



**Irwindale Community Redevelopment Agency and
Irwindale Housing Authority
5050 N. Irwindale Avenue
Irwindale, CA 91706**

REQUEST FOR QUALIFICATIONS (RFQ)

FOR THE DEVELOPMENT OF AFFORDABLE HOUSING

Release Date: December 2, 2009

Deadline for Submission:

January 11, 2010

by 5:00 p.m.

INTRODUCTION

The Irwindale Community Redevelopment Agency and Irwindale Housing Authority (collectively, “Agency”) is seeking a qualified for-profit or non-profit developer or team to develop approximately 11 affordable single-family, detached homes and rehabilitate one existing 1,398 square foot single family home (“Project”). The Project will be built as an in-fill on lots located throughout the City of Irwindale. The Project will further include the selection of qualified income-restricted purchasers of the homes through an Agency-approved first-time homeowner selection program, including the sale of an additional home recently developed and owned by the Agency, which remains vacant. The Agency expects to participate financially in the Project, to the extent necessary to offer high quality, eco-friendly (minimum of LEED Certification or its equivalent) single-family, detached homes to very low, low, and moderate-income families at an affordable purchase price.

The Agency is seeking the services of a development team with a proven record of successfully completing similar projects.

Qualified developers must provide a statement of qualifications (“proposal”) which includes a description of the following : 1) a sound financing structure for the development of the Project, 2) a competitive value to the Agency for the purchase of its properties and development of the Project, 3) quality design and construction, 4) a housing project that includes eco-friendly (minimum of LEED Certification or its equivalent) amenities and land use design; 5) a proven record of successful development and sales of affordable housing. The Agency intends to select and enter into an exclusive negotiation agreement (“ENA”) with the best-qualified developer for the Project to confirm the parties’ understandings towards the negotiations of a disposition and development agreement (“DDA”). The selected developer will work with the Agency and City staff to design and develop the program. All aspects of the Project will be subject to negotiation. A DDA will be required as a condition of the purchase of the land and development of the Project. The Agency further anticipates providing a subsidy through silent second trust deeds to qualified income-restricted purchasers and recording 45-year covenants against the titles of such housing units. However, the developer may propose an alternative structure for any needed Agency financial assistance. The only source of funds to be utilized by the Agency for this project will be provided by the Agency’s 20% set-aside funds.

BACKGROUND

The City was founded in 1860 and incorporated in 1957. Located in the heart of the San Gabriel Valley, and just 20 miles east of Downtown Los Angeles, Irwindale is a small, thriving business community in the midst of one of the world’s most productive regions! Approximately 1,500 residents live in approximately 450 single-family housing units in the City. The City’s housing units also includes one multi-family 16-unit senior apartment complex and scattered secondary housing units. Very little land is available for housing development due to the extensive mining operations.

Irwindale has enjoyed progressive growth, guided by a unique vision distinguishing it as a city that takes pride in its close-knit, family-oriented community environment. Most of Irwindale’s residents are families who have lived here for many years, some of whom founded the City in the early 1900’s. Due to the small number of residents, the community is very sensitive about the

rate of housing growth and therefore the rate of growth is to be consistent with the needs of the existing community.

PROJECT SETTING AND LOCATION

The Irwindale Community Redevelopment Agency serves to improve economic opportunities and affordable living conditions within and near established redevelopment project areas through effective and efficient utilization of California redevelopment law and appropriate use of tax increment revenues.

The Agency owns 3 parcels, that are suitable for housing, including one 1,398 square foot single family home requiring rehabilitation and one 1,838 square foot home that was recently developed and would be included in the sale of all homes though the first-time homeowner program administered by the selected developer. Additionally, the Agency is currently negotiating the acquisition of two additional parcels to be included as part of this Project. All of the properties are located within existing residential neighborhoods and are identified in the site map (Attachment “A”). The Agency anticipates that 12 total units may be developed on the following sites, including the 1 unit being rehabilitated. This figure excludes the 1 housing unit already developed and described in Site 5 below. Developer shall be solely responsible for assuring the number of units that may actually be developed on parcels 1, 3 and 4, subject to the development standards of the City, including any approved density bonus.

Site 1: 4804 Irwindale Avenue (APN: 8417-033-953 & 954) AGENCY OWNED
This site is located in an existing residential neighborhood and bordered by Irwindale Avenue and Calle Breceda. The site is currently zoned Heavy Commercial – Residential (C-3) and Agricultural (A-1). This site will have to be re-zoned to Single-Family Residential. The site is approximately 1 acre. It is anticipated that this site may accommodate 6 housing units.

Site 2: 4655 Fraijo Avenue (APN: 8417-001-917) AGENCY OWNED
There is currently a 1,383 square foot single-family home located on this property which was built in 1987. This site is zoned Agricultural (A-1). The home is in good condition and requires some rehabilitation, including electrical, roof, interior/exterior paint, replacement of appliances, flooring, replacement of HVAC, and replacement of other fixtures. The home has 3 bedrooms and 1 ½ baths.

Site 3: 4618 Nora Avenue (APN:8417-002-007) UNDER NEGOTIATIONS
The lot is approximately 20,900 square feet and zoned Agricultural (A-1). No zone change would be required. It is anticipated that this site may accommodate 3 housing units.

Site 4: 15808 Hidalgo Street (APN:8417-028-022) AGENCY OWNED
The property is currently zoned Residential (R-2) and would not require a zone change. The lot is approximately 9,100 square feet. It is anticipated that this site may accommodate 2 housing units.

