

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made as of \_\_\_\_\_, 2018 ("Effective Date"), by and between [CITY OF FULLERTON, a California municipal, ("Seller"), and PK 1 FULLERTON TOWN CENTER, LP, a Delaware limited partnership ("Purchaser").

### RECITALS:

A. Seller is the owner of two contiguous parcels of real property, having an area of approximately 1.005 acres located at Fullerton Town Center, City of Fullerton ("City"), Orange County, California, which are legally described in Exhibit A attached hereto and made a part hereof and depicted on Exhibit B attached hereto and made a part hereof, together with all improvements thereon and all easements, rights, privileges, servitudes and appurtenances thereunto belonging or appertaining (collectively, the "Property").

B. Purchaser is the owner of certain parcels located adjacent to and surrounding the Property commonly referred to as Fullerton Town Center (hereafter, the "Shopping Center").

C. Seller has agreed to sell to Purchaser, and Purchaser has agreed to purchase from Seller, the Property, upon and subject to all the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration paid by Purchaser to Seller, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Agreement to Sell and Purchase. Seller hereby agrees to sell to Purchaser, and Purchaser hereby agrees to purchase from Seller, the Property, subject to all the terms and conditions set forth herein.

2. Purchase Price. The purchase price for the Property ("Purchase Price") shall be \$360,000.00. The Purchase Price shall be paid at Closing (as herein defined), subject to adjustments and prorations as described herein, and subject to the credit for the Earnest Money to be paid by Purchaser as described below. The Purchase Price shall be paid by wire transfer of immediately available funds.

Within 10 days following the Effective Date, the parties shall establish an escrow at First American Title Insurance Company (the "Title Company"), and Purchaser shall deposit in such escrow an amount equal to \$10,800.00 (i.e., three percent (3%) of the Purchase Price). The amount so deposited is hereinafter referred to as the "Earnest Money", all or a portion of which shall, at Purchaser's election, be credited against the Purchase Price at Closing, or returned to Purchaser at Closing.

3. Inspections by Purchaser. From and after the Effective Date, Purchaser and its agents (including any prospective tenants, purchasers, investors or lenders) shall have the right to enter upon the Property or any portion thereof and make such engineering, land use, physical, market or soil tests, investigations and studies concerning the Property (collectively, the "Tests") that they may elect to perform. Purchaser agrees to indemnify and hold harmless Seller from any loss, cost or expense (including reasonable attorneys' fees) for death, bodily injury or damage to the Property to the extent caused by such entry, except to the extent attributable to any preexisting defects in the Property, including the location of any hazardous substances, provided Seller shall tender defense of any claim subject to Purchaser's indemnity to Purchaser in sufficient time to avoid prejudice, and Purchaser shall have the right to assume and control the defense thereof with counsel selected by Purchaser and reasonably acceptable to Seller. Within 5 days after the Effective Date, Seller shall provide to Purchaser all feasibility studies, soil reports, environmental audits and other appraisals, inspections, tests, reports, studies or information known to be in the possession or reasonable control of Seller with respect to the Property ("Due Diligence Materials").

4. Conditions Precedent. Purchaser's obligation to consummate the transaction contemplated by this Agreement is subject to satisfaction of all of the conditions set forth in this Paragraph 4 within the time periods prescribed herein. Purchaser may waive any or all of such conditions in whole or in part but any such waiver shall be effective only if made in writing. No such waiver shall constitute a waiver by Purchaser of any of its rights or

remedies nor release Seller from any of its liabilities under this Agreement. Satisfaction of such conditions shall not waive any representation or warranty made by Seller.

