

MEETING DATE: 03/07/11

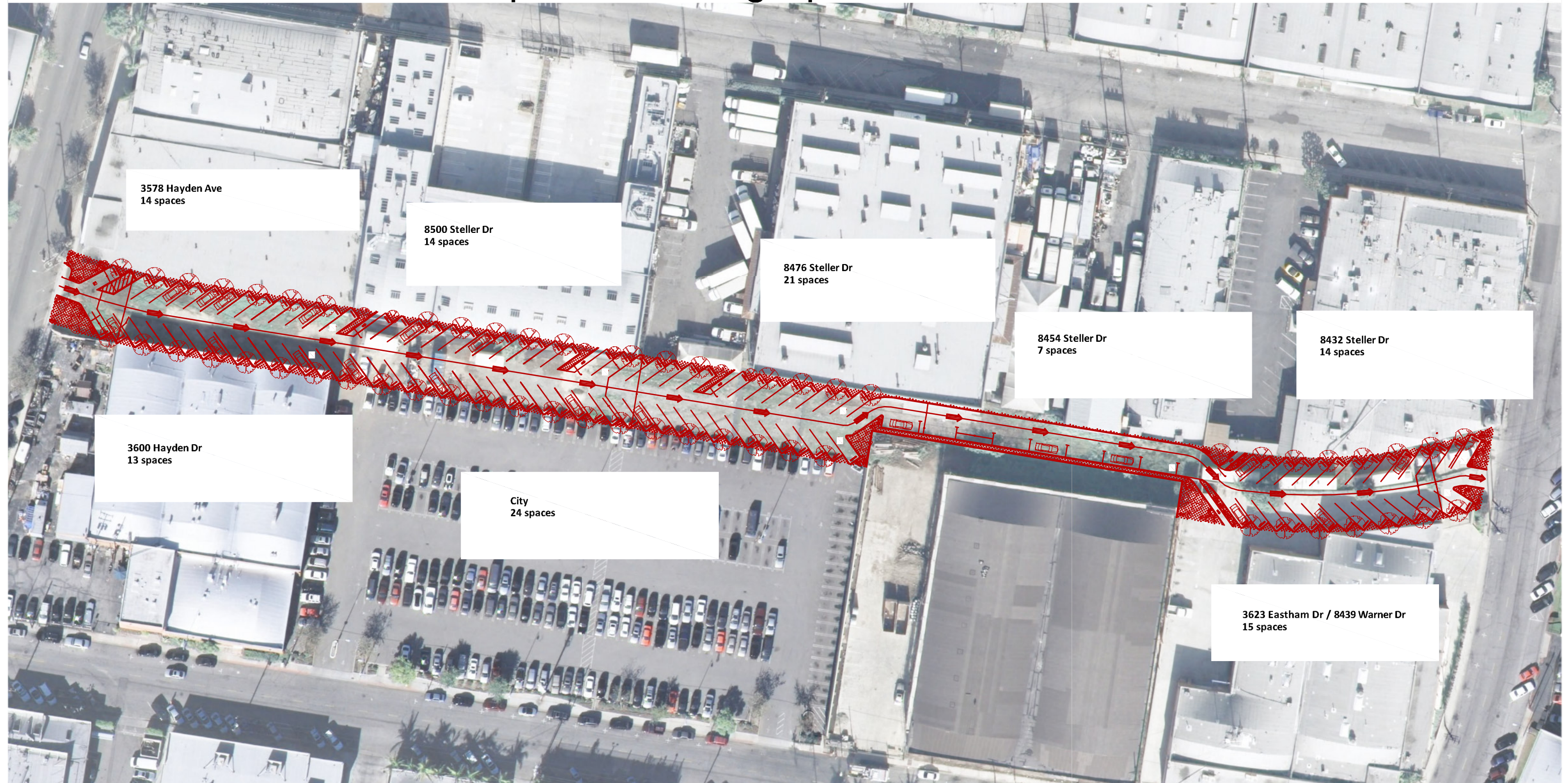
AGENDA ITEM: REDEVELOPMENT AGENCY BOARD AND CITY COUNCIL JOINT ITEM: Approval of a Commitment Agreement Letter and Memorandum of Understanding for a Parking Lot Project Located along the former Metropolitan Transportation Authority Spur between Hayden Avenue and Eastham Drive.

