

CITY of ALBUQUERQUE

TWENTY-FOURTH COUNCIL

COUNCIL BILL NO. O-20-34 ENACTMENT NO. _____

SPONSORED BY: Brook Bassan, by request

ORDINANCE

APPROVING A PROJECT INVOLVING BAYOTECH INCORPORATED PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT AND CITY ORDINANCE F/S O-04-10, AS AMENDED, THE CITY'S IMPLEMENTING LEGISLATION FOR THAT ACT, TO SUPPORT THE OPERATIONS OF BAYOTECH INCORPORATED, A BUSINESS OPERATING 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.

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, the City provides public support of economic development projects to foster, promote and enhance local economic development efforts within the City pursuant to the Local Economic Development Act, Sections 5-10-1 through 5-10-13 NMSA 1978, as amended (the "Act"), and the City's Local Economic Development Act Plan adopted pursuant to Ordinance No. F/S O-04-10 (the "LEDA Plan"), codified in the City's Code of Ordinances at Sections 2-14-1-1 through 2-14-1-13; and

WHEREAS, the City is permitted under the Act to serve as fiscal agent for the State of New Mexico (the "State") to oversee and administer State local economic development funds committed to qualified entities located within the corporate limits of the City; and

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1 WHEREAS, in response to the COVID-19 pandemic, the State Economic
2 Development Department created a zero-interest loan program (the "Loan
3 Program") for qualified entities that meet the requirements of the Act; and

4 WHEREAS, the State's Loan Program is intended to provide short-term
5 financing for qualified entities with repayment of the loan due within two years and
6 with the loan amount being fully securitized for the protection of the State and
7 public funds; and

8 WHEREAS, the City is not providing any City funds for the qualified entity
9 pursuant to the State's Loan Program and is solely serving as the State's fiscal
10 agent consistent with the requirements of the Act; and

11 WHEREAS, pursuant to City Ordinance No. O-20-15, adopted on June 1,
12 2020, the City temporarily suspended the requirements under the LEDA Plan
13 requiring a qualified entity to remain in operations in the City for a minimum of ten
14 years as related solely to those projects receiving funding under the State's Loan
15 Program; and

16 WHEREAS, pursuant to the Act, the LEDA Plan and the Loan Program,
17 BayoTech Incorporated (the "Company"), has submitted to the Council and the
18 Albuquerque Development Commission (the "Commission") an application (the
19 "Application") requesting certain economic assistance to help sustain business
20 operations and the retention of twenty (20) employees at a minimum monthly
21 payroll of \$119,520.30 (the "Project"); and

22 WHEREAS, the City will administer and disburse to the Company loan funds
23 totaling \$346,788.00 from the State Economic Development Department through
24 the Loan Program, in eight quarterly disbursements of \$43,348.50; and

25 WHEREAS, the Act and the LEDA Plan require the City and the Company
26 enter into a project participation agreement meeting the requirements of the Act
27 and the LEDA Plan; and

28 WHEREAS, the State, City and Company have negotiated the terms of a
29 project participation agreement (the "Agreement") and related documents that will
30 govern the relationship between the City and the Company with respect to the
31 Project; and

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

3 WHEREAS, the proposed Agreement contains the provisions required by the
4 Act and the LEDA Plan and, among other things, provides that the Company will
5 grant to the City a security instrument to secure the Company's obligations under
6 the Agreement; and

7 WHEREAS, the Application, together with the cost-benefit analysis,
8 demonstrates the benefits that will accrue to the community as a result of the
9 donation of public resources and demonstrates that the Company will be making a
10 substantive contribution to the community, as required by the LEDA Plan; and

11 WHEREAS, the Commission has considered the Project and the proposed
12 Agreement and has recommended that the Council approve the Company's
13 proposal; and

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

18 WHEREAS, after having considered the Application and the Agreement, the
19 Council has concluded that the economic and other benefits of the Project to the
20 City will be material, and that it is desirable and necessary at this time to authorize
21 the City to enter into the Agreement; and

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

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

28 Section 1. RATIFICATION. All actions not inconsistent with the provisions
29 of this Ordinance previously taken by the Council and the officials of the City
30 directed toward the provision of economic development assistance in connection
31 with the Project be approved and the same hereby are ratified, approved and
32 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 security 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 economic assistance
8 to the Company through the State's Loan Program to help sustain the Company's
9 business operations within the City and the retention of twenty (20) employees at
10 a minimum monthly payroll of \$119,520.30.

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 State funds to the Company through the Loan Program in
21 the amount of \$346,788.00, in exchange for which the Company will complete the
22 Project as specified in the Agreement. There is hereby appropriated for the Project
23 \$346,788.00 of funds received from the State Economic Development Department
24 through the Loan Program.

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

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

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

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

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

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

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

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

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

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LEDA 20-4: BayoTech Corporation Project



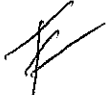
CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

August 20, 2020

TO: Pat Davis, President, City Council

FROM: Timothy M. Keller, Mayor 

SUBJECT: Approving an Ordinance for BayoTech Corporation Project Pursuant to the Local Economic Development Act (LEDA 20-4)

Attached is an ordinance for your consideration and approval authorizing the BayoTech Corporation ("BayoTech") Project Pursuant to the Local Economic Development Act (LEDA 20-4).

In response to the COVID-19 pandemic, the State Economic Development Department ("State") created a zero-interest loan program (the "Loan Program") for qualified entities that meet the requirements of the Act. The State's Loan Program is intended to provide short-term financing for qualified entities with repayment of the loan due within two years and with the loan amount being fully securitized for the protection of the State and public funds. This ordinance allows the City to serve as the State's fiscal agent for the loan to BayoTech. It is important to note that the City is not being asked to evaluate the credit-worthiness of the Company, and there are no City funds involved.

The State of New Mexico Economic Development Department is providing a loan in the amount of \$346,788.00 to assist BayoTech with lease payments and maintain their employment in Albuquerque. The State has agreed to loan to the Company the funds for a period not to exceed two years to be used for lease payment at 8601 Paseo Alameda NE, Albuquerque, NM 87113, which will free up other capital the company has to maintain operations. For BayoTech's contribution to this economic development project, it agrees to maintain twenty (20) full-time positions and a minimum of \$119,520.30 in monthly payroll.


BayoTech, is an energy solutions company that offers modular, scalable, and deployable hydrogen generation plants for on-site hydrogen production. BayoTech's steam methane reformers achieve high energy efficiency. The company's reformer has a small form factor, allowing it to be deployed at or near the point of use. BayoTech's headquarters is located at 8601 Paseo Alameda NE, Albuquerque NM 87113. At their approximately 18,000sf facility, it houses research and development, engineering, operations, program management, finance, accounting, and administration.

LEDA 20-4: BayoTech Corporation Project

The City agreed to accept the findings of the economic impact analysis conducted by the State, utilizing an economic impact model by Total Impact, an economic and fiscal impact analysis tool developed by the Austin, TX, economic consulting firm Impact DataSource. The fiscal analysis is from data supplied by the Company, and confirms that the Company will be making a positive contribution to the community. The City felt a separate analysis was not necessary due to time constraints and the City’s limited participation as fiscal agent for the State.

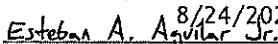
I request Introduction on September 9, 2020, with Holdover for Final Action on September 21, 2020, to allow the company to receive these funds as soon as possible.

