

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

*Garden Grove Agency for Community Development*

To: Matthew Fertal  
Dept: Director  
Subject: ACQUISITION OF REAL PROPERTY  
12601 LEDA LANE  
APN 231-144-27 (YOUNG)

From: Chet Yoshizaki  
Dept: Economic Development  
Date: July 14, 2009

OBJECTIVE

It is requested that the Garden Grove Agency for Community Development (Agency) consider the acquisition of the real property located at 12601 Leda Lane (the "Property") owned by Chin Huh Young ("Property Owner").

BACKGROUND

On May 12, 2009, the Agency entered into a Development and Disposition Agreement ("DDA") with McWhinney Real Estate Services, Inc. ("McWhinney") for the proposed development of a 10.3 acre site generally located at 12721 Harbor Boulevard in the City of Garden Grove ("Proposed Development Site"). McWhinney prepared a preliminary concept plan for the Proposed Development Site that includes a hotel with 600 rooms, an indoor/outdoor water park, approximately 18,000 square feet of retail space, one or more restaurants, and a parking structure containing not fewer than 1,000 parking spaces (collectively, the "Proposed Project").

On June 23, 2009, the Agency directed staff to negotiate with additional adjacent property to the Proposed Development Site. Staff negotiated with the willing Property Owner at 12601 Leda Lane located on the north end of the Proposed Project.

The benefit in acquiring this Property would improve the overall footprint and flexibility of the Proposed Development Site. The Property is located nearby the International West Resort District Master Plan Area on Leda Lane, east side of Harbor Boulevard and south of Lampson Avenue.

DISCUSSION

An agreement has been reached between the Agency and the Property Owner to acquire fee title interest of 12601 Leda Lane. The general terms and conditions of the Agreement for Acquisition of Real Property are as follows:

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- Property purchase price of Seven Hundred Twenty Thousand Dollars (\$720,000) for a parcel size of approximately 23,100 square feet;
- Close of escrow in thirty (30) days.

Lastly, after the close of escrow, the Agency and the Property Owner will enter into a Lease Agreement with a minimum one-year lease.

FINANCIAL IMPACT

- Agency will acquire the property with available Agency funds. The purchase price is an all-inclusive; and includes tenant relocation.
- Agency will expend funds for closing costs and environmental testing, which is estimated to be Fifteen Thousand Dollars (\$15,000).


COMMUNITY VISION IMPLEMENTATION

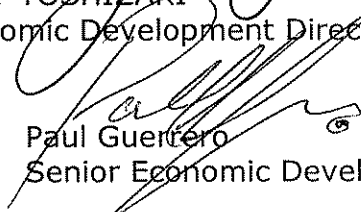
- Improving the City's economic base through the development of tax generating uses where appropriate.

RECOMMENDATION

Staff recommends that the Agency:

- Approve the acquisition of the subject property, 12601 Leda Lane;
- Authorize the Agency Director to execute the pertinent documents on behalf of the Agency;
- Authorize the Finance Officer to draw a warrant in the amount of Seven Hundred Twenty Thousand Dollars (\$720,000) for the purchase and Fifteen Thousand Dollars (\$15,000) for the closing cost when appropriate to do so.

  
CHET YOSHIZAKI  
Economic Development Director

By:   
Paul Guerrero  
Senior Economic Development Specialist

Recommended for Approval

  
Matthew Fertal  
Director

Attachment 1: Site Map

Attachment 2: Agreement for Acquisition of Real Property and Escrow Instructions



TITLE REPORT NO.: 1167729-10

**AGREEMENT FOR ACQUISITION OF REAL PROPERTY  
AND ESCROW INSTRUCTIONS**

**THIS AGREEMENT** is entered into this 8<sup>th</sup> day of July, 2009, by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic, ("Agency"), and the undersigned owner, **YOUNG CHIN HUH**, a married man as his sole and separate property ("Seller"), for acquisition by Agency of certain real property described below.