Site 5: 2449 Alice Rodriguez Circle (APN:8533-016-931)

AGENCY OWNED

This 1,838 square foot home was developed by the Agency, through Olson Urban Housing, LLC., in 2005 and remains vacant. The home has 4 bedrooms and 2 baths. The Agency does not anticipate that any significant amount of work is required to sell this home.

SCOPE OF WORK

The work to be performed by the selected developer includes, but is not limited to:

1. Acquiring all sites listed above from the Agency;
2. Securing all entitlements, permits, subdivision map, and construct required public improvements, if applicable;
3. Complying with all applicable local, State, and Federal environmental clearance requirements;
4. Working in collaboration with the Agency on all aspects of development, design, financing and construction of the Project;
5. Working with community and neighborhood groups as part of the planning process;
6. Securing acquisition and construction financing for the Project;
7. Producing a development plan for the creation of a high quality and aesthetically pleasing single family very low, low, and moderate income housing; and
8. Implementing the first-time homeowner selection process approved by the Agency Board for the sale of the housing units and handling all sales transactions.

PROJECT OBJECTIVES

The objective of this Request for Qualifications is to invite prospective developers to submit sufficient information regarding their development expertise, their approach to development, and financial capability. This will enable the Agency to select a developer for a for-sale residential housing program.

MARKETING AND SALES

Through past projects the Agency has established a detailed method for determining what individuals will have priority for purchasing the homes through a first-time homeowner selection process. The developer will be expected to work with the Agency to update the methodology. The developer will further be expected to work with each prospective home owner through occupancy, assuring that they meet the priority criteria, qualify as very low, low or moderate income individuals or families (if purchasing subsidized housing), as defined by Health and Safety Code Section 50093 and the ability to secure financing for the 1st Trust Deed. Preference will be given to a developer who is able to arrange private financing for the homeowners.

SUBMISSION REQUIREMENTS

Each developer who submits proposals is requested to provide one (1) unbound original and six (6) copies of the proposals. Proposals must be complete and sealed. Facsimile and electronic

mails copies are not acceptable. In order to simplify the proposal evaluation process, proposals shall be submitted on 8 ½ by 11 inch paper and organized in the following format:

(***Important** - Please submit your RFQ response with topical discussions corresponding to the numbers (excluding the cover letter, #1) in the outline below. Numbered and lettered items will assist staff in evaluating your firm's qualifications.)

**City of Irwindale
City Clerk's Office
5050 Irwindale Avenue
Irwindale, California 91706
AFFORDABLE HOUSING DEVELOPMENT RFQ**

Proposals must be received (not post marked) no later than 5:00 p.m. on January 11, 2010. Proposals received after this deadline will not be considered and will be returned unopened. No electronic submissions or facsimile transmissions will be accepted. Please contact Theresa Olivares at (626) 430-2294 or via e-mail theresao@ci.irwindale.ca.us, if you have any questions.

- 1) **Statement of Interest:** Include a cover letter providing a statement of interest in development of the Project; highlights of the developer's qualifications; understanding of the key element of the Project; development team coordination methods; contact person and phone, fax number, and e-mail address. The letter shall be signed by an authorized representative of the developer committing to provide the services in accordance with all Project requirements.
- 2) **Organization Chart:** Show the developer's developer team structure, including all key consultants such as legal counsel, architects, engineers, planners, etc. Specify the relevant experience of the team members and key consultants. Examples of projects by the team's architects that represent the type of project that might be accomplished on the Site should be provided. Although the Agency intends to utilize the services of a cost estimating consultant, the developer's team should also include this service.
- 3) **Resumes:** Provide resumes of your developer team, including the project manager who will be the main point of contact (no more than 2 pages in length each) and other key individual in the development team and/or any consultant (such as design, economic feasibility/financing) who would be involved in the implementation of the Project include:
 - Address, telephone, fax number, and e-mail address
 - Description of the relationship of developer with other entities which may exist
 - Information on team members' professional registration within the State of California, experience and education
 - Include information on the current workload of each team member
 - Similar information is to be provided for each sub-contractor/consultant, if any.
- 4) **Developer Qualifications:** Professional experience and qualifications of the developer and any supporting teams' developer in providing the services specified in this RFQ. Please provide the following information for at least three similar projects:

- Project title.
- Project description including construction commencement and completion dates, location, size, and construction costs.
- Project photographs.
- Brief description of the Project, including number of single-family infill units to be developed.
- Brief description of any special project problems or disputes of any nature encountered.
- Description of how any Agency financial assistance would be structured and documented.
- Brief description of development team, specific role of the developer.
- Local government reference (name, title, and telephone number) for each project cited (minimum of three).

5) **Developer Proforma.** Applicant may submit a high-level (static) pro forma which reflects anticipated project costs revenues and returns based on a projected development program, and may indicate how much public subsidy might be required. The Agency understands that a preliminary pro forma is simply a projection of project economics that is subject to change upon further evaluation. The following details are to be included:

- Proposed hard, soft, and financing costs and anticipated developer profit and fees associated with the Project
- Sources of financing, including developer equity, construction and permanent financing, as well as any proposed Agency financial assistance.
- All other forms of governmental assistance, if any.
- Identify, if possible, the maximum feasible home price that a buyer would/could pay in the Irwindale neighborhood in today's housing market.

6) **Legal Entity.** Describe the legal entity with whom the Agency would contract. Identify the person in charge of negotiations, and key personnel who will be involved in decision making.

7) **Redevelopment Experience.** Describe the developer's experience with redevelopment or other joint public-private development.

QUALIFICATION EVALUATION

The developer selected will be required to demonstrate the related experience and resources necessary to design and develop a successful affordable program. Responses to the RFQ will be evaluated based upon the following criteria (presented without regard to order of importance)

- Experience with the product type proposed by the developer.
- Experience in development and marketing of single-family housing units.
- Evidence of financial resources consistent with Project requirements

- Experience in getting the community involved.
- Track record of superior residential development
- Track record of development team working together.