a. As of the date ("Contingency Date") which is sixty (60) days following the later of the Effective Date, or Purchaser's receipt of all Due Diligence Materials, Purchaser shall be satisfied, in its sole and absolute discretion, with the condition of the Property and any matter concerning the Property or Purchaser's proposed development thereof. If, as of the Contingency Date, Purchaser is not satisfied with any matter concerning the condition of the Property and Purchaser's proposed development thereof, for any reason or for no reason, in Purchaser's sole and absolute discretion, then Purchaser shall have the right to terminate this Agreement, by written notice given to Seller on or before the Contingency Date, and the Earnest Money shall promptly be returned to Purchaser. If Purchaser has failed to give Seller notice of its election to terminate this Agreement prior to the Contingency Date, then within three (3) business days after the Contingency Date, Purchaser shall deposit with the Title Company an additional Earnest Money amount equal to Forty Thousand and 00/100 Dollars (\$40,000.00), and the Earnest Money shall then be non-refundable except in the event Purchaser terminates this Agreement pursuant to Paragraph 4(b) hereof or in the event of a default by Seller under Paragraph 13.

b. As of the Closing Date (as herein defined):

(i) Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement.

(ii) All representations and warranties made by Seller under this Agreement shall be true and correct in all material respects.

(iii) The Title Company shall be prepared to issue an Owner's Title Insurance Policy (ALTA Form 2006) ("Title Policy"), at Seller's expense, in the amount of the Purchase Price insuring title to the Property to be good and marketable and free from exceptions other than the Permitted Exceptions and insuring any appurtenant easements. The Title Policy shall have extended coverage over the general exceptions contained therein, and shall otherwise be in form and contain endorsements reasonably satisfactory to Purchaser.

(iv) No Material Event (as herein defined) shall have occurred. For purposes hereof, the term "Material Event" shall mean and include any of the following that has occurred after the Contingency Date (1) any material change in the condition of the Property including, without limitation, the environmental condition thereof, (2) any amendment to, or enactment of any new, law, rule, regulation or ordinance, or issuance of any judicial or other legal imposition that would materially affect the zoning, use, occupancy or operation of the Property or Purchaser's proposed development thereof, (3) the institution or issuance by any applicable governmental authority having jurisdiction of notice of any pending or proposed moratorium with respect to the Property or any portion thereof that would materially affect Purchaser's proposed development or use of the Property, and (4) the issuance by any applicable governmental authority having jurisdiction of any notice of any violation of law, or institution of any litigation, suit or proceeding against the Property, any part thereof, or Seller which materially affects Purchaser's proposed development or use of the Property.

5. Title/ Survey. Within three (3) days after the Effective Date, Purchaser, at its sole cost and expense, shall obtain (i) a title insurance commitment (the "Commitment") issued by the Title Company in the amount of the Purchase Price, which shall commit the Title Company to issue the Title Policy, with copies of all documents referred to therein which constitute encumbrances on title, (ii) customary searches (collectively, the "Searches") for bankruptcies, judgment liens, tax liens, and special assessments, showing all levied, pending and deferred special assessments and real estate taxes, and (iii) an ALTA/NSPS urban class survey (the "Survey") prepared in accordance with Purchaser's specifications.

If the Commitment, the Searches, or the Survey discloses defects or exceptions that are objectionable to Purchaser, then Purchaser shall notify Seller (the "Title Notice"), in writing, within 15 days after the later to occur of receipt of the Commitment, the Searches, and the Survey by Purchaser. If Purchaser so notifies Seller of such objections, then Seller shall be allowed a period of 5 days from the date Purchaser delivers the Title Notice to provide Purchaser with assurances satisfactory to Purchaser that any such objectionable matters will be removed or endorsed over, in form and substance acceptable to Purchaser, on or before Closing, and Seller shall use commercially reasonable efforts to do so and Seller shall notify Purchaser promptly if Seller determines that Seller

