

DOCKETED	
Docket Number:	23-OPT-02C
Project Title:	Darden Clean Energy - Compliance
TN #:	268945
Document Title:	Confidentiality Request Option Agreement
Description:	N/A
Filer:	Will Lutkewitte
Organization:	Intersect
Submitter Role:	Applicant
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California Energy Commission
1516 Ninth Street
Sacramento, California 95814

**RE: Docket No. 23-OPT-02C – Darden Clean Energy Project
Application for Confidential Designation - Requested Copy of Option Agreement
Option Agreement with prior landowner of Harlan BAAH parcel**

To whom it may concern:

Pursuant to California Code of Regulations, Title 20, Section 2505, IP Darden I, LLC and Affiliates c/o Intersect USA, LLC ("IP Darden"), as owner and operator for the Darden Clean Energy Project ("Project"), hereby submits an Application for Confidential Designation ("Application") to the California Energy Commission ("CEC") requesting that the CEC designate the information ("Option Agreement") IP Darden is submitting to the CEC with this Application as confidential on the basis that the terms and conditions of the agreement are proprietary and confidential.

To support the Application for Confidential Designation, the following information has been provided and is consistent with the information requested in the Application for Confidential Designation (Title 20 Cal. Code. Regs., § 2505 Et Seq.) Revised 4/2023.

1. Contact Information (20 CCR 1208.1.)

Applicant Name: IP Darden I, LLC and Affiliates c/o Intersect USA, LLC
Address: 9450 SW Gemini Drive, PMB #68743 Beaverton, Oregon 97008-7105
Proceeding Name: Darden Clean Energy Project
Docket Number: 23-OPT-02C

2. Title, date, and description (including number of pages) of the information or data for which you request confidential designation. (20 CCR 1208.1.)

Option Agreement For Purchase And Sale Of Real Property And Escrow Instructions in its entirety.

3. Specify the part(s) of the information or data for which you request confidential designation. (If the data is in charts or spreadsheets, highlighting is sufficient.) (20 CCR 2505(a)(1)(B.))

The Public Records Act exempts "corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California." (Gov't Code § 7927.605(a).) The Public Records Act also exempts "any record by demonstrating ... on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Gov't Code § 7922.000.)

The option agreement is corporate proprietary business information that is not publicly available and constitutes commercially sensitive and valuable information that should be shielded from disclosure to the public and competitors. No public interest is served by disclosing this proprietary information.

- 4. State and justify the length of time the CEC should keep the information or data confidential. The term requested must be relevant to the stated basis for confidentiality. (20 CCR 2505(a)(1)(C.))**

It is requested that the entire option agreement be kept confidential indefinitely. Request for confidentiality is justified due to how Intersect structures land agreements with respective landowners is proprietary business information that enables the business to remain competitive. See above.

- 5. State the provision(s) of the California Public Records Act or other law that allows the CEC to keep the information or data confidential and explain why the provision(s) apply to that material. (See Gov. Code, §§ 7920.000-7930.215.) (20 CCR (a)(1)(D.))**

See citations above in Response 3.

- 6. Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others (20 CCR (a)(1)(D.)).**

See response 3. Above. In the interest of maintaining the integrity and effectiveness of charitable activities, it is essential that the agreement remains confidential. Public disclosure of such agreements may deter future parties from entering into such agreements, or allow competitors to outbid for land that the business needs to remain viable.

- 7. State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why. (20 CCR 2505(a)(1)(E.))**

There is no purpose to aggregating this information with other information. This question is not relevant to this context.

- 8. State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred. (20 CCR 2505(a)(1)(F.))**

The information contained within the option agreement has not been disclosed to a person other than an employee or contractor(s) working on behalf of IP Darden, and only when such individual has executed a non-disclosure agreement, and the counterparty of the executed agreements.

Certification

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and I am authorized to make the application and certification on behalf of the applicant.

IP Darden I, LLC and Affiliates

Signed by:



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By: John Martinez, Chief Operating Officer