

**CITY OF GARDEN GROVE**  
**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew Fertal	From:	William E. Murray
Dept:	City Manager	Dept:	Public Works
Subject:	ACQUISITION OF EASEMENT FOR ADA SIDEWALK COMPLIANCE PURPOSES AT 13030 EUCLID STREET	Date:	July 31, 2012

## OBJECTIVE

It is requested that the Garden Grove City Council ("City") consider the acquisition of an easement for the Euclid Street/Garden Grove Boulevard Intersection Improvement Project ("Project") over a portion of the real property located at 13030 Euclid Street, owned by Informative Research ("Owner").

## BACKGROUND/DISCUSSION

On November 10, 2010, the City acquired a 1,894 square foot easement ("First Easement") for a right-turn lane from northbound Euclid Street onto eastbound Garden Grove Boulevard. Upon completion of the Project, an American's with Disability Act sidewalk deficiency became apparent and additional 141.8 square feet of right-of-way is needed to correct the deficiency. Furthermore, approximately 42.06 square feet of right-of-way ("Relinquished Area") acquired as part of the First Easement was not utilized for the Project and the Owner desires to acquire the Relinquished Area.

Staff has negotiated an agreement to acquire additional right-of-way from the Owner and to sell the Relinquished Area to the Owner. The Owner has agreed to provide a \$2,187.12 credit for the Relinquished Area to be applied to the purchase price of the additional right-of-way. In addition, the City is to provide the Owner with a \$2,000.00 settlement for the cost to clean the office building situated on the subject property, due to dust and debris that was scattered from construction of the Project.

Below is a table summarizing the transaction:

Purchase price of Second Easement	\$7,336.16
Credit applied to purchase price of Second Easement	-\$2,187.12
Cleaning cost settlement	+\$2,000.00
Total acquisition and settlement costs	\$7,149.04

ACQUISITION OF EASEMENT FOR ADA SIDEWALK COMPLIANCE  
PURPOSES AT 13030 EUCLID STREET

July 31, 2012

Page 2

As part of the transaction, the City is to proceed with street vacation proceedings (at a future date) to their ultimate conclusion since the Relinquished Area was set aside for public street and highway purposes. In the event, the street vacation is not consummated, then the Owner will be reimbursed for the credit of the Relinquished area.

FINANCIAL IMPACT

- Measure "M" local funds have been allocated for the acquisition and improvement of the street improvement project.

RECOMMENDATION

It is recommended that City Council:

- Approve the acquisition of the pertinent easement;
- Authorize the City Manager to prepare and enter into a Settlement and Release Agreement and Purchase and Sale Agreement for Acquisition of Right-of-Way and related documents for the acquisition of the easement;
- Authorize the City Clerk to accept the easement deed on behalf of the City;
- Approve the execution by the City Manager and delivery of the Quitclaim Deed for relinquishing a portion of unused right-of-way;
- Authorize the Finance Director to draw a warrant in the amount of Seven Thousand One Hundred Forty Nine Dollars and .04 Cents. (\$7,149.04);




WILLIAM E. MURRAY  
Public Works Director

By: Carlos Marquez  
Senior Real Property Agent

Attachment 1 - Plot Map  
Attachment 2 - Agreement

**Recommended for Approval**



Matthew Fertal  
City Manager

**PARCEL 4**

RIGHT OF WAY TAKE = 141.80 SQ.FT.  
 RESIDUAL AREA = 49,223.69 SQ.FT.  
 TOTAL LOT AREA = 49,365.49 SQ.FT.

**PARCEL 4**

AP#100-013-048  
 ADD#13030



**EUCLID STREET**  
 N00°26'30"W

273.21'

CL

(50.00')

(58')

(A) 10°15'47"  
 R=250.00'  
 L=44.78'  
 T=22.45'

(B) 05°38'48.84"  
 R=254.00'  
 L=25.03'  
 T=12.52'

(C) 00°34'49"  
 R=250.00'  
 L= 2.53'  
 T= 1.26'

10.22'  
 S34°10'29.31"W

(50')

AREA=42.06 SQFT  
 RELINGUISH THIS  
 AREA BACK TO  
 PROPERTY OWNER.

