

MEETING DATE: **JANUARY 30, 2012**

AGENDA ITEM: **CITY COUNCIL ITEM: CONSIDERATION OF AN OWNER PARTICIPATION AGREEMENT WITH THE HAYDEN TRACT OWNERS ASSOCIATION, AND AWARD OF A PROFESSIONAL SERVICES CONTRACT WITH KOA CORPORATION FOR DESIGN, CONSTRUCTION DOCUMENTS AND CONSTRUCTION ADMINISTRATION SERVICES, TO CONVERT THE HAYDEN TRACT RAILROAD SPUR INTO A PARKING LOT/GREEN BELT.**

ATTACHMENTS

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Meeting Date: 03/07/11		Item Number: J-3	
JOINT CITY COUNCIL AND REDEVELOPMENT AGENCY AGENDA ITEM: (1) City Council and Agency Board Approval of a Memorandum of Understanding; (2) Agency Board Approval of a Budget Amendment Related Thereto; and (3) City Council Approval of a Purchase and Sale Agreement for a Parking Lot Project Located along the Former Metropolitan Transportation Authority Spur between Hayden Avenue and Eastham Drive.			
Contact Person/Dept.:		Contact Person/Dept.:	
Joe Susca / Community Development		310-253-5763	
Todd Tipton / Community Development		310-253-5783	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Meetings and Agendas – City Council (03/04/11); (E-Mail) Meetings and Agendas – Redevelopment Agency (03/04/11); (E-Mail) Redevelopment Agency – Projects (03/04/11); The (Former) Metro Spur Property Owners (03/04/11).			
Department Approval:		Agency Counsel Approval:	
Sol Blumenfeld: (03/02/11)		Murray Kane: (03/02/11)	
		City Attorney Approval:	
		Carol Schwab (by H. Baker) (03/04/11)	
Chief Financial Officer Approval:		City Manager/Executive Director Approval:	
Jeff Muir (by N. Kimball) (03/04/11)		John M. Nachbar (03/04/11)	
<u>RECOMMENDATION:</u> Staff recommends the Culver City Redevelopment Agency Board (Agency Board) approve a Memorandum of Understanding (MOU) that funds \$1,050,000 (\$250,000 in soft costs and half the construction costs estimated at \$800,000) to improve the former Metropolitan Transportation Authority (Metro) railroad Spur between Hayden Avenue and Eastham Drive with a landscaped parking lot and allows the Agency to assign its obligations under the MOU to the City of Culver City, without release of such obligations without owners approval and approve a budget amendment related thereto. AND Staff recommends the City Council approve a Purchase and Sale Agreement for the City-owned portion of the Spur to the Spur Property Owners <u>BACKGROUND:</u> Businesses located in the Hayden Tract generate significant tax revenues for the City and Agency. The Agency Board has expressed strong interest in developing needed parking for the Hayden Tract to support the area and foster its growth.			

In 2006 the City sold the parking lot located at 8511 Warner Drive to Conjunctive Points Warner Development. The sale did not include the adjacent 26 foot wide portion of the former railroad Spur. When combined with the opposing property owner, the entire Spur is approximately 52 feet wide and 1,000 feet long. In 2008, Metro relinquished its railroad easement along the Spur, and control of the property was returned to its owners. With the exception of one property owner, the Spur remains unimproved and is a blighting influence in the Hayden Tract.

DISCUSSION:

For more than a year, staff has been discussing improvement of the former Metro Spur with the Spur property owners by constructing a landscaped parking lot creating approximately 121 spaces (the Project).¹ All but one Spur property owner is willing to participate in the Project.² The Project will be constructed with Agency participation and would subsequently be controlled / maintained by the 7 Spur property owners through the formation of an Association. Using a "percentage of Spur ownership" method of allocating the 121 parking spaces amongst the owners, approximately 24 would be located on the City-owned portion of the Spur adjacent to the Warner Lot. (See the attached Spur Parking Lot Conceptual Plan.) Approval by Agency Board of the MOU will lead to the execution of an Owner Participation Agreement between the Agency and the Spur owners.

Deal Points:

The proposed terms include a 50/50 construction cost sharing arrangement between the Spur property owners and the Agency. The Agency will also furnish all of the soft costs for design. The total Agency contribution is estimated to be \$1,050,000 (see the Fiscal Analysis section of this report for a breakdown of the Project cost).

City/Agency:

- Provide temporary parking lost during construction of the Project (special permit parking at no cost to the Spur property owners) along the adjacent streets or phase the Project so that parking can be provided onsite as construction progresses (which somewhat increases Project costs but reduces parking inconvenience during construction). Further engineering study is required to determine the feasibility of phasing.
- Fund soft costs for the Project estimated at \$250,000 and one-half the construction costs estimated at \$800,000 (a total of \$1,050,000);
- Offer 24 City-owned parking spaces for sale to the Spur property owners for \$13,015 per stall (\$6,557 per stall construction cost plus \$6,458 land cost).³
- Upon consummation of the land sale, the Agency will commence with the preparation of Project plans and construction.

- Provide a 5-year secured loan at 6% interest to any Spur property owners who elect to receive a loan to cover their portion of the construction costs.

Spur Property Owners:

- Enter into reciprocal easements to allow use and access to common parking.
- Form an association (at owners' cost) for the purpose of insuring and maintaining the improvements once built.
- Fund one half of the pro rata cost to construct the Project, estimated at \$800,000.

There is a significant undersupply of parking in the Hayden Tract due to the area's transition from manufacturing to creative office uses. The proposed Project provides an important first step to address the area's parking needs. The Project will also eliminate blight and provide needed additional area parking that is privately owned and operated at approximately one-half the cost of above-ground spaces and three times less costly than subterranean parking.

Environmental Determination for the City Land Sale:

Staff has determined that the Purchase and Sale Agreement is a project subject to the environmental review requirements of the California Environmental Quality Act (CEQA). Staff has further determined that the Purchase and Sale Agreement has no potentially significant adverse impacts on the environment and is therefore Categorically Exempt pursuant to Section 15312 of CEQA from further environmental impact assessment, because the project consists of the sale of surplus government property which (1) does not have a significant value for wildlife habitat or other environmental purpose and (2) the property, due to size, shape and accessibility, is incapable of independent development or use, and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2. Accordingly, pursuant the State CEQA Guidelines, a Notice of Exemption will be filed.

Environmental Determination for the Project:

Staff has determined that the Project pursuant to the MOU is a project subject to the environmental review requirements of CEQA. The Project pursuant to the MOU is a linear landscaped parking lot creating approximately 121 parking spaces along the former MTA railroad spur. Consequently, staff has determined that the Project pursuant to the MOU is an exempt project pursuant to State CEQA Guidelines Section 15332 in that the Project is an in-fill development and is consistent with the City's General Plan and Zoning Ordinance; occurs on a project site of no more than five acres and is surrounded by urban uses; the Project site has no value as habitat for endangered, rare or threatened species; approval of the Project does not result in any significant effects relating to traffic, noise, air quality, or water quality; the Project site can adequately be served by all required utilities and public services; and the

application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2. Accordingly, pursuant to the State CEQA Guidelines, a Notice of Exemption will be filed.

FISCAL ANALYSIS:

The Project's estimated costs are summarized as follows:

<u>Item</u>	<u>Cost</u>	<u>Agency</u>	<u>Property Owners</u>
Design/Plans	\$200,000		
ALTA Survey	\$ 50,000		
Total Soft Costs:	\$250,000	\$250,000	\$0
<u>Construction/Estimated:</u>	<u>\$1,600,000</u>	<u>\$800,000</u> (50%)	<u>\$800,000</u> (50%)
Total Costs:	<u>\$1,850,000</u>	<u>\$1,050,000</u>	<u>\$800,000</u>

Estimated Cost per Space:	\$8,606	\$6,557
Net Cost if all 24 City spaces were sold: (\$1,050,000 - \$312,360) ⁴	\$737,640	
Net Cost per Space:	\$6,100	

Since most of the parking spaces will be for private business use or leased to other existing businesses, tax exempt bond funds may not be used to fund this project. Taxable proceeds from the 2011 Bond issue will be used to fund this project. A budget amendment is needed to appropriate the funds.

Once revenue from sale of the City spaces (\$312,360) is deducted from the total Agency cost of \$1,050,000, the net cost of the Project is \$737,640. The Project will generate minimal City taxes and Agency tax increment.

ATTACHMENTS:

1. Spur Parking Lot Conceptual Plan
2. Parking Space Allocation Plan
3. Memorandum of Understanding
4. Notice of Categorical Exemption

MOTIONS:

That the Agency Board:

1. Approve a budget amendment appropriating \$1,050,000 from the 2011 Taxable Bond issue for the Hayden Tract Spur parking improvements; and,
2. Approve a Memorandum of Understanding that funds \$1,050,000 (\$250,000 in soft costs and \$800,000 for half the construction costs) to improve the former Metropolitan Transportation Authority (Metro) railroad Spur between Hayden Avenue and Eastham Drive with a landscaped parking lot; and,
3. Authorize the Agency Executive Director to execute all documents necessary and appropriate to carry out and implement the MOU and to administer the Agency's obligations, responsibilities and duties to be performed under the MOU on behalf of the Agency; and
4. Authorize the Agency General Counsel to review/prepare the necessary documents; and
5. Authorize the Executive Director to execute such documents on behalf of the Agency.