REVIEW AND SELECTION PROCEDURE

Responses to the RFQ will be reviewed by a Review Committee including the Redevelopment Agency Executive Director, Assistant City Manager, Planning Department, and Housing Coordinator. The Review Committee reserves the right to contact and evaluate the developer's references; contact any developer to clarify any response; contact any current clients of a developer; solicit information from any available source deemed pertinent to the evaluation process. Based on the evaluation criteria, the Review Committee will make an award in the best interest of the Agency.

Following review of the responses, the Review Committee may elect to interview some or all of the developers, or may otherwise seek clarification or amplification of the material submitted. Upon completion of the review, the committee will make its recommendation to the Agency for the proposed Project. Interviews with selected developers **may** be held. Notifications of acceptance or rejection by the Agency will be made in writing to all developers.

Recommendations may include:

- Selection of one or more developers to submit a more detailed formal proposal or additional clarifications
- Selection of one developer to enter into an ENA in the form attached as Attachment "C".
- Rejection of all proposals.

If more detailed proposals or additional clarifications are solicited, finalists (no more than three) may be asked to provide the following:

1. More detailed graphic presentations of the proposed Project.
2. More detailed financial analysis of the Project.
3. More detailed proposed economic terms for Agency participation.
4. Any additional proposal information, as requested.

If a developer is selected, it will be required to enter into an ENA and provide a good faith deposit with the Agency \$25,000 ("Deposit") to be used by the Agency to pay for the costs of its consultants and Agency Counsel toward the preparation of a DDA. The Deposit may be included in the overall Project costs in the proposal for the purpose of identifying total development costs and any financial assistance sought by the developer.

The Agency reserves the right to consider another developer after review of the detailed development proposal or in the event that a DDA cannot be achieved.

SELECTION SCHEDULE

The RFQ tentative schedule is as follows:

RFQ responses due	1/11/2010
Initial Screening Complete	2/1/2010
Final Evaluation of Qualifications and Project Recommendations	2/15/2010
Review Committee Interviews/Selection (Recommendation to Agency Board)	3/1/2010
Agency Consideration (Review Committee Recommendations)	3/10/2010

AGENCY DISCRETION, NON-LIABILITY WAIVERS

All materials, exhibits, and data presented in this RFQ are general in nature and shall not be deemed as representations or inducements to which the Agency is bound. Developers are advised to conduct independent evaluations of all factual, financial and legal matters upon which their proposal is based. The Agency reserves the right to reject all proposals, waive any irregularities in the proposal, reschedule or re-solicit proposals if deemed to be in its best interest. The Agency shall not be responsible for any real estate commissions or brokerage fees, which may result from this development opportunity.

GENERAL TERMS AND CONDITIONS

The RFQ does not commit the Agency to award a contract, to pay any cost incurred in the preparation of the developer's RFQ response or to procure or contract for services or supplies. The Agency reserves the right to accept or reject any or all RFQ responses received as a result of this request, to negotiate with all qualified sources or to cancel all or part of this RFQ.

Submission of a proposal means that the developer hereby agrees to all terms and conditions set forth in all the pages of this RFQ. The developer must describe those terms and/or conditions to which the developer does not agree.

AWARD: The developer chosen to provide services may be required to participate in negotiations and to submit such revisions of their proposals as may result from negotiations. The Agency reserves the right to award a contract/select a service provider without discussion based upon the initial proposals received, without interviews. The Agency reserves the right to dismiss any proposal that does not meet the requirements as listed in this RFQ and will not necessarily choose the lowest cost bidder who, in the Agency's sole and absolute discretion, is deemed not adequately qualified for the services requested.

INSURANCE

The selected developer will be required to furnish evidence of insurance coverage including professional liability and workers' compensation. The form of the insurance policy is subject to approval by the Agency and must be provided by insurers authorized by the California Insurance

Commission to transact insurance business in California with a rating of “A” or better in the Best’s Key Rating Guide, Property-Casualty, United States, 2000 Edition.

The DDA shall require the developer to furnish to the Agency a copy of the policy AND an endorsement that the “Agency, its officers, employees, and agents are named as additional insured’s” prior to developer commencing duties under the DDA. Said policy of liability insurance shall state, “coverage thereunder as applied to Agency, its officers, employees, and agents shall be primary and non-contributing as to any other insurance and self-insurance as may be maintained by the Agency.” The policy shall contain severability of interest, specifying that the coverage afforded by the policy applies separately to each insured thereunder. The policy shall be endorsed to expressly provide the Agency with thirty (30) calendar days advance written notice of cancellation, non-renewal, or material change in coverage.

Workers’ Compensation Insurance: The DDA shall require the developer to maintain workers’ compensation insurance as required by the State Labor Code and Employer’s Liability Insurance with limits in the amount of one million dollars (\$1,000,000) per incident. The insurers shall agree to waive all rights of subrogation against Agency and its employees for losses arising from work performed by developer for Agency.

Professional Liability Insurance: The DDA shall require the developer to secure and maintain in full force and effect during the term of the DDA, a policy in form satisfactory to Agency that shall indemnify Agency against errors and omissions or malpractice by the developer. Said policy or policies shall provide professional liability coverage in the amount of one million dollars (\$1,000,000) per claim and a deductible provision of not more than fifty thousand dollars (\$50,000).

Business License: The developer and any subcontractors shall be required to obtain a City of Irwindale business license.

Professional Licensing: The developer and any subcontractors shall secure all necessary license(s) relative to the work to be performed as required by an appropriate licensing authority of the State of California, and shall provide evidence of such to the Agency with their proposal or prior to commencement of the work in such form as the Agency shall require.

