

STATE OF TEXAS
COUNTY OF BEXAR

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ECONOMIC DEVELOPMENT
GRANT AGREEMENT OF THE
CITY OF SAN ANTONIO

This Economic Development Grant Agreement (hereinafter referred to as this "Agreement") is made and entered into on this ____ day of _____ 2024 ("Effective Date") by and between the City of San Antonio, a municipal corporation of the State of Texas (hereinafter referred to as "Grantor"), acting by and through its City Manager or his designee, and TOYOTA MOTOR MANUFACTURING, TEXAS, INC. (hereinafter referred to as "Grantee"). In this Agreement, Grantor and Grantee may together be referred to as the "Parties".

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code, Grantor is authorized to establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

WHEREAS, in accordance with City Ordinance No. 100684, Grantor created an economic development program to make such grants available; and

WHEREAS, Grantee and certain Related Organizations currently manufacture, assemble, produce, and distribute automobiles on the Property for retail sale; and

WHEREAS, Grantee is considering an economic development project (the "Project") that, if approved, will consist of establishing a new standalone building and potential expansion of the existing manufacturing facility where it will create 411 new full-time jobs with one hundred percent (100%) of those jobs earning a base wage of at least \$20.54 per hour; and

WHEREAS, Grantee is the owner of the real property located within the City of San Antonio at 1 LONE STAR PASS, SAN ANTONIO, TEXAS 78264 (the "Overall Property"). A portion of the Overall Property, being legally described in Exhibit A (the "Property" and/or "Project Site"), attached hereto and incorporated herein, is the subject of this Agreement; and

WHEREAS, once completed, the Project will achieve the intent and purpose of Chapter 380 by promoting local economic development and stimulating business and commercial activity in the City of San Antonio; and

WHEREAS, as an incentive to undertake and complete the Project at the Project Site, Grantee is seeking an economic development grant from Grantor to defray costs associated with the Project; and

WHEREAS, Grantee's Project meets Tier 6 eligibility through required minimum capital investment (\$531,720,000.00). Furthermore, the Project qualifies as a target industry, specifically, Mobility-Advanced Manufacturing, is located in a census tract with a score of at least 7 in the City of San Antonio Equity Atlas, and is located in a regional center (Texas A&M San Antonio Regional Center); and

WHEREAS, Grantor, to induce Grantee, its successors and assigns to undertake and complete the Project has identified lawfully available funds to provide a grant to Grantee for use in undertaking and successfully

completing the Project at the Project Site in accordance with the terms and conditions of this Agreement;
and

WHEREAS, the City Council of Grantor has authorized the Grantor's City Manager or his designee to enter into this Agreement with Grantee in accordance with City Ordinance No. 2024-__-__-_____, passed and approved on the ____ day of _____, 2024, to grant funds to support the Project.

NOW THEREFORE, the Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

SECTION 1. AGREEMENT PURPOSE

The Project is anticipated to promote local economic development and to stimulate business and commercial activity in the City of San Antonio in accordance with the purpose of Chapter 380 of the Texas Local Government Code. Grantor is supporting the Project through lawfully available funds which shall be used by Grantee to defray costs of undertaking and completing the Project. The economic incentive being offered by Grantor to Grantee is in furtherance of promoting investment and job creation in the City of San Antonio.

SECTION 2. TERM

The term of this Agreement shall commence on the Effective Date and shall terminate upon Grantee satisfying the (i) capital investment requirements under Section 3(B), and (ii) the job creation requirements under Section 3(C); unless sooner terminated in accordance with the provisions this Agreement (the "Term").

SECTION 3. PROJECT REQUIREMENTS

In addition all other obligations and/or duties that may be imposed on Grantee by any other agreements it has entered into with the City of San Antonio as they may relate to the Project Site, including (i) the Project Starbright Agreement which was filed with the Texas Office of the Secretary of State on September 11, 2003 (as previously modified and amended, the "Project Starbright Agreement), (ii) the Tax Abatement Agreement for Personal Property executed by the Parties in 2010 (the "Tacoma Abatement Agreement"), (iii) the Tax Abatement Agreement for Real and Personal Property executed by the Parties on October 21, 2019 (the "Project Topper Abatement Agreement"), (iv) the Economic Development Grant Agreement executed by the Parties on October 21, 2019 (the "Project Topper Grant Agreement"), and (v) the Tax Abatement Agreement for Real and Personal Property to be executed by the Parties on or about the date hereof (the "Project Iceberg Abatement Agreement"), in order to be in compliance with the terms of this Agreement and to receive the economic development incentive provided for hereunder, Grantee must satisfy the following requirements:

- A. Project Site. Grantee, its successors and assigns, shall own or hold an interest in (fee simple or leasehold), or otherwise control, the Project Site for the Term of this Agreement.
- B. Investment. Grantee shall invest, or cause to be invested, at least **FIVE HUNDRED THIRTY-ONE MILLION SEVEN HUNDRED TWENTY THOUSAND DOLLARS AND NO CENTS (\$531,720,000.00)** ("Required Capital Investment") in real and personal property improvements ("Property Improvements") at the Project Site on or prior to December 31, 2028. Grantee shall provide evidence

of investment by establishing a separate tax account for the Project Site prior to the commencement of construction with the Bexar Appraisal District for the real property improvements made at the Project Site and a separate tax account for the personal property improvements made at the Project Site. Grantee shall provide the tax account numbers and related entity information to Grantor. Such accounts shall be monitored by Grantor as evidence of Grantee's investment in the Property.