That the City Council:

1. Approve a Purchase and Sale Agreement for the City-owned portion of the Spur to the Spur Property Owners in an amount of \$312,360; and,
2. Authorize the City Attorney to review/prepare the necessary documents; and,
3. Authorize the City Manager to execute such documents on behalf of the City.

NOTES:

¹The Spur is zoned Transportation, which allows a parking lot to be built upon its surface. The Project will be built in a green manner and include grading, stormwater drainage, concrete pavement, lighting, security fencing, and enhanced tree and ground cover landscaping.

²The owner of 8461 Warner Drive is not willing to participate in the Project and instead, will improve his portion of the Spur with parking.

³A March 2010 appraisal placed the fair market value of the City-owned Spur at \$155,000 if it was not assembled with the adjacent 8511 Warner parcel. \$155,000/24 spaces are \$6,458 each.

⁴The sale per space is \$13,015 for the City's 24 spaces (50% of the construction costs amounting to \$6,557 + \$6,458 for the land) = \$312,360 total.

ATTACHMENT 2

March 7, 2011

Item J-3

(1) City Council and Agency Board Approval of a Memorandum of Understanding; (2) Agency Board Approval of a Budget Amendment Related Thereto; and (3) City Council Approval of a Purchase and Sale Agreement for a Parking Lot Project Located along the Former Metropolitan Transportation Authority Spur between Hayden Avenue and Eastham Drive.

Sol Blumenfeld, Community Development Director, provided a summary of the material of record.

Councilmember O'Leary invited public comment.

There was no response.

Discussion ensued between the City Council and staff regarding clarification that the action would provide some much needed parking for the area; the transition from industrial to technology and the arts that demand more parking; a phasing feasibility study; soft costs; the re-draft of the Memorandum of Understanding; and cost sharing.

MOVED BY MAYOR ARMENTA, SECONDED BY COUNCILMEMBER COOPER AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL:

1. APPROVE A PURCHASE AND SALE AGREEMENT FOR THE CITY-OWNED PORTION OF THE SPUR TO THE SPUR PROPERTY OWNERS IN AN AMOUNT OF \$312,360.00; AND,
2. AUTHORIZE THE CITY ATTORNEY TO REVIEW/PREPARE THE NECESSARY DOCUMENTS; AND,
3. AUTHORIZE THE CITY MANAGER TO EXECUTE SUCH DOCUMENTS ON BEHALF OF THE CITY.

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OWNER PARTICIPATION AGREEMENT

This Owner Participation Agreement (this "**Agreement**") is entered into by and between the CITY OF CULVER CITY, a chartered city of the State of California (the "**City**"), and the HAYDEN TRACT OWNERS' ASSOCIATION, a California non-profit mutual benefit corporation (the "**Association**"). This Agreement is dated, for reference purposes, as of the date the City executes this Agreement. The City and the Association agree as follows:

PART 1. SUBJECT OF AGREEMENT

Section 101 Purpose of the Agreement

The purpose of this Agreement is to effectuate the Redevelopment Plan for the Culver City Redevelopment Project approved and adopted by the City Council of Culver City on November 23, 1998 by Ordinance No. 98-105 and amended on January 12, 2004, and on September 12, 2005 (the "**Redevelopment Plan**") and is made with reference to the following facts:

a. With the exception of the Feldman/Willows School, the individual members of the Association (the "**Members**") each own certain parcels of real property (the "**Member Parcels**"), portions of which are along the former Metropolitan Transportation Authority railroad spur located between Hayden Avenue and Eastham Drive in the Hayden Tract of Culver City, California as more particularly depicted on Attachment No. 1 (the "**Site Map**"). In addition, the Regents of the University of California (the "**Regents**") own certain real property located at 8535 Warner Drive (the "**Regents Parcel**") as depicted on the Site Map.

b. The City owns an approximately 26 foot wide portion of real property abutting the parking lot located at 8511 Warner Drive as described in the legal description attached hereto as Attachment No. 2 (the "**City Parcel**") and depicted in the Site Map. Collectively, those portions of the Member Parcels, that portion of the Regents Parcel and the City Parcel that depicted on the Site Map are referred to herein as the "**Hayden Tract Site**".

c. The parties hereto desire to redevelop the Hayden Tract Site as a linear landscaped parking lot creating approximately 121 parking spaces for use by the Association (the "**Project**").

d. The City intends to contribute up to \$1,050,000 for the costs of the Project, including all of the soft costs for design and one-half of the construction costs and thereafter sell the City Parcel to the Association for \$155,000 under the terms and conditions set forth herein below. The Association intends to contribute to the construction costs up to \$800,000 (with a pro rata share contributed by the Regents) for the Project and thereafter purchase the City Parcel and maintain the improvements on the Hayden Tract Site under the terms and conditions set forth herein below.

e. The Hayden Tract Site is located within the geographical area of the Redevelopment Plan for the Culver City Redevelopment Project, Component Area 3 (the

“Project Area”). The redevelopment of the Hayden Tract Site, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements under which the redevelopment of the Project Area is being undertaken.

Section 102 Definitions

For purposes of this Agreement, the following capitalized terms shall have the following meanings:

“Affiliate” shall mean (1) any Person directly or indirectly controlling, controlled by, or under common control with another Person; (2) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, of any company for which such Person acts in any such capacity. The term “control” as used in the immediately preceding sentence, shall mean the power to direct the management or the power to control election of the board of directors. It shall be a presumption that control with respect to a corporation or limited liability company is the right to exercise or control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity or association, control is the possession, indirectly or directly, of the power to direct or cause the direction of the management or policies of the controlled entity.

“Association Deposit” or **“Deposit”** shall mean as set forth in Section 304 of this Agreement.

“Association REA” or **“REA”** shall mean that certain Declaration of Restrictions and Reciprocal Easement Agreement as set forth in Section 701 of this Agreement.

“City Parcel” shall have the same meaning as set forth in Section 101(b) of this Agreement.

“Closing” or **“Close of Escrow”** shall mean the point in time when all conditions precedent to the Closing as set forth this Agreement, including, but not limited to Section 213 have been satisfied.

“Closing Date” shall mean the date on which the Closing is scheduled to take place, as provided in the Schedule of Performance.

“Completion” shall mean the point in time when all of the following shall have occurred: (1) certification by the project architect that construction of all of the Improvements (with the exception of minor “punch list” items) has been completed in a good and workmanlike manner and substantially in accordance with City approved plans and specifications; and (2) any mechanic’s liens that have been recorded or stop notices that have been delivered for any of the

"Person" shall mean an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or foreign.

"Project" shall mean the financing, planning, construction, development and use of the Improvements in accordance with this Agreement, including, but not limited to, the Scope of Development.

"Project Budget" shall mean the project budget attached to this Agreement as Attachment No. 8 which is hereby incorporated herein by this reference, as it may be updated from time to time as described herein.

"Project Costs" shall mean the total cost of developing the Hayden Tract Site and constructing the Improvements thereon, as required by this Agreement and as set forth in the Project Budget.

"Redevelopment Plan" shall have the meaning set forth in Section 103 of this Agreement.

"Right of Entry" shall mean the instrument referred to in Section 508(b) of this Agreement. **"Schedule of Performance"** shall mean the document attached to this Agreement as Attachment No. 3 which is hereby incorporated herein by this reference.

"Scope of Development" shall mean the document attached to this Agreement as Attachment No. 4 which is hereby incorporated herein by this reference.

"Site Map" shall mean the document attached to this Agreement as Attachment No. 1 which is hereby incorporated herein by this reference.

"Title Company" shall mean First American Title Insurance Company or another title insurance company acceptable to City.

"Regents Easement" shall mean the instrument to be recorded in accordance with Section 702 of this Agreement.

"Regents" shall mean the **"Regents of the University of California"** and/or its duly authorized and designated representative.

Section 103 The Redevelopment Plan

a. This Agreement is subject to the provisions of the Redevelopment Plan for the Project Area, which was approved and adopted by the City Council of Culver City on November 23, 1998 by Ordinance No. 98-105 and amended on January 12, 2004, and on September 12, 2005. The Redevelopment Plan is incorporated herein by reference and made a part hereof as though fully set forth herein. The proposed Project is consistent with the Redevelopment Plan.

b. Any amendments hereafter to the Redevelopment Plan (as so approved and adopted) which change the uses or development permitted on the Hayden Tract Site as proposed

"Person" shall mean an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or foreign.

"Project" shall mean the financing, planning, construction, development and use of the Improvements in accordance with this Agreement, including, but not limited to, the Scope of Development.

"Project Budget" shall mean the project budget attached to this Agreement as Attachment No. 8 which is hereby incorporated herein by this reference, as it may be updated from time to time as described herein.

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b. Any amendments hereafter to the Redevelopment Plan (as so approved and adopted) which change the uses or development permitted on the Hayden Tract Site as proposed

in this Agreement, or otherwise change the restrictions or controls that apply to the Hayden Tract Site, or otherwise affect the Association's obligations or rights with respect to the Hayden Tract Site, shall require the written consent of the Association. Amendments to the Redevelopment Plan, applying to other property in Component Area No. 3 of the Culver City Redevelopment Project, shall not require the consent of the Association.