Assignment/Subcontracting: The developer shall not assign or subcontract services or responsibilities without the prior written consent of the Agency. The Agency acknowledges that subcontracting can be in the Agency’s best interest, but reserves the right of final approval.

ATTACHMENTS:

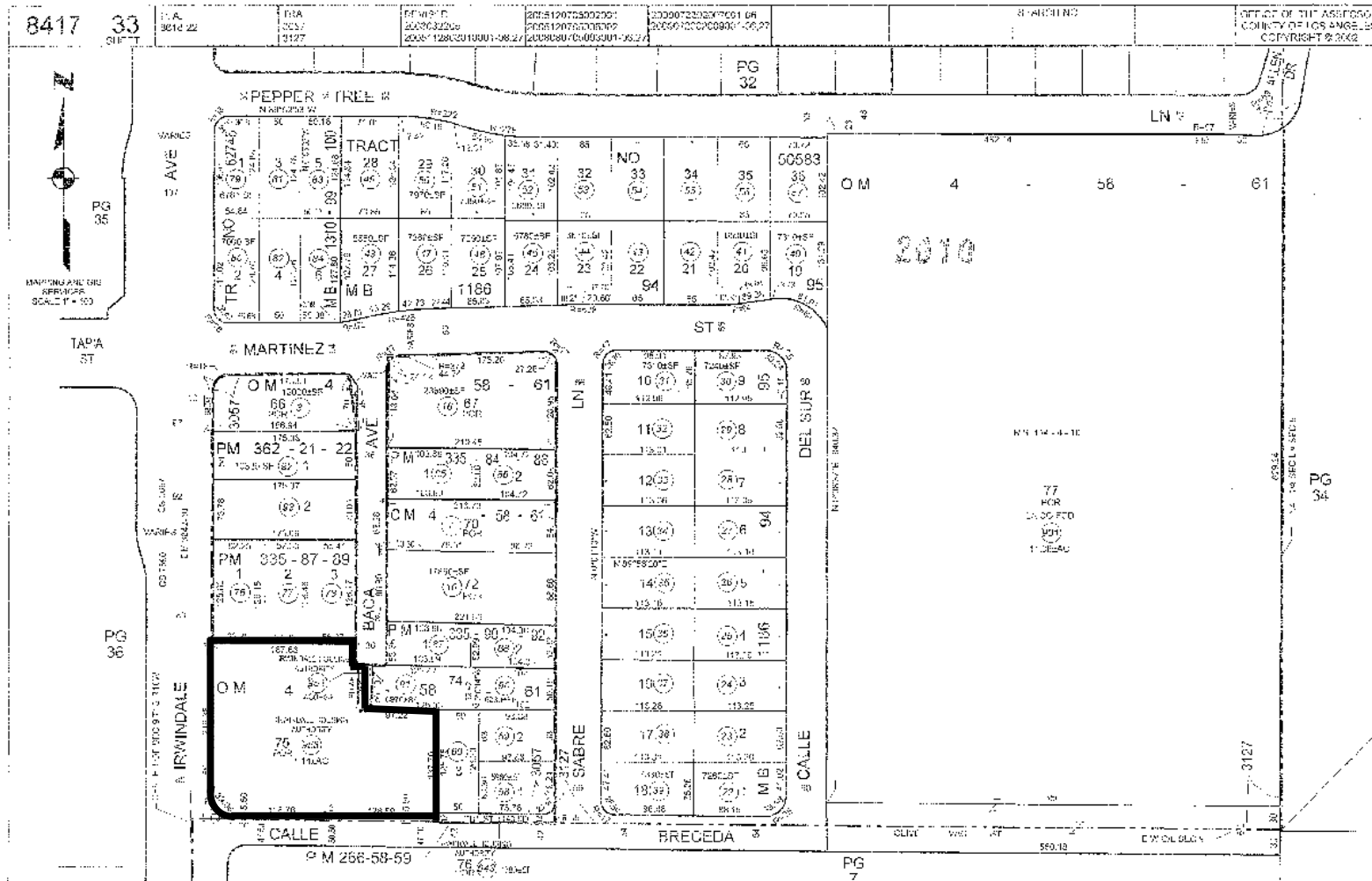
Exhibit “A” – Project Site

Exhibit “B” – Developer Selection Criteria Matrix

Exhibit “C” – Standard Exclusive Negotiation Agreement

EXHIBIT "A" PROJECT SITE

Site 1: 4804 Irwindale Avenue
APN: 8417-033-953 & 954

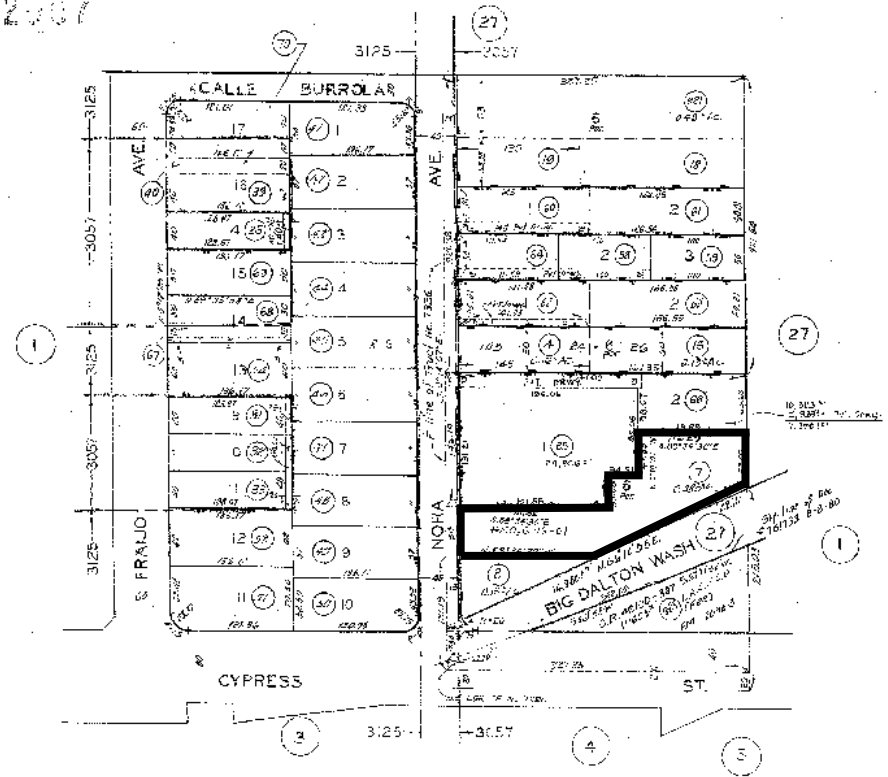


Site 3: 4618 Nora Avenue
 APN: 8417-002-007

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 SCALE: 1" = 100'

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All 4th edition maps & all 2018 maps
