City of Las Vegas

REDEVELOPMENT AGENCY MEETING AGENDA

CITY HALL, 400 STEWART AVENUE
COUNCIL CHAMBERS – 229-6011
CITY OF LAS VEGAS INTERNET ADDRESS: www.lasvegasnevada.gov
AGENCY MEMBERS: OSCAR B. GOODMAN, CHAIRMAN (At-Large)
GARY REESE, VICE-CHAIRMAN (Ward 3), STEVE WOLFSON (Ward 2)
LOIS TARKANIAN (Ward 1), STEVEN D. ROSS (Ward 6)
RICKI Y. BARLOW (Ward 5), STAVROS S. ANTHONY (Ward 4)
January 20, 2010
8:30 AM

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR ACTION UNLESS SPECIFICALLY NOTED OTHERWISE.

THESE PROCEEDINGS ARE BEING VIDEO RECORDED AS WELL AS PRESENTED LIVE ON KCLV, CABLE CHANNEL 2, AND ARE CLOSED CAPTIONED FOR OUR HEARING IMPAIRED VIEWERS. THE COUNCIL MEETING, AS WELL AS ALL OTHER KCLV PROGRAMMING, CAN BE VIEWED ON THE INTERNET AT www.kclv.tv. THE PROCEEDINGS WILL BE REBROADCAST ON KCLV CHANNEL 2 AND THE WEB THE WEDNESDAY OF THE MEETING AT 8:00 PM, AND ALSO ON FRIDAY AT 4:00 AM, SATURDAY AT 7:00 PM, SUNDAY AT 7:00 AM AND THE FOLLOWING MONDAY AT 1:00 PM.

DUPLICATE AUDIO CD'S AND DUPLICATE AUDIO/VIDEO DVD'S MAY BE AVAILABLE AT A COST OF $5.00 EACH THROUGH THE CITY CLERK'S OFFICE.

1. CALL TO ORDER

2. ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW

3. Approval of the Final Minutes by reference of the regular Redevelopment Agency meeting of December 16, 2009

4. Discussion and possible action regarding an Exclusive Negotiation Agreement between Las Vegas ICE, LLC, and the City of Las Vegas Redevelopment Agency to conduct feasibility investigations on property located at 501 South Las Vegas Boulevard, 507 South Las Vegas Boulevard, 508 South 6th Street and 500 South 6th Street (APNs 139-34-310-061, 062, 063, 139-34-710-001 and 139-34-310-076) - Ward 3 (Reese)

5. Discussion and possible action concerning an Exclusive Negotiation Agreement by and between the City of Las Vegas Redevelopment Agency, a Nevada nonprofit corporation, and Solterra Nevada Holdings, LLC, a Nevada Limited Liability Corporation, for a site located at 501 South Fourth Street, known as APN 139-34-303-002 - Ward 3 (Reese)

6. CITIZENS PARTICIPATION: PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS WITHIN THE JURISDICTION OF THE REDEVELOPMENT AGENCY. NO SUBJECT MAY BE ACTED UPON BY THE REDEVELOPMENT AGENCY UNLESS THAT SUBJECT IS ON THE AGENDA AND IS SCHEDULED FOR ACTION. IF YOU WISH TO BE HEARD, COME TO THE PODIUM AND GIVE YOUR NAME FOR THE RECORD. THE AMOUNT OF DISCUSSION ON ANY SINGLE SUBJECT, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, MAY BE LIMITED

7. AGENCY MEMBER RECOGNITION: COMMENTS MADE BY INDIVIDUAL AGENCY MEMBERS DURING THIS PORTION OF THE AGENDA WILL NOT BE ACTED UPON BY THE AGENCY UNLESS THAT SUBJECT IS ON THE AGENDA AND SCHEDULED FOR ACTION

Facilities are provided throughout City Hall for the convenience of disabled persons. For meetings held in the Council Chambers, sound equipment is available for persons with hearing impairments. If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting. The City's TDD number is 386-9108

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:
City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge
Bulletin Board, City Hall Plaza (next door to Metro Records)
Las Vegas Library, 833 Las Vegas Boulevard North
Clark County Government Center, 500 S. Grand Central Parkway
Grant Sawyer Building, 555 E. Washington Avenue

City of Las Vegas

Agenda Item No.: **1.**

AGENDA SUMMARY PAGE
REDEVELOPMENT AGENCY MEETING OF: JANUARY 20, 2010

SUBJECT:

CALL TO ORDER

City of Las Vegas

Agenda Item No.: **2.**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: JANUARY 20, 2010

SUBJECT:

ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW

City of Las Vegas

Agenda Item No.: **3.**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: JANUARY 20, 2010

DEPARTMENT: CITY CLERK
DIRECTOR: BEVERLY K. BRIDGES

SUBJECT:

Approval of the Final Minutes by reference of the regular Redevelopment Agency meeting of December 16, 2009

City of Las Vegas

Agenda Item No.: **4.**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: JANUARY 20, 2010

DEPARTMENT: OFFICE OF BUSINESS DEVELOPMENT
DIRECTOR: BILL ARENT

SUBJECT:
Discussion and possible action regarding an Exclusive Negotiation Agreement between Las Vegas ICE, LLC, and the City of Las Vegas Redevelopment Agency to conduct feasibility investigations on property located at 501 South Las Vegas Boulevard, 507 South Las Vegas Boulevard, 508 South 6th Street and 500 South 6th Street (APNs 139-34-310-061, 062, 063, 139-34-710-001 and 139-34-310-076) - Ward 3 (Reese)

Fiscal Impact

☒ **No Impact** ☐ **Augmentation Required**
☐ **Budget Funds Available**

Amount:
Funding Source:
Dept./Division:

PURPOSE/BACKGROUND:
Las Vegas ICE, LLC, wishes to conduct feasibility investigations for construction of a five-story, approximately 58,909 square foot Class A office building with structured parking and 2,500 square foot retail store front (fronting Las Vegas Boulevard) for administrative and executive offices of U.S. Immigration and Customs Enforcement (ICE) on property owned by the City of Las Vegas Redevelopment Agency.

RECOMMENDATION:
Approval.

BACKUP DOCUMENTATION:
Exclusive Negotiation Agreement

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT (this "Agreement") is entered into this _____ day of ____________, 2010, by and between City of Las Vegas Redevelopment Agency, a public body organized and existing under the community development laws of the State of Nevada (hereinafter "RDA"), and Las Vegas ICE, LLC, a Nevada Limited Liability Corporation (hereinafter "ICE"), on the terms and provisions set forth below. RDA and ICE may be referred to herein singularly as a "Party" and collectively as the "Parties". This Agreement shall be effective on that date (the "Effective Date") which the City of Las Vegas Redevelopment Agency Board ("RDA Board") and the City Council of the City of Las Vegas, Nevada, a political subdivision of the State of Nevada (the "City") approves the execution of this Agreement by the RDA.

WHEREAS:

A. The RDA is the owner of the Site (defined below);

B. The Parties desire to undertake a due diligence inquiry as to the feasibility of developing and operating an office building with ground-floor retail on the Site, including, without limitation, the preleasing of a portion of such building to a commercial retail tenant; and

C. The Parties mutually desire to enter into this Agreement in order for the RDA and ICE to investigate the feasibility of development of the Project (defined below) on the Site by ICE, and to permit the RDA to negotiate exclusively with ICE regarding a Disposition and Development Agreement (the "DDA") between the RDA and ICE or its permitted designees.

