

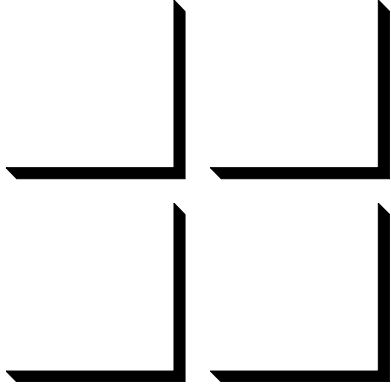
Fullerton Redevelopment Agency

**OWNER PARTICIPATION  
RULES**

**Merged Fullerton  
Redevelopment Project Area,  
Amendment No. 1**

April 28, 2008





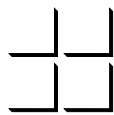
April 28, 2008

Adopted: May 6, 2008  
Resolution No. RDA 441

# **Rules Governing Participation and Preferences for Owners, Operators of Businesses and Tenants for the Merged Fullerton Redevelopment Project Area, Amendment No. 1**

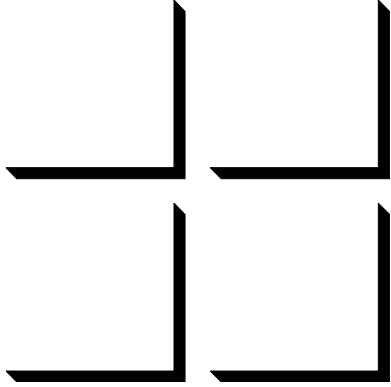
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FULLERTON REDEVELOPMENT AGENCY



GRC REDEVELOPMENT CONSULTANTS  
701 S. Parker Street  
Suite 7400  
Orange, CA 92868





## **CITY COUNCIL/REDEVELOPMENT AGENCY**

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F. Richard Jones, *Mayor Pro Tem/Vice Chairperson*  
Don Bankhead, *Council Member/Board Member*  
Pam Keller, *Council Member/Board Member*  
Shawn Nelson, *Council Member/Board Member*

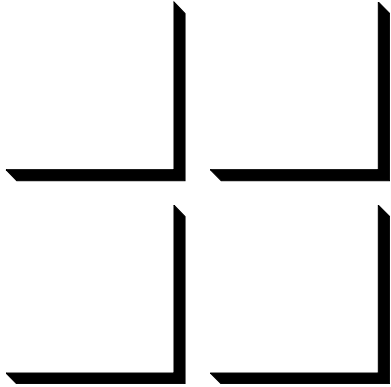
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Robert Zur Schmiede, *Executive Director*  
John Godlewski, *Community Development Director*  
Charles G. Kovac, *Redevelopment Project Manager*  
Rutan & Tucker, *Agency Counsel*  
Beverley White, *City Clerk*





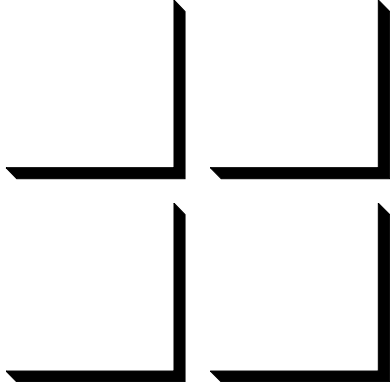
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## 1.0 PURPOSE AND INTENT

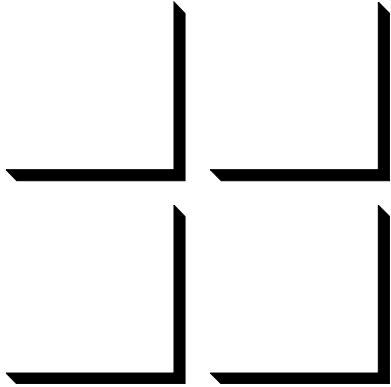
In accordance with the California Community Redevelopment Law (the “CRL”), the Fullerton Redevelopment Agency (the “Agency”) shall implement rules for owner participation which shall be applicable to the proposed Merged Fullerton Redevelopment Project Area, Amendment No. 1 (the “Project Area”) in the City of Fullerton, California (the “City”). These “Rules Governing Participation and Preferences for Owners, Operators of Businesses, and Tenants” (the “Owner Participation Rules”) are promulgated to implement the provisions of the CRL and the Redevelopment Plan for the Merged Fullerton Redevelopment Project Area, Amendment No. 1 (the “Redevelopment Plan”). The Owner Participation Rules set forth the procedures governing such participation in accordance with the Redevelopment Plan for the Project Area.