Approved:

 8/25/20

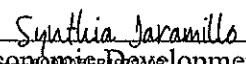
Sarita Nair Date
Chief Administrative Officer

Approved:

DocuSigned by: 8/24/2020 | 9:03 AM MDT
 DS

Esteban A. Aguilar Jr. Date
City Attorney

Recommended:

DocuSigned by: 8/20/2020 | 10:33 AM MDT
_____
Synthia Jaramillo Date
Economic Development Department

LEDA 20-4: BayoTech Corporation Project

Cover Analysis

1. What is it?

This is an ordinance authorizing a Local Economic Development Act (LEDA) Project zero interest loan (the “Loan Program”) for BayoTech Corporation (“BayoTech”). The State of New Mexico Economic Development Department (“State”) is providing a loan in the amount of \$346,788.00 to assist the company with lease payments and maintain their employment in Albuquerque. The State has agreed to loan the Company the funds for a period not to exceed two years to be used for lease payment at 8601 Paseo Alameda, NE, Albuquerque, NM 87113, which will free up other capital the company has to maintain operations. There are no City funds involved; the City would act as fiscal agent for the State’s program and funding.

2. What will this piece of legislation do?

The ordinance would allow BayoTech to maintain twenty (20) positions and a minimum of one hundred nineteen thousand five hundred and twenty dollars and thirty cents (\$119,520.30) in monthly payroll. The majority of the current employees are full-time engineering and technical positions, and come with full employee benefits.

The BayoTech Project is the third LEDA Loan Program using the proposed Ordinance authorizing temporary suspension of Section 2-14-1-9(D) of the City’s LEDA Ordinance (requiring a ten-year commitment to operate) for the limited purpose to allow the City to serve as the State’s fiscal agent related to the Loan Program.

BayoTech, is an energy solutions company that offers modular, scalable, and deployable hydrogen generation plants for on-site hydrogen production. BayoTech’s headquarters is located at 8601 Paseo Alameda NE, Albuquerque NM 87113. At their approximately 18,000sf facility, it houses research and development, engineering, operations, program management, finance, accounting, and administration. BayoTech’s pioneering technology came originally out of Sandia National Laboratories following more than \$50 million of research and development.

3. Why is this project needed?

In response to the COVID-19 pandemic, the State Economic Development Department created the Loan Program for qualified entities that meet the requirements of the Act. The State’s Loan Program is intended to provide short-term financing for qualified entities with repayment of the loan due within two years and with the loan amount being fully securitized for the protection of the State and public funds. The City seeks to support the

LEDA 20-4: BayoTech Corporation Project

State's Loan Program for qualified entities within the corporate limits of the City to help address the economic conditions resulting from the COVID-19 pandemic.

The loan will be used to offset BayoTech's property lease which varies each year. The LEDA Zero Interest Loan will help to insure a bridge past the coronavirus disaster. Additional layoff of personnel will impair BayoTech's ability to recover revenues and seize opportunities. Without the assistance, the company would be forced to elimination of 12 high paying technical positions. If revenue continues to be a challenge, the executive team would have a 25% salary reduction.

4. How much will this cost and what is the funding source?

There is no cost to the City associated with this LEDA Loan. The State has requested the City to be the fiscal agent for the loan. New Mexico Economic Development Department staff has reviewed BayoTech's financials and have found the following:

- Company has been profitable prior to this current situation.
- Based on the financial information provided, even if they resumed at a decrease of 25%, they would still be able to service this debt.

5. Is there a revenue source associated with this project? If so, what level of income is projected?

No. There is no direct revenue to the City.

LEDA 20-4: BayoTech, Inc. Project
Project Participation Loan Agreement

**LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION LOAN
AGREEMENT**

CITY OF ALBUQUERQUE AND BAYOTECH, INC.

LOCAL ECONOMIC DEVELOPMENT PROJECT 20-4

THIS LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION LOAN AGREEMENT (the “Agreement”) is entered into as of _____, 2020, by and between the CITY OF ALBUQUERQUE (the “City”), a political subdivision of the State of New Mexico (the “State”), and BayoTech, Inc. (the “Company”). Together the City and the Company are called the “Parties,” and individually each a “Party.”

WHEREAS, the City provides public support of economic development projects to foster, promote and enhance local economic development efforts within the City pursuant to the Local Economic Development Act, Sections 5-10-1 through 5-10-13 NMSA 1978, as amended (the “Act”), and the City’s Local Economic Development Act Plan adopted pursuant to Ordinance No. F/S O-04-10 19 (the “LEDA Plan”), codified in the City’s Code of Ordinances at Sections 2-14-1 through 2-14-13; and,

WHEREAS, the City is permitted under the Act to serve as fiscal agent for the State of New Mexico (the “State”) to oversee and administer State local economic development funds committed to qualified entities located within the corporate limits of the City; and

WHEREAS, in response to the COVID-19 pandemic, the State Economic Development Department created a zero-interest loan program (the “Loan Program”) for qualified entities that meet the requirements of the Act; and,

WHEREAS, the State’s Loan Program is intended to provide short-term financing for qualified entities with repayment of the loan due within two years and with the loan amount being fully securitized for the protection of the State and public funds; and,

WHEREAS, the City is not providing any City funds to the Company pursuant to the State’s Loan Program and is solely serving as the State’s fiscal agent consistent with the requirements of the Act; and,

WHEREAS, pursuant to City Ordinance No. O-20-15, adopted on June 1, 2020, the City temporarily suspended the requirements under the LEDA Plan requiring a qualified entity to remain in operations in the City for a minimum of ten years as related solely to those projects receiving funding under the State’s Loan Program; and,

WHEREAS, pursuant to the Act, the LEDA Plan and the Loan Program, the Company has submitted to the Council and the Albuquerque Development Commission (the “Commission”) an application (the “Application”), attached hereto as Exhibit A, requesting certain economic assistance to help sustain business operations and the retention of 20 employees at a minimum

LEDA 20-4: BayoTech, Inc. Project
Project Participation Loan Agreement

monthly payroll of \$119,520.30 (the "Project"), and a corresponding table of wages and benefits for those employees, attached hereto as Exhibit B; and,

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

WHEREAS, after having considered the Application and the Agreement, the City Council has concluded that the economic and other benefits of the Project to the City will be material, and that it is desirable and necessary at this time to authorize the City to enter into the Agreement; and,

WHEREAS, the City passed implementing legislation **O-20-XX on XX, 2020**, authorizing the execution of this Agreement and other documents in connection with the Project,

NOW THEREFORE, the Parties agree as follows:

1. Goals and Objectives. The objective is to create and support an economic development project that fosters, promotes and enhances local economic development efforts. The goal is that the project will provide jobs and career opportunities that will benefit the community and contribute to its long-term economic growth and sustainability.
2. The Company Contribution. The Company agrees for its contribution to this economic development project to maintain twenty (20) full-time positions and a minimum of one hundred and nineteen thousand five hundred and twenty dollars and thirty cents (\$119,520.30) in monthly payroll. A position will represent an employment position for a person for at least one pay period consisting of at least 32 hours of work per week. Positions filled by contract, part-time and temporary workers will not be considered positions.
3. The State Contribution; Procedure for Disbursement of the State Contribution. The State of New Mexico Economic Development Department has agreed to loan to the Company the funds for a period not to exceed two years from the date hereof to be used for lease payments at 8601 Paseo Alameda NE, Albuquerque, NM 87113. The City anticipates that the State Contribution of three hundred and forty-six thousand seven hundred and eighty-eight dollars (\$346,788.00) will be delivered to the City for subsequent disbursement to the Company, following enactment of the related LEDA ordinance and execution of this Agreement and an intergovernmental agreement between the State and the City. Disbursements shall be made in eight quarterly disbursements to the Company of forty-three thousand three hundred forty-eight dollars and fifty cents (\$43,348.50). The second and subsequent disbursements shall be contingent on proof satisfactory to the City that Company's lease is current and to reimburse appropriate lease payments. The City will submit an invoice to the State to request transfer of the State funds. Upon receipt, the City will place the State Contribution into a separate account established in connection with the Project, as required by law. If, and only if, the City receives the State Contribution, the City will disburse the State Contribution to the Company in the manner described above.
4. Interest. Said loan shall be without interest, provided the terms of Section 2 are met, and will be repaid in whole at the end of this two (2) year agreement. However, if payroll as defined in

LEDA 20-4: BayoTech, Inc. Project
Project Participation Loan Agreement

Section 2 falls below 90%, the loan interest rate will escalate to 3% from the date of execution. If payroll falls below 80%, interest on the loan will be 6% from the date of execution. If payroll falls below 70%, the loan will become immediately due and payable with accrued interest.

5. Security. As security for the faithful performance and payment of all of Company's obligations under this Agreement, the Company shall furnish to the City, and maintain during the entire term of this Agreement, equipment worth in excess of four hundred thirty-six thousand and seventy-six dollars (\$436,076.00), by and through the executed Security Agreement attached hereto as Exhibit C. Security will be held in place until the loan is repaid in full.
6. Fees. Each party shall bear its own costs and expenses in connection with the negotiation, execution and delivery of this Agreement or any amendment of this Agreement.
7. Quarterly Requirements. The Company is required to submit to the City of Albuquerque Economic Development Department copies of its unemployment insurance reports on a quarterly basis (January 1, April 1, July 1, and October 1).
8. Effective Date and Termination. This Agreement will be effective as of execution and shall terminate no later than two years from that date.
9. Assignment by the Company. Should BayoTech, Inc. move, sell, lease or transfer its ownership or operation duties in the Project before the expiration of this Agreement, the City retains the right to deny any and all assignments, sales, leases or transfers of any interest in the Project until adequate assurances are made that the transferee, assignee or lessee is a qualifying entity and that the terms of this Agreement shall be satisfied by the transferee, assignee or lessee. At its discretion, and in consultation with the State, the City may choose to deny said assignment, lease or transfer or may negotiate a new agreement with the new operator.
10. Miscellaneous. This Agreement binds and inures to the benefit of the City and BayoTech, Inc. and their respective successors and permitted assigns. This Agreement, together with the Security Agreement and the Intergovernmental Agreement, represent the entire agreement of the parties on the subject hereof and superseded all prior agreements or understandings between the parties, whether written or verbal. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together constitute one instrument.
11. Liability. No party shall be responsible for liability incurred as a result of the other party's acts or omissions. Nothing herein shall operate or be deemed to alter or expand any liabilities or obligations under the applicable provisions of the New Mexico Tort Claims Act (NMSA 1978 §§ 41-4-1 *et seq.*, as amended), or to waive any immunities, limitations or required procedures thereunder. Nothing in this Agreement constitutes a waiver of any party's right to seek judicial relief.
12. Notice. All notices or other written communications, including requests for disbursement, that are required or permitted to be given pursuant to this Agreement must be in writing and delivered personally, by a recognized courier service, by recognized overnight delivery

LEDA 20-4: BayoTech, Inc. Project
Project Participation Loan Agreement

service, by electronic mail, or by registered or certified mail, postage prepaid, to the parties at the addresses shown below. If notice is mailed, it will be deemed received on the earlier or actual receipt or on the third business day following the date of mailing. If a notice is hand-delivered or sent by overnight delivery service, it will be deemed received upon actual delivery. A party may change its notice address by written notice to the other party to this Agreement.

City of Albuquerque
Attn: Economic Development Dept. Director
One Civic Plaza NW
Albuquerque, NM 87109
Tel: (505) 768-3270
Email: synthiaj@cabq.gov

BayoTech, Inc.
Attn: Chief Financial Officer (CFO)
8601 Paseo Alameda NE
Albuquerque, NM 87113
Tel: (505)639-9238
Email: wendy.rollstin@bayotech.us

With a copy to:
City Attorney
P.O. Box 2248
Albuquerque, NM 87103
(Tel): 505-768-4500
Email: eaj@cabq.gov

13. Amendments. This Agreement shall not be altered, changed or amended, except by instrument in writing executed by all of the Parties hereto.
14. Governing Law. This Agreement shall be governed by the laws of the State of New Mexico.
15. Jurisdiction and Venue. Any legal proceeding arising out of the subject matter of this Contract, whether based in contract, tort, statute, other category of law or in equity, shall be brought before the Second Judicial District Court, Bernalillo County, State of New Mexico. Parties hereby agree that such court shall have jurisdiction over them and that venue shall be proper in such court.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the last date of signature below. The Parties agree that this Agreement may be electronically signed and that the electronic signatures appearing on the agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

CITY OF ALBUQUERQUE

COMPANY NAME

Name: Sarita Nair, JD, MCRP
Title: Chief Administrative Officer

Name: Wendy Rollstin
Title: Chief Financial Officer

Date: _____

Date: _____

LEDA 20-4: BayoTech, Inc. Project
Project Participation Loan Agreement

Approved by:

Synthia Jaramillo
Director, Dept. of Economic Development

Date: _____

Esteban A. Aguilar, Jr.
City Attorney

Date: _____

Exhibits

Exhibit A Application for LEDA Assistance

Exhibit B Wages and Benefits

Exhibit C Security Agreement

**ALBUQUERQUE DEVELOPMENT COMMISSION
Local Economic Development Act Hearing**

August 20th, 2020

Case #2020-6

LEDA-20-4: BayoTech, Inc. Project

REQUEST: Approval of \$346,788.00 in Local Economic Development Act (LEDA) Zero Interest Loan funds is requested.

NOTE: The State of New Mexico's Economic Development Department (NMEDD) has developed a new program during the time of the COVID-19 pandemic to assist New Mexico businesses. They have reached out across the state, and asked local communities to partner with them through the Local Economic Development Act, as fiscal agents for a State 0% Loan Program to assist businesses for expenses relating to land, buildings, and infrastructure, as required by the State Act and local ordinances. Those expenses can include lease or mortgage payments, as the City has done with projects in the past.

It is very important to understand that the City, and this Commission, are not being asked to evaluate whether a loan should be given to a particular company, nor the terms of the loan. No City funds are involved in these transactions. The Administration and City Council have agreed to make changes in the City's LEDA enabling legislation and remove the requirement for a ten year company commitment to operate. The goal is to try and shore up existing businesses with a two-year 0% interest loan to help maintain and sustain jobs during this time of pandemic; it is less about job creation than job retention. Additional information on this program is attached and can be found at <https://gonm.biz/about-us/covid-19-response>.