NOW, THEREFORE, for and in consideration of the mutual agreements, which are hereinafter contained, the Parties do hereby agree as follows:

1. Purpose and Term. The Parties agree that the purpose of this Agreement is to provide a framework for their respective determinations of the feasibility and timing of the development of the Project. As part of such determination, ICE agrees to expeditiously and on a timely basis to complete its respective submittals and tasks required under this Agreement. The term of this Agreement shall commence on the Effective Date and shall expire one (1) year from the Effective Date (the "Term").

2. Site. The Project is to be developed on five (5) parcels: APN's 139-34-310-061, 062, 063, 139-34-710-001 and 139-34-310-076 (the "Site") which consist of approximately 41,219.09 square feet of land, +/- 0.95 acres, and is located at 501 S. Las Vegas Blvd., 507 S. Las Vegas

Blvd., 508 S. 6th Street, 500 S. 6th Street and parcel 139-34-310-076 (no current street address) Las Vegas, Nevada. The Site is depicted on Exhibit "A" attached hereto and hereby made a part of this Agreement.

3. Project. The Parties agree that the intended project to be developed on the Site (the "Project") will consist of and be used for: (i) construction of a five-story Class A office building of approximately 58,909 sq/ft. with structured parking and two thousand five hundred square feet of store-front retail fronting on Las Vegas Boulevard and (ii) will be leased to the General Services Administration for administrative and executive offices of Immigration and Customs Enforcement for a minimum lease term of ten years and for no less than 58,909 square feet. The Project is in response to GSA Solicitation Number 8NV2013.

4. Feasibility Analysis.

(a) ICE agrees to conduct during the Term all activities required to determine the nature, scope and feasibility of the Project. ICE agrees and acknowledges that it will use all commercially reasonable efforts to perform its investigations and that the expeditious and timely performance of such tasks is a material consideration of the RDA to enter into this Agreement. The failure of ICE to timely perform and complete its obligations hereunder as required shall be a default under this Agreement. All non-proprietary reports and studies pertaining to the Site and Project, including surveys and geotechnical and environmental reports and studies, shall become the property of the RDA upon the expiration or termination of this Agreement, unless ICE proceeds with its planned development. In the event that ICE does not proceed with the development of the Project, ICE shall cause such non-proprietary reports and studies to be delivered to the RDA within thirty (30) days after the expiration or termination of this Agreement.

(b) The RDA agrees on behalf of itself and its agents, that during the Term of the Agreement and any subsequent DDA, it shall not negotiate directly or indirectly, with any person or entity any matters regarding development, sale, lease or other disposition of the Site or any portion thereof. Such exclusive shall apply to the Site only and shall not apply to any other property owned by the City of Las Vegas or other City entity. The RDA further agrees that during the Term and during the term of the DDA, the RDA shall not contact any parties with which ICE is in active negotiations relating to the Project without their prior written consent ("Potential User(s)"), provided, however, that (i) ICE has notified the RDA in writing of any

Potential Users for both the office space and ground-floor retail space; (ii) in the event the RDA or any third party are already in discussions with a Potential User in connection with the Project, the RDA or such third party will not be precluded from continuing such discussions and (iii) upon expiration or other termination of the Term or the expiration of the term of the DDA and the Project does not proceed, the RDA or such third party may contact and consummate a transaction with any Potential User.

(c) RDA shall cooperate fully and timely, but at no cost to the RDA, in providing ICE with appropriate information and assistance to support ICE's completion of the tasks and implementation of the Development Concept. In particular, the RDA shall provide ICE with copies of all reports, plans, drawings and other documents pertaining to the Site as soon as they become available to the RDA. ICE and the RDA agree to meet in person in Las Vegas, Nevada no less than one time a month in connection with the feasibility analysis of the Site and Project. In addition, ICE agrees to provide the RDA with a monthly written status report of its feasibility analysis no later than the last day of each month.

5. Purchase Price and Earnest Deposit.

(a) The Parties agree that the purchase price for the Site is Two Million Eight Hundred Seventy Thousand Dollars ($2,870,000) which is the high appraised value of the site pursuant to an appraisal dated August 1, 2009 and prepared by Lubawy & Associates.

(b) ICE shall make a refundable earnest money deposit (the "Deposit") equal to two percent (2%) of the purchase price equaling Fifty-Seven Thousand Four Hundred Dollars ($57,400). The Deposit shall be deposited in escrow at Nevada Title Company, Kristin Ravelo, (the "Escrow Agent") office at, 2500 N. Buffalo, Suite 150, Las Vegas, Nevada, 89128 within ten (10) calendar days of the Effective Date for control of the Site during the ENA and DDA negotiation period. In the event ICE does not perform their obligations hereunder and this Agreement is terminated pursuant to Section 11(a) below, the Deposit shall be retained by the RDA as full and final liquidated damages. In the event (i) (x) Developer performs all of its obligations under this Agreement and (y) the Parties do not enter into a DDA or (ii) this Agreement is terminated by Developer pursuant to Section 11(b) below, the Deposit shall be returned to Developer on the later of (i) twenty (20) days after the expiration of the Term or termination of this Agreement (as the case may be) or (ii) the date that the RDA is reasonably satisfied that Developer has complied with Sections 4(a) and 6 of this Agreement and that there are no outstanding matters covered by Developer's indemnity in Section 6(e) above, provided, however, that if the RDA does not notify Developer within twenty (20) days after the expiration of the Term or termination of this Agreement (as the case may be) of any unsatisfied obligations pursuant to Sections 4(a) and 5 or any pending matters covered by Section 5(e), the RDA shall refund the Deposit in full. In the event the Parties enter into a DDA, the Deposit shall be applied to any deposits required by the DDA and shall be nonrefundable except in the event of default by the RDA.

6. Site Access.

(a) The RDA authorizes ICE and its respective employees, agents, representatives, architects, engineers, consultants and contractors to access the Site to conduct surface and subsurface engineering, geotechnical and environmental investigations, studies and assessments and boundary and topographic surveys as ICE deems necessary ("Due Diligence Investigations") for the development of the Project. ICE agrees that any delegation of its rights under this Section 6 shall not release ICE of any of its obligations and duties under this Section 6. This authorization does not authorize ICE to access or otherwise use any property not included within the Site so long as ICE has reasonable access from a public right of way for ingress into and egress from the Site for purposes of completing the Due Diligence Investigations. Subject to certain limitations under other agreements, pursuant to which representatives of the RDA may have to receive advance notice thereof, ICE will have the right to enter upon the Site and conduct Due Diligence Investigations at any time during the Term upon seven (7) days advance notice. ICE shall conduct Due Diligence Investigations in accordance with standards customarily employed in the industry and in compliance with all applicable governmental laws, rules, and regulations. Following ICE's Due Diligence Investigations on the Site, ICE promptly will restore the Site at its sole cost and expense to substantially the same condition as existed as of the Effective Date. If ICE undertakes any boring or other disturbance of the soils on the Site, the soils so disturbed will be recompacted to substantially their original condition as of the date of such boring or other disturbance, and ICE will obtain at its own expense a certificate from a soils engineer certifying that the disturbed soils have been recompacted to substantially their original condition as of the date of the soil disturbance. ICE agrees that as an alternative to filling and recompacting borings with soil, ICE may fill such borings with neat cement or bentonite in compliance with the Nevada Department of Environmental Protection's fact sheet for filling abandoned wells and subject to the approval of the RDA which approval shall not be unreasonably withheld, conditioned or delayed. This authorization shall extend to soil borings with drilling rigs and hand augers and groundwater sampling with bailers or comparable equipment, but shall not be construed to authorize ICE to install groundwater monitoring wells or excavate soils with earth moving equipment. To assist ICE in its environmental due diligence, the RDA has provided ICE with a copy of the documents identified in Exhibit "C" attached hereto and incorporated herein by reference. The RDA makes no warranty as to the accuracy or completeness of any statement or data contained in or referred to by such documents.