It is the intention of the Agency to encourage and permit participation in the redevelopment of the Project Area by Owners, Businesses, and Tenants residing within the boundaries of the Project Area, to the extent feasible and consistent with the Redevelopment Plan. Participation by individual persons and firms is permitted; and, to the extent feasible, two or more persons, firms or institutions are urged to participate by joining together in partnerships, corporations or other joint entities.



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## 2.0 DEFINITIONS

**Agency** - means the Fullerton Redevelopment Agency.

**Business** - means any person, persons, for-profit or not-for-profit corporation, association, partnership, sole proprietorship, or other entity engaged in business within the Project Area on the date of, or subsequent to, adoption of the Redevelopment Plan by the City Council.

**City** - means the City of Fullerton, California

**City Council** - means the City Council of the City of Fullerton, California

**County** - means the County of Orange, California.

**CRL** - means Section 33000 *et seq.* of the California Health and Safety Code (the “Community Redevelopment Law”)

**Executive Director** - means the Executive Director of the Fullerton Redevelopment Agency, or designee.

**Non-Conforming Use** - means, for the purposes of this document, a use that although lawful at the time of establishment, is not principally or conditionally permitted by the applicable zoning designation.

**Owner** - means any person, persons, corporation, association, partnership, or other entity holding title of record to real property in the Project Area on the date on which these Owner Participation Rules are applied to the property.

**Owner Participation Agreement** - means an agreement entered into between the Agency and an Owner, Business or Tenant living or operating within the Project Area in

accordance with the provisions of the Redevelopment Plan and the rules as designated herein.

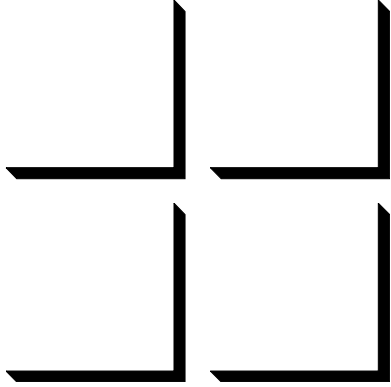
**Owner Participation Rules** - means this document.

**Project Area** - means the proposed Redevelopment Plan for the Merged Fullerton Redevelopment Project, Amendment No. 1.

**Redevelopment Plan** - means the document or documents that have been or may be adopted by the City Council pursuant to the CRL as the official Redevelopment Plan for the Merged Fullerton Redevelopment Project Area, Amendment No. 1.

**Statement of Interest, and Statement of Interest to Participate** - means Exhibit “A” attached hereto, which is incorporated herein by reference.

**Tenant** - means any person, persons, corporation, association, Business, partnership or other entity that rents or leases real property on the date on which these Owner Participation Rules are applied to the property the Tenant rents or leases.



### 3.0 GENERAL PROCEDURES

These Owner Participation Rules have been prepared by the Agency specifically to implement the provisions of the Redevelopment Plan for the Project Area regarding participation and the exercise of re-entry preferences for Owners, Businesses and Tenants within the Project Area. Owners, Businesses, and Tenants who are desirous of exercising their participation rights and preferences shall abide by these Owner Participation Rules in exercising their preferences and participation opportunities.

The Agency desires and encourages participation in the redevelopment of the Project Area by existing Owners, Businesses, and Tenants to the extent feasible in best achieving the objectives of the Redevelopment Plan. In view of the pattern of land use and development envisioned by the Redevelopment Plan, Owners, Businesses, and Tenants in the Project Area will be encouraged, when feasible, to take advantage of their participation, re-entry and preference opportunities as described herein. Participation opportunities are, however, necessarily subject to and limited by factors such as the following:

- Removal, relocation and/or installation of public utilities and public facilities.
- The construction, realignment, abandonment, widening, opening or other alteration or elimination of public rights-of-way.
- The elimination and/or modification of some existing uses.
- The realignment and/or alteration of some streets.
- The ability of participants to finance and complete proposed redevelopment within a reasonable time pursuant to a schedule for performance, with uses and improvements

consistent with and in furtherance of the Redevelopment Plan.

