

**CITY OF SAN ANTONIO
CITY MANAGER'S OFFICE
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Christopher J. Brady, Assistant City Manager

SBUJECT: Starbright Industrial Development Corporation Resolution

DATE: December 9, 2004

SUMMARY AND RECOMMENDATIONS

A resolution authorizing the transfer of approximately \$4,000,000 from the City of San Antonio, Starbright Industrial Development Corporation Contract Revenue Bonds, Series 2003 to Toyota Motor Manufacturing North America, Inc. to fulfill reimbursement obligations set out in the Starbright Agreement dated May 22, 2003.

Staff recommends approval.

BACKGROUND INFORMATION

Pursuant of the Starbright Agreement dated May 22, 2003, Starbright IDC is obligated to reimburse Toyota Motor Manufacturing North America, Inc. (TMMNA) for all costs incurred by Toyota relating to the completion of Site Preparation in accordance with Toyota's plans and specifications and timetable to be provided by Toyota; provided, however, that the aggregate amount of all Site Preparation costs to be reimbursed shall not exceed Ten Million Dollars (\$10,000,000.00). This action provides partial payment, as agreed by TMMNA, Inc. The City anticipates the balance of funds required to meet this obligation will come from both a credit applied for the waiver of certain development fees and a grant from the Economic Development Administration.

POLICY ANALYSIS

This action is consistent with previous actions of the Board of the Starbright IDC in abiding with the terms of the Starbright Agreement.

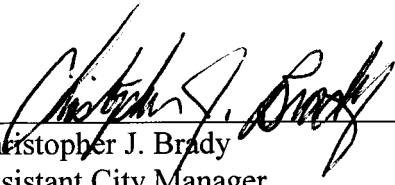
FISCAL IMPACT

Funding for this action is available through the proceeds of bonds sold through the City of San Antonio, Starbright Industrial Development Corporation. There is no impact to the City of San Antonio general fund.

COORDINATION


This ordinance has been coordinated with the Finance Department and City Attorney's Office.

Attachments: Sit preparation obligation, Exhibit C of the Starbright Agreement



Christopher J. Brady
Assistant City Manager

Approved:



J. Rolando Bono
Interim City Manager

EXHIBIT C

CITY AGREEMENT

1. Designation of License and Permit Coordinator. In order for the Project to commence as soon as possible and to proceed in an orderly and expeditious manner and to meet applicable timetables, the City agrees to designate a License and Permit Coordinator (i) on a part-time basis for the duration of Project Construction and (ii) on an as-needed basis by Toyota thereafter and to do all other things and take all other actions necessary, in cooperation with Toyota, to accomplish this obligation.

2. Assistance with Permits/Licenses. The City hereby agrees, with the cooperation of Toyota, for so long as Toyota, or any Affiliates of Toyota, shall own or lease the Project Site or operate the Project, to assist Toyota in the expeditious processing of all applications for obtaining and maintaining the permits relating to and timely renewal of all applicable permits, licenses, authorizations and approvals of or with the United States government, the State, the Local Governments and any other applicable agencies. These permits include without limitation, all construction and operating permits, process and potable water construction and supply permits, wastewater discharge permits, wetlands siting and grading, clearing, stormwater construction and operating permits and wetlands mitigation or delineation permits all to be issued in an expeditious and timely manner in order to permit Toyota to proceed with its timetable for construction of the Project.

3. Utility Rate and Infrastructure Commitments. CPS agrees to charge the utility rates and construct the infrastructure in the manner and time as set forth in the commitment attached hereto as Addendum C-I and made a part hereof for all purposes for any and all natural gas and/or electricity used by Toyota in connection with the facility at the Project Site. SAWS agrees to charge the utility rates and construct the infrastructure in the manner and time as set forth in the commitment attached hereto as Addendum C-II and made a part hereof for all purposes for any and all water (including wastewater) used by Toyota in connection with the facility at the Project Site. For the period commencing as of the beginning of the eighth (8th) year after the Start of Production of Phase I and expiring as of the end of the fifteenth (15th) year after the Start of Production of Phase I (the "Favorable Rate Period"), CPS agrees to charge Toyota its most favored firm, non-interruptible full-service utility rates charged to any of its industrial or commercial customers (other than customers who are purchasing such utility service on a wholesale basis for resale) at such time for any and all natural gas transportation service and/or electricity used by Toyota in connection with the facility at the Project Site. During the Favorable Rate Period, SAWS agrees to charge Toyota its most favored utility rates charged to any of its industrial or commercial customers (other than customers who are purchasing such utility service on a wholesale basis for resale) at such time for

any and all water (including wastewater) used by Toyota in connection with the facility at the Project Site.

