

PROPERTY CONVEYANCE AND USE AGREEMENT

Between

CITY OF FULLERTON,
a California municipal corporation

and

ORANGE COUNTY TRANSIT DISTRICT,
a public body, corporate and politic

Dated

_____, 2018

This **PROPERTY CONVEYANCE AND USE AGREEMENT** (“**Agreement**”) is entered into as of _____, 2018 (“**Effective Date**”), by and between the **CITY OF FULLERTON**, a California municipal corporation (“**City**”), and the **ORANGE COUNTY TRANSIT DISTRICT** a public body, corporate and politic (“**OCTD**”), on the terms and provisions set forth below. The City and OCTD are periodically referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. On or about July 12, 1979, the former Redevelopment Agency of the City of Fullerton (“**RDA**”) and OCTD entered into a Disposition and Development Agreement (“**DDA**”) for the lease with an option to purchase and develop a public bus terminal, with bus pads, driveways, and associated lighting and landscaping thereon, located on a portion of the Fullerton Transportation Center Public Parking Areas, on APN 033-031-40 and portions of APNs 033-031-23 and 033-031-37 (the “**Site**”). Those APNs are included in the depiction of the Fullerton Transportation Center Public Parking in Exhibit A attached hereto and incorporated by this reference [Exhibit “A” from the DDA and portions of Asset #14 from the Long Range Property Management Plan, defined below].

B. Section III.N (§314) of the DDA provides that in consideration of the rental to be paid by OCTD to the RDA, OCTD is granted the right, option and privilege to purchase the Site (the “**Option**”). The DDA set forth that the Option can only be exercised in writing delivered by OCTD.

C. On October 29, 2014, OCTD delivered written notice exercising the Option to purchase the Site.

D. Pursuant to the provisions of Part 1.85 of Division 24 of the Health and Safety Code (enacted originally by Stats. 2011, Ch.4 (ABxl 26) and subsequently amended in 2012 by AB 1484, in 2015 by SB 107, and other statutes, and referred to herein as the “**Dissolution Law**”), the RDA was dissolved effective February 1, 2012, and the Successor Agency to the Redevelopment Agency of the City of Fullerton (“**Successor Agency**”) assumed by operation of law certain rights and obligations of the former RDA, which, for purposes of this Agreement, included the ability to transfer the Site to the City as a governmental use property under the approved Long Range Property Management Plan (“**LRPMP**”) pursuant to Health and Safety Code sections 34191.3(a) and 34191.5(c), among other provisions in the Dissolution Law.

E. The Oversight Board to the Successor Agency (“**Oversight Board**”) and California Department of Finance (“**DOF**”) approved the LRPMP and, for purposes of this Agreement, the Site to be used as a governmental use property, enabling the Successor Agency to transfer the Site to the City pursuant to Health and Safety Code sections 34179(h)(1)(D) and 34191.5(c)(2)(C).

NOW, THEREFORE, based on the foregoing recitals, which are a substantive part of this Agreement and incorporated into the body of this Agreement by this reference, and for good and valuable consideration, the Parties hereto do mutually agree as follows:

AGREEMENT

1. CONVEYANCE OF THE SITE.

1.1 Conveyance Price. The City agrees to sell the Site, and OCTD agrees to purchase the Site, for One Dollar (\$1.00) (the “Conveyance Price”), subject to the terms and conditions in this Agreement and use restrictions in the Land Use Covenant (defined below) and City’s reversionary right as more particularly set forth in this Agreement and OCTD Grand Deed (defined below).

1.2 Conveyance of Site. Notwithstanding the provisions in the DDA to the contrary in Section III.N (§ 314), Subparagraphs (3) through (10) regarding option price and escrow, the City agrees to convey to OCTD, and OCTD agrees to acquire from City, the Site for the Purchase Price pursuant to the provisions set forth in this Agreement.

