



**SEAGOVILLE, TEXAS  
CITY COUNCIL MEETING AGENDA  
MONDAY, DECEMBER 6, 2021**

**City Council Chambers, City Hall  
702 N. Hwy 175  
Seagoville, Texas 75159**

**WORK SESSION – 6:30 P.M.**

**Call to Order**

- A. Discuss regular session agenda items**
- B. Update concerning City Projects**

**Adjourn**

**REGULAR SESSION - 7:00 P.M.**

**ROUTINE ANNOUNCEMENTS, RECOGNITIONS, and PROCLAMATIONS**

**Call to Order**

**Invocation**

**Pledge of Allegiance**

**Mayor's Report**

**Citizens Public Comment Period-** *This portion of the meeting is to allow each speaker up to six (6) minutes to address the council on items not posted on the current agenda. Council may not discuss these items but may respond with factual data or policy information, or place the item on a future agenda. Citizens wishing to speak on posted agenda items will be called upon at that time. Anyone wishing to speak shall submit a Speaker Request Form to the City Secretary.*

**CONSENT AGENDA-** The Consent Agenda contains items which are routine in nature and will be acted upon in one motion.

- 1. Consider approving City Council Meeting minutes for November 15, 2021 (City Secretary)**

**REGULAR AGENDA-**

- 2. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the City Manager to execute a Chapter 380 Economic Development Program Agreement with GG Texas, LLC, in substantially the form of the agreement attached as Exhibit "1"; and providing an effective date (City Manager)**
- 3. Conduct interviews with Boards & Commissions Applicants for appointment (City Secretary)**
- 4. Discuss and consider approving a Resolution of the City of Seagoville, Dallas County, Texas, casting its vote for the fourth member of the Board of Directors of the Dallas Central Appraisal District (City Secretary)**
- 5. Conduct a public hearing to amend the Comprehensive Zoning Ordinance and Map, as previously amended, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386± acres located at 611 North U.S. Highway 175, being described as tracts L,M, and the East half of lot 2 in the Town & Country Shopping Center Revised, in the City of Seagoville, Texas (Community Development Director)**
- 6. Discuss and consider approving an Ordinance of the City of Seagoville, Texas, amending the Comprehensive Zoning Ordinance and Map, as previously amended, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit Amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386± acres located at 611 North U.S. Highway 175, being described as tracts L,M, and the east half of Lot 2 in the Town & Country Shopping Center Revised, in the City of Seagoville, Texas; providing for special conditions; providing for the repeal of all Ordinances in conflict; providing a severability clause; providing for a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and providing an effective date (Community Development Director)**
- 7. Appoint City Councilmembers to serve on the Finance Committee (Finance Director)**
- 8. Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing and ratifying the City Manager's action approving the purchase of and purchasing a 2021 Ford F-550 crew cab utility vehicle for an amount not to exceed Fifty-Six Thousand Ten Dollars and Thirty-Five Cents (\$56,010.35) from Rush Truck Center; authorizing and ratifying the City Manager's execution of any and all necessary documents and disbursement of the funds for said purchase; and providing an effective date (Public Works Director)**

- 9. Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing the purchase of four (4) 2022 Ford 150 double cab trucks in a total purchase amount not to exceed One Hundred Sixty Eight Thousand Five Hundred Sixty Dollars and Sixty Five Cents (\$168,560.65) from Rush Truck Center; authorizing the City Manager to execute any and all necessary documents and disburse the funds for said purchase; and providing an effective date (Public Works Director)**
- 10. Discuss and consider approving a Resolution of the City of Seagoville, Texas, approving an agreement for Professional Engineering Services on a task order basis for On-Call Consultation Services related to Water and Wastewater Engineering Services as set forth in Exhibit "A" attached thereto, in an amount not to exceed Twenty Five Thousand Dollars (\$25,000); authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing an effective date (Public Works Director)**
- 11. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on East Malloy Bridge Road for compensation in an amount not to exceed One Hundred Thirty Five Thousand Eight Hundred Eighty Four Dollars and Zero Cents (\$135,884.00) as set forth in Exhibit "A", attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date (Public Works Director)**
- 12. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, ratifying and approving the terms and conditions of a Professional Services Agreement between Seagoville Economic Development Corporation and the Retail Coach in substantially the form as attached hereto as Exhibit "1", including Exhibit "A" thereto, for the purposes of providing assistance in retail recruitment and development strategy for a term of one year and for compensation in an amount not to exceed Seventeen Thousand Five Hundred Dollars (\$17,500.00) providing for a repealing clause; providing for a severability clause; and providing an effective date (City Manager)**
- 13. Discuss and consider approving additional holiday(s) for Christmas/New Year (Councilmember Hernandez)**
- 14. Discuss and consider approving a Resolution of the City of Seagoville, Texas, approving and authorizing the City Manager to execute a Lease Agreement and a Maintenance Agreement with Toshiba America Business Solutions, Inc., d/b/a Toshiba Financial Services, for copiers; providing for the repeal of any and all Resolutions in conflict; providing for severability clause; and providing an effective date (Library Director)**
- 15. Receive Councilmember Reports/Items of Community Interest - as authorized by Section 551.0415 of the Texas Government Code.**

**16. Future Agenda Items** – Council to provide direction to staff regarding future agenda items. These items will not be discussed and no action will be taken at this meeting.

**17. Recess into Executive Session**

**Council will recess into executive session pursuant to Texas Government Code:**

**A. § 551.071. Consultation with City Attorney: receive legal advice related the City of Seagoville obtaining Simonds Lake Park**

**18. Reconvene into Regular Session**

**Council will reconvene into open session, and take action, if any, on matters discussed in Executive Session.**

**A. § 551.071. Consultation with City Attorney: receive legal advice related the City of Seagoville obtaining Simonds Lake Park**

**Adjourn**

Posted Friday, December 3, 2021 2019 by 5:00 P.M.

  
\_\_\_\_\_  
Kandi Jackson, City Secretary



As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into closed executive session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

The City of Seagoville does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. If you have a request for services that will make this program accessible to you, please contact the City of Seagoville at least 72 hours in advance at (972) 287-6819. (TDD access 1-800-RELAY-TX)

**DATES TO REMEMBER**

- **Monday, December 20, 2021 Regular City Council Meeting**
- **Monday, January 3, 2022 Regular City Council Meeting**
- **Monday, January 17, 2022 Regular City Council Meeting**
- **Monday, February 7, 2022 Regular City Council Meeting**

## *Consent Session Agenda Item: 1*

**Meeting Date: December 6, 2021**

**ITEM DESCRIPTION:**

Consider approving City Council Meeting minutes for November 15, 2021.

**BACKGROUND OF ISSUE:**

Approve City Council Meeting minutes for November 15, 2021.

**FINANCIAL IMPACT:**

N/A

**RECOMMENDATION:**

N/A

**EXHIBITS:**

November 15, 2021 Work Session Meeting Minutes  
November 15, 2021 Regular Meeting Minutes



**MINUTES OF CITY COUNCIL  
WORK SESSION  
NOVEMBER 15, 2021**

**The Work Session of the City Council of the City of Seagoville, Texas was called to order at 6:30 p.m. on Monday, November 15, 2021, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:**

Dennis Childress	Mayor	
Mike Fruin	Mayor Pro Tem	
Jose Hernandez	Councilmember	
Rick Howard	Councilmember	
Harold Magill	Councilmember	
Jon Epps	Councilmember	Absent

The following staff members were also present: City Manager Patrick Stallings, Assistant Police Chief Steve Davis, Community Development Director Ladis Barr, City Attorney Victoria Thomas, Finance Director Gail French, Public Works Director Chris Ryan, Fire Chief Todd Gilcrease, Director of Health and Code Jimmy Stephens, Building Inspector Kailey Lampkin, Code Enforcement Officer in Training Summer Graybill, Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

**A. Discuss regular session agenda items**

- 1. Consider approving City Council Meeting minutes for November 1, 2021 (City Secretary)**

*No questions.*

- 2. Discussion concerning Food Truck Court at C.O. Bruce Park (Garver Engineering – Corey Wilkinson)**

*City Manager Stallings stated Corey Wilkinson will present this item during Regular Session.*

- 3. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on Georgia Lane for compensation in an amount not to exceed Thirty-Three Thousand Eight Hundred Forty-Eight Dollars and Ninety-six Cents (\$33,848.96) as set forth in Exhibit "A", attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date (Public Works Director)**

*Public Works Director Ryan stated this Resolution authorizes Anderson Asphalt & Concrete Paving to provide asphalt road work on Georgia Lane for compensation in an amount not to exceed Thirty-Three Thousand Eight Hundred Forty-Eight Dollars and Ninety-six Cents (\$33,848.96).*

- 4. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on Water Street for compensation in an amount not to exceed Two Hundred Twenty Seven Thousand Dollars and Zero Cents (\$227,000.00) as set forth in Exhibit A, attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date (Public Works Director)**

*Public Works Director Ryan stated this approves a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on Water Street for compensation in an amount not to exceed Two Hundred Twenty Seven Thousand Dollars and Zero Cents (\$227,000.00).*

- 5. Receive a presentation of City of Seagoville's 4<sup>th</sup> Quarter Financial Report for Fiscal Year End 2021 (Finance Director)**

*City Manager Stallings stated Finance Director French will present the City of Seagoville's 4<sup>th</sup> Quarter Financial Report for Fiscal Year End 2021 during Regular Session.*

- 6. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, adopting the Texas Term Sheet and its Intrastate Allocation Schedule regarding the Global Opioid Settlement; and providing an effective date (Director of Health & Code)**

*Director of Health & Code stated this approves a Resolution of the City Council of the City of Seagoville, Texas adopting the Texas Term Sheet and its Intrastate Allocation Schedule regarding the Global Opioid Settlement. He also stated there are regulations concerning the monies received from this settlement.*

7. **Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, ratifying and approving the Economic Development Incentive Agreement between the Seagoville Economic Development Corporation and Mi Vestido, a Texas General Partnership, for signage grant in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) and authorizing the City Manager/Executive Director to take such further action and sign such documents as necessary to effect said agreement; and providing an effective date (City Manager)**

*City Manager Stallings stated this approves a Resolution of the City Council of the City of Seagoville, Texas, ratifying and approving the Economic Development Incentive Agreement between the Seagoville Economic Development Corporation and Mi Vestido, a Texas General Partnership, for signage grant in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00).*

*City Manager Stallings stated Items # 8 and #9 will be discussed during Regular Session.*

**B. Receive an update concerning Public Works & Parks Projects**

*Public Works Director Ryan provided an update concerning Public Works & Parks Projects.*

**C. Receive an update concerning ISO Rating**

*Fire Chief Gilcrease provided an update concerning the ISO Rating.*

**D. Receive an update concerning Code Enforcement**

*Building Inspector Lampkin provided an update concerning Code Enforcement. She also introduced the new Code Enforcement Officer in Training, Summer Graybill.*

**Adjourned at 6:57 p.m.**

**APPROVED:**

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Mayor Dennis K. Childress

**ATTEST:**

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Kandi Jackson, City Secretary



**MINUTES OF CITY COUNCIL  
REGULAR SESSION  
NOVEMBER 15, 2021**

**The Regular Session of the City Council of the City of Seagoville, Texas was called to order at 7:07 p.m. on Monday, November 15, 2021, at City Hall, 702 N. Hwy 175, Seagoville, Texas with a quorum present, to wit:**

Dennis Childress	Mayor	
Mike Fruin	Mayor Pro Tem	
Jose Hernandez	Councilmember	
Rick Howard	Councilmember	
Harold Magill	Councilmember	
Jon Epps	Councilmember	Absent

The following staff members were also present: City Manager Patrick Stallings, Assistant Police Chief Steve Davis, Community Development Director Ladis Barr, Fire Chief Todd Gilcrease, Director of Health & Code Jimmy Stephens, Public Works Director Chris Ryan, City Attorney Victoria Thomas, Finance Director Gail French, Director of Administrative Services Cindy Brown, and City Secretary Kandi Jackson.

**Invocation** – *Invocation was led by Councilmember Magill.*

**Pledge of Allegiance** – *Pledge of Allegiance was led by Mayor Childress.*

**Mayor's Report** – *Mayor Childress thanked everyone for attending the meeting.*

**Citizens Public Comment Period-** *This portion of the meeting is to allow each speaker up to six (6) minutes to address the council on items not posted on the current agenda. Council may not discuss these items but may respond with factual data or policy information, or place the item on a future agenda. Citizens wishing to speak on posted agenda items will be called upon at that time. Anyone wishing to speak shall submit a Speaker Request Form to the City Secretary.*

*Carmen Arenivas at 1416 La Fonda Circle stated they are not in favor of changing the name of the street and the petition was not signed by her husband.*

**CONSENT AGENDA-** The Consent Agenda contains items which are routine in nature and will be acted upon in one motion.

**1. Consider approving City Council Meeting minutes for November 1, 2021 (City Secretary)**

*Motion to approve City Council Meeting minutes for November 1, 2021 – Howard, seconded by Magill; motion passed with all ayes. 4/0*

**REGULAR AGENDA-**

**2. Discussion concerning Food Truck Court at C.O. Bruce Park (Garver Engineering – Corey Wilkinson)**

*Corey Wilkinson with Garver Engineering provided options for a Food Truck Court at C.O. Bruce Park.*

**3. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on Georgia Lane for compensation in an amount not to exceed Thirty-Three Thousand Eight Hundred Forty-Eight Dollars and Ninety-six Cents (\$33,848.96) as set forth in Exhibit “A”, attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date (Public Works Director)**

*Motion to approve a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on Georgia Lane for compensation in an amount not to exceed Thirty-Three Thousand Eight Hundred Forty-Eight Dollars and Ninety-six Cents (\$33,848.96) as set forth in Exhibit “A”, attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date – Hernandez, seconded by Howard; motion passed with all ayes. 4/0*

**4. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on Water Street for compensation in an amount not to exceed Two Hundred Twenty Seven Thousand Dollars and Zero Cents (\$227,000.00) as set forth in Exhibit A, attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date (Public Works Director)**

*Motion to approve a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on Water Street for compensation in an amount not to exceed Two Hundred Twenty Seven Thousand Dollars and Zero Cents (\$227,000.00) as set forth in Exhibit A, attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date – Hernandez, seconded by Magill; motion passed with all ayes. 4/0*

**5. Receive a presentation of City of Seagoville’s 4<sup>th</sup> Quarter Financial Report for Fiscal Year End 2021 (Finance Director)**

*Finance Director French presented the City of Seagoville’s 4<sup>th</sup> Quarter Financial Report for Fiscal Year End 2021.*

**6. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, adopting the Texas Term Sheet and its Intrastate Allocation Schedule regarding the Global Opioid Settlement; and providing an effective date (Director of Health & Code)**

*Motion to approve a Resolution of the City Council of the City of Seagoville, Texas, adopting the Texas Term Sheet and its Intrastate Allocation Schedule regarding the Global Opioid Settlement; and providing an effective date – Hernandez, seconded by Howard; motion passed with all ayes. 4/0*

**7. Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, ratifying and approving the Economic Development Incentive Agreement between the Seagoville Economic Development Corporation and Mi Vestido, a Texas General Partnership, for signage grant in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) and authorizing the City Manager/Executive Director to take such further action and sign such documents as necessary to effect said agreement; and providing an effective date (City Manager)**

*Motion to approve a Resolution of the City Council of the City of Seagoville, Texas, ratifying and approving the Economic Development Incentive Agreement between the Seagoville Economic Development Corporation and Mi Vestido, a Texas General Partnership, for signage grant in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) and authorizing the City Manager/Executive Director to take such further action and sign such documents as necessary to effect said agreement; and providing an effective date – Magill, seconded by Hernandez; motion passed with all ayes. 4/0*

**8. Discussion concerning the storage of trash and recycle carts (Councilmember Howard)**

*Councilmember Howard provided pictures of trash and recycle carts that have been left out after trash collection.*

*After some discussion, Council directed Staff to review trash Ordinances from neighboring cities.*

**9. Discussion concerning access to the parking lot at Kaufman and Hall (Councilmember Magill)**

*Councilmember Magill explained once the residents from the Seagoville Senior Citizens Home make it across the crosswalk at Kaufman and Hall, they do not have access to the parking lot.*

*Public Works Director Ryan provided information from C&M Concrete to provide access to the parking lot.*

**10. Receive Councilmember Reports/Items of Community Interest** - as authorized by Section 551.0415 of the Texas Government Code.

*Councilmember Magill stated he would like give a shout out to Republic Services for a job well done for picking up dumped trash.*

*Councilmember Hernandez stated he would like to recognize unsung heroes. He stated a veteran Marine has been picking up trash. He also stated Heard Park is kept clean by a man and his son.*

*Mayor Childress stated Republic Services missed his trash for collection and came back the same day.*

**11. Future Agenda Items** – Council to provide direction to staff regarding future agenda items. These items will not be discussed and no action will be taken at this meeting.

*None.*

**12. Recessed into Executive Session at 7:46 p.m.**

**Council will recess into executive session pursuant to Texas Government Code:**

- A. § 551.071. Consultation with City Attorney: receive legal advice related to Public Safety Requirements regarding LaPulga Seagoville.**
- B. § 551.071. Consultation with City Attorney: receive legal advice related to Multi-Family Licensing and Inspection**
- C. § 551.071. Consultation with City Attorney: receive legal advice related to Street Name Change**
- D. §551.071 Legal advice regarding the Contract Negotiations for the Police Department Design Build Project**

**13. Reconvened into Regular Session at 8:30 p.m.**

**Council will reconvene into open session, and take action, if any, on matters discussed in Executive Session.**

- A. § 551.071. Consultation with City Attorney: receive legal advice related to Public Safety Requirements regarding LaPulga Seagoville.**
  
- B. § 551.071. Consultation with City Attorney: receive legal advice related to Multi-Family Licensing and Inspection.**
  
- C. § 551.071. Consultation with City Attorney: receive legal advice related to Street Name Change**
  
- D. §551.071 Legal advice regarding the Contract Negotiations for the Police Department Design Build Project**

*No action taken.*

**14. Discuss and consider approving an Ordinance of the City of Seagoville, Texas, amending the Code of Ordinances by amending Chapter 11, “Health and Sanitation”, by adding a new Article 11.05 “Multi-Family Licensing and Inspection”; providing a repealing clause; providing a savings clause; providing a severability clause; providing for a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and providing for an effective date (Mayor Pro Tem Fruin)**

*Motion to table this item to the next Council Meeting – Fruin, seconded by Magill; motion passed with all ayes. 4/0*

**Adjourned at 8:31 p.m.**

**APPROVED:**

\_\_\_\_\_  
Mayor Dennis K. Childress

**ATTEST:**

\_\_\_\_\_  
Kandi Jackson, City Secretary

## ***Regular Session Agenda Item: 2***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, authorizing the City Manager to execute a Chapter 380 Economic Development Program Agreement with GG Texas, LLC, in substantially the form of the agreement attached as Exhibit “1”; and providing an effective date.

### **BACKGROUND OF ISSUE:**

The City of Seagoville is committed to the attraction and promotion of quality development of new and expanded business, and desires to provide economic development incentives and to establish various programs to ensure the City remains competitive in the marketplace, encourages the increase and retention of quality jobs, encourages revenue streams from commercial, industrial, and manufacturing businesses that maintain or increase the taxable values of their real property and improvements and business personal property in the City.

The City Council of the City of Seagoville has adopted a Comprehensive Policy Statement on Local Economic Development, Tax Abatement, and Business Incentives (the “Policy Statement”) which provides that the City of Seagoville may, on a case-by-case basis, give consideration to providing economic development incentives to individuals and businesses meeting the stated guidelines.

The Chapter 380 Economic Development Program Agreement with GG Texas, LLC, attached hereto as Exhibit “A,” conforms to the requirements of Chapter 380 of the Texas Local Government Code and the City’s Policy Statement.

### **FINANCIAL IMPACT:**

In an amount not to exceed \$250, 000.00

### **RECOMMENDATION:**

N/A

### **EXHIBITS:**

Resolution  
380 Agreement w/Gotham Greens

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT WITH GG TEXAS, LLC, IN SUBSTANTIALLY THE FORM OF THE AGREEMENT ATTACHED AS EXHIBIT “1”; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Seagoville is committed to the attraction and promotion of quality development of new and expanded business, and desires to provide economic development incentives and to establish various programs to ensure the City remains competitive in the marketplace, encourages the increase and retention of quality jobs, encourages revenue streams from commercial, industrial, and manufacturing businesses that maintain or increase the taxable values of their real property and improvements and business personal property in the City; and

**WHEREAS**, the City Council of the City of Seagoville has adopted a Comprehensive Policy Statement on Local Economic Development, Tax Abatement, and Business Incentives (the “Policy Statement”) which provides that the City of Seagoville may, on a case-by-case basis, give consideration to providing economic development incentives to individuals and businesses meeting the stated guidelines; and

**WHEREAS**, the Chapter 380 Economic Development Program Agreement with GG Texas, LLC, attached hereto as Exhibit “A,” conforms to the requirements of Chapter 380 of the Texas Local Government Code and the City’s Policy Statement;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:**

**Section 1.** That the City Council hereby authorizes the City Manager to execute the economic development program agreement with GG Texas, LLC, attached hereto and incorporated herein for all purposes as Exhibit “1.”

**Section 2.** That this Resolution shall take effect immediately from and after its passage, and it is, accordingly, so resolved.

**DULY RESOLVED AND ADOPTED** by the City Council of the City of Seagoville, Texas, this the 6th day of December, 2021.

CITY OF SEAGOVILLE, TEXAS

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Dennis K. Childress, Mayor

APPROVED AS TO FORM:

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Victoria W. Thomas, City Attorney  
(052421vwtTM122692)

ATTEST:

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Kandi Jackson, City Secretary

**EXHIBIT “1”**  
**[Chapter 380 Economic Development Program Agreement]**



**EXHIBIT “A”**  
**CITY OF SEAGOVILLE**  
**CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**  
**WITH GOTHAM GREENS HOLDINGS, LLC**

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

**ECONOMIC DEVELOPMENT AGREEMENT**

This Economic Development Agreement (“Agreement”) is made by and between the City of Seagoville, Texas (“City”), and GG Texas, LLC, a Texas limited liability company (“Company”), acting by and through their respective authorized representatives. City and Company may be referred to herein each as a “Party” and collectively as the “Parties.”

**WITNESSETH:**

**WHEREAS**, the Company has or intends to purchase an approximately 30-acre tract of land located on Environmental Way in the City of Seagoville, Texas (the “Property”) and desires to construct thereon an approximately 150,000 square foot facility and consisting of (1) a glass and steel construction, heated and cooled, hydroponic greenhouse to be used primarily for the growing of vegetables, (2) a packaging room, (3) a cold storage area, (4) loading docks, and (5) administrative offices as well as a parking lot and related appurtenances and landscaping, all as described herein (the “Gotham Greens Facility”) and to operate a hydroponic vegetable greenhouse enterprise thereon; and

**WHEREAS**, the Company intends to invest approximately Twenty-Two Million Dollars (\$22,000,000.00) in construction of these Improvements; and

**WHEREAS**, the Company has advised the City that a contributing factor that would induce the Company to purchase the Property and to construct the Gotham Greens Facility on the Property would be an agreement by the City to provide an economic development grant to Company; and

**WHEREAS**, the City has adopted programs for promoting economic development, and this Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs; and

**WHEREAS**, the City is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, the City has determined that making an economic development grant to the Company in accordance with this Agreement is in accordance with the City Economic Development Program and will: (i) further the objectives of the City; (ii) benefit the City and the City’s inhabitants; and (iii) will promote local economic development and stimulate business and commercial activity in the City.

**NOW THEREFORE**, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **Article I Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Bankruptcy or Insolvency” shall mean the dissolution or termination of Company’s existence as a going business, insolvency, appointment of receiver for any part of Company’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Company and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“City” shall mean the City of Seagoville, Texas.

“Commencement of Construction” shall mean that (i) the construction plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for the Improvements; (ii) all necessary permits for the Improvements have been issued by all applicable governmental authorities; and (iii) clearing and/or grading of the Property or the construction of the vertical elements of the Improvements has commenced.

“Company” shall mean GG Texas, LLC, a Texas limited liability company.

“Completion of Construction” shall mean: (i) substantial completion of the Improvements; (ii) the final, permanent certificate of occupancy has been issued by the City for the occupancy of the Improvements by the Company, (iii) Company is open and conducting business during normal business hours for GG Texas, LLC on the Property and in the Improvements; and (iv) Company has provided City with a written notice of the date of Completion of Construction.

“Effective Date” shall mean the last date of execution hereof.

“Expiration Date” shall mean the fifth anniversary of the Completion of Construction.

“Fee Grant” shall mean an economic development grant to be provided by the City in the form of a one-time waiver of each the following fees or requirements as the same become due and payable by Company:

<u>Fee</u>	<u>Agreed Value</u>
Building Permit fee	\$56,000.00
Plan Review fee	\$ 50.00
Administration fee	\$ 25.00
Site Plan Review fee	\$ 350.00
Platting fee	\$ 388.00
Engineering Grading & Drainage Review	\$ 7,500.00
Sidewalk Construction Req'ment	\$ 20,000.00

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by the intentionally wrongful acts or omissions of the Party), fires, earthquake, tornado, hurricane, explosions, floods, epidemic, pandemic, quarantine, crop failure, pest infestation, strikes, slowdowns or work stoppages.

“Grants” shall collectively mean the amount of the Water/Sewer Grant, the Tax Rebate Grant, and the Fee Grant in relation to the obligations described in Sections 3.1, 3.2, and 3.3, respectively, below.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Company or any property or any business owned by Company within the City.

“Improvements” shall mean both real property improvements and Tangible Personal Property on the Property, including but not limited to the following elements constructed or located on the Property: (1) one or more buildings containing approximately 150,000 square feet of space and consisting of (a) a glass and steel construction, heated and cooled, hydroponic greenhouse to be used primarily for the growing of vegetables, (b) a product packaging room, (c) a cold storage area, (d) loading docks, and (e) administrative offices; (2) paved parking lot providing parking spaces in the number required by local regulations and related driveways and appurtenances; (3) signage; (4) landscaping, and (5) HVAC systems, irrigation systems, cooling towers and other associated equipment and systems integrated with and serving the buildings, all in accordance with the elevations and plans attached hereto and incorporated herein by this reference as Exhibit “A”.

“Maximum Grant Amount” shall mean \$250,000.00 and shall include, in calculation of Maximum Grant Amount, the agreed upon values for goods and/or services as set forth in this Agreement.

“Property” shall mean the real property described in Exhibit “B”.

“Related Agreements” shall mean any agreement by and between the City or the Seagoville Economic Development Corporation and the Company or any of its affiliated or related entities.

“Required Use” shall mean Company’s continuous occupancy of Improvements and the Property and the operation thereon of a hydroponic, high-tech greenhouse and related facilities for the growing, packaging, storage, and distribution of components of salads and herbs and other vegetables and related administrative operations.

“SEDC” shall mean the Seagoville Economic Development Corporation.

“SEDC Agreement” shall mean that certain Economic Development Incentive Agreement between SEDC and Company effective [REDACTED], 2021.

“Tangible Personal Property” shall have the same meaning assigned by Tax Code, Section 1.04 and shall mean all tangible personal property, equipment, fixtures, and machinery, but excluding Freeport Goods, Goods-in-Transit, and inventory and supplies, owned or leased by the Company, and located in the Improvements on January 1 of a given tax year.

“Tax Rebate Grant” shall mean an economic development grant to be provided by the City, in an amount equal to fifty percent (50%) of the ad valorem taxes assessed and collected by the City against the Improvements and the Property for the tax year commencing on January 1 of the first full calendar year following the Completion of Construction, up to a maximum Tax Rebate Grant amount of \$134,687. The Tax Rebate Grant shall not include amounts assessed, paid and/or collected by the City as ad valorem taxes upon Tangible Personal Property (also sometimes referred to as Business Personal Property) of Company or located on the Property or in the Improvements.

“Taxable Value” shall mean the appraised value as certified by the appraisal district, or its successor, for a given year.

“Water/Sewer Grant” shall mean provision of an economic development grant to be provided by the City in the form of provision by City to Company of the following water/sanitary sewer utility goods and services: (1) one eight-inch (8”) fire line water meter to be installed on the Property for the purpose of serving the Improvements (agreed value of \$9,000.00), (2) two two-inch (2”) water meters to be installed on the Property for the purpose of serving the Improvements (agreed value of \$1,000.00 each), (3) three water taps and one eight inch (8”) sanitary sewer tap to be installed for the Property and the Improvements (agreed value \$20,000.00), and (4) water and sanitary sewer services for the Property and the Improvements for thirty-six (36) consecutive months, commencing on Completion of Construction, to be billed to Company at the rate paid by

the City (to City of Dallas in the case of water and to North Texas Municipal Water District in the case of sewer) for such services.

**Article II  
Term**

The term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and continue until the Expiration Date, unless sooner terminated as provided herein.

**Article III  
Economic Development Grants**

3.1 Fee Grant. Subject to the Company’s continued satisfaction of all the terms and conditions of this Agreement, and the Company’s obligation to repay the Grants pursuant to Section 5.2 hereof, the City agrees to provide an economic development grant in the form of a one-time waiver of each the following fees or requirements as the same become due and payable by Company:

<u>Fee</u>	<u>Agreed Value</u>
Building Permit fee	\$56,000.00
Plan Review fee	\$ 50.00
Administration fee	\$ 25.00
Site Plan Review fee	\$ 350.00
Platting fee	\$ 388.00
Engineering Grading & Drainage Review	\$ 7,500.00
Sidewalk Construction Req’ment	\$20,000.00

The Parties agree that these fees and requirements shall have the value set forth in this paragraph 3.1 for purposes of determining the amount of the Grant made by City pursuant to this Section 3.1, including the calculation of the amount of the Grant to be reimbursed upon termination of this Agreement for default, said value of a permit or requirement accruing at the time payment or performance of such fee or requirement is otherwise required under applicable City ordinances.

3.2 Tax Rebate Grant. Subject to the Company’s continued satisfaction of all the terms and conditions of this Agreement, and the Company’s obligation to repay the Grants pursuant to Section 5.2 hereof, the City agrees to provide the Company with an economic development grant in an amount equal to fifty percent (50%) of the ad valorem taxes assessed and collected by the City against the Improvements and the Property for the tax year commencing on January 1 of the first full calendar year following the Completion of Construction, up to a maximum Tax Rebate Grant amount of \$134,687. The Tax Rebate Grant shall not include amounts assessed, paid and/or collected by the City as ad valorem taxes upon Tangible Personal Property (also sometimes referred to as Business Personal Property) of Company or located on the Property or in the Improvements. The Tax Rebate Grant shall be paid on March 1 of the following calendar

year (or the immediately following business day if March 1 is not a business day), provided the City has timely received the City ad valorem taxes assessed against the Property and Improvements in full for the tax year immediately preceding the year in which the Tax Rebate Grant is to be paid and such ad valorem taxes with respect to the immediately preceding tax year are used to determine the amount of the Tax Rebate Grant. For illustration purposes only, assume that the Completion of Construction date is February 15, 2022 and that the City ad valorem taxes assessed and collected against the Improvements for tax year 2023 is \$50,000.00, then the amount of the first Tax Rebate Grant would be \$25,000.00 (\$50,000.00 x 50%), to be paid on March 1, 2024. Notwithstanding the above, City's obligation to pay a Tax Rebate Grant shall not be earlier than ten (10) business days after the Company delivers to City a true and correct copy of the receipt from the Dallas County Tax-Assessor Collector showing the timely payment in full of the City ad valorem taxes assessed against the Property and Improvements, with the amounts assessed against Tangible Personal Property also shown, for the relevant tax year.

3.3 Water/Sewer Grant. Subject to the Company's continued satisfaction of all the terms and conditions of this Agreement, and the Company's obligation to repay the Grants pursuant to Section 5.2 hereof, the City agrees to provide the Company with an economic development grant in the form of provision by City to Company of the following water/sanitary sewer utility goods and services: (1) one eight-inch (8") fire line water meter to be installed on the Property for the purpose of serving the Improvements (agreed value of \$9,000.00), (2) two two-inch (2") water meters to be installed on the Property for the purpose of serving the Improvements (agreed value of \$1,000.00 each), (3) three water taps and one eight-inch (8") sanitary sewer tap to be installed for the Property and the Improvements (agreed value \$20,000.00), and (4) water and sanitary sewer services for the Property and the Improvements for thirty-six consecutive months, commencing on Completion of Construction, to be billed to Company at the rate paid by the City (to City of Dallas in the case of water and to North Texas Municipal Water District in the case of sewer) for such services.

3.4 Maximum Grant Amount. The total value of all benefits provided and costs incurred by City pursuant to Sections 3.1, 3.2, and 3.3(1) through (3) shall not exceed the Maximum Grant Amount of \$250,000.00.

3.5 Grant Limitations. Under no circumstances shall City obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, City shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by the Company. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

3.6 Current Revenue. The Grants made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City; provided, however, the City agrees during the term of this Agreement to make a good faith effort to appropriate funds each year to pay the Grants for the then ensuing fiscal year. Consequently, notwithstanding any other provision of this Agreement, the City shall have no obligation or liability to provide the value of or pay any Grants except as allowed by law. The City shall not be required to pay or provide the

value of any Grants if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

#### **Article IV**

### **Conditions to the Economic Development Grants**

The obligation of the City to provide the Grants shall be conditioned upon the continued compliance with and satisfaction of each of the terms and conditions of this Agreement by the Company and each of the conditions set forth in this Article.

4.1 Good Standing. The Company shall not have an uncured breach or default of this Agreement or a Related Agreement.

4.2 Minimum Taxable Value. The total Minimum Taxable Value of the Improvements shall not be less than Twenty-Two Million Dollars (\$22,000,000.00), which is the sum of the value of the real property improvements and Tangible Personal Property. The Taxable Value of the real property improvements shall not be less than Fourteen Million One Hundred Thousand Dollars (\$14,100,000.00) as of January 1 of the first calendar year following the Completion of Construction and as of January 1 of each calendar year thereafter during the term of this Agreement. The Taxable Value of the Tangible Personal Property of Company or located in or on the Property and/or the Improvements shall be not less than Seven Million Eight Hundred Thousand Dollars (\$7,800,000.00) as of January 1 of the first calendar year following the Completion of Construction and as of January 1 of each calendar year thereafter during the term of this Agreement.

4.3 Required Use. During the term of this Agreement from Completion of Construction and continuing thereafter until expiration of this Agreement or earlier termination Company shall continuously occupy and use the Property and the Improvements, all of which shall not be used during the term of this Agreement for any purpose other than the Required Use. Further, during the term of this Agreement, such occupation and use shall not cease for more than thirty (30) days except in connection with, and to the extent of, an event of Force Majeure. A closure or interruption in the Required Use for more than thirty (30) days which is undertaken in Company's ordinary conduct of its business for the Required Use and which is temporary, lasting no more than forty (40) days (a "Temporary Closure") shall not constitute a breach of the requirements of this Section 4.3, provided, however, that a Temporary Closure shall occur no more frequently than twice per calendar year. Any Temporary Closure which is in excess of the two Temporary Closures allowed per calendar year will constitute a breach of this Agreement.

4.4 Continuous Occupancy. During the term of this Agreement from the Completion of Construction and continuing thereafter until the Expiration Date, the Property shall be continuously occupied by the Company and, from Completion of Construction and continuing thereafter until the Expiration Date, the Improvements thereon shall be continuously occupied by the Company. A closure or interruption in the Continuous Occupancy for more than thirty (30) days which is undertaken in Company's ordinary conduct of its business for the Required Use and which is temporary, lasting no more than forty (40) days (a "Temporary Closure") shall not

constitute a breach of the requirements of this Section 4.6, provided, however, that a Temporary Closure shall occur no more frequently than twice per calendar year. Any Temporary Closure which is in excess of the two Temporary Closures allowed per calendar year will constitute a breach of this Agreement .

4.5 Construction of Improvements. The Company shall, subject to events of Force Majeure, cause Commencement of Construction of the Improvements to occur no later than six (6) months after the Conditions Precedent have been met. The Company shall, subject to events of Force Majeure, cause Completion of Construction of the Improvements to occur not later than eighteen (18) months after the Effective Date of this Agreement.

4.6 Payment Request. The Company shall, as a condition precedent to the payment of the Tax Rebate Grant under this Agreement, submit to the City a written request for payment of the Tax Rebate Grant and a copy of a tax statement/receipt or other evidence reasonably satisfactory to the City to establish that the Company has timely paid the ad valorem taxes assessed by the City against the Property and Improvements for the applicable tax year.

4.7 Registration to Do Business. During the term of this Agreement, Company shall be registered to do business with the Texas Secretary of State.

## **Article V Termination; Repayment**

5.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of the Parties;
- (b) upon written notice by either Party, if the other Party defaults or breaches any of the terms or conditions of this Agreement or a Related Agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) upon written notice by City, if any Impositions owed to the City or the State of Texas by Company shall have become delinquent (provided, however, Company retains the right to timely and properly protest and contest any such taxes or Impositions);
- (d) upon written notice by City, if Company suffers an event of Bankruptcy or Insolvency; or
- (e) upon written notice by either Party if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.2 Repayment. In the event the Agreement is terminated by the City pursuant to Section 5.1(b), (c), (d) or (e), the Company shall immediately refund to the City an amount equal to the value of the Grants paid by the City to the Company preceding the date of such termination, plus interest at the rate of interest periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other Texas money center bank selected by City) as its prime or base commercial lending rate, from the Effective Date until paid. The repayment obligation of Company set forth in this section 5.2 hereof shall survive termination.

5.3 Offsets. The City may at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to the City from the Company, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement or otherwise and regardless of whether or not the debt due the City has been reduced to judgment by a court.

## **Article VI Miscellaneous**

6.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties hereto.

6.2 Limitation on Liability. It is understood and agreed between the Parties that the Company and City, in satisfying the conditions of this Agreement, have acted independently, and the City assumes no responsibilities or liabilities to third Parties in connection with these actions.