Our department and the Commission are being asked to review and recommend these projects to the City Council, as to whether they comply with the City's LEDA plan, and then the City will be the fiscal agent for the State funds. The City is relying solely on the representations made by the companies participating in the State's 0% interest loan program, and the State's due diligence in reviewing and approving these projects; the companies and the State assume responsibility for the accuracy of the information. Also, the economic impact analysis is different from what we usually use on the City's projects. We agreed to accept the analysis of the State's economic consultant/model/staff, since only State funds were involved. A copy of the company's application to the state is attached.

We appreciate the State's Economic Development Department staff in working with us to assist Albuquerque companies in these uncertain times.

PROJECT SUMMARY:

BayoTech, Inc. ("BayoTech") is an energy solutions company that offers modular, scalable, and deployable hydrogen generation plants for on-site hydrogen production. BayoTech's steam methane reformers achieve high energy efficiency. The company's reformer has a small form factor, allowing it to be deployed at or near the point of use. BayoTech's headquarters is located at 8601 Paseo Alameda NE, Albuquerque NM 87113. At their approximately 18,000sf facility,

LEDA 20-4: BayoTech, Inc. Project

it houses research and development, engineering, operations, program management, finance, accounting, and administration.

In 2020, they employ 21 people (which includes one part-time employee) at their Albuquerque location but due to the COVID-19 pandemic, they will have to eliminate 12 positions and have salary reductions if no assistance is provided. They are working with NMEDD to help the company sustain their New Mexico employment with the 0% interest loan program. The \$346,788.00 loan will go towards lease payments, which will free up other capital the company has to maintain operations.

BayoTech's pioneering technology came originally out of Sandia National Laboratories following more than \$50 million of research and development. The company has an exclusive license for the core design, BayoTech has continued to make improvement in the technology, filing four additional patents in 2020. BayoTech provides on-site hydrogen solutions that comes in three models: BayoTech H2-200, BayoTech H2-500, and BayoTech H2-1000. The output from the products range from 200 kg H2/day to 1,000 kg H2/day.

BayoTech is working to retain all existing team members (which include engineers, researchers, technicians, and support staff including financial, administrative and managerial positions). In addition, the company works closely with their partner company, Process Equipment and Service Company, Inc. (PESCO), to provide outsourced manufacturing. PESCO is a major employer in the four corners region of New Mexico. BayoTech has been challenged with delays in commercialization due to the global pandemic but plans to continue to focus on moving the company forward. The funding from the LEDA Zero Interest Loan will be used for lease payments for their current facility. The lease payment amount changes each April. April 1, 2020 thru March 31st, 2021, the lease payment is \$14,165 per month. April 1, 2021 thru March 31st, 2022, the lease payment is \$14,448 per month. April 1, 2022 thru March 31st, 2023, the lease payment is \$14,737 per month. Their headquarters at 8601 Paseo Alameda NE is located in the Alameda Bus Park subdivision, which is a non-residential and light manufacturing zone district.

The LEDA Zero Interest Loan will help to insure a bridge past the coronavirus disaster. Additional layoff of personnel will impair BayoTech's ability to recover revenues and seize opportunities. Without the assistance, the company would be forced to elimination of 12 high paying technical positions. If revenue continues to be a challenge, the executive team would have a 25% salary reduction.

The majority of the current employees are primarily engineering and research positions, are considered full time positions, and come with full employee benefits.

The State of New Mexico and its local governments are empowered to offer discretionary incentives to companies that support economic development projects that foster, promote, and enhance local economic development efforts. Qualifying entities for these projects include:

A corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two (2) or more of the following:

LEDA 20-4: BayoTech, Inc. Project

- A. An industry for the manufacturing, processing, or assembling of any agricultural or manufactured products;**
- B. A business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in paragraph E. of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;**

Exhibit 2 delineates the required Project Participation Loan Agreement (“PPLA”) between BayoTech and the City. The PPLA is summarized in Section V.

This project includes a fiscal impact analysis provided to the City from the New Mexico Economic Development Department, utilizing the IMPACT DataSource economic impact model. The fiscal impact determination of the Project is from information the Company provided. The analysis shows that the company’s operations will support employment and other positive economic impacts in the City.

The State is providing a loan in the amount of \$346,788.00 to assist the company with lease payments and maintain their employment in Albuquerque. In regard to the financial viability of the project, NMEDD has provided the following statement:

The New Mexico Economic Development Department staff has reviewed BayoTech’s financials and has found the following:

The Company has been profitable prior to this current situation. Based on the financial information provided, even if they resumed operations at a decrease of 25%, they would still be able to service this debt.

We note that there are definite strengths with this application:

1. Company demonstrates year over year growth in both sales’ revenue and profit
2. Company has low long-term liabilities
3. Company is an established business in the field and will continue to be in demand after the pandemic

We noted no weaknesses with this application.

NMEDD staff has reviewed and BayoTech meets the standards for approval.

LEDA 20-4: BayoTech, Inc. Project

FINDINGS:

1. LEDA 20-4 is a qualified project as defined by the State's Local Economic Development Act and the City enabling legislation (F/S O-04-10); and
2. BayoTech's clean energy technology is an industry cluster that has lasting growth potential; and
3. The City is willing to act as fiscal agent for the State's 0% interest loan program for BayoTech; and
4. LEDA 20-4 would make positive substantive contributions to the local economy and community by retaining 20 total jobs; and
5. Subject to the development of acceptable Security documents, LEDA 20-4 would comply with the adopted City plans and policies, and meet community economic development priorities and objectives, including payback of the full loan amount within 2 years; and
6. Subject to the development of acceptable Security documents, LEDA 20-4 would adequately meet the evaluation criteria established by the City for Local Economic Development Act projects.

PROJECT ANALYSIS: The project, as proposed in the project application, will be analyzed in accordance with the City's LEDA Zero Interest Loan project evaluation criteria.

I. PROJECT ELIGIBILITY

1. QUALIFYING ENTITY

City enabling legislation (F/S O-04-10), as well as the State Local Economic Development Act, establishes a definition for a "Qualifying Entity" eligible for LEDA Zero Interest Loan assistance. BayoTech qualifies under the Act and the Ordinance by meeting the following definition:

As stated in the Summary, qualifying entities for these projects include

A corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two (2) or more of the following:

- A. An industry for the manufacturing, processing, or assembling of any agricultural or manufactured products;**

LEDA 20-4: BayoTech, Inc. Project

- B. A business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in paragraph E. of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;**

2. ECONOMIC DEVELOPMENT POLICIES AND OBJECTIVES

The City's enabling legislation also states that applications for LEDA assistance, which meet the policies and objectives of the City's community economic development plans, shall receive priority. BayoTech qualifies as the type of project that meets the City's identified economic development priorities under (F/S O-04-10) in the following categories:

(A) Manufacturing firms (including intellectual property such as computer software)

(B) Projects in industry clusters listed above are particularly encouraged,

The City's plan also states that the City has "considerable flexibility in determining what is considered as adequate benefits."

BayoTech is headquartered in Albuquerque, New Mexico. The core of the technology was developed at Sandia National Laboratories and licensed to the company in 2015. The company will be transitioning from the development stage to commercial production in the fourth quarter of 2020. The manufacturing partner is PESCO, located in the four corners area of the State. The company has directly and indirectly provided highly compensated jobs for New Mexicans in the areas of management, engineering, technical, manufacturing and administration.