(b) If ICE should discover any hazardous substances, asbestos or asbestos-bearing materials, waste or materials subject to legal requirements or corrective action under any environmental laws, ICE will promptly notify the RDA in writing of such discovery. For purposes of this Agreement, the phrase "environmental laws" means any past, present or future federal, state or local law, statute, rule, regulation, code, ordinance, order, decree, judgment, injunction, notice, policy, or binding agreement, and all amendments thereto, issued, promulgated, or entered into by any governmental authority, relating in any way to the environment, the preservation, degradation, loss, damage, restoration, replacement or reclamation of natural resources, waste management, health, industrial hygiene, safety, environmental conditions or hazardous substances.

(c) ICE shall promptly deliver to the RDA without charge therefore, any lab or field environmental data, environmental reports, environmental compilations, environmental correspondence, or other documents or information which is generated by or as a result of Due Diligence Investigations and which is reasonably related to the environmental condition of the Site; provided, however, that ICE need not disclose any communication, written or oral, to the extent the same is protected by the attorney-client privilege.

(d) ICE covenants and agrees to pay in full for all materials, if any, supplied, used, joined, or affixed to the Site by or for ICE in connection with the Due Diligence Investigations and to pay in full all persons who perform labor upon the Site in connection with ICE's Due Diligence Investigations, and not to permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the Site relating to ICE's Due Diligence Investigations. ICE shall, at ICE's sole cost and expense, take any action necessary to promptly remove any lien filed against the Site for work performed or materials delivered to the Site in connection with the

Due Diligence Investigations.

(e) ICE hereby agrees to protect, indemnify, and hold the RDA, the City of Las Vegas, and their respective officers, employees and agents, harmless from and against any and all claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, attorneys' fees and court costs, which the RDA, the City of Las Vegas or their respective officers, employees or agents, may suffer or which may be sought against or are recovered or obtainable from the RDA, the City of Las Vegas and their respective officers, employees or agents, as a result of, or by reason of, or arising out of any negligent act or omission, in connection with the Due Diligence Investigations at the Site, of ICE or its officers, employees, contractors, subcontractors, agents, volunteers or anyone who is directly or indirectly employed by, or is acting in concert with, ICE, its officers, its employees, contractors, subcontractors, volunteers or agents in connection with this Authorization. ICE agrees to obtain and to furnish to the RDA prior to or concurrent with execution of this Authorization, a certificate showing that there is in effect a policy of a Minimum of $2,000,000.00 combined single limit bodily injury and broad form property damage coverage, including broad form Contractual liability Such coverage shall be on an "occurrence" basis and not on a "claims made" basis. The RDA and the City of Las Vegas shall each be named as an additional insured party and such notation shall appear on the Certificate of Insurance furnished by the ICE's insurance company. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer. Each insurance company's rating as shown in the latest Best's Key Rating Guide shall be fully disclosed and entered on the required certificate of insurance. The adequacy of the insurance supplied by the Company, including the rating and financial health of each insurance company providing coverage, is subject to the approval of the RDA, which approval shall not be unreasonably withheld, conditioned or delayed. The RDA requires insurance carriers to maintain a Best's Key rating of "A VII" or higher; provided, however that ICE may self insure or maintain such insurance by ICE's captive insurance carrier. The Certificate shall indicate that neither the insurance company nor ICE can cancel the insurance without at least 10 days prior written notice to the RDA. Any exclusion to the effect that the insurance company or surety company will "endeavor to inform" must be stricken from the Certificate of Insurance. The Parties agree that the specified coverage or limits of insurance in no way limit the liability of ICE. ICE will not do or permit to be done anything in or upon any portion of the Site, or bring or keep anything thereon which will in any way conflict with the conditions of any insurance policy upon the Property. All deductibles and self-insurance retentions shall be fully disclosed in Certificates of Insurance.

(f) In this connection, ICE expressly agree, at its sole cost and expense, to defend the RDA, the City of Las Vegas and their respective officers, employees and agents, in any suit or action that may be brought against it or them, or any of them by reason of any negligent act or omission of ICE, in connection with the Due Diligence Investigations at the Site, the RDA and the City of Las Vegas, and their officers, employees and agents. If ICE fails so to do, the RDA and the City of Las Vegas shall have the right, but not the obligation to defend same and to charge all reasonable attorneys' fees and costs, including court costs of such defense, to ICE.

(g) ICE will be taking the Site "as-is" based entirely on its own investigations and studies and the RDA will not make any representation or warranty as to the condition of the Site or the development of the Project on the Site. Except for certain offsite infrastructure to be installed to serve the Site, ICE agrees that neither the RDA nor the City shall have any obligation to provide any funds, concessions, offsite parking or other financial incentives or concessions in connection with the development of the Project except as provided for herein.

(h) The obligations and covenants of ICE under this Section 6 shall survive any expiration of the Term or other termination of the Agreement, including, without limitation, any termination pursuant to Section 11 below.

7. Disposition and Development Agreement; Effect of Agreement.

(a) The Parties agree to negotiate in good faith during the Term, a form of DDA. The Parties acknowledge that, in compliance with the provisions of Nevada Revised Statutes, Chapter 268 and other applicable law, ICE, at its cost, will obtain and rely upon independent and confidential appraisal of the Site prepared within six months of the date of the DDA. That the RDA Board and City Council of the City of Las Vegas may adopt a formal resolution finding that it is in the best interests of the public to discount the fee for the Site without offering such real property to the public. Notwithstanding the foregoing, the Parties agree that any such appraisal may be subject to public records laws or ordinances of the City or the State of Nevada.

(b) The Parties respectively agree and acknowledge (i) that this Agreement creates no obligation on any Party to enter into the DDA or any other agreement related to the Site, (ii) the decision to enter into a DDA will be at each Party's respective sole and absolute discretion and

(iii) the approval of the Council of the City will be required for the RDA to enter into any DDA or other agreement relating to the Site and (iv) at any time during the Term, if ICE determines in its reasonable judgment that it is not feasible to move forward with the Project, ICE may terminate this Agreement with no further obligations or liability to the RDA, except for such obligations or liabilities which survive the termination of this Agreement. ICE agrees and acknowledge that this Agreement creates no rights, title or interest in ICE whatsoever, legal, equitable or otherwise, in the Site including, without limitation, any rights to purchase, lease, option or otherwise. By its execution of this Agreement, the RDA is not committing itself to or agreeing to donate the land to ICE or any other acts or activities requiring the subsequent independent exercise of discretion by the City or any governmental authority with authority over the resulting development. This Agreement does not constitute an agreement for disposition of property. Execution of this Agreement by the RDA is merely an agreement to enter into a period of exclusive, good faith negotiations according to the terms hereof, reserving final discretion and approval by the RDA as to any and all proceedings and decisions in connection therewith.

(c) ICE agrees that upon expiration of the Term without the Parties entering into the DDA or upon any other termination of this Agreement, (i) ICE shall have no rights whatsoever to the Site or any other property owned by the RDA or the City and (ii) neither RDA nor the City shall have any obligation or liability whatsoever to continue to negotiate with or attempt to accommodate in any manner ICE for a location for the Project.