will not be able to do so, it being understood that Seller may, but shall not be required to, provide such assurances (other than with respect to any mortgage, tax, mechanics, judgment or other lien or encumbrance of a definitive or ascertainable amount, which Seller shall satisfy and remove prior to Closing). Matters disclosed by the Commitment, the Searches, and the Survey which are not objected to by Purchaser or which are objected to but which are waived by Purchaser shall constitute "Permitted Exceptions"; any other matters shall constitute "Unpermitted Exceptions". Failure by Purchaser to deliver the Title Notice within the time period described above shall constitute an election by Purchaser to take title to the Property subject to all such matters as are disclosed by the Commitment, the Searches, and the Survey. If Seller shall not deliver assurances satisfactory to Purchaser that any such objectionable matters will be so removed or endorsed over within the 5-day period prescribed above, then Purchaser may elect, within 10 days following expiration of the 5-day period prescribed above: (i) to have the Title Company issue its endorsement insuring against damage caused by said objectionable matter and take title as it then is, with the right to deduct from the Purchase Price amounts equal to all liens or encumbrances of a definite or ascertainable amount, (ii) to terminate this Agreement and receive a return of the Earnest Money, or (iii) to extend the time for Seller to deliver such assurances to Purchaser (and if Purchaser elects to so extend the time as described herein, Purchaser shall have the same rights concerning matters at the end of the extended period as Purchaser had at the end of the original period). Further, if the objectionable matter is a matter which was intentionally caused by Seller, then Purchaser's rights set forth in the immediately preceding sentence shall be in addition to, and not in lieu of, any other rights and remedies available to Purchaser for a default by Seller.

6. Representations and Warranties of Seller. Seller represents and warrants to and covenants with Purchaser that:

a. Seller has good and marketable, fee simple title to the Property, subject only to the Permitted Exceptions, and that Seller has the power and authority to enter into and perform the terms and conditions of this Agreement, and such performance will not conflict with or result in a breach of any of the terms, conditions or provisions of any agreement or instrument to which Seller is a party or by which it is bound, or constitute a default under any of the foregoing; this Agreement is valid, binding and enforceable against Seller in accordance with its terms.

b. Seller has not received any notice of any violation of any law, municipal ordinance or other governmental requirement affecting the Property, and Seller has no knowledge that any governmental authority contemplates issuing such a notice, or that any such violation exists.

c. Seller has not received any written notice of any condemnation or eminent domain proceedings, or negotiations for purchase in lieu of condemnation, relating to the Property, or any portion thereof; and Seller has no knowledge that any condemnation or eminent domain proceedings have been commenced or threatened in connection with the Property, or any portion thereof.

To the best of Seller's knowledge, no hazardous substances are located on or have been stored, generated, used, processed or disposed of on or released or discharged from (including ground water contamination) the Property and no above or underground storage tanks exist on, or have been removed from, the Property. To Seller's actual knowledge the environmental and ecological condition of the Property is not in violation of any governmental laws. Seller represents and warrants that it has not received any summons, citation, directive, notice or other communication, written or oral, from any governmental authority concerning any existence, release, spill, leak and/or dumping of hazardous substances on the Property. Seller shall promptly notify Purchaser of any changes affecting this representation of which Seller becomes aware prior to the Closing Date. It is recommended that Purchaser do their due diligence with regard to the condition of the property.

d. No litigation or proceedings are pending or, to the best of Seller's knowledge, threatened or anticipated, relating to the Property, or any portion thereof.

e. Seller has no knowledge of any unrecorded agreements, undertakings or restrictions which affect the Property. There are no tenants, persons or entities occupying any portion of the Property, and no claim exists against any portion of the Property by reason of adverse possession or prescription.

f. To the best of Seller's knowledge, (i) there are no special or other assessments which have become a lien on the Property, or any part thereof; (ii) there is no obligation with respect to the Property for

any assessment, annexation fee, payment, donation or the like, which is required to be made by the owner of the Property; and (iii) there are no obligations in connection with the Property of any recapture, development, annexation or like agreement or charge for work or services done upon or relating to the Property or otherwise.

If, prior to the Closing Date, Seller obtains knowledge of a fact or circumstance the existence of which would constitute a breach by Seller of its representations and warranties hereunder or would render any such representations and warranties untrue or incorrect, Seller shall promptly notify Purchaser in writing of the same. Under said circumstances, and in addition to any other right or remedy that may be available to Purchaser, Purchaser, at its option, may terminate this Agreement without further liability by giving written notice thereof to Seller, in which event the Earnest Money shall be returned to Purchaser.

