RR
10/29/09
Item #27

AN ORDINANCE 2009-10-29-0869

AUTHORIZING THE NEGOTIATION OF TERMS AND CONDITIONS OF A TAX ABATEMENT AGREEMENT WITH TOYOTA MOTOR MANUFACTURING TEXAS INC. (TMMTX) TO EXEMPT ONE HUNDRED PERCENT (100%) OF AD VALOREM TAXATION FOR A TEN (10) YEAR PERIOD ON PERSONAL PROPERTY IMPROVEMENTS, INCLUDING INVENTORY AND SUPPLIES; AUTHORIZING THE CITY MANAGER TO EXECUTE A TAX ABATEMENT AGREEMENT WITH TMMTX UPON THE AGREEMENT OF TERMS AND CONDITIONS.

* * * * *

WHEREAS, Toyota Motor Manufacturing Texas, Inc. ("TMMTX") operates the Toyota Tundra manufacturing plant on the southside of San Antonio, employing approximately 1,800 workers and providing for an additional 2,000 jobs associated with the Toyota Supplier Park, where manufacturers of component parts for the Toyota Tundra are located; and

WHEREAS, a recent effort by local officials has resulted in the decision by Toyota to expand the TMMTX production line to include the Toyota Tacoma which shall result in TMMTX investing approximately $100 million in personal property improvements and creating an additional 1,000 full-time jobs; and

WHEREAS, in accordance with the City of San Antonio and Bexar County Joint Tax Abatement Guidelines and Criteria (the "Guidelines and Criteria"), the City offered TMMTX as incentive for establishing the Tacoma production line at the TMMTX plant, a 10-year, 100% abatement of ad valorem personal property taxes, including inventory and supplies; and

WHEREAS, the City Council finds that the proposed TMMTX project furthers the objectives of the International and Economic Development Department and the City of San Antonio in promoting the development of local business interests and job creation; and

WHEREAS, the City Council also finds that authorizing the negotiation of terms and conditions of a Tax Abatement Agreement consistent with the Guidleines and Criteria with TMMTX for its personal property improvements, inventory and supplies is a reasonable incentive to induce TMMTX to locate its Toyota Tacoma manufacturing operations to San Antonio; and

WHEREAS, the City Council also finds that it is in the best interest of the City to approve a Tax Abatement Agreement with TMMTX to induce the desired and beneficial economic development in the area; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council authorizes the negotiation of terms and conditions of a Tax Abatement Agreement with Toyota Motor Manufacturing Texas, Inc., which Agreement shall grant a one hundred percent (100%), ten (10) year abatement of ad valorem taxes on personal property improvements, including inventory and supplies on an approximately $100 million investment by TMMTX and the creation of 1,000 full-time jobs. A copy of the Agreement, in substantially final form, is attached hereto and incorporated herein as Exhibit "A".

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SECTION 2. The City Manager or a designated representative is authorized for a period not to exceed ninety (90) business days from the passage of this ordinance to execute a Tax Abatement Agreement as approved in Section 1 upon the completion of negotiations provided that said Agreement meets the City of San Antonio and Bexar County Joint Guidelines and Criteria for Tax Abatement. The final Agreement shall be filed with this ordinance upon execution.

SECTION 3. This ordinance shall be effective on and after the tenth day after passage hereof.

PASSED AND APPROVED this 29th day of OCTOBER 2009.

M A Y O R

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

DRAFT

This Agreement is in draft form only and shall be negotiated, finallized and executed on the authority of the City Manager with the consent of the City Attorney's Office.

STATE OF TEXAS	§	
	§	**CITY OF SAN ANTONIO**
	§	**TAX ABATEMENT AGREEMENT**
COUNTY OF BEXAR	§	**FOR PERSONAL PROPERTY**

1. **PARTIES**

THIS AGREEMENT (the "Agreement") is entered into on this __ day of _____ 2009, by and between TOYOTA MOTOR MANUFACTURING TEXAS, INC. (hereinafter referred to as "MANUFACTURER"), holding a fee simple interest in the real property described herein and as owner of personal property located on said real property, and the City of San Antonio, a municipal corporation, (hereinafter referred to as the "CITY"), acting by and through its City Manager under the authority of its City Council.