4. Acquisition and Conveyance by IDC.

(a) The City hereby agrees that it will use its best efforts to cause the IDC to convey the Project Site to Toyota as soon as is practicable after its receipt of Toyota's written request after the Trigger Date (but, notwithstanding such best efforts, in no event later than one hundred twenty (120) days from and after the date of such written request), for and in consideration of: (i) the payment of Two Million Dollars (\$2,000,000.00) by Toyota to the IDC (which payment will be made on the date that is the latter to occur of: (a) the date the Project Site is conveyed to Toyota, or (b) the date upon which the commencement of Site Preparation occurs), and (ii) Toyota's performance of the obligations under Article 3 of the Agreement. Toyota will make such written request within 270 days after the Trigger Date. The conveyance of the Project Site is intended to constitute a "sale" within the meaning of Section 23(a)(3) of the Development Corporation Act of 1979 (Article 5190.6 of Vernon's Annotated Texas Civil Statutes), with such \$2,000,000.00 and Toyota's performance of its obligations under Article 3 of the Agreement constituting the "purchase price" for such conveyance as contemplated under the Development Corporation Act of 1979. Such conveyance shall be: (i) evidenced by a special warranty deed duly executed and in recordable form; and (ii) accompanied by an owner's policy of title insurance in form and content satisfactory to Toyota, containing such available endorsements as Toyota may request and issued by one or more title insurance underwriting companies licensed to do business in the State and approved by Toyota, insuring fee simple title to the Project Site to Toyota in the amount of the full value of the Project Site prior to the commencement of Site Preparation, subject to matters listed on Addendum C-III attached hereto. The City hereby agrees to pay or cause IDC to pay to the relevant title company all of its fees and premiums attributable to the issuance of such title policy covering the Project Site and the cost of any and all endorsements to the title policy required by Toyota.

(b) Toyota understands and acknowledges the following matters as of the Effective Date:

- (1) neither the City nor IDC currently own a fee simple interest in all of the Overall Tract.
- (2) approximately 634.91 acres (the "SAWS Tract") out of the Overall Tract are owned by SAWS and, as provided in Addendum C-II hereof, SAWS has agreed to convey to Toyota (or to an entity acceptable to all parties for further conveyance to Toyota) those

portions of the SAWS Tract that are to be part of the Project Site as determined by Toyota in accordance with the Agreement, and SAWS has further agreed in Addendum C-II hereof to impose certain restrictions on the portion of the SAWS Tract that is not part of the Project Site;

- (3) approximately 2 acres (the "BexarMet Tract") out of the Overall Tract are owned by BexarMet and, as contemplated by Section 30 of this City Agreement, BexarMet has agreed to convey to Toyota (or to an entity acceptable to all parties for further conveyance to Toyota) those portions of the BexarMet Tract that are to be part of the Project Site as determined by Toyota in accordance with the Agreement, and BexarMet has further agreed in Section 30 hereof to impose certain restrictions on the portion of the BexarMet Tract that is not part of the Project Site;
- (4) approximately 2,008.70 acres out of the Overall Tract are either (i) owned in part by the IDC or under a contract between the City, as buyer, and an entity controlled by SAEDF ("SAEDF Affiliate"), as seller (the "City Contract"), or (ii) under the following acquisition contracts (together with the City Contract, the "Acquisition Contracts"):
 - (i) that certain Farm and Ranch Earnest Money Contract dated effective as of September 24, 2002, by and between Charlotte E. Kiker, individually and as executrix of the Estate of Bessie F. Walsh, and Curtis Gembler, as sellers, and Christopher Worth Corbin, as buyer, for the sale and purchase of approximately 200 acres (the "200 Acre Tract");
 - (ii) that certain Farm and Ranch Earnest Money Contract dated effective as of September 30, 2002, by and between Mary Louise Walsh, individually and as trustee of the E.P. Walsh Trust, Patrick H. Small, Patricia Walsh Small, John H. Small, as sellers, and Christopher Worth Corbin, as buyer, for the sale and purchase of approximately 1,695 acres;
 - (iii) that certain Farm and Ranch Earnest Money Contract dated effective as of November 11, 2002, by and between

Caroline Murguia, a/k/a/ Caroline Walsh Murguia, Mary Caroline Murguia, Caroline Walsh Murgia, and Mary Caroline Murgia, as seller, and San Antonio Economic Development Foundation, as buyer, for the sale and purchase of such seller's interest in and to the same tract of land referenced in Section 4(b)(4)(ii), above; and

(iv) that certain Farm and Ranch Earnest Money Contract dated effective as of November 6, 2002, by and between James W. Collins, Trustee of the Cook Memorial Trusts, as seller (the "Rail Spur Tract Seller"), and Christopher Worth Corbin, as buyer, for the sale and purchase of approximately 113.7 acres (the "Rail Spur Tract").