All representations and warranties made herein shall be deemed remade as of Closing and shall be true and correct in all material respects as of the Closing Date, and shall survive Closing and execution and delivery of the Deed (as herein defined) for a period of 12 months following the Closing Date, except that the same shall not expire as to any matter as to which Purchaser has given written notice to Seller prior to expiration of said 12-month period, and as to which Purchaser has instituted litigation proceedings within 6 months following expiration of said 12-month period.

7. Representations and Warranties of Purchaser. Purchaser represents and warrants to and covenants with Seller that:

a. Purchaser is a limited partnership organized, validly existing, and in good standing under the laws of the State of Delaware and is qualified to do business in the State of California. Purchaser has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated in this Agreement.

b. The individual(s) executing this Agreement and the instruments referenced herein on behalf of Purchaser have the legal power, right, and actual authority to bind Purchaser to the terms and conditions hereof and thereof.

c. This Agreement is, and all other instruments, documents and agreements required to be executed and delivered by Purchaser in connection with this Agreement are and shall be, duly authorized, executed and delivered by Purchaser and shall be valid, legally binding obligations of and enforceable against Purchaser in accordance with their terms.

d. No further approvals or actions are required for Purchaser to consummate the transactions contemplated in this Agreement and Purchaser has the funds necessary to consummate the transaction contemplated in this Agreement.

All representations and warranties made herein shall be deemed remade as of Closing and shall be true and correct in all material respects as of the Closing Date, and shall survive Closing and execution and delivery of the Deed (as herein defined) for a period of 12 months following the Closing Date, except that the same shall not expire as to any matter as to which Seller has given written notice to Purchaser prior to expiration of said 12-month period, and as to which Seller has instituted litigation proceedings within 6 months following expiration of said 12-month period

8. As-Is Purchase. Subject to the approval or waiver of the conditions precedent in Paragraph 4 and the closing conditions in Paragraph 4~~9~~, and as a material inducement to Seller's execution and delivery of this Agreement and performance of its duties under this Agreement: EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR IN ANY DOCUMENT DELIVERED BY OR ON BEHALF OF SELLER AT THE CLOSING, PURCHASER HAS AGREED TO ACCEPT POSSESSION OF THE PROPERTY ON THE CLOSING DATE ON AN "AS-IS" BASIS. SELLER AND PURCHASER AGREE THAT THE PROPERTY WILL BE SOLD "AS IS, WHERE IS, WITH ALL FAULTS" WITH NO RIGHT OF SET-OFF OR REDUCTION IN THE PURCHASE PRICE, AND EXCEPT AS SET FORTH IN PARAGRAPH 6, SUCH SALE WILL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTY OF INCOME POTENTIAL, OPERATING EXPENSES, USES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE), AND SELLER DISCLAIMS AND RENOUNCES ANY SUCH REPRESENTATION OR WARRANTY.

**9.** Closing. The conveyance of the Property to Purchaser, or Purchaser's nominee, and the payment of the Purchase Price to Seller ("Closing") shall occur at the office of the Title Company at 2555 E. Camelback Rd., Suite 275, Phoenix, Arizona 85016, Attn: Vicki Etherton [Phone: (602) 748-2800; Email: vicki.etherton@ltaz.com], on a date ("Closing Date") selected by Purchaser upon at least five (5) days prior written notice to Seller and within ten (10) days after the later of (i) the Contingency Date, and (ii) the date that the condition precedent set forth in Paragraph 4(b)(v) has occurred, but in any event on or before \_\_\_\_\_, 2018, or at such other date, time and place as the parties may mutually agree:-

Closing shall occur through an escrow with the escrow department of the Title Company ("Escrowee"), in accordance with the general provisions of Escrowee's usual form of deed and money escrow agreement, with special provisions inserted in the escrow agreement as may be required to conform to this Agreement and subject to the terms of a separate money lender's escrow, if any. The escrow agreement shall provide that Purchaser shall not be required to deposit funds in the escrow until the Escrowee is prepared to disburse such funds and insure title to the Property as required herein. The attorneys for both Seller and Purchaser are authorized to sign the escrow agreement. Upon the creation of such escrow, payment of the Purchase Price and delivery of the Deed shall be made through the escrow. The cost of the deed and money escrow shall be divided equally between Seller and Purchaser. This Agreement shall not be merged into nor in any manner superseded by the escrow agreement.

