transfer, such Transfer shall be a Material Default under this Agreement as of the date of the transfer, which date shall not be extended by Force Majeure Delay. In the event of a Transfer in violation of this Article 12, the City shall have all remedies available to it at law and in equity, including the right to exercise the Right of Reverter contained in Section 16.3.

12.5 Termination of Restrictions. The provisions of this Article 12 shall expire and be of no further force or effect on the date thirty (30) years after the date on which the first Quitclaim Deed is recorded in the official records of Orange County, California.

13.0 INDEMNIFICATION AND ENVIRONMENTAL PROVISIONS

13.1 SOCCCD's Indemnification. SOCCCD shall indemnify, protect, defend, assume all responsibility for and hold harmless the City and its appointed and elected officials, employees, contractors, representatives and agents (collectively referred to as the "Indemnified Parties"), with counsel reasonably acceptable to the City, from and against any and all Claims resulting or arising from or in any way connected with the following, provided SOCCCD shall not be responsible for (and such indemnity shall not apply to) the gross negligence or willful misconduct of the Indemnified Parties:

A. SOCCCD's use of the SOCCCD Property in any way;

B. Any other activities of SOCCCD;

C. Any plans or designs for Improvements prepared by or on behalf of the SOCCCD, including any errors or omissions with respect to such plans or designs;

D. Any loss or damage to the City resulting from any inaccuracy in or breach in any representation or warranty of SOCCCD, or resulting from any breach or default by SOCCCD under this Agreement; or

E. Any development or construction of improvements by SOCCCD, whether regarding quality, adequacy or suitability of the plans, any labor, service, equipment, or material furnished to the SOCCCD Property, any person furnishing the same or otherwise.

13.2 Environmental Indemnification. Effective as to the SOCCCD Property, upon SOCCCD's acquisition of the fee title to all or any portion thereof, SOCCCD shall, to the maximum extent permitted by law, indemnify, protect, defend, assume all responsibility for and hold harmless the Indemnified Parties from and against any and all Claims resulting or arising from or in any way connected with the existence, release, threatened release, presence, storage, treatment, transportation and/or disposal of any Hazardous Materials at any time on, in, under, from, about or adjacent to any portion or portions of the SOCCCD Property, regardless whether any such condition is known or unknown now or upon acquisition and regardless of whether any such condition pre-exists acquisition or is subsequently caused, created or occurring, provided,
however, that SOCCCD shall not be responsible for (and such indemnity shall not apply) to the
gross negligence or willful misconduct of the Indemnified Parties. This environmental
indemnity shall be included in any recorded short form of this Agreement against said lands and
shall be binding upon successors of SOCCCD owning all or any part thereof in accordance with
Section 13.3 of this Agreement.

13.3 Duration of Indemnities. The indemnities set forth in this Section 13 shall
survive any Closing or the termination of this Agreement, and shall be included in the Quitclaim
Deed and continue to be binding and in full force and effect in perpetuity with respect to
SOCCCD and its successors.

14.0 REPRESENTATIONS

14.1 City. The City hereby represents to SOCCCD that on and as of the date of this
Agreement and on and as of the Closing, the City has full capacity, right, power and authority to
execute, deliver and perform this Agreement and all documents to be executed by the City
pursuant hereto, and all required action and approvals therefore have been duly taken and
obtained for the Closing. The individuals signing this Agreement and all other documents
executed or to be executed pursuant hereto on behalf of the City shall be duly authorized to sign
the same on the City’s behalf and to bind the City thereto. This Agreement and all documents to
be executed pursuant hereto by the City are and shall be binding upon and enforceable against
the City in accordance with their respective terms.

14.2 SOCCCD. SOCCCD hereby represents to the City that on and as of the date of
this Agreement and on and as of the Closing, SOCCCD has full capacity, right, power and
authority to execute, deliver and perform this Agreement and all documents to be executed by
SOCCCD pursuant hereto, and all required action and approvals therefore have been duly taken
and obtained for the Closing. The individuals signing this Agreement and all other documents
executed or to be executed pursuant hereto on behalf of SOCCCD shall be duly authorized to
sign the same on SOCCCD’s behalf and to bind SOCCCD thereto. This Agreement and all
documents to be executed pursuant hereto by SOCCCD are and shall be binding upon and
enforceable against SOCCCD in accordance with their respective terms.

15.0 NOTICE

Notices shall be deemed sufficient under this Agreement if made in writing and
submitted to the following addresses (or to any new or substitute address hereinafter specified, in
a writing theretofore delivered in accordance with the notice procedure set forth herein by the
intended recipient of such notice):

If to the City: City of Tustin
300 Centennial Way
Tustin, CA 92780
Attn: City Manager & Assistant City Manager

03-85526.13
City of Tustin
300 Centennial Way
Tustin, CA  92780
Attn: Community Development Director

With a copy to:
George R. Schlossberg, Esq.
Kutak Rock LLP
1101 Connecticut Avenue, N.W.
Suite 1000
Washington, DC  20036
(202) 828-2418

If to SOCCCD:
Dr. Raghu P. Mathur, Chancellor
South Orange County Community College District
8000 Marguerite Parkway
Mission Viejo, CA 92692

With a copy to:
Dennis O’Neil
Hewitt & O’Neil LLP
19900 MacArthur Blvd.
Irvine, CA  92612

16.0  EFFECT OF CONVEYANCE.

16.1  Effect of Quitclaim Deeds. The delivery of the executed Quitclaim Deed pursuant to this Agreement from the City to SOCCCD shall be deemed full performance by the City of its obligations hereunder with regard to the SOCCCD Property other than any obligations of the City which are required by this Agreement to be performed after the delivery of such Quitclaim Deed.