IT IS HEREBY MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. **Agreement to Sell and Purchase.** Seller agrees to sell to Agency, and Agency agrees to purchase from Seller, upon the terms and for the consideration set forth in this Agreement, that certain real property ("Property") situated in the City of Garden Grove, County of Orange, State of California, and legally described in Exhibit "A" attached hereto and incorporated herein by reference.
2. **Purchase Price.** The total purchase price, payable in cash through escrow, shall be the sum of **Seven Hundred Twenty Thousand Dollars (\$720,000)** (the "Purchase Price").
  - A. **Initial Deposit.** City shall deposit the amount of **Ten Thousand Dollars (\$10,000)** with escrow holder 7 days after acceptance of this offer.
  - B. **Final Deposit.** City shall deposit the amount of **Seven Hundred Ten Thousand Dollars (\$710,000)** with escrow holder no later than 3 days prior to the close of escrow.
3. **Conveyance of Title.** Seller agrees to convey by Grant Deed to Agency marketable fee simple title to the Property free and clear of all records and unrecorded liens, encumbrances, assessments, easements, leases, and taxes EXCEPT:
  - A. Taxes for the tax year in which escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if paid at the close of escrow.
  - B. Covenants, conditions, restrictions and reservations of record, if any, or contained in the above referenced title report by Lawyers Title Company or a title company mutually satisfactory to Agency and Seller.
  - C. Easements or rights-of-way over the Property for public or quasi-public utility or public street purposes, if any.
4. **Title Insurance Policy.** Escrow Agent shall, following recording of deed of Agency, provide Agency with CLTA Standard Coverage Policy of Title Insurance in the amount of the Purchase Price, issued by Land America Commonwealth or a title company mutually satisfactory to Agency and Seller, showing fee simple title to the Property vested in Agency, subject only to the exceptions set forth in Paragraph 3 and the printed exceptions and stipulations in the policy. Agency agrees to pay the premium charged.

5. **Escrow.** Agency agrees to open an escrow in accordance with this Agreement with First American Title Company or an escrow company mutually satisfactory to Agency and Seller. This Agreement constitutes the joint escrow instructions of Agency and Seller, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this escrow in the shortest possible time.
- 5.1 **Grant Deed.** Seller will execute and deliver a Grant Deed (the "Grant Deed") to Agency via escrow. As soon as possible after opening of escrow, Seller will deposit the executed Grant Deed. Agency agrees to deposit the Purchase Price upon demand of Escrow Agent. Agency and Seller agree to deposit with Escrow Agent any additional instruments as may be necessary to complete this transaction.
- 5.2 **Insurance.** Insurance policies for fire or casualty are not to be transferred, and Seller will cancel its own policies after close of escrow.
- 5.3 **Escrow Account.** All funds received in this escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other escrow trust account in any State or National Bank doing business in the State of California. All disbursements shall be made by check from the account.
6. **Property Offered by Seller.** Seller has offered to sell the Property to Agency, willingly, voluntarily and by Seller's own actions, pursuant to Section 7277 of the California Government Code.
- 6.1 **Relocation.** Seller acknowledges and agrees that Seller (for itself and all other persons or entities claiming by or through Seller) is/are not eligible for, and the all-inclusive Purchase Price does not include payment or allowance for, relocation assistance or benefits under any and all applicable federal, state and local laws and regulations, including without limitation the California Relocation Assistance Law, Government Code Section 7260, *et seq.* or the regulations promulgated thereunder, located at Title 25 California Code of Regulations, Section 6000. Seller expressly waives any claim for any such relocation assistance and benefits.