The Property shall be conveyed to Purchaser, or Purchaser's nominee, by general warranty deed (the "Deed"), conveying good and marketable, fee simple title subject to no exceptions to title other than the Permitted Exceptions.

At Closing, Seller and Purchaser shall each execute and deliver or cause to be executed and delivered such documents, closing statements, affidavits, searches, declarations, lien waivers, certificates, indemnities or deposits as shall be customary, necessary or appropriate to complete the transaction and cause the issuance of the Title Policy. At Closing, Seller shall deliver physical possession of the Property to Purchaser in substantially the same condition as exists on the Effective Date. At Closing, Seller shall also execute and deliver or cause to be executed and/or delivered:

a. Certification with respect to Seller's non-foreign status sufficient to comply with the requirements of Section 1445 of the Internal Revenue Code of the United States of America and all regulations applicable thereto.

b. Certification to Purchaser, or its nominee, that the representations and warranties contained in this Agreement shall be true, correct and complete in all material respects as of the Closing Date.

**10.** Apportionments. At and as of the Closing, Seller and Purchaser shall make adjustments for and apportion all expenses with respect to the Property including, without limitation, adjustments and apportionments with respect to real estate taxes (exclusive of any real estate taxes attributable to any existing improvements and any special assessments, payment of which shall be Seller's responsibility), and all expenses accrued prior to and on the Closing Date shall be paid by Seller (including any real estate taxes applicable to any period prior to Closing, regardless of when assessed or levied, including any so-called green acres taxes imposed because of a change in use of the Property after Closing, and including all special assessments affecting the Property, including installments thereof due after Closing and any real estate taxes attributable to any existing improvements), and all expenses with respect to the Property accruing after the Closing Date shall be paid by Purchaser. Notwithstanding the foregoing, if the Property is subject to any special assessments, Purchaser may elect to take title to the Property subject to the unpaid balance of any such special assessments and receive a credit against the Purchase Price in respect thereof. Real estate taxes for which Seller is responsible and special assessments which are not paid prior to Closing shall be paid by means of a credit to Purchaser against the Purchase Price. If the amount of any real estate taxes to be adjusted is not ascertainable at the time of Closing, the adjustment thereof shall be on the basis of 110% of the amount of the most recent ascertainable real estate taxes and shall be readjusted upon receipt of final bills therefor. The parties' obligations with respect to this paragraph shall survive the Closing and execution and delivery of the Deed.

Seller shall pay all state deed tax imposed by reason of the transfer of title to the Property to Purchaser or its nominee.

**11.** Eminent Domain. In the event that between the Effective Date and the Closing Date, any eminent domain proceedings are initiated which might result in the taking of any part of the Property, or if Seller receives written notice from a governmental or quasi-governmental authority which states that such an action is contemplated, Purchaser may:

a. terminate this Agreement, in which event all rights and obligations of the parties hereunder shall terminate, and the Earnest Money shall promptly be returned to Purchaser; or

b. keep this Agreement in effect, and consummate the purchase of the Property or part thereof, in which event the Purchase Price shall be calculated without deduction for the loss of any portion of the Property taken or to be taken by eminent domain, and Seller shall cause to be conveyed and assigned to Purchaser all right, title and interest in and to any award made in connection with such eminent domain proceedings.

Seller shall notify Purchaser immediately, in writing, of the occurrence of any eminent domain proceedings, or the receipt of a written notice stating that such an action is contemplated. Purchaser shall then notify Seller within 15 days after Purchaser's receipt of Seller's notice whether Purchaser elects to exercise its right under Subparagraph a. or b. of this Paragraph 11. Closing shall be delayed until Purchaser makes such election. If Purchaser elects to consummate the transaction, the Closing Date shall be adjusted accordingly.