16.2  Possession. Upon Closing, the City shall immediately deliver possession of the SOCCCD Property to SOCCCD.

16.3  Right of Reverter.

16.3.1 Notwithstanding SOCCCD’s obligation to use the Property for the purposes for which it was transferred in accordance with Section 10 of this Agreement in perpetuity, and SOCCCD’s obligation not to sell, transfer, assign or otherwise convey any interest in the Property other than in accordance with section 12 of this Agreement for a period of thirty (30) years, the Quitclaim Deed and the Bill of Sale shall each include, for a period of thirty (30) years, a right of reverter (“Right of Reverter”) in favor of the City that is incorporated into this Agreement as if included herein.

16.3.2 The City shall incorporate the Right of Reverter in agreements and deeds with other school districts developing property within Tustin Legacy and exercise such Right of
Reverter in a manner that does not discriminate against SOCCCD as compared with such other school districts.

16.4  **As Is, Where Is, With All Faults.**

16.4.1  **No Representations or Warranties.** Except as provided herein, the SOCCCD Property shall be conveyed “as is, where is, with all faults” and without any representation or warranty whatsoever and without any obligation on the part of the City except as expressly provided for by this Agreement or the Quitclaim Deed.

16.4.2  **No Unauthorized Representations.** No person acting on behalf of the City is authorized to make, and by execution hereof, SOCCCD acknowledges that no person has made, any representation, agreement, statement, warranty, guarantee or promise regarding the SOCCCD Property or the transaction contemplated herein or the past, present or future zoning, land use entitlements, construction, physical condition or other status of the SOCCCD Property except as may be expressly set forth in this Agreement. No representation, warranty, agreement, statement, guarantee or promise, if any, made by any person acting on behalf of the City that is not contained in this Agreement will be valid or binding on the City.

16.4.3  **Release.** Save and except for the covenants, representations and warranties of the City and any other “Released Party” (as defined below in this Section) under this Agreement, SOCCCD and any person claiming by, through or under SOCCCD, including all voluntary and involuntary successors of SOCCCD owning all or any portion of the Site (“Releasing Party”), hereby waives, as of the date of execution of this Agreement and as of the Closing Date, its right to recover from, and fully and irrevocably releases, the City and its officers, elected officials, employees, agents, attorneys, affiliates, representatives, contractors, successors and assigns (individually, a “Released Party”, collectively, the “Released Parties”) from any and all Claims that SOCCCD may now have or hereafter suffer or acquire for any costs, losses, liabilities, damages, expenses, demands, actions or causes of action: (a) arising from any information or documentation supplied by any of the Released Parties; (b) arising from any condition of the SOCCCD Property, known or unknown by any Releasing Party or any Released Party; (c) arising from any construction defects, errors, omissions or other conditions, latent or otherwise, including environmental matters, as well as economic and legal conditions on or affecting the SOCCCD Property, or any portion thereof; (d) arising from the existence, release, threatened release, presence, storage, treatment, transportation or disposal of any Hazardous Materials at any time on, in, under, from, about or adjacent to the SOCCCD Property or any portion thereof; (e) by any governmental authority or any other third party arising from or related to any actual, threatened, or suspected release of a Hazardous Material on, in, under, from, about, or adjacent to the SOCCCD Property, or any portion thereof, including any investigation or remediation at or about the SOCCCD Property; (f) arising from the Tustin Legacy Backbone Infrastructure Program, the cost or extent thereof, or the amount of the Fair Share Contribution; and/or (g) arising from the formation of any community facilities district in connection with the recoupment or payment of the Fair Share Contribution; provided, however, that the foregoing release by the Releasing Parties shall not apply to the extent that any Claim is the result of the willful misconduct or fraud of the City or its officers, employees, representatives, agents or
consultants arising after the Close of Escrow. This release includes Claims of which SOCCCD is presently unaware or which SOCCCD does not presently suspect to exist which, if known by SOCCCD, would materially affect SOCCCD’s release to the Released Parties. SOCCCD specifically waives the provision of California Civil Code Section 1542, which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

In this connection and to the extent permitted by law, SOCCCD hereby agrees, represents and warrants, which representation and warranty shall survive the Closings on SOCCCD and the termination of this Agreement and not be merged with the Quitclaim Deed, that SOCCCD realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to Claims or controversies which are presently unknown, unanticipated and unsuspected, and SOCCCD further agrees, represents and warrants, which representation and warranty shall survive the Closings on the SOCCCD Property and the termination of this Agreement and not be merged with the Quitclaim Deed, that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that SOCCCD, on behalf of itself and the other Releasing Parties, nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown Claims and controversies which might in any way be included as a material portion of the consideration given to the City by SOCCCD in exchange for the City’s performance hereunder.