(c) Notwithstanding any provision contained herein to the contrary, the City hereby covenants, agrees, warrants, and represents in favor of Toyota as follows:

- (1) The Acquisition Contracts are valid and binding agreements, and are enforceable in accordance with their respective terms against each "Seller" described therein;
- (2) The City possesses the valid, binding, and enforceable right to acquire the properties covered by each of the Acquisition Contracts;
- (3) The City will take all steps necessary or required to maintain the ongoing validity and enforceability of the Acquisition Contracts;
- (4) Notwithstanding the time periods set forth in the first and second sentences of Section 4(a) above, the City will take all steps necessary or required to be taken by the City in order: (i) to cause the options under the Acquisition Contracts to be exercised on a timely basis; (ii) to cause each "Seller" under the Acquisition Contracts to fully perform; and (iii) to cause the properties covered by the Acquisition Contracts to be acquired by either the City or the IDC on a timely basis; and
- (5) In the event that any one or more of the "Seller" parties under the Acquisition Contracts (i) defaults or otherwise fails to perform under

the Acquisition Contracts or (ii) otherwise fails to deliver title to the properties covered by the Acquisition Contracts to the City or the IDC, then the City shall pursue any and all available remedies in order to obtain title to the properties covered by the Acquisition Contracts.

- (6) The City recognizes and understands that the configuration and/or location of the Rail Spur Tract may not be suitable for Toyota's intended use, and City hereby agrees, upon request from Toyota, to enter into good faith negotiations with the Rail Spur Tract Seller (as owner of the land adjacent to the Rail Spur Tract) to modify the configuration and/or location of the Rail Spur Tract to suit Toyota's needs, or to otherwise use good faith efforts to acquire such adjacent land as may be necessary for Toyota's intended purposes, without additional cost or expense to the City.

(d) The City hereby covenants and agrees that, at the time of the conveyance of the Project Site to Toyota pursuant to this Section, the IDC or the aforesaid SAEDF Affiliate shall have good, valid, indefeasible and legal title, in fee simple, to the Project Site, free and clear of all liens and encumbrances, easements and servitudes, except those which are listed on Addendum C-III attached hereto and made a part hereof for all purposes, and except those liens that are fully released prior to or at the time of the transfer of the Project Site to Toyota.

(e) The City hereby covenants and agrees that the IDC shall have the funds available and shall acquire the Project Site, or shall cause a subsidiary of SAEDF controlled by SAEDF to acquire the Project Site, within one hundred and twenty (120) days after the Trigger Date. In the event the City and/or the IDC shall finance the acquisition of the Project Site, in whole or in part, through the issuance of bonds (the "Bonds"), the same shall be secured by, among other things, a pledge by the City of certain legally available funds and revenues of the City, or any agency or instrumentality of the City. In no event shall the Project Site be pledged as security for the Bonds or any other financing mechanism used by the City or the IDC in connection with the acquisition of the Project Site, other than liens that are fully released prior to or at the time of the transfer of the Project Site to Toyota.

5. Site Preparation. The City hereby agrees to reimburse Toyota for all costs incurred by Toyota relating to the completion of Site Preparation in accordance with Toyota's plans and specifications and timetable to be provided by Toyota; provided, however, that the aggregate amount of all Site Preparation costs to be reimbursed under this paragraph shall not exceed Ten Million

Dollars (\$10,000,000.00). Toyota understands that the City may fulfill its commitment under this paragraph through the IDC which may, at that time, be the owner of the Project Site.

6. Environmental Representations and Warranties. The City hereby represents and warrants that, as of the date the Project Site is conveyed to Toyota pursuant to Section 4, there shall be no: (a) Hazardous Substances, (b) archeological effects or remains, endangered species, or any outstanding mineral interests on the Project Site that will in any way adversely affect the development, construction, or operation of the Project or the Phase II Project, or (c) violations of any Environmental Laws applicable to the Project Site. The representations and warranties contained in this Section 6 shall remain in full force and effect for a term expiring fifteen (15) years from the commencement of the Site Preparation. If there is a breach of a representation or warranty by the City under this Agreement, the City can cure such breach by remediating the condition that gave rise to such breach. In determining the exact actual location of the Project Site and the location of the Project and the Phase II Project on the Project Site, Toyota agrees to give reasonable consideration to the City's potential liability under this Section 6 and under Section 10 and Section 11 of this City Agreement to the extent Toyota can make such determinations without in any way compromising Toyota's operations on the Project Site; notwithstanding the above, after giving such reasonable consideration, it is understood and agreed that Toyota shall have the right to determine the exact actual location of the Project and the location of the Project and Phase II Project on the Project Site in its sole and absolute discretion.