ATTACHMENTS

<u>Item</u>	<u>Description</u>	<u>Pages</u>
1	Spur Parking Lot Conceptual Plan	1
2	Parking Allocation Table	2
3	Memorandum of Understanding	3-14
4	Notices of Exemption	15-16

SPUR PARKING LOT PLAN

Proposed Parking Space Allocations



0 30' 60' 120'

SCALE 1" = 30'



PRELIMINARY DRAFT

**SPUR PARKING LOT PROJECT: Alternative Parking Space Reallocation Based on Percentage of Ownership
Includes Annual Maintenance, Annual Insurance, and Association Formation Costs**

AGENCY BOARD MUST APPROVE ALL AGENCY PARTICIPATION IN PROJECT

OWNER	ADDRESS	SPUR SQUARE FEET	PERCENTAGE OF TOTAL SPUR	NUMBER OF PARKING SPACES ¹	ANNUAL MAINTENANCE ²	ANNUAL INSURANCE COST ³	ASSOCIATION FORMATION COST ⁴
Eastham Culver Associates	3623 Eastham Drive, 8439 Warner Dr.	5,624	12%	15	\$1,444	\$380	\$918
City of Culver City	8511 Warner	9,058	20%	24	\$2,326	\$612	\$1,478
Regents of the Univ. of California	3600 Hayden Drive	4,884	11%	13	\$1,254	\$330	\$797
Jack E & Blanche Howard Trust	3578 Hayden Drive	5,169	11%	14	\$1,327	\$349	\$844
8500 Steller Drive LLC	8500 Steller Drive	5,237	11%	14	\$1,345	\$354	\$855
8476 Steller Drive	8476 Steller Drive	7,875	17%	21	\$2,022	\$532	\$1,285
8454 Steller Drive LLC	8454 Steller Drive	2,656	6%	7	\$682	\$179	\$433
Gregory Toomey Trust	8432 Steller Drive	5,451	12%	14	\$1,400	\$368	\$890
	TOTAL	45,954	100%	122	\$11,800	\$3,103	\$7,500

¹ Assumes no driveways and reallocation of parking spaces based on percentage of land area owned.

² Annual Maintenance Costs Estimated at \$11,800

³ Directors & Officers: \$1,305 annually for \$1M with \$5K deductible; Commercial General Liability is \$1,798 for \$1M per occurrence/\$2M aggregate w/\$500 deductible.

⁴ \$7,500 one-time fee estimate prepared by Alex Steinberg to write the bylaws, etc.

**MEMORANDUM OF UNDERSTANDING
[SPUR PARKING LOT PROJECT]**

This **MEMORANDUM OF UNDERSTANDING** (this "**MOU**") is entered into as of _____, 2011 by and among the Culver City Redevelopment Agency (the "**Agency**") and Eastham Culver Associates, a _____, the Regents of the University of California, a _____, Moise Emquies, a _____, Steller Associates LLC, a _____, 8476 Steller Drive LLC, a _____, 8454 Steller Drive LLC, a _____ the Gregory Toomey Trust, a _____ (collectively, and jointly and severally, the "**Owner**").

RECITALS

A. The purpose of this MOU is to effectuate the Redevelopment Plan 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 (the "**Redevelopment Plan**").

B. The parties hereto desire to redevelop certain property along the former Metropolitan Transportation Authority railroad spur (the "**Metro Spur**") located between Hayden Avenue and Eastham Drive in the Hayden Tract of Culver City, California and more particularly depicted on Exhibit 1 (the "**Site Map**") as a linear landscaped parking lot creating approximately 121 parking spaces (the "**Project**").

C. The Metro Spur is located within the geographical area of the Redevelopment Plan for the Culver City Redevelopment Project, Component Area 3 (the "**Project Area**"). The proposed Project complies with and furthers the goals and objectives of the Redevelopment Plan.

D. The City of Culver City (the "**City**") owns an approximately 25 foot wide portion of the Metro Spur abutting the parking lot located at 8511 Warner Drive (the "**Warner Lot**") as depicted in the Site Map.

E. The Agency intends to construct the Project and contribute up to \$1,050,000 for the costs thereof, including all of the soft costs for design and one-half of the construction costs under the terms and conditions set forth herein below. The Owner intends to purchase the property described in Recital D, contribute to the construction costs for the Project and thereafter maintain the improvements on the Metro Spur under the terms and conditions set forth herein below.