6.3 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

6.4 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement. The undersigned officers and/or agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

6.5 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days after being placed in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below (or such other address as such Party may subsequently designate in writing), or on the day actually received if sent by courier or otherwise hand delivered.

If intended for City, to:

Attn: Pat Stallings  
City Manager  
City of Seagoville  
702 U.S. Hwy 175 Frontage Rd.  
Seagoville, Texas 75157

With a copy to:

Victoria W. Thomas  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

If intended for Company, to:

GG Texas LLC  
c/o Gotham Greens Holdings PBC,  
810 Humboldt Street, Third Floor,  
Brooklyn, NY 11222

With a copy to:

Caleb Trotter  
Munsch Hardt Kopf & Harr, P.C.  
700 Milam Street, Suite 2700  
Houston, TX 77002

6.6 Entire Agreement. This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

6.7 Governing Law. The Agreement shall be governed by the laws of the State of Texas, without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction; and exclusive venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.8 Amendment. This Agreement may only be amended by the mutual written agreement of the Parties.

6.9 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.10 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

6.11 Successors and Assigns. This Agreement may not be assigned without the prior written consent of the City. Such consent is not required if the assignment is to one of the

Company's wholly-owned affiliates or an entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or more than ninety percent (90%) of the assets of the Company, as long as the assignee has a net worth at least as great as that of the Company as measured as of the date immediately prior to any such purchase, merger or sale transaction and the assignee agrees to be bound by the terms and conditions of this Agreement

6.12 Recitals. The recitals to this Agreement are incorporated herein.

6.13 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.14 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.15 Conditions Precedent. This Agreement and the obligations set forth herein are subject to and conditioned on the Company closing its purchase of the Property on or before March 31, 2022. Company shall provide written notice of the date of closing of its purchase of the Property to City not later than five (5) business days after said date of closing.

6.16 Employment of Undocumented Workers. During the term of this Agreement, the Company agrees not to knowingly employ any undocumented workers, and if convicted of a violation under 8 U.S.C. Section 1324a (f), the Company shall repay the Grants provided herein and any other funds received by the Company from the City as of the date of such violation within 120 business days after the date the Company is notified by the City of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. The Company is not liable for a violation of this section by a subsidiary, affiliate, or franchisees of the Company or by a person with whom the Company contracts.

6.17 Prohibition of Boycott of Israel. Company verifies that it does not boycott Israel and agrees that during the term of this Agreement it will not boycott Israel as that term is defined in Texas Government Code section 808.001, as amended.

6.18 Prohibition of Boycott of Energy Companies. Company verifies that it does not boycott energy companies and agrees that during the term of this Agreement it will not boycott energy companies as these terms are defined in Texas Government Code Section 809.001, as amended. This section does not apply if Company is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Company has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement

6.19 Prohibition of Discrimination against Firearm Entities and Firearm Trade Associations. Company verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not

discriminate during the term of the Agreement against a firearm entity or firearm trade association. This section only applies if: (i) Company has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement; and does not apply: (i) if Company is a sole proprietor, a non-profit entity, or a governmental entity; (ii) to a contract with a sole-source provider; or (iii) to a contract for which none of the bids from a company were able to provide the required certification.

*(Signature Page to Follow)*

**EXECUTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF SEAGOVILLE, TEXAS**

By: \_\_\_\_\_  
Pat Stallings, City Manager

**ATTEST:**

By: \_\_\_\_\_  
Kandi Jackson, City Secretary

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Victoria W. Thomas, City Attorney

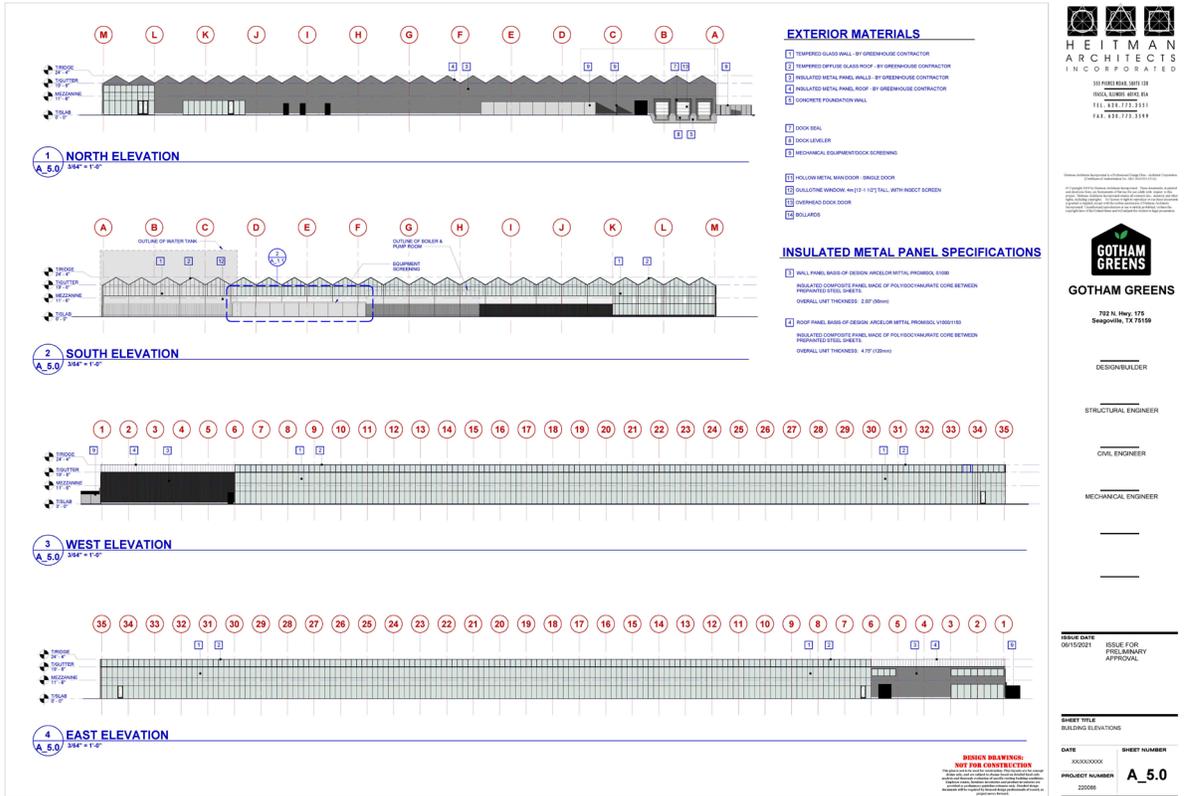
**EXECUTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**GG TEXAS, LLC**

By: \_\_\_\_\_  
Viraj Puri, Chief Executive Officer  
Pursuant to Certificate of Authority  
Attached hereto as Exhibit "C"

# Exhibit "A"

## [Elevations and Specifications for Improvements]



DESIGN/BUILDER

STRUCTURAL ENGINEER

CIVIL ENGINEER

MECHANICAL ENGINEER





## PROPERTY DESCRIPTION

**BEING** a tract of land situated in the the John D. Merchant Survey, Abstract No. 850, and the James Donaldson Survey, Abstract No. 427, in the City of Seagoville, Dallas County, Texas, and being all of a called 1.000 acre tract of land described as "Tract 1" in the General Warranty Deed to George L. Williams, recorded in Volume 2003172, Page 4381, Deed Records of Dallas County, Texas; all of a called 1.209 acre tract of land described as "Tract One" and all of a called 14.984 acre tract of land described as "Tract Five" in the Warranty Deed to Williams Family Living Tract, recorded in Volume 2005049, Page 10128, Official Public Records of Dallas County, Texas; and part of a called 13.634 acre tract of land described as "Tract One" in the Warranty Deed to Joyce Williams Survivor's Trust, recorded in Instrument No. 201600154477, Official Public Records of Dallas County, Texas and being more particularly described as follows:

**BEGINNING** at a "PK" nail found in the northwest right-of-way line of Environmental Way (formerly Bowers Road, a variable width right-of-way), at the southernmost corner of said 13.634 acre tract;

**THENCE** with the southwest line of said 13.634 acre tract, North 45°25'21" West, at a distance of 19.95 feet, passing the easternmost southeast corner of a called 205.2488 acre tract of land described in the Deed Without Warranty to Dallas Independent School District, recorded in Volume 73238, Page 1673, Deed Records of Dallas County, Texas, continuing with said southwest line and a northeasterly line of said 205.2488 acre tract, in all a total distance of 819.65 feet to a 1/2" iron rod found at the westernmost corner of said 14.984 acre tract and the south corner of said 1.209 acre tract;

**THENCE** with the southwest line of said 1.209 acre tract and said northeasterly line, North 45°20'38" West, a distance of 194.83 feet to a 1/2" iron rod found at the westernmost corner of said 1.209 acre tract and the southernmost southeast corner of a called 30.325 acre tract of land described in the Special Warranty Deed to Seagoville Properties, LLC, recorded in Instrument No. 200900299188, Official Public Records of Dallas County, Texas;

**THENCE** with the northwest line of said 1.209 acre tract, and a southeast line of said 30.325 acre tract, North 44°53'04" East, at a distance of 274.53 feet, passing a 1/2" iron rod found (disturbed) at the northern corner of said 1.209 acre tract and the west corner said 1.000 acre tract, continuing, with said southeast line of the 30.325 acre tract and the northwest line of said 1.000 acre tract, in all a total distance of 493.92 feet to a 1/2" iron rod found at the northernmost corner of said 1.000 acre tract and at an interior corner of said 30.325 acre tract;

**THENCE** with a southwesterly line of said 30.325 acre tract and the northeast line of said 1.000 acre tract, South 45°31'16" East, a distance of 195.02 feet to a 1/2" iron rod found at the easternmost corner of said 1.000 acre tract and the easternmost southeast corner of said 30.325 acre tract and in the northwest line of said 14.984 acre tract;

**THENCE** with said northwest line of the 14.984 acre tract and the southeast line of said 30.325 acre tract, North 44°53'49" East, a distance of 891.02 feet to a 1/2" iron rod found at the north corner of said 14.984 acre tract and the west corner of a called 6.62 acre tract of land described in the Warranty Deed to Joyce Williams Survivor's Trust, recorded in Instrument No. 201600156153, Official Public Records of Dallas County, Texas;

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**THENCE** with the northeast line of said 14.984 acre tract and the southwest line of said 6.62 acre tract, South 45°03'17" East, at a distance of 471.86 feet passing the south corner of said 6.62 acre tract, the east corner of said 14.984 acre tract, the north corner of said 13.634 acre, continuing with the northeast line of said 13.634 acre tract, in all a total distance of 905.72 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set in said northwest right-of-way line of Environmental Way, at the east corner of said 13.634 acre tract;

**THENCE** with said northwest right-of-way line of Environmental Way and the southeast line of said 13.634 acre tract, the following courses and distances:

South 45°15'21" West, a distance of 885.20 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set for corner;

South 54°59'00" West, a distance of 182.30 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set for corner;

South 57°41'01" West, a distance of 212.87 feet to a 5/8" iron rod with red plastic cap stamped "KHA" set for corner;

South 45°44'33" West, a distance of 107.97 feet to the **POINT OF BEGINNING** and containing 1,320,463 square feet or 30.3137 acres of land.

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# Exhibit “C” [Certificate of Authority]

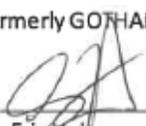
## CERTIFICATE OF AUTHORITY

I, Eric Haley, Chief Executive Financial Officer of Gotham Greens Holdings, PBC, a Delaware public benefit corporation and formerly Gotham Greens Holdings, LLC, a Delaware limited liability company (the “Member”), certify the following:

- (i) I am Chief Executive Financial Officer of Gotham Greens Holdings, PBC and as such have been duly authorized to make the representations set forth in this Certificate of Authority on behalf of Gotham Greens Holdings, PBC;
- (ii) Gotham Greens Holdings, PBC, was created on May 19, 2021 and currently exists in good standing as a Delaware public benefit corporation, having prior to conversion, existed as Gotham Greens Holdings, LLC, a Delaware limited liability company;
- (iii) Gotham Greens Holdings, LLC remains currently listed as the sole and managing member of GG Texas LLC, a Texas limited liability company;
- (iv) GG Texas LLC will update those records in its April, 2022 filing of its annual public information report with the Texas Secretary of State to indicate that GG Texas LLC’s sole and managing member is Gotham Greens Holdings, PBC, formerly Gotham Greens Holdings, LLC as its sole and managing member;
- (v) For purposes of this Certificate of Authority, Gotham Greens Holdings, LLC and Gotham Greens Holdings, PBC are collectively referred to as “Member”;
- (vi) there are no members of GG Texas LLC, other than Member, and
- (vii) Member, acting in its capacity as the sole and managing member, has duly authorized and hereby certifies that Viraj Puri, Chief Executive Officer of GG Texas LLC, is duly authorized to transact business on behalf of GG Texas LLC, including the execution of an Economic Development Incentive Agreement with the Seagoville Economic Development Corporation and a 380 Grant Agreement with the City of Seagoville.
- (viii) The authority granted to Viraj Puri continues until the date of receipt by Seagoville Economic Development Corporation and City of Seagoville of written notification of its revocation.

SIGNED:

GOTHAM GREENS HOLDINGS, PBC,  
Formerly GOTHAM GREENS HOLDINGS, LLC

  
By: Eric Haley

Title: Chief Executive Financial Officer  
Gotham Greens Holdings, PBC

Colorado  
State of ~~New York~~ )

Arapahoe  
County of ~~Kings~~ )

On this 3 day of November, 2021, before me came Eric Haley, who being by me duly sworn, says that he is Chief Executive Financial Officer of Gotham Greens Holdings, LLC, the limited liability company described in the foregoing Certificate of Authority and stated that he executed the foregoing Certificate of Authority on behalf of and as the legal act and deed of Gotham Greens Holdings, LLC, after first having been duly authorized so to do.

  
\_\_\_\_\_  
Notary Public

Printed Name Steven Zaugg

STEVEN ZAUGG  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20034009024  
MY COMMISSION EXPIRES 03/14/2023

My Commission expires:

03.14.2023

# Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE LIMITED LIABILITY COMPANY UNDER THE NAME OF "GOTHAM GREENS HOLDINGS, LLC" TO A DELAWARE CORPORATION, CHANGING ITS NAME FROM "GOTHAM GREENS HOLDINGS, LLC" TO "GOTHAM GREENS HOLDINGS, PBC", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF MAY, A.D. 2021, AT 4:44 O`CLOCK P.M.



5230750 8100V  
SR# 20211918993

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Handwritten signature of Jeffrey W. Bullock in black ink.

Jeffrey W. Bullock, Secretary of State

Authentication: 203250643  
Date: 05-20-21

**CERTIFICATE OF CONVERSION  
FROM A LIMITED LIABILITY COMPANY TO A CORPORATION**

The undersigned, desiring to convert a limited liability company organized under the laws of the State of Delaware into a corporation organized under the laws of the State of Delaware pursuant to the provisions of Section 265 of the Delaware General Corporation Law, does hereby submit, certify and swear as follows:

**FIRST:** The jurisdiction where Gotham Greens Holdings, LLC (the “**Limited Liability Company**”) first formed is the State of Delaware.

**SECOND:** The jurisdiction of the Limited Liability Company immediately prior to filing this Certificate of Conversion is the State of Delaware.

**THIRD:** The date on which the Limited Liability Company was first formed is October 22, 2012.

**FOURTH:** The name of the Limited Liability Company immediately prior to filing this Certificate of Conversion is Gotham Greens Holdings, LLC.

**FIFTH:** The name of the corporation as set forth in the Certificate of Incorporation is Gotham Greens Holdings, PBC.

IN WITNESS WHEREOF, the undersigned being duly authorized to sign on behalf of the Limited Liability Company has executed this Certificate of Conversion on May 19, 2021.

GOTHAM GREENS HOLDINGS, LLC

By: /s/ Viraj Puri  
Viraj Puri, Chief Executive Officer

# Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "GOTHAM GREENS HOLDINGS, PBC", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF MAY, A.D. 2021, AT 4:44 O`CLOCK P.M.

A handwritten signature in black ink, appearing to read "JBULLOCK", written over a horizontal line.

Jeffrey W. Bullock, Secretary of State

5230750 8100  
SR# 20211918993

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 203250644  
Date: 05-20-21

**CERTIFICATE OF INCORPORATION  
OF  
GOTHAM GREENS HOLDINGS, PBC**

**A DELAWARE PUBLIC BENEFIT CORPORATION**

The undersigned, a natural person, for the purpose of organizing a corporation for conducting the business and promoting the purposes hereinafter stated, under the provisions and subject to the requirements of the Delaware General Corporation Law (the “**General Corporation Law**”), hereby certifies that:

**FIRST:** The name of this corporation is Gotham Greens Holdings, PBC (the “**Corporation**”).

**SECOND:** The address of the Corporation’s registered office in the State of Delaware is 850 New Burton Road, Suite 201, Dover, Delaware 19904, Kent County. The name of its registered agent at such address is Cogency Global Inc.

**THIRD:** The Corporation is a public benefit corporation as defined under Section 362 of the General Corporation Law. The Corporation is formed (i) for the purpose of creating a material positive impact on society and the environment through sustainable food production and (ii) to engage in any other lawful act or activity in furtherance of this purpose or any other lawful act or activity for which corporations may be organized under the General Corporation Law.

**FOURTH:** The total number of shares of all classes of stock which the Corporation shall have authority to issue is 11,023,696 divided into three classes as follows: (i) 6,415,794 shares of Common Stock, \$0.0001 par value per share (“**Common Stock**”), (ii) 327,193 shares of Special Stock, \$0.0001 par value per share (“**Special Stock**”), and (iii) 4,280,711 shares of Preferred Stock, \$0.0001 par value per share (“**Preferred Stock**”).

The following is a statement of the designations and the powers, preferences, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1. General. The voting, dividend and rights upon a liquidation or dissolution of the Corporation of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate of Incorporation (the “**Certificate of Incorporation**”) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation or pursuant to the General Corporation Law. There shall be no

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cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one (1) or more series of Preferred Stock that may be required by the terms of this Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

## B. SPECIAL STOCK

70,905 shares of the authorized Special Stock are hereby designated “**Series C Special Stock**” and 256,288 shares of the authorized Special Stock are hereby designated “**Series D-1 Special Stock**”, each with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to “sections” in this Part B of this Article Fourth refer to sections of Part B of this Article Fourth.

1. General. The voting, dividend and rights upon a liquidation or dissolution of the Corporation of the holders of the Special Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock and the Common Stock as set forth herein.

2. Voting. The holders of the Special Stock are entitled to one vote for each share of Special Stock held at all meetings of stockholders (and written actions in lieu of meetings); provided, however, that, except as otherwise required by law, holders of Special Stock, as such, shall not be entitled to vote on any amendment to this Certificate of Incorporation that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation or pursuant to the General Corporation Law. There shall be no cumulative voting. The number of authorized shares of Special Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one (1) or more series of Preferred Stock that may be required by the terms of this Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

### 3. Mandatory Conversion.

#### 3.1 Trigger Events. Upon:

3.1.1 the closing of the sale of shares of Common Stock to the public at a price of at least \$67.66 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock), in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, resulting in at least \$75,000,000 of gross proceeds, net of the underwriting discount and commissions, to the Corporation and in connection with such offering the Common Stock is listed for trading on the

Nasdaq Stock Market's National Market, the New York Stock Exchange or another exchange or marketplace approved by the Board of Directors (such sale, a "**Qualifying IPO**"),

3.1.2 the closing of a transaction or series of related transactions in which the Corporation's outstanding shares of capital stock are exchanged for or otherwise converted into securities that are publicly listed on a securities exchange (the "**Public Shares**"), including through a merger, acquisition, business combination, or similar transaction, in each case with a vehicle commonly known as a special purpose acquisition company (i.e., a blank check company with no operations) (a "**SPAC**") and such transaction a "**SPAC Transaction**") where (i) the aggregate value of the Public Shares received (as set forth in the transaction agreement for the SPAC Transaction) with respect to each share of Series D Preferred Stock (or the Common Stock issuable upon conversion of one share of Series D Preferred Stock) at such closing is equal to at least \$67.66 per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the shares of Common Stock and/or Series D Preferred Stock), (ii) the public company surviving or resulting from the SPAC Transaction has available cash immediately after the consummation of the SPAC Transaction of at least \$75,000,000 from (A) cash retained by the SPAC following all redemption offers to its existing equity interest holders in connection with the SPAC Transaction, and (B) the net cash proceeds from any capital-raising transaction conducted in connection with the SPAC Transaction, and (iii) the Public Shares are listed for trading on the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or another exchange or marketplace approved by the Board of Directors (a "**Qualifying SPAC**" together with a Qualifying IPO, a "**Qualifying Transaction**"), or

3.1.3 the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Holders (as defined below) (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent is referred and the time of the closing of any such Qualifying Transaction is referred to herein as the "**Special Stock Mandatory Conversion Time**"), then:

3.1.4 all outstanding shares of Special Stock shall automatically be converted into shares of Common Stock as calculated pursuant to Section 3.2 and such shares may not be reissued by the Corporation.

3.2 Conversion. Each share of Special Stock shall be convertible, at the Special Mandatory Conversion Time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by the following formula:

$$X = Y / Z$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "X" shall mean the number of shares of Common Stock issued in conversion of a share of Special Stock.

(b) "Y" shall mean the amount each share of Special Stock would receive pursuant to Section 2.2 of Part C of this Article Fourth if all of the shares of

the Corporation was sold for cash based on the fair market value of the Corporation determined with respect to the Qualifying Transaction, or other triggering event that is requiring the conversion of the Special Stock.

(c) "Z" shall mean the price paid per share for the Common Stock issued to the public with respect to the Qualifying Transaction, or other triggering event that is requiring the conversion of the Special Stock.

3.3 Procedural Requirements. All holders of record of shares of Special Stock shall be sent written notice of the Special Stock Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Special Stock pursuant to this Section 3. Such notice need not be sent in advance of the occurrence of the Special Stock Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Special Stock in certificated form shall surrender their certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by their attorney duly authorized in writing. All rights with respect to the Special Stock converted pursuant to Section 3.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Special Stock Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Section 3.3. As soon as practicable after the Special Stock Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Special Stock, the Corporation shall issue and deliver to such holder, or to their nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof. Such converted Special Stock shall be retired and cancelled and may not be reissued as shares of such class or series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Special Stock accordingly.

3.4 Reservation of Shares. The Corporation shall at all times when the Special Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Special Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Special Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Special Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Certificate of Incorporation.

C. PREFERRED STOCK

612,746 shares of the authorized Preferred Stock are hereby designated “**Series A Preferred Stock**”, 138,605 shares of the authorized Preferred Stock are hereby designated “**Series A-1 Preferred Stock**”, 602,190 shares of the authorized Preferred Stock are hereby designated “**Series B Preferred Stock**”, 1,662,065 shares of the authorized Preferred Stock are hereby designated “**Series C Preferred Stock**”, 520,204 shares of the authorized Preferred Stock are hereby designated “**Series D-1 Preferred Stock**”, and 744,901 shares of the authorized Preferred Stock are hereby designated “**Series D-2 Preferred Stock**”, each with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to “sections” in this Part C of this Article Fourth refer to sections of Part C of this Article Fourth. For purposes hereof the Series D-1 Preferred Stock and the Series D-2 Preferred Stock shall be collectively referred to herein as the “**Series D Preferred Stock**”.

1. Dividends.

1.1 The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock or dividends on shares of Special Stock payable in shares of Special Stock) unless (in addition to the obtaining of any consents required elsewhere in this Certificate of Incorporation) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Preferred Stock in an amount at least equal to (i) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of Preferred Stock as would equal the product of (A) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (B) the number of shares of Common Stock issuable upon conversion of a share of Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend or (ii) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of Preferred Stock determined by (A) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to such class or series) and (B) multiplying such fraction by an amount equal to the Original Issue Price (as defined below); provided, that if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation, the dividend payable to the holders of Preferred Stock pursuant to this Section 1.1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest Preferred Stock dividend. Dividends declared and received by holders of the Series A Preferred Stock and holders of the Series B Preferred Stock pursuant to this Section 1.1 shall reduce dollar-for-dollar any accrued and unpaid amounts due to such stockholders pursuant to Section 1.2.

1.2 From and after the original respective date of the issuance of any Series A Preferred Units or Series B Preferred Units of the Corporation’s predecessor (the “**Unit Issuance Date**”), dividends at the rate per annum of 8% of the applicable Original Issue Price per share shall accrue on issued and outstanding shares of Series A Preferred Stock and Series B Preferred Stock (in each case, subject to appropriate adjustment in the event of any stock dividend, stock split,

combination or other similar recapitalization with respect to such Series A Preferred Stock or Series B Preferred Stock, as applicable) (the “**Accruing Dividends**”). Accruing Dividends shall accrue from day to day retroactively to the applicable respective Unit Issuance Date, whether or not declared, and shall be cumulative; provided, however, that except as set forth in Section 2.1 and Section 6, such Accruing Dividends shall be payable only when, as, and if declared by the Board of Directors.

1.3 Notwithstanding the foregoing, to the extent the Corporation declares, pays or sets aside any dividends on Common Stock, the Special Stock shall simultaneously receive with the Common Stock, a dividend on each outstanding share of Special Stock in an amount equal to the dividend payable on each share of Common Stock; provided, however, that the Special Stock shall receive such dividend only if the Series C Special Stock Threshold or the Series D-1 Special Stock Threshold (as such terms are defined in the Investors’ Rights Agreement, dated as of May 19, 2021, by and among the Corporation and the other parties thereto, as such agreement may be amended from time to time (the “**Investors’ Rights Agreement**”)), as applicable, has been met.

1.4 For purposes of this Certificate of Incorporation, “**Original Issue Price**” shall mean, with respect to: shares of Series D Preferred Stock, \$33.83 per share (the “**Series D Original Issue Price**”), shares of Series C Preferred Stock, \$18.18 per share (the “**Series C Original Issue Price**”), shares of Series B Preferred Stock, \$13.70 per share (the “**Series B Original Issue Price**”), shares of Series A-1 Preferred Stock, \$8.16 per share (the “**Series A-1 Original Issue Price**”), and shares of Series A Preferred Stock, \$8.16 per share (the “**Series A Original Issue Price**”), each of the foregoing subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the applicable series of Preferred Stock occurring after the date of filing of this Certificate of Incorporation with the Secretary of State of the State of Delaware.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Preferential Payments to Holders of Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, or any Deemed Liquidation Event (as defined below):

2.1.1 Payments to Holders of Series D Preferred Stock. The holders of shares of Series D Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, and in the event of a Deemed Liquidation Event, the holders of shares of Series D Preferred Stock then outstanding shall be entitled to be paid out of the consideration payable to stockholders in such Deemed Liquidation Event or out of the Available Proceeds (as defined below), as applicable, before any payment shall be made to the holders of Series C Preferred Stock, Series B Preferred Stock, Series A-1 Preferred Stock, Series A Preferred Stock, Common Stock or Special Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) 1.1 times (1.1x) the Series D Original Issue Price, plus any dividends declared but unpaid thereon or (ii) such amount per share as would have been payable had all shares of each series of Preferred Stock that would result in a greater per share liquidation payment if converted to Common Stock been so converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding

up or Deemed Liquidation Event. If upon any such liquidation, dissolution or winding up of the Corporation, or any Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series D Preferred Stock the full amount to which they shall be entitled under this Section 2.1.1, the holders of shares of Series D Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.1.2 Payments to Holders of Series C Preferred Stock. After the payment of all preferential amounts required to be made with respect to the holders of shares of Series D Preferred Stock in accordance with Section 2.1.1, the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, and in the event of a Deemed Liquidation Event, the holders of shares of Series C Preferred Stock then outstanding shall be entitled to be paid out of the consideration payable to stockholders in such Deemed Liquidation Event or out of the Available Proceeds, as applicable, before any payment shall be made to the holders of Series B Preferred Stock, Series A-1 Preferred Stock, Series A Preferred Stock, Common Stock or Special Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) 1.1 times (1.1x) the Series C Original Issue Price, plus any dividends declared but unpaid thereon or (ii) such amount per share as would have been payable had all shares of each series of Preferred Stock that would result in a greater per share liquidation payment if converted to Common Stock been so converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event. If upon any such liquidation, dissolution or winding up of the Corporation, or any Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series C Preferred Stock the full amount to which they shall be entitled under this Section 2.1.2, the holders of shares of Series C Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.1.3 Payments to Holders of Series B Preferred Stock and Series A Preferred Stock. After the payment of all preferential amounts required to be made with respect to the holders of shares of Series D Preferred Stock and Series C Preferred Stock in accordance with Sections 2.1.1 and 2.1.2, respectively, the holders of shares of Series A Preferred Stock and Series B Preferred Stock then outstanding shall be entitled, on a pari passu basis (pro rata based on the number of shares held by each such holder), to be paid out of the assets of the Corporation available for distribution to its stockholders, and in the event of a Deemed Liquidation Event, the holders of shares of Series A Preferred Stock and Series B Preferred Stock then outstanding shall be entitled to be paid out of the consideration payable to stockholders in such Deemed Liquidation Event or out of the Available Proceeds, as applicable, before any payment shall be made to the holders of Series A-1 Preferred Stock, Common Stock or Special Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series A Original Issue Price or Series B Original Issue Price, as applicable, plus any dividends accrued or declared but unpaid thereon or (ii) such amount per share as would have been payable had all shares of each series of Preferred Stock that would result in a greater per share liquidation payment if converted to

Common Stock been so converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event. If upon any such liquidation, dissolution or winding up of the Corporation, or any Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock and Series B Preferred Stock the full amount to which they shall be entitled under this Section 2.1.3, the holders of Series A Preferred Stock and Series B Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

**2.1.4 Payments to Holders of Series A-1 Preferred Stock.** After the payment of all preferential amounts required to be made with respect to the holders of shares of Series D Preferred Stock, Series C Preferred Stock, Series B Preferred Stock, and Series A Preferred Stock, in accordance with Sections 2.1.1, 2.1.2, and 2.1.3, respectively, the holders of shares of Series A-1 Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, and in the event of a Deemed Liquidation Event, the holders of shares of Series A Preferred Stock and Series B Preferred Stock then outstanding shall be entitled to be paid out of the consideration payable to stockholders in such Deemed Liquidation Event or out of the Available Proceeds, as applicable, before any payment shall be made to the holders of Common Stock or Special Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the Series A-1 Original Issue Price plus any dividends declared but unpaid thereon or (ii) such amount per share as would have been payable had all shares of each series of Preferred Stock that would result in a greater per share liquidation payment if converted to Common Stock been so converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event. If upon any such liquidation, dissolution or winding up of the Corporation, or any Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A-1 Preferred Stock the full amount to which they shall be entitled under this Section 2.1.4, the holders of shares of Series A-1 Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

The aggregate amount which a holder of one share of Preferred Stock is entitled to receive in respect of such holder's specific class or series of Preferred Stock under Section 2.1 is hereinafter referred to as the "**Liquidation Amount**" for that share.

**2.2 Payments to Holders of Common Stock and Special Stock.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after the payment in full of all Liquidation Amounts required to be paid to the holders of shares of Preferred Stock, the remaining assets of the Corporation available for distribution to its stockholders or, in the case of a Deemed Liquidation Event, the consideration not payable to the holders of shares of Preferred Stock pursuant to Section 2.1 or the remaining Available Proceeds, as the case may be, shall be distributed (i) first, among the holders of shares of Common Stock, pro rata based on the number of shares held by each such holder, until the total consideration paid

to the holders of the Preferred Stock pursuant to Section 2.1 and the holders of Common Stock pursuant to this Section 2.2 equals the Series C Special Stock Threshold, (ii) second, among the holders of shares of Common Stock and the holders of Series C Special Stock, pro rata based on the number of shares held by each such holder, until the total consideration paid to the holders of the Preferred Stock pursuant to Section 2.1 and to the holders of Common Stock and the holders of the Series C Special Stock pursuant to this Section 2.2 equals the Series D-1 Special Stock Threshold, and (iii) third, the balance among the holders of shares of Common Stock and the holders of Special Stock, pro rata based on the number of shares held by each such holder.

### 2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a “**Deemed Liquidation Event**” unless the holders of at least of a majority of the outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D-1 Preferred Stock, and Series D-2 Preferred Stock, voting together as a single class, on an as converted to Common Stock basis (the “**Requisite Holders**”) elect otherwise by written notice sent to the Corporation at least seven days prior to the effective date of any such event:

- (a) a merger or consolidation in which
  - (i) the Corporation is a constituent party or
  - (ii) a Subsidiary (as defined below) of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a Subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power and economic interest, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned Subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) (1) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any Subsidiary of the Corporation of all or substantially all the assets of the Corporation and its Subsidiaries taken as a whole, or (2) the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) of one or more Subsidiaries of the Corporation if substantially all of the assets of the Corporation and its Subsidiaries taken as a whole are held by such Subsidiary or Subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned Subsidiary of the Corporation.

### 2.3.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Section 2.3.1(a)(i) unless the agreement or plan of merger, consolidation or reorganization for such transaction (the “**Merger Agreement**”) provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2.

(b) In the event of a Deemed Liquidation Event referred to in Section 2.3.1(a)(ii) or 2.3.1(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within ninety days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the ninetieth day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right), pursuant to the terms of the following clause (ii), to require the redemption of such shares of Preferred Stock; and (ii) if the Requisite Holders so request in a written instrument delivered to the Corporation not later than 120 days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors), together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Delaware law governing distributions to stockholders (the “**Available Proceeds**”), on the one hundred fiftieth (150<sup>th</sup>) day after such Deemed Liquidation Event, to redeem all outstanding shares of Preferred Stock at a price per share equal to the applicable Liquidation Amount. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Preferred Stock, the Corporation shall redeem a pro rata portion of each holder’s shares of Preferred Stock to the fullest extent of such Available Proceeds, based on the respective amounts which would otherwise be payable in respect of the shares to be redeemed if the Available Proceeds were sufficient to redeem all such shares, and shall redeem the remaining shares as soon as it may lawfully do so under Delaware law governing distributions to stockholders. The provisions of Section 6 shall apply, with such necessary changes in the details thereof as are necessitated by the context, to the redemption of the Preferred Stock pursuant to this Section 2.3.2(a). Prior to the distribution or redemption provided for in this Section 2.3.2(a), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event or in the ordinary course of business.

2.3.3 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities to be paid or distributed to such holders pursuant to such Deemed Liquidation Event. The value of such property, rights or securities shall be determined in good faith by the Board of Directors.

2.3.4 Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Section 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of

contingencies (the “**Additional Consideration**”), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the “**Initial Consideration**”) shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Sections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Section 2.3.4, consideration placed into escrow or retained as a holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

### 3. Voting.

3.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as provided by law or by the other provisions of this Certificate of Incorporation, holders of Preferred Stock shall vote together with the holders of Common Stock and Special Stock as a single class and on an as-converted to Common Stock basis.

3.2 Election of Directors. The holders of record of (i) the shares of Series D-2 Preferred Stock, exclusively and as a separate class, shall be entitled to elect one director of the Corporation (the “**Series D-2 Director**”), (ii) the shares of Series D-1 Preferred Stock, exclusively and as a separate class, shall be entitled to elect one director of the Corporation (the “**Series D-1 Director**”), and, together with the Series D-2 Director, the “**Series D Directors**”), (iii) the shares of Series C Preferred Stock, exclusively and together as a single class, shall be entitled to elect one director of the Corporation (the “**Series C Director**”), (iv) the shares of Series B Preferred Stock, exclusively and as a separate class, shall be entitled to elect one director of the Corporation (the “**Series B Director**”), (v) the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect one director of the Corporation (the “**Series A Director**”, and together with the Series D-2 Director, the Series D-1 Director, the Series C Director, and the Series B Director, the “**Preferred Directors**”), (vi) the shares of Common Stock and Special Stock, exclusively and voting as a separate class, shall be entitled to elect three directors of the Corporation, and (vii) the shares of Common Stock, Special Stock and of any other class or series of voting stock (including the Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Company. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Preferred Stock, Special Stock, or Common Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting

exclusively and as a separate class, pursuant to the first sentence of this Section 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Preferred Stock or Common Stock, as the case may be, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Section 3.2, a vacancy in any directorship filled by the holders of any class or classes or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or classes or series or by any remaining director or directors elected by the holders of such class or classes or series pursuant to this Section 3.2.