2. **AUTHORIZATION AND FINDINGS**

A. This Agreement is entered into pursuant to the following authorities:

1. The Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312, as amended;

2. CITY COUNCIL RESOLUTION No. 89-07-12, dated the 15th day of February 1989, and most recently revised by Ordinance No. 2008-12-11-1169 on December 11, 2008, together which established the City of San Antonio Guidelines and Criteria for Tax Phase-In and Reinvestment Zones, (hereinafter referred to as the "Guidelines and Criteria");

3. The State of Texas designation of the SAN ANTONIO EMPOWERMENT ZONE, EZ357-012302-SAEZ, which further designates real property within the EMPOWERMENT ZONE as a REINVESTMENT ZONE (the "Zone") for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312; and

4. CITY COUNCIL ORDINANCE NO. 2009-10-29-____, dated October 29, 2009, which specifically approves this Agreement and authorizes execution hereof.

B. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement are within the Guidelines and Criteria and the approval of this Agreement

will not have any substantial long-term adverse effect on the provision of city services or the City's tax base. The City Council also finds that the planned use of the Property (defined below) inside the Zone by MANUFACTURER does not constitute a hazard to public safety, health or morals.

C. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement are substantially similar to any Tax Abatement Agreement offered to MANUFACTURER by Bexar County.

3. **PROPERTY**

A. MANUFACTURER is fee simple owner of real property located at 1 LONE STAR PASS RD SAN ANTONIO, TX 78264 (the "Property"), legally described in Exhibit A, attached hereto and incorporated herein. The Property is within SAN ANTONIO EMPOWERMENT ZONE, EZ357-012302-SAEZ, thereby being designated a Reinvestment Zone for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312.

B. MANUFACTURER is a mass producer of automobiles and manufactures, assembles, produces and distributes automobiles ("Business Activities") on the Property for retail sale. MANUFACTURER will conduct, on the Property, its Business Activities or the normal Business Activities of a Related Organization, as defined in Article 5, Paragraph I, for the term of this Agreement.

C. MANUFACTURER is investing approximately ONE HUNDRED MILLION DOLLARS ($100,000,000.00) in new personal property (Personal Property Improvements) to be located on the Property and used for MANUFACTURER's Business Activities. The Personal Property Improvements shall not be placed on the Property sooner than the effective date of this Agreement.

D. MANUFACTURER shall establish a separate tax account for the Personal Property Improvements, to include inventory and supplies related to this new personal property investment, with the Bexar Appraisal District and provide these tax account numbers to the CITY.

4. **MANUFACTURER'S REPRESENTATIONS**

A. MANUFACTURER represents that they have no knowledge that any interest in the Property is presently owned, held or leased by a member of the San Antonio City Council, Zoning Commission, Planning Commission, the City's Economic Development Department, or any other City officer or employee. MANUFACTURER further represents that they shall not knowingly sell, lease or otherwise convey such an interest to a member of the San Antonio City Council, the Zoning Commission, the Planning Commission, the City's International and Economic Development Department or any other City officer or employee, as long as this Agreement remains in effect.

B. MANUFACTURER represents that there is no litigation pending against MANUFACTURER for any violations under the Occupational Safety and Health Act ("OSHA").

5. **OBLIGATIONS OF MANUFACTURER**

A. In addition to the obligations and duties imposed on MANUFACTURER by other incentive agreements it has entered into with the State of Texas, Bexar County and City of San Antonio, including the Project Starbright Agreement which was filed with the Texas Office of the Secretary of State on September 11, 2003, MANUFACTURER shall:

1) own, hold an interest in or otherwise control the Property and Personal Property Improvements that are the subject of this Agreement; and

2) invest, or cause to be invested, approximately ONE HUNDRED MILLION DOLLSARS ($100,000,000.00) in the Personal Property Improvements for the Property by **RESERVED**; and

(3) shall hire a minimum of ONE THOUSAND (1,000) full-time employees by **RESERVED** which shall be in addition to the 1,800 full-time retained jobs required under Section 3.1(a)(i)(1) of the Project Starbright Agreement for a cumulative total number of TWO THOUSAND AND EIGHT HUNDRED (2,800) full-time jobs on the Property by **RESERVED**; and

(4) shall occupy and use the Property for its Business Activities; and

(5) shall comply with all other applicable terms of this Agreement.

B. MANUFACTURER covenants and agrees that it shall pay at least one hundred percent (100%) of its new and existing employees the City's effective prevailing "living" wage as determined by the City Council in its Tax Abatement Guidelines, which is ten dollars and sixty cents ($10.60) per hour. After one year of executing the personal property improvements, seventy percent (70%) of all new and existing employees must earn at least thirteen dollars and forty-six cents ($13.46) per hour. MANUFACTURER further convenants and agrees that any third-party employee contractor of a Virtual Workforce will also meet the City's "living" wage requirements.