S00°26'30"E

(150.00')

N00°26'30"W

(203.18')

N00°26'30"W

(150.00')

N00°26'30"W

(3.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

N00°26'30"W

(150.00')

AREA TAKE=141.80 SQFT

STA. 7+60.55 @ DWY  
 EXISTING PCC DRIVEWAY  
 CITY STD. PLAN B-106,  
 W=29'-4"

(D) 02°40'37.2"  
 R=250.00'  
 L=11.68'  
 T=5.84'

EX CULVERT DRAIN  
 STA. 7+36.5 @

EX PROPERTY LINE  
 N89°41'30"E

AP#100-013-004



**City Of Garden Grove**  
**Department Of Public Works**

DWG NO. :

PREPARED BY :  
 MCB

DRAWN BY:  
 MCB

CHECKED BY:  
 N.M.

**ACQUISITION MAP**

R/W NO:

PROJECT NO. :  
 7247

SCALE: 1"=20'

APPROVED BY :

CITY ENGINEER

THIS IS NOT A SURVEY BUT IS COMPILED FROM EXISTING RECORDS



DRAFT

PROJECT: Euclid St. / Garden Grove Blvd. Intersection  
PROJECT NO: 7247

**SETTLEMENT AND RELEASE AGREEMENT AND PURCHASE AND SALE AGREEMENT FOR  
ACQUISITION OF RIGHT-OF-WAY**

THIS Purchase and Sale Agreement (the "**Agreement**") is made and entered into as of \_\_\_\_\_, 2012, by and between the CITY OF GARDEN GROVE, a municipal corporation, ("**CITY**") and INFORMATIVE RESEARCH, a California corporation, ("**INFORMATIVE RESEARCH**"). CITY and INFORMATIVE RESEARCH shall sometimes hereinafter be referred to individually as "**Party**" or collectively as "**Parties**", with reference to the following facts:

**RECITALS**

A. INFORMATIVE RESEARCH is the fee simple owner of that certain real property located at 13030 Euclid Avenue, City of Garden Grove, County of Orange, State of California, designated by Assessor's Parcel No. 100-013-51 (the "**Informative Research Property**").

B. CITY and INFORMATIVE RESEARCH previously entered into that certain Right-of-Way Agreement for Acquisition of Real Property and Escrow Instructions, dated January 19, 2010 (the "**Original Agreement**") pursuant to which CITY acquired an easement from INFORMATIVE RESEARCH for public street and highway purposes over a portion of the Informative Research Property, comprised of approximately 1,894 square feet, as set forth in an Easement Deed, executed between the CITY and INFORMATIVE RESEARCH, dated as of October 21, 2010 and recorded on November 12, 2010 as Instrument No. 2010000604303 of the Official Records of the County of Orange, State of California, and as more particularly described in Exhibit A attached hereto (the "**First Easement**") as part of Project No. 7247 - Euclid St./Garden Grove Blvd. Intersection Improvement Project (the "**Project**").

C. CITY desires to acquire from INFORMATIVE RESEARCH, and INFORMATIVE RESEARCH desires to convey to CITY, additional right-of-way and site improvements for public street and highway purposes over the Informative Research Property, comprised of approximately 141.8 square feet, which is more particularly described in Exhibit B attached hereto (the "**Second Easement**") for the widening of sidewalks and adjusting sidewalk grade to conform with ADA requirements (the "**Second Project**").

D. CITY has determined that the approximately 42.06 square foot area of the approximately 1,894 square foot First Easement more particularly described in Exhibit C attached hereto (the "**Relinquished Area**") is unnecessary for street and highway purposes in conjunction with the Project.

E. CITY desires to relinquish and reconvey the easement in the Relinquished Area to INFORMATIVE RESEARCH, and INFORMATIVE RESEARCH agrees to accept reconveyance of said easement in the Relinquished Area and to provide CITY with a credit against the purchase price for the Second Easement in the amount of Two Thousand One Hundred Eighty Seven Dollars and 12/100 Cents (\$2,187.12), which the Parties mutually agree to be the fair market value of the easement interest being relinquished in the Relinquished Area.

F. Section 2.2.B of the Original Agreement requires CITY to plant seven liquid amber trees along the westerly portion of the Informative Research Property; however, INFORMATIVE RESEARCH has requested that CITY plant gazania flowers instead of liquid amber trees.

G. During the construction of the Project, electrical power to the automatic irrigation control valve on the Informative Research Property was severed rendering it inoperable. In addition, INFORMATIVE RESEARCH asserts it has incurred cleaning costs as a result of dust and dirt generated by CITY's construction of the Project. CITY and INFORMATIVE RESEARCH agree to a settlement amount of \$2,000.00 for incurred cleaning costs. Through this Agreement the Parties desire to fully and finally settle and resolve all claims, disputes, and/or causes of action INFORMATIVE RESEARCH has or may have against CITY related to the severing of electrical power to the automatic irrigation control valve and the incurrence of costs or damages by INFORMATIVE RESEARCH as a result of construction of the Project.