Seller Initial's JA

7. **Tax Adjustment Procedure.**

**ESCROW AGENT IS AUTHORIZED AND IS INSTRUCTED TO COMPLY WITH THE FOLLOWING TAX ADJUSTMENT PROCEDURE:**

- 7.1 **Delinquent Taxes.** Pay and charge Seller for any unpaid delinquent property taxes and/or penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds against the Property.
- 7.2 **Proration.** Escrow is not to be concerned with proration of Seller's taxes for the current fiscal year. Seller's prorata portion of taxes due at close of escrow, shall be cleared and paid by Seller, outside escrow, pursuant to provisions of Section 5082 through 5090 of the Revenue and Taxation Code of the State of California.

7.3 Refund of Taxes. Seller shall have the sole right, after close of escrow, to apply to the Orange County Tax Collector for refund of any excess property taxes, which have been paid by Seller with respect to the Property. This refund would apply to the period after Agency's acquisition, pursuant to Revenue and Taxation Code Section 5096.7.

8. Escrow Agent Authorization.

**ESCROW AGENT IS AUTHORIZED TO, AND SHALL:**

8.1 Seller. Pay and charge Seller for any amount necessary to place title in the condition necessary to satisfy Paragraph 3 of this Agreement.

8.2 Agency. Pay and charge Agency for any escrow fees, charges, and costs payable under Paragraphs 5 and 8.8 of this Agreement.

8.3 Disbursement. Disburse funds and deliver the Grant Deed when Agency and Seller have fulfilled conditions of this escrow.

8.4 Close of Escrow. The term "close of escrow," if and where written in these instructions, shall mean the date, the Grant Deed and other necessary instruments of conveyance are recorded in the office of the Orange County Recorder. Recordation of instruments delivered through this escrow is authorized, if necessary or proper in the issuance of the policy of title insurance.

8.5 Time Limits. All time limits within which any matter specified is to be performed may be extended by mutual agreement of the parties. Any amendment of, or supplement to, any instructions must be in writing.

8.6 Time of the Essence. **TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS AND ESCROW IS TO CLOSE AS SOON AS POSSIBLE.** If (except for deposit of money by Agency, which shall be made by Agency upon demand of Escrow Agent before close of escrow) this escrow is not in condition to close within 30 days from date of these instructions, any party who then shall have fully complied with its instructions may, in writing, demand the return of its money or property; but if neither party complied, no demand for return shall be recognized until five (5) days after Escrow Agent shall have mailed copies of demand to all other parties at the respective addresses shown in these escrow instructions, and if any objections are raised within five (5) day period, Escrow Agent is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or mutual instructions. If no demands are made, Escrow Agent shall proceed with closing of this escrow on or before 30 days from the execution of this Agreement.

8.7 Escrow Agent Responsibility. The responsibility of the Escrow Agent under this Agreement is expressly limited to Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 11, 12 and 20 and to its liability under any policy of title insurance issued in regard to this escrow.

8.8 Escrow Fees, Charges and Costs. Agency and Seller agree to pay for half of the usual fees, charges, and costs which arise in this escrow.

9. **Conditions Precedent to Close of Escrow.**

Agency's Conditions Prior to Closing. The obligation of the Agency to complete the purchase of the Property is subject to the satisfaction of the following conditions:

- 9.1 Seller shall deliver through escrow an executed and recordable Grant Deed sufficient to convey fee title to the Agency as set forth in Section 5.1.
- 9.2 Seller shall deliver through escrow a Non-Foreign Transferor Declaration duly executed and in the form of Exhibit "B" attached hereto and made a part hereof.
- 9.3 Seller shall deliver through escrow such funds and documents as are necessary to comply with Seller's obligations under this Agreement.
- 9.4 Seller is not in default of any of its obligations under the terms of this Agreement, and all representations of Seller herein are true and correct.
- 9.5 Escrow Agent has committed to deliver to Agency a title insurance policy as required by Section 4 hereof.
- 9.6 The Agency shall not have terminated this Agreement.
- 9.7 The Property is in the condition required by this Agreement.
- 9.8 Agency and Seller shall have entered into a mutually agreeable lease pursuant to Section 10.3 herein.