C. Job Requirements. Grantee agrees to the following:

1. Definitions

A "New Full-Time Job" is a non-temporary, full-time employment position created after the execution of this Agreement by (i) Grantee, or (ii) a Related Organization, to the extent that such employment position is for the primary benefit of Grantee's Business Activities, in each case involving the equivalent of two thousand eighty (2,080) straight-time paid hours in a fiscal year, excluding shift differentials and overtime, and paid in accordance with this Agreement. These jobs must be created primarily to support the Project and be located on the Overall Property; provided, however the term "located on the Overall Property" shall not be construed to require any individual to be physically present on the Overall Property every business day so long as such individual (i) resides in Bexar County or a contiguous county, or (ii) for not more than five-percent (5%) of the 411 required Full Time Jobs, is required in the ordinary course of business to be physically present on the Overall Property at least two (2) times per week. Except with respect to the full-time jobs required to be created pursuant to the 312 Tax Abatement Agreement approved under Ordinance 2024-_____ ("2024 Tax Abatement Agreement"), any Full-Time Job which has been counted previously in a separate active, expired, or terminated City economic incentive agreement will not be considered a New Full-Time Job for purposes of this Agreement.

A "New Full-Time Employee" is defined as a person who is hired, or relocated, by Grantee or Related Organizations on a permanent basis, after execution of this Agreement in a New Full-Time Job associated with the Project and located on the Overall Property.

A "Full-Time Job" is defined as the performance by one individual associated with the Project Site on a permanent basis, approximately 2,080 straight-time paid hours per calendar year, excluding shift differential and overtime.

2. Full-Time Jobs. Under the terms of this Agreement and the 2024 Tax Abatement Agreement, Grantee, together with the Related Organizations, shall create not less than and maintain a cumulative of FOUR HUNDRED ELEVEN (411) New Full-Time Jobs ("Full-Time Job Requirement") at the Overall Property on or prior to December 31, 2028. Grantee shall maintain the number of employees employed in Full-Time Jobs to the extent required under, and defined in, the Project Starbright Agreement, the Tacoma Abatement Agreement, the Project Topper Abatement Agreement, and the Project Topper Grant Agreement in accordance with the terms and conditions of such agreements; provided, however, (i) that nothing contained herein shall be construed to modify the time period for which Grantee is required to retain Full-Time Jobs pursuant to the Project Starbright Agreement, the Tacoma Abatement Agreement, the Project Topper Abatement Agreement, or the Project Topper Grant Agreement, and (ii) Grantor acknowledges that Grantee has fully satisfied the job creation and job retention obligations under the Project Starbright Agreement.

3. Wages. Grantee covenants and agrees that it shall pay one hundred percent (100%) of its New Full-Time Employees the prevailing “80% of median” wage of at least twenty dollars and fifty-four cents (\$20.54) per hour, at time of hire, excluding benefits, bonuses, commissions, and shift differentials for the term of this Agreement.
 4. Benefits. Grantee covenants and agrees that it shall offer workers’ compensation coverage, as well as a health benefits package to all New Full-Time Employees and their eligible dependents. The Parties acknowledge and agree that the intended benefits package may change from time to time in accordance with the applicable benefits market and any applicable changes in law. A current copy of Grantee's benefits package shall be maintained on-site and shall be made available to the City’s Director of Economic Development Department or designee for review during each semi-annual certification period.
 5. Employment Law. Grantee covenants and agrees that it shall comply with all applicable federal, state, and local laws governing the employment relationship between employers and employees, with respect to its employees at the Project Site.
- D. Construction Law. Any construction Grantee performs or causes to be performed on the Project Site shall be 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.
 - E. No Delinquent Taxes. Grantee, its successors and assigns, shall not allow its ad valorem taxes on the land, real and personal property or inventory and supplies (the "Taxes") within the Project Site to become delinquent. Grantee shall not receive any EDIF Funds (as defined below) so long as any Taxes remain delinquent and unpaid.
 - F. Good Repair. Grantee covenants and agrees that it shall maintain the Project Site and any constructed improvements in good repair and condition during the Term of this Agreement, normal wear and tear and damage by fire or other casualty not caused as a result of the negligence, intentional act or misconduct of Grantee excepted. Provided that the Property and Facilities comply with the requirements of applicable law, compliance with the maintenance obligations imposed herein shall be presumed if Grantee follows its normal and customary maintenance procedures and schedules.
 - G. Prevailing Wage. Grantee will be required to submit semiannual reports on the form set forth in Exhibit C (attached hereto and incorporated herein). With respect to contract employees and employees hired by contractors and subcontractors for construction of the Project facilities related to this Agreement, Grantee shall be entitled to rely (without duty of inquiry) on reports and documentation provided by contractors and subcontractors in the preparation of any compliance reporting under this Agreement, so long as Grantee provides written notification to each prime contractor that such reports and documentation will be relied upon by Grantee in connection with its reporting obligations under this Section 3(G).
 - H. Business Activities. Grantee, its successors and assigns, shall occupy and use the Project Site for its business activities, which are defined for the purposes of this Agreement as the mass production of automobiles and other personal and commercial mobility products for distribution and ultimate retail sale(the “Business Activities”) for the Term of this Agreement, except to the extent said Project Site may be rendered unsuitable for such use due to a Force Majeure Event, as defined in Section 23 this