F. The redevelopment of the Metro Spur, and the fulfillment generally of this MOU, 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.

G. The Agency may assign its obligations under this commitment to the City of Culver City, but would not be released from those obligations without owners approval related to the improvements to the Metro Spur.

TERMS

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants and agreements contained herein, Agency and Owner do hereby agree, on behalf of themselves and each of their successors and assigns, as follows:

1. The Agency shall:
 - a. Provide all administrative and professional services required for design and construction of the Project.
 - b. Act with full authority to execute and comply with the terms of design and construction contracts for the Project.
 - c. Develop the contract terms and conditions for design and construction of the Project.
 - d. Assign qualified personnel to the Project and be responsible for the general administration of the work performed on the Project through its work force, consultants, subconsultants, and approved contractors.
 - e. Provide quality assurance services during design and construction to ensure all required inspections, tests, submittals, and other contract requirements are met by the consultants and contractor.
 - f. Ensure compliance with all necessary entitlement and construction permits as required by law.
 - g. Inform Owner of any potential cause(s) which are reasonably likely to result in the delay of design or construction.
 - h. Provide Owner with a Project budget breakdown into the following categories: Third Party Consulting Fees (including Third Party

Engineering Consultant Fees), Permits, Construction, Contingency, and Construction Management.

- i. Provide Owner with a copy of all contracts relating to the Project, including contract change orders and amendments.
- j. Provide Owner with a Summary of Construction costs including a copy of all invoices and charges related to the Agency funded construction costs for review and approval prior to payment, including but not limited to construction and permit costs. Owner will not unreasonably withhold approval so long as proper documentation to substantiate each invoice for payment of construction costs is received. Once approved Owner will return each approved invoice to the Agency and, subject to the condition precedent set forth in Paragraph 1.k of this MOU, the Agency can then use Agency funds to make the payment for each approved invoice.
- k. Ensure that the necessary Agency funds for soft costs not to exceed \$250,000 and one-half the construction costs not to exceed \$800,000 (a total of \$1,050,000) in accordance with the Project Budget as set forth in Exhibit 2 is in place and approved for expenditure; provided, however, that as a condition precedent to the expenditure of any Agency funds pursuant to this MOU, the following shall have occurred within 180 days of approval of this MOU:

(1) Owner shall submit to the Agency Assistant Executive Director for review and approval an Operation and Maintenance Program to re-open, operate and maintain the improvements on the Metro Spur, including landscaping (the "**Improvements**"). Said Operation and Maintenance Program shall include, among other things, a plan and budget for the continued repair and replacement of the Improvements. The Agency Executive Director will not unreasonably withhold approval of the Operation and Maintenance Program submitted by the Owner provided that the Operation and Maintenance Program provides a proforma of (i) the sources of funds available; and (ii) the estimated costs demonstrating the feasibility of the parking on the Metro Spur being operated and maintained by a qualified and financially capable operator(s) with expertise in the areas of maintenance and management; and

(2) Owner shall submit to the Agency Assistant Executive Director for review and approval evidence demonstrating the undersigned have formed an association, at Owner's cost, for the purpose of insuring and meeting the obligations of this MOU,

Memorandum of Understanding

including Paragraph 2.e. below (the “**Property Owners Association**”); and

(3) Owner shall submit to the Agency Assistant Executive Director for review and approval evidence demonstrating the undersigned have executed reciprocal easements to allow for the use and access to common parking on the Metro Spur.

- I. Agency shall make available to any of the undersigned additional Agency funds in the form of a 5-year loan at 6% interest secured by real property for the purpose of assisting the undersigned with the initial capital outlay by the Owner towards construction costs for the Project.
2. The Owner shall:
 - a. Ensure that the necessary Owner funding in an amount not to exceed \$800,000 for the Project is in place and approved for expenditure; provided, however, that as a condition precedent to the expenditure of any Owner funds pursuant to this MOU, the following shall have occurred:
 - (1) The Owner shall have successfully made arrangements with the City for temporary parking lost as a result of the construction during the Project (including special permit parking at no cost to the undersigned) along the adjacent streets or, alternatively, to phase the Project so that parking can be provided on the Metro Spur as construction progresses; and
 - (2) The Property Owner Association shall have obtained fee simple title from the City described in Recital D for 24 parking spaces that shall be reallocated for the benefit of the undersigned by the Property Owner Association.
 - b. Review any changes in the scope of work to be done on the Project and ensure that if approval is needed it shall not be unreasonably or untimely withheld.
 - c. Participate in Project team design meetings and on-site construction meetings as necessary.
 - d. Participate in and approve the final inspection of the Project prior to final acceptance; provided, however, that such approval shall not be unreasonably or untimely withheld.