### AGREEMENT

NOW, THEREFORE, in reliance of the above Recitals, and for and in consideration of the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

#### 1. PLANTING OF GAZANIA FLOWERS.

CITY shall plant gazania flowers at eighteen (18) inch intervals along the westerly portion of Informative Research Property. CITY agrees to commence planting of said gazania flowers within thirty (30) days of full execution of this Agreement. In exchange for CITY's planting of the gazania flowers, INFORMATIVE RESEARCH hereby releases CITY from its obligation under Section 2.2.B of the Original Agreement to plant seven liquid amber trees along the westerly portion of Informative Research Property.

#### 2. INSTALLATION OF TEMPORARY CONTROL VALVE.

City shall install a temporary automatic irrigation control valve sufficient to operate the landscape irrigation system on the Informative Research Property, which will operate until completion of the Second Project. Upon completion of the Second Project, CITY shall restore electrical power to the original automatic control valve located on the Informative Research Property. CITY shall commence with the installation of a temporary irrigation system control valve within thirty (30) days of full execution of this Agreement.

#### 3. ACQUISITION AND CONVEYANCE OF SECOND EASEMENT.

3.1. Agreement for Acquisition and Conveyance. INFORMATIVE RESEARCH agrees to convey to CITY, and CITY agrees to acquire from INFORMATIVE RESEARCH, the Second Easement, upon the terms and for the consideration set forth in this Agreement.

3.2. Date of Transfer. The term "Date of Transfer," if and where used in this Agreement, shall mean the date the Easement Deed for the Second Easement is recorded in the office of the Orange County Recorder.

3.3. Execution and Delivery of Documents. Upon full execution of this Agreement by the parties ("Effective Date"), INFORMATIVE RESEARCH shall provide the following to CITY:



- 3.3.1. A duly executed, notarized and recordable Easement Deed in the form attached hereto as Exhibit E.
- 3.3.2. A duly executed Non-Foreign Transfer Declaration in the form attached hereto as Exhibit F.
- 3.3.3. Such other documents reasonably requested by City necessary to effectuate the transfer contemplated in this Agreement.

3.4. Recording of Easement Deed and Commencement of Second Project. Upon receipt of the duly executed and notarized Easement Deed, CITY may record the Easement Deed, along with a Certificate of Acceptance, the form of which is attached hereto at Exhibit G. Upon the recording of the Second Easement, City shall provide to INFORMATIVE RESEARCH written notice ten (10) days prior to the commencement of the Second Project.

3.5. Right of Entry / Temporary Construction Easement. In conjunction with conveyance of the Second Easement, INFORMATIVE RESEARCH hereby grants CITY, and its authorized agents or contractors, a right of entry and temporary construction easement over the remainder of the Informative Research Property for the period and to the extent needed by CITY to construct the Second Project and to complete its obligations under this Agreement. CITY agrees to indemnify and hold INFORMATIVE RESEARCH harmless from liability arising out of CITY's use of the Informative Research Property pursuant to this right of entry / temporary construction easement. CITY further agrees to repair all damages caused by the use of the Informative Research Property at its sole cost and expense. CITY shall restore the remainder Informative Research Property as nearly as practicable to the state in which it existed prior to the use of said remainder property by CITY, its agents or contractors.

#### 4. CONSIDERATION / PURCHASE PRICE.

4.1. Purchase Price. The total consideration payable by CITY to INFORMATIVE RESEARCH pursuant to this Agreement shall be Seven Thousand One Hundred Forty Nine Dollars and 04/100 Cents (\$7,149.04) (the "Purchase Price"). CITY shall pay INFORMATIVE research the Purchase Price within three (3) business days of the Date of Transfer.

4.2. Vacation and Reconveyance of Relinquished Area. The Parties acknowledge and agree that the Purchase Price recited in Section 4.1 includes a credit in the amount of Two Thousand One Hundred Eighty Seven Dollars and 12/100 Cents (\$2,187.12) for CITY's relinquishment and reconveyance of CITY's easement in the Relinquished Area. Accordingly, subject to limitation by applicable legal and regulatory authority, CITY hereby covenants that within thirty (30) days of the Date of Transfer, CITY shall institute proceedings to vacate the easement for street and highway purposes over the Relinquished Area and shall promptly pursue such proceedings to a final decision. Upon completion of said vacation proceedings and vacation of the easement, CITY shall promptly execute and record a quitclaim deed in the form attached hereto as Exhibit D conveying any and all interest of CITY in the Relinquished Area to INFORMATIVE RESEARCH. In the event the easement over the Informative Research Property has not been duly vacated and the Quitclaim Deed duly executed and recorded within ninety (90) days of the Date of Transfer, CITY shall pay INFORMATIVE RESEARCH the additional sum of Two Thousand One Hundred Eighty Seven Dollars and 12/100 Cents (\$2,187.12), which is the amount credited by

INFORMATIVE RESEARCH to CITY against the Second Easement purchase price for relinquishment of CITY's easement in the Relinquished Area.