Agreement, provided, however, Grantor acknowledges that the presence of, or occupancy of, certain areas of the Property by suppliers and other vendors on the Property shall not constitute a breach of Grantee's obligations or otherwise affect Grantee's rights under this Agreement. Grantee shall establish the Project at the Project Site and conduct its Business Activities at the Project Site commencing on or before January 1, 2029, and throughout the Term of this Agreement.

1. Successors and Related Organizations. Without additional consent or approval by the City Council, a parent, subsidiary or affiliate organization of Grantee or new entity created as a result of a merger, acquisition, joint venture, and or other corporate restructure or reorganization of Grantee, or any component thereof (hereinafter, a "Related Organization") or a successor or assigns of Grantee may occupy and use the Project Site for such Related Organization's normal business activities, so long as such business activities are the same as the Business Activities defined in this Agreement and such Related Organization has agreed to be bound by the obligations of this Agreement by written agreement with Grantee.
2. Reserved.
3. Sale, Lease, Transfer. Grantee covenants and agrees to notify City in writing at least 30 days prior to any sale, transfer, lease or sub-lease of the Property during the Term; provided, however, that Grantee shall not be required to provide such notice with respect to leases, sub-leases, or similar licenses or occupancy agreements to the extent such transactions do not result in a Relocation (as defined in Section 3(H)(4)). City shall not unreasonably withhold approval of any requests for assignment of this Agreement by Grantee and any new transferee requesting assignment shall be bound by same.
4. Relocation/Cessation of Business Activities. If, during the Term of this Agreement, Grantee shall occupy and use the Project Site for its Business Activities and subsequently relocates or ceases (i) conducting Business Activities at the Project Site for a continuous period of six (6) months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure Event; or (ii) conducting a substantial portion of such Business Activities resulting from an intentional diversion of production by Grantee to another location which both (x) is not accompanied by a contemporaneous redirection of production to the Property from another location; and (y) results in Grantee producing in such calendar year less than fifty percent (50%) of the average number of vehicles produced at the Overall Property over the prior 2-year period of the Abatement Term (provided that if any decrease in production occurs during an economic recession as determined by the National Bureau of Economic Research, then Grantee shall not be deemed to have ceased conducting a substantial portion of Business Activities at the Property notwithstanding the number of vehicles produced by Grantee at the Property in any calendar year), then the Grantor shall have the right to terminate this Agreement. Notwithstanding the foregoing, no such cessation or termination shall constitute a default under, or have any impact to, the Project Starbright Agreement, the Tacoma Abatement Agreement, the Project Topper Abatement Agreement, or the Project Topper Grant Agreement, unless such default is a separate default of those respective agreements. Said termination shall be effective for the calendar year during which the relocation or cessation occurred. Unless Grantee presents credible evidence to clearly indicate a date of cessation, Grantor's determination of a date of relocation or date of cessation shall be final and conclusive. Upon termination, the Grantor shall have the right to recapture from Grantee all EDIF Funds previously disbursed to Grantee pursuant to this Agreement. For purposes of this section, "Relocation," "Relocated," or "Relocate" shall mean

Grantee or a Related Organization, or any other permitted transferee of Grantee's rights under this Agreement which has taken the place of Grantee, transferring substantially all Business Activities from the Project Site to a location outside of City limits of San Antonio.

- J. Compliance. Grantee shall comply with all other terms of this Agreement applicable to Grantee. Additionally, Grantee shall comply with all other agreements with Grantor applicable to the Project.

SECTION 4. ECONOMIC DEVELOPMENT PROGRAM GRANT

Following approval of this Agreement by a duly authorized City Ordinance and execution of this Agreement by the Parties, and in exchange for Grantee undertaking and completing the Project at the Project Site, Grantor will provide an economic development incentive grant in the cumulative maximum amount of ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) ("EDIF Funds") for reimbursement of eligible Project site improvements as outlined in the *City of San Antonio Economic Development Chapter 380 Policy, Section 5.3 (2023)* ("Chapter 380 Policy"), to Grantee as follows:

- A. Economic Development Program Grant. Grantor is providing Grantee with an Economic Development Program Grant in an amount not to exceed ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) ("Grant Funds"). The purposes of the Grant Funds are to: (1) attract Grantee to conduct its Business Activities at the Project Site; (2) enhance Grantee's economic feasibility of locating the Project at the Project Site; and (3) incentivize Grantee to create and retain for the Term of this Agreement the high-wage New Full-Time Jobs at the Project Site.
- B. Grant Disbursement. Grantor will make the Grant Funds available to Grantee within 45 days of: (1) Grantee providing to Grantor evidence Grantee has made the Required Capital Investment in accordance with Section 3(B); (2) Grantee providing to Grantor verifiable proof Grantee has employed at the Overall Property 411 New Full-Time Jobs in accordance with Section 3(C); and (3) Grantee's submission to Grantor of appropriate documentation and invoices demonstrating actual costs incurred by Grantee for eligible site improvements at the Project Site.
- C. Disbursement of EDIF Funds is contingent upon Grantee meeting the terms of this Agreement, the City's Chapter 380 Policy, and the Grantor's acceptance of Grantee's documentation and invoices. All payments made under this Agreement represent reimbursements based on actual costs. Grantor reserves the right, in its reasonable discretion, to determine the appropriateness of documentation submitted for disbursement requests.

