



Notice of Intent to Mexico  
Pursuant to Chapter Eleven of the  
North American Free Trade Agreement

September 4<sup>th</sup>, 2020

Via Electronic Mail and Hand Delivery

**Honorable Andrés Manuel López Obrador**  
Presidente de los Estados Unidos de México  
Palacio Nacional, Edificio 10, Colonia Centro, 06060 Cuauhtémoc, CDMX, México

**Honorable Dr. Graciela Márquez Colín** ✓  
Secretaria de Economía  
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**Honorable Dr. Luz María de la Mora Sánchez**  
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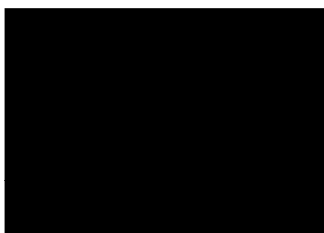
**Dirección General de Inversión Extranjera**  
Secretaría de Economía  
Av. De los Insurgentes Sur 1940, Colonia La Florida, CDMX, México



**Re: Notice of Intent to Submit Claims to Arbitration Pursuant to Chapter Eleven of the North American Free Trade Agreement between the United Mexican States, Canada, and the United States of America (“Notice of Intent”)**

Dear Sirs and Mesdames:

Pursuant to Articles 1116, 1119, and 1120 of Chapter Eleven of the North American Free Trade Agreement between the United Mexican States (the “State” or “Mexico”), Canada, and the United States of America, signed on December 17<sup>th</sup>, 1992 and entered into force on January 1<sup>st</sup>, 1994 (the “Treaty”), Sepadeve International LLC, (“Sepadeve” or the “Investor”), a Limited Liability Company incorporated under the laws of [REDACTED], United States of America, and a foreign investor in the State, provides the State with this Notice of Intent (“NOI”) to submit to arbitration a claim against the State for breach of its obligations under the Treaty.





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By virtue of the foregoing, and notwithstanding the replacement of the Treaty by the Trade Agreement between the United States of America, the United Mexican States and Canada ("T-MEC") which came into effect on June 30th, 2020, this NOI is soundly based on the rules of the aforementioned Treaty per chapter 14 Annex 14-C article 1 and 3 of the T-MEC, which stipulates the transition for existing and pending investment claims and establishing that all investment claims that arose in a period of three years counted from the date on which the Treaty has ceased to be in force, may continue to be substantiated under the provisions of chapter XI of such Treaty.

**I. Name and Address of the Investor**

1. Sepadeve is an investor incorporated under the laws of [REDACTED] United States, and a foreign investor in the State. Sepadeve's contact information is as follows:

**Sepadeve International LLC**



**II. Legal Representative and Service of Documents**

2. Sepadeve is represented in this matter by [REDACTED] Please direct all correspondence and communications related to this matter to [REDACTED] and/or [REDACTED] to the following address:

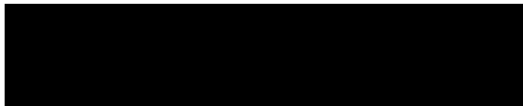


**III. Service**

3. This Notice of Intent is submitted to:

**Honorable Andrés Manuel López Obrador**  
Presidente de los Estados Unidos de México  
Palacio Nacional, Edificio 10, Colonia Centro, 06060 Cuauhtémoc, CDMX, México





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**IV. Investment in the State**

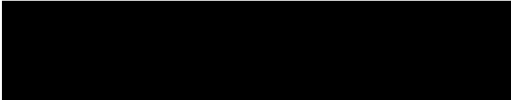
4. Sepadeve has the following investment in the State, consisting of: (i) [REDACTED] % of direct interest in Urbipark, S.A.P.I. de C.V. ("**Urbipark**"), a company duly incorporated in Mexico; and (ii) the Revocable Temporary Administrative Permit (*Permiso Administrativo Temporal Revocable*, "**PATR**" by its Spanish acronym) identified by the numbers: [REDACTED]<sup>1</sup> and [REDACTED]<sup>2</sup> (jointly, the "**Permits**") granted by Mexico City's Mayor's Office, through the Ministry of Urban Development and Housing (*Secretaría de Desarrollo Urbano y Vivienda*, commonly referred to as "**SEDUVI**" per its acronym in Spanish) to Urbipark on [REDACTED], [REDACTED], [REDACTED], respectively, for the use and exploitation of public spaces for vehicle parking on the public streets (together the "**Investment**"<sup>3</sup>).