7. Environmental Impact Analyses. SAEDF will arrange and pay for the preparation and submission of any environmental impact statements, reports, or analyses required for the Project Site or reasonably requested by Toyota on or before the Project Site is conveyed to Toyota. Any and all of such statements, reports, or analyses shall be prepared at no cost to Toyota. Each such report shall specifically provide by its terms that such report is for the benefit of Toyota and contain an acknowledgment from the company performing the work that Toyota as well as any and all lenders with respect to Project Starbright shall be entitled to rely upon the results of such reports. Further, Toyota will be allowed to review and approve all companies providing any report issued pursuant to this paragraph and shall have the right of prior approval of any engagement agreements proposed with such companies. Any and all reports shall be forwarded to Toyota prior to the conveyance of the Project Site, but in any event as soon as practicable. In compliance with the foregoing provisions of this Section, SAEDF (together with the City) has caused Raba-Kistner Consulting, in conjunction with the University of Texas at San Antonio Center for Archeological Research, and in consultation with appropriate State of Texas agencies, including the Texas Historical Commission and Texas Parks and Wildlife and federal agencies, including the Army Corps of Engineers and the U.S. Fish and Wildlife Service, to prepare, and has delivered to Toyota, a site assessment of the Overall Tract dated January 2003 (the "Site Assessment Report"). The Site Assessment Report was specifically prepared for "Project Starbright" and consists of five sections and respective attachments including: 1. Executive Summary, 2. Phase I ESA, 3. Threatened and Endangered Species, 4. Historical/Cultural Cemeteries, and 5. Wetlands. The provision to Toyota of the Site Assessment

Report shall not be deemed acceptance by Toyota of the matters set forth in the Site Assessment Report or in any way relieve or release the City with respect to any remediation or other responsibility under this City Agreement, including those arising under Sections 9, 10, 11, or 12 of this City Agreement.

8. Environmental and Cultural Resources Assessment. The City hereby agrees to arrange and pay for the preparation of an environmental and cultural resources assessment for the Project Site. Such assessment shall be prepared at no cost to Toyota. Such assessment shall specifically provide by its terms that it is for the benefit of Toyota and contain an acknowledgment from the company performing the work that Toyota as well as any and all lenders with respect to Project Starbright shall be entitled to rely upon the results of such assessment. Further, Toyota will be allowed to review and approve the company providing the assessment and shall have the right of prior approval of the engagement agreement proposed with such company. Any and all reports shall be forwarded to Toyota prior to the conveyance of the Project Site, but in any event as soon as practicable. In compliance with the foregoing provisions of this Section, the City (together with SAEDF) has caused Raba-Kistner Consulting to prepare, and has delivered to Toyota, the Site Assessment Report. In further compliance with the provisions of this section, the City has also prepared that certain Phase One Environmental Site Assessment dated March 2003 pertaining to the Rail Spur Tract and has delivered a copy of such report to Toyota. The provision to Toyota of the Site Assessment Report and such Phase One Environmental Site Assessment pertaining to the Rail Spur Tract shall not be deemed acceptance by Toyota of the matters set forth in the Site Assessment Report and such Phase One Environmental Site Assessment pertaining to the Rail Spur Tract or in any way relieve or release the City with respect to any remediation or other responsibility under this City Agreement, including those arising under Sections 9, 10, 11, or 12 of this City Agreement.

9. Environmental Indemnification. The City hereby agrees, to the extent allowed by applicable law, to indemnify and hold harmless Toyota from and against, and reimburse Toyota for, any losses or damages, fines, penalties, remedial costs, or legal expenses or other related costs associated therewith whatsoever, whether to person, property or natural resources, which Toyota may incur as a result of the release or presence at or onto the Project Site of any Hazardous Substances or the violation of any Environmental Laws at or onto the Project Site which presence, release or violation is attributable to events, occurrences or circumstances adhering to or affecting the Project Site prior to and including the date on which the Project Site is conveyed from IDC to Toyota, irrespective of the date of discovery of such presence, release or violation. This environmental indemnity shall survive (including, without limitation, surviving the termination of this Agreement) for a term of fifteen (15) years from the commencement of the Site Preparation. In addition, the City shall remediate any environmental condition attributable to the release or presence at or onto the Project Site of any Hazardous Substances or the violation of any Environmental Laws at or onto the Project Site which presence, release or violation is attributable to events, occurrences, or circumstances adhering to or affecting the Project Site prior to and including the date on which the Project Site is conveyed from IDC to Toyota, irrespective of the date of discovery of such presence,

release or violation, and the City shall cap, plug, and close all oil and gas wells located on the Project Site in accordance with all applicable governmental standards and rules, and the City shall remove all underground and above ground storage tanks in accordance with all applicable governmental standards and rules. This remediation obligation shall survive for a term of fifteen (15) years from the commencement of the Site Preparation.