1.2.1 City’s Contingencies and Obligations to Conveyance. City’s obligation to convey the Site shall be conditional and contingent upon the satisfaction, or waiver by City in its sole and absolute discretion (except for those contingencies that cannot be waived as a matter of law (such as Item (b) below), of each and all of the following conditions (collectively, the “City’s Conditions”):

- (a) The payment of the Purchase Price to City by OCTD;
- (b) If necessary, adjustment of the legal description of the Site by a lot-line adjustment pursuant to state and local law (including but not limited to Gov. Code § 66412(d) of the Subdivision Map Act and Fullerton Mun. Code § 16.04.040 (or successor sections) so as to ensure, by the date of recording of the OCTD Grant Deed (defined below), the legal description of the Site conforms and describes the real and improved property actually used by OCTD under the DDA and to be used after the conveyance of the Site pursuant to this Agreement and subject to the Land Use Covenant (defined below);
- (c) The execution, notarizing, and recording of a quitclaim deed conveying the Site from the Successor Agency to the City in the form of the quitclaim deed in Exhibit C, attached hereto and incorporated herein by reference (the “SA/City Quitclaim Deed”);
- (d) Execution, notarizing, and depositing with OCTD the (i) grant deed conveying fee title to the Site from the City to OCTD, in the form of grant deed in Exhibit B, attached hereto and incorporated herein by reference (the “OCTD Grant Deed”); and (ii) the land use covenant for the Site, in the form of covenant in Exhibit D, attached hereto and incorporated herein by reference (the “Land Use Covenant”).

1.2.2 OCTD’s Contingencies and Obligations to Conveyance. OCTD’s obligation to purchase the Site shall be conditional and contingent upon the satisfaction, or waiver by OCTD in its sole and absolute discretion (except for those contingencies that cannot be waived

as a matter of law (such as Item (b) below), of each and all of the following conditions in the order they appear (collectively, "OCTD's Conditions"):

- (a) Payment to the City of the Conveyance Price;
- (b) If necessary, adjustment of the legal description of the Site by a lot-line adjustment pursuant to state and local law (including but not limited to Gov. Code § 66412(d) of the Subdivision Map Act and Fullerton Mun. Code § 16.04.040 (or successor sections)) so as to ensure, by the date of recording of the OCTD Grant Deed, the legal description of the Site conforms and describes the real and improved property actually used by OCTD under the DDA and to be used after the conveyance of the Site pursuant to this Agreement and subject to the Land Use Covenant;
- (c) The execution and notarizing of the SA/City Quitclaim Deed(s) for the Site and recording thereof by the City;
- (d) The execution, notarizing, and recording of the OCTD Grant Deed(s) for the Site;
- (e) The execution, notarizing, and recording of the Land Use Covenant.

1.2.3 Recording of Documents/Timeframes. The Parties shall perform their respective obligations and record the documents in the manner set forth above and in accordance with the following timeframes:

- (a) City shall submit and process an application for a lot line adjustment pursuant to state and local law (including but not limited to Gov. Code § 66412(d) of the Subdivision Map Act and Fullerton Mun. Code § 16.04.040) so that City Condition 1.2.1(b) and OCTD Condition 1.2.2(b) may be satisfied; City shall apply for and process the lot line adjustment as expeditiously as possible in compliance with all applicable state and local laws, provided, however, that nothing in this Agreement does or shall be construed as superseding any requirement by law that must be met prior to the City's approval and recording of the lot line adjustment; City shall deliver written notice to OCTD of (i) the approval, approval with conditions, or denial of the lot line adjustment and, (ii) if approved, the date of recording of the lot line adjustment; City shall have the obligation to record or cause the recording of an approved lot line adjustment and shall deliver to OCTD a conformed copy of the recorded lot line adjustment; the legal description of the Site as reflected in the recorded lot line adjustment shall then be attached to the SA/City Quitclaim Deed, OCTD Grant Deed, and Land Use Covenant prior to recording of those instruments pursuant to this Agreement;
- (b) OCTD shall deliver the Purchase Price to City within five days of the later of (i) receipt from City of the recorded lot line adjustment if the lot

line adjustment is necessary, as provided in subparagraph (a) above, or (ii) execution of this Agreement by both Parties;

(c) City shall record the SA/City Quitclaim Deed on the following business day after receipt of the Purchase Price, and upon such recording deliver a conformed copy to OCTD;

(d) OCTD shall, on the following business day after receipt of a conformed copy of the SA/City Quitclaim Deed, record the OCTD Grant Deed, and deliver a conformed copy to the City;

(e) OCTD shall, by the business day following notice of recording of the OCTD Grant Deed, record the Land Use Covenant, and deliver a conformed copy to the City;