<sup>1</sup>See Exhibit 1 (Permit [REDACTED]).

<sup>2</sup>See Exhibit 2 (Permit [REDACTED]).

<sup>3</sup>See Exhibit 3 for a general description of the economic rights granted in favor of the Investor in the Permits.





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**V. Breached Treaty Provisions**

5. The State has breached its obligations under the following provisions of Chapter Eleven of the Treaty:
- a. Article 1102, National Treatment,
  - b. Article 1103, Most-Favored-Nation Treatment,
  - c. Article 1105, Minimum Standard of Treatment, and
  - d. Article 1110, Expropriation and Compensation.

**VI. Factual Basis for the Claim**

**A. Jurisdiction**

6. First, Article 1139 of the Treaty defines “investor of a Party” as a “national or an enterprise of such Party, that seeks to make, is making or has made an investment”. In this regard, Sepadeve is a United States of America company that has made an investment in Mexico, and consequently an investor under the Treaty, bringing this claim on its own behalf, pursuant to Article 1116 of the Treaty.<sup>4</sup>
7. Second, pursuant to Article 1139 of the Treaty, “investment” means: “(a) an enterprise; (b) an equity security of an enterprise; (...) (e) an interest in an enterprise that entitles the owner to share in income or profits of the enterprise; (...) (g) real estate or other property, tangible or intangible, acquired in the expectation or used for the purpose of economic benefit or other business purposes; and (h) interests arising from the commitment of capital or other resources in the territory of a Party to participate in economic activity in such territory, such as under (i) contracts involving the presence of an investor’s property in the territory of the Party, including turnkey or construction contracts or concessions, or (ii) contracts where the remuneration depends substantially on the production, revenues or profits of an enterprise”. As a result of Sepadeve’s [REDACTED] % interest in Urbipark and as holder of the Permits, Sepadeve has an investment under Article 1139, sections (a), (b), (e), (g) and (h) of the Treaty.
8. Finally, the State has consented to submit this dispute to arbitration under Article 1122 of the Treaty.

<sup>4</sup> See Exhibit 4 (Sepadeve International LLC’s Certificate of Incorporation under the laws of [REDACTED] United States).



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**B. Factual Background**

9. In accordance to, and compliant with the requirements established in the articles 105, 106, 107 and 108 of the Law of the Patrimonial and Public Service Regime of Mexico City, on [REDACTED], Urbipark, a U.S. wholly owned entity, requested a PATR to the Government of Mexico City, for the use and exploitation of public spaces for vehicle parking on public streets in the municipality of Azcapotzalco, Mexico City, in the area with following boundaries: to the North by Eje 4 Norte Antigua, to the East by Calzada Azcapotzalco la Villa, to the South by Eje 3 Norte Calzada Camarones and Eje 3 Norte Manuel Acuña, and to the West by Avenida FF.CC. Nacionales (the "First Area").
10. In addition [REDACTED], Urbipark submitted a separate request for a PATR with the same purpose, except that this PATR would apply to an area located in the municipality of Cuauhtémoc in an area with the following boundaries: to the North by Doctor Liceaga and Lucas Aleman, to the East by Calzada San Antonio Abad, to the South by Viaducto Miguel Alemán, and to the West by Eje 1 Poniente Avenida Cuauhtémoc (the "Second Area" and jointly with the First Area, the "Urbipark Parking Area").
11. In order to comply with the requirements to obtain the PATRs, on [REDACTED], Urbipark requested to the Executive Office for Real Estate Inventory and Information Systems (*Dirección General de Inventario Inmobiliario y Sistemas de la Información*) to provide information regarding the land tenure in the applicable areas of Azcapotzalco and Cuauhtémoc where the Urbipark Parking Area was located. The response to such request stated that such areas were owned and occupied by the Federal District (*Distrito Federal*, now Mexico City), which was a requirement for the feasibility of the requested Permits. Attached to this NOI as Exhibit <sup>5</sup>, is the response issued by the Executive Office for Real Estate Inventory and Information Systems.
12. Additionally, [REDACTED] Urbipark requested to the Executive Office of Real Estate Assets (*Dirección General de Patrimonio Inmobiliario*), to issue an opinion regarding the legal and technical feasibility of granting the PATRs requested by Urbipark. The opinion received by the Executive Office of Real Estate Assets was favorable for both First Area and Second Area. Attached to this NOI as Exhibit <sup>6</sup>, is the opinion issued by the Executive Office of Real Estate Assets.
13. On [REDACTED] the requests for PATRs described in paragraphs 9. and 10. of this Section B. Factual Background, were duly approved by the Real Estate Committee (*Comité de Patrimonio Inmobiliario*) during its [REDACTED] held on [REDACTED], as Urbipark