10. Wetlands. SAEDF and the City each hereby agrees to evaluate and delineate potential wetlands on the Project Site and, if there are wetlands on the Project Site, to obtain and provide to Toyota any approvals necessary by reason of such wetlands under the Clean Water Act (33 USC Section 1251, *et seq.*) and related state and local laws, including the provision of any wetlands protection or mitigation actions that may be required or appropriate, all at no cost to Toyota, which obligation shall continue for a period of fifteen (15) years from the commencement of the Site Preparation. Any and all reports shall be forwarded to Toyota prior to the conveyance of the Project Site, but in any event as soon as practicable. In connection with the foregoing provisions of this Section 10, SAEDF and the City have caused Raba-Kistner Consulting to prepare, and have delivered to Toyota, the Site Assessment Report. The provision to Toyota of the Site Assessment Report shall not be deemed acceptance by Toyota of the matters set forth in the Site Assessment Report or in any way relieve or release the City with respect to any remediation or other responsibility under this City Agreement, including those arising under Sections 9, 10, 11, or 12 of this City Agreement.

11. Cemeteries. SAEDF and the City each hereby represents and warrants that there shall be no cemetery located within the boundaries of the Project Site that will in any way adversely affect the development, construction, or operation of the Project or the Phase II Project. The representations and warranties contained in this Section 11 shall remain in full force and effect for a term expiring fifteen (15) years from the commencement of the Site Preparation.

12. Cultural and Historical Resources and Threatened or Endangered Species. SAEDF and the City each hereby agrees to determine whether the Project Site or surrounding areas contain cultural or historical resources or species or plant and animal life that are listed or proposed for listing as threatened or endangered under the Endangered Species Act (16 USC Section 1531, *et seq.*) and related state or local laws and whether the presence of such resources or species will affect the use of the Project Site for construction and operation of the Project. If so, SAEDF and the City each hereby agrees to address those potential effects to the reasonable satisfaction of Toyota and without cost to Toyota, which obligation shall continue for a period of fifteen (15) years from the commencement of the Site Preparation. Any and all reports shall be forwarded to Toyota prior to the conveyance of the Project Site, but in any event as soon as practicable. In connection with the foregoing provisions of this Section, SAEDF and the City have caused Raba-Kistner Consulting to prepare, and have delivered to Toyota, the Site Assessment Report. The provision to Toyota of the Site Assessment Report shall not be deemed acceptance by Toyota of the matters set forth in the Site Assessment Report or in any way relieve or release the City with respect to any remediation or other

responsibility under this City Agreement, including those arising under Sections 9, 10, 11, or 12 of this City Agreement.

13. Water and Sewer. SAWS hereby agrees to provide a temporary water extension line, a permanent water extension line, and a sewer extension line from the property line of the Project Site to such location on the Project Site as directed by Toyota, without cost to Toyota, and to ensure that the pressure, quality, and character of the water meets applicable governmental standards, including the standards set forth in Subchapter F, Chapter 290, Title 30, of the Texas Administrative Code, and that the quantity of the water meets the needs of Project Starbright. SAWS hereby agrees to provide a permanent water extension line and a sewer extension line from preexisting lines not located on the Project Site to the property line of the Project Site. In each instance, the permanent water extension line and the sewer extension line will be placed in such routes and will extend to such locations on the perimeter of the Project Site as directed by Toyota. Each of the extension lines shall be constructed and installed to industrial standards, including but not limited to line size and pressure in order to service adequately the needs of the Project Site (based on information provided to the City by Toyota prior to the Effective Date) and other potential independent users along each extension. Construction and installation of a temporary water extension line shall commence and shall be completed by December, 2003. Construction and installation of a permanent water extension line shall commence and shall be completed by March 1, 2005. Construction and installation of the sewer extension line shall commence and shall be completed by April 1, 2005. SAWS understands and agrees that these deadlines have been established to insure that such lines will be completed and operational in a timely manner that is consistent with, and does not impede, the overall construction and completion of the Project. Additionally, SAWS hereby agrees to provide a recycled water extension line to the property line of the Project Site on Applewhite Road, at a mutually agreeable location, without cost to Toyota, and to ensure that the pressure, quality, and character of such recycled water meets applicable governmental standards, and that the quantity of such water meets the needs of Project Starbright, which recycled water extension line shall be completed by April 1, 2005. The completion date for the construction of the temporary water extension line is contingent upon Toyota providing SAWS with a basic site layout plan (the "Basic Site Layout Plan") of the contemplated construction. Should the Basic Site Layout Plan not be delivered by Toyota to SAWS by November 15, 2003, then the completion date for the temporary water extension line will be extended by a period of time equal to the number of days after November 15, 2003, that the Basic Site Layout Plan is delivered to SAWS. The completion dates for the construction of the permanent extension water line, the sewer extension line, and the recycled water extension line are contingent on Toyota providing to SAWS a ninety percent (90%) site layout plan of the Project Site, to include drainage, roadways, building location, and service points of delivery (the "90% Site Layout Plan"), not later than May 1, 2004. Should the 90% Site Layout Plan not be delivered by Toyota to SAWS by May 1, 2004, then the completion date for the permanent water line, the sewer extension line, and the recycled water line will be extended by a period of time equal to the number of days after May 1, 2004, that such information is delivered to SAWS. The