II. LAND USE, PLAN AND DESIGN ELEMENTS

1. PLAN & ZONING:

Legal Description

The hydrogen production equipment is constructed and tested at 8601 Paseo Alameda NE, Albuquerque NM 87113. The facility is being leased from HSR, LLC.

Primary Building SQ FT 12,308/.98 Acres

LEDA 20-4: BayoTech, Inc. Project

OT 8 PLAT OF ALAMEDA BUSINESS PARK (A REPLAT OF TRACT B-1-A-1 LANDS OF SPRINGER BUILDING MATERIALS CORPORATION) CONT .8054 AC

Present Assessed Value

Tax Year	2020
Full Land Value	\$198,900.00
Agric. Land	\$0.00
Full Impv. Value	\$640,200.00
Full Total Value	\$839,100.00
Taxable (1/3 Full)	\$279,672.00

Present and Proposed Zoning

The site is currently zoned non-residential, light manufacturing zone district.

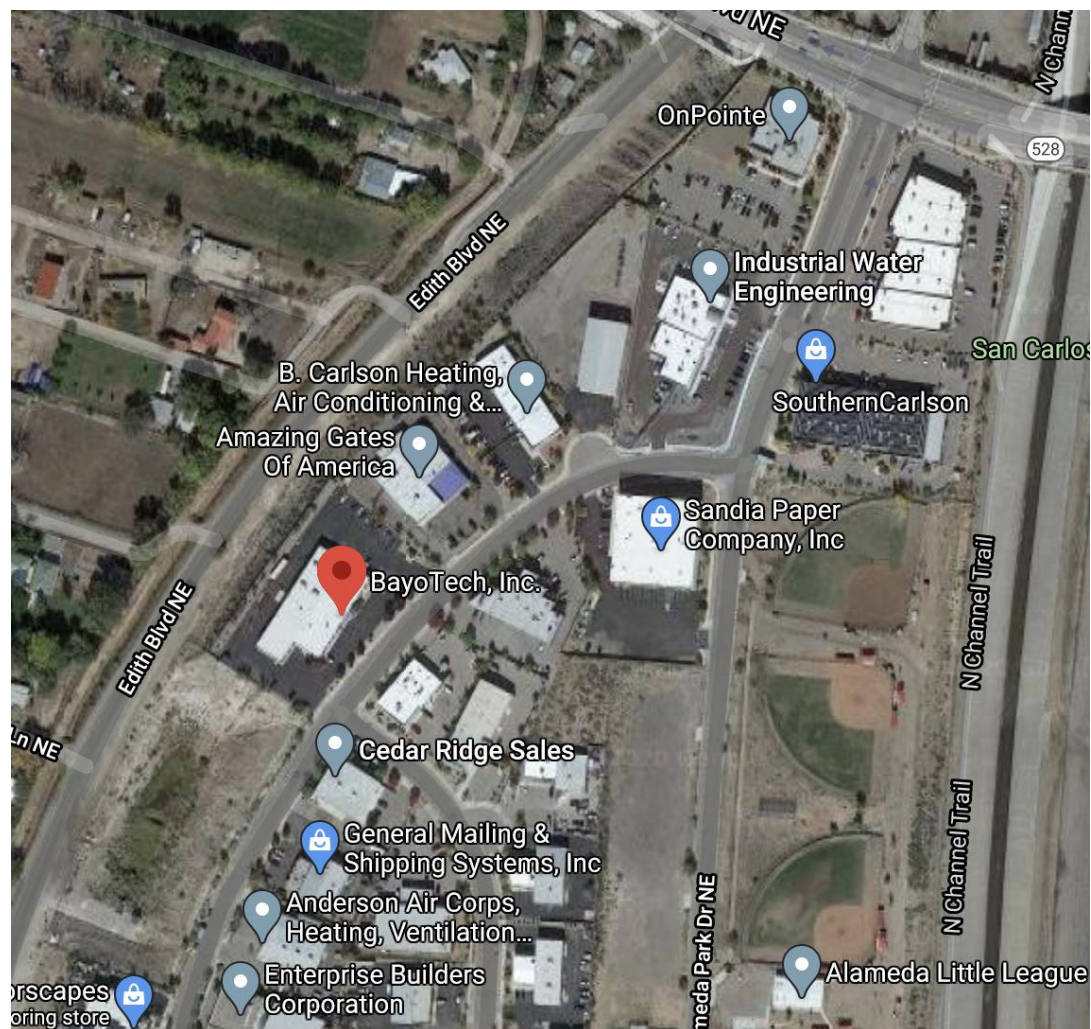
No changes will be required for the proposed use.

The zoning allows for a wide variety of non-residential uses including office, commercial research, light industrial, manufacturing, office, research and development, distribution, showroom, processing, and institutional uses.

2. LAND USE:

The Project occupies a facility at 8601 Paseo Alameda NE, ABQ 87113.

LEDA 20-4: BayoTech, Inc. Project



The building is owned by HSR, LLC and the lease was originally signed on April 16, 2018.

The lease payment amount changes each April. April 1, 2020 thru March 31st, 2021, the lease payment is \$14,165 per month. April 1, 2021 thru March 31st, 2022, the lease payment is \$14,448 per month. April 1, 2022 thru March 31st, 2023, the lease payment is \$14,737 per month. The building is approximately 17,900 square feet of office and warehouse space divided into units A, B, and C.

3. INFILL:

The project involves an existing building which has been occupied by the company for the last two years.

4. DESIGN AND CONSERVATION:

The company is located in a high demand area just south of Alameda and just east of Edith Blvd. The offices and manufacturing space are all clean and in great condition. The existing

LEDA 20-4: BayoTech, Inc. Project

building has been kept in excellent working condition by the company to maintain its appearance.

No historic properties are involved.

No individuals, families, or businesses will be displaced by the activities outlined in this plan. The project is to be located within an existing manufacturing facility.

5. RENEWABLE ENERGY:

The hydrogen production equipment that will be manufactured as a result of BayoTech's testing uses natural gas, methane, or biomethane to produce hydrogen for mobility, backup power, industrial and other applications. This clean energy will help to reduce carbon emissions.

III. ECONOMIC BENEFITS

6. COMPETITION:

BayoTech is selling its systems world-wide. Their primary competition comes from international gas distribution companies such as Air Liquide, Air Products and Linde.

7. JOBS:

The jobs to be lost if loan is not approved:

PHASE I – September 2020	
Elimination of 7 Positions	Total Annual Salary \$670,000.00
Position	Total Annual Salary
1 Researcher/PhD	\$160,000.00
3 Engineers	\$315,000.00
3 Technicians	\$195,000.00
PHASE II – December 2020	
Elimination of 5 Positions	Total Annual Salary \$495,000.00
Position	Total Annual Salary
1 Researcher/PhD	\$160,000.00
2 Engineers	\$205,000.00
2 Technicians	\$130,000.00
Total Jobs Eliminated: 12	Total Salaries Eliminated: \$1,165,000.00

In PHASE I - September 2020, the upper management will get a 25% reduction in salary which would have a total impact of \$251,000.00 nationally and \$114,000.00 in New Mexico. With the

LEDA 20-4: BayoTech, Inc. Project

assistance of the LEDA zero-interest loan, 21 (includes 1 part-time) total local jobs will be retained, and BayoTech expects to create at least 40 new positions by the end of 2022 to include a PhD scientist (\$160,000.00/yr.), engineers (\$105,000.00/yr.) and technicians (\$65,000.00/yr.).