1.3 Condition of Site: “AS-IS / WHERE IS / WITH ALL FAULTS”. The Parties acknowledge and agree that OCTD has occupied and had use of the Site for years prior to the conveyance of the Site under this Agreement. Therefore, conveyance of the Site to OCTD is expressly “AS IS” in its physical and environmental condition, WITH ALL FAULTS, IF ANY, AND, WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED. Neither City nor any agents, representatives, officers, or employees of City have made any representations or warranties, direct or indirect, oral or written, express or implied, to OCTD or any agents, representatives, or employees of OCTD with respect to the physical and environmental condition of the Site, its fitness for any particular purpose, or its compliance with any laws, and OCTD is not aware of and does not rely upon any such representation to any other party. Neither City nor any of its representatives is making or shall be deemed to have made any express or implied representation or warranty, of any kind or nature, as to (a) the physical and environmental status of the Site, (b) the Site’s compliance with applicable laws pertaining to its physical and environmental condition, (c) the accuracy or completeness of any information or data provided or to be provided by City with respect to the physical and environmental condition of the Site, or (d) any other matter relating to the physical and environmental condition of the Site.

1.4 Leases and Relocation. City represents and warrants that, except for OCTD, no other tenant or subtenant has a right to use any portion of the Site. Nevertheless, in the event any person or entity claims a right to use or occupy the Site, then OCTD shall have the obligation to temporarily or permanently relocate such person or entity in accordance with any applicable federal, state, and local relocation laws, regulations, and policies that except for this Agreement may apply to either Party, including but not limited to the Uniform Relocation Act (42 U.S.C. § 4601 *et seq.*) and implementing regulations, California Government Code Section 7260 *et seq.*, and implementing regulations, the Community Redevelopment Law (California Health & Safety Code § 33000 *et seq.*), eminent domain, pre-condemnation and inverse condemnation laws and implementing regulations, and post-redevelopment law (California Health & Safety Code § 34170 *et seq.*) (collectively referred to herein as “Relocation Laws”). OCTD shall indemnify, protect, defend and hold harmless City, and City’s officials, officers, attorneys, employees, consultants, agents and representatives, from and against any and all claims, liabilities, suits, losses, costs, expenses and damages, including but not limited to attorneys’ fees and costs, arising directly or indirectly out of any claims for loss or damages under the Relocation Laws.

1.5 Environmental Indemnity. From or after the recording of the OCTD Grant Deed, OCTD shall indemnify, protect, defend and hold harmless City, and City's officials, officers, attorneys, employees, consultants, agents and representatives, from and against any and all claims, liabilities, suits, losses, costs, expenses and damages, including but not limited to attorneys' fees and costs, arising directly or indirectly out of any claim for loss or damage to any property, including the Site, injuries to or death of persons, or for the cost of cleaning up the Site, and removing Hazardous Materials or toxic substances, materials and waste therefrom, by reason of contamination or adverse effects on the environment, or by reason of any statutes, ordinances, orders, rules or regulations of any governmental entity or agency requiring the cleanup of any Hazardous Materials caused by or resulting from any Hazardous Material, or toxic substances or waste first coming onto any portion of the Site after the recording of the OCTD Grant Deed. For purposes of this Agreement, "Hazardous Materials" means any substance, material or waste which is: (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California or federal law; (2) regulated under California or federal law, including, without limitation, petroleum, asbestos, polychlorinated biphenyls, and/or radioactive materials; or (3) determined by a California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property or risk to the environment. OCTD's duty under this paragraph shall not apply to any Hazardous Materials brought onto the Site by the City.

1.6 Vesting and Possession of the Site. City's conveyance of the Site shall be subject to: (i) current real property taxes and assessments not yet due for the tax year during which the conveyance occurs, (ii) all existing encumbrances and title exceptions, and (iii) the instruments required to be recorded pursuant to this Agreement. Possession of the Site shall be delivered by City to OCTD as provided for in this Agreement.

2. USE OF THE SITE.

2.1 Transit Terminal and Ancillary Uses. The Site shall be used for a public transit terminal, with transit pads, driveways, and associated lighting and landscaping thereon, and for the provision of public parking, and for no other purpose. The Site shall be open to the public and provide transit service on a schedule that is reasonable and standard for the provision of public transit services in Orange County, California. OCTD may augment uses as long as public transit services continue to operate for the benefit of the public.

2.2 Land Use Covenant. OCTD and City shall execute and have notarized a the Land Use Covenant, recorded against the Site to run with the land, in the form of Exhibit D attached hereto and incorporated by reference. OCTD shall have the obligation to record or cause the recording of the Land Use Covenant as set forth in Section 1.2.3 of this Agreement.