City and SAWS agree to waive all fees (including impact fees) for permits, applications, or the like for such water, recycled water, and wastewater, to the fullest extent permitted by law.

14. Storm Water Basin and Piping Systems. The City hereby agrees to reimburse Toyota for all costs associated with the purchase, construction and installation of any necessary public storm water runoff and piping systems at the Project Site as a Site Preparation cost pursuant and subject to Section 5 of this Exhibit C. The City shall not be obligated to reimburse Toyota for the installation of internal collection systems on the Project Site.

15. Wastewater Treatment. SAWS hereby agrees to arrange for sufficient off-Project Site sewer and wastewater treatment and related facilities (including, without limitation, any and all pumping stations) as will be required to handle twice the volume of domestic and industrial process wastewater and other effluent generated by the Project at full production capacity (based on information provided to the City by Toyota prior to the Effective Date), at no cost to Toyota. Within 30 days after Toyota submits an application for a wastewater permit, SAWS and the City (as appropriate) will determine and confirm in writing the completeness of that application. Within 30 days after the application is determined to be complete, SAWS and the City (as appropriate) will establish appropriate effluent limitations, including pretreatment requirements, for the Project. Within 60 days after the application is determined to be complete, SAWS and the City (as appropriate) will issue or deny the referenced permit. Construction and installation of the sewer and wastewater treatment facilities shall commence and shall be completed by December, 2004 (which deadline has been established to insure that such lines will be completed and operational in a timely manner that is consistent with, and does not impede, the overall construction and completion of the Project). During permit preparation and following commencement of wastewater discharge throughout the existence of both the Project and the Phase II Project, the persons responsible for city wastewater treatment shall assist Toyota to jointly resolve any issues or concerns which may arise relating to wastewater discharge. Such assistance may include, without limitation, operational or design changes at either the Project Site or the city wastewater treatment plant, or both.

16. Natural Gas Line. CPS shall provide gas lines to such locations on the Project Site directed by Toyota, all without cost to Toyota. Construction and installation of the gas lines shall commence and shall be completed as provided in Addendum C-I.

17. Electrical Power; Non-Attainment Banking. CPS shall provide electric transmission / distribution lines to such locations on the Project Site as directed by Toyota (with such minor adjustments as Toyota shall direct), all without cost to Toyota. CPS shall construct such additional electric utility infrastructure to the point(s) of delivery as Toyota shall reasonably request without cost to Toyota and, in addition, shall construct the feeder cables on the Toyota-side of the point of delivery, i.e. from the CPS 13.8kV secondary breakers to the Toyota 13.8kV secondary breakers, as specified in Addendum C-1, paragraph II.3. CPS is not otherwise responsible for electric facilities and infrastructure beyond the CPS 13.8kV secondary breakers.. Construction and installation of the

electric transmission / distribution lines shall commence and shall be completed as provided in Addendum C-I. CPS shall, at Toyota's request, redirect to the perimeter of the Project Site, as necessary, those portions of the high voltage lines currently running through the Project Site, and shown as the Leon Creek to Pleasanton 138 KV Transmission Line in Addendum C-IV hereto, and Toyota shall (to the extent necessary) grant easements to allow for such redirection. The Alamo Area Council of Governments is in the process of establishing an emissions "offsets" bank for the trading of emissions offset credits should the region be classified as non-attainment. CPS has agreed to actively support the establishment of such offsets bank and will trade with and utilize the services of such offsets bank to assure the continued economic development of the region in an environmentally responsible manner.