C. A Full-Time Job, for the purposes of this Agreement, shall be equivalent to two thousand eighty (2,080) straight-time paid hours in a fiscal year. City acknowledges MANUFACTURER's use of a Virtual Workforce through any third-party employee contractor which shall be defined as **RESERVED** and which shall be counted as a Full-Time Job for the purposes of this Agreement.

D. MANUFACTURER covenants and agrees that it shall offer all of its non-temporary full-time employees employed on the Property substantially similar employee benefits as those employee benefits offered to similarly situated employees of

MANUFACTURER. MANUFACTURER further convenants and agrees that any third-party employee contractor will also provide substantially similar employee benefits as provided by the MANUFACTURER to its direct employees.

E. MANUFACTURER covenants and agrees that it shall comply with all applicable federal and state laws governing the employment relationship between employers and employees.

F. MANUFACTURER also covenants and agrees that it shall conduct its Business Activities (as defined in Article 3, Paragraph A) on the Property in accordance with all applicable federal, state and local laws.

G. Should MANUFACTURER construct, or cause to be constructed, any real property improvements to the Property it shall do so in accordance with all applicable federal, state and local laws including, but not limited to, Texas Commission on Environmental Quality regulations, Bexar County and City of San Antonio laws, Building Codes and ordinances, Historic Preservation and Urban Design ordinances, flood, subdivision, building, electrical, plumbing, fire and life safety codes and regulations, current and as amended.

I. Except as provided herein, MANUFACTURER covenants and agrees that it shall use the Property only to conduct its Business Activities. Without additional consent or approval by the City Council, a parent, subsidiary or affiliate organization of MANUFACTURER or new entity created as a result of a merger, acquisition, or other corporate restructure or reorganization of MANUFACTURER, or any component thereof (hereinafter "Related Organization") may occupy and use the Property for such Related Organization's normal business activities, so long as such business activities are those of a manufacturer, producer or distributor automobiles, similar or comparable to the Business Activities of MANUFACTURER on the Property. To be eligible for tax abatements as provided in this Agreement, such Related Organization must agree in writing to fully comply with all applicable terms of this Agreement. Except as authorized above, MANUFACTURER covenants and agrees not to change the principal use of the Property without prior approval by the City Council, as evidenced in a duly approved ordinance.

J. MANUFACTURER covenants and agrees that they shall maintain the Property and any constructed improvements in good repair and condition during the Tax Phase-In Period, normal wear and tear and damage by fire or other casualty not caused as a result of the negligence, intentional act or misconduct of MANUFACTURER excepted. Compliance with the maintenance obligations imposed herein shall be presumed if MANUFACTURER follows its normal and customary maintenance procedures and schedules.

K. Upon five business days prior notice to MANUFACTURER by CITY, MANUFACTURER covenants and agrees that they shall allow designated representatives of the CITY access to the Property during normal business hours for

inspection to determine if the terms and conditions of this Agreement are being met. This inspection is independent of CITY'S police powers to inspect for purposes of assuring compliance with applicable City Codes and Ordinances. The CITY's access to MANUFACTURER's books and records will be limited to information needed to verify that MANUFACTURER is and has been conducting Business Activities, and to verify the number of full-time employees at the Facility. Any information that is not required by law to be made public shall be kept confidential by CITY. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require MANUFACTURER to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of MANUFACTURER. CITY representatives may be accompanied by MANUFACTURER representatives and such inspections shall be conducted in such a manner as to (a) not unreasonably interfere with the operation of the Property or the Facility; and (b) comply with MANUFACTURER's reasonable security requirements.

L. During the term of this Agreement, MANUFACTURER covenants and agrees to furnish each year, as applicable, the Chief Appraiser of Bexar Appraisal District with information outlined in Chapter 22, V.A.T.S. Tax Code, as amended, as may be necessary for the tax phase-in and for appraisal purposes.

M. MANUFACTURER covenants and agrees that it shall provide the CITY's Director of International and Economic Development with a semi-annual certification from an officer of MANUFACTURER attesting to the number of full-time jobs created and maintained by the MANUFACTURER and any third-party employee contractor, as well as wages paid, by MANUFACTURER and any third-party employee contractor on the Property. MANUFACTURER shall also submit this information to the CITY upon request, as deemed necessary at the sole discretion of the CITY, during the term of this Agreement. The information provided shall be on the forms set forth in, or substantially similar to the forms set forth in, Exhibit "C" (attached hereto and incorporated herein), as amended.