4.3. Settlement and Release of Claims. The Parties acknowledge and agree that the Purchase Price recited in Section 4.1 includes an amount to fully and finally settle and resolve all claims, disputes, and/or causes of action INFORMATIVE RESEARCH has or may have against CITY related to the severing of electrical power to the automatic irrigation control valve and the incurrence of costs or damages by INFORMATIVE RESEARCH as a result of construction of the Project. In consideration of CITY's payment of the Purchase Price and performance by CITY of its other obligations pursuant to this Agreement, INFORMATIVE RESEARCH hereby releases and fully and finally discharges CITY and its officials, officers, employees, volunteers, and agents (collectively, "**Additional Releasees**") from any and all manner of actions or causes of action, in law or in equity, suits, debts, liens, liabilities, claims, demands, and damages of any nature whatsoever, known or unknown, fixed or contingent (collectively, "**Claims**"), that the INFORMATIVE RESEARCH now has or may have in the future against CITY or Additional Releasees arising out of CITY's construction and implementation of the PROJECT. It furtherance of this release, INFORMATIVE RESEARCH represents that it is aware of, and knowingly and voluntarily waives, the provisions of California Civil Code section 1542, which reads as follows:

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

5. POSSESSION AND USE/RIGHT OF ENTRY.

It is mutually understood and agreed by and between the parties hereto that the right of possession and use of the Second Easement by the CITY, including the right to remove and dispose of improvements, shall commence upon the execution of this Agreement by INFORMATIVE RESEARCH. The Purchase Price includes, but is not limited to, full payment for such possession and use.

6. PROPERTY INTEREST FREE OF ENCUMBRANCES.

INFORMATIVE RESEARCH agrees and covenants that an easement for street and highway purposes shall be conveyed to CITY free and clear of all rights, restrictions, easements, impediments, encumbrances, liens, assessments or other security interests of any kind, whether recorded or unrecorded (collectively, "Encumbrances"), and that INFORMATIVE RESEARCH, at INFORMATIVE RESEARCH's expense, shall take all actions necessary to remove any and all Encumbrances prior to CITY's payment of the Purchase Price and as an express condition precedent to CITY's obligation to purchase the Second Easement and Temporary Construction Easement. Notwithstanding the foregoing, INFORMATIVE RESEARCH shall not be required to remove the following Encumbrances: (i) any lien for real property taxes for the then current fiscal year, which are not yet due and payable; (ii) easements or rights-of-way for public roads or public utilities, if any; or (iii) any Encumbrances the removal of which is waived in writing by CITY. INFORMATIVE RESEARCH shall not improve, alter, encumber, lease or agree to sell the Informative Research Property or any portion thereof or interest therein to any other party during the period from the Effective Date to the Date of Transfer or the date of the termination of this Agreement, as applicable.



7. TAXES AND FEES.

7.1. Delinquent Taxes. CITY shall be authorized to pay any delinquent property taxes, delinquent assessments, or bonds against the Second Easement, together with penalties and interest thereon, and deduct the same amount from the Purchase Price.

7.2. Proration. INFORMATIVE RESEARCH's prorata portion of taxes for the current fiscal year, if any, due upon the Date of Transfer, shall be cleared and paid by INFORMATIVE RESEARCH pursuant to provisions of Section 5082 through 5090 of the Revenue and Taxation Code of the State of California.

7.3. Fees. CITY shall pay all recording fees and similar transaction fees incurred in this transaction.

8. DUE DILIGENCE.

CITY acknowledges that INFORMATIVE RESEARCH has made no representations, warranties, or agreements as to any matters concerning the Second Easement, including, but not limited to, the marketability of title, land, topography, climate, air, water, water rights, utilities, present or future zoning, soil, subsoil, hazardous substances, waste, or materials, the purposes for which the Second Easement is suited, drainage, access to public roads, proposed routes or extension of roads, or the availability of government permits or approvals of any kind. CITY further acknowledges having made its own independent inspections and investigations as to all matters concerning the Second Easement and agrees to accept said Second Easement in its "as-is" condition. INFORMATIVE RESEARCH warrants that, to the best of its present knowledge, there are no unrecorded encumbrances (including, but not limited to, liens, leases, easements or licenses) on all or any portion of the Second Easement.

