

0-2019-026

CITY OF ALBUQUERQUE
CITY COUNCIL

INTEROFFICE MEMORANDUM

TO: Timothy M. Keller, Mayor

FROM: Stephanie M. Yara, Director of Council Services *SY 9/20/19*

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. O-19-75 Approving A Project Involving Nypro Healthcare Baja Inc. Pursuant To The Local Economic Development Act And City Ordinance F/S O-04-10, The City's Implementing Legislation For That Act, To Support The Renovation And Improvement Of Healthcare Manufacturing Facilities In Albuquerque, New Mexico; Authorizing The Execution Of A Project Participation Agreement And Other Documents In Connection With The Project; Making Certain Determinations And Findings Relating To The Project Including The Appropriation Of Funds (Benton, by request), which was passed at the Special Council meeting of September 18, 2019, by a vote of 8 FOR AND 0 AGAINST.

Excused: Harris

In accordance with the provisions of the City Charter, your action is respectfully requested.

SY:dm
Attachment
9/20/2019

CITY of ALBUQUERQUE

TWENTY-THIRD COUNCIL

COUNCIL BILL NO. O-19-75 ENACTMENT NO. 0-2019-026

SPONSORED BY: Isaac Benton, by request

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ORDINANCE

2

APPROVING A PROJECT INVOLVING NYPRO HEALTHCARE BAJA INC.
PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT AND CITY
ORDINANCE F/S O-04-10, THE CITY'S IMPLEMENTING LEGISLATION FOR THAT
ACT, TO SUPPORT THE RENOVATION AND IMPROVEMENT OF HEALTHCARE
MANUFACTURING FACILITIES IN ALBUQUERQUE, NEW MEXICO; AUTHORIZING
THE EXECUTION OF A PROJECT PARTICIPATION AGREEMENT AND OTHER
DOCUMENTS IN CONNECTION WITH THE PROJECT; MAKING CERTAIN
DETERMINATIONS AND FINDINGS RELATING TO THE PROJECT INCLUDING THE
APPROPRIATION OF FUNDS; RATIFYING CERTAIN ACTIONS TAKEN
PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS
ORDINANCE.

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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

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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

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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

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1 WHEREAS, pursuant to the LEDA Ordinance, Nypro Healthcare Baja Inc. (the
2 "Company"), has submitted to the Council and the Albuquerque Development
3 Commission (the "Commission") an application (the "Application") requesting
4 certain economic development assistance for the renovation and improvement of
5 healthcare manufacturing facilities, which will include the addition of 120 new
6 employees, within the City (the "Project"); and

7 WHEREAS, the City will administer and disburse to the Company funds
8 totaling up to \$1,000,000, of which \$750,000 is to be received by the City from
9 the State Economic Development Department and \$250,000 are to be City funds;
10 and

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

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

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

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

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

28 WHEREAS, the Application, together with the cost-benefit analysis,
29 demonstrates the benefits that will accrue to the community as a result of the
30 donation of public resources and demonstrates that the Company, by completing

1 the Project, will be making a substantive contribution to the community, as
2 required by the LEDA Ordinance; and

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

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

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

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

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

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

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

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

7 Section 3. THE PROJECT. The Project will consist of the renovation and
8 improvement of healthcare manufacturing facilities, the addition of 120 new
9 employees, and the operation of the facility within the City for a minimum of ten
10 years.

11 Section 4. FINDINGS. 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 Project
19 and the Agreement, which provides, among other things, that the City will
20 administer and disburse to the Company funds totaling up to \$1,000,000, of which
21 \$750,000 is to be received by the City from the State Economic Development
22 Department and \$250,000 are to be City funds, in exchange for which the
23 Company will complete the Project as specified in the Agreement. There is hereby
24 appropriated for the Project up to \$750,000 of funds received from the State
25 Economic Development Department and up to \$250,000 of City funds.

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

27 (A) The form, terms, and provisions of the Agreement in the form
28 presented to the Council with this Ordinance are in all respects approved,
29 authorized, and confirmed, and the City is authorized to enter into the Agreement
30 in 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 behalf
5 of the City, with only such changes therein as are not inconsistent with this
6 Ordinance or such changes as may be approved by supplemental resolution of the
7 Council.

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

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

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

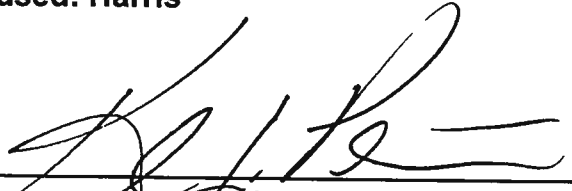
26 Section 8. REPEALER. All bylaws, ordinances, resolutions, and orders, or
27 parts thereof, inconsistent with this Ordinance are repealed by this Ordinance but
28 only to the extent of that inconsistency. This repealer shall not be construed to
29 revive any bylaw, ordinance, resolution, or order,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

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

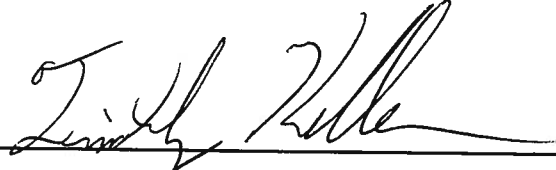
1 PASSED AND ADOPTED THIS 18th DAY OF September, 2019
2 BY A VOTE OF: 8 FOR 0 AGAINST.
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4 Excused: Harris
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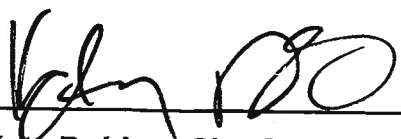
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9 Klarisa J. Peña, President
City Council

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12 APPROVED THIS 3 DAY OF October, 2019
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15 Bill No. O-19-75
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19 Timothy M. Keller, Mayor
20 City of Albuquerque
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23 ATTEST:

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26 Katy Duhigg, City Clerk
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