SECTION 5. GRANTOR'S OBLIGATIONS

- A. Grant Payment. Grantor will make an Economic Development Program Grant available to Grantee in accordance with Section 4 above.
- B. No Liability. Except to the extent otherwise specifically provided for herein, Grantor will not be liable to Grantee or any other entity for any costs incurred by Grantee. Grantor's sole obligation is to make EDIF Funds available to Grantee for disbursement under the terms and conditions of this Agreement.
- C. City Liaison. Grantor shall assign Grantee a single point of contact to assist in the expedited permitting and inspection of the Project Site.

SECTION 6. RETENTION AND ACCESSIBILITY OF RECORDS

- A. Retention. Grantee shall maintain the records and supporting documentation necessary to verify that Grantee is meeting or has met all obligations of this Agreement, financial and otherwise. Grantee shall retain such records, and any supporting documentation, for the period required for record retention under Texas law or by any other applicable laws and regulations. Grantee shall maintain written and/or digital records and supporting documentation (the "Records") relating to and sufficient for Grantor to reasonably determine: (1) the amount of Required Capital Investment at the Project Site; (2) the hire and termination dates of each New Full-Time Job; (3) the creation, maintenance, and retention of all Full-Time Jobs; (4) all fiscal records relating to this Agreement; (5) the wages and healthcare benefits offered to all New Full-Time Jobs ; and (6) the fulfillment of all obligations of Grantee under this Agreement. Grantee shall retain such records and any supporting documentation from the Effective Date of this Agreement to the date that falls four (4) years after the expiration of the Term of this Agreement. Grantee acknowledges and agrees that retention of the Records by Grantee and Grantor's right to inspect the Records as set forth below, are required in order to permit Grantor's representatives to determine with certainty Grantee's compliance with all of Grantee's obligations under this Agreement, including, without limitation, job creation and retention requirements, wage/salary requirements, and healthcare benefits.
- B. Access to Project Site and Records. Grantee covenants and agrees that, upon five (5) business days' prior notice received by it from Grantor, Grantee shall allow designated representatives of Grantor access to the Property during normal business hours for inspection to determine if the terms and conditions of this Agreement are being met, subject to reasonable safety and security protocols implemented by Grantee. This inspection is independent of Grantor's police powers to inspect for purposes of assuring compliance with applicable Grantor Codes and Ordinances. The Grantor's access to Grantee's books and records will be limited to information needed to verify the number of Full-Time Jobs at the Property; provided, however, that any information that is prohibited by law to be made public shall be kept confidential by Grantor and the Grantor shall not have the ability to obtain copies of Grantee's records or remove any information or documents from Grantee's files. Should any good faith dispute or question arise as to the validity of the data provided, the Grantor reserves the right to require Grantee to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of Grantee. Grantor representatives may be accompanied by Grantee 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 Business Activities; and (b) comply with Grantee's reasonable safety and security requirements.
- C. Public Information. Grantee acknowledges that Grantor is a public entity subject to the Texas Public Information Act (the "Act"). Grantor shall inform Grantee of any request for public records related to this Agreement and shall preserve all rights of Grantee to request a ruling on the applicability of the Act to information requested under the Act related to this Agreement.

SECTION 7. MONITORING

- A. Compliance Reports. Grantor reserves the right to confirm Grantee's compliance with the terms and conditions of this Agreement by periodic monitoring, including Project Site visits and review of Incentive Reporting Forms. Grantor will provide Grantee with a written report of the monitor's findings, if any. If the monitoring report notes deficiencies in Grantee's performances under the terms of this Agreement, the monitoring report shall include a listing of requirements for the correction of

such deficiencies by Grantee and a reasonable amount of time in which to attain compliance. Failure by Grantee to take action specified in the monitoring report may be cause for suspension or termination of this Agreement.

- B. Incentive Reporting Forms. Grantee covenants and agrees that it shall provide the City's Director of Economic Development Department with a semi-annual certification from an officer of Grantee (a "Incentive Reporting Form") on or before January 31st and July 31st of each year during the Term of this Agreement, attesting to, as of the preceding December 31st and June 30th respectively (each a "Reporting Period"): (i) the amount invested as of such date by Grantee and/or a Related Organization in real property improvements and personal property improvements; (ii) the number of New Full-Time Jobs created and maintained as of such date by Grantee and/or a Related Organization at the Project Site, and the hire and termination dates of the New Full-Time Jobs; and (iii) the compliance with the requirements of this Agreement with respect to the wages and healthcare benefits offered to all New Full-Time Jobs and their respective eligible dependents. Grantee shall also submit this information to the Grantor upon request, as deemed necessary at the sole discretion of the Grantor, during the Term of this Agreement; provided, that, any such request shall not exceed three (3) requests per calendar year (inclusive of the required semi-annual Incentive Reporting Forms). The Incentive Reporting Forms provided shall be on the form set forth in, or substantially similar to the form set forth in, Exhibit B, (attached hereto and incorporated herein), as amended.
- C. Reserved.