INFORMATIVE RESEARCH acknowledges that CITY has made no representations, warranties, or agreements as to any matters concerning the Relinquished Area, including, but not limited to, the marketability of title, land, topography, climate, air, water, water rights, utilities, present or future zoning, soil, subsoil, hazardous substances, waste, or materials, the purposes for which the Relinquished Area is suited, drainage, access to public roads, or the availability of government permits or approvals of any kind. INFORMATIVE RESEARCH further acknowledges having made its own independent inspections and investigations as to all matters concerning the Relinquished Area and agrees to accept said Relinquished Area in its "as-is" condition. CITY warrants that, to the best of its present knowledge, there are no unrecorded encumbrances (including, but not limited to, liens, leases, easements or licenses) on all or any portion of the Relinquished Area.

9. COVENANT NOT TO FURTHER ENCUMBER THE SECOND EASEMENT.

INFORMATIVE RESEARCH shall not, directly or indirectly, alienate, encumber, transfer, option, lease, assign, sell, transfer or convey its interest or any portion of its interest in the Second Easement, or any portion thereof, or enter into any agreement to do so, so long as this Agreement is in force. INFORMATIVE RESEARCH shall timely discharge, prior to the Date of Transfer, any and all obligations relating to work performed on or conducted at or materials delivered to or the Second Easement in order to prevent the filing of any claim or mechanic's lien with respect to such work or materials.



10. REPRESENTATIONS, WARRANTIES AND COVENANTS.

10.1. City's Representations, Warranties and Covenants. In addition to the representations, warranties and covenants of City contained in other sections of this Agreement, City hereby represents, warrants and covenants to INFORMATIVE RESEARCH as follows, all of which shall survive the Close of Escrow:

10.1.1. City's Authority. City has the capacity and full power and authority to enter into and carry out the agreements contained in, and the transactions contemplated by this Agreement, and that this Agreement has been duly authorized and executed by City and upon delivery to and execution by INFORMATIVE RESEARCH, shall be a valid and binding Agreement of City.

10.2. INFORMATIVE RESEARCH's Representations and Warranties. INFORMATIVE RESEARCH represents and warrants to City as follows, all of which shall survive the Close of Escrow:

10.2.1. INFORMATIVE RESEARCH's Authority. INFORMATIVE RESEARCH has the capacity and full power and authority to enter into and carry out the agreements contained in, and the transactions contemplated by this Agreement, and that this Agreement has been duly authorized and executed by INFORMATIVE RESEARCH and upon delivery to and execution by City, shall be a valid and binding Agreement of INFORMATIVE RESEARCH.

10.2.2. Hazardous Substances. To the best of its knowledge, neither INFORMATIVE RESEARCH nor any third party has used, generated, manufactured, stored or disposed any Hazardous Substances in, at, on, under or about the Second Easement or transported any Hazardous Substance to or from the Second Easement. Additionally, the Second Easement is not in violation, nor has it been or is it currently under investigation for violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene, worker health and safety, or to the environmental conditions in, at, on, under or about the Second Easement. INFORMATIVE RESEARCH shall defend, indemnify and hold harmless CITY and its officers, directors, employees, agents, shareholders, attorneys and their respective representatives and successors in interest (collectively, "**City Indemnitees**") from any liability, loss, cost, damage or expense, including, without limitation, court costs, expert witness fees and attorneys' fees, that City Indemnitees may suffer or incur as a result of any claim, demand, action, cost or judgment made or obtained by any individual, partnership, cooperation, entity, governmental agency or person which arises out of or results from the presence or existence of Hazardous Substances above, below or on the Second Easement to the extent that such Hazardous Substances are or were attributable to INFORMATIVE RESEARCH's operations on or about the Second Easement prior to the Date of Transfer.

10.2.3. Legal Actions. There is no known suit, action or arbitration, or legal, administrative, or other proceeding or governmental investigation, formal or informal, including but not limited to eminent domain, condemnation, assessment INFORMATIVE RESEARCH or zoning change proceeding, pending or threatened, or any judgment, moratorium or other government policy or practice which affects the Second Easement, or which adversely affects INFORMATIVE RESEARCH's ability to perform hereunder, nor does INFORMATIVE RESEARCH know of any fact which might give rise to any such action, investigation or proceeding.

