

CITY of ALBUQUERQUE

TWENTY-SECOND COUNCIL

COUNCIL BILL NO. O-17-35 ENACTMENT NO. O-2017-005

SPONSORED BY: Dan Lewis, by request

1 **ORDINANCE**

2 **APPROVING A PROJECT INVOLVING CSI AVIATION, INC. PURSUANT TO THE**
3 **LOCAL ECONOMIC DEVELOPMENT ACT AND CITY ORDINANCE F/S O-04-10,**
4 **THE CITY'S IMPLEMENTING LEGISLATION FOR THAT ACT, TO SUPPORT THE**
5 **CONSTRUCTION OF AN AIRCRAFT HANGAR, OFFICE SPACE AND RELATED**
6 **IMPROVEMENTS; AUTHORIZING THE EXECUTION OF A PROJECT**
7 **PARTICIPATION AGREEMENT AND OTHER DOCUMENTS IN CONNECTION WITH**
8 **THE PROJECT; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING**
9 **TO THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND**
10 **REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.**

11 WHEREAS, the City of Albuquerque (the "City") is a legally and regularly
12 created, established, organized, and existing municipal corporation of the State of New
13 Mexico (the "State"); and

14 WHEREAS, pursuant to Sections 5-10-1 through 5-10-13 NMSA 1978, as
15 amended (the "Act"), the City is authorized to provide economic development
16 assistance to eligible entities for certain projects located within the corporate limits of
17 the municipality; and

18 WHEREAS, pursuant to the Act, the City has adopted Ordinance No. F/S 04-10
19 (the "LEDA Ordinance"), approving an economic development plan for the City and
20 authorizing the City to assist economic development projects in any legally permissible
21 manner, subject to the terms of the LEDA Ordinance; and

22 WHEREAS, pursuant to the LEDA Ordinance, CSI Aviation, Inc., a New Mexico
23 corporation (the "Company") has submitted to the Council and the Albuquerque
24 Development Commission (the "Commission") an application (the "Application")
25 requesting certain economic development assistance consisting of payment of a portion
26 of the construction cost for an airplane hangar, office space and related improvements

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1 in Albuquerque to be operated by the Company as an aviation facility, in exchange for
2 certain employment commitments (the "Project"); and

3 WHEREAS, the Project will be located on real property owned by the City and
4 leased to the Company pursuant to a Lease Agreement between the City and the
5 Company (the "Lease"); and

6 WHEREAS, the Act and the LEDA Ordinance require that the City and the
7 Company enter into a project participation agreement meeting the requirements of the
8 Act and the LEDA Ordinance; and

9 WHEREAS, City staff has worked with the Company to prepare, and has
10 negotiated the terms of, a project participation agreement and related documents that
11 will govern the relationship between the City and the Company with respect to the
12 Project (the "Agreement"); and

13 WHEREAS, the form of the proposed Agreement has been filed with the City
14 Clerk and presented to the Council; and

15 WHEREAS, the proposed Agreement contains the provisions required by the Act
16 and the LEDA Ordinance and, among other things, provides that the Company will grant
17 to the City a security instrument to secure the Company's obligations under the
18 Agreement; and

19 WHEREAS, the City has obtained a cost-benefit analysis with respect to the
20 Project on the basis of information provided to the City by the Company, which cost-
21 benefit analysis shows that the City will recoup the value of its contribution within ten
22 (10) years; and

23 WHEREAS, the Application, together with the cost-benefit analysis,
24 demonstrates the benefits that will accrue to the community as a result of the donation
25 of public resources and demonstrates that the Company, by completing the Project, will
26 be making a substantive contribution to the community, as required by the LEDA
27 Ordinance; and

28 WHEREAS, the Commission has considered the Project and the proposed
29 Agreement and has recommended that the Council approve the Company's proposal;
30 and

31 WHEREAS, the total amount of public money expended and the value of credit
32 pledged in each fiscal year in which money is expended by the City for the Project (and

1 any other approved projects) pursuant to the Act does not and will not exceed five
2 percent of the general fund expenditures of the City in such fiscal year; and

3 WHEREAS, the City anticipates that the State will transfer to it, for subsequent
4 transfer to or on behalf of the Company pursuant to an intergovernmental agreement
5 between the City and the State, certain funds of the State that are available for the
6 Project; and

7 WHEREAS, after having considered the Application and the Agreement, the
8 Council has concluded that the economic and other benefits of the Project to the City
9 will be substantial, that it is desirable and necessary at this time to authorize the City to
10 enter into the Agreement, and that the City's provision of the assistance contemplated
11 by the Agreement will constitute a valid public purpose under the Act; and

12 WHEREAS, there has been published in The Albuquerque Journal, a
13 newspaper of general circulation in the City, public notice of the Council's intention to
14 adopt this Ordinance, which notice was published at least fourteen (14) days prior to
15 hearing and final action on this Ordinance.

16 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
17 ALBUQUERQUE:

18 Section 1. RATIFICATION. All actions not inconsistent with the provisions of
19 this Ordinance previously taken by the Council and the officials of the City directed
20 toward the provision of economic development assistance in connection with the Project
21 be approved and the same hereby are ratified, approved and confirmed.