- e. The Owner shall reopen, operate, maintain and repair the Improvements in accordance with the Operation and Maintenance Program which is approved pursuant to Paragraph 1.k(1) of this MOU, and shall be responsible for the care and maintenance of the Improvements and the cost of any and all capital repairs and/or replacements of capital improvements to the Improvements.

3. General Conditions

- a. The parties hereto shall comply with all federal, state, and local laws and ordinances applicable to the work to be performed under the terms of this MOU.
- b. This MOU shall be effective on and from the date above-written.
- c. Notices required or permitted pursuant to this MOU shall be sufficiently given in writing and either served personally or mailed by U.S. mail to:

To Agency: Culver City Redevelopment Agency
 9770 Culver City Blvd.
 Culver City, CA 90232
 Attention: Mr. Sol Blumenfeld
 Assistant Executive Director

To Owner: _____

With Copy To: _____

With Copy To: _____

With Copy To: _____

With Copy To: _____

With Copy To:

With Copy To: _____

With Copy To: _____

or such other person and address as any party shall advise the other, in writing, in conformity with this Paragraph 3.c.

- d. In the event of litigation or mediation with respect to this MOU or the interpretation thereof, and in respect to all disputes or controversies arising hereunder, this MOU shall be construed in accordance with, and governed by, the laws of the State of California. Venue in respect to any suit or proceeding brought under or in connection with this MOU shall be the County Los Angeles, State of California.
- e. This MOU and all rights and obligations contained herein shall be in effect whether or not either of the parties to this MOU have been succeeded by another entity, and all rights and obligations of the parties signing this MOU shall be vested and binding on their successor of interest.
- f. No failure of any party to insist on strict performance by any other party of any covenant, agreement, term, or condition of this MOU or to exercise any right or remedy consequent of a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this MOU, but each and every covenant, agreement, term and condition of this MOU shall continue in full force and effect without respect to any other existing or subsequent breach.
- g. The Owner agrees to defend, indemnify, protect, and hold the Agency, and their officers and employees harmless from any and all claims asserted or liability established for damages or injuries to any person or property, including injury to the Agency's employees, agents, or officers, which arise from or are connected with or are caused or claimed to be caused solely by the acts or omissions of the Owner and its contract agents, officers or employees resulting from the design and construction of the Project and all expense of investigating and defending against same; provided, however, that the Owner's duty to indemnify and hold harmless shall not include any claim or liability arising from the established sole negligence or

willful misconduct of the Agency, their agents, officers or employees.

- h. This MOU represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This MOU may not be modified or altered except in writing signed by all parties.
- i. The parties agree that this MOU is made solely for the benefit of the Agency and Owner and no third person or entity shall be deemed to have any rights or remedies hereunder.
- j. Termination of this MOU shall be effective after completion of the Project in accordance with this MOU and all attachments.
- k. Owner shall submit for Agency approval all corporate and partnership or limited liability formation documents and authorizing resolutions, as applicable.
- l. Each person executing this MOU represents and warrants that he or she has the authority to bind his or her respective party to the performance of its obligations hereunder and that all necessary board of directors', shareholders', partners' and/or other approvals have been obtained.
- m. This MOU may not be modified, amended or otherwise changed in any manner, except by a written amendment executed by all parties, or their respective successors in interest.
- n. This MOU may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument.

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the day and year first written above.