18. Temporary Office Facilities. GKDA hereby agrees to provide Toyota with fully equipped (including, without limitation, workstations, chairs, and telephone cabling (but not telephone hardware), but not including computer equipment or cabling) temporary office space comprising up to approximately 25,000 square feet until the completion of the permanent administrative facility on the Project Site. GKDA and Toyota will mutually agree upon the precise number of square footage, space configuration, and required work station and office equipment specifications to be provided to Toyota under this paragraph. Such space will be leased to Toyota at no cost or expense to Toyota, and GKDA will be solely responsible for any and all costs and expenses which are incurred and relate to such space, including, without limitation, any and all repair and maintenance charges, utility charges, real estate and other taxes and assessments, and insurance premiums. The terms of such lease shall be set forth in a lease agreement to be mutually agreed upon by GKDA and Toyota.

19. Temporary Living Quarters. SAEDF hereby agrees to assist Toyota employees in securing temporary living quarters in the area, all at favorable rates to the employees.

20. Toyota Ambassadors Program. SAEDF hereby agrees to establish a "Toyota Ambassadors" program to welcome and assist Toyota employees and their families in all aspects of living in San Antonio, Texas, including spousal employment assistance.

21. Cultural Assistance. The City and State hereby agree to use best efforts to provide, at no cost to Toyota, "Saturday Japanese School" and "English as a Second Language" classes for Toyota employees and their families. Toyota understands that it may be asked to contribute financially to the costs associated with the operation of the school.

22. Foreign Trade Zone. At Toyota's request, the City shall prepare and submit an application seeking the designation of the Project Site (or a portion of the Project Site as approved by Toyota) as a Foreign Trade Zone, including retention of the necessary professionals. Such application shall be prepared and submitted as soon as reasonably practicable following receipt from Toyota of all necessary information. All costs of obtaining such designation shall be borne by the City. In addition, the City agrees to reimburse Toyota for all costs associated with the purchase and

installation of fencing around the Project Site (or the portion thereof designated as a Foreign Trade Zone) in accordance with Foreign Trade Zone standards as a Site Preparation cost pursuant and subject to Section 5 of this Exhibit C.

23. Limited Purpose Annexation. As of the date of the conveyance of the Project Site to Toyota pursuant to Section 4 of this Exhibit C, it is likely that the Project Site will be located in an area that was recently annexed by the City as a "limited purpose annexation", and, as such, the City hereby agrees to enter into a Basic Fire Services Agreement with Toyota to provide fire protection services to the Project Site until such time as the Project Site is fully annexed by the City, which Basic Fire Services Agreement shall be in form attached hereto as Addendum C-V. Toyota hereby consents to and will cooperate with the City's full annexation of the Project Site at any time after (but not including) January 1, 2006, it being understood that no City ad valorem taxes would be assessed or accrue with respect to the Project Site during calendar tax years 2003, 2004, 2005, and 2006. In this regard, Toyota agrees to execute and record or, if the Project Site is conveyed to an Affiliate of Toyota, have such Affiliate execute and record, in the Bexar County Real Property Records at the time that the Project Site is conveyed to Toyota a Landowner's Consent to Annexation covering the Project Site in the form attached hereto as Addendum C-VI.

24. Zoning.

(a) The City agrees to initiate appropriate zoning cases and revisions to its Unified Development Code to zone the larger geographical area surrounding the Project Site located within the City's zoning jurisdiction and within three (3) miles of the perimeter of the Project Site (the "Enhanced Zoning Area"). The City agrees to commence such zoning process as soon as is practicable after the Effective Date and to work with Toyota in accordance with procedures required and authorized by law to zone the area which will include the creation of an appropriate new zoning overlay district (a "Target Industrial Development Area") with the objective of imposing upon the Enhanced Zoning Area appropriate land use guidelines that satisfy Toyota regarding use, density, setback and other restrictions consistent with Project Starbright. Toyota may designate a representative to work with the City, and the City will work in good faith with such representative, in the development of land use planning initiatives in the Enhanced Zoning Area and the Target Industrial Development Area, as well as any other land use planning initiative that affects the general area of the Project Site.

(b) The City agrees to exercise its best efforts to full-purpose annex in a timely manner any land within the Enhanced Zoning Area which is limited-purpose annexed so as to avoid disannexation of such limited-purpose annexed areas.

(c) The zoning and full-purpose annexation provisions contained in this Section have been agreed to by the City as an inducement for Toyota to locate the Project on the Project Site, and Toyota has heavily relied upon such agreements in deciding to locate the Project on the Project Site.

25. Surrounding SAWS Land. SAWS agrees to restrict the use of all SAWS property located adjacent to the Medina River and in the vicinity of the Project Site east of Applewhite Road to ensure that such land be used exclusively for conservation, green belt or other similar uses, and be encumbered with permanent restrictions against residential and heavy industrial uses. Toyota shall be entitled to enforce such restrictions. SAWS further agrees, as landowner of the property described above to cooperate with the zoning process referenced in Section 24 above.