 are assessed to the STATEWIDE MAPPING
 AUTHORITY unless otherwise noted.

SCALE
 1" = 100'

FOR PREV. AGENT SEEL
 8/17/2007

PARCEL MAP P.M. 203-82-83
 ORANGE BELT TRACT M.R. 37-88-67
 TRACT NO. 7326 A.B. 113-54
 TRACT NO. 29968 M.B. 836-51-92

PARCEL MAP P.M. 203-80-51
 PARCEL MAP P.M. 243-1-2
 PARCEL MAP P.M. 340-88-89

ASSESSOR'S MAP
 COUNTY OF LOS ANGELES, CALIF.

**Site 4: 15808 Hidalgo Street
APN: 8417-028-022**

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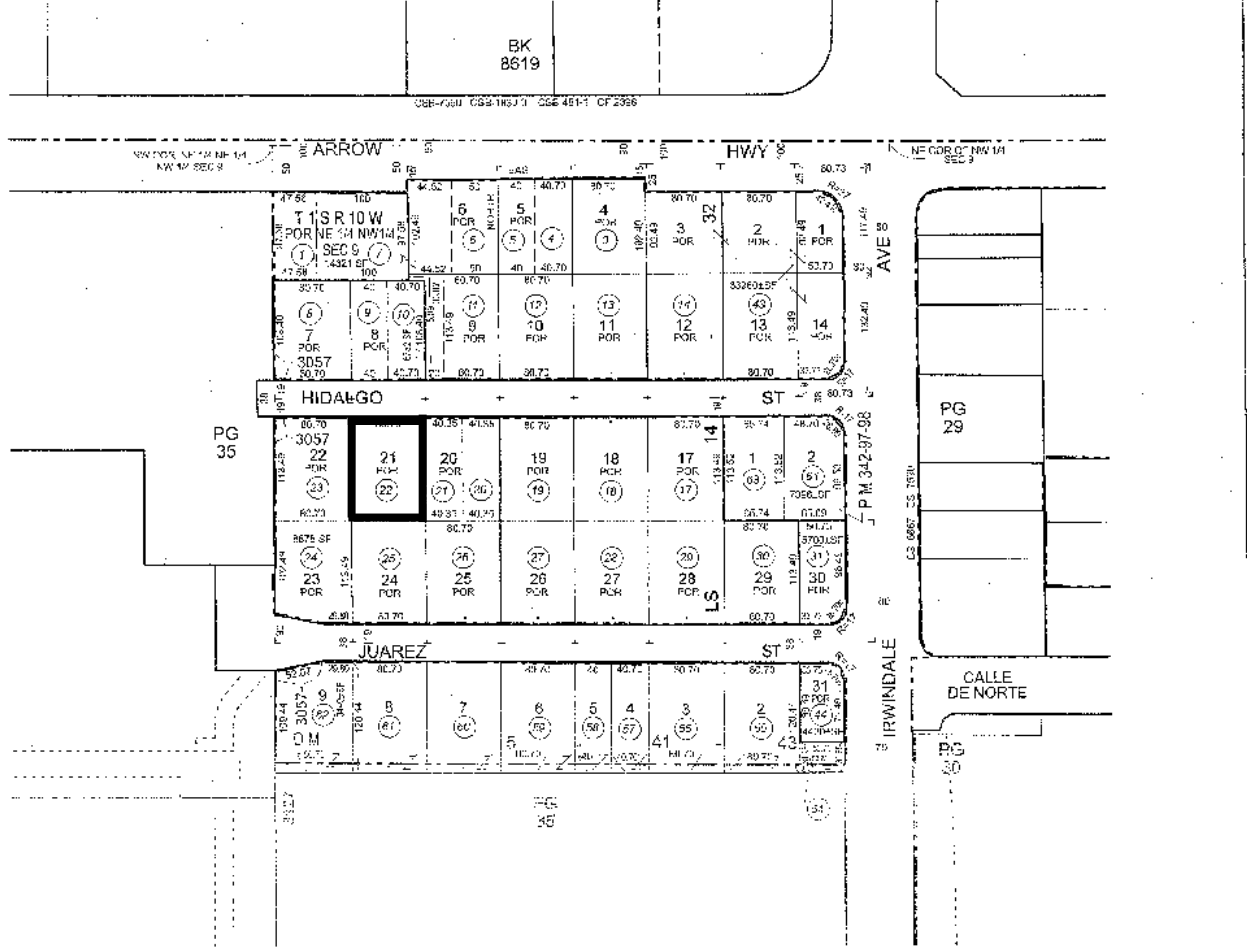
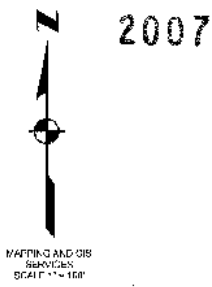


EXHIBIT “B”

DEVELOPER SELECTION CRITERIA MATRIX

(Sample Evaluation Criteria Evaluation Form)

Instructions:

Review and evaluate each proposal. Enter rating points for each of the evaluation criteria shown in the matrix below.