Local Benefit

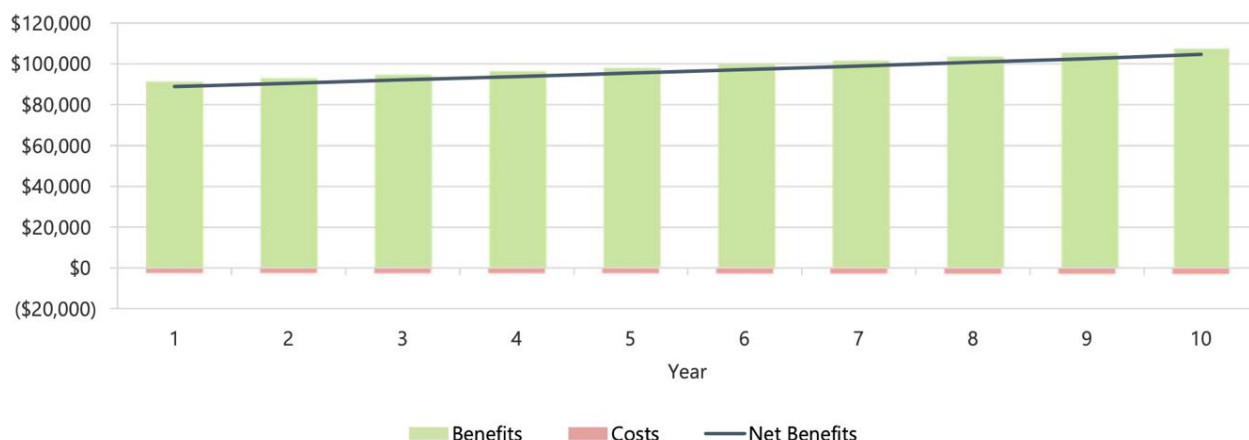
As shown in the table below, according to the economic impact model provided by the New Mexico Economic Development Department, the City would see a net present value of approximately \$679,114 with the retention and potential growth of the business over the next 10 years.

Table 7. Albuquerque: Benefits, Costs, and Net Benefits Over the Next 10 Years

	Amount
Gross Receipts Taxes	\$948,737
Real Property Taxes - Project	\$0
FF&E Property Taxes - Project	\$9,377
Property Taxes - New Residential	\$0
Utility Revenue	\$25,112
Utility Franchise Fees	\$7,647
Building Permits and Fees	\$0
Lodgers Taxes	\$0
Miscellaneous Taxes & User Fees	\$0
<u>Subtotal Benefits</u>	<u>\$990,874</u>
Cost of Providing Municipal Services	\$0
Cost of Providing Utility Services	(\$25,865)
<u>Subtotal Costs</u>	<u>(\$25,865)</u>
Net Benefits	\$965,009
<i>Present Value (6.75% discount rate)</i>	<i>\$679,114</i>

LEDA 20-4: BayoTech, Inc. Project

Figure 3. Annual Fiscal Net Benefits for the Albuquerque



IV. PROJECT FEASIBILITY

9. COST/ FEASIBILITY/ FINANCING:

The company plans on using external equity investment sources from venture capital and strategic investor funding of over \$17 million. The company was approved for a Paycheck Protection Program (PPP) loan from Bank of America for approximately \$407,000.00.

10. DEVELOPER'S RECORD:

BayoTech provides on-site hydrogen production that is a more efficient and less expensive alternative to large scale steam methane reformers and electrolysis. The core of the technology was developed at Sandia National Laboratories and licensed to the company in 2015. The company will be transitioning from the development stage to commercial production in the fourth quarter of 2020. CEO, Mauricio Vargas, has extensive experience taking companies through the commercialization phase in the energy sector. The remaining members of the executive team as well as their development, engineering and sales staff are heavily experienced in the industry and in their respective areas of responsibility.

Further information from the company's website on the uses of hydrogen:

Markets & Applications

Hydrogen is an essential chemical building block, energy vector and fuel with multiple applications. It is required as a feedstock in the chemical and refining industries. Hydrogen fuel cells enable zero emission mobility and can power highly efficient cars, forklifts, trucks, buses, ships and trains. Hydrogen is used in numerous other industrial applications including methanol production for refineries and ammonia production for fertilizer and crop inputs. All these applications require a consistent source of high purity hydrogen. BayoTech's on-site hydrogen solutions are designed to meet specifications across all of them.

LEDA 20-4: BayoTech, Inc. Project

Additional information is available on www.bayotech.us.

11. EQUITY:

The funds will be used for lease payments for the next 24 months.

Based on financial information provided, the Company appears capable of managing and completing the Project.

12. MANAGEMENT:

Investor

- Agrium Investments U.S. Inc. 29% Ownership

Officers

- Mauricio Vargas, CEO
- Wendy Rollstin, CFO
- Wish Krishnamoorthy, CTO
- Stewart Stewart, CCO

Directors

- David Blivin
- Sally Corning
- Ashley Harris
- Jeremy Richard
- Robert Jung
- Scott Dyer

A biography of the executive team can be found on their website at <https://www.bayotech.us/our-team>.

13. FISCAL IMPACT ANALYSIS

This project includes a fiscal impact analysis provided to the City from the New Mexico Economic Development Department, utilizing the IMPACT DataSource economic impact model. The fiscal impact determination of the Project is from information the Company provided. The analysis shows that the company's operations will support employment and other positive economic impacts in the City. Information from the report is attached.

V. PROJECT PARTICIPATION LOAN AGREEMENT

Pursuant to the Local Economic Development Act, Sections 5-10-1 to 5-10-13 NMSA 1978 ("LEDA"), the City adopted Ordinance No. F/S 04-10 (the "LEDA Ordinance"), approving an economic development plan for the City and authorizing the City to consider applications for

LEDA 20-4: BayoTech, Inc. Project

economic development assistance. The Ordinance calls for the preparation and approval of a Project Participation Loan Agreement (PPLA), which is the formal document, which states the contributions and obligations of all parties in the LEDA project. The agreement must clearly state the following items:

- (1) The economic development goals of the project;**
- (2) The contributions of the City and the qualifying entity;**
- (3) The specific measurable objectives upon which the performance review will be based;**
- (4) A schedule for project development and goal attainment;**
- (5) The security being offered for the City's investment;**
- (6) The procedures by which a project may be terminated and the City's investment recovered; and,**
- (7) The time period for which the City shall retain an interest in the project. Each project agreement shall have a "sunset" clause after which the City shall relinquish interest in and oversight of the project.**

B. Each Project Participation Loan Agreement shall be adopted as an ordinance and adopted by the Council at a public hearing.

The primary terms of the BayoTech Project Participation Loan Agreement are summarized and attached as an Exhibit.