2.3 Right of Reversion. The City shall have a right of reversion as set forth in this Agreement and the OCTD Grant Deed if OCTD fails to use the Site in accordance with the public uses set forth in Section 2.1 and the Land Use Covenant.

2.4 Substantial Modifications to Use of the Site. It is expressly understood by the Parties that the conveyance of the Site to OCTD is to continue and preserve public transit terminal services, as may reasonably be required by the public. Therefore, OCTD shall not

substantially change the use of the Site so as to interfere or substantially limit use as a public transit terminal, with ancillary uses, such as parking, without the prior written consent of the City; provided, however, that OCTD does not need the City's prior written consent to changes relating to public transit improvements.

3. DEFAULT, REMEDIES, AND TERMINATION.

3.1 Defaults; Non-Monetary. Except as otherwise provided in Section 3.2 of this Agreement, a breach of any material term of this Agreement by any Party not involving the payment of money and failure of such Party to cure such breach within thirty (30) days after the non-defaulting Party has given written notice to the defaulting Party, shall be a "default."

3.2 Defaults; Non-Monetary. Any breach of this Agreement by any Party involving the payment of money, and the continuance of such breach for a period of ten (10) days after the non-defaulting Party has given written notice to the defaulting Party, shall be a "default" of this Agreement.

3.3 Remedies Prior to Recording of the OCTD Grant Deed. The exclusive remedy that OCTD may seek against the City shall be the right to specific performance, and in no event shall OCTD be entitled to receive any damages of any kind whatsoever from the City. The exclusive remedy that the City may seek against OCTD shall be the right to terminate this Agreement, with no obligation to convey the Site to OCTD and in no event shall the City be entitled to receive any damages of any kind whatsoever from OCTD.

3.4 Remedies for Default After Recording of the OCTD Grant Deed; Right of Reversion.

(a) Except for an event of force majeure as defined below, or for events set forth in subsection 3.4(d) below, or except by mutual agreement in writing by City and OCTD, if use of the Site for more than thirty (30) continuous days does not conform with the authorized uses in Section 2.1, the City shall have the right, after issuing a notice of default to OCTD and OCTD fails to cure within thirty (30) days (for a total of sixty (60) days), to exercise a right of reversion in the City's sole and absolute discretion.

(b) In such event, in the exercise of its sole discretion, the City may re-enter and take possession of the Site and re-vest in the City's name title to the Site, take any and all actions necessary to commence and complete the enforcement of its reversionary interest, and OCTD agrees to and shall promptly take all actions and to execute all documents necessary to revert title to the Site back to the City free and clear of all liens and encumbrances created by or with the consent of OCTD.

(c) Upon re-vesting in the City of title as provided in this section, the City shall use or caused to be used the Site consistent with the authorized uses in Section 2.1.

(d) OCTD may discontinue use of the Site for a period of longer than 30 days when necessary to construct improvements and make repairs to the Site; provided, however, that OCTD shall exercise due diligence in constructing such improvements and making such repairs in order to timely return the Site to its function as a public transit terminal.

3.5 Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused, through no fault of the Party whose performance is prevented or delayed, by damage to the Site caused by third parties, floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, state or federal regulations, or court actions, including the filing and pendency of any third party litigation challenging the validity or enforceability of any provision of this Agreement, use of the Site, or any other action by any Party in performing hereunder.

4. MISCELLANEOUS.

4.1 Notices. All notices required to be delivered under this Agreement must be in writing, addressed as set forth below or to such other address and to such other persons as a party may hereafter designate by written notice to the other party, and delivered in one of the following methods: (a) personal delivery by the other party or messenger or courier thereof; (b) deposit in the United States mail; (c) deposit with a reputable overnight courier or service; or (d) by telecopy or fax transmission, provided a hard copy of such transmission shall thereafter be delivered in one of the methods described in the foregoing (a) through (c):

To Agency:	City of Fullerton 303 West Commonwealth Avenue Fullerton, CA 92832 Attn: City Clerk Fax: (714) 738-6843
with copy to:	Rutan & Tucker, LLP 611 Anton Blvd., Suite 1400 Costa Mesa, CA 92626 Attn: William H. Ihrke, Esq. Fax: (714) 546-9034
To OCTD:	Orange County Transit District 550 South Main Street Orange, CA 92868 Attn: Darrell Johnson, Chief Executive Officer Fax: 714-560-5796
with copy to:	Woodruff, Spradlin & Smart 555 Anton Boulevard, Suite 12000 Costa Mesa, CA 92626 Attn: James Donich, General Counsel

Fax: (714) 415-1188

4.2 Computation of Days. For purposes of this Agreement, “days” means calendar days, and “business days” means any days of the week in which both City Hall for the City and business offices for OCTD are open to the public.