EVALUATION CRITERIA	DEVELOPERS		
	Los Angeles Urban Renewal Network	Sovereign Properties VI, LLC	Trademark Development Company, LLC
Developer’s overall experience in providing professional services to a public Agency (25 points max.)			
Thoroughness and understanding of tasks to be completed (25 points max.)			
Responsiveness to the Requirements of the Project (25 points max.)			
Reputation/Proposal for Timely Performance (10 points max.)			
Cost Proposal (Maximum 10 points)			
EVALUATION CRITERIA SUBTOTAL (95 points max.)			
Oral Presentation, if any (15 points max)			
TOTAL RATING (110 points max.)			

EXHIBIT "C"

EXCLUSIVE NEGOTIATING AGREEMENT

This Exclusive Negotiating Agreement ("Agreement"), dated as of this _____ day of _____, 2010 ("Effective Date"), is made by and between the Irwindale Community Redevelopment Agency, a public body, corporate and politic ("Agency"), and _____, a California Corporation ("Developer").

For and in consideration of the mutual covenants and promises set forth herein, the Parties agree as follows:

1. **Definitions.** The following terms shall have the meaning ascribed thereto, unless the context requires otherwise:

"Activity" means Developer's proposed development of improvements upon the Site along with appropriate parking and landscaping, as outlined in Recital _____, in accordance with plans and specifications subject to and approved by the City and Agency.

"Agency" means the Irwindale Redevelopment Agency, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Redevelopment Law".

"Agreement" means this Exclusive Negotiating Agreement by and between Agency and Developer.

"City" means the City of Irwindale, a municipal corporation and California general law city, organized and existing pursuant to the Constitution and laws of the State of California.

"Developer" means _____, a California corporation, or nominee thereof.

"Exclusive Negotiating Period" means the period of One hundred twenty (120) consecutive days beginning on the date of his Agreement, as shortened or extended by the provisions of Section 4, below.

"Party" means any party to this Agreement.

"Redevelopment Law" means the California Community Redevelopment Law, as amended from time to time (Health and Safety Code Sections 33000, *et seq.*).

"Site" means that certain real property consisting of all parcels generally depicted on Exhibit A, attached hereto and incorporated herein by this reference.

2. **Obligations of Agency.** During the Exclusive Negotiating Period, Agency, subject to any applicable owner participation rules and requirements established for the Project Area, shall not negotiate, discuss or otherwise communicate with any person or entity, other than Developer regarding a DDA or any other agreement for the development of the Activity and/or

the acquisition of the Site. Throughout the Exclusive Negotiating Period, Agency staff shall be available to meet with Developer to discuss the Activity, the Site Plan and architectural renderings, and any other issues pertinent to the preparation of a DDA pertaining to the development of the Activity.

3. Obligations of Developer. Within the time set forth in the negotiated DDA and to the extent construction financing will need to be obtained by Developer from an institutional lender(s) for the acquisition of the Site and development of the Activity, Developer shall provide Agency with a Letter of Intent (in form and substance reasonably acceptable to Agency) executed by Developer, indicating to Agency's reasonable satisfaction that such an institutional lender(s), approved by Agency, has expressed interest in financing the acquisition, construction and development of the Activity by Developer, as the case may be. Such Letter of Intent shall also outline the financial terms pursuant to which it would consider loaning money to Developer for the Activity.

Prior to the expiration of the Exclusive Negotiating Period, Developer shall provide an equity commitment acceptable to Agency in a manner specifically identifying the sources of all such equity financing to be used by Developer to finance the development of the Activity. In the event that the Activity is to be financed exclusively by equity financing, such equity commitment shall be in an amount sufficient to provide for the acquisition of the Site and the development of the Activity, as the case may be. Moreover, such equity commitment may also be in the form of letters of intent from investors of adequate credit-worthiness setting forth their intent to invest the equity required for this Activity.

Prior to the expiration of the Exclusive Negotiating Period, Developer shall provide to Agency a projected cost proforma, and a projected table describing the sources and uses of funds and cash flow projections and distributions, concerning the Activity, and a narrative describing the fundamental economics of the Activity, all in form and substance acceptable to Agency.

At or prior to 4:30 p.m. on or before the 30th day after the Effective Date of this Agreement, as defined above, or if a holiday, on the first succeeding business day, Developer shall deliver to Agency a Site Plan and basic architectural renderings of the Activity. The Site Plan and basic architectural renderings shall include a well defined architectural concept for the Activity showing vehicular circulation and access points, amounts and location of parking, location and size of all buildings (including height and perimeter dimensions) pedestrian circulation, landscaping and architectural character of the Activity. However, notwithstanding submission by Developer as set forth herein, no such Site Plan or architectural renderings shall be deemed final until final approval by Agency, pursuant to a DDA, and by the City in their sole discretion.