Seller's Conditions Precedent to Closing. The obligation of Seller to complete the sale of the Property is subject to the satisfaction of the following conditions:

- 9.8 The Agency is not in default of any of its obligations under the terms of this Agreement, and all representations of Agency herein are true and correct.
- 9.9 The Agency shall have deposited with the Escrow Agent immediately available funds in an amount equal to the deposits required in Section 2 and the Agency's share of costs described herein.
- 9.10 The Seller shall not have terminated this Agreement.

10. **Rental and Occupancy by Seller.**

- 10.1 Statement of Rentals. Seller agrees not to rent any units on the premises which are now vacant, or which may be vacated by present occupants prior to close of escrow.
- 10.2 Rental Statement Terms. Seller warrants that there are no oral or written leases on all or any portion of property exceeding a period of one month, and Seller further agrees to hold Agency harmless and reimburse Agency for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of for period exceeding one month, except: None.

- 10.3 Continued Occupancy by Seller. Per paragraph 8.6 above, Closing shall take place on or before 30 days from execution of this Agreement. Agency is aware of the fact that the Seller is purchasing another residence, which may take more than 30 days. Therefore, Agency will allow for continued occupancy of the premises by the Seller for a period of time not to exceed twelve (12) months from the close of escrow. While occupying the premises Seller shall pay to Agency, on a monthly basis, rent in an amount of \$900, payable as the 1<sup>st</sup> of each month. The parties will enter into a mutually acceptable lease to provide for the Seller's continued use of the Premises. While occupied by Seller, Seller shall make no material changes to the premises nor rent the premises to any third party. Doing so represents a breach of this Contract, at which point Agency may execute its right to terminate the lease.
11. Permission to Enter on Premises. Seller hereby grants to Agency, or its authorized agents, permission to enter upon the Property at all reasonable times upon not less than two (2) days advance notice prior to close of escrow for the purpose of making necessary or appropriate inspections.
- 11.1 Testing. Within five (5) days of Agency's execution of this Agreement, Agency at its expense may (but is not required to) perform such soil tests, as Agency shall deem appropriate (the "Tests"). As soon as practicable after the completion of the Tests, Agency shall provide Seller with a written report (the "Report") describing (i) the results of any such Tests and (ii) any repairs or remedial measures (the "Remedial Measures") proposed to be undertaken to comply with all federal, state and local legal requirements applicable to the conditions disclosed by such Tests, including, but not limited to, any legal requirements relating to hazardous or toxic materials. If Remedial Measures are deemed necessary, Agency and Seller shall each have the right to terminate this Agreement, in which event no party shall have any further liability to the other. Within seven (7) days after receipt of Agency's notice to terminate, Seller shall have the option to undertake the Remedial Measures in accordance with a remediation plan which is approved by all appropriate governmental authorities and approved by Agency (collectively, the "Plan"), in which event, the Agency's termination shall be revoked and this Agreement shall close as set forth herein, provided, however, Agency shall have no obligation to close unless and until Seller has delivered to Agency a certificate (the "Certificate") from a California licensed hazardous materials specialist that the Property has been remediated in accordance with the Plan. Should Seller elect to undertake Remedial Measures, it shall, in consultation with the appropriate governmental agencies, promptly initiate at its cost and expense such Remedial Measures in a timely manner. The results of the Tests (or any subsequent test conducted prior to the Close of Escrow) shall be deemed to represent the condition of the soil at the Close of Escrow. In the event the Remedial Measures are not complete and Seller has not delivered the Certificate to Agency within fourteen (14) days from the date hereof, Agency shall have the further right to terminate this Agreement, in which event no party shall have any further liability to the other hereunder.
- 11.2 Agency agrees to indemnify Seller and save it harmless from all damages, actions, causes of action, claims, judgments, costs of litigation, and attorney's fees which may in any way arise out of or result from the Tests. Agency further agrees to repair as nearly as reasonably can be accomplished any damages to the area covered by the Tests and will restore said area to as near its original condition as can be reasonably accomplished.