4.3 Broker’s Fee. Each Party agrees to indemnify and hold the other harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys’ fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay broker’s commissions and/or finder’s fees arising from or as a result of this Agreement.

4.4 Assignment. OCTD may assign or transfer all or any part of this Agreement or any rights hereunder or to the Site as long as such assignment or transfer is consistent with the use of the Site as set forth in Section 2 of this Agreement and any such assignee or transferee expressly agrees in writing to be bound by the uses permitted by this Agreement and the Land Use Covenant. OCTD is expressly permitted to assign or transfer a secured interest to a lender/mortgagee as long as such lender/mortgagee is providing financing for purposes that are consistent with this Agreement and the Land Use Covenant. No assignment or transfer shall release or relieve OCTD from the City’s reversionary rights as provided in this Agreement and the OCTD Grant Deed without the prior written consent of the City, which may be granted, denied, or conditioned in the City’s sole and absolute discretion. Any assignment or transfer by OCTD to any third party, which would result in a use that is not consistent with the uses authorized by this Agreement and the Land Use Covenant, shall require prior written consent of the City, which may be granted, denied, or conditioned in the City’s sole and absolute discretion. Any unauthorized assignment or transfer of any interest in this Agreement or the Site by OCTD to a third party shall be void, and City shall have any and all rights and remedies available at law or in equity (including but not limited to specific performance or other temporary and permanent injunctive relief) in the event that an authorized assignment or transfer occurs or City has reasonable grounds to believe will occur, in violation of this Agreement and/or the Land Use Covenant.

4.5 Attorney’s Fees. If either Party commences an action against the other to enforce any of the terms of this Agreement or because of the breach by either Party of any of the terms of this Agreement, the losing party shall pay to the prevailing party its expert witness fees and its reasonable attorneys’ fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

4.6 Binding Effect. To the extent permitted by this Agreement, this Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns (if authorized in accordance herein) of the respective Parties hereto.

4.7 Rights and Remedies Are Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

4.8 Entire Agreement, Waivers and Amendments. This Agreement (and all exhibits and attachments hereto) incorporates all of the terms and conditions mentioned herein, or

incidental hereto, and supersedes all negotiations and previous agreements between the Parties with respect to the subject matter herein. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged. A waiver of the breach of the covenants, conditions or obligations under this Agreement by either Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or obligations of this Agreement. Any amendment or modification to this Agreement must be in writing and executed by the appropriate authorities of City and OCTD.

4.9 City Manager Authority to Implement Agreement. The City Manager for the City shall have the authority to execute this Agreement and any other implementing documents to effectuate the terms and conditions set forth herein.

4.10 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, unless and to the extent the rights and obligations of one or both Parties has been materially altered or abridged by such holding.

4.11 Applicable Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of California without regard to conflicts of law principles.

4.12 Authority to Execute. City and OCTD each represents and warrants to the other Party that (a) such party is duly organized and existing, (b) it is duly authorized to execute and deliver this Agreement, (c) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (d) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

4.13 Execution in Counterpart. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[signatures on next page]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first above-written.

CITY OF FULLERTON, a California municipal corporation

Dated: _____

By: _____
Kenneth A. Domer, City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

Special Counsel to the City of Fullerton

ORANGE COUNTY TRANSIT DISTRICT

Dated: _____

By: _____
Its: Chief Executive Officer

ATTEST:

By: _____
Clerk of the Board

APPROVED AS TO FORM:
WOODRUFF, SPRADLIN & SMART

James Donich, General Counsel

EXHIBIT A

Depiction of the Site

(attached)

[Replace this page with:
Exhibit A from the 1979 DDA
&
Aerial OCTD Terminal with identified APNs
from LRPMP Site Depiction]

EXHIBIT B

Form of SA/City Quitclaim Deed

(attached)

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Fullerton
303 West Commonwealth Ave.
Fullerton, CA 92832
Attn: City Clerk

(Space Above For Recorder's Use)

This Quitclaim Deed is recorded at the request and for the benefit of the City of Fullerton and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF FULLERTON, a public body, corporate and politic, duly established and existing pursuant to Health and Safety Code section 34173 ("Grantor"), does hereby remise, release and forever quitclaim to:

CITY OF FULLERTON, a California municipal corporation ("Grantee")

all of Grantor's right, title, and interest in that certain real property and all improvements thereon located in the City of Fullerton, County of Orange, State of California, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Site"). At the time of recording, the Site has APN 033-031-40. Grantee acknowledges and agrees that the Site is granted by the Grantor to the Grantee in its "AS IS," "WHERE IS" and "SUBJECT TO ALL FAULTS CONDITION," as of the date of recordation of this Quitclaim Deed, with no warranties, expressed or implied, as to the environmental or other physical condition of the Site, the presence or absence of any patent or latent environmental or other physical condition on or in the Site, or other matters affecting the Site.

"Grantor"

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY OF
FULLERTON, a public body, corporate and politic

By: _____
Name: Kenneth A. Domer
Its: Executive Director

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 _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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)

CERTIFICATE OF ACCEPTANCE

(Government Code section 27281)

THIS IS TO CERTIFY that the interest in real property conveyed by a Grant Deed dated _____, from _____, to the City of Fullerton, a California municipal corporation and charter city ("City") is hereby accepted by the City by the signature of the undersigned agent on behalf of the City pursuant to the authority conferred upon them by Resolution _____ of the City, adopted on _____, _____, and that the City consents to recordation thereof by its duly authorized officer.

Dated: _____

By: _____
Kenneth A. Domer, City Manager

Attest:

City Clerk

ACKNOWLEDGMENT

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 _____)

On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____, 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 TO QUITCLAIM DEED

Legal Description of Site

[to be inserted AFTER lot line adjustment completed
See Article 1 re Conveyance of Site]

EXHIBIT C

Form of OCTD Grant Deed

(attached)

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Fullerton
303 West Commonwealth Avenue
Fullerton, CA 92832
Attn: City Clerk

(Space Above Line for Recorder's Use Only)
(Exempt from Recording Fee per Gov. Code 27383)

Documentary transfer tax is \$_____ based on the full value of the property conveyed.

GRANT DEED
(with Right of Reversion)

The undersigned grantor declares:

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, CITY OF FULLERTON, a California municipal corporation ("Grantor") hereby GRANTS to the ORANGE COUNTY TRANSIT DISTRICT, a public body, corporate and politic ("Grantee") that certain real property and all improvements thereon located in the City of Fullerton, County of Orange, State of California described on Exhibit "A" (the "Site") subject to all matters of record, and the following:

1. Grantee agrees as follows:

(a) Pursuant to that certain Property Conveyance and Use Agreement, dated on or about _____, 2018, between the Grantor and Grantee (the "Property Conveyance Agreement"), which is a public document and available at Fullerton City Hall during regular city business hours, Grantee is required to execute and record that certain Land Use Covenant, of or about even date as this Grant Deed, to run with the land for the benefit of the Grantor and the public generally, so that public transit terminal and related ancillary uses will continue. Pursuant to the Property Conveyance Agreement, and under the terms and conditions in this Grant Deed and Land Use Covenant, Grantor has a right of reversion such that title to the Site shall re-vest to the Grantor if Grantee fails to use the Site pursuant to the Property Conveyance Agreement and the Land Use Covenant. Grantor shall have a right to the reversion of the Site pursuant to Sections 3.4 and 3.5 of the Property Conveyance Agreement, which provide:

"3.4 Remedies for Default After Recording of the OCTD Grant Deed; Right of Reversion.

"(a) Except for an event of force majeure as defined below, or for events set forth in subsection 3.4(d) below, or except by mutual agreement in writing by City and OCTD, if use of the Site for more than thirty (30) continuous days does not conform with the authorized uses in Section 2.1, the City shall have the right, after issuing a notice of default to OCTD and

OCTD fails to cure within thirty (30) days (for a total of sixty (60) days), to exercise a right of reversion in the City's sole and absolute discretion.

“(b) In such event, in the exercise of its sole discretion, the City may re-enter and take possession of the Site and re-vest in the City's name title to the Site, take any and all actions necessary to commence and complete the enforcement of its reversionary interest, and OCTD agrees to and shall promptly take all actions and to execute all documents necessary to revert title to the Site back to the City free and clear of all liens and encumbrances created by or with the consent of OCTD.

