

RESOLUTION APPROVING AN EXTENSION OF
THE TOWN CENTER OPTION AGREEMENT

WHEREAS, on behalf of the City of Virginia Beach (the “City”) and the City of Virginia Beach Development Authority (the “Authority”), the City Manager and City staff have engaged in extensive negotiations with representatives of Armada/Hoffler Development Company, L.L.C. and its affiliates, regarding the continued development of the Central Business District Project known as The Town Center of Virginia Beach (the “Project”);

WHEREAS, the Project is a development arrangement between the Authority and Town Center Associates, L.L.C. (the “Developer”), for a mixed-use commercial development, utilizing the structure of an economic development park in the B-3A Pembroke Central Business Core District. The area is zoned to optimize development potential for a mixed-use, pedestrian-oriented, urban activity center with mid-to-high-rise structures that contain numerous types of uses, including business, retail, residential, cultural, educational and other public and private uses;

WHEREAS, the Authority and the Developer have entered into an option agreement dated as of June 5, 2000 (the “Option Agreement”) setting forth the terms and conditions by which the Developer can acquire Authority-owned land for the Project (the “Option Land”);

WHEREAS, as set forth in the latest modification to the Option Agreement dated July 1, 2018, the Developer’s right to acquire the Option Land expires on April 30, 2021, and prior to such acquisition, the Developer must present an acceptable plan for development of the Option Land to the City Council and the Authority;

WHEREAS, the Developer has requested an extension of time to exercise its rights under the Option Agreement to April 30, 2024;

WHEREAS, the Authority is of the opinion that the requested extension will allow for the continued development of the Project consistent with the mission of the Authority; and

WHEREAS, the Authority’s approval of this extension is contingent on City Council adopting a similar resolution approving the requested extension.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY;

1. That the City of Virginia Beach Development Authority (the “Authority”) approves the execution of a modification of the Town Center of Virginia Beach Option Agreement between the Authority and Town Center Associates, L.L.C., so long as such modification is consistent with the Summary of Terms attached hereto as Exhibit A, and made a part hereof, and such other terms, conditions or modifications as may be acceptable to the Chair and in a form deemed satisfactory by the City Attorney.

2. This Resolution shall not be effective unless and until the City Council of the City of Virginia Beach has adopted a resolution approving the proposed modifications as reflected in this resolution.

Adopted by the City of Virginia Beach Development Authority, on the 20th day of April, 2021.



Secretary/Assistant Secretary

APPROVED AS TO CONTENT:



Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney

EXHIBIT A
SUMMARY OF TERMS
TOWN CENTER OPTION AGREEMENT

CURRENT TERMS:

Owner: City of Virginia Beach Development Authority (the “Authority”).

Option Holder: Town Center Associates, L.L.C. (“TCA”).

Option Land: Block 2 (former Beacon Site) / GPIN: 1477-45-7094

Option Fee: 1) Semi-annual fee equal to real estate taxes that would be payable if the Option Land was subject to taxation, and
2) Special fee equal to all of the Authority’s costs associated with the acquisition and operation of Block 2.

Purchase Price: Block 2: \$4,792,735

Term of Option: Option must be exercised by April 30, 2021

Conditions of Exercise: TCA can only exercise option if:

TCA has presented a plan for development of the Option Land to be acquired, which plan is acceptable to the Virginia Beach City Council (“City Council”) and the Authority

PROPOSED MODIFICATION:

Block 2: Term of Option extended by three years to April 30, 2024.

A RESOLUTION APPROVING THE AWARD OF
DISTRICT IMPROVEMENT PROGRAM GRANTS

WHEREAS, the District Improvement Program (the "Program") is designed to provide matching grants to small and locally owned and operated businesses located within the boundaries of Strategic Growth Areas, Special Economic Development Growth Areas, Suburban Focus Areas, or any other Council adopted or approved district in the City, or any valid business associations in the City of Virginia Beach (all the areas collectively the "Districts");

WHEREAS, on January 26, 2021, the City of Virginia Beach Development Authority (the "Authority") adopted the District Improvement Policy to govern the expenditures of funds appropriated for the Program (the "Resolution");

WHEREAS, the Program Requirements, Policies and Application Review is attached to the Resolution (the "Program Policy")

WHEREAS, the statutory authority of the Authority includes as a public purpose the promotion and encouragement of economic development;