3.3 Preferred Stock Protective Provisions. At any time when shares of Preferred Stock are outstanding, the Corporation shall not, and shall not permit any of its Subsidiaries to, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, or otherwise, do any of the following without (in addition to any other vote required by law or this Certificate of Incorporation) the written consent or affirmative vote of the Requisite Holders given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

3.3.1 liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any merger or consolidation or any other Deemed Liquidation Event, or consent to any of the foregoing;

3.3.2 amend, alter or repeal any provision of this Certificate of Incorporation or Bylaws of the Corporation;

3.3.3 purchase or redeem or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Preferred Stock as expressly authorized herein, (ii) dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock, (iii) dividends or other distributions payable on the Special Stock solely in the form of additional shares of Special Stock and (iv) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any Subsidiary in connection with the cessation of such employment or service at no greater than the original purchase price thereof and provided that such repurchase is approved by the Board of Directors;

3.3.4 (i) create, or authorize the creation of, or reclassify, any class or series of capital stock, or (ii) increase the authorized number of shares of any class or series of capital stock of the Corporation;

3.3.5 acquire or sell any entities or assets, in one transaction or a series of related transactions, that would require consideration in excess of \$500,000 in one or a series of related transactions;

3.3.6 authorize a capital expenditure in excess of \$500,000 in one or a series of related transactions;

3.3.7 create, or authorize the creation of, or issue, or authorize the issuance of any debt security, or provide any corporate guaranty, or permit any Subsidiary to take any such action with respect to any debt security or corporate guaranty, if the aggregate indebtedness of the Corporation and its Subsidiaries for borrowed money following such action would exceed \$500,000 in one or a series of related transactions;

3.3.8 incur any indebtedness for borrowed money or lines of credit in excess of \$500,000 in one or a series of related transactions;

3.3.9 materially alter any of the outstanding debt facilities of the Corporation or any of its Subsidiaries;

3.3.10 otherwise enter into or be a party to any transaction with any director, officer, or employee of the Corporation or any "associate" (as defined in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended) of any such person;

3.3.11 change the compensation of the executive officers, including approving any option grants or stock awards to executive officers, unless otherwise approved by the Board of Directors, which approval shall include the vote of each of the Series D Directors;

3.3.12 increase or decrease the authorized number of directors constituting the Board of Directors; provided, however, that an increase to the size of the Board of Directors to accommodate the appointment of a Major Investor Director (as such term is defined in the Voting Agreement, dated as of May 19, 2021, by and among the Corporation and the other parties thereto, as such agreement may be amended from time to time (the "Voting Agreement")) pursuant to the terms of the Voting Agreement shall not require consent pursuant to this Section 3.3.12;

3.3.13 approve the Budget (as such term is defined in the Investors' Rights Agreement) for any given fiscal year of the Corporation;

3.3.14 change the principal business of the Corporation, enter new lines of business, or exit the current line of business;

3.3.15 hire, terminate, or materially change the role of any executive officer;

3.3.16 create, or hold capital stock or equity securities in, any Subsidiary or Portfolio Company that is not wholly owned (either directly or through one or more other Subsidiaries) by the Corporation, or sell, transfer or otherwise dispose of any capital stock or equity securities of any direct or indirect Subsidiary or Portfolio Company of the Corporation,

or permit any direct or indirect Subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such Subsidiary;

3.3.17 create, adopt, amend, terminate or repeal any equity (or equity-linked) compensation plan or other benefit plan, or amend or waive any of the terms of any option or other grant pursuant to any such plan;

3.3.18 own, operate or lease any real property that is not owned, operated or leased by the Corporation or a Subsidiary or Portfolio Company as of the date hereof, or make any improvements or renovations with a cost of \$500,000 or more in the aggregate to any real property that is owned, operated, or leased by the Corporation or a Subsidiary or Portfolio Company;

3.3.19 cause or permit any of its Subsidiaries to sell, issue, sponsor, create or distribute any digital tokens, cryptocurrency or other blockchain-based assets (collectively, “Tokens”), including through a pre-sale, initial coin offering, token distribution event or crowdfunding, or through the issuance of any instrument convertible into or exchangeable for Tokens; or

3.3.20 waive any terms of this Section 3.3.

“**Subsidiary**” shall mean, with respect to the Corporation, any corporation, partnership, joint venture, limited liability company, association, or other entity in which the Corporation owns, directly or indirectly, 50% or more of the outstanding equity securities or interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such entity.

“**Portfolio Company**” shall mean, with respect to the Corporation, any (i) operating entities formed by the Corporation in furtherance of its business, or (ii) entity in which the Corporation holds any capital stock or equity securities.

3.4 Major Investor Protective Provisions. At any time when shares of Preferred Stock are outstanding, the Corporation shall not, and shall not permit any of its Subsidiaries to, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, or otherwise, do any of the following without (in addition to any other vote required by law or this Certificate of Incorporation) the unanimous written consent or unanimous affirmative vote of the Major Investors (as such term is defined in the Investors’ Rights Agreement) given in writing or by vote at a meeting, consenting or voting (as the case may be) separately, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

3.4.1 amend or waive this Section 3.4; or

3.4.2 cause or permit the Company or any of its Subsidiaries to cultivate cannabis crops.

3.5 Series D Protective Provisions. At any time when shares of Series D Preferred Stock are outstanding, the Corporation shall not, and shall not permit any of its Subsidiaries to, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, or otherwise, do any of the following without (in addition to any other vote required by law or this Certificate of Incorporation) the written consent or affirmative vote of the Series D Preferred Majority (as such term is defined in the Investors' Rights Agreement) given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

3.5.1 change the rights, preferences, powers or privileges of the Series D Preferred Stock;

3.5.2 authorize or issue any equity securities or other security convertible into or exercisable for any equity security that will have rights, preferences, and privileges senior to or on parity with the Series D Preferred Stock or increase the authorized number of Series D Preferred Stock of any series;

3.5.3 purchase or redeem any shares of capital stock of the Corporation prior to the shares of Series D Preferred Stock, other than shares repurchased or redeemed from former employees or consultants in connection with the cessation of their employment or services to the Company or its Subsidiaries, at the lower of the fair market value and the cost of such shares, other than as approved by the Board (including each of the Series D Directors); or

3.5.4 with respect to the Budget for any given fiscal year, reserve funds or otherwise provide for aggregate compensation to Third Party Experts (as such term is defined in the Investors' Rights Agreement) in an amount greater or less than \$250,000, other than as approved by the Board (including each of the Series D Directors).

4. Optional Conversion. The holders of the Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

4.1 Right to Convert.

4.1.1 Conversion Ratio. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the applicable Original Issue Price by the applicable Conversion Price (as defined below) in effect at the time of conversion, provided, however, that with respect to the Series A-1 Preferred Stock, any such conversion of shares of Series A-1 Preferred Stock shall be into an equal number of shares of Common Stock on a 1-for-1 basis at all times. The "**Series A Conversion Price**" shall initially be equal to the Series A Original Issue Price. The "**Series B Conversion Price**" shall initially be equal to the Series B Original Issue Price. The "**Series C Conversion Price**" shall initially be equal to the Series C Original Issue Price. The "**Series D Conversion Price**" shall initially be equal to the Series D Original Issue Price. Such initial Conversion Prices, and the rate at which shares of Preferred Stock

(other than the shares of Series A-1 Preferred Stock) may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2 Termination of Conversion Rights. In the event of a notice of redemption of any shares of Preferred Stock pursuant to Section 6, the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the last full day preceding the date fixed for redemption, unless the redemption price is not fully paid on such redemption date, in which case the Conversion Rights for such shares shall continue until such price is paid in full. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Preferred Stock; provided that the foregoing termination of Conversion Rights shall not affect the amount(s) otherwise paid or payable in accordance with Section 2.1 to holders of Preferred Stock pursuant to such liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the number of shares of Common Stock to be issued upon conversion of the Preferred Stock shall be rounded to the nearest whole share.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall (a) provide written notice to the Corporation's transfer agent at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent) that such holder elects to convert all or any number of such holder's shares of Preferred Stock and, if applicable, any event on which such conversion is contingent and (b), if such holder's shares are certificated, surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder's name or the names of the nominees in which such holder wishes the shares of Common Stock to be issued. If required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or their attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable upon conversion of the specified shares shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time (i) issue and deliver to such holder of Preferred Stock, or to their nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the

provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, and (ii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Certificate of Incorporation. Before taking any action which would cause an adjustment reducing the Conversion Price below the then par value of the shares of Common Stock issuable upon conversion of the Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted Conversion Price.

4.3.3 Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the Conversion Price shall be made for any declared but unpaid dividends on the Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Conversion Price for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) **“Additional Shares of Common Stock”** shall mean all shares of Common Stock issued (or, pursuant to Section 4.4.3 below, deemed to be issued) by the Corporation after the Original Issue Date, other than (1) the following securities and (2) shares of Common Stock deemed issued pursuant to the following securities (clauses (1) and (2), collectively, **“Exempted Securities”**):

- (i) as to any series of Preferred Stock, any shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on such series of Preferred Stock;
- (ii) shares of Common Stock, Special Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Section 4.5, 4.6, 4.7 or 4.8;
- (iii) shares of Common Stock, Special Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its Subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors and by the stockholders pursuant to Section 3.3.17;
- (iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security;
- (v) shares of Common Stock, Options or Convertible Securities issued to banks, equipment lessors or other financial institutions, pursuant to a debt financing, equipment leasing or real property leasing transaction approved by the Board of Directors, including the approval of at least two Preferred Directors;

- (vi) shares of Common Stock, Options or Convertible Securities issued as acquisition consideration pursuant to the acquisition of another company by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided that such issuances are approved by either the Board of Directors, including the approval of at least two Preferred Directors, or the Requisite Holders; or
- (vii) shares of Common Stock, Options or Convertible Securities issued in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements or strategic partnerships approved by the Board of Directors, including the approval of at least two Preferred Directors.

(b) “**Convertible Securities**” shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(c) “**Options**” shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(d) “**Original Issue Date**” shall mean March 31, 2020.

4.4.2 No Adjustment of Conversion Price. No adjustment in the Conversion Price shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if the Corporation receives written notice from the Requisite Holders agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible

Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Conversion Price to an amount which exceeds the lower of (i) the Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4 (either because the consideration per share (determined pursuant to Section 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Conversion Price then in effect, or because such Option or Convertible Security was issued before the Original Issue Date), are revised after the Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section 4.4.3(a)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4, the Conversion Price shall be

readjusted to such Conversion Price as would have obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Conversion Price provided for in this Section 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Section 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Conversion Price that would result under the terms of this Section 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

#### 4.4.4 Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock.

(a) In the event the Corporation shall at any time after the Original Issue Date and prior to the second anniversary of the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4.4.3), without consideration or for a consideration per share less than the Series D Conversion Price in effect immediately prior to such issuance or deemed issuance, then the Series D Conversion Price shall be reduced, concurrently with such issuance or deemed issuance, to the consideration per share received by the Corporation for such issue or deemed issue of the Additional Shares of Common Stock; provided that if such issuance or deemed issuance was without consideration, then the Corporation shall be deemed to have received an aggregate of \$0.001 of consideration for all such Additional Shares of Common Stock issued or deemed to be issued.

(b) Except as provided in Section 4.4.4 (a), in the event the Corporation shall at any time after the Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section 4.4.3), without consideration or for a consideration per share less than the Conversion Price in effect immediately prior to such issuance or deemed issuance, then the Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

- (i) "CP<sub>2</sub>" shall mean the Conversion Price in effect immediately after such issuance or deemed issuance of Additional Shares of Common Stock
- (ii) "CP<sub>1</sub>" shall mean the Conversion Price in effect immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock;
- (iii) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such issuance or deemed issuance of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issuance or deemed issuance or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);
- (iv) "B" shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued or deemed issued at a price per share equal to CP<sub>1</sub> (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP<sub>1</sub>); and
- (v) "C" shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5 Determination of Consideration. For purposes of this Section 4.4, the consideration received by the Corporation for the issuance or deemed issuance of any Additional Shares of Common Stock shall be computed as follows:

- (a) Cash and Property. Such consideration shall:
  - (i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;

- (ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors; and
- (iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing:

- (i) The total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by
- (ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the

conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Conversion Price pursuant to the terms of Section 4.4.4, then, upon the final such issuance, the Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Original Issue Date effect a subdivision of the outstanding Common Stock, the Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Common Stock, the Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price shall be adjusted pursuant to this Section as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of

Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Section 2.3, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Sections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than ten days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Preferred Stock (but in any event not later than ten days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the Conversion Price then in effect, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of Preferred Stock.

4.10 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. Such notice shall be sent at least ten days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon the closing of a Qualifying Transaction (the time of such closing is referred to herein as the “**Mandatory Conversion Time**”), then (i) all outstanding shares of Preferred Stock shall automatically be converted into shares of Common Stock, at the then effective conversion rate as calculated pursuant to Section 4.1.1 and (ii) such shares may not be reissued by the Corporation.

5.2 Procedural Requirements. All holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock in certificated form shall surrender their certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered

holder or by their attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to Section 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Section 5.2. As soon as practicable after the Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall (a) issue and deliver to such holder, or to their nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof and (b) pay any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

## 6. Redemption.

6.1 General. The Requisite Holders may, at any time on or after the sixth anniversary of the Original Issue Date, deliver to the Corporation a written notice requesting redemption of all Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, and Series D Preferred Stock (the “**Redemption Request**”). Unless and except to the extent prohibited by Delaware law governing distributions to stockholders or any consent requirements under the Corporation’s credit facility with senior lenders (to the extent the requisite lenders’ consent was not obtained after the Corporation used commercially reasonable efforts to obtain such consent) (each, a “**Redemption Restriction**”), the Corporation shall redeem all such Preferred Stock at the applicable Redemption Price during the Redemption Period, except the Excluded Shares.

6.2 Redemption Price. “**Redemption Price**” means a price equal to the fair market value of a single share (based upon the fair market value of the Corporation as a whole and without discounts for illiquidity and minority interests), as applicable, of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock on the date of the Redemption Request, in each case as mutually agreed upon by the Requisite Holders and the Board of Directors, which shall include the affirmative consent of at least two of the directors who are not Preferred Directors, and, in the event that they are unable to reach agreement, then the Redemption Price shall be the average of two independent appraisals from two investment banks of nationally recognized standing mutually acceptable to the Requisite Holders and the Board of Directors.

6.3 Redemption Period. The Corporation shall redeem such Preferred Stock and pay the Redemption Price in accordance with the priorities set forth in Sections 2.1 and 2.2 in two equal annual installments commencing not more than 180 days after the date on which either (i) the Requisite Holders and the Board of Directors agree on the Redemption Price or (ii) the receipt of the two independent appraisals of the Corporation pursuant to Section 6.2 (the “**Redemption Period**”). The date of each such installment is referred to as a “**Redemption Date.**”

The number of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, to be redeemed from each holder on the Redemption Date shall equal the total number of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, held by such holder on the date of the Redemption Notice. On each Redemption Date, the Corporation shall redeem, the number of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, determined by dividing (i) the total number of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, outstanding immediately prior to such Redemption Date by (ii) the number of remaining Redemption Dates (including the Redemption Date to which such calculation applies); provided, however, that Excluded Shares shall not be redeemed and shall be excluded from the calculations set forth in this sentence. If on any Redemption Date any Redemption Restriction prevents the Corporation from redeeming all Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock to be redeemed, the Corporation shall ratably redeem the maximum number of such Preferred Stock that it may redeem consistent with such Redemption Restriction, and shall redeem the remaining Preferred Stock as soon as it may lawfully do so under such Redemption Restriction. If the funds of the Corporation legally available under all applicable Redemption Restrictions for redemption of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, on the Redemption Date are insufficient to redeem the total number of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, to be redeemed on such date, those funds that are legally available under all applicable Redemption Restrictions will be used to redeem shares from the holders of such Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, in proportion to the aggregate Redemption Prices that would be payable to each holder if all such stock required to be redeemed were being redeemed in the same manner as such funds would be distributed to such holders upon liquidation pursuant to Section 2.1 and 2.2. The Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein, including the rights of conversion set forth herein. If any time thereafter additional funds become legally available under all applicable Redemption Restrictions for redemption, such funds will immediately be used to redeem the balance of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, that the Corporation has become obliged to redeem on the Redemption Date but that it has not redeemed.

6.4 Assignment of Redemption Obligations. The Corporation shall apply all of its assets to any such redemption, and to no other corporate purpose, except to the extent prohibited by Delaware law governing distributions to stockholders; provided, however, that the Corporation may, in its sole discretion, assign its obligation to purchase the Preferred Stock to be redeemed to any third party that the Corporation deems appropriate and which third party agrees in writing to assume the Corporation's obligations with respect to any such redemption; provided, further, that any such assignment shall not relieve the Corporation of any liabilities and obligations under this Section 6 that are not fully performed by the assignee.

6.5 Redemption Notice. The Corporation shall send written notice of the redemption (the "**Redemption Notice**") to each holder of Series A Preferred Stock, Series B

Preferred Stock, Series C Preferred Stock, and Series D Preferred Stock, as applicable, not less than 45 days prior to each Redemption Date. Each Redemption Notice shall state:

(a) the number of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, and Series D Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date specified in the Redemption Notice;

(b) the Redemption Date and the Redemption Price; and

(c) the date upon which the holder's right to convert such shares terminates (as determined in accordance with Section 4.1); and

(d) for holders of shares in certificated form, that the holder is to surrender to the Corporation, in the manner and at the place designated, their certificate or certificates representing the shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, as applicable, to be redeemed.

If the Corporation receives, prior to the 28th day after the date of delivery of the Redemption Notice to a holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, written notice from such holder that such holder elects to be excluded from the redemption provided in this Section 6, then the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock owned by such holder at the time of the Corporation's receipt of such notice shall thereafter be "**Excluded Shares**." Excluded Shares shall not be redeemed or redeemable pursuant to this Section 6, whether on such Redemption Date or thereafter.

6.6 Surrender of Certificates; Payment. On or before the applicable Redemption Date, each holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock, to be redeemed on such Redemption Date, unless such holder has exercised their right to convert such shares as provided in Section 4, shall, if a holder of shares in certificated form, surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof. In the event less than all of the shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock represented by a certificate are redeemed, a new certificate, instrument, or book entry representing the unredeemed shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, or Series D Preferred Stock shall promptly be issued to such holder.

6.7 Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on the applicable Redemption Date the Redemption Price payable upon redemption of Preferred Stock to be redeemed on such Redemption Date is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a

timely manner, then distributions with respect to such Preferred Stock shall cease to accrue after such Redemption Date and all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Redemption Price.

7. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed, converted or otherwise acquired by the Corporation or any of its Subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its Subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following redemption, conversion or acquisition.

8. Waiver. Except as otherwise set forth herein, any of the rights, powers, preferences and other terms of any series of Preferred Stock set forth herein may be waived on behalf of all holders of such series of Preferred Stock by the affirmative written consent or vote of the Requisite Holders. Notwithstanding the foregoing, this Certificate of Incorporation may not be amended nor may the observance of any term hereof be waived with respect to any stockholder without the written consent of such stockholder, unless such amendment or waiver applies to all stockholders of the same class and series in the same fashion.

9. Notices. Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

**FIFTH:** Subject to any additional vote required by this Certificate of Incorporation or Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

**SIXTH:** Subject to any additional vote required by this Certificate of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation. Each director shall be entitled to one vote on each matter presented to the Board of Directors;

**SEVENTH:** Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

**EIGHTH:** Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

**NINTH:** To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a

director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

**TENTH:** To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not (a) adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification or (b) increase the liability of any director of the Corporation with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.

**ELEVENTH:** The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An “**Excluded Opportunity**” is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of (i) any director of the Corporation who is not an employee of the Corporation or any of its Subsidiaries, or (ii) any holder of Preferred Stock or any partner, member, director, stockholder, employee, affiliate or agent of any such holder, other than someone who is an employee of the Corporation or any of its Subsidiaries (collectively, the persons referred to in clauses (i) and (ii) are “**Covered Persons**”), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a director of the Corporation while such Covered Person is performing services in such capacity. Any repeal or modification of this Article Eleventh will only be prospective and will not affect the rights under this Article Eleventh in effect at the time of the occurrence of any actions or omissions to act giving rise to liability.

**TWELFTH:** The name and mailing address of the sole incorporator are as follows:

<u>Name</u>	<u>Mailing Address</u>
Viraj Puri	Gotham Greens Holdings PBC 810 Humboldt Street Brooklyn, NY 11222

**THIRTEENTH:** Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the General Corporation Law or the Corporation's certificate of incorporation or bylaws or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. If any provision or provisions of this Article Thirteenth shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article Thirteenth (including, without limitation, each portion of any sentence of this Article Thirteenth containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

**FOURTEENTH:** The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation in the manner now or hereafter prescribed by the General Corporation Law, and all the provisions of this Certificate of Incorporation and all rights conferred on stockholders, directors and officers in this Certificate of Incorporation are subject to this reservation. Notwithstanding the foregoing, pursuant to Section 363(c)(1) of the General Corporation Law, any amendment, alteration, change or repeal of the third sentence in Article III with respect to the statement of beneficial purpose of the Corporation requires the approval of two-thirds of the outstanding shares of each class of the stock of the Corporation of which there are outstanding shares, whether voting or non-voting.

[Signature Page Follows]

I, the undersigned, being the sole incorporator, for the purpose of forming a Corporation under the laws of the State of Delaware, do make, file and record this Certificate of Incorporation, to certify that the facts herein stated are true, and accordingly have hereto set my hand on May 19, 2021.

/s/ Viraj Puri  
Viraj Puri  
Sole Incorporator

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## ***Regular Session Agenda Item: 3***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Conduct interviews with Boards & Commissions Applicants for appointment.

### **BACKGROUND OF ISSUE:**

At this time, Place Two (2) on the Planning & Zoning Commission is vacant. Staff received an application from Ms. Shelley Sipriano to fill that vacancy. In compliance with City Ordinance No. 24-2019, the applicant has passed the criminal background check.

In the past City Council has interviewed all boards and commission applicants. At this time, a brief interview may be conducted with the applicant. For your convenience, a list of appointments has been provided.

### **FINANCIAL IMPACT:**

N/A

### **RECOMMENDATION:**

N/A

### **EXHIBITS:**

List of appointments



## *Regular Session Agenda Item: 4*

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Discuss and consider approving a Resolution of the City of Seagoville, Dallas County, Texas, casting its vote for the fourth member of the Board of Directors of the Dallas Central Appraisal District.

### **BACKGROUND OF ISSUE:**

In accordance with state law, the nomination process to serve on the Dallas Central Appraisal District Board of Directors has been completed. By state law, your agency is required to vote by official ballot resolution.

The nominees are follows. Also included are the names of the nominating cities.

Mr. Micheal Hurtt	Addison, Desoto, Duncanville, Farmers Branch, Richardson & Seagoville
Ms. Shaunte L. Allen	Glenn Heights
Ms. Dianne Cartwright	Irving
Mr. Brett Franks	Sasche
Mr. Steve Nichols	Hutchins

\*\*\* On or about Monday, September 13, 2021 the City of Seagoville City Council exercised their rights and nominated Michael Hurtt as a candidate member of the Board of Directors. \*\*\*

Dallas Central Appraisal District has requested action on the election process by official ballot resolution and return the ballot resolution by December 17, 2021.

### **FINANCIAL IMPACT:**

N/A

### **RECOMMENDATION:**

N/A

### **EXHIBITS:**

Resolution  
Nominee Bios

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY OF SEAGOVILLE, DALLAS COUNTY, TEXAS, CASTING ITS VOTE FOR THE FOURTH MEMBER OF THE BOARD OF DIRECTORS OF THE DALLAS CENTRAL APPRAISAL DISTRICT.**

**WHEREAS**, Dallas County eligible taxing entities have expressed and approved an option which allows for representation to the Appraisal District Board of Directors (in accordance with Section 6.03 of the Texas Property Tax Code) as follows:

1. The City of Dallas appoint one (1) member to the Board.
2. The Dallas Independent School District shall appoint one (1) member to the Board.
3. The Dallas County Commissioners Court shall appoint one (1) member to the Board. The member appointed by the Dallas County Commissioners Court shall not be a resident of either the City of Dallas or the Dallas Independent School District.
4. Each of the incorporated cities and towns, except for the City of Dallas, shall have the right to nominate by an official resolution one (1) candidate as the fourth member of the Board of Directors. The said cities and towns shall, from the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, the fourth member of the Board of Directors.
5. Each of the School Districts, and the Dallas County Community College District, except the Dallas Independent School District, shall have the right to nominate by an official resolution one (1) candidate as the fifth member of the Board of Directors. The said school districts shall, from the nominations received, elect by a majority vote, with each school district and community college district being entitled to one (1) vote, the fifth member of the Board of Directors.

The votes required for election to the Board of Directors in 4 and 5 hereof shall be by a majority of those authorized to vote in 4 and 5 respectively and not by a majority of the quorum, and

**WHEREAS**, The City of Seagoville does hereby cast its vote by marking the ballot below:  
(Check one only)

- Michael Hurtt**
- Shaunte L. Allen**
- Dianne Cartwright**
- Brett Franks**
- Steve Nichols**

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Seagoville does hereby confirm its one (1) vote for the election of \_\_\_\_\_ as the suburban cities' representative to the Board of Directors of the Dallas Central Appraisal District.

DULY PASSED AND APPROVED this 6<sup>th</sup> day of December, 2021.

APPROVED:

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MAYOR

ATTEST:

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CITY SECRETARY

SEAL:

Michael Hurtt came to Dallas, Texas from Casper, Wyoming in 1971. After graduating from Mortuary Science College, he settled in the DeSoto area. His funeral service background includes managing large volume and corporately owned funeral firms. Mr. Hurtt has worked and lectured for Pierce Chemical/Mortician Supply Company; which built and supplied funeral homes and owned three mortuary science colleges across the United States. Michael Hurtt and his wife, Marilyn have been residents of DeSoto since 1988 and are owners of the West/Hurtt Funeral Home in DeSoto. He has served on the Texas Funeral Directors Association, president of the North Texas Funeral Directors and Dallas County Funeral Directors Association. Before entering into public office, Michael Hurtt served the City as a member of the DeSoto Park Board, Strategy 2000, and the Charter Review Commission.

Michael Hurtt's commitment to community and civic service has resulted in many years of participation and leadership for numerous local, regional, and national organizations: Board of Directors for the Dallas Zoological Society, North Texas Commission, Medical Center of Lancaster Board of Trustees and select specialty, Canterbury Episcopal School, past president of the DeSoto Chamber, DeSoto Rotary and the Best Southwest Chambers, City Councilmember/Mayor Pro Tem from 1998 - 2001 and Mayor of DeSoto from 2001 to 2007, which is when DeSoto achieved the All-America City designation. He was president and vice-president of the DeSoto Economic Development Corporation. He also served on the advisory board for Methodist Charlton Hospital, and represents the 31 suburban cities for the Dallas Central Appraisal District. Other organizations include: Metroplex Mayors Association; Texas Municipal League; TEX-21- a subsidiary of River of Trade, Agile Port, and Trans Texas Corridor; R - the North Texas Commission as the representative for the Cities of DeSoto, Duncanville, Cedar Hill, and Lancaster; U.S. Conference of Mayors; National League of Cities.

Mr. Hurtt has served on the Dallas Central Appraisal District Board since 2008.

# SHAUNTÉ L. ALLEN

972-834-8917 ▪ mz.slallen@gmail.com

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## OBJECTIVE

Higher education professional with 15 years of experience creating and managing student success and retention programs. Committed to developing programs and initiatives that expand student leadership opportunities for individuals who will affect change in their communities.

## EDUCATION

Master of Education ▪ Secondary Education  
Bachelor of Arts ▪ Literary Studies

Texas A&M - Commerce, Mesquite, TX  
University of Texas at Dallas, Richardson, TX

## HIGHLIGHTS

- Adept in public speaking and presentations
- Lead employee training and development
- Knowledgeable of Instructional Design
- Excellent leadership and interpersonal skills
- Background in journalism & marketing
- Provide administrative support/clerical assistance
- Event planning for education and community
- Proficient in MS Office, Adobe CS, Premier, Captivate

## PRESENTATIONS

<i>Study Skills</i>	Oct 2018
TRIO Workshop, Tyler Junior College, Tyler, TX	
<i>Study Skills</i>	Nov 2017
TRIO Workshop, Tyler Junior College, Tyler, TX	
<i>Supplemental Instruction</i>	April 2016
Faculty Training, Borough of Manhattan Community College, New York, NY	
<i>Developmental Education Course Redesign (DIRW, NCBO)</i>	May 2014
Advisor Training, Cedar Valley College, Lancaster, TX	
<i>Connecting to the Core</i>	Oct 2013
Developmental Education Summit, Mountain View College, Dallas, TX	
<i>Developmental Education Course Redesign (DIRW, NCBO)</i>	June 2013
Advisor Training, Cedar Valley College, Lancaster, TX	
<i>Note-Taking 101</i>	Mar 2012
TRIO Student Workshop, Cedar Valley College, Lancaster, TX	
<i>Decision-Making and Problem-Solving</i>	Mar 2011
Office of Student Life Workshop, Cedar Valley College, Lancaster, TX	
<i>Get the Idea? Finding Main Ideas</i>	Oct 2009
TRIO Student Workshop, Cedar Valley College, Lancaster, TX	
<i>Blueprint for Success</i>	Mar 2009
Urban League Panel Discussion, University of Texas at Dallas, Richardson, TX	
<i>Test Preparation</i>	Oct 2008
TRIO Student Workshop, Cedar Valley College, Lancaster, TX	

## AWARDS

<i>Academic Distinction</i> ▪ Who's Who in Community Colleges Higher Education	2019
<i>Torchbearer</i> ▪ Texas State Conference of NAACP	2018
<i>Most Innovative Learning Community</i> ▪ Cedar Valley Community College	2011
<i>Excellence in Teaching</i> ▪ Who's Who Among America's Teachers	2007

## PROFESSIONAL EXPERIENCE

### Professor, TSI Integrated Reading and Writing

Tyler Junior College, Tyler, TX

Aug 2017 - Present

*Presented study skills workshops and counseled at-risk, first-generation TRIO students one-on-one and in small groups to ensure academic success. Evaluated student goals and identified areas needing improvement.*

- Assisted in course evaluations, curricula development, and selection of instructional materials.
- Taught 5 - 6 courses to improve students' critical reading, writing, and thinking skills to college-level proficiency. Utilized a digital teaching and learning environment that helped general education and disability students to study more efficiently while mastering student learning outcomes. Utilized Canvas as the LMS.
- Service: NADE Conference, Texas Community Colleges Conference, Institutional Inservice and Training, TRIO Counselor and Tutor, Student Club Chaperone, Greece Studies Chaperone

### Lecturer, Critical Reading and Critical Thinking

Borough of Manhattan Community College, New York, NY

Aug 2014 - Aug 2016

*Trained faculty to develop a Supplemental Instruction program tailored to their individual courses. Conducted needs assessments and created instructional material that included goals and learning outcomes.*

- Chaired the Assessment Committee to identify appropriate instruments to assess student learning outcomes; administered assessments to classes; interpreted data; used feedback to recommend improvements for effective teaching and learning methods. Served on the Reading Committee to align diagnostic assessments to student learning outcomes; coordinated tutorial services for classroom support.
- Taught 2 - 3 courses to improve students' critical reading skills to college-level proficiency. Developed lessons that support differentiated instruction and diverse learning styles for general education and disability students. Incorporated instructional technology to enhance teaching and learning. Utilized Canvas as the LMS.
- Service: Institutional Inservice and Training, Supplemental Instructor Program, Assessment Committee, Reading Committee, Early Alert Committee, Debate Club Chaperone

### Department Chair, Developmental Reading

Cedar Valley Community College, Lancaster, TX

Aug 2011 - May 2014

*Recruited, trained, and supervised full and part-time instructors. Identified faculty development needs to achieve departmental goals. Coordinated faculty work schedules. Approved/denied timesheets and semester contracts. Maintained departmental budget and analyzed data to determine costs and benefits of various resources.*

- Developed new course offerings and training workshops, created new syllabi, developed and revised curricula, selected books and software. Established literacy goals and student learning outcomes to align with the Texas Success Initiative (TSI) plan. Wrote grant proposals. Managed the Closing the Gap grant with Lancaster ISD to identify low-income students who would not have enrolled in college without post-secondary intervention.
- Created assessment policies, rubrics, and cut-scores. Evaluated students for accurate course placement and appropriate academic services. Made recommendations for course remediation or acceleration. Evaluated programs, tracked data for reporting, and created action plans.

### Professor, Developmental Reading

Cedar Valley Community College, Lancaster, TX

Jan 2007 - May 2014

*Facilitated staff training for content-area reading and writing. Conducted student workshops to improve comprehension and study skills. Earned Distance Learning Certificate for online instruction. Worked as Volunteer Coordinator/Trainer for the district's literacy program; created registration forms, maps, and tasks lists.*

- Participated in professional development conferences for reading strategies and student retention.
- Taught 6 - 8 courses to improve students' critical reading skills to college-level proficiency. Developed lessons that supported differentiated instruction and diverse learning styles for regular education and disability students. Incorporated instructional technology such as iPads, LED Projectors, Doceri, Smart Clickers, and Microsoft applications to enhance teaching and learning. Utilized Blackboard as the LMS.
- Service: NADE Conference, Digital Conference, Institutional Inservice and Training, SACS Committee, TSI Committee, Learning Communities Committee, Dual-Credit Committee, Faculty/Staff Search Committee, Supplemental Instructor Program, Technology in the Classroom Program, Journey to Success/Early Alert Program, Halloween Contest Judge, Student Newspaper Club Sponsor, Hawaiian Field Studies Chaperone

**Cynthia Dianne Cartwright**

**1706 Glenbrook Dr.**

**Irving, Tx. 75061**

**214-797-4700**

[dianne.ebby@gmail.com](mailto:dianne.ebby@gmail.com)

## **BIO**

### **Overview:**

Highly motivated, successful licensed realtor with varied real estate and community interests, volunteering on multiple projects through the years. Constantly improving career and personal growth with additional education both mandated by TREC and other interesting real estate related classes and seminars.

### **Career Highlights and Experience:**

#### ***Licensed Realtor with Ebby Halliday Realtors Inc. (April 2007 – Present)***

Vast knowledge of the real estate market regarding Buyers, Sellers and occasionally Tenants.  
Intentionally improving education opportunities to assist Buyers and Sellers.

#### ***Celanese Corporation (2003 - 2006)***

Executive Assistant and Administrative Contract Assistant for Procurement Department

#### ***Caltex Petroleum Corporation (1990-2000)***

*International Tax Division, Executive Assistant to Corporate Tax Attorney & Director*

#### ***Austin Commercial, Inc. (1984-1990)***

*Administrative Assistant to Senior Project Manager, Williams Square Project;  
Executive Assistant to Sr. VP. Contracts*

### **Education:**

NTSU Denton  
Northlake Community College  
Kaplan School of Real Estate  
Texas Real Estate Commission Education

### **Professional Development:**

Continuing Education Classes (TREC Approved)  
( <https://www.trec.texas.gov/apps/license-holder-search/>)  
Senior Real Estate Specialist Designation (SRES)  
Graduate Real Estate Institute Designation (GRI)  
Broker Price Opinion Resource Designation (BPOR)

### **Personal:**

Irving Hospital District Neighborhood Association, Board Member 4 years  
Market Value Analysis Steering Committee, City of Irving  
Zoning Board of Adjustments and Appeals, City of Irving, 2 separate terms  
Elder Presbyterian Church USA  
Various Volunteer positions

**Brett Franks**  
**City Council Place 1**  
**City of Sachse**

Councilman Brett Franks was elected to serve on the Sachse City Council in Place One in June 2012. He is an Orthopedic PA with the Sports Medicine Clinic of North Texas. Mr. Franks currently serves as the Council liaison to the Parks and Recreation Commission on which he held position prior to being elected to City Council. He is a former member of the Sachse Baseball Association and a former member of the Campus Improvement Team at Hudson Middle School. As a proud Army veteran, Mr. Franks also volunteers his time every year to organize the Annual Memorial Day Event. He and his family have lived in Sachse since 2000.

Councilman Franks is interested in representing the suburban cities because of the increasing concerns by residents regarding appraisals. The consistent escalation of property values in Dallas County, the lack of transparency of the appraisal process, and the role of the Board and its staff need to be addressed. He believes there is an opportunity for DCAD to provide this information and give better explanation to citizens about how the appeal process works. These changes would improve how DCAD serves the citizens in the District.

Stephen Nichols  
219 S. Austin St  
Hutchins, TX 75141

Life long resident of Dallas County

Graduate of Bryan Adams High School class of 1980

Licensed Master Plumber

Hutchins City council member Since 2014

Vice President of the Hutchins Economic Development Committee

President of the Hutchins Tax Increment Finance Committee

Deacon First Baptist Church Hutchins, TX.

## ***Regular Session Agenda Item: 5***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Conduct a public hearing to amend the Comprehensive Zoning Ordinance and Map, as previously amended, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386± acres located at 611 North U.S. Highway 175, being described as tracts L,M, and the East half of lot 2 in the Town & Country Shopping Center Revised, in the City of Seagoville, Texas.

### **BACKGROUND OF ISSUE:**

The land currently has an existing commercial building on the subject property. The front parcel of the same owner contains the parking lot for this portion of the building. It is located on the south side of the U.S. Highway 175 between East Farmers Road and Glendale Avenue.

The owner, Global Boom LLC, and their proposed tenant, Anas Naji, are requesting that the Special Use Permit be amended to include prepackaged beverages in the existing LR, Local Retail, zoning district of the business. If the amended SUP is approved, the tenant plans to open his business at 611 North Highway 175.

### **FINANCIAL IMPACT:**

NA

### **RECOMMENDATION:**

Staff supports the request with the listed conditions of approval:

- A. the additional special use permit for the prepackaged beverages shall be limited to a maximum two (2) calendar years;
- B. the additional special use permit for the prepackaged beverages shall expire upon the occurrence of any of the following:
  - i. the business owner relocates;
  - ii. the business owner closes his door;
  - iii. the owner expands their land uses; or
  - iv. the owner applies for a new SUP for this use at this location;
- C. that the hours of operation for the tobacco store shall be from 6:00 am to 12:00 midnight.

**EXHIBITS:**

Each of the following are set for printing on letter-sized paper unless otherwise listed.

1. Staff Report (9 pages)
2. 2019 aerial photograph
3. Dimensional property map from DCAD website
4. Zoning map (dimensional map with zoning added)
5. Application submittal
  - A. Application
  - B. Letter to City Council
6. Legal notice to newspaper
  - A. For Planning and Zoning Commission
  - B. For City Council
7. Legal notice to neighbors
  - A. Letter for Planning and Zoning Commission
  - B. Notice of City Council
8. List of property owners within 200 feet of subject parcels



COMMUNITY DEVELOPMENT  
702 NORTH HIGHWAY 175  
SEAGOVILLE, TX 75159  
PHONE: (972) 287-2050

**Exhibit 1**  
**STAFF REPORT**  
**Z2021-17**

**DATE:** OCTOBER 26, 2021  
**AUTHOR:** JENNIFER BONNER, PLANNER  
**APPLICANTS:** GLOBAL BOOM LLC; ANAS NAJI  
**PARCEL:** 50054500000120200  
**LOCATION:** 611 NORTH HIGHWAY 175

**REQUEST SUMMARY:**

The applicants are requesting that the property (under the purple star outlined in orange) at 611 North Highway 175 have its existing Special Use Permit for a tobacco shop in the LR, Local Retail zoning district, be amended to also allow the sale of pre-packaged beverages in the store. The lot has been zoned LR since some time prior to 1977.