12. **Counterparts.** This Agreement may be executed in counterparts, each of which when executed shall, regardless of the date of its execution and delivery, be deemed an original, and all counterparts together shall constitute one and the same instrument.
13. **Closing Statement.** Seller instructs Escrow Agent to release a copy of Seller's closing statement to Agency for the purpose of ascertaining if any reimbursements are due Seller.
14. **Loss or Damage to Improvements.** Loss or damage to the Property including any improvements thereon, by fire or other casualty, occurring prior to the recordation of the Grant Deed shall be at the risk of Seller. In the event that loss or damage to the real property or any improvements thereon, by fire or other casualty, occurs prior to the recordation of the grant deed, Agency may elect to require that the Seller pay to Agency the proceeds of any insurance policy or policies which may become payable to Seller by reason thereof, or to permit such proceeds to be used for the restoration of the damage done, or to reduce the total price by an amount equal of the diminution in value of the Property by reason of such loss or damage or the amount of insurance payable to Seller, whichever is greater.
15. **Possession and Disposition of Seller's Furniture.** Possession of real property and fixtures thereto which are located in or on the Property at the close of escrow shall be given to Agency upon the recording of the Grant Deed.
16. **Warranties, Representations, and Covenants of Seller.** Seller hereby warrants, represents, and/or covenants to Agency that:
  - 16.1 **Pending Claims.** To the best of Seller's knowledge, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental Agency, domestic or foreign.
  - 16.2 **Encroachments.** To the best of Seller's knowledge, there are no encroachments onto the Property by improvements on any adjoining property, nor do any buildings or improvements located on the Property encroach on other properties.
  - 16.3 **Condition of Property.** Until the close of escrow, Seller shall maintain the property in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the property.
  - 16.4 **Seller's Title.** Until the close of escrow, Seller shall not do anything which would impair Seller's title to any of the real property.
  - 16.5 **Utilities.** All utilities, without limitation, including gas, electricity, water, sewage, and telephone, are available to the Property, and to the best of Seller's knowledge, all items are in good working order.
  - 16.6 **Conflict with Other Obligation.** To the best of Seller's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions and restriction, or other agreement or instrument to which Seller or Seller's Property may be bound.

- 16.7 Change of Situation. Until the close of escrow, Seller shall, upon learning of any fact or condition which would cause any of the warranties and representations in the section not to be true as of the close of escrow, immediately give written notice of such fact or condition to Agency.
- 16.8 Authority. Seller is the owner of and has the full right, power, and authority to sell, convey, and transfer the Property to Agency as provided herein and to carry out Seller's obligations hereunder.
- 16.9 Bankruptcy. Neither Seller nor any related entity is the subject of a bankruptcy proceeding, and permission of a bankruptcy court is not necessary for Seller to be able to transfer the Property as provided herein.
17. Hazardous Waste. Neither Seller nor, to the best of Seller's knowledge, any previous owner, tenant, occupant, or user of the Property used, generated, released, discharged, stored, or disposed of any hazardous waste, toxic substances, or related materials ("Hazardous Materials") on, under, in, or about the Property, or transported any Hazardous Materials to or from the Property. Seller shall not cause or permit the presence, use, generation, release, discharge, storage, or disposal of any Hazardous Materials on, under, in, or about, or the transportation of any Hazardous materials to or from, the Property. The term "Hazardous Material" shall mean any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the "United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "acutely hazardous waste," "restricted hazardous waste," or "extremely hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law, (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) polychlorinated biphenyls, (viii) listed under Article 9 or defined as "hazardous"; or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Chapter 20, (ix) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, (33 U.S.C. Section 1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903) or (xi) defined as a "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 9601).
18. Compliance With Environmental Laws. To the best of Seller's knowledge the Property and its intended use complies with all applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including, but not limited to, the Clean Water Act, Clean Air Act, Federal Water Pollution Control Act, Solid Waste Disposal Act, Resource Conservation Recovery Act and Comprehensive Environmental Response, Compensation and Liability Act, and the rules, regulations, and ordinances of the City of Garden Grove, the California Department of Health Services, the Regional Water Quality Control Board,

the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus. Seller has not received any notices of violation of any of the above laws and regulations.