Section 104 Parties to the Agreement

a. The City is a chartered city of the State of California. The principal office of the City is located at 9770 Culver City Boulevard, Culver City, California 90232-0507. "City" as used in this Agreement includes and the City of Culver City any assignee of or successor to its rights, powers and responsibilities.

b. Association is a mutual benefit corporation. The principal office of the Association is _____, Culver City, California 90232. Wherever the term "Association" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided.

Section 105 Special Limited Obligation

The obligation of the City to pay any costs in connection with this Agreement shall be a special limited obligation of the City payable exclusively from funds paid by the Redevelopment Agency of Culver City, a public body, corporate and politic (the "Agency") and its successors. Nothing contained herein shall be construed to create any obligation payable from the City of Culver City's general fund.

Section 106 Prohibition Against Change In Ownership, Management and Control of Association

a. The qualifications and identity of the Association, and its principals, are of particular concern to the community and the City. The Association further recognizes that it is because of such qualifications and identity that the City is entering into this Agreement with the Association. No voluntary or involuntary successor in interest of the Association shall acquire any rights or powers under this Agreement except as expressly set forth herein.

b. The Association shall not assign all or any part of this Agreement without the prior written approval of the City.

c. Except for assignments duly approved by the City or permitted as provided above, the Association represents and agrees for itself, and any successor in interest of itself, that prior to conveyance of the City Parcel to the Association and without the prior written approval of the City, there shall be no significant change in the ownership of the Association or in the relative proportions thereof, or with respect to the identity of the parties in control of the Association or the degree thereof, by any method or means.

d. The Association shall promptly notify the City of any and all changes whatsoever in the identity of the parties in control of the Association or the degree thereof, of which it or any

of its officers have been notified or otherwise have knowledge or information. Subject to the notice and cure provisions in Sections 501, this Agreement may be terminated by the City if there is any significant change (voluntary or involuntary) in membership, management or control, of the Association (other than such changes occasioned by the death or incapacity of any individual or as approved by the City or permitted as provided above) prior to the conveyance of the City Parcel to the Association as hereinafter provided.

PART 2. DISPOSITION OF THE CITY PARCEL

Section 201 Sale and Purchase

a. In accordance with and subject to all the terms, covenants, and conditions of this Agreement, within the times set forth in the Schedule of Performance, the City agrees to sell to the Association and the Association agrees to purchase the City Parcel as shown on the Site Map (Attachment No. 1) and as more precisely described in the Legal Description (Attachment No. 2).

b. The Association shall pay to the City as the total purchase price for the City Parcel, One Hundred Fifty Five Thousand Dollars (\$155,000) (the "**Purchase Price**") upon the Close of Escrow. The Purchase Price shall be in the form of cash, certified or cashiers check or a wire transfer to the account of the Escrow Agent.

c. Subject to the terms and conditions of this Agreement, by the time required for the Close of Escrow, the construction of the Improvements on the Hayden Tract Site (including the City Parcel) shall be completed by the City in accordance with the Scope of Development as more particularly described in Attachment No. 4.

Section 202 Escrow

a. The City agrees to open an escrow ("**Escrow**") for conveyance of the City Parcel with First American Title Insurance Company, located at 777 S. Figueroa, 4th Floor, Los Angeles, California 90071, or such other escrow company or escrow agent as may be acceptable to both the City and the Association (the "**Escrow Agent**"), within the time provided in the Schedule of Performance, which is incorporated herein and attached hereto as Attachment No. 3. Part 1, Part 2, and Part 3 of this Agreement shall constitute the joint escrow instructions of the City and the Association, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of the Escrow. The City and the Association shall provide such additional Escrow instructions consistent with this Agreement as shall be necessary. The Escrow Agent hereby is empowered to act under such instructions, and upon indicating its acceptance thereof in writing, delivered to the City and to the Association upon opening of the Escrow, the Escrow Agent shall carry out its duties as Escrow Agent hereunder. If there is any inconsistency between such additional instructions and this Agreement, then this Agreement shall control.

b. Upon delivery of the Grant Deed for the City Parcel to the Escrow Agent by the City pursuant to Section 206 of this Agreement, the Escrow Agent shall record such Grant Deed in accordance with these escrow instructions, provided that the title to the City Parcel can be vested in the Association in accordance with the terms and provisions of this Agreement. The

Escrow Agent shall buy, affix, and cancel any transfer stamps required by law. Any insurance policies governing the City Parcel are not to be transferred.

c. The Association shall pay in Escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Association of the amount of such fees, charges and costs, at least two (2) working days, but not earlier than ten (10) days, prior to the scheduled date for the conveyance of the City Parcel:

1. One-half of the escrow fee;
2. All fees, charges and costs related to that certain Association REA;
3. All fees, charges and costs related to that certain Regents Easement; and
4. Costs associated with any premium for the ALTA extended coverage title insurance policy as well as any extended coverage or special endorsements to be paid by the Association pursuant to Section 208 of this Agreement.

d. The Association shall also deposit the Purchase Price and/or proof of payment of the Purchase Price for the City Parcel with the Escrow Agent in accordance with the provisions of Section 207 of this Agreement.

e. Except for any fees, charges and costs related to that certain Association REA which shall be paid by solely by Association, the City shall pay, through debit(s) against the Purchase Price, the following fees, charges and costs promptly after the Escrow Agent has notified the City of the amount of such fees, charges and costs, at least two (2) working days, but not earlier than ten (10) days, prior to the scheduled date for the conveyance of the City Parcel:

1. One-half of the escrow fee;
2. Costs necessary to place the title to the City Parcel in the condition for conveyance required by the provisions of this Agreement;
3. Cost of drawing the Grant Deed;
4. Recording fees;
5. Notary fees;
6. Any State, County, or City documentary stamps or transfer tax; and
7. Costs associated with that portion of the title insurance premium related to the CLTA owner's title insurance for the City Parcel in the amount of the Purchase Price. Any additional premiums, extended coverage or special endorsements shall be paid by Association.

f. The City shall timely and properly execute, acknowledge and deliver a Grant Deed in substantially the form established in Section 204 of this Agreement, conveying to the

Association title to the City Parcel in accordance with the requirements of Section 205 of this Agreement, together with an estoppel certificate certifying that the Association has completed all acts (except deposit of the Purchase Price and/or proof of payment of the Purchase Price), necessary to entitle the Association to such conveyance, if such be the fact.

g. The Escrow Agent is authorized to:

1. Pay, and charge the City and the Association, respectively, for any fees, charges and costs payable under this Section 202 of this Agreement. Before such payments are made, the Escrow Agent shall notify the City and the Association of the fees, charges and costs necessary to clear title and close the escrow.

2. Disburse funds and deliver the Grant Deed and other documents to the parties entitled thereto when the conditions of this escrow have been fulfilled by the City and the Association. The Purchase Price shall not be disbursed by the Escrow Agent unless and until it has recorded the Grant Deed to the City Parcel, and has delivered to the Association a title insurance policy insuring title and conforming to the requirements of Section 208 of this Agreement.

3. Cause the Association REA and Regents Easement and any other documents which the parties may mutually direct, to be recorded in the Official Records of the County Recorder of Los Angeles County, and obtain conformed copies thereof for distribution to City and Association in accordance with the terms and provisions of the escrow instructions portion of this Agreement (Part 1, Part 2, and Part 3).

h. All funds received in this escrow shall be deposited by the Escrow Agent in a general escrow account with any state or national bank doing business in the State of California and reasonably approved by the Association and the City, and may be combined in such with other escrow funds of the Escrow Agent.

i. If this escrow is not in condition to either (i) record the Association REA and Regents Easement, respectively or (ii) close with respect to the City Parcel on or before the time for conveyance established in Section 203 of this Agreement, either party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, demand the return of its money, papers, or documents from the Escrow Agent. No demand for return shall be recognized until ten (10) days after the Escrow Agent (or the party making such demand) shall have mailed copies of such demand to the other party or parties at the address of its principal place of business. Objections, if any, shall be raised by written notice to the Escrow Agent and to the other party within the 10-day period, in which event the Escrow Agent is authorized to hold all money, papers, and documents with respect to the City Parcel until instructed by a mutual agreement of the parties or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, the escrow shall be closed as soon as possible.

j. If objections are raised as above provided for, the Escrow Agent shall not be obligated to return any such money, papers, or documents except upon the written instructions of both the City and the Association, or until the party entitled thereto has been determined by a final decision of a court of competent jurisdiction. If no such objections are made within said

10-day period, the Escrow Agent shall immediately return the demanded money, papers, or documents.

k. Any amendment to the escrow instructions shall be in writing and signed by both the City and the Association. At the time of any amendment the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

l. All communications from the Escrow Agent to the City or the Association shall be directed to the addresses and in the manner established in Section 601 of this Agreement for notices, demands, and communications between the City and the Association.

m. The parties understand they may be required to execute additional standard form escrow instructions required by the Escrow Agent ("**General Instructions**"). In the event of a conflict between this Agreement and any such General Instructions, this Agreement shall control. The parties agree, however, that they will refuse to sign General Instructions which (1) purport to relieve the Escrow Agent of liability for negligence or intentional wrong-doing; (2) excuse the Escrow Agent from strict compliance with each and all of the provisions of this document and the General Instructions; or (3) purport to authorize the Escrow Agent to follow the instructions or directive of any person not a direct signatory party (or designee of such signatory party) to this Agreement.

n. The liability of the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Part 1 and Part 2, inclusive, of this Agreement.