<sup>5</sup> See Exhibit 5 response issued by the Executive Office for Real Estate Inventory and Information Systems.

<sup>6</sup> See Exhibit 6 opinion issued by the Executive Office of Real Estate Assets.

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complied with all of the legal and technical requirements as dictated by the competent Mexican authorities . Attached to this NOI as Exhibit<sup>7</sup>, are the approvals issued by the Real Estate Committee.

14. On [REDACTED], Urbipark was awarded with the PATR identified by the number [REDACTED] granted by Mexico City's Mayor's Office, through SEDUVI for the use and exploitation of public spaces for vehicle parking on the public streets in the First Area. Likewise, on [REDACTED], [REDACTED], Urbipark was awarded the PATR identified by the number [REDACTED] granted by Mexico City's Mayor's Office, through SEDUVI, for the use and exploitation of public spaces for vehicle parking on the public streets in the Second Area. SEDUVI awarded both of the PATRs based on the regulations that were published in the Official Gazette dated October 11<sup>th</sup>, 2011 and were in effect until August 2<sup>nd</sup>, 2017, date whereby the administrative powers were transferred by decree to SEMOVI.
15. On March 9<sup>th</sup>, 2017, the "Decree amending and adding various provisions of the Organic Law of the Public Administration of the Federal District and the Law on Mobility of the Federal District" (*Decreto por el que se reforman y adicionan diversas disposiciones de la Ley Orgánica de la Administración Pública del Distrito Federal y de la Ley de Movilidad del Distrito Federal*) was published in Mexico City's Official Gazette, which established that the Mexico City Mobility Secretary (*Secretaría de Movilidad*, commonly referred to as "**SEMOVI**" per its acronym in Spanish), assumed the authority and functions performed by SEDUVI and the Public Space Authority (*Autoridad del Espacio Público*) in everything related to the control for use and exploitation of public spaces for vehicle parking on public streets.
16. On November 30<sup>th</sup>, 2017, SEMOVI published in Mexico City's Official Gazette a Declaration of Necessity to Implement Control, Supervision and Payment Systems for On-Street Vehicle Parking ("**Declaration of Necessity**"). Such Declaration of Necessity unilaterally modified Urbipark's rights under the Permits, among other things, establishing a new legal frame applicable to all PATRs. Under the Declaration of Necessity, all PATRs (and, consequently, the Permits) were to be replaced mandatorily with a concession to be granted according to the new requirements and per Mexico City's new regulations, as established on the Declaration of Necessity. Attached to this NOI as Exhibit<sup>8</sup> is a copy of the Declaration of Necessity.
17. According to the above, on the Considerations section of the Declaration of Necessity, it is stated that "*...there are various Revocable Temporary Administrative Permits granted to private parties for the use and exploitation of certain public spaces for vehicle parking on the public streets in certain areas of Mexico City, which to this date operate on the Non Negotiable Basis provided in*

<sup>7</sup> See Exhibit 7 approvals issued by the Real Estate Committee.