4. Extension/Exclusive Negotiation Agreement. The Exclusive Negotiating Period shall terminate on the date that is Ninety (90) days after the Effective Date of this Agreement, notwithstanding that the day may fall on a Holiday. The exclusive negotiating period may be extended by the mutual consent of the parties only for up to Sixty (60) additional days. Agency's Executive Director may grant each such extension for and on behalf of Agency in his/her sole and absolute discretion, unless otherwise directed by Agency.

If the Parties have mutually consented to an extension of the term of this Agreement as provided hereinabove, then the Parties shall, within such extended term, continue to negotiate in good faith a DDA with respect to the proposed development of the Activity.

5. Disposition and Development Agreement. The Parties hereby acknowledge and agree that, during the term of this Agreement, (as such term may be extended pursuant to Section 4 above and subject to the applicable Owner Participation rules and regulations established for the Project Area), the Parties shall use their respective good faith efforts to negotiate and enter into a DDA which shall include (but not be limited to) the following: (i) the design of the Activity by Developer, which design shall be subject to approval by Agency and the City in their sole discretion, (ii) the construction of the Activity by Developer in accordance with final plans and specifications to be provided by Developer and approved by Agency and the City, pursuant to a detailed schedule of performance by Developer, (iii) the operation and management of the Activity by Developer in a good and professional manner, and subject to the covenants required bylaw; (iv) the maintenance of landscaping, buildings and improvements in good condition and satisfactory state of repair so as to be attractive to the residents and to the community, (v) the operation of the Activity by Developer in compliance with all equal opportunity standards established by Federal, State and local law, (vi) the right of Agency and the City to inspect the Activity from time to time to assure compliance with the foregoing provisions, (vii) provision by Developer to Agency upon Agency's request of concepts, schematics and the final plans and working drawings for the Activity and participation in presentations with respect thereto, (viii) provision by each contractor and/or subcontractor (as the case may require and as appropriate) performing work on the Activity of the requisite performance bond and labor and materials payment bond to assure completion of the Activity free of mechanics' liens, (ix) that the Activity shall be of the highest quality and standard, (x) the terms and conditions upon which Developer shall acquire the parcels, (xi) the terms and conditions upon which either party may terminate the DDA (e.g., the discovery of environmental issues/hazardous substances on the Site, unexpected development or construction costs, inability to acquire the parcels), and (xii) the guarantee of minimum levels of the costs of improvements of the Activity.

6. Deposit: Termination.

Initial Deposit. Concurrent with the execution of this Agreement by Agency, Developer shall submit to Agency a good faith deposit (the "Deposit") in the amount of \$25,000, which amount shall be reduced by any deposits concerning the Site held by Agency as of the Effective Date, to cover the actual expenses to conduct studies related to the project that will be used to establish the cost of the project i.e. appraisals, legal fees, etc. ("Expenses"). The Deposit shall be in the form of cash. Agency shall deposit it in an interest-bearing account and such interest, when received by Agency, shall become part of the Deposit.

Supplemental Deposit. If Agency subsequently determines that the Deposit is insufficient, which determination shall be based on the Expenses incurred by Agency hereunder, then upon receipt of twenty (20) days written notice from Agency, Developer shall deposit with Agency a lump sum deposit in the amount reasonably estimated by Agency to be sufficient to cover the excess (each a "Supplemental Deposit"). If Developer does not pay any Supplemental Deposit

to Agency when required under this Section 6(b), work by Agency or its consultants on the project shall be suspended until the applicable Supplemental Deposit is made to Agency.

Accounting. Agency shall provide Developer with a monthly accounting of Agency's use of the Deposits to pay Expenses within a reasonable time after the end of each calendar month during the term of this Agreement.

Failure of Developer to Negotiate in Good Faith. In the event Developer has not continued to negotiate diligently and in good faith, Agency shall give written notice thereof to Developer, who shall then have ten (10) business days to commence negotiating in good faith. Following the receipt of such notice and the failure of Developer to thereafter commence negotiating in good faith within such ten (10) business days, this Agreement may be terminated by Agency/Executive Director. In the event of such termination by Agency, Agency shall have the right to retain the Deposit (including any interest accrued thereon) to cover its legal expenses and incidental costs related to the carrying out of this Agreement and negotiating a DDA with Developer, and neither party shall have any further rights against or liability to the other under this Agreement.

Failure of Agency to Negotiate in Good Faith. In the event Agency has not continued to negotiate diligently and in good faith Developer shall give written notice thereof to Agency which shall then have ten (10) business days to commence negotiating in good faith. Following the receipt of such notice and the failure of Agency to thereafter commence negotiating in good faith within such ten (10) business days, this Agreement may be terminated by Developer. In the event of such termination by Developer, Agency shall return the Deposit, and any interest earned thereon, if applicable, and neither party shall have any further rights against or liability to the other under this Agreement.

Termination of ENA. Upon termination of this Agreement at the expiration of the Exclusive Negotiating Period (or such extension thereof) without a DDA being signed or submitted by Developer, Agency shall have the right to retain the Deposit (including any interest accrued thereon) to reimburse its legal expenses and incidental costs related to the carrying out of this Agreement and negotiating a DDA with Developer, and neither party shall have any further rights against or liability to the other under this Agreement. If a DDA is signed and submitted by Developer but is thereafter not approved by Agency, then the Deposit with interest, shall be returned to Developer, and neither party shall have any further rights against or liability to the other under this Agreement. If a DDA is timely signed and submitted by Developer and is thereafter approved by Agency, then the Deposit shall be applied toward any deposit required under the DDA. If a DDA has been executed by the parties, the DDA shall supersede this Agreement and thereafter govern the rights and obligations of the parties with respect to the development of the Site.