Section 203 Conveyance of Title and Delivery of Possession

a. Subject to any mutually agreed upon extension of time, conveyance to the Association of title to the City Parcel in accordance with the provisions of Section 205 of this Agreement shall be completed on or prior to the date specified in the Schedule of Performance (Attachment No. 3) or such later date mutually agreed to in writing by the City and the Association and communicated in writing to the Escrow Agent.

b. Except as otherwise provided herein, possession of the City Parcel shall be delivered to the Association concurrently with the conveyance of title. The Association shall accept title and possession to the City Parcel on the dates established in this Section 203.

Section 204 Form of Deed

The City shall convey to the Association title to the City Parcel in the condition provided in Section 205 of this Agreement by grant deed substantially conforming in form and substance under the terms and conditions of this Agreement. Said Grant Deed to the City Parcel shall contain covenants necessary or desirable to carry out this Agreement.

Section 205 Condition of Title

The City shall convey to the Association fee simple merchantable title to the City Parcel, free and clear of all liens, encumbrances, assessments, easements, leases and taxes; except those

which are set forth in this Agreement and those which are otherwise consistent with this Agreement and which are acceptable to the Association, including the Association REA and Regents Easement. Title to the City Parcel shall be subject to the exclusion therefrom (to the extent now or hereafter validly excepted and reserved by the parties named in deeds, leases and other documents of record) of all oil, gas, hydrocarbon substances and minerals of every kind and character lying more than 500 feet below the surface, together with the right to drill into, through, and to use and occupy all parts of the City Parcel lying more than 500 feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from the City Parcel, but without, however, any right to use or disturb either the surface of the City Parcel or any portion thereof within 500 feet of the surface for any purpose or purposes whatsoever.

Section 206 Time For and Place For Delivery of Deed

Subject to any mutually agreed upon extension of time, the City shall deposit the Grant Deed for the City Parcel with the Escrow Agent on or before the date established for the conveyance of the City Parcel in the Schedule of Performance (Attachment No. 3).

Section 207 Payment of the Purchase Price and Recordation of the Deed

Subject to the satisfaction of the conditions precedent set forth in Section 213 below, the Escrow Agent shall deliver the Purchase Price to the City immediately following the delivery to the Association of a title insurance policy insuring title in conformity with Section 208 of this Agreement and the filing of the Grant Deed for recordation among the land records in the Office of the County Recorder for Los Angeles County.

Section 208 Title Insurance

a. Concurrently with recordation of the Grant Deed, the Title Company shall provide and deliver to the Association an ALTA extended coverage title insurance policy issued by the Title Company, insuring that title to the City Parcel is vested in the Association in the condition required by Section 205 of this Agreement. The Title Company shall provide the insurance policy and the title insurance policy shall be in the amount of the Purchase Price of the City Parcel or in such greater amount as the Association may specify as hereinafter provided.

b. City shall only pay for a CLTA owner's title insurance policy in the amount of the Purchase Price. The Association shall pay for all additional premiums including those the ALTA extended coverage and/or special endorsements which it requests.

Section 209 Taxes and Assessments

Ad valorem taxes and assessments, if any, on the City Parcel, and taxes upon this Agreement or any rights hereunder, levied, assessed or imposed for any period, commencing after conveyance of title or possession of the City Parcel to the Association, shall be borne by the Association. Ad valorem taxes and assessments levied, assessed or imposed, if any, for any period prior to conveyance of title to the City Parcel to the Association shall be paid by the City.

Section 210 Occupants of the City Parcel

City agrees that title to the City Parcel shall be conveyed free of any possession or right of possession except that of the Association, unless waived by the Association in writing.

Section 211 "As Is" Transaction; Waiver

a. Association acknowledges that it is purchasing the City Parcel in reliance solely on: (1) Association's inspection of the City Parcel and all personal property and improvements being sold in connection with the City Parcel; and (2) the opinions and advice of consultants and attorneys engaged by the Association concerning the City Parcel.

b. ASSOCIATION SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS SELLING AND ASSOCIATION IS PURCHASING THE CITY PARCEL ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT ASSOCIATION IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY, ITS INDIVIDUAL MEMBERS, AGENTS, ATTORNEYS OR BROKERS AS TO ANY MATTERS CONCERNING THE CITY PARCEL, INCLUDING WITHOUT LIMITATION: (a) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater; (b) the existence, quality, nature, adequacy and physical condition of utilities serving the City Parcel; (c) the development potential of the City Parcel, and the City Parcel's use, merchantability, or fitness, or the suitability, value or adequacy of the City Parcel for any particular purpose; (d) the zoning or other legal status of the City Parcel or any other public or private restrictions on use of the City Parcel; (e) the compliance of the City Parcel with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity; (f) the presence of "Hazardous Substances" (as defined in Section 102) on, under or about the City Parcel; (g) the quality of any labor and materials used in any improvements; and (h) the condition of title to the City Parcel.

c. Association hereby waives any contingency regarding the soil (or groundwater) condition of the City Parcel (including improvements), or any part of the City Parcel, or the presence of any Hazardous Substances or its suitability for the purposes for which the City Parcel is to be put pursuant to this Agreement. The Association therefore explicitly acknowledges that following acquisition and also following any development of the City Parcel it will assume and bear all future liability for any necessary mitigation measures for Hazardous Substances and any residual Hazardous Substances that may remain, and will hold the City harmless therefrom.

Section 212 Association's Warranty

Association hereby represents the following to the City, for the purpose of inducing the City to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Closing:

1. Association has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which Association is a party (which have been executed by Association), to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.
2. All requisite action has been taken by Association and all requisite consents have been obtained in connection with the entering into this Agreement and the instruments and documents referenced herein to which Association is a party (which have been executed by Association), and the consummation of the transaction contemplated hereby comply with all applicable laws, statutes, ordinances, rules and governmental regulations.
3. This Agreement is duly executed by Association, and all agreements, instruments and documents to be executed by Association pursuant to this Agreement shall, at such time as they are required to be executed hereunder, be duly executed by Association, and each such agreement heretofore or concurrently executed by Association is valid and legally binding upon Association and enforceable in accordance with its terms and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which Association is a party.
4. There is no pending litigation or, to Association's best knowledge, threatened litigation which would prevent Association from performing its duties and obligations hereunder.
5. Association is not the subject of a bankruptcy proceeding.

Section 213 Conditions Precedent to Close of Escrow

The Close of Escrow and the obligations of the City and Association are subject to the satisfaction prior to the Close of Escrow (unless otherwise provided), of the following conditions, and the obligations of the parties with respect to such conditions are as follows:

1. Construction Contract. City shall have executed the general construction contract between the City and a licensed general contractor, covering all construction required by this Agreement and the approved final working drawings.
2. Title Insurance Policies. Title Company shall be committed to issue the Title Insurance Policy, as provided in this Agreement.
3. Documents. City and Association have executed and delivered into Escrow (i) the Grant Deed conveying title to the City Parcel to the Association, in recordable form, to be recorded against the City Parcel; (ii) the Association REA, in recordable form, to be recorded in the area encompassing the Hayden Tract Site, as depicted in the Site Map; (iii) the

Regents Easement, in recordable form, to be recorded in the area encompassing the Hayden Tract Site, as depicted in the Site Map; the Funding Control Agreement.

4. Representations, Warranties and Covenants

- (a) Association shall have duly performed each and every pre-closing obligation to be performed by Association pursuant to this Agreement and Association's representations, warranties and covenants set forth in this Agreement shall be true and correct as of the date of the Close of Escrow.
- (b) City shall have duly performed each and every pre-closing obligation to be performed by City pursuant to this Agreement and City's representations, warranties and covenants set forth in this Agreement shall be true and correct as of the date of the Close of Escrow.

5. Deliveries

- (a) Association shall have deposited into Escrow the Purchase Price and delivered the items to be delivered by Association, when and as required in this Agreement.
- (b) Association shall have deposited into Escrow the Final Deposit as described in Section 304(b).
- (c) City shall have deposited into Escrow the balance of the City Project Funds as described in Section 302 not previously disbursed towards the Project.
- (d) City shall have delivered the items to be delivered by City, when and as required by this Agreement.

6. Closing Certificate. City and Association have submitted to Escrow a certificate stating that all conditions precedent to Close of Escrow have been satisfied or waived, respectively.

7. Closing Cost Statement. Escrow Agent has delivered a closing statement of costs.

8. Supplementary Escrow Instructions. City and Association have prepared such Supplemental Escrow Instructions as may be needed, respectively.