8. ICE Control and Ownership.

(a) ICE represents and warrants that it is a Nevada Limited Liability Company organized pursuant to the laws of the State of Nevada and ICE is duly authorized to do business in the State of Nevada.

(b) ICE is required to make full disclosure to the RDA of its principals, officers and key managerial employees working on the Project, and all other material information concerning ICE. Any significant change in the principals, officers, development manager, and key managerial employees of ICE working on the Project are subject to the approval of the RDA which shall not be withheld, conditioned or delayed in the commercially reasonable opinion of the RDA. ICE will be required to submit a completed Exhibit "B", Disclosure of Principals form, which includes all principals, and members of ICE, as well as all persons and entities holding more than a 1% interest in ICE or any principal, partner or member of the same, and agree in writing to the terms of this Section 8(b) and Section 10 below. Throughout the Term hereof, ICE shall provide written notification of any material change in the above disclosure within 15 days of such change.

9. Real Estate Commission. Each Party represents to the other Party that it has not engaged any broker, agent or finder in connection with this Agreement, and agrees to hold the other Party harmless from any claim by any broker or finder retained by such Party. The provisions of this Section 9 shall survive any termination or expiration of this Agreement.

10. Conflict of Interest.

(a) Any official of the RDA, who is authorized in such capacity and on behalf of the RDA to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this Agreement, payments under this Agreement, or work under this Agreement, shall not be directly or indirectly interested personally in this Agreement or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the RDA, who is authorized in such capacity and on behalf of the RDA to exercise any legislative, executive, supervisory or other similar functions in connection with this Agreement, shall become directly or indirectly interested personally in this Agreement or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Agreement.

(b) Each Party represents that it is unaware of any financial or economic interest of any public officer or employee of the RDA relating to this Agreement. Notwithstanding any other provision of this Agreement, if such interest becomes known, the RDA may immediately terminate this Agreement for default or convenience, based on the culpability of the Parties.

11. Default; Appropriation.

(a) In the event ICE is in default beyond any applicable grace period and such default is not cured within thirty (30) days after written notice specifying the nature of the default, then the RDA shall have the right to immediately terminate this Agreement upon written notice to ICE. Except as specifically provided for herein, ICE shall not be liable for any damages, lost profits, expense reimbursement, or any consequential damages incurred by ICE as a result of such termination.

(b) In the event the RDA is in default of its obligations under this Agreement, ICE's sole and exclusive remedy will be to terminate this Agreement. Neither the RDA nor the City shall be liable for any damages, lost profits, expense reimbursements or other costs of ICE or any consequential damages incurred by ICE as a result of such termination.

(c) No obligation assumed by or imposed upon the RDA by this Agreement or remedy granted or otherwise arising in, under or pursuant to this Agreement against the RDA shall require the payment of money by the RDA, or the performance of any action by the RDA, the performance of which requires money from the RDA, except to the extent that funds are available for such payment or performance from City appropriations therefore lawfully made by the City. This Agreement shall not be construed as obligating the City Council to make future appropriations for the payment of monies or the performance of any obligations of the RDA under this Agreement.

12. Notices. All legal notices required pursuant to the terms and conditions of this Agreement shall be in writing, unless an emergency situation dictates otherwise. Any notice required to be given under the terms of this Agreement shall be deemed to have been given when (i) received by the Party to whom it is directed by hand delivery or personal service, all fees pre-paid, (ii) transmitted by facsimile with confirmation of transmission (an original signed copy, via first-class U. S. Mail, shall follow facsimile transmissions) or (iii) received or delivery refused if sent by U.S. mail via certified mail-return receipt requested, postal fees pre-paid at the following addresses:

If to ICE:

Stephen M. Biagiotti
Las Vegas ICE, LLC
5655 S. Yosemite Street, Suite 301
Greenwood Village, CO 80111
Phone: 303-220-0500 ex. 209

If to RDA:

William Arent, Director
City of Las Vegas Redevelopment Agency
c/o Office of Business Development
400 Stewart Avenue, 2nd Floor
Las Vegas, 89101
Phone: 702-229-6551
Fax: 702-385-3128

And to: Manager, Purchasing & Contracts
City Hall, First Floor
400 Stewart Avenue
Las Vegas, NV 89101
Phone: 702-229-6021
Fax: 702-384-9964

13. Publicity. The Parties agree that neither Party shall make any public announcement or any press release with respect to this Agreement or the Project without the consent of the other Party which consent shall not be unreasonably withheld or delayed. Nothing in this Section 13 shall limit or prevent the RDA or the City from undertaking any actions required by Nevada's open meeting laws or causing or allowing the release of information or dissemination of documents as may be required or appropriate in connection with any administrative hearings or proceedings pertaining to the RDA Board and City's approval or implementation of this Agreement. Notwithstanding the foregoing, the Parties shall have the right to disclose any and all information to a governmental body or law enforcement agency which has been properly designated to collect information from ICE about its planned project.

14. Assignment. Neither Party may assign or transfer all or any part of its interest in this Agreement without first obtaining the written consent of the other Party which consent may be granted or withheld in such other Party's sole and unfettered discretion. Any transfer or assignment in violation of this Section 14 shall be null and void and constitute a default of this Agreement.

15. Time of the Essence. Time is of the essence in this Agreement and each and every term and provision hereof.

16. Interpretation; Governing Law. This Agreement shall be construed as if prepared by both Parties. This Agreement shall be construed, interpreted and governed by the laws of the State of Nevada.

17. Entire Agreement; Amendments. This Agreement is intended by the Parties to be the final expression of their agreement with respect to the subject matter hereof, and is intended as the complete and exclusive statement of the terms of the agreement between the Parties. As such, this Agreement supersedes any and all prior understandings between the Parties, whether oral or written. Any amendments to this Agreement shall be in writing and shall be signed by both Parties hereto.

18. No Waiver. A waiver by either Party hereto of a breach of any of the covenants or agreements hereof to be performed by the other Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, representatives, successors and permitted assigns.

20. Headings; Exhibits; Cross References. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement and the Recitals at the front of this Agreement are incorporated herein by the references thereto contained herein. All references in this Agreement to Articles, Sections and exhibits shall be to Articles, Sections and Exhibits of or to this Agreement, unless otherwise specified.

21. Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void, or against public policy for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the full extent permitted by law.

22. Performance of Acts on Business Days. Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days. In the event that the final date for payment of any amount or performance of any act hereunder falls on a Saturday, Sunday or holiday, such payment may be made or act performed on the next succeeding business day.

23. No Third Party Beneficiaries. This Agreement is intended for the exclusive benefit of the RDA and ICE and their respective permitted assigns and is not intended and shall not be construed as conferring any benefit on any third party or the general public. Further, nothing contained herein is intended to grant to the RDA or any other party, nor shall the RDA have any third party have, any rights or benefits flowing from any agreement between and any other party except to the extent rights shall be expressly transferred or created in any such agreement.

24. Counterpart Signatures; Facsimile Transmission. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one agreement. Delivery of this Agreement may be accomplished by facsimile transmission of this Agreement. In such event, the Parties hereto

shall promptly thereafter deliver to each other executed counterpart originals of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date set forth beneath their respective signatures below.