The tobacco store's SUP was granted by City Council at their meeting on Monday, October 4, 2021, by Ordinance 27-2021.

There is an existing commercial building on the subject property. The front parcel of the same owner contains the parking lot for this portion of the building.



**REQUEST LOCATION:** Inside City, Dallas County

SIZE OF PROJECT	EXISTING ZONING	SURROUNDING ZONING	EXISTING LAND USE	SURROUNDING LAND USE
0.39± acres	LR, Local Retail	<p><b>North:</b> LR, Local Retail <i>and</i> PD, Planned Development</p> <p><b>East:</b> LR, Local Retail <i>and</i> R-5, Single Family Residential</p> <p><b>South:</b> LR, Local Retail <i>and</i> R-5, Single Family Residential</p> <p><b>West:</b> LR, Local Retail; C, Commercial; <i>and</i> R-5, Single Family Residential</p>	Retail	<p><b>North:</b> Retail</p> <p><b>East:</b> Retail</p> <p><b>South:</b> Retail <i>and</i> Low Density Residential</p> <p><b>West:</b> Retail <i>and</i> Low Density Residential</p>

**STAFF RECOMMENDATION:**

Approve

Approve with Conditions

Deny

**STAFF-RECOMMENDED CONDITIONS OF APPROVAL:**

- SUP limited to maximum 2 calendar years.
- Limit hours of operation from 6:00 AM to 12:00 midnight.
- This SUP will expire when one of the following happens:
  - The owner relocates;
  - The owner closes its doors;
  - The owner expands their land uses; or
  - The owner applies for a new SUP for this use at this location.

**Planning & Zoning Commission makes recommendation to the City Council, which makes the final decision.**

Detailed explanations follow on the attached pages.

STANDARD:	ANALYSIS:
Development Calendar (Deadlines)	Has Met
Application(s) Requirements	Has Met
2002 Future Land Use Plan	Has Met
2006 Master Thoroughfare Plan	Has Met
Zoning Code	Has Met

**COMPARISON TO ADOPTED CITY MASTER PLANS**

**STAFF ANALYSIS**

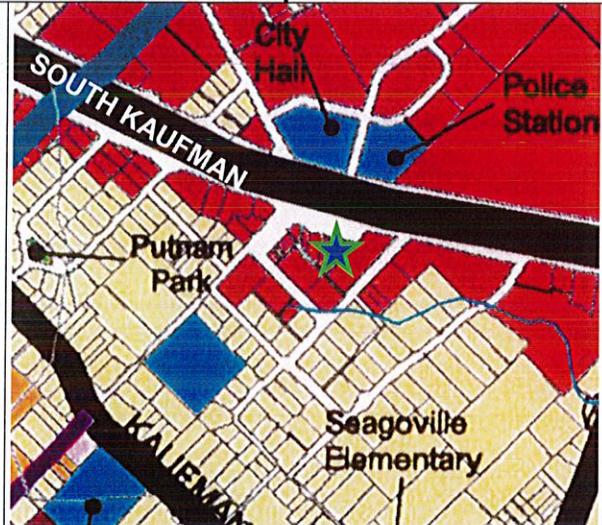
**PLAN GOALS OR GUIDELINES**

**2002 Comprehensive Land Use Plan and Map**

The area in the request (under the blue star outlined in green) is in the red colored area and was expected to remain Retail. The yellow colored areas were expected to remain Low Density Residential. The areas in blue were/are Public/Civic uses.

Dallas County Appraisal District shows the building was erected in about 1958.

Meets Standard



**2006 Master Thoroughfare Plan and Map**

The area in the request (under the green star outlined in yellow) is location of the request. North Kaufman Street and Hall Roads are the orange lines.

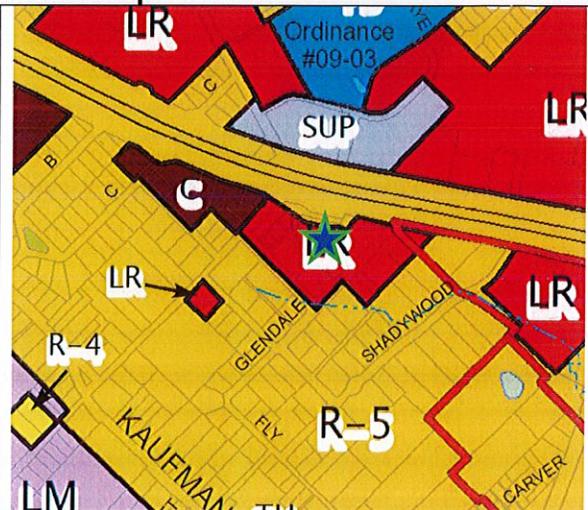
Meets Standard



**2009 Zoning Plan and Map**

The areas in mustard yellow in the map to the right are zoned R-5, Residential Single Family. The red-brown areas are zoned C, Commercial. The red areas are LR, Local Retail. The thick black lines are the zoning district boundaries. The location of the request is under the light blue star outlined in green and is asking for a Special Use Permit to sell pre-packaged beverages. Tobacco store already approved in a LR district.

Meets Standard



REVIEW CRITERIA	STAFF ANALYSIS	
1. Will the use conform to off-street parking and loading requirements?	Yes	Twenty (20) striped spaces exist in this unit's area of the parking lot. While no accessible parking spaces are in this portion of the parking lot, there is one for the adjoining suite to the west.
2. Has a site plan been submitted showing the layout of the proposed development/use?	No	No site plan was provided by the applicant. The building and parking lot are existing.
3. Are all of the ingress and egress ways adequate?	Yes	Ingress and egress to the parking lot are via existing public streets. There is an adequate sidewalk along the building's entire frontage.
4. Are the size and shape of the site as well as the arrangement of the proposed structure(s) in keeping with the intent of the Code?	Yes	The planned use will be located in an existing building.
5. Will granting the permit be authorizing less than the minimum requirements in regards to height, area, setbacks, parking, or landscaping?	No	The building and parking lot are existing.
6. Are there any outside lighting or screening controls that needs to be installed?	No	There is no proposed new lighting or screening planned.
7. Will the proposed landscaping and screening be compliant with all City regulations?	N/A	There is no proposed new landscaping for this use. Landscaping can be required with the change of use associated with a new Certificate of Occupancy.
8. Are there any special setbacks that are needed between this use and adjoining properties?	No	The building and parking lot are existing.
9. What type of surfacing will be applied to parking areas and drives?	N/A	All area outside the building are already paved.
10. Will curbs and drainage structures be installed as part of the project?	No	There are no proposed changes to the existing pavement.
11. Will granting the permit be authorizing any use that is not allowed or that defies the intent of the district it will be located in?	No	Tobacco shops are only permitted with a Special Use Permit in LR, C, LM, and HM zoning districts.
12. Will the use be designated, located, and operated so that the public health, safety, and welfare will be protected?	Yes	The existing building is already on city water and sewer.
13. Will the land use be compatible with other area properties located nearby?	Yes	Tobacco shops are only permitted in LR, C, LM, and HM zoning districts if a Special Use Permit is acquired.
14. Will the use conform to all provisions in the Code for the district in which the use is to be located?	Yes	Tobacco shops are only permitted with a Special Use Permit in LR, C, LM, and HM zoning districts.
15. Will the use facilitate public convenience at that location?	Yes	The parking lot is connected to East Farmers Road, Avalon Drive, Glendale Avenue, and the highway frontage road.
16. Have safeguards limiting noxious or offensive emissions, including light, noise, glare, dust, and odor been addressed?	N/A	There will be no increased emissions of light other than as vehicles enter or leave the site. There should be no increase in glare.
17. Will the signage conform to those portions of the Municipal Code?	Yes	Signage for this site will be limited to those allowed by code. Signage is a separate review conducted by Staff.
18. Will the open space be maintained by the owner and/or developer?	Yes	The property owner is required to maintain the building and parking lot per city codes.

**Public Comments Received:** A legal ad was published per the Texas Local Government Code in the Monday, October 11, 2021 edition of the Daily Commercial Record newspaper. Including the parcel in question, there are

**STAFF REPORT  
Z2021-17**

thirty-four (34) properties plus part of one (1) public street within 200-feet of the boundary of the subject parcel. The owners of each parcel were notified in compliance with the 200-foot rule by mail on Monday, October 11, 2021. One (1) letter was returned in favor of the request. No (zero) letters were returned against the request. Any responses received after the emailing of the packet to the Commissioners will be provided at the meeting.

**Staff Comments:** provide the pre-packaged beverage SUP information here or after the table?

Below is a table comparing the land uses listed in the municipal code for each relevant zoning district. Refer to the table on the right for which symbols depict land uses that would be permitted or require a special use permit in the land use table. Any other land use would be prohibited. The land uses in the table are arranged by district and then alphabetically.

Land Use Table Key:	Zoning District:
P = Permitted land use	O, Office
SUP = Special Use Permit required	LR, Local Retail
Blank = <i>prohibited</i>	C, Commercial

Zoning District Type of Use	Business		
	O	LR	C
Addition of pre-packaged food or beverages sales to a retail or business already operating	SUP	SUP	SUP
Airport or airport facilities	SUP	SUP	SUP
Ambulance service	P	P	P
Architect or engineers' offices	P	P	P
Art gallery	P	P	P
Attorneys' offices	P	P	P
Business offices	P	P	P
Carnival	SUP	SUP	SUP
Cemetery	SUP	SUP	SUP
Children's home on 5 acres or more	SUP	SUP	SUP
Circus	SUP	SUP	SUP
Commercial amusement, temporary	SUP	SUP	SUP
Community building on 3 acres or more	SUP	SUP	SUP
Concrete batching plant	SUP	SUP	SUP
Consultants' offices	P	P	P
Convalescent home on 5 acres or more	SUP	SUP	SUP
Daycare or nursery with more than four unrelated children	SUP	SUP	SUP
Doctors' & dentists' offices	P	P	P
Dog kennels on farm of 5 acres or more	SUP	SUP	SUP
Drive-in theatre on 10 acres or more	SUP	SUP	SUP
Driving range	SUP	SUP	P
Earth excavation	SUP	SUP	SUP
Educational institutions	SUP	SUP	SUP
Electrical public utility regulating station	SUP	SUP	SUP
Equipment storage (no repairs)	P	P	P
Financial offices	P	P	P
General offices	P	P	P
Government use - local, county, state, federal	SUP	SUP	SUP
Gravel excavation	SUP	SUP	SUP
Greenhouse	SUP	SUP	SUP
Homes for narcotics on 20 acres or more	SUP	SUP	SUP
Homes for the alcoholic on 20 acres or more	SUP	SUP	SUP
Homes for the feeble-minded on 20 acres or more	SUP	SUP	SUP
Homes for the insane on 20 acres or more	SUP	SUP	SUP
Hospital on 5 acres or more	SUP	SUP	SUP
Kindergarten - public or private	SUP	SUP	SUP
Landing airfield or facilities	SUP	SUP	SUP
Library	P	P	P
Maternity home on 5 acres or more	SUP	SUP	SUP

**STAFF REPORT  
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Zoning District Type of Use	Business		
	O	LR	C
Miniature golf course	SUP	SUP	P
Miniature train ride	SUP	SUP	SUP
Mixed-Use projects of private housing and shopping center on 3 acres or more	SUP	SUP	SUP
Multi-family dwelling units	SUP	SUP	SUP
Natural gas public utility regulating station	SUP	SUP	SUP
Nursery	SUP	SUP	SUP
Nursery school - public or private	SUP	SUP	SUP
Old people's home on 5 acres or more	SUP	SUP	SUP
Parking of unoccupied recreational trailer or recreational vehicle	P	P	P
Personal services	P	P	P
Philanthropic institutions	SUP	SUP	SUP
Political offices	P	P	P
Pony rides	SUP	SUP	SUP
Private carport and/or garage	P	P	P
Private school, equivalent to a public school	SUP	SUP	SUP
Professional offices	P	P	P
Public school (elementary through high school)	SUP	SUP	SUP
Public stable on 5 acres or more	SUP	SUP	SUP
Public utility - privately or publicly owned	SUP	SUP	SUP
Radio or television broadcasting stations	SUP	SUP	SUP
Radio or television broadcasting towers	SUP	SUP	SUP
Radio or television transmitter tower	SUP	SUP	SUP
Real estate offices	P	P	P
Records warehousing & storage	P	P	P
Religious institutions	SUP	SUP	SUP
Riding academy on 5 acres or more	SUP	SUP	SUP
Rock quarry	SUP	SUP	SUP
Rodeo	SUP	SUP	SUP
Sale of pre-packaged food/beverages, in combination, that exceeds 10% of an establishment's gross annual sales revenues	SUP	SUP	SUP
Salesman's offices	P	P	P
Sand excavation	SUP	SUP	SUP
Sewage treatment plant	SUP	SUP	SUP
Single-family dwelling units	SUP	SUP	SUP
Temporary and seasonal sales establishment, such as flea market or produce stand	SUP	SUP	SUP
Travel trailer park	SUP	SUP	SUP
Veterinary hospital on 5 acres or more	SUP	SUP	SUP
Wind energy conversion system (WEC)	SUP	SUP	SUP
Antique shop		P	P
Aquarium		P	P
Auto laundry inside a building without boiler, heating & steam-cleaning facilities		P	P
Auto repair garage - all work inside a building		P	P
Auto seat covering		P	P
Bakery, retail		P	P
Bank		P	P
Barber & beauty shop		P	P
Bicycle repairs without outside storage or display		P	P
Bird & pet shops, retail		P	P
Book or stationery store		P	P
Bowling alley - if air-conditioned & soundproofed		P	P
Brewpub		SUP	SUP
Camera shop		P	P
Candy shop		P	P

**STAFF REPORT  
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Zoning District Type of Use	Business		
	O	LR	C
Caterer		P	P
Cleaning & pressing shops smaller than 6,000 square feet		P	P
Cleaning, dyeing & laundry station for receiving & delivery of articles only		P	P
Clothing - retail sales only		P	P
Convenience store or mini-mart between 1,000 & 5,000 square feet		SUP	SUP
Curtain cleaning shop smaller than 6,000 square feet		P	P
Department store		P	P
Drive-in for food, beverage, or other service		SUP	SUP
Drive-through for food, beverage, or other service		SUP	SUP
Dying plant smaller than 6,000 square feet		P	P
Electric substation		P	P
Electrical goods, retail sales only		P	P
Electrical repairing - domestic equipment & autos, retail sales only		P	P
Exterminating company, retail		P	P
Film developing & printing		P	P
Fix-it shops without outside storage or display		P	P
Florist, retail sales only		P	P
Frozen food lockers, retail		P	P
Furniture repairs & upholstering, retail only without outside storage or display		P	P
Furniture store - retail		P	P
Gasoline/motor fuel sales		P	P
Gasoline/motor fuel sales, automated		P	P
Grocery store over 5,000 square feet		P	P
Hardware - retail sales only		P	P
Household & office appliances - retail		P	P
Household & office furniture - retail		P	P
Ice delivery station		P	P
Jewelry - retail		P	P
Job printing		P	P
Laundry - custom laundering & finishing smaller than 6,000 square feet without pickup or delivery		P	P
Letter & mimeograph shop		P	P
Meat market, retail sales only		P	P
Micro-brewery		SUP	SUP
Moving picture theater		P	P
Novelty or variety shop		P	P
Nursery, retail sale of plants & trees		P	P
Office		P	P
Office building		P	P
Optical goods - retail		P	P
Outside display, new materials		P	P
Outside storage units		P	P
Paint - retail sales only		P	P
Parking lot without public garage for passenger cars & trucks		P	P
Pharmacy/drug store		P	P
Photographer's or artist's studio		P	P
Photographic supplies - retail		P	P
Piano & musical instruments, retail sales only		P	P
Plumbing shop without warehouse facilities, retail sales only		P	P
Portable storage units (PODs) - sales & storage		P	P
Public garage		P	P
Restaurant (outdoor/patio dining)		SUP	SUP
Restaurant (dine-in only) over 4,000 square feet		P	P
Restaurant (dine-in only) smaller than 4,000 square feet		SUP	SUP

**STAFF REPORT  
72021-17**

Zoning District Type of Use	Business		
	O	LR	C
Restaurant (dine-in/ convenience) over 4,000 square feet		P	P
Restaurant (dine-in/ convenience) smaller than 4,000 square feet		SUP	SUP
Restaurant (fast food)		SUP	SUP
Restaurant (private club)		SUP	SUP
Retail sales		P	P
Retail store or shop for custom work or the making of articles on-site		P	P
Rug cleaning shop, chemical type, smaller than 6,000 square feet with all operations inside a building		P	P
Sample room		P	P
Seamstress, dressmaker, or tailor		P	P
Seed store		P	P
Shoe repair shop, retail sales only		P	P
Sporting goods - retail sales only		P	P
Studio for the display & sale of glass, china, art objects, cloth & draperies		P	P
Studios, dance, music, drama, health massage & reducing		P	P
Taxi stand		P	P
Tobacco shop		SUP	SUP
Tool sharpening, retail only without outside storage or display		P	P
Toys - retail sales only		P	P
Used car lot		SUP	P
Walk-up for food, beverage, or other service		SUP	SUP
Wallpaper - retail sales only		P	P
Washateria where the customer can wash & handle his laundry		P	P
Wearing apparel including clothing, shoes, hats, millinery & accessories		P	P
Wholesale sales office		P	P
Wine-tasting room		SUP	SUP
Drive-in theatre		SUP	
Event center in stand-alone building		SUP	
Feed store		SUP	
Mortuary use in stand-alone buildings		SUP	
Motor raceway		SUP	
Roller skating rink		SUP	
Wedding services in stand-alone building		SUP	
Aquarium, wholesale			P
Artificial flower manufacture			P
Artificial limb manufacture			P
Auto painting			P
Auto upholstery			P
Automobile dealers			P
Automobile laundry			P
Awning manufacture, cloth, metal, wood			P
Bakery, commercial			SUP
Bar			SUP
Beer tavern			SUP
Book bindery			P
Book printing			P
Bottling works with or without syrup manufacture			P
Bowling alley			P
Bus & truck storage			P
Cabinet shop			P
Candy manufacture			P
Canvas awning manufacture			P
Car barns			P
Carpenter shop			P

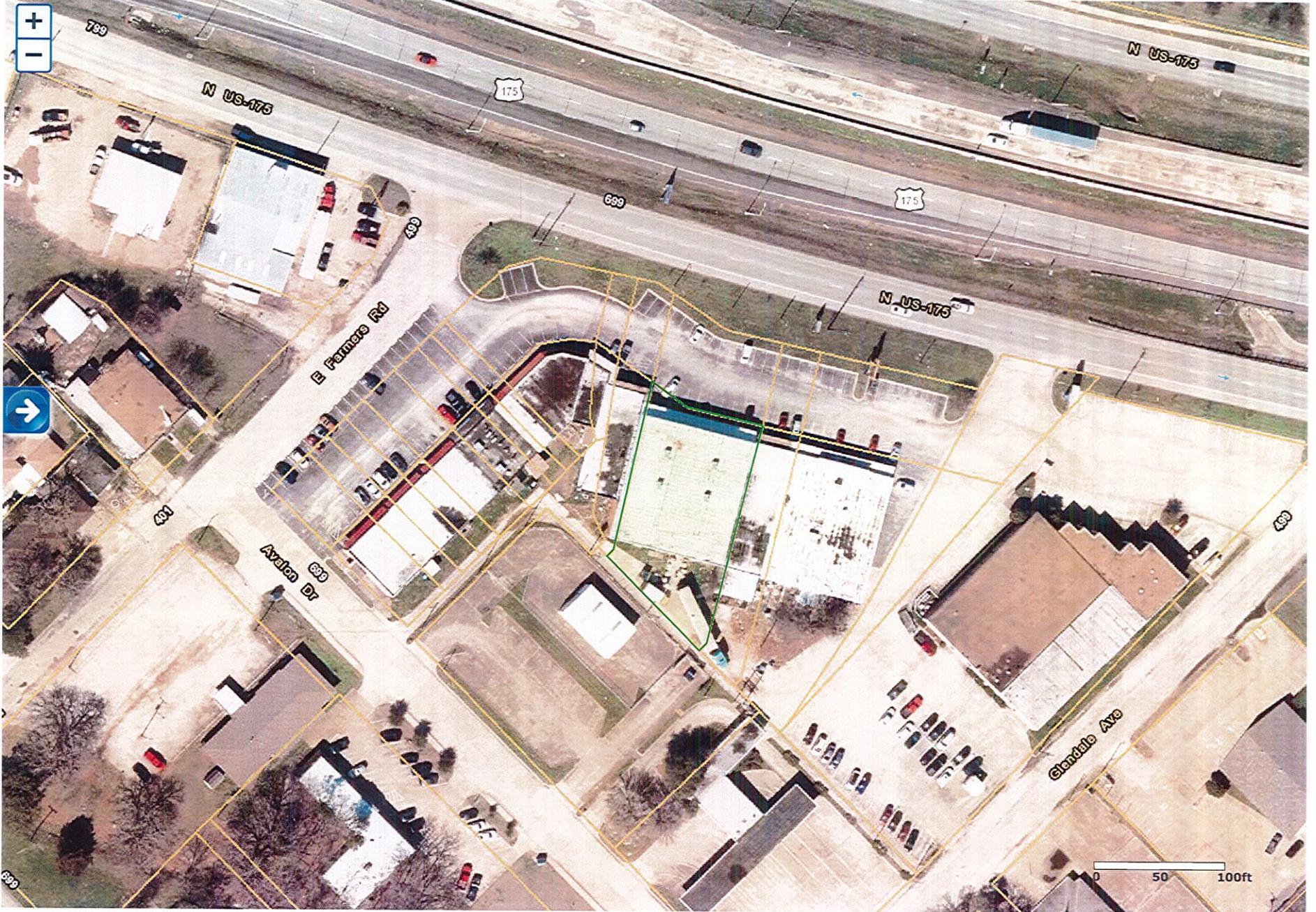
OCTOBER 26, 2021

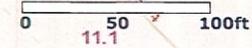
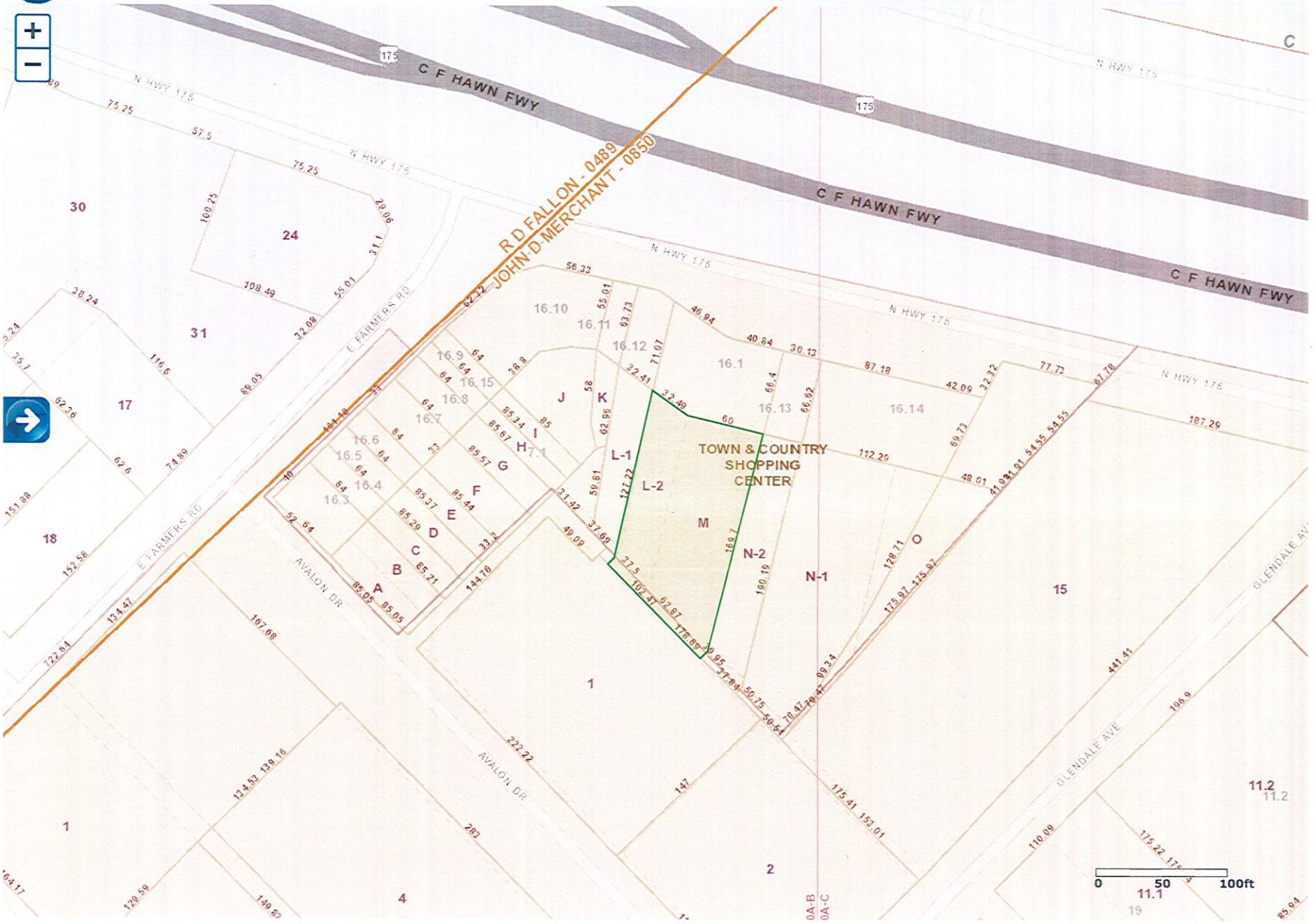
**STAFF REPORT  
Z2021-17**

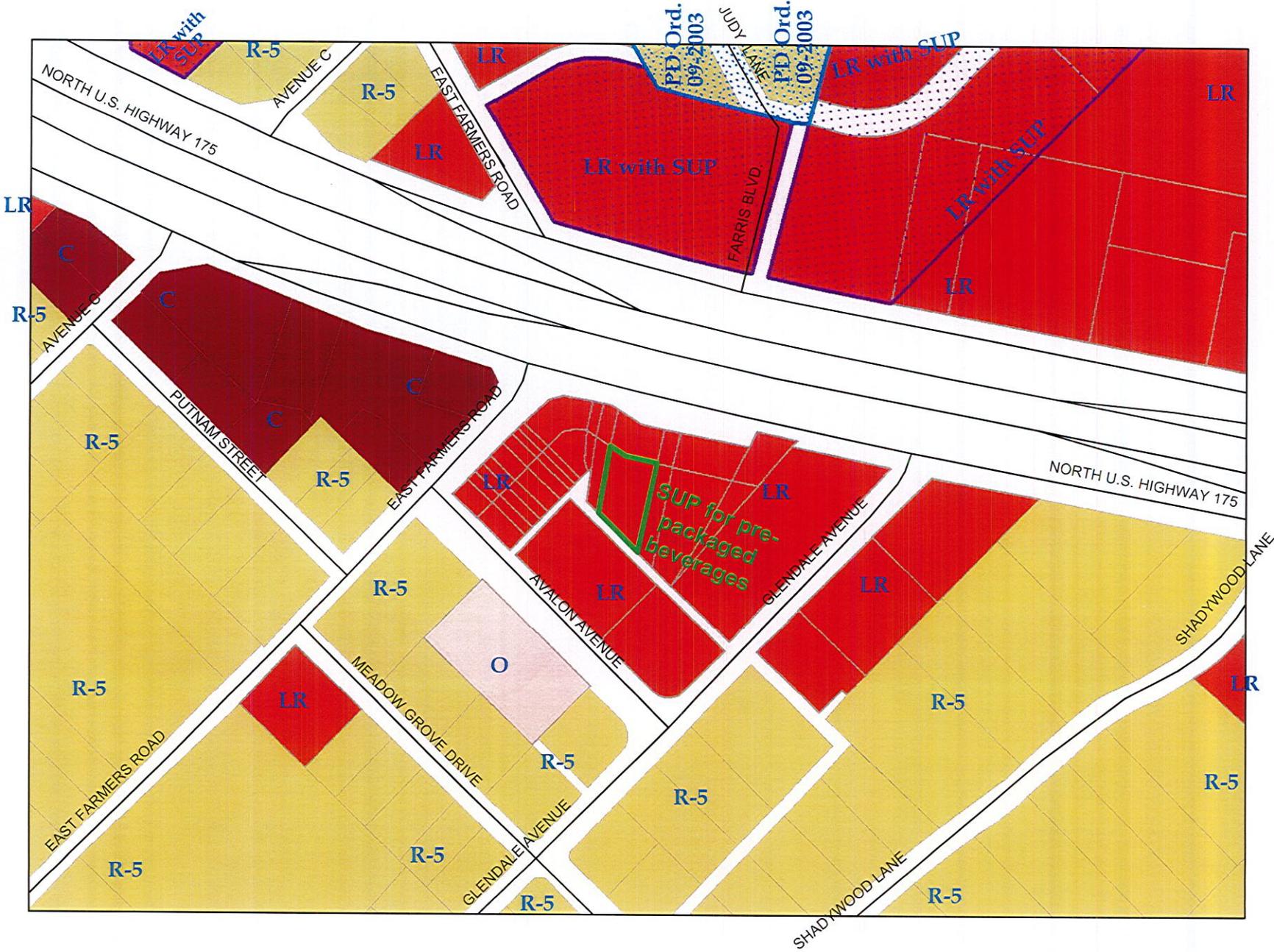
Zoning District Type of Use	Business		
	O	LR	C
Carpet cleaning - with dustproof room & dust-catching equipment			P
Carting, express, hauling or storage			P
Cement storage			P
Ceramic products smaller than 6,000 square feet			P
Cleaning & dry cleaning establishment over 6,000 square feet			P
Clothing manufacture			P
Cold storage plant			P
Commercial amusement			P
Commercial colleges			P
Contractor's storage yard			P
Dance hall			SUP
Dog kennel			SUP
Dry goods, wholesale & storage			P
Dyeing plant over 6,000 square feet			P
Egg candling & grading			P
Electrical & neon sign manufacture			P
Electrical repairing			P
Electro-plating; electro-tying			P
Engraving plant			P
Envelope manufacture			P
Feed store, wholesale & storage			P
Florist, wholesale			P
Food products manufacture, wholesale			P
Frozen food lockers, wholesale			P
Furniture auction sales			P
Furniture repair & upholstery - wholesale			P
Handcraft shop smaller than 6,000 square feet			P
Hauling, light or heavy			P
Homes for narcotics			SUP
Homes for the alcoholic			SUP
Homes for the feeble-minded			SUP
Homes for the insane			SUP
Household goods, storage			P
Ice cream manufacture			P
Ice manufacture			P
Job printing & book printing			P
Laundry, commercial			P
Leather products manufacture			P
Lithographing			P
Loading or storage tracks			P
Looseleaf book manufacture			P
Lounge			SUP
Lumberyard (building material)			P
Market - public			P
Mattress making & renovating without dust precipitating equipment			P
Milk depot, wholesale			P
Millinery manufacture			P
Mirror resilvering			P
Motel			P
Motion picture studio, commercial films			P
Motorcycle repairing			P
Moving & storage company			P
Newspaper printing			P

**STAFF REPORT  
Z2021-17**

Zoning District Type of Use	Business		
	O	LR	C
Night club			SUP
Optical goods manufacture			P
Outside display, used materials			SUP
Outside storage of any material over 8-feet tall			SUP
Outside storage, new materials			SUP
Outside storage, used materials			SUP
Paint mixing, but no cooking or baking operations			P
Paper products & paper box manufacture			P
Penal or correctional institutions for insane, feebleminded, liquor or narcotic			P
Photoengraving plant			P
Plastic products, molding, casting & shaping			P
Print shop			P
Printing equipment, supplies, repairs			P
Publishing company			P
Sale of manufactured homes on 3.5 acres or more			SUP
Sale of mobile homes on 3.5 acres or more			SUP
Schools - all types including trade & commercial colleges			P
Secondhand furniture			P
Seed store, wholesale sales & storage			P
Sheetmetal shop			P
Shoe store, wholesale sales & storage			P
Skating rink			P
Stone monument works - retail			P
Storage & sales of used auto parts & accessories without open storage or display			P
Storage of trucks, & gravel			P
Streetcar barns			P
Taxicab storage & repairs			P
Team tracks & unloading docks, railroads			P
Tire retreading & recapping			P
Tourist camp			P
Trade schools of all types			P
Transfer & baggage company			P
Travel center			SUP
Trunk manufacturing			P
Typesetting			P
Venetian blind manufacturing			P
Veterinary hospital			SUP
Warehouse, wholesale offices, sales & storage			P
Water distillation			P
Winery, boutique			SUP









# ZONING APPLICATION

City of Seagoville, Texas

ANTICIPATED MEETING DATES: P&Z: \_\_\_\_\_ City Council: \_\_\_\_\_

DATE OF PRE-APPLICATION CONFERENCE WITH CITY REPS & PLANNER (required): \_\_\_\_\_

**Application Type:**

- Initial Zoning (newly annexed or Agricultural property)
- Rezoning (property currently zoned)
- Planned Development (PD) – see Zoning Ordinance for special requirements and procedures
- Specific Use Permit (SUP) – see Zoning Ordinance for special requirements and procedures

Name of Subdivision or Project: \_\_\_\_\_

Physical Location of Property: 611 N US Hwy 175 Seagoville TX 75159  
(General Location -- approximate distance to nearest existing street corner)

Brief Legal Description of Property (must also attach accurate Surveyor's metes and bounds description):  
TOMK Country Shopping CTR REV LTSI MEE 1/2 LTZ  
(Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block)

Acreage: 0.3896 Existing Zoning: LR Requested Zoning: LR-SUP for pre-packaged beverages  
(Attach a detailed description of requested zoning & development standards, if a PD)

Applicant / Owner's Name: GLOBAL ROOM LLC Applicant or Owner? (circle one)

Contact Person: Chloe Wong Title: Owner

Company Name: Global Room LLC

Street/Mailing Address: 1305 ERIE ST City: CARROLLTON State: TX Zip: 75006

Phone: (972) 245 9889 Fax: (972) 245 9331 Email Address: ALWAYScool168@yahoo.com

Engineer / Representative's Name: Anas Naji

Contact Person: \_\_\_\_\_ Title: Tenant

Company Name: \_\_\_\_\_

Street/Mailing Address: 2005 Cain St #2022 City: Seagoville State: TX Zip: 75159

Phone: (626) 733-7233 Fax: ( ) Email Address: anasnaji335@gmail.com

**SUBMITTAL DEADLINE: 30 DAYS PRIOR TO P&Z PUBLIC HEARING DATE.** (All zoning applications must be advertised in the newspaper, and notices must be mailed to all property owners within 200 feet of the subject property. Please contact City staff in advance for submittal deadlines.)

**All applications must be COMPLETE before they will be scheduled for P&Z agenda.** It is the applicant's responsibility to be familiar with, and to comply with, all City submittal requirements (in the Zoning & Subdivision Ordinances, and any separate submittal policies, requirements and/or checklists that may be obtained from City staff), including the number of plans to be submitted, application fees, etc. Please contact City staff in advance for submittal requirements.

**All application materials (one copy) must be delivered to the City's Planner.** The name, address, phone number, etc. of the City's Planner can be obtained from City staff. Failure to submit all materials to the City's Planner may result in delays scheduling the zoning application for a P&Z agenda.

**Notice of Public Records.** The submission of plans/drawings with this application makes such items public record, and the applicant understands that these items may be viewed by the general public. Unless the applicant expressly states otherwise in writing, submission of this application (with associated plans/drawings) will be considered consent by the applicant that the general public may view and/or reproduce (i.e., copy) such documents.

I hereby certify that I am the Owner, or the duly authorized agent of the Owner (proof of authorization attached), for the purposes of this application, and that all information submitted herein is complete, true and correct to the best of my knowledge. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

Signed: [Signature] Title: Owner Date: 8-24-21

SUBSCRIBED AND SWORN TO before me, this the 24<sup>TH</sup> day of AUGUST, 2021  
(Month) (Year)

 CLAUDIA Y VILLARREAL  
Notary ID #126889731  
My Commission Expires  
[seal] July 6, 2025

Notary Public in and for the State of Texas: [Signature]  
My Commission Expires On: JULY 6, 2025

**Office Use Only:** Date Rec'd: \_\_\_\_\_ Fees Paid: \$ \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt #: \_\_\_\_\_  
Zoning Case # \_\_\_\_\_ Accepted By: \_\_\_\_\_ Official Submittal Date: \_\_\_\_\_

## Notice for City Council

Hello! My Name is Anas Najji "Alex"  
and I have been living in Seagoville for  
many years. I love this town and its  
people and I would like to open my  
business in it if the city approves me.

My business will include:

- Cold drinks, which going to be
- ★ Beers and wine
- ★ water
- ★ Soda
- ★ Energy drinks

Tenant Anas Najji "Alex"





COMMUNITY DEVELOPMENT  
702 NORTH HIGHWAY 175  
SEAGOVILLE, TX 75159  
PHONE: (972) 287-2050

October 8, 2021

via email: [notices@dailycommercialrecord.com](mailto:notices@dailycommercialrecord.com)  
Daily Commercial Record  
706 Main Street  
Dallas, Texas 75202

Please publish the legal notice below in the Monday, October 11, 2021, issue of your newspaper. Please send the affidavit of publication to the ATTN: Kandi Jackson at the address above. If you need to contact Kandi, her office direct number is (972) 287-6819 and her email is [citysecretary@seagoville.us](mailto:citysecretary@seagoville.us) Kandi's normal office hours are Monday through Friday from 8:00 AM to 5:00 PM.