10.3. Continuing Representations and Warranties. Each of the representations and warranties made by the Parties in this Agreement, or in any exhibit or on any document or



instrument delivered pursuant hereto, shall be continuing representations and warranties which shall be true and correct on the date hereof, and shall be deemed to be made again as of the Date of Transfer, and shall then be true and correct. The truth and accuracy of each of the representations and warranties, and the performance of all covenants of CITY and INFORMATIVE RESEARCH contained in this Agreement, are conditions precedent to the completion of this transaction. CITY and INFORMATIVE RESEARCH shall each immediately notify the other of any facts or circumstances which are contrary to the foregoing representations and warranties contained in this Section 10.

11. FULL AND COMPLETE SETTLEMENT.

INFORMATIVE RESEARCH hereby acknowledges that the compensation paid to INFORMATIVE RESEARCH through this Agreement constitutes the full and complete settlement of any and all claims against CITY, by reason of CITY's acquisition of the Second Easement, specifically including, but not limited to, any and all rights or claims that INFORMATIVE RESEARCH has, may have or may in the future have under Article 1, Section 19 of the California Constitution, the Eminent Domain Law, or any other law or regulation, except as provided herein. INFORMATIVE RESEARCH, on behalf of itself and its successors and assigns, further knowingly and voluntarily waives and expressly releases and discharges CITY and any and all of CITY's employees, agents, officers, servants, representatives, contractors, attorneys, partner agencies and assigns, from liability in regard to any claims for the following: relocation assistance or benefits, if any, to which INFORMATIVE RESEARCH may be entitled pursuant to applicable sections in Chapter 16 of Division 7 of Title 1 of the California Government Code (Gov. Code sec. 7260, et seq.) ("California Relocation Assistance Law"), regulations adopted by the State of California to implement or pursuant to the California Relocation Assistance Law, and/or the Federal Uniform Relocation Assistance Act (42 U.S.C. sec. 4601, et seq.), regulations adopted by the Federal Government to implement 42 U.S.C. sec. 4601, et seq., pre-condemnation damages, inverse condemnation, lost business goodwill, lost profits, lost rents, severance damages, damage to or loss of improvements pertaining to the realty, machinery, fixtures, inventory, equipment and/or personal property, interest, any right to repurchase, leaseback from CITY, or receive any financial gain from, CITY's sale of any portion of the Second Easement, any right to challenge CITY's adoption of a resolution of necessity, any right to receive any notices pursuant to Code of Civil Procedure section 1245.235, any right to enforce any other obligation placed upon CITY pursuant to Code of Civil Procedure sections 1230.020 through 1273.050, any other rights conferred upon INFORMATIVE RESEARCH pursuant to Code of Civil Procedure sections 1245.245 and 1263.615 and 1263.025, and claims litigation expenses, attorney's fees, statutory interest and/or costs.

12. BROKERS.

City and INFORMATIVE RESEARCH each represents and warrants to the other that they have not dealt with or been represented by any brokers or finders in connection with the purchase and sale of the Easements and that no CITY's or finder's fees are payable in connection with this transaction. City and INFORMATIVE RESEARCH each agree to indemnify and hold harmless the other against any loss, liability, damage, cost, claim or expense (including reasonable attorneys' fees) incurred by reason of breach of the foregoing representation by the indemnifying Party. Notwithstanding anything to the contrary contained herein, the representations, warranties, indemnities and agreements contained in this Section 8 shall survive the termination of this Agreement.



13. GENERAL PROVISIONS.

13.1. Counterparts; Facsimile Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

13.2. Entire Agreement. This Agreement, together with all exhibits hereto and documents referred to herein, if any, constitute the entire agreement among the Parties hereto with respect to the subject matter hereof, and supersede all prior understandings or agreements. This Agreement may be amended or modified only by a writing signed by both Parties. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement.

13.3. Headings. Headings used in this Agreement are for convenience of reference only and are not intended to govern, limit, or aide in the construction of any term or provision hereof.

13.4. Choice of Law. This Agreement and each and every related document are to be governed by, and construed in accordance with, the laws of the State of California.

13.5. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction or rendered by the adoption of a statute by the State of California or the United States invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby;

13.6. Waiver of Covenants, Conditions or Remedies. The waiver by one Party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such Party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any other remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other remedies.

13.7. Legal Advice. Each Party has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to the fair meaning and not for or against any Party based upon any attribution of such party as the sole source of the language in question.