19. **Indemnity.** Seller agrees to indemnify, defend and hold Agency and the City of Garden Grove harmless from and against any claims, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage, or disposal of any Hazardous Material on, under, in or about, or the transportation of any such materials to or from, the Property, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment, or license relating to the use, generation, release, discharge, storage, disposal, or transportation of Hazardous Materials on, under, in or about, to or from, the Property, or (iii) as a negative result from the Agency's vote to decline to purchase the property, Seller agrees to protect, defend, and hold harmless Agency and the City of Garden Grove, their elective or appointive boards, officers, agents, and employees. This indemnity shall include, without limitation, any damage, liability, fine, penalty, punitive damage, cost, or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease, or death, tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resources or the environment, nuisance, pollution, contamination, leak, spill, release, or other adverse effect on the environment. This indemnity extends only to liability created prior to or up to the date this escrow shall close. Seller shall not be responsible for acts or omissions to act after the close of this escrow.
20. **Contingency.** It is understood and agreed between the parties hereto that the completion of this transaction, and the escrow created hereby, is contingent upon the specific acceptance and approval of the Agency herein. The execution of these documents and the delivery of same to Escrow Agent constitutes said acceptance and approval.
21. **Full and Complete Settlement for Fee Interest.** The total compensation to be paid by Agency to Seller is all of Seller's interest in the property and any rights or obligations which exist or may arise out of the acquisition of the property for public purposes, including without limitation, Seller's fee interest in the land and any improvements and fixtures and equipment located thereon, improvements pertaining to the realty (if any), severance damages, any alleged pre-condemnation damages, loss of business goodwill (if any), costs, interest, attorney's fees, and any claim whatsoever of Seller which might arise out of or relate in any respect to the acquisition of the property by the Agency. The compensation paid under this Agreement does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits, which Seller acknowledges that he is not entitled to receive.
22. **Broker's Commission.** Seller warrants and represents that he has not engaged the services of any agent, finder or broker in connection with the transaction which is the subject of this Agreement, and that he is not liable for any real estate commissions, broker's fees or finder's fees which may accrue by means of the sale of the Property. Seller agrees to defend and do hereby indemnify and hold Agency and the City of Garden Grove harmless from and against any and all costs, liabilities, losses, damages, claims, causes of action or proceedings which may result from any broker, agent or finder, licensed or otherwise, which he has employed in connection with the transaction covered by this Agreement.

Seller's Initials: ZA

23. **Waiver, Consent and Remedies.** Each provision of this Agreement to be performed by Agency and Seller shall be deemed both a covenant and a condition and shall be a material consideration for Seller's and Agency's performance hereunder, as appropriate, and any breach thereof by Agency or Seller shall be deemed a material default hereunder. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived. The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement. All rights, remedies, undertakings, obligations, options, covenants, conditions and agreements contained in this Agreement shall be cumulative and no one of them shall be exclusive of any other. Except as otherwise specified herein, either party hereto may pursue any one or more of its rights, options or remedies hereunder or may seek damages or specific performance in the event of the other party's breach hereunder, or may pursue any other remedy at law or equity, whether or not stated in this Agreement.
24. **Attorney's Fees.** In the event any declaratory or other legal or equitable action is instituted between Seller, Agency and/or Escrow Agent in connection with this Agreement then as between Agency and Seller, the prevailing party shall be entitled to recover from the losing party all of its costs and expenses, including court costs and reasonable attorneys' fees, and all fees, costs and expenses incurred on any appeal or in collection of any judgment.
25. **Notices.** Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party or deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the party for whom intended, as follows:

If to Seller:

Young Chin Huh  
12601 Leda Lane  
Garden Grove, CA 92840

Copy to Developer:

Trae Rigby  
McWhinney  
2725 Rocky Mountain Ave, Suite 200  
Loveland, CO 80538

If to Agency:

Garden Grove Agency for Community Development  
11222 Acacia Parkway  
Garden Grove, CA 92840  
Attention: Greg Blodgett

Any party may from time to time, by written notice to the other, designate a different address which shall be substituted for that specified above. If any notice or other document is sent by mail

as aforesaid, the same shall be deemed fully delivered and received forty-eight (48) hours after mailing as provided above.