SECTION 8. CONFLICT OF INTEREST

Grantee shall use reasonable business efforts to ensure that no employee, officer, or individual agent of Grantee shall participate in the selection, award or administration of a subcontract supported by funds provided hereunder if a conflict of interest, real or apparent, would be involved. Such conflict of interest would arise when: (1) the employee, officer, or individual agent; (2) any member of his or her immediate family; (3) his or her partner; or, (4) any organization which employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform the subcontract and the relationship calls for payments to be made to such subcontractor on terms which are greater than those which are customary in the industry for similar services conducted on similar terms. Grantee shall comply with Chapter 171, Texas Local Government Code as well as the Grantor's Code of Ethics.

SECTION 9. NONDISCRIMINATION AND SECTARIAN ACTIVITY

- A. Non-Discrimination. Grantee, its successors and assigns, shall ensure that no person shall, on the ground of race, color, national origin, religion, sex, sexual orientation, gender identity, veteran status, age or disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination or retaliation under, or be denied the benefits of, or otherwise be subjected to discrimination or retaliation under any program, or activity reimbursed or funded in whole or in part with funds made available under this Agreement.
- B. Religious Activity. None of the performances rendered by Grantee under this Agreement shall involve, and no portion of the funds received by Grantee under this Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Agreement be used for sectarian instruction or as a place of religious worship.

- C. Inclusion. Grantee shall include the substance of this Section 9 in all agreements associated with the funds made available through this Agreement unless such agreements were entered into before the date of this Agreement.

SECTION 10. LEGAL AUTHORITY

- A. Authority. Each party assures and guarantees to the other that they possess the legal authority to enter into this Agreement, to receive/deliver the funds authorized by this Agreement, and to perform their obligations hereunder.
- B. Reserved.
- C. No Authority. Grantor shall have the right to suspend or terminate this Agreement in accordance with Section 15 and 16, respectively, if there is a dispute as to the legal authority of either Grantee, or the person signing this Agreement, to enter into this Agreement, any amendments hereto or failure to render performance of obligations hereunder.

SECTION 11. LITIGATION AND CLAIMS

- A. Notice of Claims. Grantee shall give Grantor immediate notice in writing of any action, including any proceeding before an administrative agency, filed against Grantee arising out the performance of this Agreement. Except as otherwise directed by Grantor, Grantee shall furnish immediately to Grantor copies of all pertinent papers received by Grantee with respect to such action or claim. Grantee shall notify the Grantor immediately of any legal action filed against the Grantee or any subcontractor of which Grantee is actually aware, or of any proceeding filed under the federal bankruptcy code. Grantee shall submit a copy of such notice to Grantor within thirty (30) calendar days after receipt or issuance, as applicable.

No funds provided under this Agreement may be used in the payment of any costs incurred from violations of or settlements relating to, or failure to comply with, federal and state regulations.

- B. Texas Torts Claims Act. Grantee acknowledges that Grantor is a political subdivision of the State of Texas and is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001 et. seq., and the remedies authorized therein regarding claims and causes of action that may be asserted by third parties for accident, injury, or death.
- C. Venue. **THIS GRANT AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.** Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Grant Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

SECTION 12. RESERVED

SECTION 13. CHANGES AND AMENDMENTS

- A. Amendments. Except as provided below, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both parties to this Agreement.

The Director of the Economic Development Department, or any successor City department, shall have the ability, without further City Council approval, to execute amendments for minor changes to this Agreement and to implement the remedies made available to City hereunder. Any substantial changes to this Agreement shall require City Council approval. Pursuant to the City's Chapter 380 Policy, any Project that requires the amendment of an existing Agreement will be required to pay a fee of \$2,500 to the City of San Antonio.

- B. Chapter 380. It is understood and agreed by the parties hereto that performances under this Agreement shall be rendered in accordance with the laws and rules governing the Economic Development Program as set forth in Texas Local Government Code Chapter 380, and the terms and conditions of this Agreement.
- C. Changes in Law. Any alterations, additions, or deletions to the terms of this Agreement required by changes in state law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

SECTION 14. CURE PERIOD

- A. During the Term of this Agreement, subject to Force Majeure, should Grantor determine Grantee is in breach under any of the terms of this Agreement, Grantor will notify Grantee in writing at the address below. If said breach is not cured within sixty (60) calendar days from the date of such notice (hereinafter the "Cure Period"), subject to Force Majeure, then Grantor shall have the right to declare a default and terminate this Agreement. .
- B. In the case of a breach for causes that cannot with due diligence be cured within the Cure Period, the Cure Period may be extended by Grantor for such additional time as may be reasonable under the circumstances provided that Grantee shall:
 - 1. immediately upon receipt of such written notice advise Grantor of Grantee's intention to institute all steps necessary to cure such breach and the associated time frame; and
 - 2. institute and thereafter prosecute to completion with reasonable dispatch all steps necessary to cure same. If said breach is not cured within the Cure Period or within the additional time period provided for in the immediately preceding subsection then Grantor shall have the right to suspend or terminate this Agreement, in accordance with Sections 15 or 16 below. If this Agreement is terminated as a result of default, Grantee shall repay all EDIF Funds disbursed to Grantee within ninety (90) calendar days of receiving written notice of termination in accordance with Section 16 below.