N. MANUFACTURER covenants and agrees to make a good faith effort to hire local employees to fulfill its requirements under Article 5, Paragraph A. "Local" is defined, for the purposes of this Paragraph, as an employee whose principal residence is located within the city limits of the City of San Antonio or within the county limits of Bexar County.

O. MANUFACTURER covenants and agrees to notify CITY in writing at least 30 days prior to any sale, transfer or sub-lease of the Property during the Term. CITY shall not unreasonably withhold approval of any requests for Assignment of this Agreement by MANUFACTURER under Article 11 and any new purchaser or transferee requesting Assignment shall be bound by same. Failure to provide the required notification under this Article 5, Paragraph O may render MANUFACTURER subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

P. MANUFACTURER covenants and agrees to notify CITY in writing at least 30 days prior to Relocating or Ceasing its Business Activities (as defined in Article 7, Paragraphs B and C). Failure to provide the required notification under this Article 5, Paragraph P may render MANUFACTURER subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

Q. If, during this Agreement MANUFACTURER fails to create and retain at least the minimum number of full-time jobs required under Article 5, Paragraph A of this Agreement, or MANUFACTURER or any third-party employee contractor fails to pay at least the minimum wages required under Article 5, Paragraph B of this Agreement for a period of three (3) or more consecutive months, then the termination and recapture provisions of Article 7 of this Agreement shall apply against MANUFACTURER.

R. If, during this Agreement, MANUFACTURER allows its ad valorem taxes due on the land, real and personal property or inventory and supplies to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or is in default with any loan which has been made by the San Antonio Development Agency, South Texas Business Fund, City of San Antonio Industrial Development Authority or any other CITY-sponsored loan/grant/bond program, then the termination and recapture provisions of Article 7 of this Agreement shall apply.

6. TAX ABATEMENT

A. The tax abatement period (the "Term") for the Personal Property Improvements shall be 10 years beginning on **RESERVED**. The base year for calculating the value of personal property existing and located upon the Property prior to the effective date of this Agreement shall be **RESERVED**. The "Base Year Value" of the personal property not covered by this Agreement shall be its assessed value (determined by the Bexar Appraisal District), as of the Base Year. This Agreement only provides for the abatement of taxes on tangible personal property brought onto the site after the execution of this Agreement.

B. At the commencement of the Term, MANUFACTURER shall own, have an interest in or otherwise control the Property and shall be conducting its Business Activities on a daily basis.

C. Provided that MANUFACTURER has invested in Personal Property Improvements as described in Article 3, Paragraph A of this Agreement by **RESERVED**, MANUFACTURER has hired and retained the number of employees specified in Article 5, Paragraph A of this Agreement, MANUFACTURER and any third-pary employee contractor pay at least the minimum wages required under Article 5, Paragraph B of this Agreement, MANUFACTURER uses the Property for its Business Activities, and MANUFACTURER is otherwise in compliance with the conditions of this Agreement, then ONE HUNDRED-PERCENT (100%) of the ad valorem taxes for the Personal Property Improvements including inventory and supplies, above the Base Year Value,

shall be abated for the ten-year Term of this Agreement. There shall be no abatement of taxes for the underlying land value.

D. MANUFACTURER acknowledges and agrees that the Base Year Value of the Property and the tax levy based on said Base Year Value of the Property in the Zone shall not decrease, but taxes may increase and that the amount of property taxes paid by MANUFACTURER to the CITY attributable to the Property during the Term shall not be less than the amount of taxes attributable to the Property paid to the CITY for the base year tax year, if any, except in the event of casualty or condemnation of the Property in the Zone.

E. MANUFACTURER shall have the right to protest appraisals of the Property, real or personal, or any portion thereof, over and above the Base Year Value as applicable.

7. DEFAULT/TERMINATION/RECAPTURE

A. For purposes of this section, "Relocation" or "Relocate" shall mean MANUFACTURER or a Related Organization which has taken the place of MANUFACTURER, transferring Business Activities to a location outside the Zone.

B. Should MANUFACTURER occupy and use the Property for its Business Activities and subsequently Relocates (as defined in this Article 7, Paragraph A) during the Term, unless such Relocation is caused by a Force Majeure, as defined in Article 8, then CITY shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Relocation occurred. Unless MANUFACTURER presents credible evidence to clearly indicate a date of Relocation, CITY's determination shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies MANUFACTURER in writing of termination.