- Any aggregation or reparcelization of parcels in the Project Area.
- Any change in orientation or character of the Project Area.
- The requirements of the Redevelopment Plan and applicable rules, regulations, and ordinances of the City, including the General Plan for the City of Fullerton.
- Any design guidelines adopted by the Agency pursuant to the Redevelopment Plan.
- The assembly and development of areas for public and/or private development in accordance with the Redevelopment Plan, and the necessity to assemble areas for such development.
- The feasibility of the potential participant's proposal.
- The capability and/or experience necessary to implement proposed development, as determined in good faith by the Agency.
- The construction and expansion of public facilities.

The Agency presently contemplates that in carrying out the Redevelopment Plan, certain portions of the Project Area may be acquired by the Agency for public improvements, facilities, utilities and for other public uses and purposes in accordance with the Redevelopment Plan. Therefore, owner participation opportunities will not be available for such properties.

### **3.1 PRIORITIES AND PREFERENCES AMONG PARTICIPANTS**

If conflicts develop between the desires of participants and developers for particular sites or land uses, the Agency is, with consideration of the factors above, authorized to establish reasonable priorities and preferences among the potential participants and developers and to determine a solution by consideration of factors including but not limited to:

1. Length of time in the area
2. The needs and desires of the area
3. Accommodation of as many potential participants as possible
4. Ability to perform

5. Similar land uses
6. Conformity with intent and purpose of the Redevelopment Plan

Participation, to the extent feasible, shall be available for individuals, two or more persons, firms or institutions to join together in partnerships, corporations, or other joint entities. If a conflict develops, the Agency shall review the applicable factors and shall make a determination as to which of the competing proposals best meets the objectives of the CRL, the Redevelopment Plan and these Owner Participation Rules.

### **3.2 CRITERIA FOR EVALUATION PROPOSALS SUBMITTED BY PARTICIPANTS**

The Agency may decline any offer of owner participation, resolve conflicting proposals between Owners or resolve conflicting proposals between Owners and others interested in developing their property. Proposals submitted for particular sites or land uses will be evaluated by the Agency after consideration of the following factors:

1. Removal of blighting conditions within the Project Area and the upgrading of uses.
2. Conformity of the proposal, including with respect to uses, with the Redevelopment Plan and other applicable enactments.
3. Conformity of the proposal with the intent and objectives of the Redevelopment Plan.
4. The degree to which the proposal best furthers the objectives of the Redevelopment Plan.
5. The employment opportunities to the community; and the economic benefits to the Agency and to the community that can be reasonably expected to result from the implementation of the proposals.
6. Development team qualifications, including experience and financial capacity to undertake the project, the ability of the person(s) desiring to redevelop the property to implement the proposed project, taking into consideration the proponent's financial capability, prior experience with similar development, degree of site control, ability to obtain financing, ability to abide by Agency design standards and development controls, and readiness to proceed.

7. Estimated cost, if any, of City or Agency involvement, including the provision of City or Agency services, to be required if the proposal is accepted.
8. Economic benefits to the Agency, the City, and the community, as determined by a cost/benefit analysis, if the proposal is approved and the proposed development implemented.
9. The likelihood of successful implementation.
10. Time schedule for completion of the proposed project.
11. Involvement of other Project Area Tenants or Owners.
12. Completeness of the proposal, including land uses, site control, financing proposal, densities, Tenants and, if applicable, manufacturer or franchise approval.
13. Environmental benefits (or lesser degree of detrimental impact).
14. Quality of design, project concept and architectural design features.
15. Such other factors the Agency determines.

Satisfaction of the above listed criteria can be effected by the submitted party itself, or by a partner or joint venturer. Any such partner or joint venturer must be identified at the time of submittal, and must be authorized to make representations to the Agency on behalf of the partnership or joint venturer.

In the event conflicting submittals are received that satisfy the criteria set forth above, the following criteria may be applied to resolve such conflict:

1. Best satisfaction of the criteria set forth above.
2. Greatest public benefit.

The Agency may receive and consider proposals from persons other than Owners or Tenants. The Agency will evaluate all such proposals based upon the criteria set forth in the above section. The Agency shall give preference to a proposal by an Owner or Tenant in the event an Owner or Tenant submits a proposal that fulfills the criteria set forth in the above section to substantially the same extent as that achieved by a proposal by a person other than an Owner or Tenant. The Agency has the sole authority and discretion to determine if the proposal submitted by an Owner or Tenant fulfills the criteria set forth in the above

section to substantially the same extent as that achieved by a proposal by a person other than an Owner or Tenant.