SECTION 15. SUSPENSION

- A. Notice of Suspension. In the event Grantee is in breach on any material term of this Agreement and fails to cure such breach within the Cure Period, Grantor may suspend the payment of EDIF Funds until such time as Grantor determines that the breach has been cured in accordance with Section 14 above. Grantor shall provide written Notice of Suspension to Grantee declaring this Agreement suspended in whole or in part and withhold all further EDIF Fund payments to Grantee. Such Notice of Suspension shall include: (1) the reasons for such suspension; (2) the effective date of such suspension; and (3) in the case of partial suspension, the portion of this Agreement to be suspended.

A suspension under this Section 15 may be lifted at the reasonable discretion of the Grantor only upon a showing of compliance with or written waiver by Grantor of the term(s) in question.

The issuance of a suspension or lifting of a suspension does not provide Grantee with any right to receive EDIF Funds that may have been lost during the suspension period. EDIF Funds lost during the suspension period shall be deemed forfeited.

Notwithstanding this right to suspend, Grantor shall have the right to terminate in accordance with Section 16 below, regardless of having exercised this right to suspend.

- B. No Third-Party Liability. Grantor shall not be liable to Grantee, to Grantee's creditors, or any party with whom Grantee contracts for costs incurred during any term of suspension of this Agreement.
- C. Agreed Upon Suspension. In addition to a suspension as a result of the failure to cure a breach, the Parties may mutually agree to a full or partial suspension of the terms and conditions of this Agreement should the Parties agree circumstances require such suspension and the suspension does not exceed one (1) year.

SECTION 16. TERMINATION, RECAPTURE, AND OTHER REMEDIES

- A. Grantor shall have the right to terminate this Agreement should Grantee commit a breach of any term and such breach remains uncured past any applicable Cure Period. Additionally, Grantor may declare a default and terminate this Agreement if, in its sole discretion, Grantor determines that Grantee cannot cure such breach in any reasonable amount of time after the expiration of all applicable Cure Periods. Such right of termination shall be available to Grantor independent of Grantor's right to suspend and may be exercised by Grantor without having previously suspended this Agreement under Section 15. Grantor shall issue Grantee a written Notice of Termination, in which case the Grantor may: (1) withhold payments to Grantee; and/or (2) recapture any and all EDIF Funds disbursed to Grantee by Grantor. Such notification shall include: (a) the reasons for such termination; (b) the effective date of such termination; and (c) in the case of partial termination, the portion of this Agreement to be terminated. Upon issuance of a Notice of Termination, Grantee shall have ninety (90) calendar days to repay Grantor the amount of disbursed EDIF Funds Grantee has received from the commencement of this Agreement to the date of the Notice of Termination.
- B. Grantor shall have the right to terminate this Agreement and recapture any and all EDIF Funds disbursed to Grantee under this Agreement if Grantee fails to satisfy the (i) capital investment requirements under Section 3(B) and (ii) the job creation requirements under Section 3(C) by December 31, 2028. Such right of termination shall be available to Grantor independent of Grantor's right to suspend and may be exercised by Grantor without having previously placed this Agreement in a Cure Period or under Section 14 or suspended this Agreement under Section 15.
- C. Additional Termination Options. In addition to termination of this Agreement following a breach that continues beyond the Cure Period set forth in Section 14 of a material term of this Agreement, this Agreement may be terminated in whole or in part for any of the following:
 - 1. By the Grantor (with the written consent of the Grantee), in which case the two parties shall agree upon the termination conditions, including the repayment of funds, the effective date, and, in the case of partial termination, the portion to be terminated; or

2. By Grantee upon written notification to the Grantor, setting forth the reasons of such termination, a proposed pay-back plan of any or all EDIF Funds disbursed, the effective date, and, in the case of partial termination, the portion to be terminated. However, if, in the case of partial termination, the Grantor determines in its sole discretion that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantor may terminate this Agreement and seek repayment of all EDIF Funds.

D. Limitation on Recapture. Notwithstanding the foregoing, any such recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which Grantee may be entitled at law or under this Agreement. The termination and/or recapture of EDIF Funds provided in this Section 16 are not applicable to situations involving minor changes to the description of the Project Site, or Grantor approved changes in ownership or in management thereof, so long as Grantee, or any successor or assignee allowed under the terms of this Agreement, continues conducting Business Activities or other authorized activities thereon as provided hereinabove and assumes in writing joint and severable liability for all of Grantee's obligations hereunder and, in such event, Grantee shall remain liable for Grantee's obligations hereunder.