9. No Defaults. Association shall not be in default of any of its obligations under this Agreement.

Section 214 Failure of Conditions to Close Escrow

a. Subject to any rights provided in this Agreement, including notices of default and the opportunity to timely cure any default, in the event any of the conditions precedent to the Close of Escrow are not timely satisfied or waived, for a reason other than the default of City or Association, the following shall apply:

1. Either party shall have the right to terminate this Agreement and the Escrow;
2. Escrow Agent is hereby instructed to promptly return to Association and City all funds, if any, and documents deposited by the respective parties into Escrow which are held by Escrow Agent on the date of the termination; provided, however, the amount of funds to be returned to the entitled party shall be reduced by the cancellation charges, if any, required to be paid by such party under paragraph (b) below; and
3. Neither party shall have any further rights or obligations pursuant to this Agreement except as otherwise provided in this Agreement.

b. Cancellation Fees and Expenses. In the event this Escrow terminates because of the non-satisfaction of any condition for a reason other than the default of City or Association under this Agreement, the cancellation charges, if any, required to be paid by and to Escrow Agent and the Title Company shall be borne by the party incurring same.

Section 215 Recordation of Documents

a. City and Association, respectively, agree to perform all acts necessary to recordation and delivery of such documents in sufficient time for escrow to be closed in accordance with the foregoing provisions.

b. At the Close of Escrow, the following documents shall be recorded against the City Parcel ("**Recorded Documents**"):

1. Grant Deed (City Parcel).
2. Association REA. Association causes the Association REA, first approved in writing by the City Manager or designee and City Attorney, substantially conforming in form and substance as contemplated herein, to be recorded in senior position to all encumbrances, liens or encumbrances on the Member Parcels and the City Parcel; and
3. Regents Easement. Association causes the Regents Easement, first approved in writing by the City Manager or designee and City Attorney, substantially conforming in form and substance as contemplated herein, to be recorded in senior position to all encumbrances, liens or encumbrances on the Regents Parcel, the Member Parcels and the City Parcel.

c. All documents to be recorded shall be recorded in the Office of the Los Angeles County Registrar-Recorder/County Clerk ("**County Recorder**").

PART 3. IMPROVEMENTS

Section 301 Improvements

Prior to the Close of Escrow, City, the Association and the Regents (collectively, the "**Participants**") shall cooperate in a process for the design, improvement and maintenance of the Hayden Tract Site within the times set forth in the Schedule of Performance, as follows:

a. Budget for Improvements. The improvements to the Hayden Tract Site shall be constructed within a budget established by the City based on an anticipated budget for such Improvements of \$1,850,000 as more particularly set forth in the Project Budget attached hereto as Attachment No. 8, subject to the City redesign procedures set forth in subsection (e) herein below. Thereafter, any change order to the project budget in excess of \$50,000 shall require the approval of the parties hereto, which shall not be unreasonably withheld if a proposed change order is limited to a reallocation of budgeted Project Funds (defined below) among project budget line items without any increase in the total project budget and the following conditions are met: (i) the funds in the line item(s) to be reduced remain sufficient for Completion of the Improvements, and (ii) the requested increase in one or more line item(s) is to be used to pay approved costs in accordance with the terms and conditions of this Agreement.

b. Design Consultants. The City shall retain the services of an engineer, landscape architect and other consultants as required who shall design and prepare plans and specifications for the Improvements in accordance with the Project Budget. The Participants shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents to the City can receive timely consideration. The Participants shall have the right to review and approve all design drawings and plans for the Project. All plans for construction of the Project shall be subject to applicable City design review and approval procedures in its governmental capacity, and shall be consistent with the logical evolution of the approved Scope of Development, except as otherwise approved by the parties.

c. Plans and Specifications.

1. The design, plans and specifications for the Improvements shall be prepared or cause to be prepared by the City within the respective times provided therefor in the Schedule of Performance, including the following items:

- (A) A topographic survey of the Hayden Tract Site and map with spot elevations at locations for existing and proposed improvements on the Hayden Tract Site (the "**Survey**") and as generally depicted in the Site Map. Within the time set forth in the Schedule of Performance and this Agreement, the City shall execute a Right of Entry substantially conforming in form and substance mutually approved by the parties hereto and otherwise consistent with this

Agreement for the purpose of allowing the surveyor to enter the City Parcel.

- (B) Documentation of the location of all surface and underground utilities, existing and proposed;
- (C) Improvement drawings for landscaping and surface improvements, including:
 - (1) Grading and drainage plans
 - (2) Horizontal control plans
 - (3) Paving and landscape plans
 - (4) Lighting and circuitry plans
 - (5) Landscape planting plans
 - (6) Irrigation plans
 - (7) Landscape and hardscape construction details, including all elements necessary to go to bid
 - (8) Striping and signage plan;
- (D) A fixed level of construction cost estimate for items (C)(1) through (8), above.

2. The Final (100% Complete) Construction Drawings shall be submitted by the City's consultants as a bid solicitation package that meets all requirements for the public bidding process.

d. Solicitation of Bids. Following City approval of the Final (100% Complete) Construction Drawings for the Improvements, the City shall use the bid package prepared by the City's consultants to solicit bids for the construction of the Improvements through the public bidding process.

e. Right of Revision. City shall submit to the Participants progressively more detailed plans and specifications for the Improvements and with each submission (including the City's submission of the bid solicitation package required to be prepared by the City), shall provide a fixed level of construction costs estimate by an independent qualified cost estimator which shall not exceed \$1,600,000. If, at the time the City solicits bids using the bid solicitation package prepared by the City, the lowest responsive and responsible bid is in excess of \$1,600,000, then the City shall either increase the City's Project Funds (defined below) for the Improvements, or the City shall revise the plans and specifications and/or adjust bid alternates, at its sole cost and in its sole discretion, to enable the City to award a bid within the City's authorized budget.

f. Award of Contract for Improvements. In accordance with all applicable public bidding requirements, within the times set forth in the Schedule of Performance, the City shall promptly award and enter into a contract for the construction of the Improvements to the Hayden Tract Site with the lowest responsive and responsible bidder; provided, however the Participants shall have the right to approve, which approval shall not be unreasonable conditioned, withheld or delayed, the contractor(s) and the construction contract(s), including warranties against defective work for a period of not less than one (1) year, and the right to have all warranties and causes of actions assigned to the Association at Association's request following Completion of construction.

Section 302 Project Funds

a. City Project Funds. In accordance with and subject to all the terms, covenants, and conditions of this Agreement, the City agrees to provide an amount not to exceed \$1,050,000 in financial assistance towards the Project (the "**City Project Funds**") in consideration for Association's agreement to complete the Improvements in accordance with the Scope of Development.

b. Association Project Funds. In accordance with and subject to all the terms, covenants, and conditions of this Agreement, the Association agrees to provide an amount not to exceed \$800,000 in financial assistance towards the Project (the "**Association Project Funds**") in consideration for the City's obligations in this Agreement. In accordance with and subject to all the terms, covenants, and conditions of this Agreement, the parties hereto agree to cooperate and execute all necessary documents for the Regents to provide to either the Association or the City its pro rata share of the Project Costs as outlined in the letter dated September 22, 2011 and attached to this Agreement as Exhibit A to Attachment No. 5. Such funds provided by the Regents shall comprise and be considered as part of the Association Project Funds. The City Project Funds and the Association Project Funds (including the pro rata share as provided by the Regents) are sometimes collectively referred to herein as the "**Project Funds**".

Section 303 Allocation of Project Funds

a. Soft construction costs, including but not limited to designs, plans and surveys, are estimated at \$250,000, one hundred percent (100%) of which shall be paid for with City Project Funds. The parties hereby acknowledge and agree that any increase in said costs above the amounts heretofore projected or assumed shall be at the sole financial risk of the City.

b. Hard construction costs, including, but not limited to: grading, drainage, lighting, gate control access, security fence, and landscaping, are estimated at \$1,600,000, of which fifty percent (50%) shall be paid with City Project Funds and the remaining fifty percent (50%) in an amount not to exceed \$800,000 shall be paid with Association Project Funds.

Section 304 Deposit of Association Project Funds

a. Initial Deposit. Within the time established in the Schedule of Performance (Attachment No. 3), the Association shall deposit with the hereinafter defined

Funding Control Agent (i) an electronic wire transfer or (ii) a cashier's or certified check in an amount equal to Four Hundred Thousand Dollars (\$400,000) (the "**Initial Deposit**") (including the Regents' pro rata share) of the Association Project Funds before City is obligated to enter into any contracts for engineering or construction work; provided, however, the Association shall not be obligated to deposit the Initial Deposit prior to the Participants approval of the results of the Survey and a mutual determination the Project is capable of being completed under the terms and conditions of this Agreement. Deposit of the Initial Deposit shall be confirmation of said approval. The City shall be under no obligation to pay or earn interest on the Initial Deposit, but, if interest shall accrue or be payable thereon, such interest (when received by the City) shall be the property of the Association and the Regents, proportionately, shall be promptly paid to Association and the Regents.

b. Final Deposit. Within the time established in the Schedule of Performance (Attachment No. 3), the Association shall deposit with the Funding Control Agent (i) an electronic wire transfer or (ii) a cashier's or certified check in an amount equal to Four Hundred Thousand Dollars (\$400,000) (the "**Final Deposit**") (including the Regents' pro rata share) of the balance of the Association Project Funds due before City is obligated consider awarding the bid for the Project.

c. Retention of Initial Deposit. In the event that this Agreement is terminated under the terms and conditions herein, the Initial Deposit shall be retained by the City as liquidated damages; provided, however, that the amount to be retained by the City will not exceed fifty percent (50%) of the total out-of-pocket soft costs incurred by the City up until the date it receives notice from the Association that it has elected to terminate the Agreement.