WHEREAS, the Authority is authorized by statute to make Program grants to businesses in furtherance of its mission;

WHEREAS, the Authority began accepting and reviewing applications for the Program grant funds (each a "Grant" and collectively the "Grants") and desires to approve the first set of Grants under the Program, with the recipients and amounts of each Grant shown on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the Authority is of the opinion that the payment of the Grants will aid small businesses to make improvements consistent with the goals of the City. and promote the interests of the Authority.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY THAT:

1. The Authority makes the following findings with respect to each Grant:
 - a. That each recipient as shown on Exhibit A is eligible as set forth in Section B of the Program Policy.
 - b. That each recipient as shown on Exhibit A proposes to make improvements of the sort contemplated by Section C of the Program Policy.
 - c. That each Grant has been recommended by the Grant Review Committee established in the Program Policy.

d. That the animating purpose of each Grant is for the public purpose of promoting economic development, improving commercial districts, and supporting small businesses and employment opportunities in the City of Virginia Beach;

e. That the expenditure of such funds will only incidentally ensure to private interests, if at all; and

f. That the proposed provision of each Grant is in furtherance of the purposes for which the Authority was created.

2. That based on the above findings, the Authority hereby approves the Grants under the Program to the recipients and in the amounts as shown on Exhibit A.

3. The funds provided pursuant to this Resolution are to be used for expenses as set forth in each application and in a manner consistent with the requirements of the Policy.

4. The Grants are to be paid on a reimbursement basis after the Director of the Department of Economic Development (the "Director"), or his designee, has determined (i) that the improvements have been made as contemplated herein, (ii) that paid invoices and receipts document the amount expended on the improvements, and (iii) that the amount of the Grant is matched by additional unreimbursed expenditures on the improvements by the recipient.

5. Completion of the improvements and request for payment of each Grant must be made within six (6) months of the date of this Resolution or the Grant shall be terminated, unless the recipient requests an extension, in writing, which may be granted by the Director for up to an additional six (6) months.

6. The Chair or Vice Chair is authorized to execute any documents necessary to implement the Program, so long as such documents are acceptable to the Chair or Vice Chair and in a form deemed satisfactory by the City Attorney.

Adopted this 20th day of April, 2021, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

EXHIBIT A

	Project Address	Name	Council-Adopted District or Business Association Where the Project is Located	Company	Total Matching Grant Requesting from the City of Virginia Beach	Summary of request	Estimated total investment
1	3224 Atlantic Avenue Virginia Beach VA 23451	George Kotarides	Atlantic Avenue/Resort Area District	Virginia George Co., Inc. / Dough Boy's Pizza	\$10,000	New HVAC, Lighting and Air Curtain	\$25,291
2	3614 Atlantic Avenue Virginia Beach VA 23451	Jimmie Koch	Resort	Koch Development Corporation / Curry Sark Motel & Historic Cottages	\$10,000	White house new roof - \$8,100, Exterior Painting - \$9,000 Front porch pillars and Rails \$6,900	\$24,000
3	1618 Hilltop West Shopping Center Virginia beach VA 23451	Kyung Pasquale	SGA Hilltop area	Kyung Pasquale LLC (t/a Lee Pasquale Hair and Skin Salon)	\$10,000	Dryer - \$798, Washing Machine - \$798, Wallpapering - \$1500, Design fee - \$1000, Salon chairs, desk and equipment - \$29,303	\$32,699
4	2941 Shore Drive Virginia Beach VA 23451	John Maas	Shore Drive	Bay Billiards Inc (t/a Shorebreak Pizza & Taphouse)	\$10,000	Constructed outdoor fire pits and 720 sf patio space	\$52,395
5	609 19th Street Virginia Beach VA 23451	Stephanie Dietz	VIBE District	Pink Dinghy LLC	\$10,000	Construct outdoor patio	\$21,132
6	2014-2020 Atlantic Avenue Virginia Beach VA 23451	Jean-Paul Guilbaud	Resort District - Oceanfront	Kyrus-Perros LLC	\$10,000	Façade improvements, repairs and painting	\$20,150
7	2648 Virginia Beach Blvd	James Browning	Lynnhaven SGA	Kinetic Health, Inc	\$2,257	Elevation Treatment Table \$4,513	\$4,513
TOTAL					\$62,257		

A RESOLUTION APPROVING THE SALE
OF APPROXIMATELY 5.8 ACRES OF PROPERTY
LOCATED IN THE VIRGINIA BEACH BIO
INNOVATION PARK TO ASTURIAN GROUP,
INC.