**NOTICE OF PUBLIC HEARING  
SEAGOVILLE PLANNING & ZONING COMMISSION  
ZONING CASE Z2021-17**

The Seagoville Planning and Zoning Commission will hold a public hearing on Tuesday, October 26, 2021, at 6:30 p.m. in the Council Chambers in City Hall at 702 North U.S. Highway 175; Seagoville, TX 75159 to consider a zoning change request from LR-SUP, Local Retail with a Special Use Permit for a tobacco store, to LR-SUP-Amended, Local Retail with a Special Use Permit Amended for an additional special use permit for prepackaged beverages on approximately 0.39± acres described as Tracts L, M, and the east half of Lot 2 in the Town & Country Shopping Center Revised, commonly known as 611 North U.S. Highway 175, Seagoville, Dallas County, Texas.

Individuals may appear at the public hearing to state their opinions or may send a written notice prior to 4:00 PM on the day of the public hearing to Planner Jennifer Bonner at 702 North U.S. Highway 175; Seagoville, TX 75159.

**CITY OF SEAGOVILLE**  
Kandi Jackson  
City Secretary



COMMUNITY DEVELOPMENT  
702 NORTH HIGHWAY 175  
SEAGOVILLE, TX 75159  
PHONE: (972) 287-2050

October 12, 2021

**NOTICE OF PUBLIC HEARING  
SEAGOVILLE PLANNING & ZONING COMMISSION  
ZONING CASE Z2021-17**

The Seagoville Planning and Zoning Commission will hold a public hearing on Tuesday, October 26, 2021, at 6:30 p.m. in the Council Chambers in City Hall at 702 North U.S. Highway 175; Seagoville, TX 75159 to consider a zoning change request from LR-SUP, Local Retail with a Special Use Permit for a tobacco store, to LR-SUP-Amended, Local Retail with a Special Use Permit Amended for an additional special use permit for prepackaged beverages on approximately 0.39± acres described as Tracts L, M, and the east half of Lot 2 in the Town & Country Shopping Center Revised, commonly known as 611 North U.S. Highway 175, Seagoville, Dallas County, Texas.

Individuals may appear at the public hearing to state their opinions or may send a written notice prior to 12:00 PM noon on the day of the public hearing to Community Development Director Ladis Barr at 702 North U.S. Highway 175; Seagoville, TX 75159.

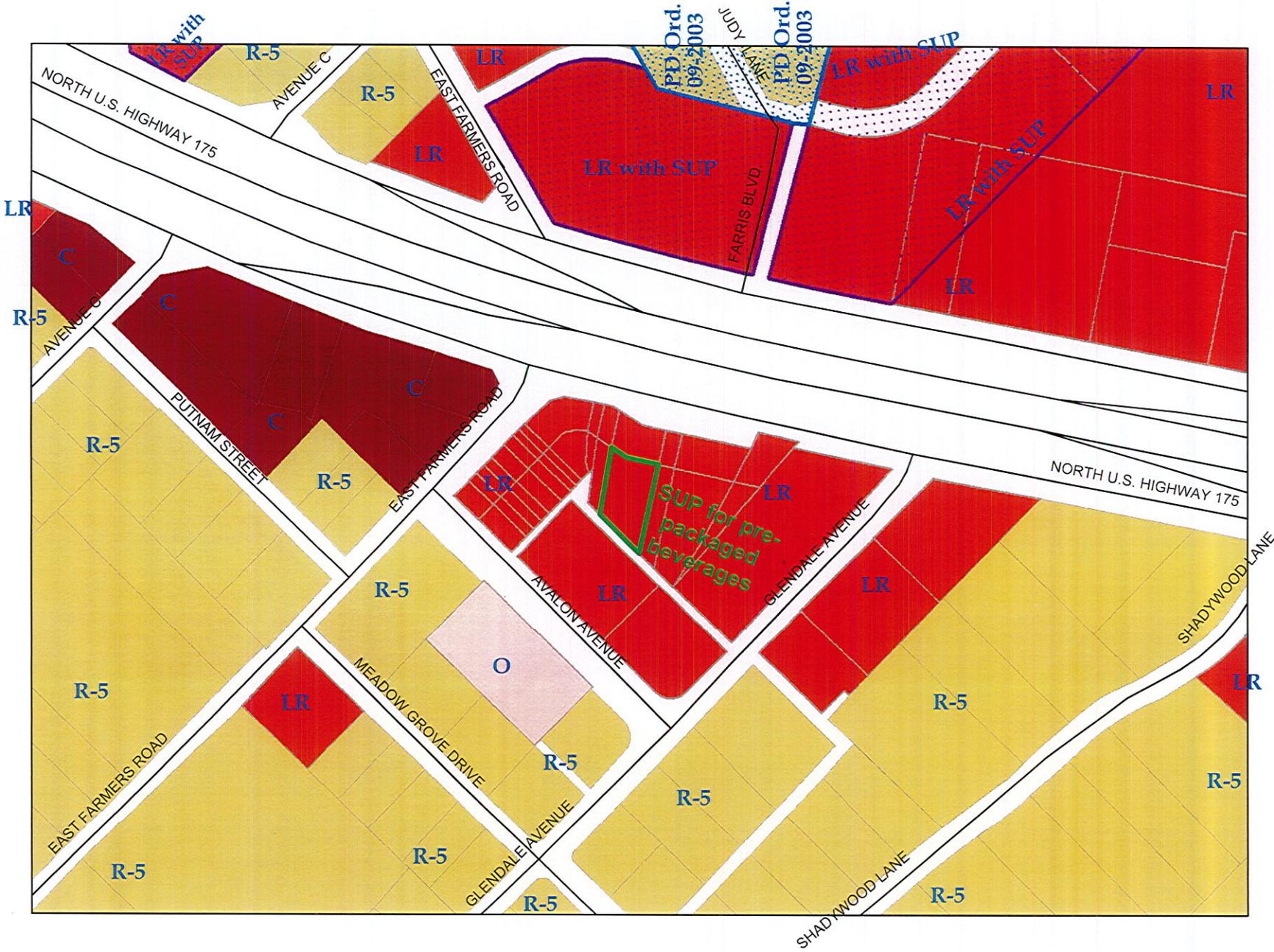
As an adjoining property owner, this is the first opportunity to voice your opinion about this project for the record. The second opportunity will be at the public hearing listed above. This item will also go to City Council for review and final approval.

Indicate your opinion in this matter by checking the appropriate box below.  
Provide any additional comments that you might have.  
Please sign and provide your name and address below.

I am in favor of  against  Zoning Request Z2021-17 as it is described herein.

Additional Comments (attach additional sheets as necessary): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature(s): \_\_\_\_\_  
Printed Name(s): \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State & Zip code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_



**Property Owners List**  
**Special Use Permit for 611 North Highway 175**

Exhibit 8

Mailed out a total of 34 letters on Tuesday, October 12, 2021, before 5:00 PM

Subject or adjoiner?	Site Address	DCAD Account	Owner	Mailing Address	City	State	Zip	Acres	Lot	Subdivision Name	Block
Subject	611 North U.S. Highway 175	5005450000120200	Global Boom LLC	1305 Erie Street	Carrollton	TX	75006	0.3896	L, M, and East 1/2 of 2	Town & Country Shopping Center Revised	
Adjoinder	611 North U.S. Highway 175	50054500000160100	Global Boom LLC	1305 Erie Street	Carrollton	TX	75006	0.1395	16.1	Town & Country Shopping Center Revised	
Adjoinder	607 North U.S. Highway 175	50054500000161400	Stanley & Marcella Potts	10885 County Road 2326	Terrell	TX	75160	0.19	16.14		
Adjoinder		50054500000150100	Stanley E. & Marcella F. Potts					0.449	Part of N & O		
Adjoinder	609 North U.S. Highway 175	50054500000140000	T. H. Property Management & Investments LLC	804 Trailwood Drive	DeSoto	TX	75115	0.1305	N-2		
Adjoinder		50054500000161300						0.0460	16.13		
Adjoinder	613 North U.S. Highway 175	50054500000161200	Thi-Le Thanih	1000 Forestbrook Drive	Mesquite	TX	75181	0.048	16.12		
Adjoinder		50054500000120100	Thi Le Thanih					0.092	L-1		
Adjoinder	615 North U.S. Highway 175	50054500000110000	Victor & Maria Villegas	120 Mark Drive	Dallas	TX	75217	0.036	K		
Adjoinder		50054500000161100						0.0273	16.11		
Adjoinder	420 East Farmer Road	50054500000161000	Lewis Family Living Trust	302 Shadywood Lane	Seagoville	TX	75159	0.1624	16.10		
Adjoinder		50054500000100000						0.092	J		
Adjoinder	418 East Farmer Road	50054500000090000	M. D. Thompson Leasing Co. 1 LLC	1918 Seagoville Road	Seagoville	TX	75159	0.027	I		
Adjoinder		50054500000160900	Dee Thompson					0.022	16.9		
Adjoinder	416 East Farmer Road	50054500000161500	Nohemi Dominguez	416 East Farmer Road	Seagoville	TX	75159	0.0220	16.15		
Adjoinder		50054500000070100						0.092	H		
Adjoinder	414 East Farmer Road	50054500000070000	F. L. Sebastian	2210 North U.S. Highway 175	Seagoville	TX	75159	0.0448	G		
Adjoinder		50054500000160800						0.0366	16.8		
Adjoinder	410 East Farmer Road	50054500000160700	Socrates Hernandez & Claudia Escobar	717 North Kaufman Street	Seagoville	TX	75159	0.0485	16.7		
Adjoinder		50054500000060000						0.054	F		
Adjoinder	408 East Farmer Road	50054500000050000	M. D. Thompson Leasing Co. 1 LLC	1918 Seagoville Road	Seagoville	TX	75159	0.036	E		
Adjoinder		50054500000160600	Dee Thompson					0.0294	16.6		
Adjoinder	406 East Farmer Road	50054500000160500	M. D. Thompson Leasing Co. 1 LLC	1918 Seagoville Road	Seagoville	TX	75159	0.0294	16.5		
Adjoinder		50054500000040000						0.036	D		
Adjoinder	404 East Farmer Road	50054500000160400	James Bernhagen	501 West Main Street	Mesquite	TX	75149	0.0294	16.4		
Adjoinder		50054500000030000						0.036	C		
Adjoinder	402 East Farmer Road	50054500000160300	Lewis Family Living Trust	302 Shadywood Lane	Seagoville	TX	75159	0.0588	16.3		
Adjoinder		50054500000100000	Harold B & Virginia P. Lewis	402 East Farmer Road				0.092	A & B		
Adjoinder	605 North U.S. Highway 175	50054500000150000	HomeBank@	601 North U.S. Highway 175	Seagoville	TX	75159	0.0647	Part of N & O		
Adjoinder		50054500000160000						0.1798	16		
Adjoinder	601 North U.S. Highway 175	50003500030020000	Seagoville State Bank	P. O. Box 909	Seagoville	TX	75159	0.5472	2		
Adjoinder		50003500040010000						1.2963	1		
Adjoinder	600 Avalon Drive	50003500030010000						0.8288	1		
Adjoinder			City of Seagoville	702 North Highway 175	Seagoville	TX	75159		ROW		

Exhibit 8

## ***Regular Session Agenda Item: 6***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION**

Discuss and consider approving an Ordinance of the City of Seagoville, Texas, amending the Comprehensive Zoning Ordinance and Map, as previously amended, by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store, to "LR-SUP-Amended" Local Retail with a Special Use Permit Amended to provide for an additional Special Use Permit for prepackaged beverages, subject to special conditions on approximately 0.386± acres located at 611 North U.S. Highway 175, being described as tracts L,M, and the east half of Lot 2 in the Town & Country Shopping Center Revised, in the City of Seagoville, Texas; providing for special conditions; providing for the repeal of all Ordinances in conflict; providing a severability clause; providing for a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and providing an effective date.

### **BACKGROUND OF ISSUE:**

The land currently has an existing commercial building on the subject property. The front parcel of the same owner contains the parking lot for this portion of the building. It is located on the south side of the U.S. Highway 175 between East Farmers Road and Glendale Avenue.

The owner, Global Boom LLC, and their proposed tenant, Anas Naji, are requesting that the Special Use Permit be amended to include prepackaged beverages in the existing LR, Local Retail, zoning district of the business. If the amended SUP is approved, the tenant plans to open his business at 611 North Highway 175.

### **FINANCIAL IMPACT:**

NA

### **RECOMMENDATION:**

On October 26, 2021, the Planning and Zoning Commission voted unanimously (five to zero) to recommend approval with conditions on a zoning change request from LR, Local Retail, to LR-SUP, Local Retail with a Special Use Permit for a Tobacco Shop on approximately 0.39± acres described as Tracts L, M, and the east half of Lot 2 in the Town & Country Shopping Center Revised, commonly known as 611 North U.S. Highway 175, Seagoville, Dallas County, Texas.

The conditions of approval were:

- The Special Use Permit (SUP) is limited to maximum 2 calendar years.
- Limit hours of operation of the business are from 6:00 AM to 12:00 midnight.
- This Special Use Permit (SUP) will expire when one of the following happens:
  - o The business owner relocates;
  - o The business owner closes his doors;
  - o The owner expands their land uses; or
  - o The owner applies for a new SUP for this use at this location.

Staff supports the request with the listed conditions of approval.

### **EXHIBITS**

Resolution (3 Pages)

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP, AS PREVIOUSLY AMENDED, BY CHANGING THE ZONING FROM "LR-SUP" LOCAL RETAIL WITH A SPECIAL USE PERMIT, FOR A TOBACCO STORE, TO "LR-SUP-AMENDED" LOCAL RETAIL WITH A SPECIAL USE PERMIT AMENDED TO PROVIDE FOR AN ADDITIONAL SPECIAL USE PERMIT FOR PREPACKAGED BEVERAGES, SUBJECT TO SPECIAL CONDITIONS ON APPROXIMATELY 0.386± ACRES LOCATED AT 611 NORTH U.S. HIGHWAY 175, BEING DESCRIBED AS TRACTS L, M, AND THE EAST HALF OF LOT 2 IN THE TOWN & COUNTRY SHOPPING CENTER REVISED, IN THE CITY OF SEAGOVILLE, TEXAS; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Seagoville and the City Council of the City of Seagoville, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council of the City of Seagoville is of the opinion and finds that a zoning change should be granted and that the Comprehensive Zoning Ordinance and Map should be amended; Now, Therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:**

**SECTION 1.** That the Comprehensive Zoning Ordinance and map of the City of Seagoville, Texas, as previously amended, be, and the same are hereby amended by changing the zoning from "LR-SUP" Local Retail with a Special Use Permit, for a tobacco store with special conditions, to "LR-SUP-AMENDED" Local Retail with a Special Use Permit Amended to provide for the original tobacco store with the original special conditions relating thereto and an additional special use for prepackaged beverages, subject to special conditions stated herein on

approximately 0.386± acres located at 611 North U.S. Highway 175, being described as Tracts L, M, and the East Half of Lot 2 in the Town & Country Shopping Center Revised, in the City of Seagoville, Dallas County, Texas.

**SECTION 2.** The property shall be developed and used in accordance with the development standards under (1) the Seagoville Zoning Ordinance as heretofore amended, (2) the ordinances of the City of Seagoville including but not limited to building regulations, (3) Ordinance 27-2021 adopted October 4, 2021 as to the tobacco store use and (4) the following special conditions as to the prepackaged beverages use:

- (A) the special use permit for tobacco store and the additional special use permit for the prepackaged beverages shall be limited to a maximum two (2) calendar years duration, commencing on the date of adoption of this Ordinance and upon expiration thereof, the zoning for the Property will revert to LR – Local Retail;
- (B) the special use permit for tobacco store and the additional special use permit for the prepackaged beverages shall expire upon the occurrence of any of the following:
  - i. the expiration, as set forth in section (A) above, of the special use permit;
  - ii. the relocation of the business to another location;
  - iii. the closure of the business as an ongoing business enterprise offering goods and services to the public;
  - iv. the expansion of the Use(s) of the Property or the business situated thereon;  
or
  - v. upon the application of the owner and the granting by the City Council of a new SUP or an extension of this SUP for the use at this location;
- (C) that the hours of operation for the business shall be limited to seven days per week, 6:00 am to 12:00 midnight.

**SECTION 3.** All provisions of the Ordinances of the City of Seagoville, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect. The special conditions stated in Ordinance 27-2021 shall remain in effect on and after the passage of this Ordinance.

**SECTION 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

**SECTION 5.** Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**DULY PASSED** by the City Council of the City of Seagoville, Texas, on the 6<sup>th</sup> day of December, 2021.

**APPROVED:**

\_\_\_\_\_  
**DENNIS K. CHILDRESS, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**KANDI JACKSON, CITY SECRETARY**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VICTORIA THOMAS, CITY ATTORNEY**  
(120121vwtTM126456)

## *Regular Session Agenda Item: 7*

**Meeting Date: December 6, 2021**

**ITEM DESCRIPTION:**

Appoint City Councilmembers to serve on the Finance Committee.

**BACKGROUND OF ISSUE:**

The Finance Committee of the Seagoville City Council exists to assist the City Council in fulfilling its financial and compliance oversight responsibilities. It is to be the City Council's principal agent in ensuring the independence of the City's annual financial audit, the integrity of City management, and the adequacy of financial disclosures to the public. The Finance Committee serves as the focal point for communication between the City Council, the independent auditor, and City management. The current members of the Finance Committee are Councilmember Jose Hernandez and Councilmember Rick Howard.

**FINANCIAL IMPACT:**

None.

**RECOMMENDATION:**

N/A

**EXHIBITS:**

None.

## ***Regular Session Agenda Item: 8***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION**

Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing and ratifying the City Manager's action approving the purchase of and purchasing a 2021 Ford F-550 crew cab utility vehicle for an amount not to exceed Fifty-Six Thousand Ten Dollars and Thirty-Five Cents (\$56,010.35) from Rush Truck Center; authorizing and ratifying the City Manager's execution of any and all necessary documents and disbursement of the funds for said purchase; and providing an effective date.

### **BACKGROUND OF ISSUE:**

The Public Works Department is requesting Council's approval to purchase a new 2021 Ford F-550 Crew Cab utility vehicle complete with all necessary emergency equipment, departmental graphics and tool boxes.

This purchase will enhance our fleet of vehicles and take place of an older Chevy 2500 with high mileage and a bad transmission, thus minimizing maintenance cost that are often associated with older high mileage vehicles.

The quote for the purchase of the 2021 Ford F-550 Crew Cab Utility vehicle, is through Rush Truck Center on the Texas Local Government Purchasing Cooperative Buyboard.

### **FINANCIAL IMPACT:**

The requested purchase was approved through the FY2022 budget process.

### **RECOMMENDATION:**

The Parks Department recommends that Council approve this purchase to help us maintain a safe and reliable fleet of vehicles for our Department.

### **EXHIBITS:**

Resolution including quote

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS**

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING AND RATIFYING THE CITY MANAGER'S ACTION APPROVING THE PURCHASE OF AND PURCHASING A 2021 FORD F-550 CREW CAB UTILITY VEHICLE FOR AN AMOUNT NOT TO EXCEED FIFTY-SIX THOUSAND TEN DOLLARS AND THIRTY-FIVE CENTS (\$56,010.35) FROM RUSH TRUCK CENTER; AUTHORIZING AND RATIFYING THE CITY MANAGER'S EXECUTION OF ANY AND ALL NECESSARY DOCUMENTS AND DISBURSEMENT OF THE FUNDS FOR SAID PURCHASE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Fiscal Year (FY) 2021-22 budget provides for the purchase of a 2021 Ford F-550 Crew Cab Utility vehicle to be purchased using funds from the general fund; and

**WHEREAS**, pricing has been obtained for the vehicle from Rush Truck Center through Buy Board in compliance with local and state procurement requirements; and

**WHEREAS**, the City Council desires to authorize and/or ratify the purchase of the 2021 Ford F550 crew cab utility vehicle in an amount not to exceed Fifty-Six Thousand Ten Dollars and Thirty-Five cents (\$56,010.35), including the authorization and ratification of the City Manager's execution of all necessary documents and disbursement of required funds for said purchase;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:**

**SECTION 1.** The City Council hereby authorizes and ratifies the purchase of a 2021 Ford F550 Crew Cab Utility vehicle for a purchase price not to exceed Fifty-Six Thousand Ten Dollars and Thirty-Five cents \$56,010.35 from Rush Truck Center in accordance with the quote attached hereto as Exhibit "A" and authorizes and ratifies the purchase by the City Manager, including the execution of all necessary documents and the disbursement of the purchase price funds.

**SECTION 2.** This resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

**PASSED AND ADOPTED** by the City Council for the City of Seagoville at a meeting on the 6<sup>th</sup> day of December, 2021.

**APPROVED:**

---

Dennis K. Childress, Mayor

**ATTEST:**

---

Kandi Jackson, City Secretary

**APPROVED AS TO FORM:**

---

Victoria Thomas, City Attorney  
(120121vwtTM126361)

**Exhibit A**  
**(Quote from Rush Truck Center)**

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2021 F-550 Chassis 4x2 SD Crew Cab 203" WB DRW XLT (W5G)

Price Level: 120 | Quote ID: 11152021

### As Configured Vehicle

Code	Description	MSRP
<b>Base Vehicle</b>		
W5G	Base Vehicle Price (W5G)	\$48,780.00
<b>Packages</b>		
663A	Order Code 663A <i>Includes:</i> - Engine: 7.3L 2V DEVCT NA PFI V8 Gas - Transmission: TorqShift 10-Speed Automatic 10R140 with neutral idle and selectable drive modes: normal, tow/haul, eco, deep sand/snow and slippery. - Tires: 225/70Rx19.5G BSW A/P - Wheels: 19.5" x 6" Argent Painted Steel Hub covers/center ornaments not included. - Radio: AM/FM Stereo w/MP3 Player Includes 7 speakers and auxiliary audio input jack. - SYNC 3 Communications & Entertainment System Includes enhanced voice recognition, 8" LCD capacitive touchscreen in center stack with swipe capability, pinch-to-zoom capability included with available voice-activated touchscreen navigation system, AppLink, 911 Assist, Apple CarPlay and Android Auto and 2 smart-charging USB-C ports. SYNC AppLink lets you control some of your favorite compatible mobile apps with your voice. It is compatible with select smartphone platforms. Commands may vary by phone and AppLink softwares. - SiriusXM Radio Includes 1 1/2" mounted center speaker and a 3-month prepaid subscription. Service is not available in Alaska and Hawaii. Subscriptions to all SiriusXM services are sold by SiriusXM after trial period. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM customer agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc. - Cloth 40/20/40 Split Bench Seat Includes 20% center under-seat storage, center armrest, cupholder, storage, 2-way adjustable driver/passenger headrests and driver's side manual lumbar.	N/C
<b>Powertrain</b>		
99N	Engine: 7.3L 2V DEVCT NA PFI V8 Gas	Included
44G	Transmission: TorqShift 10-Speed Automatic <i>10R140 with neutral idle and selectable drive modes: normal, tow/haul, eco, deep sand/snow and slippery.</i>	Included
X8L	Limited Slip w/4.88 Axle Ratio	\$360.00
68M	GVWR: 19,500 lb Payload Plus Upgrade Package <i>Includes upgraded frame, rear-axle and low deflection/high capacity springs. Increases max. RGAWR to 14,705. Note: See Order Guide Supplemental Reference for further details on GVWR.</i>	\$1,155.00
<b>Wheels &amp; Tires</b>		
TGJ	Tires: 225/70Rx19.5G BSW A/P	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2021 F-550 Chassis 4x2 SD Crew Cab 203" WB DRW XLT (W5G)

Price Level: 120 | Quote ID: 11152021

As Configured Vehicle (cont'd)

Code	Description	MSRP
64Z	Wheels: 19.5" x 6" Argent Painted Steel <i>Hub covers/center ornaments not included.</i>	Included
<b>Seats &amp; Seat Trim</b>		
3	Cloth 40/20/40 Split Bench Seat <i>Includes 20% center under-seat storage, center armrest, cupholder, storage, 2-way adjustable driver/passenger headrests and driver's side manual lumbar.</i>	Included
<b>Other Options</b>		
PAINT	Monotone Paint Application	STD
203WB	203" Wheelbase	STD
STDRD	Radio: AM/FM Stereo w/MP3 Player <i>Includes 7 speakers and auxiliary audio input jack. Includes: - SYNC 3 Communications &amp; Entertainment System Includes enhanced voice recognition, 8" LCD capacitive touchscreen in center stack with swipe capability, pinch-to-zoom capability included with available voice-activated touchscreen navigation system, AppLink, 911 Assist, Apple CarPlay and Android Auto and 2 smart-charging USB-C ports. SYNC AppLink lets you control some of your favorite compatible mobile apps with your voice. It is compatible with select smartphone platforms. Commands may vary by phone and AppLink software. - SiriusXM Radio Includes 1 MP mounted center speaker and a 3-month prepaid subscription. Service is not available in Alaska and Hawaii. Subscriptions to all SiriusXM services are sold by SiriusXM after trial period. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM customer agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc.</i>	Included
473	Snow Plow Prep Package <i>Includes pre-selected springs (see Order Guide Supplemental Reference for springs/FGAWR of specific vehicle configurations). Note 1: Restrictions apply; see Supplemental Reference or Body Builders Layout Book for details. Note 2: Also allows for the attachment of a winch.</i>	\$250.00
41H	Engine Block Heater	\$100.00
62R	Transmission Power Take-Off Provision <i>Includes mobile and stationary PTO modes.</i>	\$280.00
67B	397 Amp Alternators	N/C
18B	Platform Running Boards	\$445.00
153	Front License Plate Bracket	N/C
Standard in states requiring 2 license plates and optional to all others.		

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2021 F-550 Chassis 4x2 SD Crew Cab 203" WB DRW XLT (W5G)

Price Level: 120 | Quote ID: 11152021

As Configured Vehicle (cont'd)

Code	Description	MSRP
<b>Fleet Options</b>		
942	Daytime Running Lamps (DRL) (LPO)  Requires valid FIN code. <i>The non-controllable 942 Daytime Running Lamps (DRL) replace the standard Daytime Running Lamps (DRL) on/off cluster controllable.</i>	\$45.00
<b>Emissions</b>		
425	50-State Emissions System	STD
<b>Interior Color</b>		
3S_01	Medium Earth Gray	N/C
<b>Exterior Color</b>		
Z1_01	Oxford White	N/C
<b>Upfit Options</b>		
0000	BUYBOARD DISCOUNT	-\$9,000.00
87546589896	11 Ft. flatbed/ Tool boxes/ gooseneck hitch	\$7,950.35
42515447	Lightbar/corner strobes/install door decals	\$3,950.00
SUBTOTAL		\$54,315.35
Destination Charge		\$1,695.00
TOTAL		\$56,010.35

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816



2021 F-550 Chassis 4x2 SD Crew Cab 203" WB DRW XLT (W5G)

Price Level: 120 | Quote ID: 11152021

## Pricing Summary - Single Vehicle

	MSRP
<i>Vehicle Pricing</i>	
Base Vehicle Price	\$48,780.00
Options	\$2,635.00
Colors	\$0.00
Upfitting	\$2,900.35
Fleet Discount	\$0.00
Destination Charge	\$1,695.00
<b>Total</b>	<b>\$56,010.35</b>

Customer Signature

Acceptance Date

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

## ***Regular Session Agenda Item: 9***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION**

Discuss and consider approving a Resolution of the City of Seagoville, Texas, authorizing the purchase of four (4) 2022 Ford 150 double cab trucks in a total purchase amount not to exceed One Hundred Sixty Eight Thousand Five Hundred Sixty Dollars and Sixty Five Cents (\$168,560.65) from Rush Truck Center; authorizing the City Manager to execute any and all necessary documents and disburse the funds for said purchase; and providing an effective date.

### **BACKGROUND OF ISSUE:**

The Public Works Department is requesting Council's approval to purchase (4) 2022 Ford F150 double cab trucks in an amount not to exceed one hundred sixty eight thousand five hundred sixty dollars and sixty five cents \$168,560.65, vehicles complete with all necessary emergency equipment.

This purchase will enhance our fleet of vehicles, thus minimizing maintenance cost.

The quote for the purchase of the 2022 Ford F-150 double cab trucks is through Rush Truck Center on the Texas Local Government Purchasing Cooperative Buyboard.

### **FINANCIAL IMPACT:**

The requested purchase was approved through the FY2022 budget process. With the increase in vehicle cost and limited stock the budgeted amount of \$136,000 will not cover the complete purchase. The additional cost of \$32,590.65 will come from the Water/Sewer vehicle replacement fund.

### **RECOMMENDATION:**

The Public Works Department recommends that Council approve this purchase to help us maintain a safe and reliable fleet of vehicles for our Department.

### **EXHIBITS:**

Resolution including quote.

**THE CITY OF SEAGOVILLE, TEXAS**

**RESOLUTION NO. \_\_-R-2021**

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, AUTHORIZING THE PURCHASE OF FOUR (4) 2022 FORD 150 DOUBLE CAB TRUCKS IN A TOTAL PURCHASE AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY EIGHT THOUSAND FIVE HUNDRED SIXTY DOLLARS AND SIXTY FIVE CENTS (\$168,560.65) FROM RUSH TRUCK CENTER; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS AND DISBURSE THE FUNDS FOR SAID PURCHASE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in the FY 2021-22 budget process, the City Council approved the purchase of a new truck for the Community Development, a new truck for the Street Department and 2 new trucks in the Water/ Sewer Department; and

**WHEREAS**, pricing for those trucks has been obtained from Rush Truck Center through Buy Board in compliance with local and state procurement requirements; and

**WHEREAS**, the City Council desires to proceed with the purchase of the four (4) 2022 Ford F150 double cab trucks for a total purchase amount not to exceed One Hundred Sixty Eight Thousand Five Hundred Sixty Dollars and Sixty Five cents (\$168,560.65) and further to authorize the City Manager execute all documents necessary and to disburse the funds for said purchase.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:**

**Section 1.** The City Council hereby authorizes the purchase of four (4) 2022 Ford F150 double cab trucks for a total purchase amount not to exceed One Hundred Sixty Eight Thousand Five Hundred Sixty Dollars and Sixty Five cents (\$168,560.65) in accordance with the quote attached hereto as Exhibit "A"; and, further authorizes the City Manager execute all documents necessary and to disburse the funds for said purchase.

**Section 2.** This resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

**PASSED AND ADOPTED** by the City Council for the City of Seagoville at a meeting on the 6<sup>th</sup> day of December, 2021.

**APPROVED:**

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Dennis K. Childress, Mayor

ATTEST:

---

Kandi Jackson, City Secretary

APPROVED AS TO FORM:

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Victoria W. Thomas, City Attorney  
(120121vwtTM126364)

**EXHIBIT A**  
**(Quote for Four 2022 Trucks)**

Prepared for: Mr. BJ Putman, Mngr., City of Seagoville

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2022 F-150 4x2 SuperCrew Cab 5.5' box 145" WB XL (W1C)

Price Level: 215

---

**Client Proposal**

Prepared by:

MIKE FOLEY

Office: 214-215-3536

Email: [foleym@rushenterprises.com](mailto:foleym@rushenterprises.com)

Quote ID: 11172021-1

Date: 11/30/2021



Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd., Dallas, Texas, 752475816

Office: 214-631-2050

**Prepared for: Mr. BJ Putman**

Mngr., City of Seagoville  
Prepared by: MIKE FOLEY  
11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2022 F-150 4x2 SuperCrew Cab 5.5' box 145" WB XL (W1C)

Price Level: 215 | Quote ID: 11172021-1

**Mr. BJ Putman, Mngr., City of Seagoville**

Re: Quote ID 11172021-1 11/30/2021

Dear Mr. Putman,

Thank you very much for your interest in acquiring a vehicle from our dealership. We concur that your interest is well deserved. We hope that an outstanding product lineup and our dedication to customer service will enhance your ownership experience should you decide to buy a vehicle from us.

Attached, please find additional information that I hope will assist you in making a more informed decision. Please feel free to contact me at any time as I would truly appreciate the opportunity to be of service to you.

Sincerely,

**MIKE FOLEY**  
Municipal Sales Dir.  
214-215-3536  
foleym@rushenterprises.com

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

**Prepared for: Mr. BJ Putman**

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816



**2022 F-150 4x2 SuperCrew Cab 5.5' box 145" WB XL (W1C)**

Price Level: 215 | Quote ID: 11172021-1

**As Configured Vehicle**

Code	Description	MSRP
<b>Base Vehicle</b>		
W1C	Base Vehicle Price (W1C)	\$37,350.00
<b>Packages</b>		
100A	Equipment Group 100A Standard <i>Includes:</i> - Transmission: Electronic 10-Speed Automatic Includes selectable drive modes: normal, ECO, sport, tow/haul, slippery and trail. - Tires: 245/70R17 BSW A/S - Wheels: 17" Silver Steel - Radio: AM/FM Stereo w/6 Speakers Includes auxiliary audio input jack. - SYNC 4 Includes 8" LCD capacitive touchscreen with swipe capability, wireless phone connection, cloud connected, AppLink with App catalog, 911 Assist, Apple CarPlay and Android Auto compatibility and digital owners manual.	N/C
<b>Powertrain</b>		
995	Engine: 5.0L V8 <i>Includes auto start-stop technology and flex-fuel capability.</i> <i>Includes:</i> - GVWR: 6,800 lbs Payload Package	\$1,995.00
44G	Transmission: Electronic 10-Speed Automatic <i>Includes selectable drive modes: normal, ECO, sport, tow/haul, slippery and trail.</i>	Included
XL3	Electronic Locking w/3.31 Axle Ratio	\$420.00
NONGV2	GVWR: 6,800 lbs Payload Package	Included
<b>Wheels &amp; Tires</b>		
STDTR	Tires: 245/70R17 BSW A/S	Included
64C	Wheels: 17" Silver Steel	Included
<b>Seats &amp; Seat Trim</b>		
A	Vinyl 40/20/40 Front Seat	N/C
<b>Other Options</b>		
145WB	145" Wheelbase	STD
STDRD	Radio: AM/FM Stereo w/6 Speakers	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816



2022 F-150 4x2 SuperCrew Cab 5.5' box 145" WB XL (W1C)

Price Level: 215 | Quote ID: 11172021-1

### As Configured Vehicle (cont'd)

Code	Description	MSRP
53B	<p>Includes auxiliary audio input jack. Includes: - SYNC 4 Includes 8" LCD capacitive touchscreen with swipe capability, wireless phone connection, cloud connected, AppLink with App catalog, 911 Assist, Apple CarPlay and Android Auto compatibility and digital owners manual.</p> <p>Class IV Trailer Hitch Receiver</p> <p>Included</p> <p>Ordering the Trailer Tow Package does not include Integrated Brake Controller (67T). Integrated Brake Controller (67T) is a standalone option and must be ordered separately.</p> <p>Includes towing capability up to TBD lbs. on 3.3L V6 PFDI engine (99B) and 2.7L EcoBoost engine (99P) or up to TBD lbs. on 3.5L EcoBoost engine (90B) and 5.0L V8 engine (995), 74-pin connector, class IV trailer hitch receiver, smart trailer tow connector (includes BLIS w/trailer tow coverage where BLIS is available).</p>	
53A	<p>Trailer Tow Package</p> <p>\$975.00</p> <p>Pro Trailer Backup Assist with Pro Trailer Hitch Assist is included only in Tow Technology package (17T). Ordering the Trailer Tow Package does not include Trailer Tow Mirrors. Trailer Tow Mirrors are a standalone option and must be ordered separately. (Option Code: 54Y/59S).</p> <p>Towing capability up to TBD lbs. Includes tailgate LED. Includes: - Class IV Trailer Hitch Receiver Includes towing capability up to TBD lbs. on 3.3L V6 PFDI engine (99B) and 2.7L EcoBoost engine (99P) or up to TBD lbs. on 3.5L EcoBoost engine (90B) and 5.0L V8 engine (995), 74-pin connector, class IV trailer hitch receiver, smart trailer tow connector (includes BLIS w/trailer tow coverage where BLIS is available). - Integrated Trailer Brake Controller</p>	
67T	<p>Integrated Trailer Brake Controller</p> <p>Included</p>	
PAINT	<p>Monotone Paint Application</p>	STD
<b>Fleet Options</b>		
85H	<p>Back-Up Alarm System</p> <p>Requires valid FIN code.</p>	\$145.00
942	<p>Daytime Running Lamps</p> <p>Requires valid FIN code. Non-controllable.</p>	\$45.00
50S	<p>Cruise Control</p> <p>Requires valid FIN code.</p>	\$225.00
WARANT	<p>Fleet Customer Powertrain Limited Warranty</p> <p>Requires valid FIN code.</p>	N/C

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman  
 Mngr., City of Seagoville  
 Prepared by: MIKE FOLEY  
 11/30/2021



Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816

2022 F-150 4x2 SuperCrew Cab 5.5' box 145" WB XL (W1C)

Price Level: 215 | Quote ID: 11172021-1

**As Configured Vehicle (cont'd)**

Code	Description	MSRP
<p><i>Ford is increasing the 5-year 60,000-mile limited powertrain warranty to 5-years, 100,000 miles. Only Fleet purchasers with a valid Fleet Identification Number (FIN code) will receive the extended warranty. When the sale is entered into the sales reporting system with a sales type fleet along with a valid FIN code, the warranty extension will automatically be added to the vehicle. The extension will stay with the vehicle even if it is subsequently sold to a non-fleet customer before the expiration. This extension applies to both gas and diesel powertrains. Dealers can check for the warranty extension on eligible fleet vehicles in OASIS. Please refer to the Warranty and Policy Manual section 3.13.00 Gas Engine Commercial Warranty. This change will also be reflected in the printed Warranty Guided distributed with the purchase of every new vehicle.</i></p>		
<b>Interior Color</b>		
AS_02	Black	N/C
<b>Exterior Color</b>		
YZ_01	Oxford White	N/C
<b>Upfit Options</b>		
0000	BUYBOARD DISCOUNT	-\$7,457.75
35454552	Amber lightbar/ four corner strobes	\$3,650.00
<b>SUBTOTAL</b>		\$37,347.25
Destination Charge		\$1,695.00
<b>TOTAL</b>		\$39,042.25