Section 305 Disbursement of Project Funds

With the exception of the first \$250,000 of City Project Funds which disbursement shall be at the sole and absolute discretion of the City in accordance with Section 303(a), disbursement of the Project Funds shall be pursuant to the terms of a funding control agreement between the Participants and a bonded funding control agent (the "**Funding Control Agent**") mutually acceptable to the Participants (the "**Funding Control Agreement**"). Project Funds shall be disbursed pursuant to draw requests submitted to the Funding Control Agent in accordance with the terms of said executed Funding Control Agreement and shall be subject to the conditions set forth below:

1. The Participants shall, within twenty (20) business days after receipt of a draw request, determine the amount of the draw request to be approved, notify City in writing (which may be via electronic email) and approve the draw request through the Funding Control Agent.

2. Any item in the draw request which is not specifically approved within twenty (20) business days shall be deemed disapproved. In the event a Participant disapproves any portion of the amount requested by City in a draw request, the Participant shall promptly notify the City of the disapproved amount and the reason therefor via electronic email and first class mail.

3. In the event that any item shall be disapproved or deemed disapproved, the Participants shall meet to promptly and in good faith attempt to resolve the matter to their mutual satisfaction.

4. In the event of any dispute, the Participants shall approve the amount of the draw request not in dispute and fund any disputed amounts promptly upon resolution of the dispute.

5. The Participants shall have the right to inspect the City Parcel. Inspection of the City Parcel shall be for the sole purpose of protecting the interests of the Participants and is not to be construed in any manner as an acknowledgment by the Participants that there has been compliance with the plans approved for the Project or that the Project is free of faulty materials or workmanship. The Participants may make or cause to be made such other independent inspections as the Participants may desire for its own protection.

6. The Participants shall have the right to condition any disbursement upon the receipt and approval of such documentation, evidence or information that the Participants may reasonably request, including, but not limited to, estimated or final closing or settlement statements, vouchers, and invoices. In addition, the Participants shall have the right in its sole discretion to make disbursements directly to third parties entitled to such payment.

Section 306 Conditions Precedent to Disbursement of City Project Funds

With the exception of the first \$250,000 of City Project Funds which disbursement shall be at the sole and absolute discretion of the City in accordance with Section 303(a), until satisfaction of the conditions precedent set forth below, as reasonably determined by the City Manager or designee, the City shall not be obligated to disburse City Project Funds:

1. Deposit by the Association to the City of the Initial Deposit in accordance with Section 304 hereof;
2. The Participants have executed the Funding Control Agreement in accordance with Section 305 hereof and the terms and conditions of this Agreement;
3. City and the owner of each Member Parcel, respectively, and the Regents shall have executed a Right of Entry in accordance with Section 308(b) hereunder.

Subject to the notice and cure provisions of Part 5 and the force majeure provisions of Section 604 of this Agreement, the City at its option may terminate this Agreement if any of the conditions precedent to disbursement of City Project Funds set forth above are not satisfied by the Association or waived in writing by the City within the time limits set forth in the Schedule of Performance. Thereafter, this Agreement shall be terminated with respect to the Hayden Tract Site, by written notice thereof to the other, and neither the City nor the Association shall have any further rights against or liability to the other under this Agreement except that the City shall

promptly refund the Initial Deposit to Association subject to and in accordance with Section 304(c).

Section 307 Schedule of Performance

Each party to this Agreement shall perform the obligations to be performed by such party pursuant to this Agreement within the respective times provided in the Schedule of Performance, subject to the extensions of time set forth in Section 604 of this Agreement, and if no such time is provided, within a reasonable time. Without limiting the foregoing, the City Manager shall have the authority to extend any date(s) set forth in the Schedule of Performance or in this Agreement or refer the approval of said extensions to the City Council for approval.

Section 308 Rights of Access; Right of Entry

a. Representatives of the Association shall have the reasonable right of access to the City Parcel without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements.

b. Within the time set forth in the Schedule of Performance and this Agreement, the Association shall cause the owners of the Member Parcels, respectively, and Regents to execute a Right of Entry substantially conforming in form and substance mutually approved by the parties hereto and otherwise consistent with this Agreement for the purpose of City's development of the Improvements.

Section 309 Land Use Requirements

a. This Agreement does not (i) grant any land use entitlement to Association, (ii) supersede, nullify or amend any condition which may be imposed by the City in connection with approval of the development described herein, (iii) guarantee to Association or any other party any profits from the development of the Hayden Tract Site, or (iv) amend any City laws, codes or rules. This Agreement is not a "Development Agreement" as provided in Section 65864 et seq. of the California Government Code.

b. To the extent permitted by law, Association shall defend the City and Agency, and their respective agents, contractors, officers and employees harmless from liability from any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the approval of any and all entitlements or permits arising from the Project by the City and/or the Agency. Association further agrees that such indemnification and hold harmless shall include all defense-related fees and costs associated with the defense of the City and the Agency by counsel selected by the City and the Agency. This indemnification shall not terminate upon the termination of this Agreement or the Close of Escrow but shall survive all applicable causes of action.

Section 310 Due Diligence Period

Association shall have a period of thirty (30) days from and after the last to occur of the date upon which City gives Association access to the City Parcel, or the Effective Date, in which to determine whether (i) the physical condition of the City Parcel (e.g., environmental, geotechnical analyses) is suitable for the Association's intended use of the City Parcel, all title and survey matters are acceptable, and (ii) the Developer will be able to obtain all necessary approvals, permits and/or consents for all signage the Developer determines is necessary for the Project. The thirty (30) day period is hereinafter referred to as the "**Due Diligence Period.**"

The Association shall receive an updated title report and, within ten (10) days of the Effective Date, copies of all documentation regarding the environmental condition of the City Parcel within the Agency's possession. During the Due Diligence Period, the Association shall have inspection rights and access to and entry upon the City Parcel.

The Association shall notify the City on or before the end of the Due Diligence Period, in writing, whether the Association has approved or disapproved the results of its investigation, such approval or disapproval to be given or withheld in the Association's sole and absolute discretion. If the Association disapproves the results of the investigation, such disapproval shall terminate this Agreement, in which case the parties shall have no further obligations to the other under this Agreement. If the Association approves the results of its investigations, this Association shall remain in full force and effect, and the parties hereto shall have all of its rights and obligations as set forth herein. Failure of the Association to notify the City of its approval or disapproval before the end of the Due Diligence Period shall be deemed an approval hereunder.

Section 311 Release

Association, on behalf of themselves and any and all successors and assigns, hereby fully and finally waives, releases and discharges the City, the Agency, and their respective members, officers, employees, agents, contractors and consultants, from any and all present and future claims, demands, suits, legal and administrative proceedings, and from all liability for damages, losses, costs, liabilities, fees and expenses (including, without limitation, attorneys' fees) arising out of or in any way connected with the City's or Association's use, maintenance, ownership or operation of the Hayden Tract Site, any Hazardous Substances on the Hayden Tract Site, or the existence of Hazardous Substances contamination in any state on the Hayden Tract Site, however the Hazardous Substances came to be placed there, known or unknown, except that arising out of the gross negligence or willful misconduct of the City or its employees, officers or agents. The parties agree that, with respect to the release of claims as set forth above, all rights under Section 1542 of the California Civil Code and any similar law of any state or territory of the United States are expressly waived. Association acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides 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."

To the extent of the release set forth in this Section 311, Association hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

Association's Initials

PART 4. USE OF THE HAYDEN TRACT SITE

Section 401 Uses

The Association covenants and agrees for itself, its successors, its assigns and every successor in interest to the City Parcel or any part thereof, that during construction and thereafter the Association, its successors and assignees shall cause the Hayden Tract Site to be devoted to the uses specified in the Redevelopment Plan, the Scope of Development, the Grant Deed, the Association REA, the Regents Easement and this Agreement.

Section 402 Maintenance of the Hayden Tract Site

The Association shall cause the improvements on the Hayden Tract Site to be maintained and shall cause Hayden Tract Site to be kept free from any accumulation of debris or waste materials pursuant to this Agreement, the Grant Deed, the Regents Easement and the Association REA. The Association shall also cause the landscaping required to be planted under the Scope of Development to be maintained in a healthy condition.

Section 403 Obligation to Refrain from Discrimination

The Association covenants and agrees for itself, its successors, its assigns and every successor in interest to the City Parcel or any part thereof, there shall be no discrimination against or segregation of any person, or group of persons, on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the City Parcel nor shall the Association itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the City Parcel.

Section 404 Form of Nondiscrimination and Nonsegregation Clauses

Association shall refrain from restricting the rental, sale or lease of the City Parcel on the basis of race, color, religion, ancestry, national origin, sex, or marital status of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as

those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

Notwithstanding the paragraph, with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall also apply to the above paragraph.

b. In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

Notwithstanding the above paragraph, with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the above paragraph.

c. In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference

to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

Section 405 Effect and Duration of Covenants

The covenants established in this Agreement shall run with the land and, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns, and the City for such periods as set forth herein. The non-discrimination covenants set forth in Section 403 shall remain in effect in perpetuity. Those certain covenants also contained in the Grant Deed, the Right of Entry, the Environmental Indemnity, the Association REA, and the Regents Easement shall remain in effect for the periods specified therein.