### **3.3 TIME PERIODS FOR PARTICIPATION AND PROCEDURES FOR EVALUATION OF SUBMITTALS**

At any time prior to entering into an agreement with a developer from outside the Project Area for the assemblage of a particular site, the Agency, through its staff, will notify all directly affected Owners and Tenants from within the particular site of the Owner Participation Rules. The notification shall generally describe the uses and scope of development that the Agency desires to see accomplished on the site, if known at the time the notification is sent.

Owners and Tenants so notified will be given at least thirty (30) calendar days to respond, indicating by a “Statement of Interest” whether they are interested in being considered as participants and, if so, in what capacity (further described in Chapter 6.0). Any Statement of Interest must be in writing, in the form of Appendix “A”. The Agency staff shall, within ten (10) calendar days after receipt of a Statement of Interest, acknowledge receipt of the Statement by a confirming letter to the prospective participant. Such written acknowledgment shall not obligate the Agency to ultimately reach agreement with the applicant or to reject other proposals.

Within thirty (30) calendar days after the deadline for submitting the Statement of Interest or such longer period as the Agency may allow, (thus, within a total of at least sixty [60] calendar days from original notification) any Owner or Tenant desiring to be considered as a developer must submit a detailed proposal for the project, which shall include such items as a construction proforma, an operating proforma, a business plan, building elevations and a site plan. If the Agency has described the uses and scope of the development for the site, the proposal shall be consistent with those uses and scope of development.

An Owner or Tenant desiring to participate as an Owner or Tenant but not as a developer, shall describe generally its business, and shall provide such additional information as may be requested by the Executive Director. The Agency’s staff will be available throughout the above-listed time frame to discuss proposals and to assist informally in the

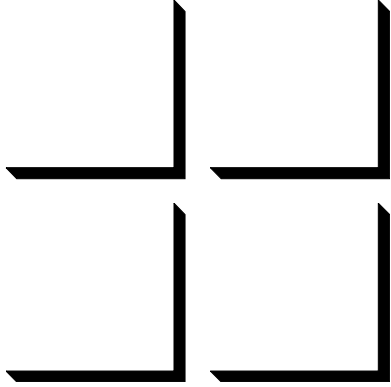
making of necessary adjustments conducive to the parties involved; provided that the proponent, and not the Agency staff, shall be responsible for the content of any proposal.

The Agency will make reasonable efforts to accommodate the interested Owners, Businesses, and Tenants desiring to participate in the project. Upon receipt of requests for consideration by Owners or Tenants from within the Project Area with respect to Owner participation or re-entry of Business within the Project Area, the Agency through its staff, will review such submittals, as set forth below.

Upon receipt of submittals, initial evaluation shall be conducted by the Executive Director of the Agency. Each party making a submittal is responsible for the completeness and accuracy of its submittals. Additional submittal information may be requested if deemed necessary by the Executive Director.

In the event the Executive Director notifies a party making a submittal that the submittal is incomplete or that additional information as required, such party shall be allowed fourteen (14) calendar days to complete its submittal. The failure to provide such additional information in a timely manner will terminate consideration of any such submittal.

Upon receipt of one or more submittals, and additional information as applicable, the Executive Director will evaluate the submittals and make a recommendation to the governing board of the Agency as to a course of action. The Agency governing board shall consider the submittals at a public meeting of the Agency. The Agency shall give all those who make submittals at least 10 days prior written notice of the Agency meeting at which the submittals will be considered.



## **4.0 PARTICIPATION BY OWNERS IN THE SAME LOCATION**

In appropriate circumstances where such action would foster the unified development contemplated by the Redevelopment Plan, an Owner may participate in substantially the same location either by retaining all or portions of his property, or by retaining all or portions of its property and purchasing adjacent property if needed and available for development in accordance with the Redevelopment Plan. An Owner who participates in the same location may be required to rehabilitate or demolish all or part of his existing buildings or the Agency may acquire only the buildings and remove or demolish such buildings.

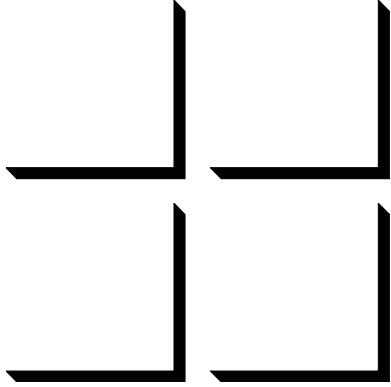
Where a proposal to participate in the same location involves a building in good condition, but with a Non-Conforming Use, the Agency may allow such use to continue provided that such use is generally compatible with the permitted uses in the area in which the building is located. In order to remain in the Project Area with a Non-Conforming Use, the Owner must agree to the imposition of such reasonable restrictions as are necessary to protect the permitted uses in the remainder of the Project Area.