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2022 F-150 4x2 SuperCrew Cab 5.5' box 145" WB XL (W1C)

Price Level: 215 | Quote ID: 11172021-1

## Pricing Summary - Single Vehicle

	<b>MSRP</b>
<i>Vehicle Pricing</i>	
Base Vehicle Price	\$37,350.00
Options	\$3,805.00
Colors	\$0.00
Upfitting	-\$3,807.75
Fleet Discount	\$0.00
Destination Charge	\$1,695.00
<b>Total</b>	<b>\$39,042.25</b>

Customer Signature

Acceptance Date

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL (W1E)

Price Level: 215 | Quote ID: 11152021-3

### As Configured Vehicle

Code	Description	MSRP
<b>Base Vehicle</b>		
W1E	Base Vehicle Price (W1E)	\$40,860.00
<b>Packages</b>		
100A	Equipment Group 100A Standard <i>Includes:</i> - Transmission: Electronic 10-Speed Automatic Includes selectable drive modes: normal, ECO, sport, tow/haul, slippery, deep snow/sand and mud/rut. - Tires: 265/70R17 BSW A/T - Wheels: 17" Silver Steel - Radio: AM/FM Stereo w/6 Speakers Includes auxiliary audio input jack. * SYNC 4 Includes 8" LCD capacitive touchscreen with swipe capability, wireless phone connection, cloud connected, AppLink with App catalog, 911 Assist, Apple CarPlay and Android Auto compatibility and digital owners manual.	N/C
<b>Powertrain</b>		
995	Engine: 5.0L V8 <i>Includes auto start-stop technology and flex-fuel capability.</i> <i>Includes:</i> - GVWR: 7,050 lbs Payload Package	\$1,995.00
44G	Transmission: Electronic 10-Speed Automatic <i>Includes selectable drive modes: normal, ECO, sport, tow/haul, slippery, deep snow/sand and mud/rut.</i>	Included
XL3	Electronic Locking w/3.31 Axle Ratio	\$420.00
NNGV6	GVWR: 7,050 lbs Payload Package	Included
<b>Wheels &amp; Tires</b>		
STDTR	Tires: 265/70R17 BSW A/T	Included
64C	Wheels: 17" Silver Steel	Included
<b>Seats &amp; Seat Trim</b>		
A	Vinyl 40/20/40 Front Seat	N/C
<b>Other Options</b>		
145WB	145" Wheelbase	STD
STDRD	Radio: AM/FM Stereo w/6 Speakers	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL (W1E)

Price Level: 215 | Quote ID: 11152021-3

### As Configured Vehicle (cont'd)

Code	Description	MSRP
53B	<p>Includes auxiliary audio input jack. Includes: - SYNC 4 Includes 8" LCD capacitive touchscreen with swipe capability, wireless phone connection, cloud connected, AppLink with App catalog, 911 Assist, Apple CarPlay and Android Auto compatibility and digital owners manual.</p> <p>Class IV Trailer Hitch Receiver</p> <p>Ordering the Trailer Tow Package does not include Integrated Brake Controller (67T). Integrated Brake Controller (67T) is a standalone option and must be ordered separately.</p> <p>Includes towing capability up to TBD lbs. on 3.3L V6 PFDI engine (99B) and 2.7L EcoBoost engine (99P) or up to TBD lbs. on 3.5L EcoBoost engine (99B) and 5.0L V8 engine (995). 7/4-pin connector, class IV trailer hitch receiver, smart trailer tow connector (includes BLIS w/trailer tow coverage where BLIS is available).</p>	Included
53A	<p>Trailer Tow Package</p> <p>Pro Trailer Backup Assist with Pro Trailer Hitch Assist is included only in Tow Technology package (17T). Ordering the Trailer Tow Package does not include Trailer Tow Mirrors. Trailer Tow Mirrors are a standalone option and must be ordered separately. (Option Code: 54Y/59S).</p> <p>Towing capability up to TBD lbs. Includes tailgate LED. Includes: - Class IV Trailer Hitch Receiver Includes towing capability up to TBD lbs. on 3.3L V6 PFDI engine (99B) and 2.7L EcoBoost engine (99P) or up to TBD lbs. on 3.5L EcoBoost engine (99B) and 5.0L V8 engine (995). 7/4-pin connector, class IV trailer hitch receiver, smart trailer tow connector (includes BLIS w/trailer tow coverage where BLIS is available). - Integrated Trailer Brake Controller</p>	\$975.00
67T	Integrated Trailer Brake Controller	Included
PAINT	Monotone Paint Application	STD
<b>Fleet Options</b>		
85H	<p>Back-Up Alarm System</p> <p>Requires valid FIN code.</p>	\$145.00
942	<p>Daytime Running Lamps</p> <p>Requires valid FIN code. Non-controllable.</p>	\$45.00
50S	<p>Cruise Control</p> <p>Requires valid FIN code.</p>	\$225.00
<b>Interior Color</b>		
AS_02	Black	N/C
<b>Exterior Color</b>		

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL (W1E)

Price Level: 215 | Quote ID: 11152021-3

**As Configured Vehicle (cont'd)**

<b>Code</b>	<b>Description</b>	<b>MSRP</b>
YZ_01	Oxford White	N/C
<b>Upfit Options</b>		
0000	BUYBOARD DISCOUNT	-\$6,837.20
35454552	Amber lightbar/ four corner strobes	\$3,650.00
<b>SUBTOTAL</b>		<b>\$41,477.80</b>
Destination Charge		\$1,695.00
<b>TOTAL</b>		<b>\$43,172.80</b>

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Mr. BJ Putman

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd, Dallas Texas | 752475816



2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL (W1E)

Price Level: 215 | Quote ID: 11152021-3

## Pricing Summary - Single Vehicle

	<b>MSRP</b>
<i>Vehicle Pricing</i>	
Base Vehicle Price	\$40,860.00
Options	\$3,805.00
Colors	\$0.00
Upfitting	-\$3,187.20
Fleet Discount	\$0.00
Destination Charge	\$1,695.00
<b>Total</b>	<b>\$43,172.80</b>

Customer Signature

Acceptance Date

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

**Prepared for: Mr. BJ Putman**

Mngr., City of Seagoville

Prepared by: MIKE FOLEY

11/30/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816



2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL (W1E)

Price Level: 215 | Quote ID: 11152021-3

## Pricing Summary - Multiple Vehicles

	<b>MSRP</b>
<i>Vehicle Pricing</i>	
Base Vehicle Price	\$122,580.00
Options	\$11,415.00
Colors	\$0.00
Upfitting	-\$9,561.60
Fleet Discount	\$0.00
Destination Charge	\$5,085.00
<b>Total</b>	<b>\$129,518.40</b>

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Acceptance Date

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

## ***Regular Session Agenda Item: 10***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Discuss and consider approving a Resolution of the City of Seagoville, Texas, approving an agreement for Professional Engineering Services on a task order basis for On-Call Consultation Services related to Water and Wastewater Engineering Services as set forth in Exhibit "A" attached thereto, in an amount not to exceed Twenty Five Thousand Dollars (\$25,000); authorizing the City Manager to execute said agreement; providing a repealing clause; providing a severability clause; and providing an effective date.

### **BACKGROUND OF ISSUE:**

The City of Seagoville has contracted with Garver LLC, for on-call consultation services and various other water and wastewater engineering issues. The services of a full-time engineer are not feasible at this point; however, staff finds it necessary many times throughout the year to consult with various professionals to ensure the best possible service for our community is provided. Approval of this agenda item will ensure that staff will have the ability to consult with extremely competent engineering professionals in the area of water and wastewater services to ensure that we make the best possible decisions for our residents, businesses and visitors to our community.

### **FINANCIAL IMPACT:**

Approved FY2021 Budget for professional services on a task order basis.

### **EXHIBITS:**

Resolution – Approving an agreement for Professional Services on a Task Order Basis

Agreement for Professional Services on a Task Order Basis Authorization #1

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS**

**RESOLUTION NO. \_\_\_ - R - 2021**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A TASK ORDER BASIS FOR ON-CALL CONSULTATION SERVICES RELATED TO WATER AND WASTEWATER ENGINEERING SERVICES AS SET FORTH IN EXHIBIT "A" ATTACHED THERETO, IN AN AMOUNT NOT TO EXCEED TWENTY FIVE THOUSAND DOLLARS (\$25,000); AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Garver, LLC, (“Engineer”) provides professional engineering services to the City of Seagoville (“City”) on an “as needed” or “task order” basis as determined by the City; and

**WHEREAS**, the City has a need for on-call consultation services relative to water and wastewater engineering services; and

**WHEREAS**, Engineer has agreed to provide said on-call consultation services on an as needed basis; and

**WHEREAS**, the City Council hereby finds that it is in the best interest of the City to approve the agreement for Professional Engineering Services on a Task Order Basis for on-call consultation services relative to water and wastewater engineering services as set forth in Exhibit "1", and Exhibit "A" attached thereto, in an amount not to exceed Twenty Five Thousand Dollars and no cents (\$25,000), and authorizes the City Manager to execute the same;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, THAT:**

**SECTION 1.** The City Council approves the agreement for Professional Engineering Services on a Task Order Basis for on-call consultation services relative to water and wastewater engineering services as set forth in Exhibit "A", and Exhibit "A" attached thereto, in an amount not to exceed Twenty Five Thousand Dollars and no cents (\$25,000), and hereby authorizes the City Manager to execute said Agreement.

**SECTION 2.** That any prior Resolutions of the City Council of the City of Seagoville, Texas, in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

**SECTION 3.** That if any article, paragraph, subdivision, clause or provision of this Resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgement or holding shall not affect the validity of this Resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

**SECTION 4.** That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Seagoville, Texas, and it is accordingly resolved.

**DULY PASSED** by the City Council of the City of Seagoville, Texas, on the 6<sup>h</sup> day of December, 2021.

APPROVED:

\_\_\_\_\_  
DENNIS K. CHILDRESS, MAYOR

ATTEST:

\_\_\_\_\_  
KANDI JACKSON, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
VICTORIA THOMAS, CITY ATTORNEY





**WORK ORDER NO. 3  
City of Seagoville  
On-Call Engineering Services  
Project No. 21W05076**

This WORK ORDER (“Work Order”) is made by and between the **City of Seagoville** (hereinafter referred to as “**OWNER**”) and **Garver, LLC**, (hereinafter referred to as “**GARVER**”) in accordance with the provisions of the MASTER AGREEMENT FOR PROFESSIONAL SERVICES executed on March 24, 2021 (the “Agreement”).

Under this Work Order, the OWNER intends to make the following improvements for **On-Call Engineering Services**:

The OWNER intends to utilize GARVER on an on-call, hourly basis for general consultation and evaluation services pertaining to water and wastewater utilities.

Garver will provide professional services related to these improvements as described herein. Terms not defined herein shall have the meaning assigned to them in the Agreement.

**SECTION 1 - SCOPE OF SERVICES**

**Task 1.0 General Water/Wastewater Consultation and Evaluation Services**

On an on-call, hourly basis, GARVER will provide general consultation and evaluation services pertaining to water and wastewater utilities at the request of the OWNER. The work will primarily consist of requests by the OWNER not identified in the provisions of Work Order #1 and Work Order #2. The definition of these services is left to the discretion of and between GARVER and the OWNER, and will be agreed upon prior to the execution of services.

Once a request by the OWNER is presented to GARVER, GARVER will evaluate whether or not the requested task falls under the category of “General Consultation and Evaluation Services” for water and wastewater utilities. If both GARVER and the OWNER come to an agreement that the requested task does not fall within the scope of services of this work order, GARVER will prepare a separate work order for the requested task.

**SECTION 2 – PAYMENT**

For the work described under SECTION 1 – SCOPE OF SERVICES, the OWNER will pay GARVER on an hourly rate basis. The OWNER will pay GARVER, for time spent on the project, at the hourly rate of each of Garver’s personnel shown in Appendix A (may include contract staff classified at GARVER’s discretion) during the performance of these services plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The total amount paid to GARVER under this agreement is not to exceed **\$25,000**. GARVER will identify on each invoice which evaluation task, or specialty review, is associated with the submitted charges.

The OWNER represents that funding sources are in place with the available funds necessary to pay GARVER.

The table below presents a summary of the anticipated fee amounts and fee types for this Work Order.



WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Task 1.0 – General Water/Wastewater Consultation and Evaluation Services	\$25,000	HOURLY, NOT TO EXCEED

The OWNER will pay Garver for Service rendered at the rates shown in Appendix A for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The total amount paid to Garver under this Work Order is not to exceed **\$25,000.00**. The rates shown in Appendix A will be increased annually with the first increase effective on or about July 1, 2022. Notwithstanding the foregoing, Garver shall be entitled, in its sole discretion, to substitute a more qualified person (e.g., C-4) with a less qualified person (e.g., C-1); provided however, in such event Garver shall only be entitled to payment at the lesser rate.

Expenses other than salary costs that are directly attributable to performance of our Services will be billed as follows:

1. Direct cost for travel, long distance and wireless communications, outside reproduction and presentation material preparation, and mail/courier expenses.
2. Charges similar to commercial rates for reports, plan sheets, presentation materials, etc.

The OWNER will pay GARVER, for time spent on the project, at the rates shown in Appendix A for each classification of GARVER's personnel. For informational purposes, a breakdown of GARVER's estimated costs is included in Appendix A with approximate current hourly rates for each employee classification. The rates shown in Appendix A will be increased annually with the first increase effective on or about July 1, 2022.

The OWNER will pay GARVER on a monthly basis, based upon statements submitted by GARVER to the OWNER for the scope of services described in this agreement. Payments not received within 60 days of invoice date will be subject to a one percent monthly simple interest charge.

Additional Services (Extra Work). For work not described or included in Section 1 – Scope of Services but requested by the OWNER in writing, the OWNER will pay GARVER, for time spent on the project, at the rates shown in Appendix A for each classification of GARVER's personnel (may include contract staff classified at GARVER's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The rates shown in Appendix A will be increased annually with the first increase effective on or about July 1, 2022.

### SECTION 3 – APPENDICES

- 3.1 The following Appendices are attached to and made a part of this Work Order:  
3.1.1 Appendix A – Fee Spreadsheet / Unit Rates



This Work Order may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

The effective date of this Work Order shall be the last date written below.

CITY OF SEAGOVILLE

GARVER, LLC

By: \_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Printed Name*

Name: Lance Klement  
*Printed Name*

Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Title: North Texas Water Team Leader  
Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

## ***Regular Session Agenda Item: 11***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas authorizing Anderson Asphalt & Concrete Paving to provide asphalt road work on East Malloy Bridge Road for compensation in an amount not to exceed One Hundred Thirty Five Thousand Eight Hundred Eighty Four Dollars and Zero Cents (\$135,884.00) as set forth in Exhibit "A", attached hereto and incorporated herein; authorizing the City Manager to execute any and all necessary documents; and providing an effective date.

### **BACKGROUND OF ISSUE:**

On or about November 18, 2019 the City of Seagoville awarded a Unit Price Contract for Asphalt Repair ("Contract") to Anderson Asphalt & Concrete Paving. Pursuant to said Contract, Anderson Asphalt & Concrete Paving submitted an estimate in the amount of \$135,884.00 for provision of asphalt road work on East Malloy Bridge Road, including the provision of all necessary labor, equipment, and materials, a copy of which is attached as Exhibit A.

### **FINANCIAL IMPACT:**

\$135,884.00

### **RECOMMENDATION:**

City Staff recommends approval.

### **EXHIBITS:**

Resolution  
Estimate from Anderson Asphalt

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS  
RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS AUTHORIZING ANDERSON ASPHALT & CONCRETE PAVING TO PROVIDE ASPHALT ROAD WORK ON EAST MALLOY BRIDGE ROAD FOR COMPENSATION IN AN AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY FIVE THOUSAND EIGHT HUNDRED EIGHTY FOUR DOLLARS AND ZERO CENTS (\$135,884.00) AS SET FORTH IN EXHIBIT "A", ATTACHED HERETO AND INCORPORATED HEREIN; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on or about November 18, 2019 the City of Seagoville awarded a Unit Price Contract for Asphalt Repair ("Contract") to Anderson Asphalt & Concrete Paving; and

**WHEREAS**, pursuant to said Contract, Anderson Asphalt & Concrete Paving submitted an estimate in the amount of \$135,884.00 for provision of asphalt road work on East Malloy Bridge Road, including the provision of all necessary labor, equipment, and materials, a copy of which is attached as Exhibit A; and

**WHEREAS**, the City Council for the City of Seagoville, Texas has reviewed the estimate and has determined it to be in the best interest of the City to authorize the City Manager to execute any documents necessary to authorize Anderson Asphalt & Concrete Paving to provide asphalt road work on East Malloy Bridge Road as set forth in Exhibit A;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:**

**SECTION 1.** The City Council hereby authorizes Anderson Asphalt & Concrete Paving to provide asphalt road work on East Malloy Bridge Road, to include provision of all necessary labor, equipment, and materials, for compensation in an amount not to exceed one hundred thirty five thousand eight hundred eighty four dollars and zero cents (\$135,884.00) as set forth in Exhibit A, attached hereto and incorporated herein; and, the City Manager is authorized to execute any documents necessary for the work to be performed.

**SECTION 2.** This resolution shall take effect immediately from and after its passage and it is accordingly resolved.

**DULY ORDERED** by the City Council of the City of Seagoville, Texas, this the 6<sup>th</sup> day of December, 2021.

**APPROVED:**

\_\_\_\_\_  
Dennis K. Childress, Mayor

**ATTEST:**

\_\_\_\_\_  
Kandi Jackson, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Victoria Thomas, City Attorney



## ***Regular Session Agenda Item: 12***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Discuss and consider approving a Resolution of the City Council of the City of Seagoville, Texas, ratifying and approving the terms and conditions of a Professional Services Agreement between Seagoville Economic Development Corporation and the Retail Coach in substantially the form as attached hereto as Exhibit “1”, including Exhibit “A” thereto, for the purposes of providing assistance in retail recruitment and development strategy for a term of one year and for compensation in an amount not to exceed Seventeen Thousand Five Hundred Dollars (\$17,500.00) providing for a repealing clause; providing for a severability clause; and providing an effective date.

### **BACKGROUND OF ISSUE:**

The Seagoville Economic Development Corporation (hereinafter, “SEDC”) has previously utilized and desires to continue utilizing the services of The Retail Coach, LLC (hereinafter, the “Professional”) as an independent contractor, and not as an employee, to provide services to assist SEDC in economic development through Retail Recruitment and Development Strategy.

The SEDC unanimously approved entering into the Agreement with the Professional in an amount not to exceed \$17,500.00.

### **FINANCIAL IMPACT:**

\$17,500.00

### **RECOMMENDATION:**

N/A

### **EXHIBITS:**

Resolution  
Exhibit “1” – Agreement  
Exhibit “A” – Scope of Services

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS**

**RESOLUTION NO. \_\_-R-2021**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, RATIFYING AND APPROVING THE TERMS AND CONDITIONS OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN SEAGOVILLE ECONOMIC DEVELOPMENT CORPORATION AND THE RETAIL COACH IN SUBSTANTIALLY THE FORM AS ATTACHED HERETO AS EXHIBIT “1”, INCLUDING EXHIBIT “A” THERETO, FOR THE PURPOSES OF PROVIDING ASSISTANCE IN RETAIL RECRUITMENT AND DEVELOPMENT STRATEGY FOR A TERM OF ONE YEAR AND FOR COMPENSATION IN AN AMOUNT NOT TO EXCEED SEVENTEEN THOUSAND FIVE HUNDRED DOLLARS (\$17,500.00) PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Seagoville Economic Development Corporation (hereinafter, “SEDC”) has previously utilized and desires to continue utilizing the services of The Retail Coach, LLC (hereinafter, the “Professional”) as an independent contractor, and not as an employee, to provide services to assist SEDC in economic development through Retail Recruitment and Development Strategy; and

**WHEREAS**, the SEDC unanimously approved entering into the Agreement with the Professional in an amount not to exceed \$17,500.00; and

**WHEREAS**, the City Council has determined that the contemplated Agreement with the Professional is a qualifying Project as defined by state law and further that approving and ratifying the action taken by the SEDC to enter into the Agreement with the Professional for the purposes of providing services to assist SEDC in economic development through assistance in creating a Seagoville Business Development Strategy is in the best interest of the City and will further the purposes for which the SEDC was created and should therefore be approved.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS, THAT:**

**SECTION 1.** The City Council hereby ratifies and approves the Professional Services Agreement, attached hereto as Attachment A and made a part hereof for all purposes, by and between the SEDC and The Retail Coach, LLC, in an amount not to exceed seventeen thousand five hundred dollars (\$17,500.00), for the purposes of providing services to assist SEDC in economic development through assistance in creating a Seagoville Business Development Strategy.

**SECTION 2.** All resolutions of the City of Seagoville in conflict with the provisions of this resolution be, and the same are, hereby repealed, and all resolutions of the City of Seagoville not in conflict with the provisions hereof shall remain in full force and effect.

**SECTION 3.** If any article, paragraph, subdivision, clause or provision of this Resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgement or holding shall not affect the validity of this Resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

**SECTION 4.** That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Seagoville, Texas, and it is accordingly resolved.

**DULY PASSED** by the City Council of the City of Seagoville, Texas, on the 6<sup>th</sup> day of December, 2021.

APPROVED:

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DENNIS K. CHILDRESS, MAYOR

ATTEST:

---

KANDI JACKSON, CITY SECRETARY

APPROVED AS TO FORM:

---

VICTORIA THOMAS, CITY ATTORNEY  
(120121vwtTM126377)

**Exhibit 1**  
**(SEDC Agreement with Retail Coach)**

## PROFESSIONAL SERVICES AGREEMENT

This Agreement for Professional Services (“Agreement”) is made by and between the Seagoville Economic Development Corporation (“SEDC”) and The Retail Coach, LLC, a Mississippi limited liability company (“Professional”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

### RECITALS:

**WHEREAS**, SEDC desires to engage the services of the Professional as an independent contractor, and not as an employee, to provide the services described in Exhibit “A” (the “Scope of Services”) to assist SEDC in creating a Retail Recruitment Strategy (the “Project”); and

**WHEREAS**, the Professional desires to render professional services for SEDC on the terms and conditions set forth in this Agreement;

**NOW THEREFORE**, in exchange for the mutual covenants set forth herein, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

### Article I Term

1.1 This Agreement shall commence on the last date of execution hereof (“Effective Date”) and continue until completion of the services, unless sooner terminated as provided herein.

1.2 Either Party may terminate this Agreement by giving thirty (30) days prior written notice to the other Party. In the event of such termination the Professional shall deliver to SEDC all finished and unfinished documents, data, studies, surveys, drawings, maps, reports, photographs or other items prepared by the Professional in connection with this Agreement. Professional shall be entitled to compensation for any services completed to the reasonable satisfaction of the SEDC in accordance with this Agreement prior to such termination.

### Article II Scope of Service

2.1 The Professional shall perform the services in connection with the Project as set forth in the Scope of Services.

2.2 The Parties acknowledge and agree that any and all opinions provided by the Professional in connection with the Scope of Services represent the professional judgment of the Professional, in accordance with the professional standard of care applicable by law to the services performed hereunder.

**Article III  
Schedule of Work**

The Professional agrees to complete the required services in accordance with the Scope of Services outlined in Exhibit "A".

**Article IV  
Compensation and Method of Payment**

4.1 Professional will be compensated in accordance with the payment schedule and amounts set forth in the Scope of Services, not to exceed a total amount of eighteen thousand five hundred dollars (\$18,500).

**Article V  
Devotion of Time; Personnel; and Equipment**

5.1 The Professional shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. Should SEDC require additional services not included under this Agreement, the Professional shall make reasonable effort to provide such additional services within the time schedule without decreasing the effectiveness of the performance of services required under this Agreement, and shall be compensated for such additional services as agreed between the Parties.

5.2 The Professional shall furnish the facilities, equipment and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

**Article VI  
Miscellaneous**

6.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

6.2 Assignment. The Professional may not assign this Agreement without the prior written consent of SEDC. In the event of an assignment by the Professional to which the SEDC has consented, the assignee shall agree in writing with SEDC to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

6.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

6.4 Governing Law. The laws of the State of Texas shall govern this Agreement.

6.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

6.6 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

6.7 Independent Contractor. It is understood and agreed by and between the Parties that the Professional, in satisfying the conditions of this Agreement, is acting independently, and that SEDC assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of SEDC. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

6.8 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for SEDC:

Patrick Stallings  
City of Seagoville/Seagoville EDC  
702 N. Hwy. 175  
Seagoville, Texas 75159

If intended for Professional:

Attn: Aaron Farmer  
The Retail Coach, LLC  
PO Box 7272  
Tupelo, MS 38802

6.9 Insurance.

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (i) a comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the Professional's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00

per occurrence for injury to persons (including death), and for property damage; (ii) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of Professional's employees involved in the provision of services under this Agreement with policy limit of not less than \$500,000.00; and (iii) Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limit of not less than \$1,000,000.00 per claim and \$1,000,000.00 in the aggregate.

- (b) All policies of insurance shall be endorsed and contain the following provisions: (1) name SEDC, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability; and (2) provide for at least thirty (30) days prior written notice to the SEDC for cancellation of the insurance; (3) provide for a waiver of subrogation against the SEDC for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability Insurance. The Professional shall provide written notice to the SEDC of any material change of or to the insurance required herein.
- (c) A certificate of insurance and copies of the policy endorsements evidencing the required insurance shall be submitted prior to commencement of services and upon request by SEDC.

6.10 Indemnification. SEDC SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF THE PROFESSIONAL PURSUANT TO THIS AGREEMENT. PROFESSIONAL HEREBY WAIVES ALL CLAIMS AGAINST SEDC, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "SEDC") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SEDC OR BREACH OF SEDC'S OBLIGATIONS HEREUNDER. PROFESSIONAL AGREES TO INDEMNIFY AND SAVE HARMLESS SEDC FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY THE PROFESSIONAL'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF THE SEDC, IN WHOLE OR IN PART, IN WHICH CASE PROFESSIONAL SHALL INDEMNIFY SEDC ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO PROFESSIONAL AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). THE PROFESSIONAL'S OBLIGATIONS UNDER THIS

SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

6.11 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

6.12 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

*[Signature Page to Follow]*

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Seagoville Economic Development Corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXECUTED** this 5th day of October, 2020.

**The Retail Coach, LLC**

By:  \_\_\_\_\_  
Name: Aaron Farmer  
Title: President

EXHIBIT A



# EXHIBIT A: Retail Recruitment Strategy



**DATE:**

October 2020

**PREPARED FOR:**

Seagoville Economic  
Development Corporation

**PREPARED BY:**

Aaron Farmer  
President

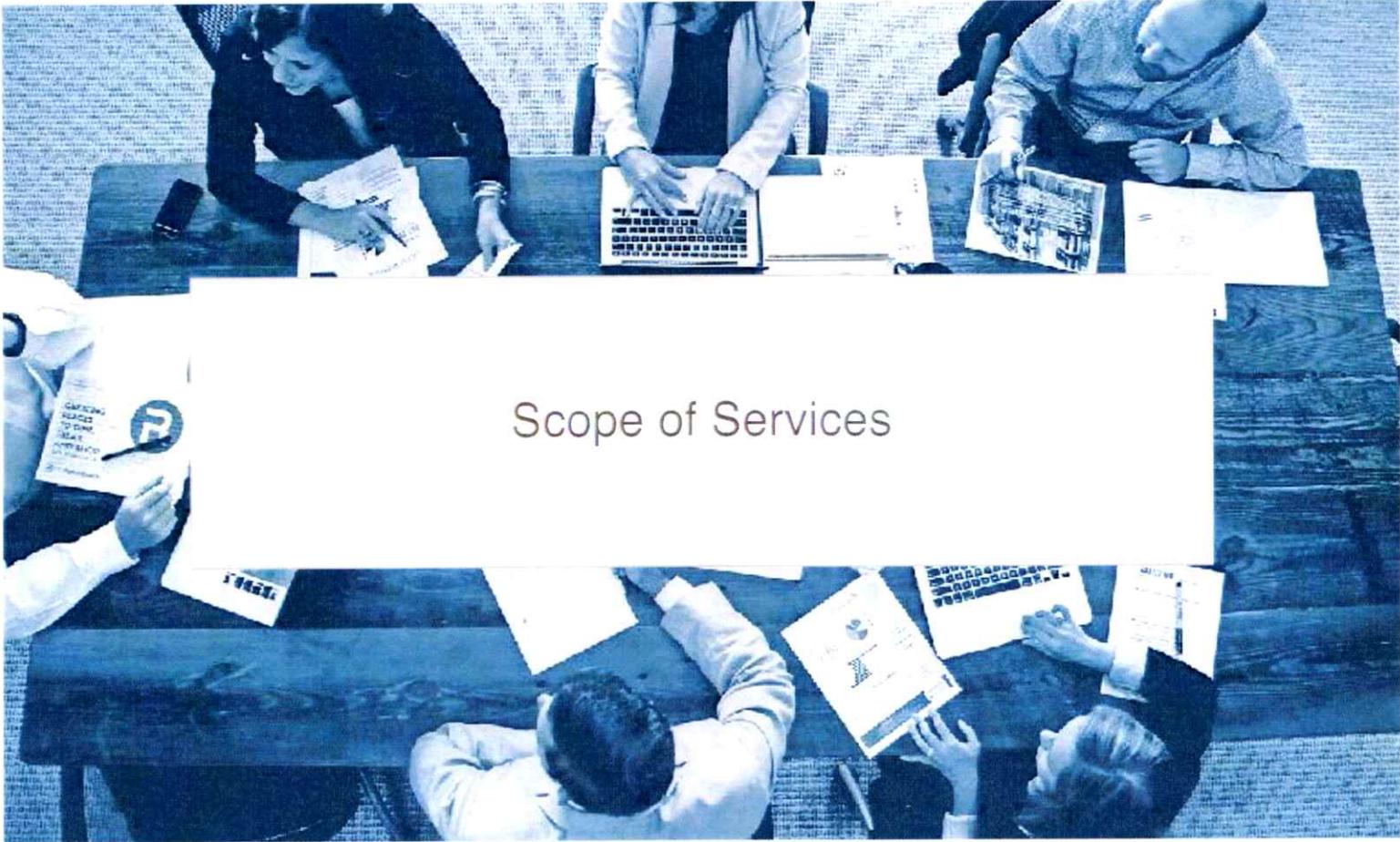
c: 662.231.0608

e: [afarmer@theretailcoach.net](mailto:afarmer@theretailcoach.net)

**CONTENTS:**

About The Retail Coach.....	2
Scope of Services.....	3
Project Deliverables.....	12
Project Timeline & Pricing.....	13





Scope of Services

## PHASE 1

# Analyzing The Market

### Custom Retail Trade Areas

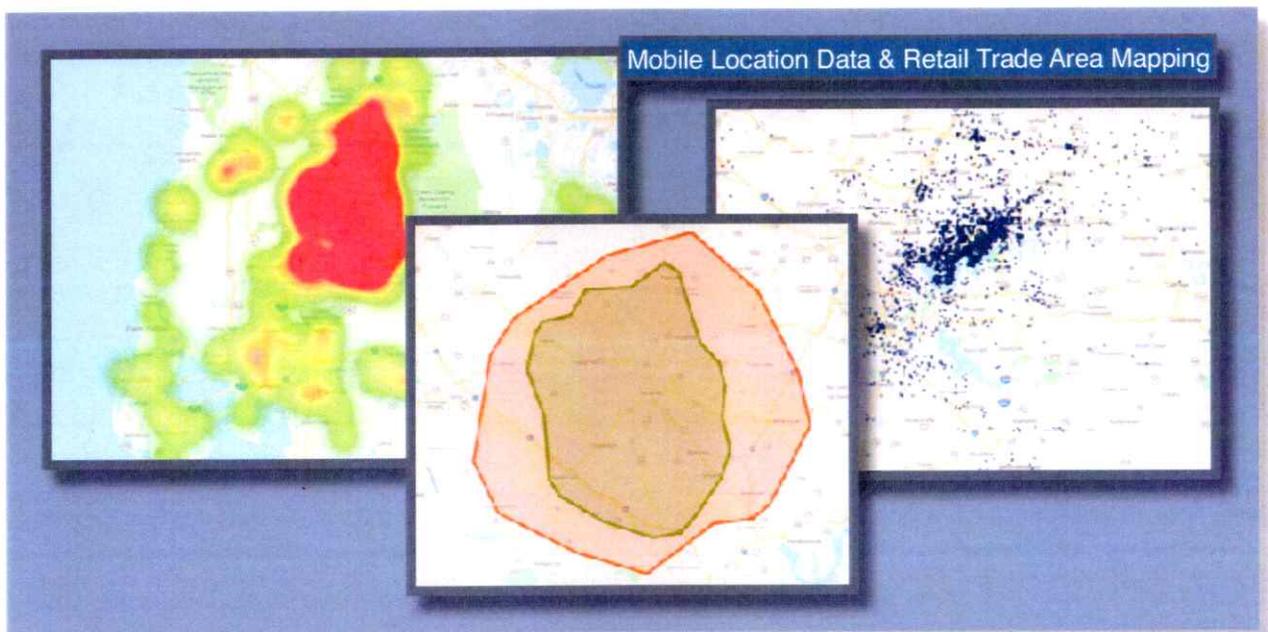
The Retail Trade Area (RTA) is the foundation of retail recruitment strategy, and its accuracy is critical. The Retail Trade Area is the geographical area from which a community's retailers derive a majority of their business. Drive times and radial analysis are not the best way to depict an accurate Retail Trade Area. To best confirm a community's Retail Trade Area, we will execute the following strategic steps:

#### Mobile Data for Location Decisions

The Retail Coach will utilize mobile location technology that analyzes location and behavioral data collected from mobile devices to determine consumer visits to Seagoville. This high-confidence data is used to verify Retail Trade Areas and validate retail site selection decisions. Cell Phone Analysis Reports will be run on up to five locations in Seagoville, including Walmart, Starbucks, and Panda Express (after opening date).

#### Retail Trade Area Mapping

The Retail Coach will delineate a boundary map of the Retail Trade Area using mobile data collected.



### Demographic Profiling

A community must be able to instantaneously provide information and data sets sought by retailers during the site selection and site evaluation process. The data must be accurate, current, and readily available.

The Retail Coach will create comprehensive 2010 Census, 2020, and 2025 demographic profiles for the Retail Trade Area and Seagoville community. The profile includes population and projected population growth, race, ethnicities, average and median household incomes, median age, households and household growth, and educational attainment.

## PHASE 1

# Analyzing The Market

### Daytime Population (2020/2021 Update)

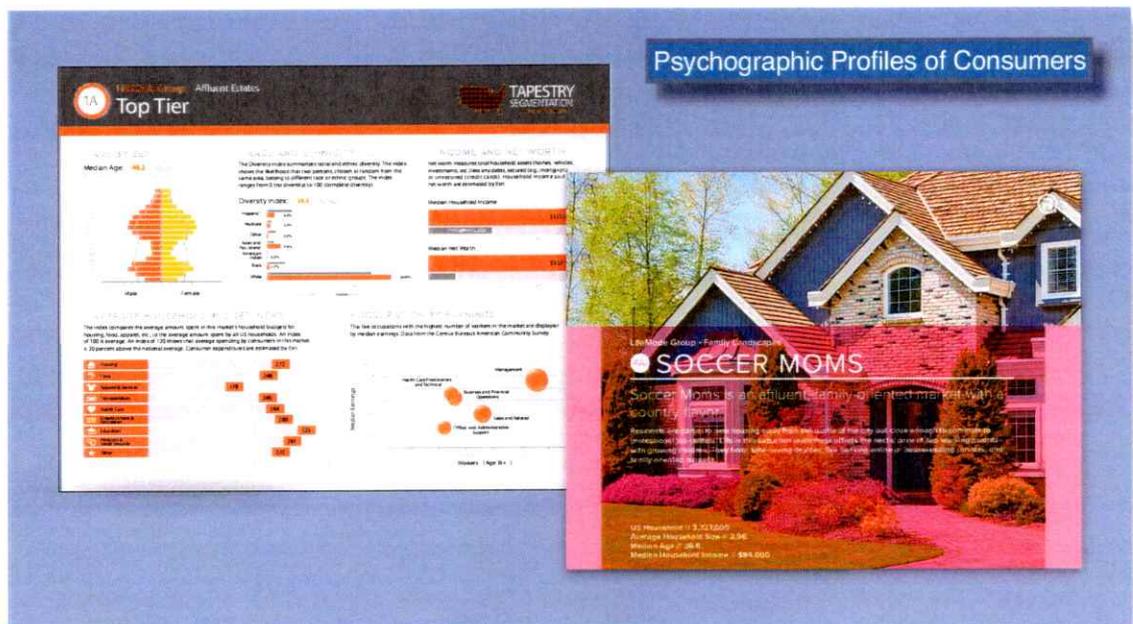
The workplace population, or daytime labor market area, is important to quick-serve and casual dining restaurants that rely heavily on lunch business.

The Retail Coach will provide an employment summary report detailing the total number of establishments, by industry, and employee counts within the designated labor market area. This report will provide insight into the “work here” population versus the “live here” population.

### Psychographic Profiling (2020/2021 Update)

As retail site selection has evolved from an art to a science, psychographic lifestyle segmentation has become an essential element of retailers’ preferred location criteria. Understanding a consumer’s propensity to purchase certain retail goods and services—as well as specific retail brands—is valuable to national, regional, and independent retailers.