7. Schedule of Performance. It is the intention of Agency and Developer that the redevelopment of the Site be completed in a timely and an expeditious manner. Accordingly, the DDA shall provide in reasonable detail the tasks to be completed by the Parties in the development process and the projected date of completion for each such task.

8. Environmental. Execution of a DDA by Agency shall be subject to compliance with the California Environmental Quality Act (California Public Resources Code § 2100 *et seq.* as amended: "CEQA"). Since the Activity constitutes undertakings pursuant to and in furtherance of the Redevelopment Plan for the Project Area, Section 21090 of CEQA and Section 15180 of the State CEQA Guidelines (Title 14, California Code of Regulations § 15000 *et seq.*) apply to the Activity. Developer hereby agrees to provide all reasonable assistance to Agency necessary for Agency to carry out its obligations under CEQA.

9. Nondiscrimination. Developer shall not discriminate against nor segregate any person, or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, handicap or sexual preference, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site in the formulation of the DDA or after its execution, nor shall Developer establish or permit any such practice or practices of discrimination or segregation in the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees or vendees of the land. The DDA shall contain all applicable statutory covenants.

10. Owner Participation Requirements. This Agreement and the obligations of the Parties set forth in this Agreement, are subject to the applicable Owner-Participation rules and regulations established for the Project Area and it shall be Developer's obligation to become familiar with such requirements.

11. Governing Law. This Agreement and the legal relations between the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of California. Hence, for any action by either party shall be in Los Angeles County.

12. No Other Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements and understandings between the parties. There are no agreements or understandings between the parties and no representations by either party to the other as an inducement to enter into this Agreement, except as expressly set forth herein. Notwithstanding anything provided herein to the contrary, whether expressed or implied, Agency shall have no obligation to enter into a DDA with Developer and neither Agency nor its officers, members, staff or agents have made any promises to Developer other than to exclusively negotiate a DDA for the Site in good faith with Developer during the Exclusive Negotiating Period, and no statements of Agency or its officers, members, staff or agents as to future obligations shall be binding upon Agency unless and until a DDA has been approved by Agency and the City, and duly executed by the Executive Director of Agency or his designee.

13. Assignment. This Agreement shall not be assigned by Developer to any person or entity without the express written consent of Agency; provided, however, that Developer may assign the Agreement to a California business entity that is formed for the purpose of carrying out the Activity and for which Developer is a member and the manager thereof. Any assignment does not release Developer from any of its obligation hereunder.

14. Notices. Any notice which is required or which may be given hereunder may be delivered or mailed to the party to be notified, as follows:

If to Developer: _____

Attention: _____

If to Agency: Irwindale Community Redevelopment Agency
5050 N. Irwindale Ave.
Irwindale, California 91706
Attention: Executive Director

with a copy to the
Agency's Legal Counsel: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 400
Irvine, CA 92612
Attn: Fred Galante, Esq.

15. Public Hearing. Any DDA that maybe negotiated is subject to consideration and discretion at a public hearing or hearings by Agency and or the City. Nothing in this Agreement shall commit or be construed as committing Agency or the City to approve any DDA.

16. Counterparts. This Agreement may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which, together, shall constitute one and the same instrument.

17. Attorney's Fees. In the event that either party hereto brings action or proceeding against the other party to enforce or interpret any of the conditions or provisions of this Agreement, the prevailing party shall be entitled to recover all reasonable attorney's fees and expenses and court costs associated with such action or proceeding.

18. Effect of Agreement. Notwithstanding any other provision of this Agreement to the contrary, the Parties expressly acknowledge and agree as follows: (a) except for those matters expressly set forth in Section 2 above, none of the matters described in this Agreement as a purported commitment or obligation of Agency with respect to the development of the Activity shall have any effect unless and only to the extent such matters are expressly set forth in a DDA or other subsequent written agreement duly authorized and approved by Agency and the City; (b) Agency and Developer shall promptly commence the good faith negotiation of a DDA upon execution of this Agreement; and (c) upon the execution of a DDA by the Parties, this Agreement shall be null and void and of no effect and shall be superseded by the terms and conditions of the DDA.

Notwithstanding any other provision of this Agreement to the contrary, Developer acknowledges and expressly agrees as follows: (a) that this Agreement does not obligate Agency in any way to approve, in whole or in part, any of the matters described in this Agreement, including, (without limitation) matters pertaining to land use entitlements or approvals, permits, waivers or reduction of fees, development or financing of the Site or any other matters to be acted on by Agency, as applicable; (b) that all such matters shall be considered and processed by

Agency in accordance with all otherwise applicable Agency and City requirements and procedures; and (c) that Agency reserves all rights to approve, disapprove or approve with conditions all such matters in their sole discretion. Developer acknowledges that and all expenditures made by it are not recoverable by Developer in the event that a subsequent Agreement is not approved. Developer further acknowledges and agrees that, during the negotiations, the Parties shall conduct such economic analyses and re-use studies as may be necessary to comply with the requirements of Section 33433 of the Redevelopment Law.

IN WITNESS WHEREOF, Agency and Developer have executed this Agreement in the City of Irwindale, Los Angeles County, California, on the date hereinabove first set out.

"AGENCY"

IRWINDALE COMMUNITY
REDEVELOPMENT AGENCY, a public
body, corporate and politic

ATTEST:

Chairperson

Linda J. Kimbro, CMC
Agency Assistant Secretary

APPROVED AS TO FORM:

Fred Galante
Agency Counsel

"DEVELOPER"

By: _____
Its: _____

By: _____
Its: _____

- (Corporations require two signatures; one for each of the following: A. Chairman of Board, President or Vice President; AND B. Secretary, Assistant Secretary, Treasurer, Assistant Treasurer or Chief Financial Officer.)

[END OF SIGNATURES]