22 Section 2. GOALS AND OBJECTIVES. The goals and objectives of the Project
23 are, as set forth in the Agreement, to create and support an economic development
24 project that fosters, promotes and enhances local economic development efforts and
25 that provides job growth and career opportunities for Albuquerque-area residents and
26 otherwise makes a substantive contribution to the community.

27 Section 3. THE PROJECT. The Project will consist of the construction and
28 occupancy of an airplane hangar, office space and related improvements to be located
29 at the Albuquerque Sunport, including the employment of 10 new full-time employees by
30 November 1, 2021 and maintenance of such operations and employment of at least 40
31 full-time employees at the Albuquerque facility through November 1, 2026, in
32 accordance with the terms of the proposed Agreement. Consistent with R-00-151 and

1 M-17-4, no direct City-initiated funds distributed for the Project may be used to support
2 or facilitate immigration enforcement efforts.

3 Section 4. FINDINGS.

4 (A) General. The Council hereby declares that it has considered all
5 relevant information presented to it relating to the Project and the Agreement and
6 hereby finds and determines that the provision of economic development assistance for
7 the Project is necessary and advisable and in the interest of the public and will promote
8 the public health, safety, morals, convenience, economy, and welfare of the City and its
9 residents.

10 Section 5. AUTHORIZATION AND APPROVAL OF THE PROJECT AND THE
11 AGREEMENT; APPROPRIATION OF FUNDS. The City hereby approves the Project
12 and the Agreement, which provides, among other things, that the City will administer
13 and disburse to the Company funds totaling up to \$500,000 to be received by the City
14 from the State Economic Development Department, in exchange for which the
15 Company will complete the Project as specified in the Agreement. There is hereby
16 appropriated for the Project up to \$500,000 of funds received from the State Economic
17 Development Department.

18 Section 6. AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS.

19 (A) The form, terms, and provisions of the Agreement in the form
20 presented to the Council with this Ordinance are in all respects approved, authorized,
21 and confirmed, and the City is authorized to enter into the Agreement in substantially
22 the form thereof, with only such changes as are not inconsistent with this Ordinance or
23 such other changes as may be approved by supplemental resolution of the Council.

24 (B) The Council authorizes the Mayor or the Chief Administrative
25 Officer of the City to execute and deliver the Agreement in the name and on behalf of
26 the City, with only such changes therein as are not inconsistent with this Ordinance or
27 such changes as may be approved by supplemental resolution of the Council.

28 (C) The Mayor, Chief Administrative Officer, City Treasurer and City
29 Clerk are further authorized to execute, authenticate and deliver such certifications,
30 instruments, documents, letters and other agreements, including an intergovernmental
31 agreement with the State Economic Development Department and any appropriate
32 security agreements, and to do such other acts and things, either prior to or after the

1 date of delivery of the executed Agreement, as are necessary or appropriate to
2 consummate the transactions contemplated by the Agreement.

3 (D) City officials shall take such action as is necessary in conformity
4 with the Act, the LEDA Ordinance and this Ordinance to effectuate the provisions of the
5 Agreement and carry out the transactions as contemplated by this Ordinance and the
6 Agreement, including, without limitation, the execution and delivery of any documents
7 deemed necessary or appropriate in connection therewith.

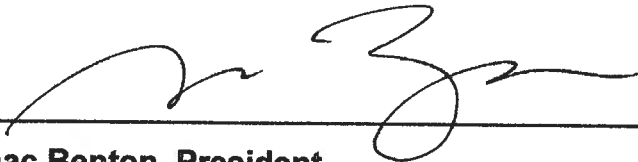
8 Section 7. SEVERABILITY. If any section, paragraph, clause or provision of this
9 Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or
10 unenforceability of that section, paragraph, clause, or provision shall not affect any of
11 the remaining provisions of this Ordinance.

12 Section 8. REPEALER. All bylaws, ordinances, resolutions, and orders, or parts
13 thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the
14 extent of that inconsistency. This repealer shall not be construed to revive any bylaw,
15 ordinance, resolution, or order, or part thereof, previously repealed.

16 Section 9. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE
17 DATE. This Ordinance, immediately upon its final passage and approval, shall be
18 recorded in the ordinance book of the City, kept for that purpose, and shall be there
19 authenticated by the signature of the Mayor and the presiding officer of the City Council,
20 and by the signature of the City Clerk or any Deputy City Clerk, and notice of adoption
21 thereof shall be published once in a newspaper that maintains an office in, and is of
22 general circulation in, the City, and shall be in full force and effect five (5) days following
23 such publication.

24 Section 10. REVIEW OF LEASE. The foregoing approvals, authorizations and
25 actions are all conditioned upon review and acceptance of the form of the Lease by the
26 Council.

1 PASSED AND ADOPTED THIS 6th DAY OF March, 2017
2 BY A VOTE OF: 9 FOR 0 AGAINST.

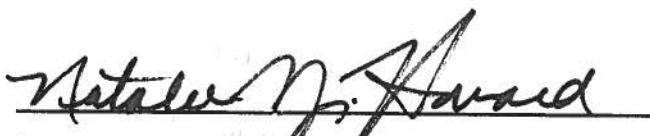
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9 Isaac Benton, President
10 City Council
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14 APPROVED THIS _____ DAY OF March 17, 2017
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18 Bill No. O-17-35
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21 
22 Richard J. Berry, Mayor
23 City of Albuquerque
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26 ATTEST:

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29 Natalie Y. Howard, City Clerk
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