C. If MANUFACTURER occupies and uses the Property for its Business Activities and subsequently ceases conducting Business Activities (or a substantial portion thereof) at the site for a continuous period of three (3) months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure as defined in Article 8, then the CITY shall have the right to terminate this Agreement. Said terminations shall be effective for the calendar year during which the Property was no longer used for the required purposes stated herein. Unless MANUFACTURER presents credible evidence to clearly indicate a date of cessation, CITY's determination of a date of cessation shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY

shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies MANUFACTURER in writing of termination.

D. If MANUFACTURER, a Related Organization or City-approved assignee fails to hire and retain the minimum number of permanent full-time employees as required in Article 5, Paragraph A above, calculated by the averaging of the two most current semi-annual Employee Wage Information for Tax Phase-In Request Forms, or substantially similar form, (Exhibit "E") for such calendar year of noncompliance, then for each such calendar year of noncompliance, the tax abatement shall be reduced in the following tax year by the same percentage as the deficiency in the number of employees. For example, if MANUFACTURER hires and retains ninety percent (90%) of the minimum number of full-time employees in a given year, MANUFACTURER shall be entitled to ninety percent (90%) of the ad valorem personal property tax abatement for the Property for that following year, subject to a floor of fifty percent (50%). Should MANUFACTURER fail to hire and retain at least fifty percent (50%) of the minimum number of full-time employees in a given year then, at the option of CITY, this failure may be grounds for termination of this Agreement. Said termination shall be effective for the calendar year during which the number of permanent full-time employees stated herein have not been hired or retained as required.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies MANUFACTURER in writing of termination.

E. During the Term, CITY may declare a default if MANUFACTURER fails to comply with any of the terms of this Agreement. Should CITY determine MANUFACTURER is in default under any of the terms of this Agreement, CITY will notify MANUFACTURER in writing at the address below in Article 9. If said default is not cured within sixty (60) calendar days from the date of such notice (hereinafter the "Cure Period"), then CITY shall have the right to terminate this Agreement. CITY may, in its sole discretion, extend the Cure Period if MANUFACTURER commences the cure within the Cure Period and MANUFACTURER is diligently pursuing such cure. If the Agreement is terminated as a result of default, all taxes abated shall be due for the tax year during which the termination occurred and shall accrue without further abatements for all tax years thereafter; in addition, CITY shall have the right to recapture from MANUFACTURER all previously abated property taxes under this Agreement and said taxes shall be paid by MANUFACTURER within sixty (60) calendar days of receiving CITY'S written notification of recapture.

F. Other Remedies Available. CITY shall have the right to seek any remedy at law to which it may be entitled, in addition to termination and/or recapture, if MANUFACTURER defaults under the terms of this Agreement. However, such termination and/or recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which MANUFACTURER may be entitled. The termination and/or recapture of taxes provided in this Article 7 are not applicable to situations involving minor changes to the description of the Property, or changes in

ownership or in management thereof, so long as MANUFACTURER, its parent, subsidiary, affiliate or its CITY-approved successor or assignee continues conducting Business Activities or other authorized activities thereon as provided hereinabove.

G. Calculation of Taxes Subject to Recapture. If MANUFACTURER fails to comply with any of the terms of this Agreement including, but not limited to, those pertaining to this Article 7 then the City Council shall have the right to recapture from MANUFACTURER a percentage of the abated personal property taxes based on the following table:

TERM YEAR	TOTAL TAX PREVIOUSLY ABATED SHALL BE MULTIPLIED BY:
1-10	100%
11-12	80%
13	60%
14	40%
15	20%
16	10%

FORMULA: The recapture formula shall be:

Total Taxes Abated	X	Applicable Percentage from above Schedule	=	Amount to be Recaptured

CITY shall recalculate the amount of recapture pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to MANUFACTURER.

8. AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)

For purposes of this section, "Force Majeure" is defined as an act of God or natural disaster. It also includes explosion or other casualty or accident which is not the result of negligence, intentional act or misconduct on the part of MANUFACTURER. In addition to relief expressly granted in this Agreement, CITY may grant relief from performance of this Agreement if MANUFACTURER is prevented from compliance and performance by an event of Force Majeure. The burden of proof for the need for such relief shall rest upon MANUFACTURER. To obtain release based upon this Article 8, MANUFACTURER must file a written request with the CITY'S Economic Development Department for processing to City Council for a decision, authorized by a duly approved Ordinance.