“(c) Upon re-vesting in the City of title as provided in this section, the City shall use or caused to be used the Site consistent with the authorized uses in Section 2.1.

“(d) OCTD may discontinue use of the Site for a period of longer than 30 days when necessary to construct improvements and make repairs to the Site; provided, however, that OCTD shall exercise due diligence in constructing such improvements and making such repairs in order to timely return the Site to its function as a public transit terminal.

“3.5 Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused, through no fault of the Party whose performance is prevented or delayed, by damage to the Site caused by third parties, floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, state or federal regulations, or court actions, including the filing and pendency of any third party litigation challenging the validity or enforceability of any provision of this Agreement, use of the Site, or any other action by any Party in performing hereunder.

(b) Grantee covenants and agrees that Grantee shall not discriminate against or segregate any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Grantee establish or permit any 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 property herein conveyed. The foregoing covenant shall run with the land.

(c) All deeds, leases or contracts made or entered into by Grantee, its successors or assigns, as to any portion of the Site shall contain therein the following language in substantial form:

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 any basis listed in subdivision (a)

and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed, nor shall the grantee or any person claiming under or through the grantee, establish or permit any 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 property herein conveyed. The foregoing covenant shall run with the land.

2. All covenants contained in this Grant Deed shall run with the land and shall be binding for the benefit of Grantor and its successors and assigns and such covenants shall run in favor of Grantor and for the entire period during which the covenants shall be in force and effect, without regard to whether Grantor is or remains an owner of any land adjacent to the Site or interest in such adjacent land or any other land.

Dated: _____

“Grantor”

CITY OF FULLERTON, a California municipal corporation

By: _____

Name: Kenneth A. Domer

Its: City Manager

APPROVED AND ACCEPTED:

“Grantee”

Dated: _____

ORANGE COUNTY TRANSIT DISTRICT, a public body, corporate and politic

By: _____

Name: Darrell Johnson

Its: Chief Executive Officer

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 _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 TO GRANT DEED

Legal Description of Site

[[to be inserted AFTER lot line adjustment completed
See Article 1 re Conveyance of Site]

EXHIBIT D

Land Use Covenant

(attached)

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Fullerton
303 West Commonwealth Ave.
Fullerton, CA 92832
Attn: City Clerk

(Space Above For Recorder's Use)

This Land Use Covenant is recorded at the request and for the benefit of the City of Fullerton and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

LAND USE COVENANT

This **LAND USE COVENANT** ("**Covenant**") is entered into as of _____, 2018 ("**Effective Date**"), by and between the **CITY OF FULLERTON**, a California municipal corporation ("**City**"), and **ORANGE COUNTY TRANSIT DISTRICT**, a public body, corporate and politic ("**OCTD**"), on the terms and provisions set forth below. The City and OCTD are periodically referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. On or about July 12, 1979, the former Redevelopment Agency of the City of Fullerton ("**RDA**") and OCTD entered into a Disposition and Development Agreement ("**DDA**") for the lease with an option to purchase and develop a public bus terminal, with bus pads, driveways, and associated lighting and landscaping thereon, located on a portion of the Fullerton Transportation Center Public Parking Areas, APN 033-031-40 (the "**Site**").

B. Section III.N (§314) of the DDA provided that in consideration of the rental to be paid by OCTD to the City, OCTD would be granted the right, option and privilege to purchase the Site (the "**Option**"). The DDA set forth that the Option can only be exercised in writing delivered by OCTD to the City.

C. On October 29, 2014, OCTD delivered to the City written notice exercising the Option to purchase the Site.

D. Pursuant to the provisions of in Part 1.85 of Division 24 of the Health and Safety Code (enacted originally by Stats. 2011, Ch.4 (ABxl 26) and subsequently amended in 2012 by AB 1484, in 2015 by SB 107, and other statutes, and referred to herein as the "**Dissolution Law**"), the RDA was dissolved effective February 1, 2012, and the Successor Agency to the Redevelopment Agency of the City of Fullerton ("**Successor Agency**") assumed by operation of law certain rights and obligations of the former RDA, which, for purposes of this Agreement, include the ability to transfer the Site to the City as a governmental use property under the approved

Long Range Property Management Plan (“LRPMP”) pursuant to Health and Safety Code sections 34191.3(a) and 34191.5(c), among other provisions in the Dissolution Law.