The final decision concerning acquisition of real property by the Agency will be based upon the conditions existing at the time the Agency purchases property or enters into Owner Participation Agreements.



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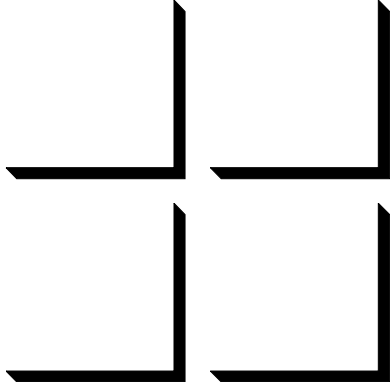
## **5.0 PARTICIPATION BY BUSINESSES AND TENANTS**

Pursuant to these Owner Participation Rules, Businesses or Tenants in the Project Area will be given a reasonable opportunity to remain or preferences to re-enter, into the Project Area, if they otherwise meet the requirements prescribed by the Redevelopment Plan and these Owner Participation Rules. In the case of re-entry, preferences will be given if suitable facilities become available with implementation of the Redevelopment Plan. The viability of the involvement of a Business or Tenant in re-entry will depend, in part, upon the ability of the person to participate on the basis proposed, including such factors as the ability to pay the requisite rent, the suitability of the proposed tenancy for the development under consideration, readiness to proceed, the availability of a location for the Business, and those other factors as generally set forth in Chapter 3.0.



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## **6.0 PROCEDURE FOR BECOMING A PARTICIPANT**

### **6.1 SUBMITTAL OF A STATEMENT OF INTEREST**

The Agency will, through its staff, work with each Owner, Business and Tenant in the Project Area who desires to participate. The Agency will notify by certified mail, return receipt requested, the last known assessee of any particular property that will be affected by a project. Such notification will refer to these Owner Participation Rules and shall state that the Agency, through its staff, is available to answer questions or generally to provide advisory assistance. The notification will advise all such persons of the date by which interested Owners, Businesses, and Tenants should submit to the Agency a completed form entitled “Statement of Interest to Participate” (see Appendix A attached hereto and incorporated herein by reference).

Every Owner, Business or Tenant interested in becoming a participant shall submit to the Agency a completed Statement of Interest to Participate (Appendix A) within thirty (30) calendar days from the date of the notification, or such longer period as the Agency may allow.

Failure to comply with time limitations as described in Chapter 3.0 shall be deemed to constitute an abandonment and relinquishment of any right of the proponent to be considered as a participant pursuant to the Redevelopment Plan and these Owner Participation Rules.

Subject to the provisions of these Owner Participation Rules, the Agency will endeavor in good faith to accommodate Owners, Business operators, or Tenants

desiring to develop or improve property in the Project Area by expediting the negotiation of Owner Participation Agreements upon request. The foregoing shall not be deemed to diminish the rights or discretion of the Agency in implementing the Redevelopment Plan.

## **6.2 SUBMITTAL OF A PROPOSAL FOR OWNER/TENANT PARTICIPATION**

The Agency, by inclusion of these Owner Participation Rules or reference to these Owner Participation Rules in writing to any potential participant, shall be considered to have notified each Owner, Business, or Tenant who has submitted a valid Statement of Interest to Participate (Appendix A) of the time within which they must submit a proposal for participation, if they desire participation.

In addition, if the Agency determines that an Owner, Business, or Tenant within the Project Area will be required to enter into an Owner Participation Agreement, the Agency shall notify the Owner, Business, or Tenant in writing of its intention to require an Owner Participation Agreement, and shall provide the Owner, Business, or Tenant with a copy of the proposed Owner Participation Agreement.

## **6.3 COMPLETION OF AN OWNER PARTICIPATION AGREEMENT**

Each Owner, Business, or Tenant who has submitted a proposal for participation acceptable to the Agency will be required to enter into an Owner Participation Agreement with the Agency. Each Owner Participation Agreement will contain provisions necessary to ensure that the participation proposal will be carried out, and that the subject property will be developed and/or rehabilitated and used in accordance with the conditions, restrictions, rules and regulations of the Redevelopment Plan and the subject Owner Participation Agreement. Each Owner Participation Agreement will require the participant to join in the recordation of such documents as the Agency may require in order to ensure conformance with applicable laws, conditions, restrictions, rules and regulations.