9. NOTICE

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is

given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective upon its deposit into the custody of the United States Postal Service or such nationally recognized delivery service as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO MANUFACTURER:

- (Whether personally delivered or mailed):

_____
Attn: _____
_____
_____

TO CITY:

- If mailed:

Economic Development Department
Attn: Director
P.O. Box 839966
San Antonio, Texas 78283-3966

- If by personal or overnight delivery:

Economic Development Department
Attn: Director
City Hall, 4th Floor
Military Plaza
San Antonio, Texas 78205

10. **CONDITION**

This Agreement is conditioned entirely upon the approval of the San Antonio City Council, as evidenced by duly approved Ordinance Number 2009-10-29-____, dated October 29, 2009.

11. ASSIGNMENT

Except as otherwise expressly provided herein, this Agreement may be assigned or otherwise transferred only with City Council's prior approval (which approval shall not be unreasonably withheld), as reflected in a duly adopted ordinance. MANUFACTURER must submit a written request to CITY for approval of the proposed assignment or other transfer at least thirty (30) days prior to the effective date of the assignment or transfer of any part of the Property; however, no City Council consent is required for an assignment or transfer to a parent of MANUFACTURER, a subsidiary of MANUFACTURER, an affiliate entity of MANUFACTURER, or to any new entity created as a result of a merger, acquisition or other corporate restructure or reorganization of MANUFACTURER. However, MANUFACTURER shall give CITY prior written notice of all assignments or other transfers that do not require City Council consent, as required under Article 5, Paragraph P. All future assignees shall be bound by all terms and/or provisions and representations of this Agreement.

12. GENERAL PROVISIONS

A. None of the property improvements described in this Agreement are financed by tax increment bonds.

B. This Agreement is entered into subject to the rights of the holders of outstanding bonds of the CITY related to this project. No bonds for which the CITY is liable have been used to finance this project.

C. No amendment, modification, or alteration of the terms hereof shall be binding unless in writing dated subsequent to the date of this Agreement and duly authorized by the parties. MANUFACTURER acknowledges that City Council approval is required for any and all of these actions.

13. SEVERABILITY

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or work herein is held invalid, illegal or unenforceable, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable. This Agreement constitutes the entire Agreement between the parties hereto relating to the subject matter contained herein and supersedes all prior, oral or written agreements, commitments or understandings with respect to the matters provided for herein.

14. ESTOPPEL CERTIFICATE

Any party hereto may request an estoppel certificate related to this project (hereafter referred to as "Certificate") from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate, which if requested, will be

addressed to a subsequent purchaser or assignee of MANUFACTURER or other party designated by MANUFACTURER which shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default, if such is the case, the remaining Term of this Agreement, the levels of tax abatement in effect, and such other matters reasonably requested by the party(ies) to receive the Certificate.

15. OWNER STANDING

MANUFACTURER, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same, and MANUFACTURER shall be entitled to intervene in said litigation.

16. APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is performable in Bexar County, Texas, the location of the ZONE.

17. TRIPLICATE ORIGINALS

This Agreement shall be executed in three triplicate originals, with an original going to each party and one to the City Clerk of the City of San Antonio.

Signatures appear on next page.

WITNESS OUR HANDS, EFFECTIVE as of _____ ____, 2009:

Accepted and executed in triplicate originals on behalf of the City of San Antonio pursuant to Ordinance Number 2009-10-29-____, dated October 29, 2009, and TOYOTA MOTOR MANUFACTURING TEXAS, INC. pursuant to the authority of its President.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

_____
Sheryl L. Sculley
CITY MANAGER

_____
By:
Title:

ATTEST:

ATTEST:

_____
Leticia Vacek
CITY CLERK

_____

APPROVED AS TO FORM:

_____
Michael Bernard
CITY ATTORNEY

EXHIBIT A: PROPERTY DESCRIPTION

EXHIBIT B: EMPLOYEE BENEFITS

EMPLOYMENT C: NUMBER OF JOBS AND WAGE INFORMATION FORM

RR
06/16/05
Item #30A

AN ORDINANCE 101023

AUTHORIZING THE INTERIM CITY MANAGER TO ENTER INTO FIFTEEN (15) TAX PHASE-IN AGREEMENTS WITH COMPANIES LOCATING TO THE TOYOTA SUPPLIER PARK; SAID AGREEMENTS TO BE FOR A TERM OF 10 YEARS AND ABATING 100% OF AD VALOREM TAXES ON ALL REAL AND PERSONAL PROPERTY IMPROVEMENTS, INVENTORY AND SUPPLIES FOR COMPANIES PAYING NO LESS THAN $11.03 TO EMPLOYEES AND ABATING 80% OF AD VALOREM TAXES ON ALL REAL AND PERSONAL PROPERTY IMPROVEMENTS, INVENTORY AND SUPPLIES FOR COMPANIES PAYING NO LESS THAN $9.06 TO EMPLOYEES.