E. The Oversight Board to the Successor Agency (“Oversight Board”) and California Department of Finance (“DOF”) approved the LRPMP and, for purposes of this Agreement, the Site to be used as a governmental use property, enabling the Successor Agency to transfer the Site to the City pursuant to Health and Safety Code sections 34179(h)(1)(D) and 34191.5(c)(2)(C).

F. Pursuant to that certain Property Conveyance and Use Agreement, dated on or about _____, 2018, between the Parties (the “Property Conveyance Agreement”), which is a public document and available at City Hall during regular City hours, OCTD is required to execute and record this instrument, to run with the land for the benefit of the City and the public generally, so that public transit terminal and related ancillary uses will continue.

NOW, THEREFORE, based on the foregoing recitals, which are a substantive part of this Covenant and incorporated into the body of this Covenant by this reference, and for good and valuable consideration, the Parties hereto do mutually agree as follows:

COVENANT

1. OCTD, and its successors and assigns, shall use the Site for a public transit terminal, with transit pads, driveways, and associated lighting and landscaping thereon, and parking for the public, and other related or ancillary uses that are consistent with the current use of the Site.
2. It is expressly understood by the Parties that the conveyance of the Site to OCTD is to continue and preserve public transit terminal services, as may reasonably be required by the public. Therefore, OCTD shall not substantially change the use of the Site so as to interfere or substantially limit use as a public transit terminal, with ancillary uses, such as parking, without the prior written consent of the City.
3. Pursuant to the Property Conveyance Agreement, the City has a right of reversion to have title to the Site re-vest to the City if OCTD fails to use the Site pursuant to the Property Conveyance Agreement and this Covenant. Sections 3.4 and 3.5 of the Property Conveyance Agreement provide:

“3.4 Remedies for Default After Recording of the OCTD Grant Deed; Right of Reversion.

“(a) Except for an event of force majeure as defined below, or for events set forth in subsection 3.4(d) below, or except by mutual agreement in writing by City and OCTD, if use of the Site for more than thirty (30) continuous days does not conform with the authorized uses in Section 2.1, the City shall have the right, after issuing a notice of default to OCTD and OCTD fails to cure within thirty (30) days (for a total of sixty (60) days), to exercise a right of reversion in the City’s sole and absolute discretion.

“(b) In such event, in the exercise of its sole discretion, the City may re-enter and take possession of the Site and re-vest in the City’s name title to the Site, take any and all actions necessary to commence and complete the enforcement of its reversionary interest, and OCTD agrees to and shall promptly take all actions and to execute all documents necessary to revert title to the Site back to the City free and clear of all liens and encumbrances created by or with the consent of OCTD.

“(c) Upon re-vesting in the City of title as provided in this section, the City shall use or caused to be used the Site consistent with the authorized uses in Section 2.1.

“(d) OCTD may discontinue use of the Site for a period of longer than 30 days when necessary to construct improvements and make repairs to the Site; provided, however, that OCTD shall exercise due diligence in constructing such improvements and making such repairs in order to timely return the Site to its function as a public transit terminal.

“3.5 Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused, through no fault of the Party whose performance is prevented or delayed, by damage to the site caused by third parties, floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, state or federal regulations, or court actions, including the filing and pendency of any third party litigation challenging the validity or enforceability of any provision of this Agreement, use of the Site, or any other action by any Party in performing hereunder.

4. OCTD hereby subjects the Site to the covenants, reservations, and restrictions set forth in this Covenant. City and OCTD hereby declare their express intent that all such covenants, reservations, and restrictions shall be deemed covenants running with the land, and shall pass to and be binding upon the OCTD’s successors in title to the Site. All covenants established in this Covenant shall, without regard to technical classification or designation, be binding for the benefit of the City, and such covenants shall run in favor of the City, without regard to whether the City is or remains an owner of any land or interest therein to which such covenants relate; notwithstanding the foregoing, the City is the owner of public street adjacent to the Site. Each and every contract, deed or other instrument hereafter executed covering or conveying the Site or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

[signatures on next page]

Dated: _____

“City”

CITY OF FULLERTON, a California municipal corporation

By: _____

Name: Kenneth A. Domer

Its: City Manager

Dated: _____

“OCTD”

ORANGE COUNTY TRANSIT DISTRICT, a public body, corporate and politic

By: _____

Name: Darrell Johnson

Its: Chief Executive Officer

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 _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 TO LAND USE COVENANT

Legal Description of Site

[[to be inserted AFTER lot line adjustment completed
See Article 1 re Conveyance of Site]