SECTION 17. SPECIAL CONDITIONS AND TERMS

Grantee understands and agrees that if Grantee is a "business" and if the Grantor's contribution under this Agreement is a "public subsidy" as that term is defined in Chapter 2264 of Subtitle F, Title 10 of the Government Code (80 (R) HB 1196), then Grantee is required to refund money, pursuant to 80(R) HB 1196, Grantee has received from Grantor through this Agreement, in the event of a conviction of knowingly employing an undocumented worker, with repayment required within six months of final conviction. Interest shall accrue at the rate of 0.5% per month until the time of such repayment from the date of final conviction.

SECTION 18. DEBARMENT

By signing this Agreement, Grantee certifies that it will not knowingly pay any funds provided under this Agreement to any party which is debarred, suspended or otherwise excluded from or ineligible for participation in assistance programs by the Grantor.

SECTION 19. RIGHTS UPON DEFAULT

It is expressly understood and agreed by the Parties hereto that any right or remedy provided for in this Agreement shall not preclude the exercise of any other right or remedy under any other agreements between Grantee and the Grantor or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder available shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

SECTION 20. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice, or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered to the addresses set forth below the communication is:

- delivered personally (with receipt acknowledged);

- three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid;
- upon receipt if sending the same by certified mail, return receipt requested; or
- upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier.

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.

If intended for GRANTOR, to:
(Whether personally delivered or mailed):

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

If intended for GRANTEE, to:

Toyota Motor Manufacturing, Texas, Inc.
Attn: Susann Kazunas, President
1 Lone Star Pass
San Antonio, Texas 78264

If by personal or overnight delivery:

Economic Development
Attn: Director
100 W. Houston Street, 18th Floor
San Antonio, Texas 78205

Copies to:

Toyota Motor North America, Inc.
Attention: Scott A. Young, Managing Counsel
6565 Headquarters Drive, W1-5B
Plano, Texas 75024

SECTION 21. NON-ASSIGNMENT

Other than to a Related Organization, this Agreement is not assignable without the written consent of Grantor and the passage of a City Ordinance approving such assignment. Any other attempt to assign this Agreement shall not relieve Grantee from liability under this Agreement and shall not release Grantee from performing any of the terms, covenants, and conditions herein. Grantee shall be held responsible for the repayment of any or all funds received under this Agreement under the default provisions contained herein. Notwithstanding the foregoing, Grantee may assign this Agreement, upon consent of Grantor, which shall not be unreasonably withheld, conditioned or delayed, in conjunction with a sale or merger of the company so long as the entity that will succeed to Grantee’s rights under this Agreement assumes in writing all of Grantee’s obligations hereunder. Pursuant to the City’s Chapter 380 Policy, any Project that requires an assignment of an existing Agreement will be required to pay a fee of \$2,500 to the City of San Antonio.

SECTION 22. ORAL AND WRITTEN AGREEMENTS

All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

SECTION 23. AUTHORIZED RELIEF FROM PERFORMANCE (*Force Majeure*)

For purposes of this Agreement, “Force Majeure” is defined as (i) an act of God, natural disaster, or pandemic (ii) the outbreak of war, political unrest or a labor strike (in jurisdictions and/or industries

related to the supply chain or labor force required for Grantee to conduct its Business Activities), (iii) explosion or other casualty or accident which is not the result of negligence, intentional act or misconduct on the part of Grantee, or (iv) other events which are beyond the reasonable control of the Grantee and which have a direct adverse impact on its Business Activities. In addition to relief expressly granted in this Agreement, Grantor may grant a waiver from performance of the obligations of this Agreement if Grantee 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 Grantee. To obtain relief based upon this Section 23, Grantee must file a written request with the Grantor's Economic Development Department for processing and decision by the Economic Development Department.

SECTION 24. SURVIVAL OF TERMS

Termination or expiration of this Agreement shall not extinguish or prejudice Grantor's right to recoup or otherwise recover Grant Funds if Grantor finds Grant Funds were provided to or expended by Grantee in violation of any of the terms of this Agreement.

SECTION 25. INCORPORATION OF EXHIBITS

Each of the Exhibits and Attachments listed below is an essential part of this Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

Exhibit A - Project Site Legal Description

Exhibit B - Incentive Reporting Form

Exhibit C – Pre-Construction/Construction Phase Job and Prevailing Wage Reporting Form

SECTION 26. LEGAL CONSTRUCTION

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

SECTION 27. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Agreement is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Agreement to be executed.

SECTION 28. CAPTIONS

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

SECTION 29. ENTIRE AGREEMENT

This Agreement (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters set forth in this Agreement.

WHEREFORE, the Parties hereto have executed this Agreement and have agreed to the terms and conditions states above as of the Effective Date.