<u>RDA</u>	<u>ICE</u>
CITY OF LAS VEGAS REDEVELOPMENT AGENCY	LAS VEGAS ICE, LLC By: SDA, Incorporated Its: Managing Member
By: Oscar B. Goodman	By: Stephen M. Biagiotti
Chairman	President

ATTEST:

APPROVED AS TO FORM:

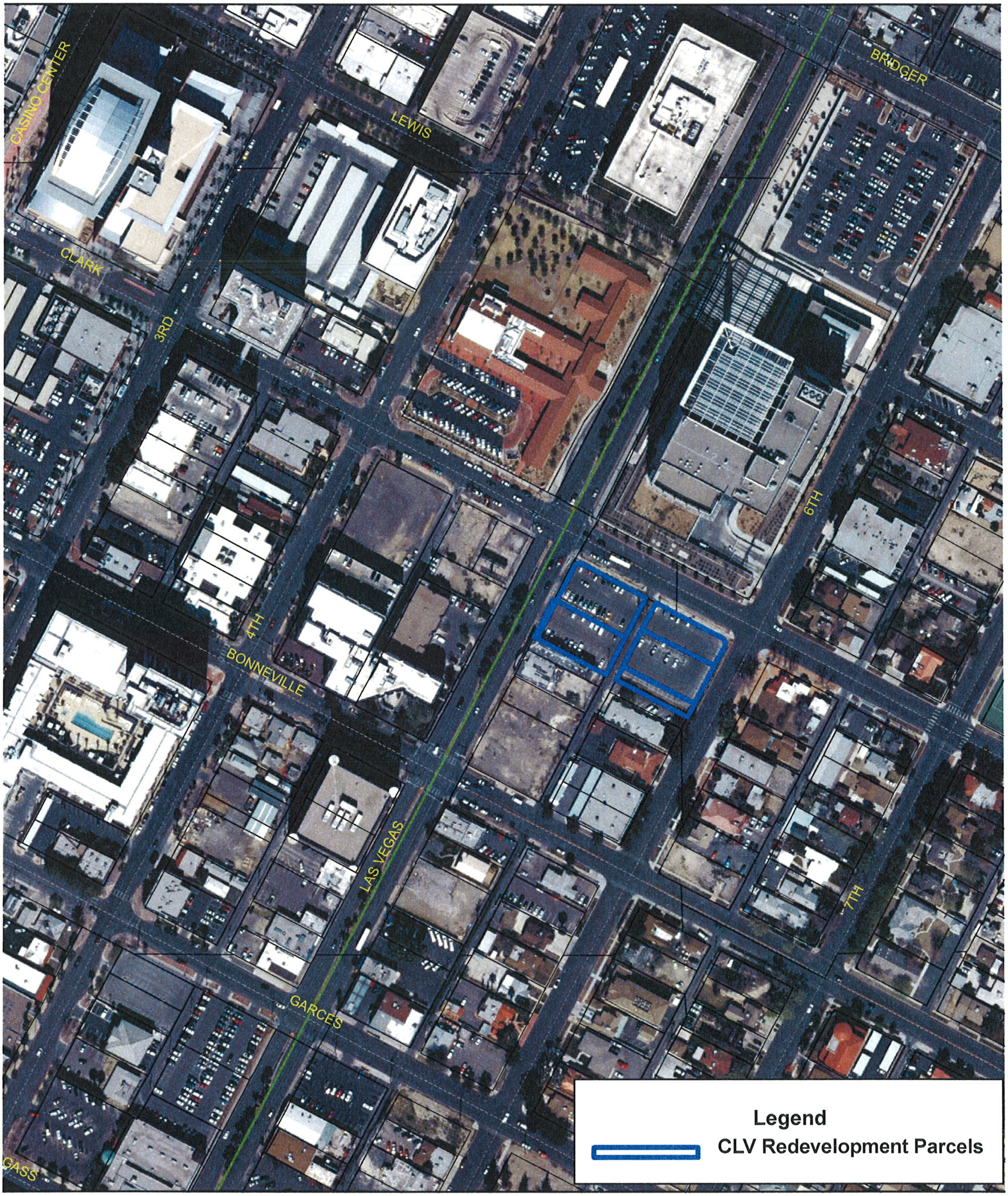
Esq

Date

12-10-09

LIST OF EXHIBITS

Exhibit A



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12/1/09

EXHIBIT "B"

CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

"*City*" means the City of Las Vegas.

"*City Council*" means the governing body of the City of Las Vegas.

"*Contracting Entity,*" means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

"*Principal*" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members; (e) trust – the trustee and beneficiaries.

2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

Block 1 Contracting Entity	Block 2 Description
Las Vegas Ice, LLC	**Exclusive Negotiation Agreement**
Name	
(303) 220-0500	
Telephone	
Applied For	
EIN or DUNS	**RFP#**

Block 3 **Type of Business**

☐ Individual ☐ Partnership ☒ Limited Liability Company ☐ Corporation ☐ Trust ☐ Other:

CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS
(CONTINUED)

Block 4 **Disclosure of Ownership and Principals**
In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.

	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	**Stephen M. Biagiotti**	**5655 S. Yosemite St. #301 Greenwood Village, CO 80111**	**(303) 220-0500 x209**
2.	**Mark D. Canto**	**5655 S. Yosemite St. #301 Greenwood Village, CO 80111**	**(303) 220-0500 x207**
3.	**Paula L. Woodward**	**5655 S. Yosemite St. #301 Greenwood Village, CO 80111**	**(303) 779-4735**
4.			
5.			
6.			
7.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: _N/A____.

Block 5 **DISCLOSURE OF OWNERSHIP AND PRINCIPALS – ALTERNATE**

If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.

Name of Attached Document: N/A

Date of Attached Document: ____________ Number of Pages: ____________

I certify under penalty of perjury, that all the information provided in this Certificate is current, complete and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.

Las Vegas ICE, LLC
By: Officer of SDA Inc.

Name: Stephen M. Biagiotti, President of SDA Inc.

Date 12/4/09

Subscribed and sworn to before me this 4th day of December, ~~2010~~ 2009

Cortney C Spillman

Notary Public

Cortney C. Spillman
Notary Public, State of Colorado
5655 South Yosemite Street, #301
Greenwood Village, Colorado 80111
Commission Expires August 14, 2011

CORTNEY C. SPILLMAN NOTARY PUBLIC STATE OF COLORADO

EXHIBIT "C"

Due Diligence Materials provided by the RDA to Developer

The RDA has provided the following due diligence materials to Developer as of the date of execution of this Agreement by the RDA:

Title/Text Reference	**Date**
Preliminary Title Report by Nevada Title	December 2009
ALTA Survey by Alan R. Riekki, PLS (City Surveyor)	March 2006
Appraisal Report by Lubawy & Associates	August 2009
Appraisal Report by Kent Appraisals	August 2009

City of Las Vegas

Agenda Item No.: **5.**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: JANUARY 20, 2010

DEPARTMENT: OFFICE OF BUSINESS DEVELOPMENT
DIRECTOR: BILL ARENT

SUBJECT:
Discussion and possible action concerning an Exclusive Negotiation Agreement by and between the City of Las Vegas Redevelopment Agency, a Nevada nonprofit corporation, and Solterra Nevada Holdings, LLC, a Nevada Limited Liability Corporation, for a site located at 501 South Fourth Street, known as APN 139-34-303-002 - Ward 3 (Reese)

Fiscal Impact

☒ **No Impact** ☐ **Augmentation Required**
☐ **Budget Funds Available**

Amount:
Funding Source:
Dept./Division:

PURPOSE/BACKGROUND:
This agreement will allow the Solterra Holdings, LLC, to evaluate the potential of acquiring the site located at Fourth and Clark for the development of a new mixed-use housing project in the heart of downtown Las Vegas.

RECOMMENDATION:
Approval.