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") is the owner of Virginia Beach Bio Innovation Park located at Princess Anne Commons in Virginia Beach, Virginia; and

WHEREAS, the Authority desires to sell an approximately 5.8 acres portion of GPIN: 1494-45-9345 located near the intersection of Princess Anne Road and Tournament Drive, as depicted on Exhibit A attached hereto (the "Property") to Asturian Group, Inc., a Virginia corporation, or an affiliated entity (the "Purchaser"), for a price of Five Hundred Thousand Dollars (\$500,0000, pursuant to a Purchase Agreement, the substantive terms of which are summarized on Exhibit B attached here;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The Chair or the Vice Chair of the Authority is hereby authorized to execute and deliver a Purchase Agreement with the Purchaser for the purchase of the Property on the terms outlined on Exhibit B, and such other terms and conditions as may be satisfactory to and approved by the Chair or the Vice Chair, the Director of the City of Virginia Beach Department of Economic Development and the City Attorney.

2. The Chair or the Vice Chair is hereby authorized to execute and deliver all such other documents and agreements and to take all such actions as such officers and City Attorney may deem necessary or desirable in connection with the sale of such Property.

Adopted this 20th day of April, 2021, by the City of Virginia Beach

Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney

EXHIBIT B

Summary of Terms

Parcel: Approximately 5.8 acres, GPIN 1494-45-9345, located in the Innovation Park bordered by Princess Anne Road and Tournament Drive.

**Owner/
Seller:** The City of Virginia Beach Development Authority.

**Purchaser/
Developer:** A limited liability company to be formed controlled by the principals of Asturian Group, Inc.

**Purchase
Price:** \$500,000, subject to the Credit, defined below.

**Due
Diligence:** Purchaser to have 120 days from execution of purchase agreement to access Property for purpose of conducting studies and other due diligence.

Closing: Sixty (60) days from expiration of due diligence period (120 days). Either party may terminate if closing has not occurred by December 31, 2021.

**Existing
Conditions:** Property is located in the Interfacility Traffic Area (ITA). Proffers recorded in the Virginia Beach Circuit Court Clerk's Office as Instruments 20090211000133710, 20140620000556310 and 20170120000055640, and all easements of record. Property must also be developed in a manner consistent with the Design and Development Guidelines- Princess Anne Commons Biomedical Park, November 2016.

Access off Tournament Drive. No new access off Princess Anne Road to be granted.

Use: Developer proposes to construct its headquarters facility. The property will not be used for the outdoor storage of construction equipment.

**Infrastructure/
Stormwater:** Developer shall be responsible for all infrastructure (including stormwater), utility, sitework and environmental expenses associated with the development of the Parcel (the "Sitework"). The parties agree that Owner will allow Developer to construct stormwater facilities across Tournament Drive on property also owned by Owner (the "Offsite Facilities"). On completion, the Offsite Facilities will be dedicated to Owner but available for use by Purchaser. The cost of the offsite facilities will be part of the Sitework.

Special
Terms:

The Credit. Owner to grant a credit against the purchase price up to \$500,000 for costs associated with the Sitework.

Spoil Disposal. Purchaser to have the right to dispose of spoils from the Offsite Sitework on the property owned by Owner immediately to the west of the location of the Offsite Sitework as agreed by the parties so long as such disposal (i) only occurs in non-wetlands, and (ii) the spoils are graded (not piled) and seeded.

~~Possible Cost Participation. Should the cost of the Sitework exceed \$500,000 and the Director of Economic Development determine that the Sitework (including the Offsite Sitework) will provide a general benefit to the Innovation Park, Owner will consider a request from Purchaser to cost participate in elements of the Sitework. Approval of a request is not an entitlement and will be subject to available funds for such a purpose, and to an additional vote of the Owner.~~

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A RESOLUTION APPROVING AN OPTION FOR
THE SALE OF APPROXIMATELY 4 ACRES OF
PROPERTY LOCATED IN THE CORPORATE
LANDING BUSINESS PARK TO SIMIS HOLDINGS,
LLC