* * * * *

WHEREAS, Toyota Motor Manufacturing North America ("Toyota") selected the City of San Antonio as the site for its newest automotive manufacturing plant, has begun construction on the facility in south Bexar County, intends to invest approximately $800 million in the property, and will create 2,000 jobs for the City and surrounding area; and

WHEREAS, in addition to the manufacturing plant, a tier-one Supplier Park consisting of Toyota suppliers located on the Toyota property to support manufacturing and assure quality, while reducing costs associated with logistic services was proposed; and

WHEREAS, it is estimated that the addition of a Supplier Park would attract approximately $306,000,000.00 in additional total capital investment in the property and create an additional 2,079 jobs in the City and surrounding area; and

WHEREAS, although the Toyota property has not been fully annexed by the City, state law allows municipalities to enter into tax abatement agreements for areas within its extraterritorial jurisdiction, provided that the property is designated as a Reinvestment Zone; and

WHEREAS, the Toyota property is within the City's Federal Empowerment Zone, thereby, automatically qualifying it as a Reinvestment Zone; and

WHEREAS, the City intends to propose full purpose annexation of the Toyota property effective January of 2006; and

WHEREAS, the tier-one Supplier Park project would qualify under the Tax Phase-In Guidelines (the "Guidelines) as a Level 3 "exceptional investment" project, since the project collectively exceeds $50,000,000.00 in total property investment and will create at least 500 permanent, full-time jobs; and

WHEREAS, the property is located south of Highway 90, thereby, qualifying it for a ten (10) year abatement under the Guidelines; and

WHEREAS, fifteen tier-one suppliers have indicated that they would locate at the Toyota Supplier Park; and

WHEREAS, of these fifteen (15) tier-one suppliers, three (3) suppliers intend to pay employees not less than $11.03 and it is recommended that they receive a one-hundred percent (100%), ten (10) year abatement of ad valorem taxes on real and personal property improvements, inventory and supplies; and

WHEREAS, the remaining twelve (12) tier-one suppliers intend to pay employees not less than $9.06 and it is recommended that they receive an eighty-percent (80%), ten (10) year abatement of ad valorem taxes on real and personal property improvements, inventory and supplies; and

WHEREAS, the City Council finds that the proposed project supports the City's Strategic Plan for Enhanced Economic Development by encouraging the attraction of new business to the targeted southern sector and promotes the growth of a targeted industry; and

WHEREAS, the City Council also finds that authorizing and approving the proposed tax phase-in agreements is a reasonable incentive to induce tier-one Toyota suppliers to locate in the area; and

WHEREAS, the City Council also finds that it is in the best interest of the City to approve these tax phase-in agreements to induce the desired and beneficial economic development in the area; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council hereby approves the terms and conditions of fifteen (15) tax phase-in agreements with fifteen (15) companies locating to the Toyota Supplier Park, which agreements shall grant either: (1) a one-hundred percent (100%), ten- year abatement of ad valorem taxes on real and personal property improvements, inventory and supplies by companies paying one-hundred percent (100%) of its employees not less than $11.03; or (2) an eighty-percent (80%), ten-year abatement of ad valorem taxes on real and personal property improvements, inventory and supplies by companies paying one-hundred percent (100%) of its employees not less than $9.06. The names of each company being granted a tax-phase in by this ordinance are attached hereto as Exhibit A.

SECTION 2. The Interim City Manager or a designated representative is authorized, for a period of 60 days, to execute 15 tax phase-in agreements as approved in Section 1. The final agreements shall be filed with this ordinance upon execution. Such agreements

RR
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shall be substantially in the forms of Exhibit B and C attached hereto and made a part of this ordinance.

SECTION 3. This ordinance shall be effective on and after the tenth day after passage hereof.

PASSED AND APPROVED this 16th day of JUNE 2005.

M A Y O R

EDWARD D. GARZA

ATTEST:

City Clerk

APPROVED AS TO FORM: _____

for Acting City Attorney

Agenda Voting Results

Name: 30A.