26. City Obligations. All IDC, SAWS, and CPS obligations under this Agreement shall also be obligations of the City and the City shall cause IDC, SAWS and CPS to perform their respective obligations under this Agreement. The City shall cooperate with BexarMet, SAEDF, GKDA and Toyota to ensure that BexarMet, SAEDF and GKDA perform their respective obligations under this Agreement.

27. Training Facility. The City agrees to reimburse Toyota up to, but not to exceed, Three Million Dollars (\$3,000,000.00) for the cost of constructing the training center referenced in Section 12 of the State Agreement. Such amount shall be in addition to those amounts obligated to be reimbursed by the State for the training center. The source of such Three Million Dollars (\$3,000,000.00) will be a grant made to the City by the U.S. Economic Development Administration through the U.S. Department of Commerce.

28. Lease Space. The AWD will lease space to establish a Toyota Outreach and Screening Center for one (1) year (while other facilities are being built) during the Project ramp up. Such space will be leased to Toyota at no cost or expense to Toyota, and AWD will be solely responsible for any and all costs and expenses which are incurred and relate to such space, including, without limitation, any and all repair and maintenance charges, utility charges, real estate and other taxes and assessments, and insurance premiums.

29. Land Use Restriction. The City hereby agrees to restrict the portion of the Overall Tract that is not the Project Site to ensure that such land be used exclusively for (i) uses (other than residential and heavy industrial uses) compatible and consistent with the use of the Project Site, or (ii) conservation, green belt or other similar uses, and not for residential and heavy industrial uses.

30. BexarMet Tract. BexarMet agrees to convey to SAWS for further conveyance to Toyota (or to an entity acceptable to all parties for further conveyance to Toyota) those portions of the BexarMet Tract that may be designated by Toyota to be part of the Project Site. BexarMet further agrees, as owner of the BexarMet Tract to cooperate with the zoning process referenced in Section 24 above. BexarMet also agrees to restrict any of the BexarMet Tract that is not part of the Project Site to ensure that such land will be used exclusively for (i) uses (other than residential and heavy industrial uses) compatible and consistent with the use of the Project Site, or (ii) conservation, green belt or other similar uses, and not for residential and heavy industrial uses. Toyota shall be entitled to enforce such restrictions. Should Toyota determine that the presence of the BexarMet water pipeline located in the easement appurtenant to the Bexar Met Tract will interfere with the

operation of the Project, BexarMet agrees to fully release the water pipeline easement appurtenant to the BexarMet Tract to Toyota's reasonable satisfaction. Bexar Met must receive written notice from Toyota of Toyota's determination as to whether such water line interferes with Toyota's operation of the Project on or before the date which is 330 days from the Effective Date. Absent BexarMet's receipt of such notice within this time period, Bexar Met shall have no obligation to release, abandon or otherwise surrender said easement. Time is of the essence with respect to such deadline. BexarMet shall also surrender any and all rights it may have to divert surface water from locations on the Project Site and will take any and all actions necessary to effectuate such surrender including, without limitation, abandoning and/or amending any permits issued by the State of Texas in which BexarMet has an interest that would allow any diversion of surface water at locations on the Project Site.

31. Cell Tower. There is a communications tower (the "Cell Tower") located near Applewhite Road on the Overall Tract that was constructed pursuant to a Communications Site Lease Agreement (Ground) dated December 23, 1997 between Nextel of Texas, Inc. and Mary Louise Walsh (the "Cell Tower Lease"). The City will cause the Cell Tower to be removed from the Overall Site and the Cell Tower Lease to be terminated within eight (8) months from and after the Effective Date, provided that up to \$300,000.00 of the actual costs incurred by the City or the IDC in connection with such removal and such termination (the "Cell Tower Costs") will be Site Preparation Costs, and the \$10,000,000.00 reimbursement maximum for Site Preparation Costs set forth in Section 5 of this Exhibit C will be reduced by the amount of the Cell Tower Costs (not to exceed \$300,000.00).

32. Tower Windmill. If necessary prior to the actual conveyance of the Project Site to Toyota, Toyota, for purposes of monitoring wind direction and speed and other similar purposes, may erect or cause to be erected a tower based windmill that is approximately 150 feet in height, together with associated guy wire lines and other supporting structures, on the Overall Tract in a location to be determined by Toyota. In the event that Toyota must so erect such tower prior to the acquisition of the Project Site by the City, the IDC, or SAEDF or an SAEDF Affiliate, as contemplated hereby, the City will obtain from the applicable current landowner, appropriate consent and permission for Toyota to erect and have access to such tower.