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") is the owner of Corporate Landing Business Park in Virginia Beach, Virginia;

WHEREAS, SimIS Holdings, LLC, a Virginia limited liability company (the "Purchaser") has approached staff about acquiring an option for certain property in the Corporate Landing Business Park for a potential project;

WHEREAS, the Authority has agreed to grant an option (the "Option") to Purchaser to acquire a portion of GPIN: 2415-27-7788, consisting of approximately 4 acres of land, located on Corporate Landing Parkway in the City of Virginia Beach, Virginia, as shown on Exhibit B attached hereto (the "Property");

WHEREAS, the terms for the exercise of the Option are summarized on the Summary of Terms, attached hereto as Exhibit A; and

WHEREAS, the Authority is of the opinion that granting the Option will promote the continued development of the Corporate Landing Business Park and is in the Authority's best interests.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The Chair or the Vice Chair of the Authority is hereby authorized to execute and deliver an agreement granting an Option to purchase the Property on the terms outlined on

Exhibit A, and such other terms and conditions as may be satisfactory to and approved by the Chair or the Vice Chair, the Director of the City of Virginia Beach Department of Economic Development and the City Attorney.

2. The Chair or the Vice Chair is hereby authorized to execute and deliver all such other documents and agreements and to take all such actions as such officers and City Attorney may deem necessary or desirable in connection with the sale of such Property.

Adopted this 20th day of April, 2021, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:

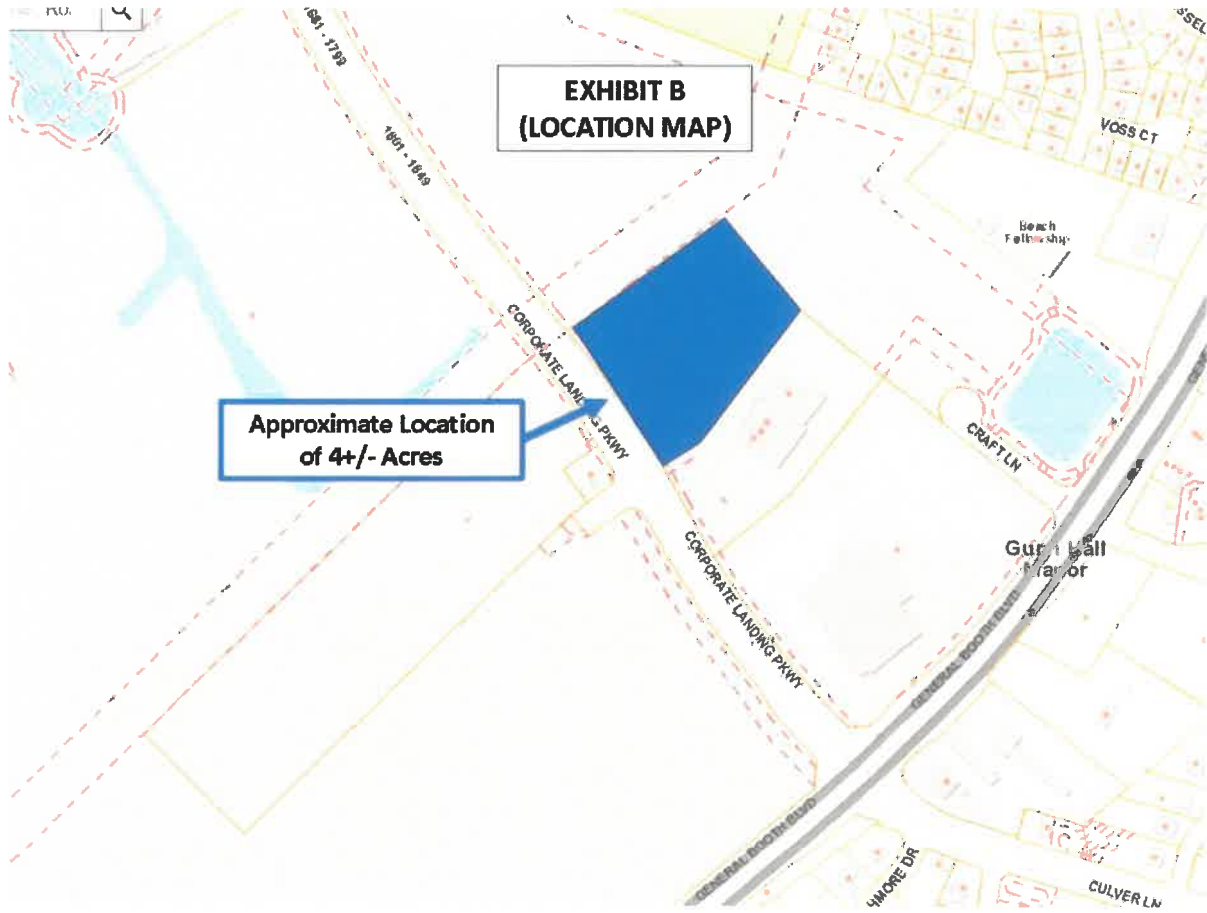

City Attorney

EXHIBIT A

SUMMARY OF TERMS

OPTIONEE: (Purchaser)	SimIS Holding, LLC, a Virginia limited liability company, or a related entity (“SimIS”)
OPTIONOR (Landowner):	The City of Virginia Beach Development Authority, a political subdivision of the Commonwealth of Virginia
OPTION PARCEL:	An approximately 4-acre portion of GPIN: 2415-22-7788 (Corporate Landing Business Park) as shown on <u>Exhibit B</u> .
OPTION TERM:	Initial term of one (1) year, with one (1) year extension at the option of SimIS. Otherwise, any extension shall be by mutual agreement of both parties.
OPTION FEE:	\$20,000 for the first year and, if exercised, \$25,000 for the one-year extension. Option Fee to be non-refundable if Option is terminated without purchase of the Option Parcel. Option Fee shall be applied against purchase price if the Option Parcel is acquired by SimiS.
PURCHASE PRICE:	\$200,000 per useable acre.
USE:	Anticipated use is for a data center.
COVENANTS & RESTRICTIONS:	Declaration of Protective Provisions and Covenants for Corporate Landing; Corporate Landing Design Criteria for the Business Park; Declaration of Easements; any other covenants, restrictions, and agreements of record.
REAL ESTATE COMMISSION:	N/A

EXHIBIT B



A RESOLUTION APPROVING THE PROVISION
OF \$600,000 IN ECONOMIC DEVELOPMENT
INVESTMENT PROGRAM FUNDS TO
SUNNY FARMS, L.L.C.

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act");

WHEREAS, one of the primary purposes of the Act is to enable development authorities "to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth....";

WHEREAS, pursuant to §6 of the Act, the Authority has the power, *inter alia*, "to sell, exchange, donate and convey any or all of its facilities or other properties whether realty or personalty whenever the Authority shall find any such action to be in furtherance of the purposes for which the Authority was organized";

WHEREAS, pursuant to §7 of the Act, "the Authority may foster and stimulate the development of industry in the area within its jurisdiction... [and] may accept, and expend for the purposes stated above, money from any public or private source....";

WHEREAS, pursuant to §10 of the Act, the City of Virginia Beach (the "City") "is authorized and empowered to make appropriations and to provide funds for the operation of the Authority and to further its purposes";

WHEREAS, the economic development goals and objectives of the City include achieving a higher ratio of nonresidential to residential real estate assessments, investing in land and infrastructure to benefit future economic growth, and maximizing the return of economic development efforts through the development and implementation of programs and strategies that facilitate new business investment and encourage retention and expansion activities, thereby improving the overall quality of life in the City;

WHEREAS, the City established the Economic Development Investment Program ("EDIP") as part of its overall effort to enhance the City's ability to accomplish these goals and objectives;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, City Council authorized the transfer of funds in the EDIP account to the Authority and the provision of future EDIP appropriations to the Authority to enable the Authority to more effectively continue its efforts to foster and stimulate economic development by inducing businesses to locate or remain in the City;

WHEREAS, the Department of Economic Development (the "Department"), acting on behalf of the Authority, has induced Sunny Farms, L.L.C., a Virginia limited liability company (the "Recipient"), to locate its operations at GPIN 2415-08-2343 off Harpers Road in the City of Virginia Beach (the "Property");

WHEREAS, the inducement includes an agreement to recommend the award to Recipient of \$600,000 in EDIP funds to underwrite a portion of costs associated with the location of the Recipient's operation at the Property;

WHEREAS, Recipient has represented in its application and the Director of Economic Development (the "Director"), upon review of the application submitted by Recipient, has determined and has advised the Authority it will meet at least one of the following performance criteria (the "Performance Criteria") within thirty-six (36) months after the date of this Resolution.