1. Goals and Objectives. The objective is to create and support an economic development project that fosters, promotes and enhances local economic development efforts. The goal is that the project will provide jobs and career opportunities that will benefit the community and contribute to its long-term economic growth and sustainability.
2. The Company Contribution. The Company agrees for its contribution to this economic development project to maintain twenty (20) full-time positions and a minimum of one hundred and nineteen thousand five hundred and twenty dollars and thirty cents (\$119,520.30) in monthly payroll. A position will represent an employment position for a person for at least one pay period consisting of at least 32 hours of work per week. Positions filled by contract, part-time and temporary workers will not be considered positions.
3. The State Contribution; Procedure for Disbursement of the State Contribution. The State of New Mexico Economic Development Department has agreed to loan to the Company the funds for a period not to exceed two years from the date hereof to be used for lease payment 8601 Paseo Alameda NE, Albuquerque, NM 87113. The City anticipates that the State Contribution of three hundred and forty-six thousand seven hundred and eighty-eight dollars (\$346,788.00) will be delivered to the City for subsequent disbursement to the Company, following enactment of the related LEDA ordinance and execution of this

LEDA 20-4: BayoTech, Inc. Project

Agreement and an intergovernmental agreement between the State and the City. Disbursements shall be made in eight quarterly disbursements to the Company forty-three thousand three hundred forty-eight dollars and fifty cents (\$43,348.50). The second and subsequent disbursements shall be contingent on proof satisfactory to the City that Company's lease is current and to reimburse appropriate lease payments. The City will submit an invoice to the State to request transfer of the State funds. Upon receipt, the City will place the State Contribution into a separate account established in connection with the Project, as required by law. If, and only if, the City receives the State Contribution, the City will disburse the State Contribution to the Company in the manner described above.

4. Interest. Said loan shall be without interest, provided the terms of Section 2 are met, and will be repaid in whole at the end of this two (2) year agreement. However, if payroll as defined in Section 2 falls below 90%, the loan interest rate will escalate to 3% from the date of execution. If payroll falls below 80%, interest on the loan will be 6% from the date of execution. If payroll falls below 70%, the loan will become immediately due and payable with accrued interest.
5. Security. As security for the faithful performance and payment of all of Company's obligations under this Agreement, the Company shall furnish to the City, and maintain during the entire term of this Agreement, equipment worth in excess of four hundred thirty-six thousand and seventy-six dollars (\$436,076.00), by and through the executed Security Agreement attached hereto as Exhibit C. Security will be held in place until the loan is repaid in full.

FINDINGS:

1. LEDA 20-4 is a qualified project as defined by the State's Local Economic Development Act and the City enabling legislation (F/S O-04-10); and
2. BayoTech's clean energy technology is an industry cluster that has lasting growth potential; and
3. The City is willing to act as fiscal agent for the State's 0% interest loan program for BayoTech; and
4. LEDA 20-4 would make positive substantive contributions to the local economy and community by retaining 21 total jobs; and
5. Subject to the development of acceptable Security documents, LEDA 20-4 would comply with the adopted City plans and policies, and meet community economic development priorities and objectives, including payback of the full loan amount within 2 years; and
6. Subject to the development of acceptable Security documents, LEDA 20-4 would adequately meet the evaluation criteria established by the City for Local Economic Development Act projects.

LEDA 20-4: BayoTech, Inc. Project

STAFF RECOMMENDATION:

Based on the above findings, staff recommends approval of LEDA 20-4 as proposed in the project plan application.

Economic Development Department

APPLICATION
for
LOCAL ECONOMIC DEVELOPMENT ACT (LEDA)
Project Approval



Name of Project:

H2 Equipment Manufacturing

Location of Project:

8601 Paseo Alameda NE, Albuquerque NM 87113

Company Name:

BayoTech, Inc

Contact Person:

Phyllis Nathanson

Address:

8601 Paseo Alameda NE, Albuquerque NM 87113

Telephone:

505-249-8734

Email:

Phyllis.Nathanson@bayotech.us

Counsel:

Address:

Telephone:

Amount Requested: 346,216.00

Fee Submitted:

FOR STAFF USE

Staff Assigned:

Case Number:

Fee Received:

\$

ADC Hearing Date:

Council Dates (Tentative): Introduction

Committee

Council Hearing



PREFACE

This Application is being submitted to the Development Commission of the City of Albuquerque for review prior to consideration by the City Council of an Ordinance for the Local Economic Development Act in accordance with Council Ordinance 0-04-10. Pursuant to those Council actions this is the first step towards the issuance of an ordinance pursuant to: the Local Economic Development Act (5-10-1 to 5-10-13 NMSA 1978 as amended); or, pursuant to the home rule powers of the City given by Article X, Section 6 of the New Mexico Constitution and the City's Charter.

The Plan contains the information required by City Council Ordinance 0-04-10 and conforms with and compliments the policies established for the local Economic Development Act pursuant to that Council action.

The purpose of the Application is to identify the project area and to present the plan and the uses to which the LEDA proceeds will be put if issued. This Application is presented to demonstrate to the City of Albuquerque the public benefits of this project and to help the City evaluate its merit in comparison to other projects submitted. The applicant and its agent will endeavor to provide the City any additional information reasonably requested.

APPLICATION DESCRIPTION

Please prepare the LEDA application according to the following outline. Headings must be present and visible and all required information included. Please prepare the information needed for the fiscal impact analysis in the same manner but attached separately from the following outline.

I. GENERAL DESCRIPTION

Give a brief overview of the project, including general location, proposed development, use, and total amount requested. Include a statement of the benefit to be gained by the Albuquerque community from this development. The General Description should explain what will be done with the LEDA funds if approved.

Hydrogen production equipment is constructed and tested at 8601 Paseo Alameda NE, Albuquerque NM 87114. The facility is being leased from HSR, LLC. This project provides high-wage jobs and a new industrial base in on-site renewable fuels production equipment. The LEDA Funds would be used to pay monthly lease payments to HSR, LLC. The total amount requested is equal to 2 years of lease payment of \$346,216.

II. SITE AND EXISTING CONDITIONS

A. Legal Description

Give both the precise and complete legal description and address or identification of location. (For example: The proposed project is located at 5300 2nd Street N.W. The site is more particularly described as Tracts B-1 and C of the Plan of Division of Lands of Mel Sanchez and Lath & Plaster Supply Company, as the same is shown and designated on the plat of said land filed in the office of the County Clerk on April 27, 1979 in Bernalillo County, New Mexico, containing approximately 11.15 acres.)



The hydrogen production equipment is constructed and tested at 8601 Paseo Alameda NE, Albuquerque NM 87114. The facility is being leased from HSR, LLC.

B. Prevailing Site Conditions

Describe the present use and development of the site, including any improvements, vacant land, etc. Facility is a leased commercial building with warehouse and office space.

C. Present Assessed Value

Give the present assessed value according to the Bernalillo County Assessor's office. You may also list a current appraised value if you feel it will make the post-development value clearer. N/A

D. Present and Proposed Zoning

Give the current zoning of the property. If any change in zoning is required for the proposed use, give the proposed new zone. We recommend that zoning changes required be requested before the project plan reaches the Development Commission. Commercial

E. Renewable Energy

Indicate in detail if and how the Project will create, produce or use renewable energy and renewable energy technology. The hydrogen production equipment that will be manufactured as a result of our testing uses natural gas, methane, or biomethane to produce hydrogen for mobility, backup power, industrial and other applications.