PART 5. DEFAULTS, REMEDIES AND TERMINATION

Section 501 Defaults – General

a. Subject to Force Majeure Delay, as such term is defined in this Agreement, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

b. The non-defaulting party shall give written notice of default to the party in default, specifying the default complained of by the non-defaulting party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

c. If a monetary event of default occurs, prior to exercising any remedies hereunder, the non-defaulting party shall give the party in default written notice of such default. The party in default shall have a period of thirty (30) days after such notice is given within which to cure the default prior to exercise of remedies by the injured party.

d. If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the non-defaulting party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the party in default shall have such period to effect a cure prior to exercise of remedies by the non-defaulting party. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and the party in default (i) initiates corrective action within said thirty (30) day period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of

any remedies by the non-defaulting party, but in no event shall such period exceed ninety (90) days from the date such notice is received or deemed received. In no event shall the non-defaulting party be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default.

Section 502 Legal Actions

In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California, in any other appropriate court of that county, or in the Federal District Court in the Southern District of California.

Section 503 Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

Section 504 Acceptance of Service of Process

a. In the event that any legal action is commenced by the Association against the City, service of process on the City shall be made by personal service upon the City Manager or Mayor, or in such other manner as may be provided by law.

b. In the event that any legal action is commenced by the City against the Association, service of process on the Association shall be made by personal service upon the designated agent of Association for service of process and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

Section 505 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 506 Damages

Subject to the notice and cure periods set forth herein, if either party defaults with regard to any of the provisions of this Agreement, the defaulting party shall be liable to the non-defaulting party for any damages caused by such default, and the nondefaulting party may, after such notice and opportunity to cure (but not before) commence an action for damages against the defaulting party with respect to such default.

Section 507 Specific Performance

Subject to the notice and cure periods set forth herein, if either party defaults with regard to any of the provisions of this Agreement, the nondefaulting party, at its option, may, after such notice and opportunity to cure (but not before, unless necessary to prevent immediate harm) commence an action for specific performance of the terms of this Agreement pertaining to such default.

Section 508 Remedies and Rights of Termination

Prior to the Close of Escrow and subject to the notice and cure provisions of Section 501, either party hereto shall have the right to terminate this Agreement by providing written notice to the other in the event that either party is in violation of this Agreement. Thereafter, at the option of either party, this Agreement shall be terminated with respect to the Hayden Tract Site, by written notice thereof to the other, and the City shall promptly refund the Initial Deposit to Association subject to and in accordance with Section 304(c); provided, however, that notwithstanding the foregoing, nothing in this Section 508 shall limit or prohibit the right of either party to pursue any legal right or remedy against the other for the failure to perform its obligations under this Agreement, including without limitation, the right of specific performance to the fullest extent permitted by applicable law.

PART 6. GENERAL PROVISIONS

Section 601 Notices, Demands, and Communications Between the Parties

Notices, demands and communications between the City and the Association shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the City and the Association, as designated in Section 104(a) and Section 104(b) respectively. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 601. Any notice may be transmitted by electronic facsimile transmission followed by delivery of a "hard" copy as provided herein, and shall be deemed delivered upon its transmission. Any notice may be personally delivered (including by means of professional messenger service), shall be deemed received on the documented date of receipt by the recipient. Any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

Section 602 Conflicts of Interest

a. No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

b. The Association warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

Section 603 Nonliability of City Officials and Employees

No member, official, employee or consultant of the City shall be personally liable to the Association, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Association or to its successor, or on any obligations under the terms of this Agreement.

Section 604 Enforced Delay

In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, Acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, or challenges to entitlements within applicable statute of limitations periods, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplies, acts of the other party, acts or failure to act of the City or any other public or governmental agency or entity (other than that acts or failure to act of the City shall not excuse performance by the City) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause.

Section 605 Inspection of Books and Records

The City has the right at all reasonable times to inspect the books and records of the Association pertaining to the Hayden Tract Site as pertinent to the purposes of this Agreement for a period of five (5) years from the Close of Escrow.

Section 606 Approvals

a. Except where this Agreement expressly provides for the approval of either party in its discretion, approvals required of the City or the Association shall not be unreasonably withheld, conditioned or delayed.

b. Except as otherwise expressly provided in this Agreement, approvals required of the City shall be deemed granted by the written approval of the City Manager or designee. City agrees to provide notice to Association of the name of the City Manager or designee on a timely basis, and to provide updates from time to time. Notwithstanding the foregoing, the City Manager or designee may, in his or her sole discretion, refer to the governing body of the City any item requiring City approval; otherwise, "City approval" shall mean and refer to approval by the City Manager or designee.

Section 607 Real Estate Commissions

The City shall not be liable for any real estate commissions, brokerage fees or finders fees which may arise herefrom. The Association agrees to defend and hold the City harmless from any claim by any broker, agent or finder retained by the Association. Each party represents to the other party that it has not incurred any liability for the payment of any real estate commission or brokerage or finder's fee in connection with this Agreement.

Section 608 Working Days/Business Days

As used in this Agreement, the term "working days" and/or "business days" shall mean days other than Saturdays, Sundays, and legal holidays and closures observed by the City, and "days" means calendar days. If the time for performance of an obligation under this Agreement falls on other than a working day, the time for performance shall be extended to the next working day.

PART 7. SPECIAL PROVISIONS

Section 701 Association Reciprocal Easement Agreement

Within the time set forth in the Schedule of Performance, Association shall cause to be executed and delivered to the City in recordable form, a Declaration of Restrictions and Reciprocal Easement Agreement substantially conforming in form and substance to the "Outline of Easements" attached hereto as Attachment No. 5 (the "**Association REA**"), or as otherwise reasonably approved by the City Manager and City Attorney. The Association shall use diligent and good faith efforts to obtain all third party signatures required for an effective consent to the recordation of the Association REA in senior position to any encumbrances, liens or encumbrances on the Member Parcels and the City Parcel. Association hereby acknowledges and agrees that Association shall pay all costs incurred in connection with facilitating, processing, approval and recordation of the Association REA as required herein, including, but not limited to, all processing fees, recording fees, Culver City Community Development Department Planning Division fees and any other fees necessary to satisfy the Association obligations set forth in this Section 701.

Section 702 Regents Easement

Within the time set forth in the Schedule of Performance, Association shall cause to be executed and delivered to the City in recordable form, an Easement Agreement substantially conforming in form and substance to the "Outline of Easements" attached hereto as Attachment No. 5 (the "**Regents Easement**"), or as reasonably approved by the City Manager and City Attorney. The Association shall use diligent and good faith efforts to obtain all third party signatures required for an effective consent to the recordation of the Regents Easement in senior position to any encumbrances, liens or covenants on the Regents Parcel. Association hereby acknowledges and agrees that Association shall pay all costs incurred in connection with facilitating, processing, approval and recordation of the Regents Easement as required herein, including, but not limited to, all processing fees, recording fees, Culver City Community

Development Department Planning Division fees and any other fees necessary to satisfy the Association obligations set forth in this Section 702.

PART 8. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

a. This Agreement shall be executed in four (4) duplicate originals each of which is deemed to be an original. This Agreement and the Attachment hereto constitute the entire understanding and agreement of the parties.

b. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Hayden Tract Site.

c. None of the terms, covenants, agreements or conditions set forth in this Agreement shall be deemed to be merged with the Grant Deed conveying title to the City Parcel.

d. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or the Association, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and the Association. This Agreement and any provisions hereof may only be amended by mutual written agreement by the Association and the City.

PART 9. TIME FOR ACCEPTANCE OF AGREEMENT BY CITY; DATE OF AGREEMENT

This Agreement, when executed by the Association and delivered to the City, must be authorized, executed and delivered by the City within ninety (90) days after this Agreement is signed by the Association, or this Agreement may be terminated by the Association on written notice to the City. The date of this Agreement shall be the date it is signed by the City.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

HAYDEN TRACT OWNERS ASSOCIATION

Dated: _____

By: _____

Its: _____

Dated: _____

By: _____

Its: _____

CITY OF CULVER CITY

Dated: _____

By: _____
JOHN NACHBAR, City Manager

APPROVED AS TO CONTENT:

By: _____
SOL BLUMENFELD, Community Development Director

APPROVED AS TO FORM:

By: _____
CAROL SCHWAB, City Attorney

APPROVED AS TO FORM:

By: _____
THEODORE M. BALLMER, Special Counsel

ATTACHMENT NO. 1

SITE MAP

[Behind this page.]

ATTACHMENT NO. 2

LEGAL DESCRIPTION

[Behind this page.]