"AGENCY"

CULVER CITY REDEVELOPMENT AGENCY,
a community redevelopment agency organized and existing under the California
Community Redevelopment Law

By: _____
Name: _____
Its: _____

ATTEST:

Agency Secretary

Approved as to form and legality:
Kane, Ballmer & Berkman
Agency General Counsel

By: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

“OWNER”

EASTHAM CULVER ASSOCIATES
 3623 Eastham Drive, 8439 Warner Drive
 Culver City, CA 90232

REGENTS OF THE UNIVERSITY OF
 CALIFORNIA
 3600 Hayden Drive
 Culver City, CA 90232

MOISE EMQUIES
 3578 Hayden Drive
 Culver City, CA 90232

Steller Associates, LLC
 8500 Steller Drive
 Culver City, CA 90232

8476 STELLER DRIVE LLC
 8476 Steller Drive
 Culver City, CA 90232

8454 STELLER DRIVE LLC
 8454 Steller Drive
 Culver City, CA 90232

GREGORY TOOMEY TRUST
 8432 Steller Drive
 Culver City, CA 90232

EXHIBIT 1

SITE MAP

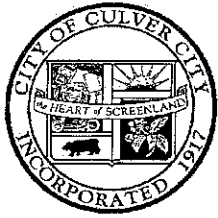


HAYDEN TRACT SPUR - PROPOSED PARKING ALLOCATIONS - 121 SPACES

3578 Hayden Avenue - 14 Spaces	8500 Stellar Drive - 14 Spaces	8476 Stellar Drive - 21 Spaces	8432 Stellar Drive - 14 Spaces
3600 Hayden Avenue - 13 Spaces	City - 16 Spaces	8454 Stellar Drive - 7 Spaces	3623 Eastham Drive/ - 22 Spaces 8439 Warner Drive

EXHIBIT 2**PROJECT BUDGET**

<u>Item</u>	<u>Estimated 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>



Culver CITY

(310) 253-5710

FAX (310) 253-5721

PLANNING DIVISION

9770 CULVER BOULEVARD, CULVER CITY, CALIFORNIA 90232-0507

NOTICE OF EXEMPTION

DATE: March 2, 2011

☒ Los Angeles County Clerk
 Attention: Environmental Filing/Registration
 12400 Imperial Highway, Suite 2001
 Norwalk, CA 90650

☐ Governor's Office of Planning and
 Research
 1400 Tenth Street, Room 121
 Sacramento, CA 95814

Project Description: The sale of City of Culver City owned property along a former Metropolitan Transportation Authority (MTA) Railroad Spur measuring approximately 9,058 square feet in are to the other Spur property owners' Property Owners Association through a Purchase and Sale Agreement for a parking lot project.

Title and Case No.: N/A

Address/Location: Former MTA Railroad Spur between Hayden Avenue and Eastham Drive.

APPLICANT: City of Culver City

CULVER CITY APPROVAL ACTION:

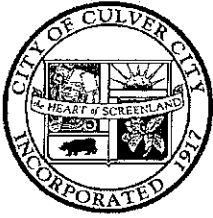
1. City Council on March 7, 2011

The decision making body, in approving the project described above, determined that the project is exempt from further environmental impact assessment per the CEQA guidelines:

Type of Exemption: Categorical
 CEQA Section: 15312
 Class: 12

2. Reason why project is Exempt: The project consist of the sale of surplus government property which does not have a significant value for wildlife habitat or other environmental purpose and the property due to size, shape and accessibility is incapable of independent development or use.

Thomas Gorham, Title: Planning Manager



Culver CITY

(310) 253-5710

FAX (310) 253-5721

PLANNING DIVISION

9770 CULVER BOULEVARD, CULVER CITY, CALIFORNIA 90232-0507

NOTICE OF EXEMPTION

DATE: March 2, 2011

☒ Los Angeles County Clerk
 Attention: Environmental Filing/Registration
 12400 Imperial Highway, Suite 2001
 Norwalk, CA 90650

☐ Governor's Office of Planning and
 Research
 1400 Tenth Street, Room 121
 Sacramento, CA 95814

Project Description: Development of a linear landscaped parking lot creating approximately 121 parking spaces along a former Metropolitan Transportation Authority (MTA) Railroad Spur property.

Title and Case No.: N/A

Address/Location: Former MTA Railroad Spur between Hayden Avenue and Eastham Drive.

APPLICANT: City of Culver City Redevelopment Agency

CULVER CITY APPROVAL ACTION:

1. Redevelopment Agency on March 7, 2011

The decision making body, in approving the project described above, determined that the project is exempt from further environmental impact assessment per the CEQA guidelines:

Type of Exemption: Categorical
 CEQA Section: 15332 (d)
 Class: 32

2. Reason why project is Exempt: 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.

Thomas Gorham, Title: Planning Manager