<p>CITY OF SAN ANTONIO, a Texas Municipal Corporation</p> <hr/> <p>Erik Walsh City Manager</p>	<p>TOYOTA MOTOR MANUFACTURING, TEXAS, INC., a Texas corporation</p> <p><u>Susann Kazunas</u> Susann Kazunas President</p> <p>ATTEST:</p> <p><u>[Signature]</u> Printed Name: <u>ROB FRANKLIN</u></p>
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Approved as to Form:

Assistant City Attorney

EXHIBIT A: PROJECT SITE DESCRIPTION

EXHIBIT B: INCENTIVE REPORTING FORM

**City of San Antonio
Economic Development Department
Incentive Reporting Form**

Company Name:

Reporting Period:

Name/Phone/Email of Person Preparing Report:

Real Property: Expenditures associated with Real Property Improvements under this Agreement (Verification may include AIA forms, receipts, invoices, request for payment from contractor, etc.)	
1. Real Property Improvements reported at the Project Site as of the previous reporting period	\$
2. Real Property Improvements made at the Project Site since the end of the previous reporting period (<i>Attach supporting documents.</i>)	\$
3. Total cumulative Real Property Improvements made under this Agreement as of the end of this reporting period	\$
4. Is the company compliant with its Real Property Improvements investment requirement? Yes / No / Completed / Not Applicable.	
Personal Property: Expenditures associated with Personal Property Improvements under this Agreement (Verification may include receipts, invoices, requests for payment, etc.)	
5. Personal Property Improvements reported at the Project Site as of the previous reporting period	\$
6. Personal Property Improvements made at the Project Site since the end of the previous reporting period (<i>Attach supporting documents.</i>)	\$
7. Total cumulative Personal Property Improvements made under this Agreement as of the end of this reporting period	\$
8. Is the Company compliant with its Personal Property Improvements investment requirement? Yes / No / Completed / Not Applicable.	
Inventory/Supplies (if applicable): (Verification may include receipts, invoices, requests for payment, etc.)	
9. Inventory and Supplies improvements reported at the Project Site facility as of the previous reporting period	\$ N/A
10. Inventory and Supplies improvements made at the Project Site facility since the end of the previous reporting period (<i>Attach supporting documents.</i>)	\$ N/A
11. Total cumulative Inventory and Supplies investment made at the Project Site facility as of the end of this reporting period	\$ N/A
12. Is the Company compliant with its Inventory Requirement? Yes / No / Completed / Not Applicable	N/A
Jobs: New Full-time Jobs created under this Agreement (Verification: payroll registers with total number of employees, dates of hire, hourly wages, etc). Note: jobs reported below must meet eligibility requirements per the incentive agreement to include job location and wage requirements.	
13. Total number of jobs reported at the Project Site as of the previous reporting period	
14. Total number of jobs reported at the Project Site at the end of this reporting period	
15. Are any of the jobs reported above working remotely on a permanent basis? If yes, what is the number of jobs working remotely on a permanent basis?	
16. Has your company changed its business model to have jobs that previously reported to the Project Site work remotely on a permanent basis?	

17. Is the Company compliant with its Job Creation/Maintenance Requirement this period?	Yes / No
Wages: Please refer to your company's Agreement(s) for specific wage requirements.	
18. What is the minimum hourly wage paid at the Project Site <i>(For supporting documents, see above.)</i>	
19. At time of hire, are one hundred percent (100%) of New Full-Time Employees at the Project Site receiving wages of at least \$20.54 per hour, excluding benefits, bonuses, commissions, and shift differentials? <i>(For supporting documents, see above.) Note: Median wage for San Antonio will be updated yearly at the time of the release of the annual U.S. Census Bureau American Community Survey 5-year estimates.)</i>	Yes / No
Additional Contractual Obligations (As applicable per your Agreement)	
20. Regarding wrap-around services, please attach separate sheet demonstrating compliance with your agreement. (Ongoing reporting to commence after plan approval by EDD, see Agreement)	
21. Regarding employee benefits, please attach separate sheet demonstrating compliance with your agreement.	N/A (available on request)
22. Workforce efforts: Internships, Apprenticeships, Job Fairs (Please elaborate on separate sheet)	
Certification	
<i>I certify that the information provided in this report and the attached documents is correct to the best of my knowledge, and that the company has complied with all terms and conditions of its agreement with the City of San Antonio.</i>	

Signature of Company Certifying Officer or Designee:

Date:

Printed Name:

Title:

For questions regarding this report, please contact Donna Hull, Special Projects Manager, at 210/207-0567 or e-mail: monitoringandops@sanantonio.gov.

EXHIBIT C: PRE-CONSTRUCTION/CONSTRUCTION PHASE REPORTING FORM

**City of San Antonio
Economic Development Department
Pre-Construction/Construction Phase Prevailing Wage Reporting Form**

Company Name: _____

Reporting Period: _____

Contact Information: _____

Pre-Construction/Construction Phase Jobs and Wages:	
1. Total number of contractor and subcontractor jobs reported at the Project Site last reporting period.	
2. Number of employees on the Project Site hired directly and hired through a third party.	
3. Percentage of total contractor and subcontractor jobs paid prevailing wage.	
Additional items:	
Table of Wages and benefits of contractor and subcontractor jobs on the Project Site by classification (occupation and wage brackets and indicate percentage at or above prevailing wage for both existing and new jobs)	
Percentage at prevailing wage	
Percentage at or 10% above prevailing wage	
11% -25% above prevailing wage	
26% -50% above prevailing wage	
Above 50% prevailing wage	
Certification:	
<i>I certify that the information provided in this report and the attached documents is correct to the best of my knowledge, and that the company has complied with all terms and conditions of its agreement with the City of San Antonio.</i>	

Signature: _____ Date: _____

Printed Name: _____ Title: _____