

# CITY of ALBUQUERQUE

## TWENTY-FIRST COUNCIL

COUNCIL BILL NO. O-14-6 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Brad Winter

1 **ORDINANCE**

2 **APPROVING A PROJECT INVOLVING CANON INFORMATION TECHNOLOGY**  
3 **SERVICES, INC. PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT**  
4 **AND CITY ORDINANCE F/S O-04-10, THE CITY'S IMPLEMENTING LEGISLATION**  
5 **FOR THAT ACT, TO SUPPORT THE OPERATION OF A TECHNICAL SUPPORT**  
6 **AND CUSTOMER SERVICE FACILITY; AUTHORIZING THE EXECUTION OF A**  
7 **PROJECT PARTICIPATION AGREEMENT AND OTHER DOCUMENTS IN**  
8 **CONNECTION WITH THE PROJECT; MAKING CERTAIN DETERMINATIONS AND**  
9 **FINDINGS RELATING TO THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN**  
10 **PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS**  
11 **ORDINANCE.**

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

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

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

23 **WHEREAS, Canon Information Technology Services, Inc., a Delaware**  
24 **company with its principal place of business in Chesapeake, Virginia (the**  
25 **"Company"), the State of New Mexico (the "State"), and the City are parties to a**

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1 certain letter of intent dated November 5, 2013 (the "letter of intent"), in which  
2 each party committed, subject to legislative approval in the case of the City, to  
3 make certain contributions towards the Project, as defined below; and

4 WHEREAS, the letter of intent stated that the City's and State's  
5 contributions would be in exchange for certain commitments made by the  
6 Company; and

7 WHEREAS, pursuant to the LEDA Ordinance, the Company has submitted  
8 to the Council and the Albuquerque Development Commission (the  
9 "Commission") an application (the "Application") requesting certain economic  
10 development assistance consisting of a reimbursement of a portion of the rent  
11 payable for a facility in Albuquerque to be leased and operated by the Company,  
12 in exchange for certain employment commitments (the "Project"); and

13 WHEREAS, the Act and the LEDA Ordinance require that the City and the  
14 Company enter into a project participation agreement meeting the requirements  
15 of the Act and the LEDA Ordinance; and

16 WHEREAS, City staff has worked with the Company to prepare, and has  
17 negotiated the terms of, a project participation agreement that will govern the  
18 relationship between the City and the Company with respect to the Project (the  
19 "Agreement"); and

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

22 WHEREAS, the proposed Agreement contains the provisions required by  
23 the Act and the LEDA Ordinance and, among other things, provides that the  
24 Company will provide a letter of credit in favor of the City to secure the  
25 Company's obligations under the Agreement; and

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

30 WHEREAS, the Application demonstrates the benefits that will accrue to  
31 the community as a result of the donation of public resources and demonstrates  
32 that the Company, by completing the Project, will be making a substantive  
33 contribution to the community, as required by the LEDA Ordinance; and

1 WHEREAS, the Commission has considered the Project and the proposed  
2 Agreement and has recommended that the Council approve the Company's  
3 proposal; and

4 WHEREAS, the total amount of public money expended and the value of  
5 credit pledged in each fiscal year in which money is expended by the City for the  
6 Project (and any other approved projects) pursuant to the Act does not and will  
7 not exceed five percent of the general fund expenditures of the City in such fiscal  
8 year; and

9 WHEREAS, the City anticipates that the State will transfer to it, for  
10 subsequent transfer to or on behalf of the Company pursuant to an  
11 intergovernmental agreement between the City and the State, certain funds of the  
12 State that are available for the Project; and

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

19 WHEREAS, there has been published in the Albuquerque Journal, a  
20 newspaper of general circulation in the City, public notice of the Council's  
21 intention to adopt this Ordinance, which notice contained certain information  
22 pertaining to the Project and was published at least fourteen (14) days prior to  
23 hearing and final action on this Ordinance.

24 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
25 ALBUQUERQUE:

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

31 Section 2. GOALS AND OBJECTIVES. The goals and objectives of the  
32 Project are, as set forth in the Agreement, to create and support an economic  
33 development project that fosters, promotes and enhances local economic

1 development efforts and that provides job growth and career opportunities for  
2 Albuquerque-area residents and otherwise makes a substantive contribution to  
3 the community.

4 Section 3. THE PROJECT. The Project will consist of the operation of a  
5 technical support and customer service facility to be located at 4041 Jefferson  
6 Plaza NE, including the employment of approximately 150 full-time employees by  
7 June 1, 2017 and maintenance of such level of operations and employment at the  
8 Albuquerque facility through June 1, 2024, in accordance with the terms of the  
9 proposed Agreement.

10 Section 4. FINDINGS.

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

17 Section 5. AUTHORIZATION AND APPROVAL OF THE PROJECT AND THE  
18 AGREEMENT; APPROPRIATION OF FUNDS. The City hereby approves the  
19 Project and the Agreement, which provides, among other things, that the City will  
20 contribute to the Project up to \$200,000, such amount to be payable in monthly  
21 installments to reimburse the Company for a portion of its rental expense upon  
22 and after beginning customer service and technical support operations in  
23 Albuquerque, and that the City will administer and disburse to the Company in  
24 monthly installments funds totaling up to \$200,000 to be received by the City from  
25 the State Economic Development Department, in exchange for which the  
26 Company will complete the Project. There is hereby appropriated for the Project  
27 up to \$200,000 of City funds and, effective upon receipt of such funds, up to  
28 \$200,000 of funds received from the State Economic Development Department.

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

30 (A) The form, terms, and provisions of the Agreement in the form  
31 presented to the Council with this Ordinance are in all respects approved,  
32 authorized, and confirmed, and the City shall enter into the Agreement in  
33 substantially the form thereof, with only such changes as are not inconsistent

1 with this Ordinance or such other changes as may be approved by supplemental  
2 resolution of the Council.

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

8 (C) The Mayor, Chief Administrative Officer, City Treasurer and  
9 City Clerk are further authorized to execute, authenticate and deliver such  
10 certifications, instruments, documents, letters and other agreements, including  
11 an intergovernmental agreement with the State Economic Development  
12 Department, and to do such other acts and things, either prior to or after the date  
13 of delivery of the executed Agreement, as are necessary or appropriate to  
14 consummate the transactions contemplated by the Agreement.

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

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

25 Section 8. REPEALER. All by-laws, ordinances, resolutions, and orders, or  
26 parts thereof, inconsistent with this Ordinance are repealed by this Ordinance but  
27 only to the extent of that inconsistency. This repealer shall not be construed to  
28 revive any by-law, ordinance, resolution, or order, or part thereof, previously  
29 repealed.

30 Section 9. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE  
31 DATE. This Ordinance, immediately upon its final passage and approval, shall be  
32 recorded in the ordinance book of the City, kept for that purpose, and shall be  
33 there authenticated by the signature of the Mayor and the presiding officer of the

1 City Council, and by the signature of the City Clerk or any Deputy City Clerk, and  
2 notice of adoption thereof shall be published once in a newspaper that maintains  
3 an office in, and is of general circulation in, the City, and shall be in full force and  
4 effect five (5) days following such publication.

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