13.8. Relationship of Parties. The Parties agree that their relationship is that of conveyancer and conveyancee, and that nothing contained herein shall constitute either Party, the agent or legal representative of the other for any purpose whatsoever, nor shall this Agreement be deemed to create any form of business organization between the Parties hereto, nor is either party granted the right or authority to assume or create any obligation or responsibility on behalf of the other Party, nor shall either party be in any way liable for any debt of the other.

13.9. Attorneys' Fees. In the event that either Party hereto institutes an action or proceeding for a declaration of its rights under this Agreement, for injunctive relief, for an alleged

breach or default of, or any other action arising out of this Agreement, or the transactions contemplated hereby, or in the event either Party is in default of its obligations pursuant thereto, whether or not suit is filed or prosecuted to final judgment, the non-defaulting Party or prevailing Party shall be entitled to its actual attorneys' fees and to any court costs incurred, in addition to any other damages or relief awarded.

13.10. Assignment. Neither CITY nor INFORMATIVE RESEARCH shall assign its rights or delegate its obligations hereunder without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties to this Agreement.

13.11. Notices. No notice, request, demand, instruction, or other document to be given hereunder to either Party shall be effective for any purpose unless personally delivered to the Party at the appropriate address set forth below (in which event such notice shall be deemed effective only upon such delivery), personally delivered; delivered by courier; next-day delivery (e.g. Federal Express); sent by U.S. mail, postage pre-paid; or sent via telecopier, as follows:

If to City, to:

Attn: Carlos Marquez  
Senior Real Property Agent  
Public Works Department  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840  
Facsimile No.: (714) 741-5136  
Telephone No.: (714) 741-5131

With a copy to:

Attn: Thomas F. Nixon, Esq.  
City Attorney  
c/o Woodruff, Spradlin & Smart  
555 Anton Boulevard, Suite 1200  
Costa Mesa, CA 92626  
Facsimile No.: (714) 835-7787  
Telephone No.: (714) 558-7000

If to INFORMATIVE  
RESEARCH, to:

Sean Buckner, President & Chief Operating Officer  
Informative Research  
13030 Euclid Street  
Garden Grove, CA 92843

Notices delivered by courier shall be deemed to have been given the next business day after deposit with the courier and notices mailed shall be deemed to have been given on the second day following deposit of same in any United States Post Office mailbox in the state to which the notice is addressed or on the third day following deposit in any such post office box other than in the state to which the notice is addressed, postage prepaid, addressed as set forth above. Notices sent via facsimile shall be deemed delivered the same business day transmitted if transmitted before 4:30 P.M. (PT), otherwise shall be deemed delivered on the following business day. The addressees, addresses, and facsimile numbers for the purpose of this section, may be changed by giving written



notice of such change in the manner herein provided for giving notice. Unless and until such written notice of change is received, the last addressee, address, and facsimile number stated by written notice, or provided herein if no such written notice of change has been received, shall be deemed to continue in effect for all purposes hereunder.

13.12. Survivability. All covenants of CITY or INFORMATIVE RESEARCH which are intended hereunder to be performed in whole or in part after Date of Transfer and all representations, warranties, and indemnities by either Party to the other, shall survive the Date of Transfer and delivery of Easement Deed, and be binding upon and inure to the benefit of the respective Party.

13.13 City Council Approval of Agreement. This Agreement is subject to the approval of the City Council of the City. If this Agreement remains unapproved by the City, then the Parties will have no further obligation under this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

CITY

INFORMATIVE RESEARCH

City of Garden Grove, a municipal corporation,

INFORMATIVE RESEARCH, a California corporation,

\_\_\_\_\_  
By: Matthew Fertal  
Title: City Manager

\_\_\_\_\_  
By: Sean Buckner  
Title: President and Chief Operating Officer

Attest:

\_\_\_\_\_  
By: Kathleen Bailor  
City Clerk

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

Approved as to form by:

WOODRUFF, SPRADLIN & SMART

\_\_\_\_\_  
Thomas F. Nixon, Esq.  
City Attorney



### Exhibit List

- Exhibit A -- Legal Description of the First Easement
- Exhibit B -- Legal Description of the Second Easement
- Exhibit C -- Legal Description of Relinquished Area
- Exhibit D -- Form of Quitclaim Deed
- Exhibit E -- Form of Easement Deed
- Exhibit F -- Non-Foreign Transfer Declaration
- Exhibit G -- Certificate of Acceptance

**EXHIBIT A**

(LEGAL DESCRIPTION OF FIRST EASEMENT)