- (a) Tax Revenues: The net amount of direct tax revenues returned to the City as a result of the Recipient's operation will exceed the amount of EDIP Funds provided in thirty-six (36) months; and/or
- (b) Capital Investment: For every one dollar (\$1) of EDIP funds received, Recipient shall make a new capital investment of at least One Hundred Dollars (\$100); and/or
- (c) Employment Opportunity: For every three thousand dollars (\$3,000) of EDIP funds received, Recipient will create one (1) new "full-time equivalent" employment opportunity in its operation with an average annual salary of \$50,001 to \$75,000, excluding benefits.

WHEREAS, the Director of Economic Development, upon review of the application submitted by Recipient, has determined and has advised the Authority that one or more of the following criteria has been met: (i) the net amount of direct tax revenues returned to the City as a result of Recipient's operation will exceed the amount of EDIP funds provided in thirty-six (36) months, (ii) for every one dollar (\$1) in EDIP funds provided, Recipient will spend at least one hundred dollars (\$100) in new capital investment, and/or (iii) every three thousand dollars (\$3,000) in EDIP funds provided to the Recipient will create at least one (1) new "full-time equivalent" employment opportunity in its operation, with an average annual salary of \$50,001 to \$75,000, excluding benefits.

WHEREAS, in addition to the EDIP funds provided in this Resolution, Recipient is expected to receive a grant of \$600,000 from the Commonwealth Opportunity Fund (the "COF Grant"), and an additional grant of \$100,000 from the Governor's Agricultural & Forestry Industries Development Fund (the "AFID Grant"), and collectively with the COF Grant, the "Commonwealth Grants"); and

WHEREAS, as a condition to receipt of the Commonwealth Grants, the City of Virginia Beach, Authority and Recipient are required to enter into Performance Agreements for the local administration of the COF Grant and the AFID Grant.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. That the Authority hereby finds:
 - a. that the provision of \$600,000 in EDIP funds to Sunny Farms, L.L.C., a Virginia limited liability company (the "Recipient") will primarily serve the valid public purpose of fostering and stimulating economic development in the City; and
 - b. that the provision of the EDIP funds is in furtherance of the purposes for which the Authority was created; and
 - c. that it is unlikely the Recipient would locate its operations within the City without the stimulus of the EDIP award.

2. That the Authority hereby further finds that, based on the direct benefits to the City of Virginia Beach and its citizens resulting from the capital investment and employment opportunities to be generated by the Recipient as a result of its proposed location in Virginia Beach, the provision of \$600,000 in EDIP funds to the Recipient will only incidentally enure to the benefit of private interests.

3. That as of the date of this Resolution, the Recipient has not yet commenced construction of the proposed improvements.

4. That based on these findings, the Authority hereby approves the provision of \$600,000 in EDIP funds to the Recipient to underwrite a portion of the costs associated with the establishment of the Recipient's operations in Virginia Beach.

5. That disbursement of EDIP Funds by the Authority shall be at the discretion of the Director of the Department of Economic Development of the City of Virginia Beach or his designee (the "Director"), who shall be authorized to require appropriate verification as to qualifying expenditures.

6. That disbursement of EDIP funds to the Recipient shall be on a pro-rata reimbursement basis upon presentation of original receipts for qualifying expenditures to the Director. At the sole discretion of the Director, disbursement may not be prior to the completion of the Performance Criteria. Disbursement of EDIP funds shall be from time to time, but not more frequently than once per month, until fully expended.

7. As a further condition of receiving the EDIP Funds, the Recipient shall conduct operations in the New Locations (or such other locations in the City of Virginia Beach as may be agreed to by the Authority, including an Existing Location for which funds are awarded) for a minimum of five (5) years from the time of this award. Even if the requirement of paragraph 1 is met, for each year less than five that the Recipient conducts operations at the Property (or other agreed to location) upon written request from the Authority, the Recipient shall pay to the Authority, as EDIP recapture and not as a penalty, one-fifth (1/5) of the amount of the EDIP Funds provided. Such amount shall be paid within fifteen (15) business days after

receipt of request from the Authority, and if not paid by such date, the amount due will bear interest at the rate of ten percent (10%) per annum from such date until paid, and such interest shall be payable by the Recipient in addition to the amount due as calculated above.