Date: 06/16/05

Time: 02:50:07 PM

Vote Type: Multiple selection

Description: An Ordinance authorizing the Interim City Manager to execute separate Tax Phase-In Agreements with fifteen (15) Toyota supplier companies locating at the Toyota on-site "Supplier Park Project" to abate ad valorem taxes for ten (10) years on all real and personal property improvements, inventory and supplies for each company.

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. McNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6	Not present			
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8	Not present			
KEVIN WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		

KK
06/16/05
Item #30B

AN ORDINANCE 101024

AUTHORIZING THE EXPENDITURE OF UP TO $1,000,000.00 FROM THE ECONOMIC DEVELOPMENT INCENTIVE FUND TO SUPPORT WORKFORCE TRAINING FOR FIFTEEN (15) TOYOTA SUPPLIER COMPANIES WHO ARE LOCATING BUSINESS OPERATIONS AT THE TOYOTA SUPPLIER PARK; AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE SEPARATE WORKFORCE TRAINING GRANT AGREEMENTS WITH FIFTEEN (15) TOYOTA SUPPLIER COMPANIES.

* * * * *

WHEREAS, Toyota Motor Manufacturing North America ("Toyota") selected the City of San Antonio as the site for its newest automotive manufacturing plant, has begun construction on the facility in south Bexar County, intends to invest approximately $800 million in the property, and will create 2,000 jobs for the City and surrounding area; and

WHEREAS, in addition to the manufacturing plant, a tier-one Supplier Park consisting of Toyota suppliers located on the Toyota property to support manufacturing and assure quality, while reducing costs associated with logistic services was proposed; and

WHEREAS, it is estimated that the addition of a Supplier Park would attract approximately $306,000,000.00 in additional capital investment in the property and create an additional 2,079 jobs in the City and surrounding area; and

WHEREAS, although the Toyota property has not been fully annexed by the City, state law allows municipalities to enter into tax abatement agreements and provide other economic incentives for areas within its extraterritorial jurisdiction, provided that the property is designated as a Reinvestment Zone; and

WHEREAS, the Toyota property is within the City's Federal Empowerment Zone, thereby, automatically qualifying it as a Reinvestment Zone; and

WHEREAS, the City intends to propose full purpose annexation of the Toyota property effective January of 2006; and

WHEREAS, as an incentive to establish the Supplier Park in San Antonio, the City offered economic incentives to tier-one suppliers who locate on the Toyota Supplier Park property, including training grants to support workforce training; and

WHEREAS, fifteen (15) tier-one suppliers have indicated that they would locate on the Toyota Supplier Park property; and

WHEREAS, granting funds to Toyota tier-one suppliers to support workforce training promotes economic development in compliance with the City's Economic Development Program established pursuant to the provisions of Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City Council finds that the proposed project also supports the City's *Strategic Plan for Enhanced Economic Development* by encouraging the attraction of new business to the targeted southern sector and promotes the growth of a targeted industry; and

WHEREAS, the City Council also finds that it is in the best interest of the City to approve these training grant agreements to induce the desired and beneficial economic development in the area; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council hereby approves the terms and conditions of fifteen (15) Economic Development Incentive Fund grant agreements with Tier-One Suppliers of Toyota Motor Manufacturing, Texas, Inc. who locate on the Toyota Supplier Park property to provide customized workforce training grants to each of the named companies in an amount collectively totaling up to $1,000,000.00 from the Economic Development Incentive Fund as described in the copy of the Agreement attached hereto and incorporated herein as Attachment I.

SECTION 2. The Interim City Manager or a designated representative is authorized, for a period of sixty (60) days to execute fifteen (15) agreements as approved in Section 1. The final agreements shall be filed with this ordinance upon execution.

SECTION 3. Funds in the amount not to exceed $1,000,000.00 are authorized to be appropriated and encumbered in Fund 29059000, entitled "Economic Development Initiatives", Cost Center 1604010001, and General Ledger 5201040, entitled "Fees to Professional Contractors" and made payable to the Toyota supplier companies listed in Attachment II upon certification of employment.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, the Interim City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 5. This ordinance shall be effective on and after the tenth (10th) day after passage hereof.

PASSED AND APPROVED this 16th day of June 2005.

M A Y O R
EDWARD D. GARZA

ATTEST: Leticia M. Vacek
City Clerk

APPROVED AS TO FORM: _____
for Acting City Attorney

Agenda Voting Results

Name: Item 30B

Date: 06/16/05

Time: 02:53:29 PM

Vote Type: Multiple selection

Description:

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. McNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6	Not present			
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8	Not present			
KEVIN WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		