<sup>8</sup> See Exhibit 8 Declaration of Necessity.



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*such administrative acts, which require to be updated in accordance to the desired concession and the legal concepts set forth in the new Guidelines for Vehicle Parking Control on Mexico City's Public Streets (Reglamento para el Control de Estacionamiento en la Vía Pública de la Ciudad de México)."*

18. To comply with the transition from PATR to the concession program mentioned in #16, and as per the fifth and sixth articles of the Declaration of Necessity, acknowledging the right on behalf of parties who are or have been holders of such PATRs to transition to a concession, the existing PATRs granted for the use and exploitation of public spaces for vehicle on street public parking, must request the transition to a concession. Additionally, the second transitory article of the Declaration of Necessity stated that "the current holders of Revocable Temporary Administrative Permits and/or Concessions for the use and exploitation of public spaces for vehicle parking on public streets in certain areas of Mexico City, who voluntarily choose to transition to concessions, must file their request to SEMOVI within 5 days, and must prove that they have resigned their Temporary Revocable Administrative Authorization."
19. With the purpose to transition the Permits into concessions and to comply with the new requirements established in the Declaration of Necessity, on December 7<sup>th</sup>, 2017, Urbipark conditionally resigned the Permits, requesting their conversion into concessions for the use and exploitation of public spaces for vehicle parking on public streets in [REDACTED], Mexico City.
20. Having satisfied all the requirements established by the Declaration of Necessity, as well as the legal requirements contained in the Regulations for the Control of Parking in Public Spaces of Mexico City" (*Reglamento para el control de estacionamiento en la vía pública de la Ciudad de México*), published on August 02, 2017 and by SEMOVI in due time and form, Urbipark was legally entitled to transition its Permits into concessions. Said transition has not occurred despite recurring and consistent efforts and requests by Urbipark. SEMOVI has failed to comply with the provisions of the Declaration of Necessity in question, depriving Urbipark of its rights to use and exploit its legally granted Permits.
21. Furthermore, it is important to emphasize that all Mexican government authorities in any area of competence, must act in a diligent, effective, and efficient manner and with strict observance and adherence of the relevant international treaties, its Constitution, federal, state and/or local laws, regulations, and any other applicable legal policies. Government authorities must also comply with the "principle of legality" which clearly establishes and requires that any and all acts of authority performed by the Mexican Government, at any of its levels, must be done following the provisions of applicable laws, regulations and treaties to which the Mexican Government is bound so as to avoid undue prejudice and unlawful consequences against the receivers of such acts. Therefore, the State, by means of SEMOVI, among other things, violated the principle of legality, by not complying with



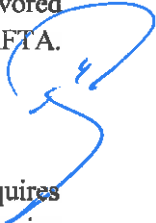
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the obligations stipulated in the regulations found in the Declaration of Necessity and in international treaties, NAFTA in this specific instance.

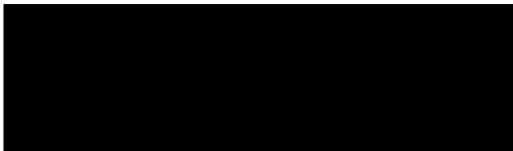
- 22. Additionally, on the matter of the principle of legality, SEMOVI has the obligation to duly justify and legally substantiate its acts and/or omissions. Consequently, it is clear that this obligation was not complied with nor followed by SEMOVI as it did not justify its omission nor did it comply with its legal obligation to issue the concession titles for the use and exploitation of public spaces for vehicle parking on public streets in Azcapotzalco and Cuauhtémoc, Mexico City in favor of Urbipark, as clearly stated in the Declaration of Necessity. Thus, creating great prejudice against Urbipark's economic interests and its rights under the Permits.
- 23. Lastly, the State, by means of SEMOVI, violated Urbipark's right to "legal certainty" ("*seguridad jurídica*"), which consists of the ability of an affected party to know and to have certainty about its legal status in a specific case or procedure, and the ability of the affected party, to safeguard its rights and interests as stipulated by law. Legal certainty also provides the affected party with the certainty that their legal status will not be modified, except by regular and previously established legal procedures (commonly known as a guarantee of due process of law). In Urbipark's case, SEMOVI's omission to convert Urbipark's Permits into concession titles for the use and exploitation of public spaces for vehicle parking on public streets in Azcapotzalco and Cuauhtémoc, Mexico City, as stated in the Declaration of Necessity, without any legal basis or justification, violates Urbipark's right to legal certainty resulting in discriminatory treatment of the Investor while also violating most favored nation treatment, both of which are stated as guarantees and protections for investors under NAFTA.