This release shall run with the land and bind all owners and successor owners thereof and, to further evidence its effectiveness with respect to successor owners of the SOCCCD Property, shall be included in its entirety in the Quitclaim Deed.

17.0 SHORT FORM NOTICE OF AGREEMENT

Upon execution of this Agreement, the City and SOCCCD shall execute the Short Form Notice of Agreement attached hereto as Exhibit “T”. The Short Form Notice of Agreement shall be recorded in the Official Records of the County of Orange, California immediately following the execution of this Agreement. The Short Form Notice of Agreement shall be in a form approved by the City Manager and the City Attorney.

18.0 MISCELLANEOUS PROVISIONS

18.1 No amendment, change, modification or supplement to this Agreement shall be valid and binding on any of the Parties unless it is represented in writing and signed by each of the Parties hereto.

18.2 The covenants, representations and warranties contained in this Agreement shall survive any investigation made by any Party hereto and the closing of the transactions contemplated hereby.
18.3 The Parties shall fully cooperate with each other in attaining the purposes of this
Agreement and shall take any additional acts or sign any additional documents as may be
necessary or appropriate as related thereto.

18.4 In all cases, the language in all parts of this Agreement shall be construed simply,
according to its fair meaning and not strictly for or against any Party, with the view of preserving
and protecting the intent and purposes of the Reuse Plan and Specific Plan, it being agreed that
the Parties or their agents have all participated in the preparation of this Agreement.

18.5 No waiver of any provision of this Agreement shall be deemed or shall constitute
a waiver of any other provision whether or not similar, nor shall any waiver constitute a
continuing waiver. No waiver shall be deemed a waiver and no waiver shall be binding unless
executed in writing by the Party making the waiver.

18.6 The provisions of this Agreement shall be binding upon and inure to the benefit of
the Parties and the subsequent owner(s) of all or any portion of the SOCCCD Property and their
respective successors. There are no third-party beneficiaries to this Agreement, and neither Party
shall have any right to assign its rights under this Agreement except for the City's right to assign
this Agreement to a city or other governmental entity that succeeds to the City's jurisdictional
authority concerning the City Property.

18.7 This Agreement may be executed in two or more identical counterparts, each of
which shall be deemed to be an original and each of which shall be deemed to be one and the
same instrument when each Party signs each such counterpart.

18.8 All attachments to this Agreement, including all Exhibits and the Reuse Plan, are
incorporated as a part of this Agreement.

18.9 Each of the Recitals is incorporated into this Agreement.

18.10 All references to the Parties shall include all officials, officers, personnel,
employees, agents, assigns, and subcontractors of the Parties.

18.11 This Agreement, together with the exhibits attached hereto and the Reuse Plan
and Specific Plan, is intended by the Parties to be the final expression of their agreement with
respect to the subject matter of this Agreement and the complete and exclusive statement of the
terms of this Agreement between the Parties, and supersedes any prior understandings between
the Parties, whether oral or written.

18.12 The failure of either Party to insist, in any one or more instances, upon strict
performance of any of the terms of this Agreement shall not be construed as a waiver or
relinquishment of such Party's right to future performance of this Agreement, but the obligations
of the other Party with respect to such future performance shall continue in full force and effect.
Whenever the terms of this Agreement call for one Party to approve an action or make a
determination before the other Party may undertake or perform such action, said approval or
determination shall not be unreasonably denied or delayed.

18.13 Within ten (10) days after receiving a written request from SOCCCD, the City
will execute and deliver to SOCCCD an estoppel certificate stating whether (i) to the City’s
knowledge SOCCCD or the SOCCCD Property is in violation of the provisions of this
Agreement, specifically including, but not limited to Section 3.2 and Article 12, and if the City
believes SOCCCD or the SOCCCD Property is in violation of any part of this Agreement,
describing such violation with reasonable detail, and (ii) in the City’s belief a particular existing
or proposed use or transaction described by SOCCCD in reasonable detail in its request for such
estoppel certificate will violate Section 3.2 or Article 12 of this Agreement (and, if the City
believes such proposed use or transaction will constitute such a violation, then describing the
reason(s) for the City’s belief with reasonable detail).

19.0 LIST OF EXHIBITS

A. Glossary of Defined Terms
B. Description of Initial SOCCCD Parcels
C. Description of Subsequent SOCCCD Parcels
D. Quitclaim Deed
E. Sublease
F. Short Form Notice of Sublease
G. Bill of Sale
H-1. Representations of the City
H-2. Representations of SOCCCD
I. Short Form Notice of Agreement

Signature Page Follows
The Parties have each executed this Agreement as of the date first written above.

CITY OF TUSTIN

[Signature]
William Huston, City Manager

Approved as to Form:
City Attorney or Special Counsel

By: [Signature]

SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT

[Signature]
By: Dr. Raghur P. Mathur
Title: chancellor

Approved as to Form:
SOCCCD Counsel

By: [Signature]