BACKUP DOCUMENTATION:
Exclusive Negotiation Agreement

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT ("ENA" or "Agreement") is entered into this _____ day of ___________, 2010, by and between the City of Las Vegas Redevelopment Agency, a public body in the State of Nevada (hereinafter "Agency") and Solterra Nevada Holdings, LLC, a Nevada limited liability company or (hereinafter "Developer"), on the terms and provisions set forth below.

RECITALS

WHEREAS, the AGENCY owns real property located at 408 East Clark Avenue, know as APN: 139-34-303-002 and referred to as the "Site" or "Property" for the purposes of this Agreement; and

WHEREAS, the AGENCY wishes to dispose of the Site for the purpose of redevelopment; and

WHEREAS, the Developer wishes to acquire the Site for the purpose of the real estate development for the construction of a new private development; and

WHEREAS, the AGENCY and Developer desire to enter into negotiations concerning the Developer's plans for the development of the Site with the intent that at the conclusion of the Negotiation Period, as defined below, an affiliate of developer enter into a "Disposition and Development Agreement ("DDA") for the Site.

NOW, THEREFORE, for and in consideration of the mutual agreements, which are hereinafter contained, the parties do hereby agree as follows:

1. Scope of Development

A. Mixed-Use Development

The Developer will agree to study and conduct due diligence (and present, or make available to the Agency for its review and inspection, results of its studies that are not deemed confidential by the Developer) regarding design, cost, operational structure of and constructability of a mixed-use development on the Site.

B. Deal Terms

The Agency and the Developer commit to negotiate terms of the land purchase price for the Site, which land purchase price shall comply with applicable Nevada law. The Agency and the Developer must agree to a mutually acceptable schedule of performance for development of the Site, which shall be incorporated into the DDA for the Site.

2. Negotiations

A. Good Faith Negotiations

The Agency and Developer agree for the Negotiation Period set forth below to negotiate diligently and in good faith to prepare a Disposition and Development Agreement for the Site. All terms and conditions of the DDA will be defined and negotiated in good faith by the Agency and the Developer during the entire Negotiation Period. The Agency further agrees, for the Negotiation Period set forth below, not to negotiate with any other person or entity regarding the sale, disposition and/or development of the Site. The Agency further agrees, for the Negotiation Period set forth below, not to negotiate with any other person or entity regarding the ownership, development, operation and management of the Site. The terms and provisions of the DDA shall be acceptable to the Agency and the Developer in its respective sole subjective discretion.

B. Negotiation Period

The duration of this ENA shall be for a term of One Hundred Eighty (180) days, commencing on the full execution of this ENA (hereinafter "Negotiation Period"). The Negotiation Period may be extended for an additional Ninety (90) days ("Extension") in the event that progress towards the finalization of the DDA for the Site is being made. This Extension would require written mutual agreement by the Executive Director of the Agency and the authorized representative of the Developer, which shall be executed no later than thirty (30) days prior to the expiration of the initial 180 day term. If upon expiration of the Negotiation Period (as same may have been extended), Developer and the Agency have not reached mutual agreement as to the scope, conceptual plan, and business terms for acquisition of the Site, then this Agreement shall automatically terminate. If the Parties have not reached agreement on the above points, and both parties mutually agree to extend this Negotiation Period, this ENA will need to be amended which will be subject to the Las Vegas City Council and/or Agency Board approval, the term of any extension will be negotiated at that point in time.

C. Tasks to be Performed by Developer during the Negotiation Period

i. Master Plan for Site.

The Developer, at Developer's expense, shall complete and provide to the Agency, or make available for review and inspection by the Agency, a master plan consisting of site plans (showing proposed programming) and renderings for development of the Site within four (4) months of the date of this ENA.

ii. Within six (6) months of the date of this ENA, the Developer shall provide to the Agency, or make available for review by the Agency, the following:

a) A schedule of performance for the Site;

b) A schedule and scope for design, permitting, construction, and completion of improvements on the Site; and

c) A plan for equity and/or debt financing for the development of the Site.

iii. Developer shall complete all necessary due diligence on the Site prior to the execution of the DDA. This due diligence will be at the Developer's sole expense.

iv. The Developer shall explore the potential of assembling additional acreage near the Site to expand the development.

3. <u>Development Concept</u>

A. <u>Completion of Development Program</u>

The negotiations hereunder shall be based on a development program encompassing the entire Site. The development will consist of an acceptable mixed-use development.

B. <u>Developer's Findings, Determinations, Studies and Reports</u>

The Developer shall keep the Agency reasonably informed of its progress in developing the scope of development. Upon reasonable notice, as requested by the Agency, Developer agrees to make oral progress reports advising the Agency on the status of the development plan, all matters and all studies being made by Developer. The work product produced by Developer constitutes the property and assets of Developer.

4. <u>Developer</u>

A. <u>Nature of Developer</u>

Developer is Solterra Nevada Holdings, LLC, a Nevada limited liability corporation. If Developer chooses to form a partnership or limited liability company in the future and they wish to assign the rights of this ENA to this new entity or partnership, such assignment shall require the prior written approval of the Agency. The Agency recognizes that the DDA shall be entered into by an affiliate of Developer.

B. <u>Office of Developer</u>

The principal office of Developer is:

460 Fraser View Place
Delta, BC V3M 6H4
Phone: (604)528-6010
Attention: Mike Bosa

C. Full Disclosure of Principals

Developer is required to make full disclosure to Agency of its principals, officers, major stockholders, major partners, joint venture partners, key managerial employees and other associates, and all other material information concerning Developer and its associates. Any significant change in the principals, associates, partners, joint venture, negotiators, development manager, consultants, professionals and directly-involved managerial employees of Developer is subject to the approval of Agency; such approval shall not be unreasonably withheld.

Pursuant to Resolution RA-4-99 adopted by the City of Las Vegas Redevelopment Agency Board effective October 1, 1999, Developer warrants that it has disclosed, on the form attached hereto as Exhibit "C", all principals, including, partners or members of Solterra Nevada Holdings, LLC, as well as all persons and entities holding more than 1% interest in said company or any principal, partner or member of the same, including any assignee of this ENA and all key employees. Throughout the term hereof, Developer shall provide written notification of any material change in the above disclosure within 30 days of any such change, pursuant to Section 12 (Notices).

5. Developer's Financial Capacity

A. Financial Ability

Prior to execution of the DDA, Developer shall submit to Agency satisfactory evidence of its ability to finance and complete the development, if not already provided pursuant to Section 2.C. above.

B. Construction Financing

Developer's proposed method of obtaining construction financing for the development of the development shall be submitted concurrently with Developer's proposed DDA for the Site to Agency for approval, if not already provided pursuant to Section 2.C. above.

C. Long-Term Development Financing

Developer's proposed method of obtaining long-term development financing shall be submitted concurrently with Developer's proposed DDA for the Site to Agency for approval, if not already provided pursuant to Section 2.C. above.

D. Full Disclosure of Financing

Developer will be required to make and maintain full disclosure to Agency of its methods of financing to be used in the development of the Site.

6. Developer's Responsibilities

A. Return of Site to Original Condition

Developer hereby agrees to return the Site to its original condition upon completion of any investigations requiring access to the Site, as applicable. This includes replacement of any dust palliative which may be disturbed by vehicles and personnel permitted to access the Site. If the Developer fails to return the site to its original condition any costs incurred by the Agency to return to the Site to its original condition shall be covered from the Developer's Deposit.

B. Indemnification and Hold Harmless

Developer will indemnify and hold harmless the Agency, its officers, employees and agents from and against any claims, demands or causes of action caused by Developer or persons acting on behalf of Developer in carrying out their responsibilities in accessing the Site. This indemnity and hold harmless obligation shall not apply to claims, demands or causes of action caused by the negligence or wrongful acts of the Agency, its officers, employees and/or agents.