**EXHIBIT B**

(LEGAL DESCRIPTION OF SECOND EASEMENT)

**EXHIBIT C**

(LEGAL DESCRIPTION OF RELINQUISHED AREA)



EXHIBIT D

(QUITCLAIM DEED)

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Garden Grove  
Attn: City Clerk  
11222 Acacia Parkway  
Garden Grove, CA 92840

Exempt from recording fee per  
Government Code §§ 6103; 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned declares that this document is recorded at the request of and for the benefit of the City of Garden Grove and is therefore exempt from the payment of the recording fee pursuant to Government Code Section 6103 and 27383 and from the payment of the documentary transfer tax pursuant to Revenue and Taxation Code Section 11922.

QUITCLAIM DEED

THE UNDERSIGNED GRANTORS DECLARE:

DOCUMENTARY TRANSFER TAX is None.

\_\_\_ Computed on the consideration or value of property conveyed; OR

\_\_\_ Computed on the consideration or value less liens or encumbrances remaining at time of sale.

The land, tenements or realty is located in: \_\_\_ unincorporated area X City of Garden Grove

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, **CITY OF GARDEN GROVE**, a municipal corporation ("Grantor")

hereby REMISES, RELEASES AND FOREVER QUITCLAIMS TO **INFORMATIVE RESEARCH**, a California corporation, (the "Grantee"), all of its right, title and interest in and to the following described real property in the City of Garden Grove, County of Orange, State of California:

**SEE EXHIBITS "A" AND "B",  
ATTACHED HERETO AND MADE A PART HEREOF**

**CITY OF GARDEN GROVE,  
a municipal corporation**

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

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

Matthew J. Fertil, City Manager

ACKNOWLEDGEMENT

STATE OF CALIFORNIA

)

)

COUNTY OF ORANGE

)

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I declare under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public



**Exhibit "A" to the Quitclaim Deed**

(LEGAL DESCRIPTION)

Exhibit "B" to the Quitclaim Deed

(DEPICTION)



**EXHIBIT E**

(EASEMENT DEED)

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Garden Grove  
City Clerk  
11222 Acacia Parkway  
Garden Grove, CA 92840

Exempt from recording fee per  
Government Code §§ 6103; 27383

---

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**The undersigned declares that this document is recorded at the request of and for the benefit of the City of Garden Grove and is therefore exempt from the payment of the recording fee pursuant to Government Code Section 6103 and 27383 and from the payment of the documentary transfer tax pursuant to Revenue and Taxation Code Section 11922.**

**GRANT OF EASEMENT AND RIGHT-OF-WAY**

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged,

**INFORMATIVE RESEARCH**, a California Corporation

*does hereby GRANT to the CITY OF GARDEN GROVE, a municipal corporation, an easement for public street and highway purposes in, on and over the real property in the City of Garden Grove, County of Orange, State of California, described as*

**PER LEGAL DESCRIPTION SHOWN ON EXHIBIT "A", AND DELINEATED ON PLOT MAP SHOWN AS EXHIBIT "B" BOTH OF WHICH ARE ATTACHED HERETO, AND MADE A PART HEREOF**

*It is understood that each undersigned grantor grants only that portion of the above described land in which said grantor has an interest.*

Dated \_\_\_\_\_

INFORMATIVE RESEARCH, a California Corporation

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

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

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

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

ACKNOWLEDGEMENT

STATE OF CALIFORNIA

)

COUNTY OF ORANGE

)

)

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I declare under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public



**Exhibit "A" to the Easement Deed**  
**(LEGAL DESCRIPTION OF THE EASEMENT)**

**Exhibit "B" to the Easement Deed**

(DEPICTION OF THE EASEMENT)

EXHIBIT F

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 \_\_\_\_\_, 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(s) or social security number(s) are: \_\_\_\_\_; and \_\_\_\_\_.
3. The Transferor's office address or mailing address is

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

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: \_\_\_\_\_



**EXHIBIT G**

(CERTIFICATE OF ACCEPTANCE)

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by Easement Deed from Informative Research, Grantor, dated \_\_\_\_\_, 2012, to the City of Garden Grove, a municipal corporation, Grantee, is hereby accepted by the City Clerk of said City, by the order of the City Council of the City of Garden Grove on the \_\_\_\_ day of \_\_\_\_\_, 2012, and the Grantee consents to recordation thereof by the City Clerk, its duly authorized officer.

CITY OF GARDEN GROVE

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

Name:

Title: City Clerk

DATED: \_\_\_\_\_, 2012