An Owner Participation Agreement shall obligate the Owner, Business or Tenant, his or her heirs, successors and assigns, and Tenants to devote the property to the uses

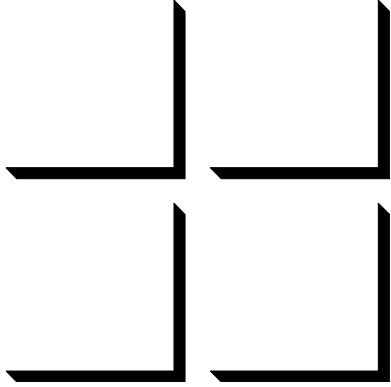
specified in the Redevelopment Plan, abide by all provisions and conditions of the Redevelopment Plan for the period of time that the Redevelopment Plan is in force and effect, and comply with all the provisions of the Owner Participation Agreement according to their terms, duration, and effect.

An Owner Participation Agreement may provide that if the Owner, Business, or Tenant does not comply with the terms of the Agreement, the Agency, in addition to other remedies, may acquire their property or any interest therein by any lawful means, for its fair market value as of the date of the Owner Participation Agreement (or such other value as may be negotiated), and the Agency may thereafter dispose of the property or interest so acquired in accordance with the Redevelopment Plan. All Owner Participation Agreements will become effective only when approved by the Agency.



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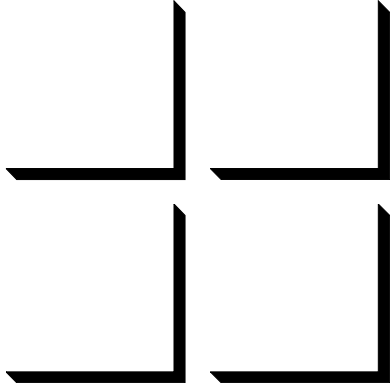
## **7.0 PROCEDURE FOR AMENDING PARTICIPATION RULES**

The Agency may amend these rules, but only at a public meeting of the Agency Board of Directors, provided however, that no such amendment shall retroactively impair the rights of Owners, Businesses or Tenants who have executed Owner Participation Agreements with the Agency in reliance upon these rules as presently constituted.



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## **APPENDIX A**

Statement of Interest to Participate



## Statement of Interest in Participation

I hereby express my interest in participating in the Redevelopment Project and submit the following information:

1. Name: \_\_\_\_\_ Telephone (       ) \_\_\_\_\_

2. Home Address: \_\_\_\_\_  
\_\_\_\_\_

3. Name of Business: \_\_\_\_\_

4. Address of Business: \_\_\_\_\_  
\_\_\_\_\_

5. My present involvement in the Project Area is (please check where applicable):

I now own (\_\_\_\_); am a tenant (\_\_\_\_); and wish to rehabilitate (\_\_\_\_); build (\_\_\_\_); sell (\_\_\_\_) my present property.

If tenant, indicate: month-to-month (\_\_\_\_); lease (\_\_\_\_); expiration date of lease: \_\_\_\_\_

Options extend lease to \_\_\_\_\_

If lease, is there an option to purchase? Yes (\_\_\_\_); No (\_\_\_\_).

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. I am interested in participating:

As a property Owner (\_\_\_\_); As a tenant (\_\_\_\_);

Other (please describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. My present type of Business is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. If I participate:

I would like to continue at the same location (\_\_\_\_)

I would like to change my present location (\_\_\_\_)

I would like to acquire real property for expansion (\_\_\_\_)

- Indicate approximate location requirements: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Background, experience, and information concerning your proposal (you may include further information on this page or attach additional sheets if you desire to do so):

- (a) Generally describe background and experience: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (b) Describe the activities you propose and indicate your experience relevant to your proposal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Remarks:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. I understand that submission of this Statement of Interest does not in any way obligate me to participate in the Project.

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title (if applicable): \_\_\_\_\_

Dated: \_\_\_\_\_

**RETURN WITHIN 30 CALENDAR DAYS TO:**

Statement of Interest  
c/o Executive Director  
Fullerton Redevelopment Agency  
303 W. Commonwealth Avenue  
Third Floor  
Fullerton, California 92832



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