**12.** Covenants of Seller. Between the Effective Date and the Closing Date, Seller shall:

a. comply with all laws, ordinances, regulations and restrictions affecting the Property and its use;

b. not create any mortgage, lien, pledge or other similar encumbrance in any way affecting the Property, nor otherwise convey any interest in the Property;

c. not commit any waste or nuisance upon the Property; and

d. not, without first obtaining the written consent of Purchaser, enter into any contracts or agreements pertaining to the Property, except contracts or agreements which are not inconsistent with Purchaser's rights hereunder and which may be terminated on not more than 30 days' notice.

**13.** Default. If Closing does not occur, and the failure of such Closing to occur is caused by the default of Purchaser, and Purchaser fails to cure such default within 30 days after written notice from Seller to Purchaser, then Seller shall be entitled, as its sole and exclusive remedy, to retain the Earnest Money paid by Purchaser as liquidated damages, and neither party shall have any further rights or obligations hereunder. If Closing does not occur, and the failure of such Closing to occur is caused by the default of Seller, then Purchaser shall be entitled to exercise any remedies available to Purchaser at law or equity for a default by Seller hereunder including, without limitation, the immediate refund of the Earnest Money, payment to Purchaser of Purchaser's Expenses, and the remedy of specific performance. If either party shall bring suit against the other to enforce the terms of this Agreement, the losing party shall pay to the substantially prevailing party that percentage of the substantially prevailing party's costs and expenses, including reasonable attorneys' fees, equal to the percentage that the value of the judgment or award received by the substantially prevailing party bears to the total value of the judgment or award claimed by such party.

**14.** Notices. All notices and demands herein required shall be in writing and shall be sent by United States Certified Mail return receipt requested, personal delivery, overnight courier (guaranteeing next day delivery) or facsimile:

a. To Seller:

City of Fullerton  
303 W. Commonwealth Ave.  
Fullerton, CA 92832  
Attn: City Manager  
Facsimile Number: (\_\_\_\_)

with a copy to:

JONES & MAYER  
3777 N. Harbor Blvd  
Fullerton, CA 92835  
Tel: (714) 446-1400  
Fax: (714) 446-1448

b. To Purchaser:

PK 1 FULLERTON TOWN CENTER, LP  
  
c/o BIG Shopping Centers USA  
  
9378 Wilshire Blvd., Suite 300  
  
Beverly Hills, CA 90212  
  
Attn: Stanley L. McElroy, Jr., President  
  
Facsimile No.: \_\_\_\_\_

with a copy to:

RED Development, LLC  
  
One East Washington Street, Suite 300  
  
Phoenix, AZ 85004  
  
Attn: Barry Shannahan  
Facsimile No.: ~~(913) 214-4639~~ \_\_\_\_\_

and a copy to:

Daspin & Aument, LLP  
300 S. Wacker Drive, Suite 2200  
Chicago, Illinois 60606  
Attn: Nicole Brown  
Facsimile No.: (312) 258-1955

All notices shall be deemed given 2 business days following deposit in the United States mail with respect to a certified or registered letter, 1 business day following deposit if delivered to an overnight courier guaranteeing next day delivery or on the same day if sent by personal delivery or telecopy (with proof of transmission). Attorneys for each party shall be authorized to give notices for such party. Any party may change its address for the service of notice by giving written notice of such change to the other party, in the manner above specified.

**15.** Brokers. Seller represents and warrants to Purchaser that in connection with the transaction contemplated hereby no third party broker or finder has been engaged or consulted by Seller or is entitled to compensation or commission in connection herewith. Seller shall be responsible for payment of any commission due and owing any party claiming payment, and Seller hereby agrees to defend, indemnify and hold harmless Purchaser from and against any and all claims of other brokers, finders or any like third party claiming any right to commission or compensation by or through acts of Seller in connection herewith. Purchaser represents and warrants to Seller that in connection with the transaction contemplated hereby no third party broker or finder has been engaged or consulted by Purchaser or is entitled to compensation or commission in connection herewith. Purchaser hereby agrees to defend, indemnify and hold harmless Seller from and against any and all claims of brokers, finders or any like third party claiming any right to commission or compensation by or through acts of Purchaser in connection herewith. The indemnity obligations hereunder shall include all damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to matters being indemnified hereunder. No broker, finder or like party shall be entitled to rely (as a third party beneficiary or otherwise) on the provisions herein in claiming any right to commission or compensation or otherwise. The covenants and agreements set forth in this Paragraph 15 shall survive Closing and execution and delivery of the Deed.