7. Agency's Responsibilities

A. Agency Assistance and Cooperation

Agency shall cooperate fully in providing Developer with appropriate information and assistance.

B. RIGHT TO ENTER

AS SET FORTH IN EXHIBIT "D," AGENCY GIVES DEVELOPER THE RIGHT TO ENTER SITE, SUBJECT TO CURRENT TENANT APPROVALS, TO CARRY OUT ITS DUE DILIGENCE INSPECTION OF THE SITE AND THE DEVELOPER ACKNOWLEDGES AND UNDERSTANDS THE CONDITIONS AND EXCEPTIONS UNDER WHICH SAID RIGHT IS GRANTED.

8. Real Estate Commission

The Agency shall not be liable for any real estate commission or brokerage fees, which may arise here from, unless due to the actions of the Agency. Developer represents that it has engaged no broker, agent or finder in connection with this transaction, and Developer agrees to hold Agency harmless from any claim by any broker or finder retained by Developer. The Agency represents that it has engaged no broker, agent or finder in connection with this transaction, and the Agency agrees to hold the Developer harmless from any claim by any broker or finder retained by the Agency.

9. Limitations of this ENA

By its execution of this ENA, the Agency is not committing itself to or agreeing to undertake:

A. The disposition of the Site to Developer; or,

B. Any other acts or activities requiring the subsequent independent exercise of discretion by the Agency or any Agency department or board thereof.

This ENA does not constitute a disposition of property or exercise of control over property by Agency. Execution of this ENA by Agency is merely an ENA to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by Agency, City of Las Vegas Redevelopment Agency Board and the Las Vegas City Council as to any and all proceedings and decisions in connection therewith.

By its execution of this ENA, Developer is not committing itself to or agreeing to undertake the acquisition of the Site from the Agency or to develop anything on the Site.

10. Deposit

Within ten (10) days after the execution of this ENA, Developer shall provide the Agency with a One Hundred Thousand Dollar ($100,000) deposit ("Deposit"). The Deposit shall be placed in an interest bearing account, insured by the Federal Deposit Insurance Corporation, for the benefit of the Developer. For any reason or no reason, should the Agency and Developer fail to enter into a DDA for the Site during the Negotiation Period or if the Negotiation Period expires, including any extensions thereto, One Hundred percent (100%) of the Deposit shall be refunded to Developer with any interest earned within 30 days after the termination or expiration of this ENA. In addition, if a DDA is entered into for the Site, One Hundred percent (100%) of the Deposit shall be applied to the purchase price for the Property. If the ENA is extended through the mutual extension, the Deposit shall remain refundable. However, if the mutual extension is approved, the Developer shall provide the Agency with an additional One Hundred Thousand Dollar ($100,000) deposit ("Extension Deposit"), within ten (10) of approval of the extension. If after the Extension period the Developer is unable to move forward, the entire deposit of $200,000 with any interest will be returned to the Developer.

11. Conflict of Interest

A. An official of the Agency, who is authorized in such capacity and on behalf of the Agency to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this ENA, payments under this ENA, or work under this ENA, shall not be directly or indirectly interested personally in this ENA or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the Agency, who is authorized in such capacity and on behalf of the Agency to exercise any legislative, executive, supervisory or other similar functions in connection with this ENA, shall become directly or indirectly interested personally in this ENA or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this ENA.

B. Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the Agency relating to this ENA.

C. Developer represents and warrants that it has, in accordance with the current policy of Agency, disclosed the ownership and principals of Developer on Exhibit "C", "Disclosure of Principals", and that it has a continuing obligation to update this disclosure whenever there is a material change in the information.

12. Notices

All legal notices required pursuant to the terms and conditions of this ENA shall be in writing. Any notice required to be given under the terms of this ENA shall be deemed to have been given when (i) received by the party to whom it is directed by hand delivery or personal service, (ii) on the next business day when sent by a nationally recognized over-night delivery service, or (iii) on the fifth day after being sent by U.S. mail via certified mail-return receipt requested at the following addresses:

If to Developer:

Solterra Nevada Holdings, LLC
460 Fraser View Place
Delta, BC V3M 6H4
Phone: (604)528-6010
Attention: Mike Bosa

If to Agency:

William Arent
Director
Office of Business Development
City of Las Vegas
400 Stewart Avenue, Second Floor
Las Vegas, 89101

And

Brad Jerbic
City Attorney
City of Las Vegas
400 Stewart Avenue
Las Vegas, NV 89101

IN WITNESS WHEREOF, the parties hereto have caused this Exclusive Negotiation Agreement to be executed on the date set forth above.

City of Las Vegas Redevelopment Agency

By____________________________________
Oscar B. Goodman, Chairman   Date

ATTEST:

____
Beverly K. Bridges, MMC
Secretary

APPROVED AS TO FORM:

1/8/10
Deputy City Attorney   Date

Solterra Nevada Holdings, LLC,
A Nevada limited liability company

By:

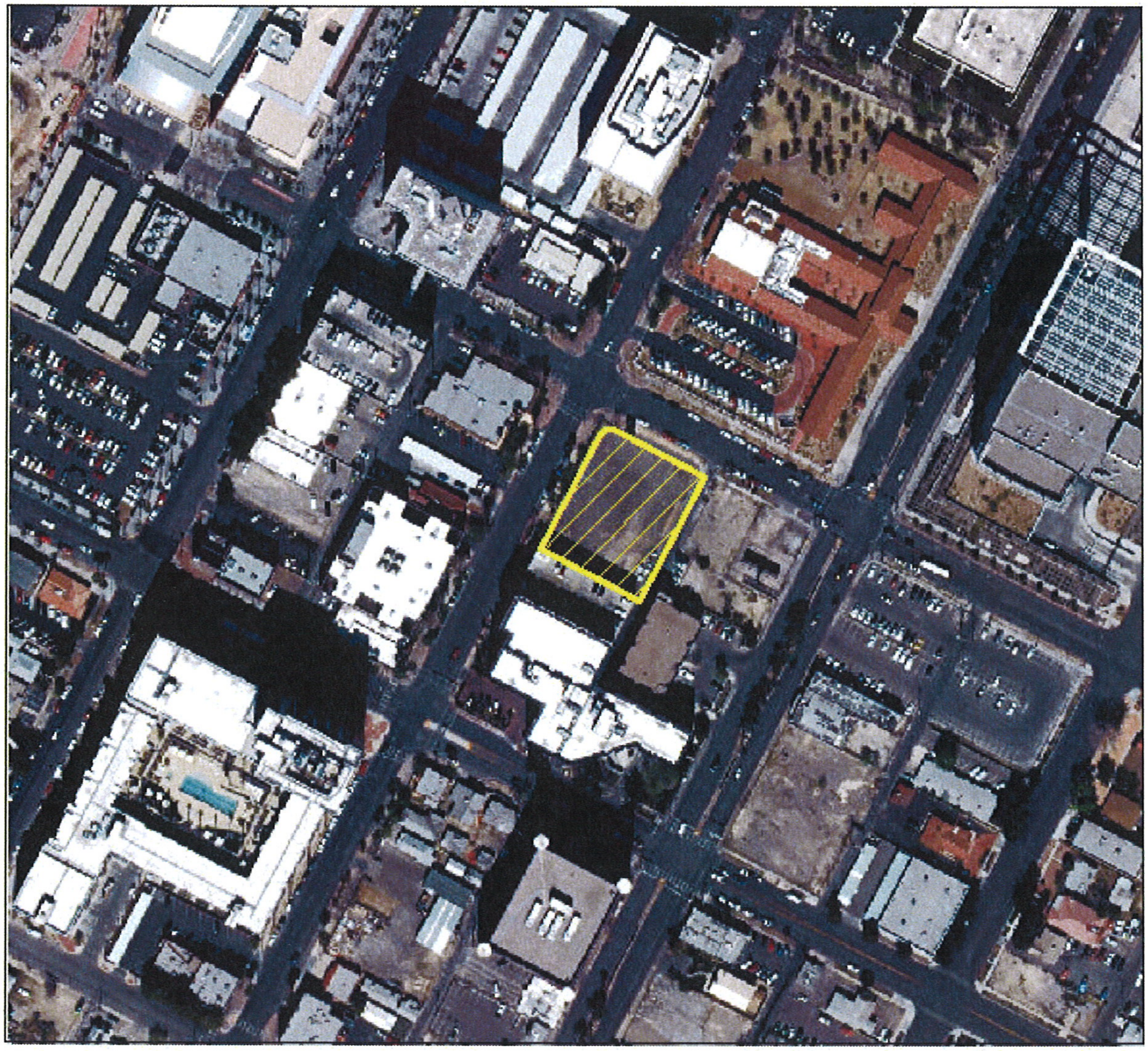
By____________________________________
"Developer"   Date