8. The Authority may terminate this award and decline to pay any unpaid funds if the Recipient has not satisfied the Performance Criteria and requested the full \$600,000 within thirty-six (36) months of the date of this Resolution.

9. The Chair or Vice-Chair are hereby authorized to execute any documents relating to the COF Grant to which the Authority is a necessary party so long as such agreements are in a form deemed acceptable by the Chair or Vice Chair and the City Attorney.

Adopted this 20th day of April, 2021 by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary / Assistant Secretary

APPROVED AS TO CONTENT


Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:


City Attorney

A RESOLUTION EXTENDING THE TIME TO
MEET THE PERFORMANCE CRITERIA FOR
THE 2017 ECONOMIC DEVELOPMENT
INVESTMENT PROGRAM GRANT AWARDED
TO DAO EMERGING TECHNOLOGIES, INC.

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act");

WHEREAS, one of the primary purposes of the Act is to enable development authorities "to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth...";

WHEREAS, pursuant to §6 of the Act, the Authority has the power, *inter alia*, "to sell, exchange, donate and convey any or all of its facilities or other properties whether realty or personalty whenever the Authority shall find any such action to be in furtherance of the purposes for which the Authority was organized";

WHEREAS, pursuant to §7 of the Act, "the Authority may foster and stimulate the development of industry in the area within its jurisdiction... [and] may accept, and expend for the purposes stated above, money from any public or private source...";

WHEREAS, pursuant to §10 of the Act, the City of Virginia Beach (the "City") "is authorized and empowered to make appropriations and to provide funds for the operation of the Authority and to further its purposes";

WHEREAS, the economic development goals and objectives of the City include achieving a higher ratio of nonresidential to residential real estate assessments, investing in land and infrastructure to benefit future economic growth, and maximizing the return of economic development efforts through the development and implementation of programs and strategies that facilitate new business investment and encourage retention and expansion activities, thereby improving the overall quality of life in the City;

WHEREAS, the City established the Economic Development Investment Program ("EDIP") as part of its overall effort to enhance the City's ability to accomplish these goals and objectives;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, City Council authorized the transfer of funds in the EDIP account to the Authority and the provision of future EDIP appropriations to the Authority to enable the Authority to more effectively continue its efforts to foster and stimulate economic development by inducing businesses to locate or remain in the City;

WHEREAS, on April 18, 2017, the Authority approved a resolution (the "2017 Resolution") awarding up to One Hundred Thousand Dollars (\$100,000) to DAO Emerging Technologies, Inc., a New Hampshire corporation, authorized to transact business in the Commonwealth of Virginia (the "Recipient"), to expand its business at 945 Seahawk Circle, Virginia Beach, Virginia (the "Property");

WHEREAS, as set forth in the 2017 Resolution, to qualify for the entire \$100,000 award, the Recipient was required to meet the following performance criteria (the "Performance Criteria") within forty-eight (48) months after the date of the 2017 Resolution:

- (a) Tax Revenues: The net amount of direct tax revenues returned to the City as a result of the Recipient's operation will exceed the amount of EDIP Funds provided within forty-eight (48) months; or
- (b) Capital Investment: For every dollar of EDIP funds received, Recipient shall make a new capital investment of at least \$10.50.

WHEREAS, due to unforeseen economic circumstances, the Recipient has not satisfied the Performance Criteria within the original forty-eight (48) months and has requested an extension of time to perform,

WHEREAS, staff has informed the Authority that the Recipient has made a good faith effort to comply fully with the Performance Criteria and has recommended an extension of time to satisfy the Performance Criteria, and

WHEREAS, the Authority believes an extension of time is consistent with the mission of the Authority and will further economic development in the City of Virginia Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

The Authority hereby extends the time for DAO Emerging Technologies, Inc., a New Hampshire corporation, authorized to transact business in the Commonwealth of Virginia, to satisfy the Performance Criteria set forth above until April 20, 2022. All other terms and conditions of the 2017 Resolution shall remain unchanged.

Adopted this 20th day of April, 2021, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

Approved as to Content:


Economic Development

By: 
Secretary Assistant Secretary

Approved as to Legal Sufficiency:


City Attorney