Based on the market segmentation system developed by ESRI, The Retail Coach will develop a Tapestry Segmentation profile of the households in the Retail Trade Area. This is done by using the most advanced socioeconomic and demographic data to measure consumer attitudes, values, lifestyles, and purchasing behaviors to understand the categories and brands of retailers that may be of interest.



## PHASE 2

# Determining Retail Opportunities

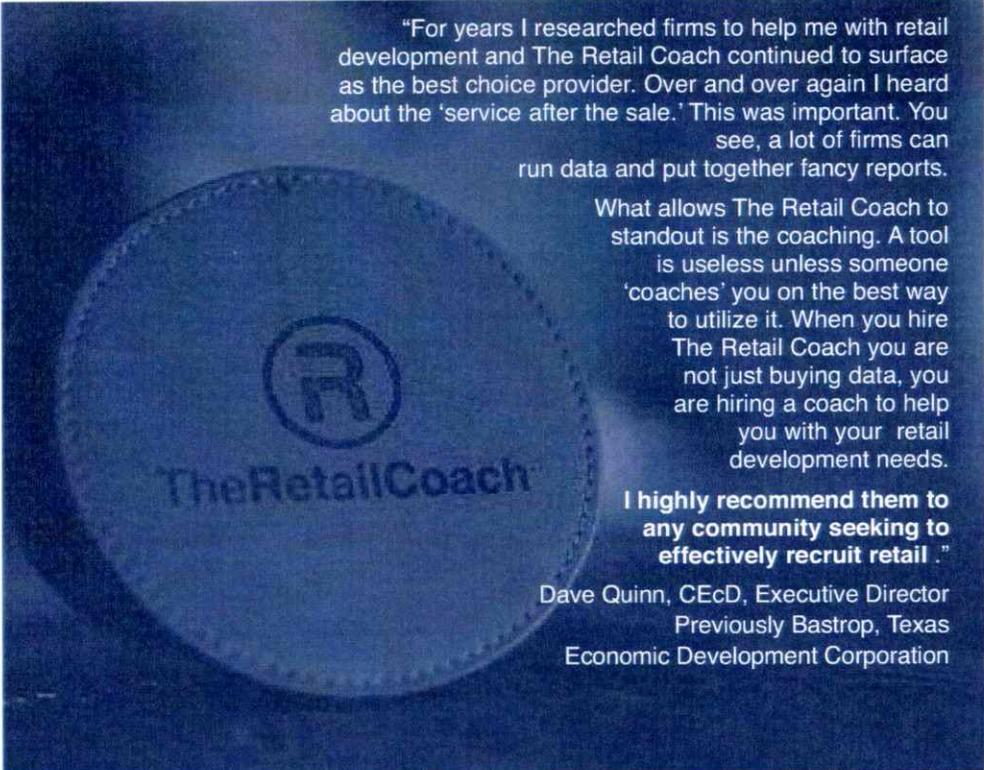
### Retail Gap Analysis (2020/2021 Update)

A Retail Gap Analysis (RGA) will determine the level of retail demand for a designated Retail Trade Area. The analysis computes the retail potential of the Retail Trade Area and then compares it to estimated actual sales in the community. The difference is either a leakage, where Seagoville consumers are traveling outside the community to purchase certain retail goods and services, or a surplus, where consumers are traveling from outside to Seagoville to purchase certain retail goods and services.

The Retail Coach will perform a Retail Gap Analysis to calculate the approximate flow of retail dollars in and out of Seagoville.

The Retail Gap Analysis will:

- Identify retail sales surpluses and leakages for more than 70 retail categories and sub-categories.
- Distinguish retail categories with the highest prospect for success and quantify their retail potential.



"For years I researched firms to help me with retail development and The Retail Coach continued to surface as the best choice provider. Over and over again I heard about the 'service after the sale.' This was important. You see, a lot of firms can run data and put together fancy reports.

What allows The Retail Coach to stand out is the coaching. A tool is useless unless someone 'coaches' you on the best way to utilize it. When you hire The Retail Coach you are not just buying data, you are hiring a coach to help you with your retail development needs.

**I highly recommend them to any community seeking to effectively recruit retail ."**

Dave Quinn, CECD, Executive Director  
Previously Bastrop, Texas  
Economic Development Corporation

### PHASE 3

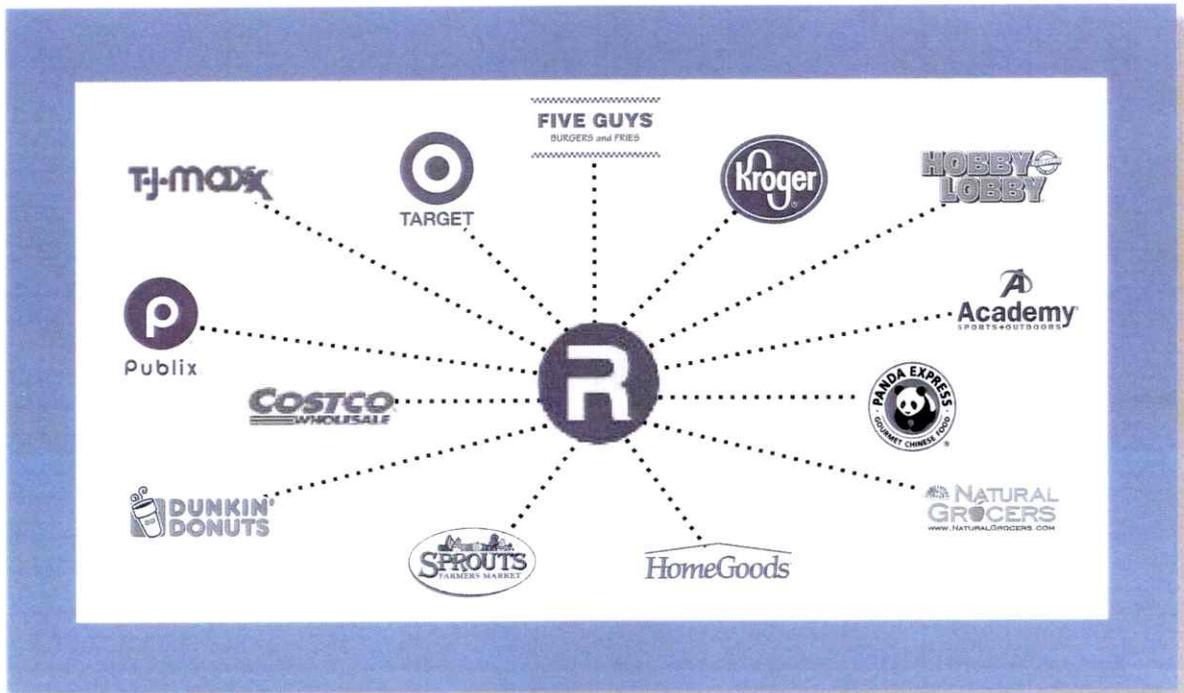
## Identifying Retailers & Developers for Recruitment

The Retail Coach has been successful in recruiting leading retail brands to our client communities for more than 20 years. Our process is driven by providing accurate and current data sets as well as site-specific information to retailers, brokers, and developers.

### Identification of Retailer/Restaurant Prospects (2020/2021 Update)

The Retail Coach will target national and regional brands that are a good “fit” for the community. This means the Retail Trade Area population, disposable incomes, consumer spending habits, and education levels meet the retailers’ ideal location criteria.

The Retail Coach will review a master list with Seagoville staff and work together to prepare a final target list of prospects for recruitment.



### Identification of Developer Prospects (2020/2021 Update)

Retail recruitment is relationship based. Since 2000, The Retail Coach has worked to establish a reliable network of developer contacts.

Developer networking and developer recruitment have become key components in a community’s retail recruitment and development success. Retailers have specific property requirements based on their site location criteria. A mid-to high-tier retailer might show interest in a community; however, there may not be sufficient ready-to-lease properties matching their needs and brand requirements.

In this case it is important to illustrate the need for new development / redevelopment to developers in your market.

The Retail Coach will use its network to identify retail real estate developers active in the region for recruitment.

## PHASE 4

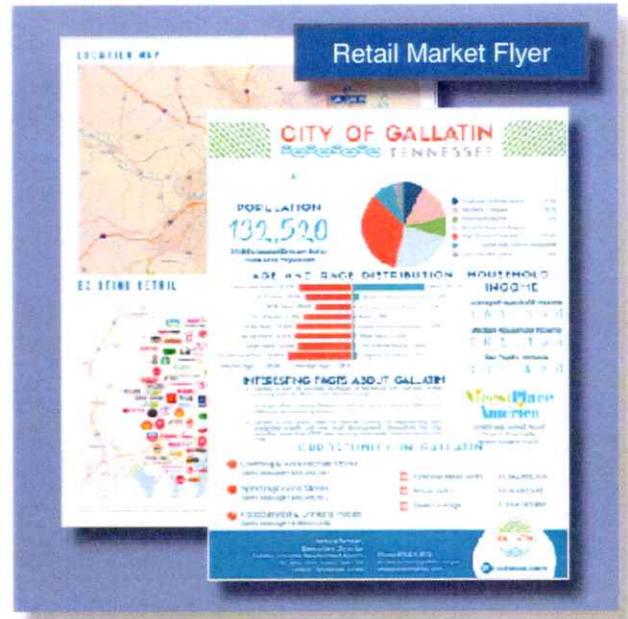
# Marketing & Branding

To attract targeted retailers, the most critical step is providing accurate, current, and site-specific information on the community and its Retail Trade Area. It is important that this marketing information positively reflects your community's attributes and brand to corporate site selectors, real estate brokers, and developers.

### Retail Market Profile

The Retail Coach will develop a retail market profile tailored to the specific needs of targeted retailers' essential site selection and location criteria. The profile serves as a community introduction and includes:

- Retail Trade Area Map
- Location Map
- Traffic Count Map
- Demographic Profile Summary
- Appropriate logo and contact information



### Retail Feasibility Package

The Retail Coach will create a retail specific feasibility package to address essential location criteria. The feasibility package includes:

- Community Overview
- Retail Site Profiles
- Location Map
- Retail Trade Area Map
- Existing Retailer Aerial Map
- Retailer Location Map
- Retail Trade Area Demographic Profile Summary
- Retail Gap Analysis Summary Table
- Retail Trade Area Psychographic Profile
- Retail Trade Area Demographic Profile
- Community Demographic Profile
- Area Traffic Generators
- Appropriate logo and contact information

### Real Estate Developer Opportunity Package

The Retail Coach will create a developer opportunity package to highlight the need for development / redevelopment. This will include:

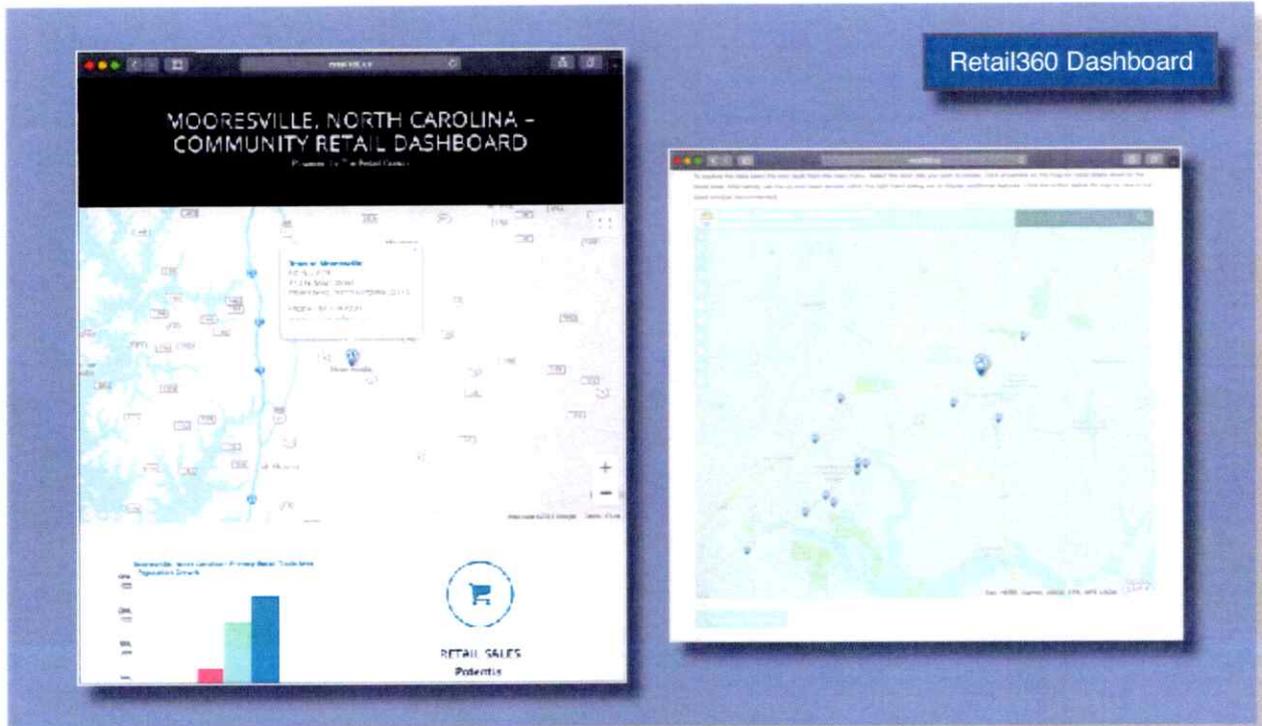
- Community Overview
- Location Map
- Retail Trade Area
- Demographic Trends
- Aerial Imagery
- Traffic Counts
- Site-line visibility from major traffic arteries
- Ingress/egress for primary traffic arteries
- Median cuts or possibilities
- Traffic signal existence or possibilities
- Site characteristics and topography
- Appropriate Zoning
- Area Retail
- Residential clustering and support
- Proximity to "anchor" retailers
- Top Employers
- Workplace Population
- Potential retail tenants

PHASE 4

# Marketing & Branding

## Online Retail Dashboard & Interactive Map (2020/2021 Update)

The Retail Coach will create an online community dashboard, which is available at Retail360.us/Seagoville-TX, for visual presentation and easy downloading of marketing information and data sets.



# Recruiting Retailers & Developers

## Recruitment of Retailers

Founded in 2000, The Retail Coach was the first national retail advisory firm to introduce retailer and developer recruitment specifically for communities. The recruitment of retailers remains one of the primary metrics of success. Today, our experience has proved a community must move beyond data.

The recruitment process includes the following steps:

- Introductory emails and retail market profiles are sent to each targeted retailer.
- Personal telephone calls are placed to measure interest level.
- Personal emails and retailer feasibility packages are sent to each targeted retailer.
- Personal emails and retail site profiles for prime sites are sent to the appropriate targeted retailer.
- Personal emails are sent to inform targeted retailers of significant market changes.
- A retailer status report is provided with each retailer's complete contact information and comments resulting from recruitment activities.
- Personal emails are sent quarterly to continue to seek responses regarding their interest level.

## Recruitment of Developers

Much of our recruitment success comes from establishing a network of national retail developers over the past 20 years.

Developer networking and developer recruitment have become key components in a community's retail recruitment and development success. Retailers have specific property requirements based on their site location criteria. A mid to high-tier retailer might show interest in a community; however, there may not be sufficient ready-to-lease properties matching their needs and brand requirements. Relationships with developers are important in these situations to capitalize on retailer interest and opportunity.

Our developer recruitment process includes the following steps:

- Introductory emails and opportunity packages are sent to developers.
- Personal telephone calls are placed to measure interest level.
- Personal emails are sent to inform developers of the status of interested retailers and any significant market changes.

A developer status report is provided with each developer's complete contact information and comments resulting from recruitment activities.

## Retail Conference Representation

The Retail Coach will assist in marketing Seagoville and its retail vacancies and real estate sites to retailers and real estate sites to retailers, developers, and brokers at retail industry conferences.

"The location of Sprouts Farmers Market was a direct result of meetings coordinated by The Retail Coach between our community and site selectors at ICSC/Recon."

Warren Unsicker, CEcD  
Vice President, Economic Development  
Broken Arrow Economic Development



PHASE 6

# Coaching & Ongoing Support

## Coaching

The Retail Coach will partner with Seagoville on a long-term basis and be available when you have questions, new ideas, or need access to GIS mapping and current data and statistics. We are also available if Seagoville needs to brainstorm opportunities as your community grows and develops. Project correspondence can be conducted through The Retail Coach custom Pandora platform as part of the Retail360 dashboard. This password-protected platform will allow the Seagoville to keep track of project progress, download reports, and securely share other information over the course of the project agreement.

TRC Project Management Platforms

The screenshot displays the 'The Retail Coach' dashboard. At the top, there is a navigation bar with 'Dashboard', 'Star Options', 'Search', 'Add To Basket', 'Show Recent', and 'Logout'. Below this is a search bar and a filter section. The main content area is divided into several panels. On the left, there is a sidebar with 'Items (2 Folders, 0)'. The central panel shows a map of Covington, Georgia, with a 'Update Stats' button. To the right, there are several data visualizations, including a bar chart and a gauge chart. Below these, there are three '1 Mile Radius Demographics Profile' cards. At the bottom, there is a table titled 'Activities' with columns for 'Activity', 'Contact', 'Type', 'Project Status', 'Reseller Description', 'Results - Contact, Track', and 'Notes'. The table lists several activities related to 'AcuReviews' and 'AduSense'.

Activity	Contact	Type	Project Status	Reseller Description	Results - Contact, Track	Notes	
AcuReviews							
AcuReviews	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AcuReviews	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AcuReviews	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AcuReviews	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AcuReviews	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AduSense							
AduSense	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AduSense	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AduSense	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14
AduSense	11441-100	Del. Benchmark	Phone Call	10/27/14 - 11/10/14	App. website	Not updated	10/27/14 - 11/10/14

## PROJECT OVERVIEW

# Deliverables & Responsibilities

### PHASE 1

#### Analyzing the Market

Submarket Map

Mobile Phone Analysis (On up to 5 locations)

Retail Trade Area (RTA) Map based on Mobile Location Technology

Retail Trade Area & Community Demographic Profiles (Historical, Current, and Projected)

Retail Trade Area Psychographic Profiles

Daytime Population Summary

### PHASE 2

#### Determining Retail Opportunities

Retail Gap Analysis (RGA)

### PHASE 3

#### Identifying Retailers & Developers for Recruitment

Target list of retailers and restaurants

Target list of developers

### PHASE 4

#### Marketing & Branding

Seagoville Retail Market Profile (RMP)

Feasibility Packages

Developer Opportunity Package

Online Retail360 Dashboard

### PHASE 5

#### Recruiting Retailers and Developers

Retailer Recruitment Tracking Spreadsheet

Developer Recruitment Tracking Spreadsheet

### PHASE 6

#### Retail Coaching

Ongoing Coaching & Project Management through TRC

Pandora Platform

"In my opinion, The Retail Coach's strategy and assistance has netted us over 325,000 square feet of occupied retail development during one of the most significant retail downturns in the last 20 years. Money well spent."

Samuel D. R. Satterwhite  
Executive Director  
Wylie EDC

"Thank you for Gallatin's partnership with Retail Coach. Charles Parker and his team have been very beneficial in helping my development find retail tenants. We have currently signed [multiple new brands] with their help and guidance."

Brad Jolly  
Developer  
Gallatin, Tennessee

## PROJECT EXPECTATIONS

# Timeline & Pricing



### COMMUNITY TRIPS

The Retail Coach team will make at least one (1) site visits to Seagoville during the project.

### PROJECT TIMELINE

The Retail Coach is available to begin work immediately upon agreement of terms with a project duration of 12 months.

## Project Pricing

### Work Fees

The total fee for completion of this work is **\$17,500**, payable in two installments:

- a) **\$10,000** upon execution of the agreement;
- b) **\$7,500** upon upon 180 days

### Reimbursable Project Expenses

It is estimated that reimbursable expenses will not exceed **\$1,000**. Reimbursable expenses include:

- a) All travel costs;
- b) Cost of special renderings and maps, if any;
- c) Cost of copies for reports and maps/drawings; and
- d) Cost of shipping expenses, if any.

*\*All Work Fees and Project expenses are payable within 30 days after receipt of the expense invoice. The Retail Coach will provide a digital copy of the deliverables.*



PLEASE CONTACT:

**Aaron Farmer**  
**President**

t: 662.844.2155

e: [afarmer@theretailcoach.net](mailto:afarmer@theretailcoach.net)

**Building Partnerships.**  
**Developing Communities.**

## *Regular Session Agenda Item: 13*

**Meeting Date:** December 6, 2021

**ITEM DESCRIPTION:**

Discuss and consider approving additional holiday(s) for Christmas/New Year.

**BACKGROUND OF ISSUE:**

This item was requested by Councilmember Hernandez.

**FINANCIAL IMPACT:**

N/A

**RECOMMENDATION:**

N/A

**EXHIBITS:**

N/A

## ***Regular Session Agenda Item: 14***

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

Discuss and consider approving a Resolution of the City of Seagoville, Texas, approving and authorizing the City Manager to execute a Lease Agreement and a Maintenance Agreement with Toshiba America Business Solutions, Inc., d/b/a Toshiba Financial Services, for copiers; providing for the repeal of any and all Resolutions in conflict; providing for severability clause; and providing an effective date.

### **BACKGROUND OF ISSUE:**

The City of Seagoville is currently under contract with Toshiba Business Solution for photo copier services. The current five-year contract will expire September 30, 2021. This proposed contract provides additional equipment resources in response to population growth demands in the customer service/utility billing department. Toshiba Business solutions will not assess penalties for early renewal of the current contract. Toshiba Business Solutions is a State of Texas Department of Information Resources (DIR) vendor and holds DIR Contract TSO-3042.

### **FINANCIAL IMPACT:**

Each city department has a line item budget for contractual photocopier services charged to account 3703.

The collective financial impact is as follows:

Equipment Rental – \$948 per month	60 months = \$56,880
Estimated Monthly Usage Fee - \$524	60 months = \$31,440

### **RECOMMENDATION:**

Staff recommends approving the proposed contract. In the past, Toshiba has provided a reliable product and good service when needed.

### **EXHIBITS:**

Resolution authorizing City Manager to execute agreement  
Agreement

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF SEAGOVILLE, TEXAS, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT AND A MAINTENANCE AGREEMENT WITH TOSHIBA AMERICA BUSINESS SOLUTIONS, INC., D/B/A TOSHIBA FINANCIAL SERVICES, FOR COPIERS; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council for the City of Seagoville, Texas desires to enter into an agreement for the lease and maintenance of copiers; and

**WHEREAS**, Toshiba America Business Solutions, Inc., d/b/a Toshiba Financial Services (“Toshiba”) is registered with the State of Texas Department of Information Resources (DIR) as a cooperative contracting vendor, holding DIR Contract TSO-3042; and

**WHEREAS**, Toshiba is able to competitively provide eight copiers and all staples, copier toner and other related supplies for those machines per contract terms; and

**WHEREAS**, in accordance with the contract terms, Toshiba will respond to service requests on an as- needed-basis at no additional cost; and

**WHEREAS**, the City Council for the City of Seagoville, Texas has reviewed the Contracts and has determined it to be in the best interest of the City of Seagoville to enter into said agreements for lease and maintenance of the copiers.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS:**

**SECTION 1.** The City Council hereby approves and the City Manager is hereby authorized, on behalf of the City of Seagoville, Texas, to execute a lease agreement, a maintenance agreement, and any other necessary documents relating to the lease and maintenance of the eight copiers as set forth in the agreements, attached hereto and incorporated herein by this reference as Exhibit "A", with Toshiba America Business Solutions, Inc. d/b/a Toshiba Financial Services.

**SECTION 2.** All resolutions of the City of Seagoville heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed, and all resolutions of the City of Seagoville not in conflict with the provisions hereof shall remain in full force and effect.

**SECTION 3.** If any article, paragraph, subdivision, clause or provision of this

resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this resolution as a whole or any part or unconstitutional.

**SECTION 4.** This resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

**DULY ORDERED** by the City Council of the City of Seagoville, Texas, this the 6<sup>th</sup> of December 2021.

**APPROVED:**

\_\_\_\_\_  
DENNIS K. CHILDRESS, MAYOR

**ATTEST:**

\_\_\_\_\_  
KANDI JACKSON, CITY SECRETARY

**APPROVED AS TO FORM:**

\_\_\_\_\_  
VICTORIA THOMAS, CITY ATTORNEY  
(120221vwtTM126419)

**Exhibit A**  
**(Lease Agreement and Maintenance Agreement**  
**Toshiba Financial Services)**



## TERMS AND CONDITIONS

- Lease Agreement:** You agree to lease from us the equipment described under "ITEM DESCRIPTION" and on any attached Schedule (hereinafter, with all replacement parts, repairs, additions and accessories, referred to as the "Equipment") and as modified by Supplements to this Agreement from time to time signed by you and us. You authorize us to insert or correct missing information on this Agreement, including your accurate legal name, serial numbers and any other information describing the Equipment. You authorize us to change the amount of each Payment (set forth on page 1 of this Agreement) by not more than 15% due to changes in the equipment configuration which may occur prior to our acceptance of this Agreement or adjustments to reflect applicable sales taxes. We will send you copies of any changes. You agree to provide updated annual and/or quarterly financial statements to us upon request. You authorize us or our agent to obtain credit reports and make credit inquiries regarding you and your financial condition and to provide your information, including payment history, to our assignees or third parties having an economic interest in this Agreement or the Equipment.
- Lease Commencement:** This Agreement will commence upon your acceptance of the applicable Equipment. When you receive the Equipment, you agree to inspect it and verify your acceptance by telephone or, at our request, by delivery of written evidence of acceptance satisfactory to us. Upon acceptance, your obligations under this Agreement will become absolute and unconditional, and are not subject to cancellation, reduction or setoff for any reason whatsoever. You agree to pay us the amounts payable under the terms of this Agreement each period by the due date in accordance with the Term and Payment schedule set forth on page 1 of this Agreement. Payments shall be delivered to our address or to such other address as we may designate in writing. You agree to pay an Interim rent payment equal to 1/30th of the monthly lease payment, multiplied by the number of days between rent commencement date and the date of the beginning of the first rental period. For any payment that is not received by its due date, you agree to pay a late charge equal to the higher of 10% of the amount due or \$22 (not to exceed the maximum allowed by law).
- Security Deposit:** The security deposit is non interest bearing and is to secure your performance under this Agreement. Any security deposit made may be applied by us to satisfy any amount owed by you in, in which event you will promptly restore the security deposit to its full amount as set forth above. If all conditions are fully complied with and provided you have not ever been in default of the Agreement in the Default section, the security deposit will be refunded to you after the return of the equipment in accordance with the Return of Equipment section.
- WARRANTY DISCLAIMER: WE MAKE NO WARRANTY EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THAT THE EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR THAT THE EQUIPMENT IS MERCHANTABILITY. YOU AGREE THAT YOU HAVE SELECTED EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. YOU LEASE THE EQUIPMENT "AS IS". NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT WILL BIND US, NOR WILL ANY BREACH THEREOF RELIEVE YOU OF ANY OF YOUR OBLIGATIONS HEREUNDER. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES FOR ANY DEFAULT BY US UNDER THIS AGREEMENT.**
- Statutory Finance Lease:** You agree that this Agreement qualifies as a statutory Finance Lease under Article 2A of the Uniform Commercial Code. To the extent you are permitted by applicable law, you waive all rights and remedies provided by Article 2A (sections 508-522) of the Uniform Commercial Code.
- Security Interest:** You authorize us to file a financing statement with respect to the Equipment. If this Agreement is deemed to be a secured transaction, you grant us a security interest in the Equipment to secure all amounts you owe us under any agreement with us.
- Use Maintenance and Repair of Equipment:** YOU WILL USE THE EQUIPMENT ONLY IN THE LAWFUL CONDUCT OF YOUR BUSINESS AND NOT FOR PERSONAL, HOUSEHOLD OR FAMILY PURPOSES. You will not move the Equipment from the equipment location listed on page 1 without our advance written consent. You will give us reasonable access to the Equipment so that we can check the Equipment's existence, condition and proper maintenance. At your cost, you will keep the Equipment in good repair, condition and working order, ordinary wear and tear excepted. You will not make any permanent alterations to the Equipment. You will keep the Equipment free and clear of all liens. You assign to us all of your rights, but none of your obligations, under any purchase agreement for the Equipment. We assign to you all our rights under any warranties, so long as you are not in default.
- Software:** Except as provided in this paragraph, references to "Equipment" include any software referenced above or installed on the Equipment. We do not own the software and cannot transfer any interest in it to you. You are responsible for entering into any license and/or other agreement (each a "License Agreement") required by the applicable software supplier or software licensor no later than the effective date of this Agreement and you will fully comply with such License, if any, throughout the applicable term. We are not responsible for the software or the obligations of you or the software licensor under any License Agreement.
- Taxes and Lease Charges:** You agree to pay all taxes, costs and expenses incurred by us as a consequence of the ownership, sale, lease or use of the Equipment, including all sales, use and documentary stamp taxes. Any fee charged under this Agreement may include a profit and is subject to applicable taxes. In addition, you agree to pay us a UCC filing fee of \$35.00.
- Indemnity:** You will indemnify and hold us harmless from any and all liability, damages, losses or injuries including reasonable attorney's fees, arising out of the ownership, use, condition or possession of the Equipment, except to the extent directly caused by our gross negligence or willful misconduct. We reserve the right to control the defense and to select or approve defense counsel. This indemnity will survive the termination of this Agreement.
- Risk of Loss; Insurance:** You are responsible for risk of loss or for any destruction of or damage to the Equipment. No such loss or damage shall relieve you from the payment obligations under this Agreement. You agree to keep the Equipment fully insured against loss until this Agreement is paid in full and to have us and our assigns named as lender's loss payee. You also agree to maintain public liability insurance covering both personal injury and property damage and you shall name us and our assigns as additional insured. Upon request, you agree to provide us certificates or evidence of insurance acceptable to us. If you fail to comply with this requirement within 30 days after the start of this Agreement: (a) we have the right but no obligation to obtain insurance covering our interest (and only our interest) in the Equipment for the lease term, and renewals. Any insurance we obtain will not insure you against third party or liability claims and may be cancelled by us at any time. You will be required to pay us an additional amount each month for the insurance and administrative fee. The cost may be more than the cost of obtaining your own insurance and we may make a profit. You agree to cooperate with us, our insurer and our agent in the placement of coverage and with claims; or (b) we may charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. Once an acceptable certificate or evidence of insurance is submitted, any such fees will be discontinued. If any of the Equipment is lost, stolen or damaged you will at your option and cost, either (a) repair the item or replace the item with a comparable item reasonably acceptable to us, or (b) pay us the sum set forth in the Remedies section.
- Right to Perform:** If you fail to comply with any provision of this Agreement, we may, at our option, perform such obligations on your behalf. Upon invoice you will reimburse us for all costs incurred by us to perform such obligations.
- Representations:** (a) You represent and warrant to us that (1) you have the lawful power and authority to enter into this Agreement, and (2) the individuals signing this Agreement have been duly authorized to do so on your behalf, (3) you will provide us such financial information as we may reasonably request from time to time, (4) all financial information provided (or to be provided) is (or will be) accurate and complete in all material respects, (5) you will promptly notify us in writing if you move your principal place of business or there is a change in your name, state of formation, or ownership, and (6) you will take any action we reasonably request to protect our rights in the Equipment. (b) We represent and warrant to you that (1) we have the lawful power and authority to enter into this Agreement, and (2) the individuals signing this Agreement have been duly authorized to do so on our behalf.
- Default:** You will be in default under this Agreement if: (a) we do not receive any Payment due under this Agreement within five (5) days after its due date, (b) you fail to meet any of your obligations in the Agreement (other than payment obligations) and do not correct such default within 10 days after we send you written notice of such default, (c) you or your guarantor become insolvent, are liquidated or dissolved, merge, transfer a material portion of your ownership interest or assets, stop doing business, or assign rights or property for the benefit of creditors, (d) a petition is filed by or against you or your guarantor under any bankruptcy or insolvency law, (e) any representation made by you is false or misleading in any material respect, (f) you default on any other agreement with us or our assigns or any material agreement with any entity, or (g) there has been a material adverse change in your or any guarantor's financial, business or operating condition.
- Remedies:** If you are in default, we may, at our option, do any or all of the following: (a) retain your security deposit, if any, (b) terminate this Agreement, (c) require that you pay, as compensation for loss of our bargain and not as a penalty, the sum of (1) all amounts due and payable by you or accrued under this Agreement, plus (2) the present value of all remaining Payments to become due under this Agreement (discounted at 2% or the lowest rate allowed by law), and (3)(i) the amount of any purchase option and, if none is specified, 20% of the original equipment cost, which represents our anticipated residual value in the Equipment or (ii) return the Equipment to a location designated by us and pay to us the excess, if any, of the amount payable under clause (3)(i) over the Fair Market Value of the returned Equipment as determined by us in our reasonable discretion, (d) recover interest on any unpaid balance at the rate of 12% per annum, and (e) exercise any other remedies available to us at law or in equity, including requiring you to immediately stop using any financed software. You agree to pay our reasonable attorney's fees and actual court costs including any cost of appeal. If we have to take possession of the Equipment, you agree to pay the cost of repossession and we may sell or re-rent the Equipment at terms we determine, at one or more public or private sales, with or without notice to you. You may remain liable for any deficiency with any excess being retained by us.
- Purchase Option:** At the end of the Term provided you are not in default, and upon 30 days prior written notice from you, you will either (a) return all the Equipment, or (b) purchase all the Equipment as is, without any warranty to condition, value or title for the Fair Market Value of the Equipment as determined by us in our reasonable discretion plus applicable sales and other taxes.
- Automatic Renewal:** Except as set forth in Section 16, this Agreement will automatically renew on a month-to-month basis after the Term, and you shall pay us the same Payments and lease charges as applied during the Term (and be subject to the terms and conditions of this Agreement) until the Equipment is returned to us or you pay us the applicable purchase price (and taxes).
- Return of Equipment:** If (a) a default occurs, or (b) you do not purchase the Equipment at the end of the Term pursuant to a stated purchase option, you will immediately return the equipment to any location(s) we may designate in the continental United States. The Equipment must be returned in "Average Saleable Condition" and properly packed for shipment in accordance with our recommendations or specifications, freight prepaid and insured. "Average Saleable Condition" means that all of the Equipment is immediately available for use by a third party, other than you, without the need for any repair or refurbishment. All Equipment must be free of markings. You will pay us for any missing or defective parts or accessories.
- Assignment:** We may, without your consent, assign or transfer any Equipment or this Agreement, or any rights arising under this Agreement, and in such event our assignee or transferee will have the rights, power, privileges and remedies of Lessor hereunder, but none of the obligations. Upon such assignment you agree not to assert, as against our assignee, any defense, setoff, recoupment, claim or counterclaim that you may have against us. You will not assign, transfer or sublease this Agreement or any rights thereunder or any Equipment subject to this Agreement without our prior written consent.
- Personal Property Tax (PPT):** You agree at our discretion to (a) reimburse us annually for all personal property and similar taxes associated with the ownership, possession or use of the Equipment or (b) remit to us each billing period our estimate of the prorated equivalent of such taxes. You agree to pay us an administrative fee for the processing of such taxes. We may make a profit on such a fee.
- Tax Indemnity:** You agree to indemnify us for the loss of any income tax benefit caused by your acts or omissions inconsistent with our entitlement to certain tax benefits as owner of the Equipment.
- Governing Law:** BOTH PARTIES AGREE TO WAIVE ALL RIGHTS TO A JURY TRIAL. This Agreement and any supplement shall be deemed fully executed and performed in the state in which our (or, if we assign this Agreement, our assignee's) principal place of business is located and shall be governed by and construed in accordance with its laws. Any dispute concerning this Agreement will be adjudicated in a federal or state court in such state. You hereby consent to personal jurisdiction and venue in such courts and waive transfer of venue.
- Miscellaneous:** This Agreement contains the entire agreement between you and us and may not be modified except as provided therein or in writing signed by you and us, and supersedes any purchase orders. We will not accept payment in cash. If you so request, and we permit the early termination of this Agreement, you agree to pay a fee for such privilege. Notices must be in writing and will be deemed given five days after mailing to you or our mailing address. If a court finds any provision of this Agreement to be unenforceable, all other terms of that Agreement will remain in effect and enforceable. You agree that any delay or failure to enforce our rights under this Agreement does not prevent us from enforcing any rights at a later time. In no event will we charge or collect any amounts in excess of those allowed by applicable law. Time is of the essence. You hereby acknowledge and confirm that you have not received any tax, financial, accounting or legal advice from us, or the manufacturer of the Equipment. It is the Customer's sole and exclusive responsibility to ensure that all data from all disk drives or magnetic media are erased of any customer data and information. You hereby consent to receive electronic marketing communication on Toshiba products and services. TO HELP THE GOVERNMENT FIGHT THE FUNDING OF TERRORISM AND MONEY LAUNDERING ACTIVITIES, FEDERAL LAW REQUIRES ALL FINANCIAL INSTITUTIONS TO OBTAIN, VERIFY AND RECORD INFORMATION THAT IDENTIFIES EACH PERSON WHO OPENS AN ACCOUNT. WHAT THIS MEANS TO YOU: WHEN YOU OPEN AN ACCOUNT, WE WILL ASK FOR YOUR NAME, ADDRESS AND OTHER INFORMATION THAT WILL ALLOW US TO IDENTIFY YOU. WE MAY ALSO ASK TO SEE IDENTIFYING DOCUMENTS.





**AIMS MAINTENANCE CONTRACT**

**MAS-4.0.0**

SALES PACKET NUMBER	EFFECTIVE DATE
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Sales Representative: Lynn Peltier

Install Date

Customer agrees to purchase and Toshiba Business Solutions agrees to provide parts, labor, ink, toner, and toner collection containers (the "Maintenance Services") for the equipment listed below in accordance with the terms and conditions of this contract. The Maintenance Services exclude paper, staples and all other parts and services listed under the Exclusion section on page two of the contract. A Connectivity & Security Options Agreement must be attached and executed for Network Integration Support.