EXHIBIT "A"

Legal Description

Part of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) of Section 34 T. 20 S., R. 61 E., Clark County, Nevada. A complete legal has been detailed in the attached deed.
Parcel Number 139-34-303-002
Site Address: 501 South 4th Street, Las Vegas, NV 89101

Exhibit "B"
Site Map



Legend

4th & Clark

0 110 220 440 Feet

N

EXHIBIT "C"

DISCLOSURE OF PRINCIPALS

CERTIFICATE
DISCLOSURE OF OWNERSHIP / PRINCIPALS

1. Definitions

"City" means the City of Las Vegas.

"City Council" means the governing body of the City of Las Vegas.

"Contracting Entity" means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

"Principal" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members.

2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting Entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting Entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

Block 1	Contracting Entity
Name	Solterra Holdings Nevada, LLC
Address	460 Fraser View Place, Delta, BC V3M 6H4
Telephone	(604) 528-6010
EIN or DUNS	

Block 2	Description
Subject Matter of Contract/Agreement:	
RFP #:	

Block 3	Type of Business

☐ Individual ☐ Partnership ☒ Limited Liability Company ☐ Corporation

Block 4	Disclosure of Ownership and Principals		
In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.			
	FULL NAME/TITLE	**BUSINESS ADDRESS**	**BUSINESS PHONE**
1.	Gerry Nichele	460 Fraser View Place, Delta, BC V3M 6H4	604-528-6010
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "Disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: ________

Block 5 Disclosure of Ownership and Principals - Alternate

If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.

Name of Attached Document: ________________

Date of Attached Document: ________________ Number of Pages: ________

I certify, under penalty of perjury, that all the information provided in this Certificate is current, complete, and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.

Harry Tomyn

December 29, 2009

Subscribed and sworn to before me this 29th day of

December, 2009.

Notary Public In and For the Province of British Columbia, Canada

GREG T. PALM
LAWYER
HUNGERFORD TOMYN LAWRENSON AND NICHOLS
1100 - 925 WEST GEORGIA STREET
VANCOUVER, B.C. CANADA V6C 3L2

EXHIBIT "D"
RIGHT-OF-ENTRY FORM
FOR
Solterra Nevada Holdings, LLC

The City of Las Vegas Redevelopment Agency (Agency) hereby authorizes Right-of-Entry onto the parcel known as APN: 139-34-303-002 of the EXCLUSIVE NEGOTIATION AGREEMENT ("ENA") dated __________, 2010, which is located at 408 East Clark Avenue to Solterra Nevada Holdings, LLC, for the purpose of performing surveys, environmental and/or geotechnical services on said Agency owned parcel.

Agency contact person is: Bill Arent, 702-229-6100

The Solterra Nevada Holdings, LLC, contact person is: ________________

City of Las Vegas Redevelopment Agency

By:_________________________ _______________
Elizabeth N. Fretwell, Executive Director Date

INDEMNIFICATION

Solterra Nevada Holdings, LLC,, hereby agrees to protect, indemnify, and hold the Agency and City of Las Vegas, its officers, employees and agents, harmless from and against any and all claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, attorneys' fees and court costs, which the Agency and/or City of Las Vegas, its officers, employees or agents, may suffer or which may be sought against or are recovered or obtainable from the Agency and/or the City of Las Vegas, its officers, employees or agents, that are caused by the wrongful acts or omission of, negligence of Solterra Nevada Holdings, LLC or its officers employees, contractors, subcontractors and agents. This indemnity and hold harmless obligation shall not apply to claims, demands or causes of action caused by the gross negligence or wrongful acts of the Agency and/or the City of Las Vegas, its officers, employees and/or agents.

In this connection, the Solterra Nevada Holdings, LLC, expressly agrees, at its sole cost and expense, to defend the Agency and/or the City of Las Vegas, its officers, employees and agents, in any suit or action that may be brought against it or them, or any of them by reason of any act or omission, negligent or otherwise, against which The Solterra Nevada Holdings, LLC, has agreed to indemnify the Agency and/or the City of Las Vegas, its officers, employees and agents in the above paragraph. If The Solterra Nevada Holdings, LLC fails to do so, after notice to The Solterra Nevada Holdings, LLC the Agency and/or the City of Las Vegas shall have the right, but not the obligation to defend same and to charge all of the direct and incidental costs of such defense, including reasonable attorneys' fees and court costs, to the Solterra Nevada Holdings, LLC.

The Solterra Nevada Holdings, LLC, agrees to restore the site to its original condition as much as possible, and agrees to conduct its testing in a manner which will cause the least amount of disruption to the present users. This agreement does not constitute or imply any binding contracts or other commitments by the Agency and/or the City of Las Vegas to Solterra Nevada Holdings, LLC, agrees that it proceeds at its own risk and agrees that the results of said testing shall be shared with Agency.

Solterra Nevada Holdings, LLC
By:_________________________ Date:_______________

City of Las Vegas

Agenda Item No.: **6.**

AGENDA SUMMARY PAGE
REDEVELOPMENT AGENCY MEETING OF: JANUARY 20, 2010

SUBJECT:

CITIZENS PARTICIPATION: PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS WITHIN THE JURISDICTION OF THE REDEVELOPMENT AGENCY. NO SUBJECT MAY BE ACTED UPON BY THE REDEVELOPMENT AGENCY UNLESS THAT SUBJECT IS ON THE AGENDA AND IS SCHEDULED FOR ACTION. IF YOU WISH TO BE HEARD, COME TO THE PODIUM AND GIVE YOUR NAME FOR THE RECORD. THE AMOUNT OF DISCUSSION ON ANY SINGLE SUBJECT, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, MAY BE LIMITED

City of Las Vegas

Agenda Item No.: **7.**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: JANUARY 20, 2010

SUBJECT:

AGENCY MEMBER RECOGNITION: COMMENTS MADE BY INDIVIDUAL AGENCY MEMBERS DURING THIS PORTION OF THE AGENDA WILL NOT BE ACTED UPON BY THE AGENCY UNLESS THAT SUBJECT IS ON THE AGENDA AND SCHEDULED FOR ACTION