**16.** Miscellaneous. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Time is of the essence of this Agreement. If the time for performance of any obligations or satisfaction of any condition hereunder falls on a Saturday, Sunday or a day which is a California state or federal holiday, the time for performance of such obligations or satisfaction of such condition shall be extended to the next day which is not a Saturday, Sunday or California state or federal holiday. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Seller and Purchaser agree that either party may record a memorandum of this Agreement, and the other party shall render such assistance as is necessary and appropriate to the execution and recording of such a memorandum. The parties each agree to do, execute, acknowledge and deliver any and all other documents and instruments and to take all such further action before or after the Closing as shall be necessary or desirable to fully carry out this Agreement and to fully consummate and effect the transaction contemplated hereby. This Agreement and any document or instrument executed pursuant hereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signatures to counterparts may be delivered by facsimile or other electronic transmission, and such signatures shall have the same force and effect as originals.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement as of the Effective Date.

SELLER:

CITY OF FULLERTON,  
a California municipal corporation

PURCHASER:

PK 1 FULLERTON TOWN CENTER, LP,  
a Delaware limited partnership

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

This Agreement Includes the Following Exhibits:

Exhibit A - Legal Description

Exhibit B – Property Depiction (APN Map)

EXHIBIT A

Legal Description

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

THE NORTH 60 FEET OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

COMMENCING AT A POINT ON THE SOUTH LINE OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 10 WEST, IN THE RANCHO SAN JUAN CAJON DE SANTA ANA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DISTANT 692.12 FEET EAST OF THE SOUTHWEST CORNER OF SAID SECTION, RUNNING THENCE NORTH 880 FEET TO A POINT IN A LINE DRAWN PARALLEL TO THE SOUTHERLY LINE OF SAID SECTION AND DISTANT 688.44 FEET EAST OF THE WESTERLY LINE OF SAID SECTION; THENCE, EASTERLY ALONG SAID PARALLEL LINE 303.56 FEET; THENCE, SOUTHERLY 880 FEET TO A POINT IN THE SOUTH LINE OF SAID SECTION 304.51 FEET EAST OF THE POINT OF BEGINNING; THENCE, WEST 304.51 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION OF SAID LAND NOT INCLUDED IN THE WEST 30 ACRES OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 10 WEST, SAN BERNARDINO BASE AND MERIDIAN

APN-073-060-16

AND

THE SOUTH 100.00 FEET OF THE NORTH 160.00 FEET OF THAT PORTION OF THE SOUTH WEST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 10 WEST, IN THE RANCHO SAN JUAN CAJON DE SANTA ANA AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AS PER MAP RECORDED IN BOOK 51, PAGE 7 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION, EAST 692.12 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH 880.00 FEET TO A POINT ON A LINE PARALLEL WITH THE SOUTHERLY LINE OF SAID SECTION AND EAST 688.44 FEET FROM THE WESTERLY LINE OF SAID SECTION; THENCE EASTERLY 303.56 FEET ALONG SAID PARALLEL LINE; THENCE SOUTHERLY 880.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION, EAST 304.51 FEET FROM THE POINT OF BEGINNING; THENCE WEST 304.51 FEET TO THE POINT OF BEGINNING.

EXCEPT ANY PORTION THEREOF LYING EASTERLY OF THE WEST 30 ACRES OF THE  
SOUTHWEST QUARTER OF SAID SOUTHWEST QUARTER.

