

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. F/S O-25-106 ENACTMENT NO.

SPONSORED BY: Nichole Rogers, by request

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

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

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

WHEREAS, pursuant to the LEDA Ordinance, Indus Synergies Inc. (the "Company"), has submitted to the Council and the Albuquerque Development Commission (the "Commission") an application (the "Application") requesting certain

1 economic development assistance for a business accelerator project to be located in
2 Albuquerque, New Mexico, and which will include the creation of 1,200 new employment
3 opportunities (the "Project"); and

4 WHEREAS, the City will administer and disburse to the Company funds totaling
5 up to \$5,750,000, of which \$5,000,000 is to be received by the City from the State
6 Economic Development Department and \$750,000 are to be City funds; and

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

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

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

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

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

24 WHEREAS, the Application, together with the cost-benefit analysis, demonstrates
25 the benefits that will accrue to the community as a result of the donation of public
26 resources and demonstrates that the Company, by completing the Project, will be making
27 a substantive contribution to the community, as required by the LEDA 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 ten percent
2 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 Project;
6 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 will
9 be substantial, that it is desirable and necessary at this time to authorize the City to enter
10 into the Agreement, and that the City's provision of the assistance contemplated by the
11 Agreement will constitute a valid public purpose under the Act; and

12 WHEREAS, there has been published in The Albuquerque Journal, a newspaper
13 of general circulation in the City, public notice of the Council's intention to adopt this
14 Ordinance, which notice was published at least fourteen (14) days prior to hearing and
15 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 toward
20 the provision of economic development assistance in connection with the Project be
21 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 that
25 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 completion of a
28 business accelerator enterprise to be located in Albuquerque, New Mexico, and which
29 will include the creation of 1,200 new employment opportunities, and the Company's
30 commitment to operate the facility within the City for a minimum of ten years, and the
31 Company's commitment to hire New Mexico residents and encourage businesses
32 benefitting from the Company's business accelerator to hire New Mexico residents.

1 Section 4. FINDINGS. The Council hereby declares that it has considered all
2 relevant information presented to it relating to the Project and the Agreement and hereby
3 finds and determines that the provision of economic development assistance for the
4 Project is necessary and advisable and in the interest of the public and will promote the
5 public health, safety, convenience, economy, and welfare of the City and its residents.

6 Section 5. AUTHORIZATION AND APPROVAL OF THE PROJECT AND THE
7 AGREEMENT; APPROPRIATION OF FUNDS. The City hereby approves the Project
8 and the Agreement, which provides, among other things, that the City will administer and
9 disburse to the Company funds totaling up to \$5,750,000, of which \$5,000,000 is to be
10 received by the City from the State Economic Development Department and \$750,000
11 are to be City funds, in exchange for which the Company will complete the Project as
12 specified in the Agreement. There is hereby appropriated for the Project up to \$5,000,000
13 of funds received from the State Economic Development Department and up to \$750,000
14 of City funds.

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

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

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

25 (C) The Mayor, Chief Administrative Officer, Chief Financial Officer, City
26 Treasurer, and City Clerk are further authorized to execute, authenticate and deliver such
27 certifications, instruments, documents, letters and other agreements, including an
28 intergovernmental agreement with the State Economic Development Department, and
29 any appropriate security agreements, and to do such other acts and things, either prior to
30 or after the date of delivery of the executed Agreement, as are necessary or appropriate
31 to consummate the transactions contemplated by the Agreement.

32 (D) City officials shall take such action as is necessary in conformity with
33 the Act, the LEDA Ordinance and this Ordinance to effectuate the provisions of the

1 Agreement and carry out the transactions as contemplated by this Ordinance and the
2 Agreement, including, without limitation, the execution and delivery of any documents
3 deemed necessary or appropriate in connection therewith.

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

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

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

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