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

1.	Execution of the Agreement by the City	Not later than January 31, 2011
2.	Commencement of Due Diligence Period	Not later than the Effective Date of the Agreement.
3.	End of Due Diligence Period	Not later than ninety (90) days after commencement of the Due Diligence Period.
4.	Submission of the Rights of Entry by the Association (and the Regents) to the City; and the City, if applicable.	Not later than ten (10) days after the end of the Due Diligence Period.
5.	Completion of Survey and approval by the Participants.	Not later than thirty (30) days after the end of the Due Diligence Period.
6.	Execution by the Participants of the Funding Control Agreement and Deposit by Association of the Initial Deposit of the Association Project Funds.	Not later than thirty (30) days after completion of the Survey.
7.	Commencement of design process of the Project by the City. Commencement shall include a survey of the Hayden Tract Site in accordance with the Agreement.	Not later than sixty (60) days after the Effective Date of the Agreement.
8.	Completion of the design process of the Project, including a survey of the Hayden Tract Site.	Not later than sixty (60) days after commencement of the design process.
9.	Commencement of drafting of Association REA and UCLA Easement by the Association in accordance with the Agreement.	Not later than sixty (60) days after commencement of the design process.
10.	Commencement of preparation of bid package documents by the City.	Not later than sixty (60) days after completion of the design process.
11.	Deposit with the Funding Control Agent of the Final Deposit by the Association.	Not later than ten (10) days prior to consideration by the City Council for the authorization to go out to bid for

		the Project.
12.	Subject to the approval of the City Council, authorization by the City Council to go out to bid for the Project.	Not later than sixty (60) days after commencement of bid package documents by the City.
13.	Advertise bid towards Project.	Not later than five (5) days after authorization by the City Council to go out to bid for the Project.
14.	Pre-bid job walk.	Not later than twenty (20) days after advertisement of bid.
15.	Bid opening.	Not later than twenty (20) days after pre-bid job walk.
16.	Commencement of bid review.	Not later than five (5) days after bid opening.
17.	Commencement of draft staff report for approval of bid award by the City Council.	Not later than twenty (20) days after commencement of bid review.
18.	Satisfaction of the conditions precedent by the Association to the Close of Escrow.	Not later than ten (10) days prior to City Council consideration of the award of the bid for the Project.
19.	Subject to the approval of City Council, award of the bid by the City Council.	Not later than thirty (30) days after commencement of drafting of staff report.
20.	Deposit by the City into Escrow of the deliverables and Purchase Price.	Not later than three (3) days prior to the Close of Escrow.
21.	Commencement of contract execution period.	Not later than three (3) days after consideration and award of the bid by the City Council.
22.	Close of Escrow. Deposit by the City of City's share of the Project Funds with the Funding Control Agent.	Not later than ten (10) days after completion of the contract execution period.
23.	Notice to proceed issued; Commencement of construction of the Project.	Not later than thirty (30) days after completion of the contract execution period.

24.	Construction period ends.		Not later than three (3) months after commencement of construction.
25.	Subject to approval by the City Council, acceptance by the City Council of the work.		Not later than thirty (30) days after the construction period ends.
26.	Notice of completion filed; Completion of Construction.		Not later than five (5) days after acceptance by the City Council of the work.

ATTACHMENT NO. 4

SCOPE OF DEVELOPMENT

In accordance with this Agreement, the parties hereto shall redevelop the approximately 50 foot wide abandoned railway spur right of way located between Hayden Avenue and Eastham Drive and lying midway between Stellar Drive on the north and Warner Drive on the south (the “**Hayden Tract Site**”) as depicted on the Site Map (Attachment No. 1). The Hayden Tract Site straddles the rear lot lines of Lots 18 through 37 of Tract No. 13503. The properties participating would be: 3578 Hayden Avenue, 8500 Stellar Drive, 8476 Stellar Drive, 8454 Stellar Drive, 8432 Stellar Drive, 3623 Eastham Drive, 8439 Warner Drive, and the City-owned 25 ft. by 379 ft. parcel lying within the Hayden Tract Site. The Hayden Tract Site would be converted to a landscaped paved parking lot with approximately 121 parking spaces with a one-way, one-lane drive lane from Hayden Avenue (on the west side) to Eastham Drive (on the east side), including providing a green belt of approximately 120 trees. The Hayden Tract Site will be managed by the Association following construction (project construction will be managed by the City).

ATTACHMENT NO. 5

OUTLINE OF ASSOCIATION RECIPROCAL EASEMENT AGREEMENT

1. Project summary. In accordance with this Agreement, the parties hereto shall redevelop the approximately 50 foot wide abandoned railway spur right of way located between Hayden Avenue and Eastham Drive and lying midway between Stellar Drive on the north and Warner Drive on the south (the "**Hayden Tract Site**") as depicted on the Site Map (Attachment No. 1). The Hayden Tract Site straddles the rear lot lines of Lots 18 through 37 of Tract No. 13503. The properties participating would be: 3578 Hayden Avenue, 8500 Stellar Drive, 8476 Stellar Drive, 8454 Stellar Drive, 8432 Stellar Drive, 3623 Eastham Drive, 8439 Warner Drive, and the City-owned 25 ft. by 379 ft. parcel lying within the Hayden Tract Site. The Hayden Tract Site would be converted to a landscaped paved parking lot with approximately 121 parking spaces with a one-way, one-lane drive lane from Hayden Avenue (on the west side) to Eastham Drive (on the east side), including providing a green belt of approximately 120 trees. The Hayden Tract Site will be managed by the Association following construction (project construction will be managed by the City).

2. Owner's association. The City shall sell the City Parcel to the Association. The Association will then grant a reciprocal easement over the City Parcel to the participating owners for access through the Hayden Tract Site and manage the project for the benefit of the participating owners.

3. Participating owners. Each participating owner will grant a reciprocal easement over its parcel to each of the other participating owners for access along the Hayden Tract Site. Each participating owner will grant an exclusive easement over its portion of the Hayden Tract Site to the Association to operate, manage, maintain, repair, and replace the improvements within the Hayden Tract Site. Each participating owner will have the exclusive use of a designated number of parking stalls located within the Hayden Tract Site on its parcel as more particularly described in Schedule 1 attached hereto and incorporated herein. Each participating owner will covenant to pay the Association its share of the annual costs of operating the project and the Association. The reciprocal easement agreement will provide that in the event a participating owner defaults in the performance of its obligations the Association will have, among its rights to enforce performance, the right to cure the default and place a lien on the defaulting owner's parcel for the costs to cure the default.

*Additionally, the owner of 8476 Stellar Drive will have to grant limited parking rights to the owners of 8454 Stellar Drive and 3623 Eastham Drive/8439 Warner Drive for several parking spaces, and the owner of 8454 Stellar Drive will have to grant limited parking rights to the owner of 3623 Eastham Drive/8439 Warner Drive for several parking spaces.

4. Benefits to participating owners. The Hayden Tract Site within each participating owner's parcel will be improved with paving, parking stalls, lighting, landscaping, and vehicle access from Hayden Avenue through to Eastham Drive. Management and maintenance of the project will be centralized in the Association. Property values will be enhanced.

5. Burdens on participating owners. Each participating owner's parcel will be burdened with (A) a reciprocal easement (across approximately the rear 25 ft. of the parcel) granted to the

Association and the other participating owners for access along the Hayden Tract Site, (B) the rights granted to the Association to manage and maintain the project, and (C) the obligation to participate in the Association, pay the periodic assessments assessed by the Association, and abide by the rules and regulations promulgated by the Association for the governance of the project.

6. Requirements regarding lenders. The project will enhance the value of each lender's security by increasing the value of the property. In order to accomplish the project, each lender will have to (A) consent to the proposed construction and the grant of reciprocal easements, and (B) subordinate its deed of trust to the reciprocal easement agreement and agree to be bound by and perform the obligations under the reciprocal easement agreement in the event that lender acquires title as a result of the borrower's default. The reciprocal easement agreement will contain lender protection provisions so as to satisfy the lenders' concerns, subject to approval by the City Manager and City Attorney, in their sole and absolute discretion, including rights of lenders to cure defaults by participating owners, subordination of any Association liens to the lien of the first trust deed, sending copies of notices of default to lender, and other matters.

7. Regents Easement. As set forth in the letter from Mr. Brad A. Erickson dated September 22, 2011 and attached hereto as Exhibit A, Regents has expressed its desire to participate in the Project under the basic terms as described in the February 14, 2011 letter (attached thereto). City and the Association mutually agree to cooperate and use commercially reasonable efforts to ensure Regents participates under the terms set forth therein and as otherwise consistent with the terms and conditions of this Agreement.

EXHIBIT A

REGENTS LETTER

[Behind this page.]

ATTACHMENT NO. 8

PROJECT BUDGET

<u>Item</u>	<u>Cost</u>	<u>City</u>	<u>Association</u>
Design/Plans	\$200,000		
ALTA Survey	\$ 50,000		
Total A&E:	\$250,000	\$250,000	\$0
Construction/Estimated:	\$1,600,000*	\$800,000	\$800,000
		(50%)	(50%)
• Grading • Drainage • Paving • Lighting • Gate Control Access • Security Fence • Landscaping			
Total Costs:	\$1,850,000	\$1,050,000	\$800,000
Estimated Cost Per Stall (including soft costs)		\$8,678	\$6,612
Annual Operation & Maintenance		\$0.00	\$11,800
Annual Liability Insurance		\$0.00	\$3,103
Consultant to Form Association		\$0.00	\$7,500

*Construction Cost based on 121 concrete parking spaces at \$13,233 each

SCHEDULE 1

ALLOCATION OF PARKING SPACES

[Behind this page.]