**C. Basis for the Investor's Claim**

- 24. **Minimum Standard of Treatment:** The State violated Article 1105 of the Treaty, which requires the State to treat investors fairly and equitably. The fair and equitable treatment standard contains the broadest substantive notions of good governance and the rule of law as expressed in terms of stability, transparency, and predictability. It also includes notions of protection of legitimate expectations, due process, freedom from discrimination, and freedom from coercion and harassment. The State violated Article 1105 through several discriminatory and arbitrary acts, which include SEMOVI's failure to comply with its obligations to respond to the Urbipark's requests regarding the Declaration of Necessity. Consequently, Mexico frustrated the Investor's legitimate expectations to update its Permits into concessions, so as to recover its Investment.
- 25. **National Treatment and Most-Favored-Nation Treatment:** The State violated Articles 1102 (National Treatment) and 1103 (Most-Favored-Nation Treatment) by breaching its obligations to the Investor, an American national, by treating the Investor differently when compared to the State's nationals and to investors of other States.







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26. **Expropriation and Compensation:** The State violated Article 1110 of the Treaty, by expropriating the Investor's rights under the Permits without a just compensation, considering a fair market value of the expropriated rights and going concern value, as stated below.



Article 1110 Expropriation and Compensation  
1. No Party may directly or indirectly expropriate or nationalize an investment in the territory of another Party or its territory in order to withdraw substantially all benefits from an investment in such an investment, expropriation, or nationalization.  
(1) In a public interest.  
(2) In a just compensation basis.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (date of expropriation), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared fair value of tangible property, and other criteria, as appropriate, to determine fair market value.

1. Compensation shall be made immediately and in full.  
2. If payment is made in installments, compensation shall include interest at a commercially reasonable rate for the period from the date of expropriation until the date of final payment.

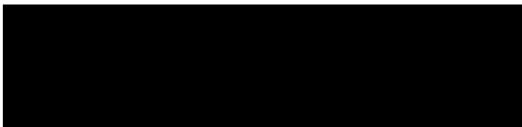
**VII. Relief Sought and Damages Claimed**

27. Given the State's evident and egregious violations of its Treaty obligations, the Investor has suffered and continues to incur significant financial damage for which the State must be held responsible. The Investor seeks full and fair market value compensation for the losses and other injuries suffered as a result of the State's breaches and will claim an amount of damages in excess of [redacted] exclusive of interest, costs, and such other relief, as the arbitrators deem appropriate.
28. In addition to the above, the State's violations of the Treaty, have caused the Investor significant detriments and economic damages. Emphasizing that, due to all violations mentioned herein, the Investor will be deprived to receive the economic benefits granted in the Permits, which were at all times, the Investor's motivation to invest and carry out business activities in the State.

**Conclusion**

29. Notwithstanding the Investor's willingness to attempt to resolve the dispute, the Investor reserves all its rights and remedies. The Investor also reserves any other rights under Mexican law, the Permits, or any other applicable agreements or instruments, including the right to seek compensation for any





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remaining damages that are not settled directly or through an international arbitration proceeding. Finally, the Investor reserves the right to amend and/or modify this Notice of Intent.

- 30. Nothing included herein is intended to prejudice or waive any rights or entitlements that the Investor or any other parties may have under the law, the Permits, or any other applicable agreements, treaty or instruments.

Sincerely,