**CUSTOMER INFORMATION**

Customer Name: SEAGOVILLE, CITY OF			
Address: 702 N HWY 175	Phone #: (972) 287-2050	Ext.	Fax #: ( ) -
Address 2:	Contact: Liz Gant		Customer PO #:
City: SEAGOVILLE	State: TX	Zip: 75159-1774	email: lgant@seagovillelibrary.org

**INVOICE / METER COLLECTION INFORMATION**

Meter Collection: FM Audit	Electronic Invoicing: No	Invoice Location: Customer Address	Term: 12 Months
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**SEE ATTACHED MAINTENANCE CONTRACT SCHEDULE FOR DEVICE DETAILS**

**TRANSACTION TERMS (Consolidated Minimums Per Pool)**

Pool Description	Type	Includes	Units	Minimum Payment	Payment Frequency	Excess Per Unit Charge	Excess Billing Frequency
Color Copier Pool(2) Toshiba 5516AC	CPP	0	Images	\$0.00	Monthly	\$0.03750	
Mono Copier Pool	CPP	0	Images	\$0.00	Monthly		
Toshiba ES2518A	CPP	0	Images	\$0.00	Monthly	\$0.00860	
Toshiba ES3518A	CPP	0	Images	\$0.00	Monthly	\$0.00860	
Toshiba ES5516AC	CPP	0	Images	\$0.00	Monthly	\$0.00655	
<b>Total Minimum Payment</b>				\$0.00			

**DECLINATION**

Customer is declining maintenance on the equipment listed on the attached agreement.

Printed Name:	Signature:
Title: _____ Date: _____	

**ACCEPTANCE**

**THE TERMS AND CONDITIONS HEREOF ARE PART OF THIS SERVICE AGREEMENT. BY SIGNING THIS CONTRACT, THE CUSTOMER ACKNOWLEDGES THAT THEY HAVE READ AND UNDERSTAND THESE TERMS.**

Customer agrees to pay the Minimum Payment per transaction terms, plus any Excess Per Unit Charges for the term of this Contract. When this Contract is signed by Customer and TBS, it shall constitute a binding contract and is non-cancelable. This Contract will begin on the date signed by TBS below. You hereby acknowledge and agree that your electronic signature below shall constitute an enforceable and original signature for all purposes.

Privacy Notice: By your signature below, you hereby consent to allow TABS to remotely retrieve usage information for billing purposes. The information retrieved may be shared with third parties for processing purposes and shall be limited to the number of copies and scans made by model and serial number, and the location of the device.

Customer: SEAGOVILLE, CITY OF	<b>Toshiba Business Solutions</b>		
Printed Name:	Printed Name:		
Signature:	Signature:		
Title: _____ Date: _____	Title: _____	Date: _____	

## TERMS AND CONDITIONS (CONTINUED)

- 1. ACCEPTANCE.** This Contract shall not be effective unless signed by the authorized TBS representative (Effective Date) within 30 days from the Customer's signing of this Contract.
- 2. Term.** This Contract will remain in force for 12 months from the Effective Date (Renewal Date) and will then be automatically renewed for annual period(s) unless either party provides notice of termination not less than thirty (30) days prior to the Renewal Date. For each piece of equipment under this Contract there will be a Start Date & Start Meter. Service for each piece of equipment will be provided from the Start Date & Start Meter until this Contract is terminated or the equipment is withdrawn from the service. Customer may withdraw individual equipment by providing thirty (30) day written notice prior to the Renewal Date. Customer is responsible for all remaining Minimum Payments if Customer is in default or if equipment is withdrawn prior to Renewal Date.
- 3. SERVICE AVAILABILITY.** TBS will provide service during TBS's normal service hours while the equipment is located within TBS's designated service area. Service outside TBS's designated area, if available and accepted by TBS is subject to a Trip Charge, which shall be based on reasonable travel expense for TBS's personnel. It is the responsibility of the Customer to notify TBS prior to relocating equipment.
- The service to keep the equipment in or restore the equipment to good working order includes Emergency Service Calls and Periodic Maintenance (PM's). PM's may be performed during the course of an Emergency Service Call and are based upon the specific needs of the individual equipment as determined by TBS. Maintenance will include lubrication, adjustments and replacement of maintenance parts deemed necessary by TBS. Maintenance parts will normally be either new or equivalent to new in performance when installed in the equipment. Maintenance parts will be furnished on an exchange basis and the replaced parts become the property of TBS. Service provided under this Contract does not assure the uninterrupted operation of the equipment.
- If the Customer requests service to be performed at a time outside TBS's normal service hours, there will be no additional charge for maintenance parts, however, the service, if available, will be furnished at TBS's applicable hourly rates and terms then in effect. Nothing herein shall be construed to require TBS to provide service outside its normal service hours and TBS hereby reserves the right to accept or reject such requests.
- In the event there is a substantial increase in the cost of fuel, Customer agrees to pay a fuel surcharge. "Substantial" shall be defined as a 10% or more change over a six month period in the average national fuel cost as reported by the United States Energy Information Administration. The benchmark will be the national average fuel cost as reported by the United States Energy Information Administration on the Effective Date of this Agreement.
- 4. NETWORK INTEGRATION SUPPORT.** Support of print controllers and print/scan enablers that permit the integration of the device onto a Customer's network is covered under the terms of a properly executed Connectivity & Security Options Agreement. The Connectivity & Security Options Agreement is an amendment to this contract and must be attached and/or on file for this optional service support.
- 5. INVOICING - LATE CHARGES.** The first Minimum Payment is due upon receipt of an invoice. Thereafter, Minimum Payments will be due on the same date each month during the Term of this Contract whether or not Customer receives an invoice. Customer's obligation to pay the Minimum Payment is unconditional and is not subject to any reduction, set-off, defense, or counterclaim for any reason whatsoever. Excess Click Charge, if applicable, will be invoiced based on the billing period selected on the face of this contract.
- If any part of a payment is not made by the Customer when due, Customer agrees to pay TBS a Late Charge of the higher of \$25 or two percent (2%) of each such late payment, but not more than permitted by law. Customer agrees to pay TBS the Late Charge not later than one (1) month following the date of the original Minimum Payment.
- 6. USAGE.** In return for the Minimum Payment, Customer is entitled to use the Minimum Number of Units each billing period. If Customer uses more than the Minimum Number of Units in any billing period, Customer will pay an additional amount equal to the number of metered Units exceeding the agreed Minimum Included Units times the Excess Charge as shown on the face of this Contract. Customer acknowledges that in no event shall the Customer be entitled to any refund or rebate of the Minimum Payment if metered units result in less than the Minimum Number of Units in any billing period.
- Your Toshiba system will come with two-way communication enabled. TBS will provide updates, system back ups, and meter collection automatically. Please advise if you do not wish to have this feature enabled. TBS may estimate the number of units used if requested Meter Readings are not received before a new billing period begins. TBS will adjust the estimated charge for Excess Units upon receipt of actual Meter Readings. Notwithstanding any adjustment, the Customer will never pay less than the Minimum Payment. Customer will provide meter readings via an automated website. TBS may charge a fee to recover the cost of meter collections if meters are not submitted through the automated website. TBS reserves the right to convert Customer to a flat fee, based upon the greater of a specific unit's historical average volume or the device type's midpoint manufacturer recommended volume, if meters are not made available for the device(s) after 3 consecutive billing periods.
- Upon the first anniversary of the Effective Date and each subsequent anniversary date thereafter, TBS reserves the right to apply annual increases not to exceed fifteen (15%) percent of the products and services combined.
- 7. CONSUMABLE SUPPLIES.** TBS agrees to furnish consumable supplies (ink, toner and toner collection containers) for the Term of the Contract, except as excluded in section 12 below. Customer is responsible for ordering supplies to assure ample time for delivery. TBS may charge you a supply freight fee to cover our cost of shipping supplies to you. TBS will determine the number of supplies to be shipped based on the Minimum Number of Units and Excess Units metered. If TBS determines that the Customer has used more than fifteen percent (15%) supplies than normal for the number of metered units, based on yields published by the manufacturer, Customer agrees to pay TBS's customary charges for all excess supplies. Current pricing per unit is based on TBS preferred vendor toner. Unless otherwise noted, OEM toner will be used.
- All supplies delivered as part of this Contract remain the property of TBS until and unless they are consumed by the equipment in the performance of this Contract. Any supplies not consumed as specified and not surrendered to TBS upon expiration or termination of this Contract will be invoiced to the Customer at TBS's then current prices. Customer agrees to provide insurance coverage for supplies in case of loss under any circumstances. Notwithstanding the foregoing, the risk of loss of the consumable supplies shall be transferred from TBS to Customer if such consumable supplies are stored at Customer's facility.
- 8. TAXES.** In addition to the charges due under this Contract, the Customer agrees to pay amounts equal to any taxes resulting from this Contract, or any activities hereunder, exclusive of taxes based upon net income.
- 9. INSTALLATION AND ACCESS TO EQUIPMENT.** Customer agrees to provide adequate space, environment and appropriate electrical requirements including, if required, a dedicated 120 volt or 220 volt electrical line, as published in the Operator and Service Manuals for the operation and maintenance of the equipment. If TBS has installed a power filter/surge protector on the equipment, it must at all times remain continuously installed. If it is removed Customer agrees to purchase a replacement from TBS immediately. TBS shall have full and free access to the equipment to provide service thereon.
- If persons other than TBS representatives install conversions, feature additions, accessories or perform service on equipment and as a result further repair by TBS is required, such repairs shall be made at TBS's applicable Time and Material rates and terms then in effect. If such additional repair is required, TBS may immediately withdraw the equipment from this Contract.
- 10. KEY OPERATOR - END-USER TRAINING.** Customer agrees to designate a Key Operator for training on the use, applications and features of the equipment. The Key Operator will be responsible for normal Key Operator activities as detailed in the Operators Manual and for training additional end-users. If the Key Operator assignment changes Customer agrees to designate a new Key Operator immediately. TBS agrees to provide training for the designated Key Operator and to provide initial training for end-users on the use, applications and features of the equipment. Additional training requested by Customer after thirty (30) days from Installation will be at TBS normal hourly rates.
- 11. MOVES/ADDS/CHANGES.** In order to guarantee on-time toner arrival and quality service response time, TBS must be notified in advance of any changes in the fleet. Prior approval from TBS is required before adding new devices to the fleet for support. Client agrees to be responsible for all costs associated with relocation. If the Equipment is moved to a new location, TBS shall have the right to charge a new rate for the new location and Client agrees to pay the difference between the old rate and the new rate.
- 12. EXCLUSIONS.** Service under this Contract does not include:
- (a) Furnishing paper, staples, replacement print heads, batteries, ribbons, media, periodic maintenance on thermal printers or any of the following:
- (b) Service of equipment if moved outside of TBS's designated service area; (c) Repair of damage or increase in service time caused by accident, misuse, negligence, abuse or disaster; (d) Service of accessories, attachments or click control devices other than those of the same manufacturer as the equipment; (e) Painting or refinishing of the equipment; (f) Making specification changes; (g) overhaul; when TBS determines an overhaul is necessary because normal repair and parts replacement cannot keep the equipment in satisfactory operating condition, TBS will submit a cost estimate to Customer and TBS will not commence work until Customer has approved cost; (h) Performing key operator functions as described in the operator manual; (i) Moving equipment, repair of damage or increase in service time caused by the use of the equipment for other than the ordinary use for which designed; (j) Repair of damage caused by electrical surges or lightning strikes, if equipment is connected to a TBS supplied power filter/surge protector repairs will be included; (k) Repair of damage or increase in service time caused by failure to continually provide a suitable installation environment as defined by the manufacturer, with all the facilities prescribed by TBS including, but not limited to, adequate space, electrical power, air conditioning or humidity control. (l) Repair of equipment that has been designated as obsolete by the manufacturer and genuine OEM parts are no longer available. (m) Repair of damage or increase of service time caused by Customer's use of media outside the specifications as described in the operator manual.
- 13. CUSTOMER OWNED EQUIPMENT.** (a) TBS reserves the right to inspect the mechanical condition of all Customer Owned Equipment to be covered under this Agreement. Customer will be notified of Equipment found to require immediate repairs. Customer, at its option, may elect to have said Equipment repaired at the then current hourly service labor rate plus parts or elect to have the unit excluded from this Agreement. (b) To qualify for coverage under this Agreement each piece of Customer Owned Equipment must have an initial consumable supply level of at least 25% (twenty five percent) of its capacity. For any Equipment falling under that level, Customer will be responsible for replacing and/or purchasing the initial consumables required to restore the device to the 25% level. (c) Service of printers under this agreement will possibly include replacement parts that may have been used and/or reconditioned. Parts that have been replaced will remain the property of TBS. If Customer Owned Equipment becomes obsolete, or unserviceable, client is responsible for replacing the device, and TBS will remove obsolete device from current agreement.
- 14. INDEMNITY AND DISCLAIMER.** TBS shall not be responsible for any injuries, damages, penalties, claims or losses including legal expenses incurred by Customer or any other person caused by the installation, selection, ownership, possession, maintenance, condition or use of the Equipment. Customer agrees to reimburse TBS for and to defend TBS against any claims for such losses, damages, penalties, claims, injuries or expenses. This indemnity shall continue even after this Contract has expired.
- IN NO EVENT WILL TBS BE LIABLE FOR LOST PROFITS, CONSEQUENTIAL, EXPECTANCY OR INDIRECT DAMAGES EVEN IF TBS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS OTHERWISE SET FORTH HEREIN, TBS DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, REPRESENTATION OR WARRANTY ARISING OUT OF USAGE AND TRADE, COURSE OR DEALING OR COURSE OR PERFORMANCE. EXCEPT AS PROVIDED HEREIN, THE PARTS AND SERVICES ARE PROVIDED "AS IS."**
- 15. GENERAL.** Subject to the terms of the following paragraph, TBS may modify the terms and conditions of this Contract effective on the Renewal Date by providing the Customer with prior written notice.
- Any such modification will apply unless the Customer withdraws the equipment affected by such modification from this Contract. Otherwise this Contract can only be modified by a written agreement duly signed by persons authorized to sign contracts on behalf of the Customer and of TBS. Variance from the terms and conditions of this Contract in any Customer order or other written modification will be of no effect.
- The Customer represents that the Customer is the owner of the equipment under this Contract, or, if not the owner, is the lessee or renter of the equipment. Customer will execute a maintenance agreement for the equipment with a Toshiba authorized dealer or Customer will waive certain rights under Toshiba's manufacturer's warranty.
- This Contract is not assignable, its right, duties and obligations may not be assigned or transferred by the Customer without the prior written consent of TBS. Any attempt to assign or transfer any of the rights, duties or obligations of this Contract without such consent is void.
- TBS's service provided outside the scope of this Contract will be furnished at TBS's applicable time and material rates and terms then in effect.
- TBS is not responsible for failure to render service due to causes beyond its control.
- You hereby consent to receive electronic marketing communication on Toshiba products and services.
- This Contract will be governed by the laws of the state where the Customer executed this Contract. If either party fails to comply with the terms and conditions of this Contract, the non-breaching party shall notify the breaching party in writing using certified mail to the address on the face of this Contract. The breaching party shall have thirty (30) days to cure any breach of this Contract prior to the non-breaching party takes the legal action. No action, regardless of form, arising out of this Contract may be brought by either party more than one year after the cause of action has arisen, or, in the case of non-payment, more than two years from the date of the last payment.



# AM-2.0.0

SALES PACKET NUMBER

DATE

Sales Representative: Lynn Peltier

12/01/2021

#### CUSTOMER INFORMATION

Customer Name: SEAGOVILLE, CITY OF	Customer Contact: Liz Gant		
Billing Address: 702 N HWY 175	Phone #: (972) 287-2050	Ext.	Customer PO #:
Suite #:	Meter Contact: Liz Gant		Meter Phone: (972) 287-2050
City: SEAGOVILLE State: TX Zip: 75159-1774	Meter Email: lgant@seagovillelibrary.org		

#### METER COLLECTION CHOICES:

Let your printers and copiers do the reporting for you.



**What is Toshiba's Automated Meter Read Program (AMR)?** As part of your service contract with TBS, you are required to report usage data for all your printers, copiers, and multifunction devices. With manual reporting, you must go to each device, record the serial numbers and meter readings, and submit this information via email, fax or phone. Toshiba's AMR program automatically gathers usage data for each device and sends it securely to TBS at scheduled intervals. The result is more accurate and timely reporting, fewer billing errors, and less busy work for you.

**How much does Toshiba AMR cost me?**

Nothing. Ever.

**What information does AMR gather?**

The automated meter reading system captures all required information for billing purposes; Machine model, Serial number, and usage information.

**Is the transmission secure?**

Yes. Data is completely secure.

**Toshiba Business Solutions IT Team will work with you to set up equipment meter collections in the priority listed below:**

**1 Automated Meter Read (e-Bridge CloudConnect)**

Your Toshiba system will be equipped with two-way communication capabilities. TBS will provide updates, system back ups, and meter collection automatically. Equipment MUST be connected to your network.

**2 Automated Meter Read (On Site Software)**

TBS will provide free AMR software that will automatically pull meter information and input into TBS billing system. Equipment MUST be connected to your network.

**3 Meters Online (MOL)**

An automatic meter request is sent to the End User directly from the TBS billing system. End User collects the meter readings and goes to <http://meters.toshiba.com> and enters the meters online manually. All meters submitted via online are electronically imported into the TBS billing with no manual entry or interaction by TBS.

**TBS may charge a fee to recover the cost of meter collections if meters are not submitted through the automated website. TBS reserves the right to convert Customer to a flat fee, based upon the greater of a specific unit's historical average volume or the device type's midpoint manufacturer recommended volume, if meters are not made available for the device(s) after 3 consecutive billing periods.**

#### ELECTRONIC INVOICING CHOICE:

Toshiba is committed to the environment through its worldwide green initiatives. One of the primary goals of Toshiba's green initiatives is environmental management through corporate social responsibility. One of TBS's Eco-Innovation initiatives is to convert to electronic invoicing whenever possible. Converting to electronic invoicing will enable TBS to decrease its consumption of environmental resources tremendously.

Please select if you will accept Electronic Invoices when possible:  Yes  No

Upon receipt of first TFS Lease invoice, visit [www.lesseedirect.com](http://www.lesseedirect.com) or call 1-800-736-0220 to register.

Please select preferred Electronic Invoice Method (TBS Invoices Only):

Email Attachment Only:   
PDF copy of invoice sent to email listed below

Invoice Portal Access:   
Link to web portal allowing invoicing viewing and E-Pay option. Email will be sent with link when new invoices generate.

Email Address for invoice notifications: \_\_\_\_\_

#### CUSTOMER ACCEPTANCE:

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

SALES PACKET NUMBER

EFFECTIVE DATE

Sales Representative: Lynn Peltier

12/01/2021

### CUSTOMER INFORMATION

Customer Name: SEAGOVILLE, CITY OF	Customer Contact: Liz Gant	
Billing Address: 702 N HWY 175	Phone #: (972) 287-2050	Ext. Customer PO #:
Address 2:	IT Contact: Liz Gant	IT Phone #: (972) 287-2050
City: SEAGOVILLE State: TX Zip: 75159-1774	eMail: lgant@seagovillelibrary.org	

### CONNECTIVITY OPTIONS (Check All That Apply)

**OPTION A: Network Administrator Integration and Training FREE (\$400 VALUE) (Remote)**

Includes basic device configuration, print driver installation on up to three workstations and administrator training. Additional Professional Services will be billed at published TBS Professional Services rates. Includes Remote Orientation of an Administrator to controller on their network, installation of 3 workstations for printing, scanning, and PC faxing. Connection Project not to exceed 2 hours. Any additional time required beyond 2 hours will be billed at current Professional Services Rates. If less than 2 hours is required, no time is banked for future use. Includes installation of Re-Rite on client server, configuration of 6 advanced scanning workflows; Word, Excel, Text Searchable PDF, PDF Form, Slim PDF, Secure PDF. Workflows include one Advanced Scanning Template Group, 6 Templates, and 4 Re-Rite workflows, all delivered to a common output folder. One hour of MFP Training - No more than 5 users per session - Training covers basic copier functions, printing, and scanning.

**OPTION B: Custom Network Integration - Variable / Additional Charges**

	Qty	Charge	Unit Description
• Base Device Configuration - Setup of Network Protocols on Device			Device
• Print Driver Installation			Workstation
• PC Fax Driver Installation			Workstation
• Print Driver and PC Fax Driver on same Workstation			Workstation
• Scan to Copier Controller			Scanning Template
• Scan to Network Folder			Scanning Template
• Scan to Email - Initial Setup of communication to local SMTP server			Initial Setup
- Additional Setup per Scanning Template			Scanning Template
- Off-site SMTP Server			Hour Until Completion
- Additional Setup per Scanning Template			Scanning Template
• Incoming Fax Routing to Copier Controller			Fax Destination
• Incoming Fax Routing to Network Folder Location			Fax Destination
• Incoming Fax Routing to Email - Initial Setup of SMTP Server Communication to a Local SMTP Server			Initial Setup
- Additional Setup per Destination			Destination
- Off-site SMTP Server			Hour Until Completion
- Additional Setup per Destination			Destination
• User Code Enforcement			10 User Codes
• Copier Configuration Backup and Restore			Backup/Restore Event

### Total Connectivity Fee:

**Note: Any Additional Connectivity Services performed not specified above will be billed at a rate of: \$200.00 per hour. Connectivity support may be completed remotely or on-site at the discretion of TBS. Support covers initial installation only.**

### CUSTOMER ACCEPTANCE

You hereby acknowledge and agree that your electronic signature above shall constitute an enforceable and original signature for all purposes.

By signing this agreement, the customer acknowledges that he/she has read and understood the statement of work and terms and conditions of this agreement.

Print Name:	Signature: X	Title:	Date:
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### DECLINATION

Customer certifies that they have read the statement of work and that they have decided to decline all assistance from TBS regarding the installation of their copier/printer. TBS is under no obligation and has no liability concerning any aspect of the installation process.

Print Name:	Signature: X	Title:	Date:
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### TBS ACCEPTANCE

Print Name:	Signature: X	Title:	Date:
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## STATEMENT OF WORK

This Statement of Work for Connectivity & Security Options outlines the services and deliverables for the planned implementation. This Statement of Work is intended to detail the obligations of Toshiba Business Solutions (TBS) and the Customer.

### CONNECTIVITY OPTIONS - WORK TO BE PERFORMED

**Option B:** Covers the selected work only. Additional Professional Services fees apply for any additional work at the current TBS Professional Services rates.

#### Base Device Configuration Includes:

1. Verify proper network settings, i.e., print queue configuration, TCP/IP address, etc.
2. Connect base unit to customer's network via customer supplied/installed cabling.
3. Perform color calibration on base unit and RIP device.

#### Print Driver Installation Includes:

1. Install print drivers onto designated workstations (up to three – Option A or as specified in Option B.)
2. Confirm print capabilities via standard print driver test page.

#### Administrator Training Includes:

1. Training on base unit, print driver and RIP software.
2. Orientation of the administrator to the print controller on the network.

While Toshiba print drivers are compatible with most common office applications, TBS does not provide training on specific printing applications.

### STATEMENT OF WORK ASSUMPTIONS

The following are the assumptions on which this Statement of Work is based. If any of these assumptions either change or are incorrect, changes to the Statement of Work may be required, which may result in changes to the Connectivity Services fee. Please review this section to make sure these assumptions are correct.

1. Client is responsible for ensuring that all applications and data are successfully backed up prior to TBS beginning work. TBS is not responsible for any lost information.
2. Building environmental conditions are within equipment specifications for airflow, temperature, humidity, and electrical quality.
3. Cabling and WAN Data Communication Lines are properly installed and tested. TBS is not responsible for any improper cabling or issues involving telecommunications lines. All troubleshooting and corrective action will be billed outside of this SOW on a time and materials basis.
4. TBS is not responsible for any conflicts with existing hardware that is no longer supported by the manufacturer.
5. TBS is only responsible for integration tasks outlined in this Statement of Work. Any work outside of this SOW will be handled through a Change Order Request Process, which may require additional billable time and materials. Customer will be informed before any out of scope work is performed.
6. Customer will provide systems personnel for the project familiar with all aspects of Customer's enterprise configuration – security, remote access, domain structure, WAN/LAN connectivity, applications used for this particular project – to work in conjunction with TBS on this implementation. Additionally, a desktop technician may be required to perform client-side duties.
7. All software being utilized is registered and authentic.
8. Equipment is connected to a dedicated power source per product specifications furnished by TBS.
9. All network addresses, print queue names and printer names, etc. are available upon request.

### TERMS AND CONDITIONS

The following Terms and Conditions are an amendment to the TBS Maintenance contract. In the event that the Customer has declined a Maintenance contract, the following Terms and Conditions do not apply to this agreement.

Toshiba products and software are warranted to be compatible with hardware and operating systems listed on product specification sheet at time of installation. TBS does not guarantee compatibility with future operating systems or hardware.

**Inclusions – Hardware:** Service calls, replacement parts for connected devices that allow the equipment to interface with PC's and networks, e.g. printer interface cards, NIC cards, print controllers, print/scan enablers or any other items that enhance the functionality of these products.

Diagnosis of device failures will be limited to confirmation of print capabilities with a laptop computer connected via a crossover cable using a standard print driver test page.

**Inclusions – Software:** Service calls required as a result of the failure of Toshiba software. Upgrades to Toshiba software are included.

**Service Availability:** Service calls performed during normal business hours, Monday through Friday, 8:00am to 5:00pm, excluding company holidays.

#### Exclusions:

1. Electrical work external to the equipment.
2. Charges to install or improve telephone lines.
3. Charges to improve electrical service and/or network lines.
4. Network wiring to improve or connect the hardware to a computer or network.
5. Service necessitated as a result of malfunction of equipment when unauthorized parts, attachments, or conflicting software is used with the equipment.
6. Service necessitated as a result of alterations, malfunctioning computer or network hardware and/or operating systems.

In such event, TBS reserves the right to terminate the maintenance contract if it is determined that such changes, alterations or malfunctions make it impractical to continue to service the equipment.

7. Reinstallation of drivers and/or installation of connected devices due to changes in computer and/or network operating systems, system configuration, addition/upgrades to application software or malfunction of devices.

8. Reinstallation/service required due to the relocation of equipment.

Excluded services will be invoiced to the Customer at TBS's normal hourly labor rate then in effect for Digital Systems Integration Services.

**REMOVAL REPORT****RR-2.0.0**

SALES PACKET NUMBER	DATE
	12/01/2021

Sales Representative: Lynn PeltierCustomer Name: SEAGOVILLE, CITY OF

This document must be completed and signed by both the customer and a Toshiba Business Solutions (TBS) representative prior to any removal and disposition of equipment from the customer's premises.

**EQUIPMENT DETAILS**

Physical Location: COURT CHAMBERS			
Address: 702 N HWY 175		Phone #: (972) 287-2050	Ext.      Fax #: () -
Address 2:		Contact: Liz Gant	
City: SEAGOVILLE	State: TX      Zip: 75159-1774	email: lgant@seagovillelibrary.org	
Leasing Company: Toshiba Financial Services	Lease #: 25476958	Make/Model: Toshiba e-STUDIO2518A	EOL Option: Declined
Removal Type: Upgrade	Disposition: Return to Lease Company	Serial #: SCGIG32564	EOL Charge:
Buyout Type: Upgrade to Return	Paid By:	Replaced By: Toshiba e-STUDIO2518A	

Physical Location: COURT ADMIN			
Address: 702 N HWY 175		Phone #: (972) 287-2050	Ext.      Fax #: () -
Address 2:		Contact: Liz Gant	
City: SEAGOVILLE	State: TX      Zip: 75159-1774	email: lgant@seagovillelibrary.org	
Leasing Company: Toshiba Financial Services	Lease #: 25476958	Make/Model: Toshiba e-STUDIO2518A	EOL Option: Declined
Removal Type: Upgrade	Disposition: Return to Lease Company	Serial #: SCGIG32577	EOL Charge:
Buyout Type: Upgrade to Return	Paid By:	Replaced By: Toshiba e-STUDIO2518A	

Physical Location: SENIOR CENTER			
Address: 304 EAST FARMERS RD		Phone #: (972) 287-2050	Ext.      Fax #: () -
Address 2:		Contact: Liz Gant	
City: SEAGOVILLE	State: TX      Zip: 75159-3012	email: lgant@seagovillelibrary.org	
Leasing Company: Toshiba Financial Services	Lease #: 25476958	Make/Model: Toshiba e-STUDIO2518A	EOL Option: Declined
Removal Type: Upgrade	Disposition: Return to Lease Company	Serial #: SCGIG32572	EOL Charge:
Buyout Type: Upgrade to Return	Paid By:	Replaced By: Toshiba e-STUDIO3518A	

Physical Location: SERVICE CENTER			
Address: 101 N WATSON STREET		Phone #: (972) 287-2050	Ext.      Fax #: () -
Address 2:		Contact: Liz Gant	
City: SEAGOVILLE	State: TX      Zip: 75159-3561	email: lgant@seagovillelibrary.org	
Leasing Company: Toshiba Financial Services	Lease #: 25476958	Make/Model: Toshiba e-STUDIO2518A	EOL Option: Declined
Removal Type: Upgrade	Disposition: Return to Lease Company	Serial #: SCGIG32629	EOL Charge:
Buyout Type: Upgrade to Return	Paid By:	Replaced By: Toshiba e-STUDIO2518A	

Special Instructions:	
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SEE ATTACHED REMOVAL REPORT SCHEDULE FOR ADDITIONAL REMOVED DEVICES

**Total End of Life Security Option Charges: \$0.00**

**DECLINATION**

Customer certifies that they have read the Security Options and that they have decided to decline all assistance from TBS regarding enhanced security on their copier/printer. TBS is under no obligation and has no liability concerning data security on said device. It is the Customer's sole and exclusive responsibility to assure that all data from all disk drives or magnetic media are erased prior to disposition of equipment.

Print Name:	Signature: X	Title:	Date:
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**CUSTOMER ACCEPTANCE**

You hereby acknowledge and agree that your electronic signature above shall constitute an enforceable and original signature for all purposes.  
By signing this agreement, the customer acknowledges that he/she has read and understood the statement of work and terms and conditions of this agreement.

Print Name:	Signature: X	Title:	Date:
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**TBS ACCEPTANCE**

Print Name:	Signature: X	Title:	Date:
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## TERMS AND CONDITIONS

### FOR ALL ITEMS WITH REMOVAL TYPE OF: CUSTOMER OWNED

The customer representative signed below attests that the above equipment is owned by the customer and is free and clear of any liens or encumbrances. Upon completion of the associated sale, the title and ownership of this equipment is transferred to TBS.

### FOR ALL ITEMS WITH A BUYOUT TYPE: PAID BY TBS TO CUSTOMER-AMOUNT TO BE PAID TO CUSTOMER \$0.00

The customer representative acknowledges that said equipment is leased and that the amount paid to customer and disposition, as indicated, of said equipment and its condition will fulfill its contractual obligations under the lease. If for any reason the amount paid to customer does not satisfy the contractual obligations, the customer assumes any remaining liability with the Leasing Company. It is the responsibility of the customer to provide return instructions. If said equipment cannot be returned until the end of the lease term, the customer must notify the Leasing Company in writing in accordance to the terms of the agreement prior to the end of the lease term. Failure to follow this disposition process could result in additional charges. Toshiba Business Solutions does not assume and will not be financially responsible for any lease renewal payments or additional fees or penalties incurred on the lease referenced above for any reason.

## EOL OPTION DEFINITIONS

Basic Security: Includes HDD data scrub to DOD standards (5220-22m), NVRAM and Fax Data Scrub, Reloading System Firmware.

Advanced Security: Includes removing and returning uncleansed HDD to customer, Installing new HDD, NVRAM and Fax Data Scrub, Reloading System Firmware.

Remove and Return: Includes removing and returning uncleansed HDD to customer. This option is only available on customer owned devices.

Optimal Security: Includes removal and destruction of HDD, Installing new HDD, NVRAM and Fax Data Scrub, Reloading System Firmware.

Declined: Customer has declined any assistance from TBS regarding their data and is solely responsible for data security.

No Hard Drive: The device has no hard drive.

Has Secure HDD: Removed device has built in data overwrite and Customer does not require scrubbing or removal

Sales Representative: Lynn Peltier

SALES PACKET NUMBER

DATE

12/01/2021

### EQUIPMENT DETAILS

Physical Location: LIBRARY			
Address: 702 N HWY 175		Phone #: (972) 287-2050	Ext. Fax #: () -
Address 2:		Contact: Liz Gant	
City: SEAGOVILLE	State: TX	Zip: 75159-1774	email: lgant@seagovillelibrary.org
Leasing Company: Toshiba Financial Services	Lease #: 25476958	Make/Model: Toshiba e-STUDIO3518A	EOL Option: Declined
Removal Type: Upgrade	Disposition: Return to Lease Company	Serial #: SCGFG19041	EOL Charge:
Buyout Type: Upgrade to Return	Paid By:	Replaced By: Toshiba e-STUDIO3518A	

Physical Location: POLICE DEPT			
Address: POLICE DEPARTMENT 600 N HWY 175		Phone #: (972) 287-2050	Ext. Fax #: () -
Address 2:		Contact: Liz Gant	
City: SEAGOVILLE	State: TX	Zip: 75159-1833	email: lgant@seagovillelibrary.org
Leasing Company: Toshiba Financial Services	Lease #: 25476958	Make/Model: Toshiba e-STUDIO5516AC	EOL Option: Declined
Removal Type: Upgrade	Disposition: Return to Lease Company	Serial #: SCHIG21673	EOL Charge:
Buyout Type: Upgrade to Return	Paid By:	Replaced By: Toshiba e-STUDIO5516AC	

Physical Location: CITY HALL			
Address: 702 N HWY 175		Phone #: (972) 287-2050	Ext. Fax #: () -
Address 2:		Contact: Liz Gant	
City: SEAGOVILLE	State: TX	Zip: 75159-1774	email: lgant@seagovillelibrary.org
Leasing Company: Toshiba Financial Services	Lease #: 25476958	Make/Model: Toshiba e-STUDIO5516AC	EOL Option: Declined
Removal Type: Upgrade	Disposition: Return to Lease Company	Serial #: SCHIG21682	EOL Charge:
Buyout Type: Upgrade to Return	Paid By:	Replaced By: Toshiba e-STUDIO5516AC	

Physical Location:			
Address:		Phone #:	Ext. Fax #:
Address 2:		Contact:	
City:	State:	Zip:	email:
Leasing Company:	Lease #:	Make/Model:	EOL Option:
Removal Type:	Disposition:	Serial #:	EOL Charge:
Buyout Type:	Paid By:	Replaced By:	

Physical Location:			
Address:		Phone #:	Ext. Fax #:
Address 2:		Contact:	
City:	State:	Zip:	email:
Leasing Company:	Lease #:	Make/Model:	EOL Option:
Removal Type:	Disposition:	Serial #:	EOL Charge:
Buyout Type:	Paid By:	Replaced By:	

Physical Location:			
Address:		Phone #:	Ext. Fax #:
Address 2:		Contact:	
City:	State:	Zip:	email:
Leasing Company:	Lease #:	Make/Model:	EOL Option:
Removal Type:	Disposition:	Serial #:	EOL Charge:
Buyout Type:	Paid By:	Replaced By:	

Physical Location:			
Address:		Phone #:	Ext. Fax #:
Address 2:		Contact:	
City:	State:	Zip:	email:
Leasing Company:	Lease #:	Make/Model:	EOL Option:
Removal Type:	Disposition:	Serial #:	EOL Charge:
Buyout Type:	Paid By:	Replaced By:	

# *Regular Session Agenda Item: 15*

**Meeting Date: December 6, 2021**

**ITEM DESCRIPTION:**

Receive Councilmember Reports/ Items of Community Interest

**BACKGROUND OF ISSUE:**

Section 551.0415 of the Texas Government Code authorizes a quorum of the governing body of a municipality or county to receive reports about items of community interest during a meeting without having given notice of the subject of the report if no action is taken. Section 551.0415 defines an “item of community interest” to include:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutory recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in status of a person’s public office or public employment is not an honorary or salutory recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

**FINANCIAL IMPACT:**

N/A

**RECOMMENDATION:**

N/A

**EXHIBITS:**

N/A

## ***Regular Session Agenda Item: 16***

**Meeting Date: December 6, 2021**

**ITEM DESCRIPTION:**

Future Agenda Items

**BACKGROUND OF ISSUE:**

Council provides direction to staff regarding future agenda items. These items will not be discussed and no action will be taken at this meeting.

**FINANCIAL IMPACT:**

N/A

**RECOMMENDATION:**

N/A

**EXHIBITS:**

N/A

## *Executive Session Agenda Item: 17*

**Meeting Date: December 6, 2021**

### **ITEM DESCRIPTION:**

#### **Recess into Executive Session**

**Council will recess into executive session pursuant to Texas Government Code:**

- A. § 551.071. Consultation with City Attorney: receive legal advice related the City of Seagoville obtaining Simonds Lake Park**

### **BACKGROUND OF ISSUE:**

N/A

### **FINANCIAL IMPACT:**

N/A

### **RECOMMENDATION:**

N/A

### **EXHIBITS:**

N/A

## *Executive Session Agenda Item: 18*

Meeting Date: December 6, 2021

### **ITEM DESCRIPTION:**

#### **Reconvene into Regular Session**

Council will reconvene into open session, and take action, if any, on matters discussed in Executive Session.

- A. § 551.071. Consultation with City Attorney: receive legal advice related the City of Seagoville obtaining Simonds Lake Park

### **BACKGROUND OF ISSUE:**

N/A

### **FINANCIAL IMPACT:**

N/A

### **RECOMMENDATION:**

N/A

### **EXHIBITS:**

N/A