26. **Default.** Failure or delay by either party to perform any covenant, condition or provision of this Agreement within the time provided herein constitutes default under this Agreement. The injured party shall give written notice of default to the party in default, specifying the default complained of. The defaulting party shall immediately commence to cure such default and shall diligently complete such cure within seven (7) days from the date of the notice or such longer period if the nature of the default is such that more than ten (10) days is required to cure such default. The injured party shall have the right to terminate this Agreement by written notice to the other party in the event of a default which is not cured within the time set forth herein.
27. **Gender and Number.** In this Agreement (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.
28. **Entire Agreement.** This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understanding of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.
29. **Captions.** The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.
30. **Governing Law.** This Agreement and the exhibits attached hereto have been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California.
31. **Invalidity of Provision.** If any provision of this Agreement as applied to any party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.
32. **Amendments.** No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing by Agency and Seller.
33. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.
34. **Time of Essence.** Time is of the essence of each provision of this Agreement
35. **Binding upon Successors.** The terms and conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereof.

(SIGNATURES ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year set forth herein above.

**"AGENCY"**  
**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body, corporate and politic

**ATTEST:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Director

Date \_\_\_\_\_

**APPROVED AS TO FORM:**

**"SELLER"**  
**YOUNG CHIN HUH,** a married man  
as his sole and separate property

  
\_\_\_\_\_  
Agency Attorney

  
\_\_\_\_\_

Date 7/3/09

Date 7/8/09

**EXHIBIT "A"**

**LEGAL DESCRIPTION**  
(APN: 231-441-27)

**All that certain real property situated in the State of California, County of Orange,  
described as follows:**

**PARCEL 1:**

THE SOUTH 140.00 FEET OF THE WEST HALF OF THE WEST HALF OF THE  
NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST  
QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, S.B.B. & M., IN  
THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA.

**PARCEL 2:**

AN EASEMENT FOR ROAD PURPOSES TO BE USED IN COMMON WITH OTHERS  
OVER THE EAST 28.00 FEET OF THE WEST HALF OF THE WEST HALF OF THE  
NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST  
QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST. S.B.B. & M.

EXCEPTING THEREFROM THE SOUTH 140.00 FEET.

**PARCEL 3:**

AN EASEMENT FOR ROAD PURPOSES TO BE USED IN COMMON WITH OTHERS  
OVER THE WEST 25 FEET OF THE EAST HALF OF THE WEST HALF OF THE  
NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST  
QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST. S.B.B. & M.

(End of Legal Description)

**EXHIBIT "B"**

Non-Foreign Transferor Declaration

Section 1445 of the Internal Revenue Code of 1954, as amended ("Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Huh, the undersigned hereby certifies the following:

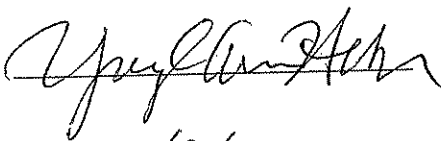
1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The Transferor's U.S. employer identification number or social security number are 573-29-9340; and \_\_\_\_\_.
3. The Transferor's office address or mailing address is

12601 Leda Ln.

Garden Grove, CA 92840

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury we declare that we have examined this Certification and to the best of our knowledge and belief it is true, correct, and complete, and further declare that we have authority to sign this document on behalf of the Transferor.



Date: 7/8/09

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