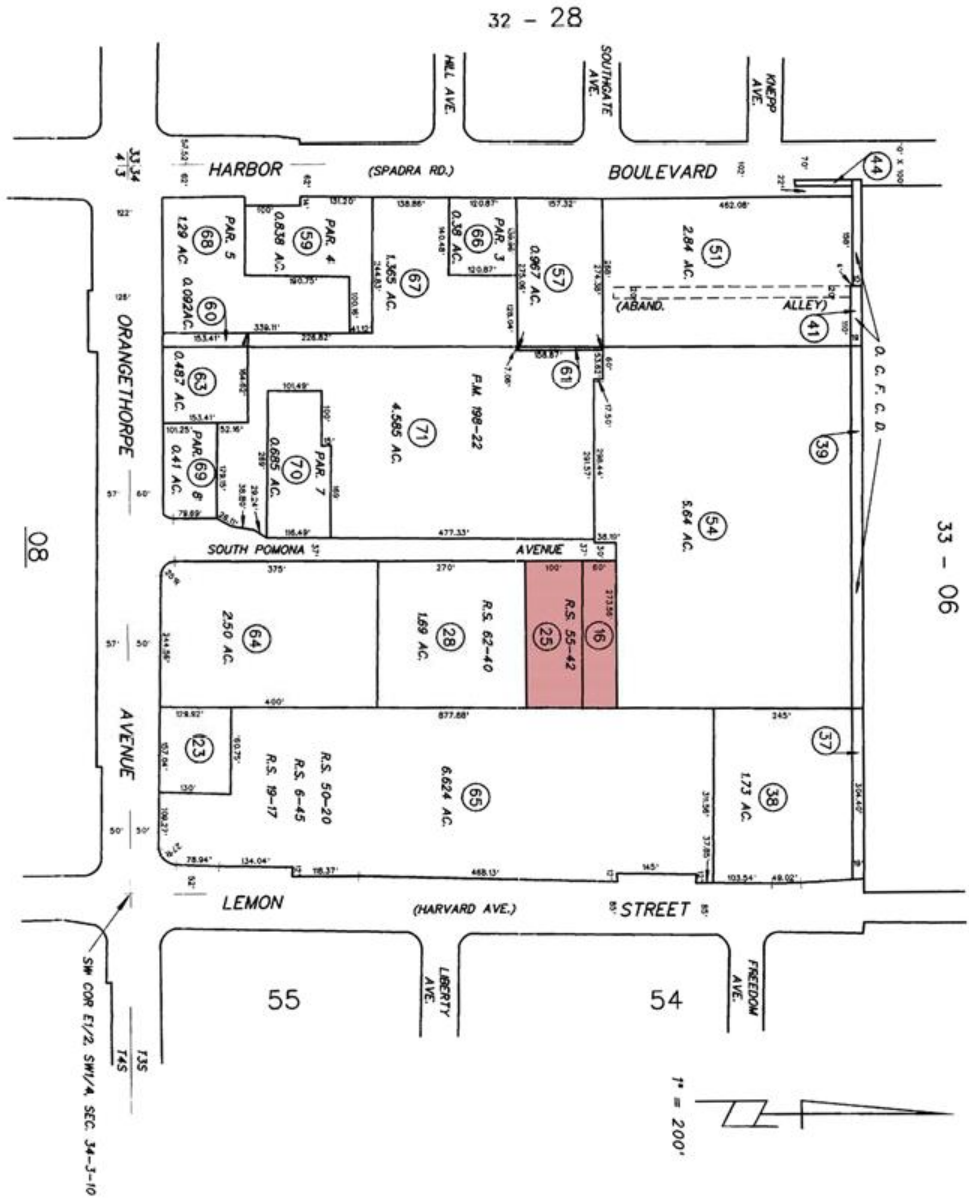
A PORTION-OF SAID LAND IS INCLUDED WITHIN THE AREA SHOWN ON A MAP FILED IN  
BOOK  
55, PAGE 42 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID  
COUNTY.

APN: 073-060-25

# EXHIBIT B Depiction of the Property

POR. SW 1/4, SEC. 34, T3S, R10W

73 - 06



MARCH 1950

PARCEL MAP P.M. 198-22

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

ASSESSOR'S MAP BOOK 73 PAGE 06 COUNTY OF ORANGE