III. PROJECT PLAN

A. Information Concerning Applicant

Describe the development entity - corporation, syndicate, individual, etc., and give information about the experience of the company or of significant individuals involved in the type of development or industry proposed. Include as an attachment resumes of main principals, or other information which will bear on the experience and credibility of the development entity. BayoTech is a corporation. We are completing the development of a hydrogen production unit and anticipate commercial production to commence in the fourth quarter of 2020. Our CEO, Mauricio Vargas has extensive experience taking companies through the commercialization phase and has extensive experience in the energy sector. The remaining members of our executive team as well as our development, engineering and sales staff are heavily experienced in the industry and in their respective areas of responsibility. More information can be found about our team on our website at bayotech.us.

B. Tax Issues

Please provide a statement declaring that the applicant has no outstanding substantive federal, state or local tax issues. If, however, there are pending issues, thoroughly describe all issues and their status. No outstanding Federal, State, or local tax issues

C. Information Concerning Products and Process

Identify the products and/or processes involved with this project. Specifically address the question of whether the proposed development will generate air, noise, or waste pollution



or traffic congestion. Include any plans for the reduction and disposal of waste and/or project emissions. Our systems are quiet and have a lower carbon intensity score than systems producing hydrogen by grid electrolysis, or centralized steam methane reforming.

D. Competition

Please describe any competition in the same area of commerce or industry existing in the City. Since the Development Commission and City Council do not wish to make public funds available for projects with local competition, this statement is very important.

BayoTech is selling its systems world-wide. Our primary competition comes from international gas distribution companies such as Air Liquide, Air Products and Linde.

E. Effect on Existing Industry and Commerce during and after Construction

Describe the predicted effects of the project including construction jobs generated, increased employment, increased sales, new industrial base, possible spin-off business. etc.

BayoTech's systems will be developed and tested in Albuquerque and manufactured in the State of New Mexico. The company employs PhD level scientists, engineers, technicians, an Accounting Manager, a Director of Supply Chain, program managers, a Chief Financial Officer and a Chief Technology Officer in Albuquerque. There are currently no manufacturers of hydrogen production facilities in the area.

F. Property Acquisition

Indicate if LEDA proceeds will be used to acquire real property (land and/or buildings), and whether the real property is presently owned by the applicant, or is under option.

Proceeds will be used for lease payments.

G. Description of Proposed Development

Describe any construction to be undertaken in the project, including square footage, construction type, and location of construction on the project site. Indicate whether existing buildings on the site will be rehabilitated or incorporated in the construction. Detail any demolition which will be required by the project, and indicate whether demolition involves any identified historic properties. If possible, attach a conceptual site plan and elevation (alternately, these may be presented at the Development Commission hearing). If project involves an existing facility, describe the facility. N/A

H. Infrastructure

Indicate if Project will require any extension or relocation of utility or road systems. If additional infrastructure is required, what cost sharing agreements have been reached between the applicant and the city? N/A

I. Area Enhancement

Describe how project design and placement will enhance the area. This project provides high-wage jobs and a new industrial base in on-site renewable fuels production equipment.

J. Local Purchasing

Please provide an estimated annual expenditure on goods and services locally procured that are subject to the New Mexico gross receipts tax, and an estimated annual increase in such an expenditure. We estimate our 2020 local annual expenditures at \$1.1MM.

K. Water Conservation



Estimate average daily and monthly water consumption and include any plans for the reduction or re-use of water. [N/A](#)



L. Relocation of Individuals or Businesses

No individuals, families or businesses should be displaced by the activities outlined in this plan. If any relocation is required, detail the assistance the applicant will give in relocation.
N/A

M. Number and Types of Jobs Created

Identify the number and type (i.e., professional, clerical, assembly line, etc.) of permanent jobs which will be created in the project. If any existing jobs are to be retained to the project site, describe separately. Please include the wages of all positions to be created.

21 local jobs will be retained, and we expect to create at least 40 new positions by the end of 2022 to include PhD scientist (\$160k/yr), engineers (\$105k/yr) and technicians (\$65k/yr).

The following questions must also be answered:

- 1) What percentage of the permanent new jobs is expected to be filled by current Albuquerque area residents, as opposed to people relocated from elsewhere?
75%
- 2) Will jobs benefit low and moderate income residents? 10-15% of the jobs will benefit low and moderate income residents
- 3) Will the jobs meet or exceed median wages for the industry within the community? Exceed
- 4) Will the jobs match skills of current city residents? Yes
- 5) Will new employees be trained to fill the positions? Yes
- 6) What stated advancement opportunities are there? BayoTech promotes employees from within the organization where possible
- 7) Will "Job Training Incentive Program" or other job training programs be used? Possibly
- 8) Will at least 50% of health insurance premiums be covered for employees? Yes

N. Corporate Citizenship Policy/Plan

List any company policies/plans regarding community charitable and civic donations and volunteerism policy. N/A

O. Positive Contributions

List all positive contributions that the project will make to the neighborhood. Supports occupancy of commercial use space.

P. Management

Who will manage the project? If the project will be managed by someone other than the applicant, does the applicant have any long-range involvement? BayoTech will manage the project.



IV. PROJECT FINANCING

A. Cost of Project, LEDA Funding Amount and Private Financing

Provide the total cost of the project and the amount of LEDA funds requested. The amount requested should be no more than that needed to complete the project in addition to equity or conventional financing. Also provide the amount and sources of private financing (equity or conventional financing) involved in this project; this may include the value of land and existing facilities, if relevant. LEDA funding, estimated at \$340,000 will be used to make lease payments over a term of 2 years.

B. Estimated Value After Completion

Indicate the estimated appraised value of the project after completion. The value of the equipment used to secure the loan is approximately \$436,000.

C. Feasibility

Present information to show that the project can reasonably be expected to remain viable, including sufficient revenue to liquidate any related debt, and/or maintain operations for ten (10) years. This information may be an attached pro forma, and should be sufficiently detailed to show the assumptions on which the projections are based. However, a firm third party commitment to provide financing for the project will be considered sufficient evidence of feasibility, and no pro forma will be needed in such cases. See above.

D. Construction Schedule

Give the date of anticipated beginning and completion of construction, if applicable. N/A

Attachments: Attach to the plan a map location of the project (you may use the base maps from the City Zone Atlas if you wish), and any other information as desired to supplement the plan. If you are attaching glossy or colored printed material, please submit 25 copies.

LEDA COVID-19 Application

Applicant	Phyllis Nathanson
Applicant ID	APP-013421
Company Name	BayoTech
Phone	505-639-9238 Ext 3014
Email	phyllis.nathanson@bayotech.us
Status	Submitted

Contact Information

Question: Legal Company Name

BayoTech, Inc

Question: Trade Name (dba)

N/A

Question: Project Name

H2 Equipment Manufacturing

Question: Company Street Address

8601 Paseo Alameda NE

Question: Company City

Albuquerque

Question: Company State

NM

Question: Company Zip

87113

Question: Phone

5056389238

Question: Fax

N/A

Question: Primary Contact Person First Name

Phyllis

Question: Primary Contact Person Last Name

Nathanson

Question: Federal Tax ID #

47-4398706

Question: NM State Tax and Revenue (CRS) #

03-363505-00

Question: City/County Business License #

Albuquerque/Bernillilo

Question: NAICS Code(s)

333249

Question: DUNS #

08-068-7407

Question: This Business is organized as a:

- ☒ C-Corporation
- ☐ S-Corporation
- ☐ LLC
- ☐ Partnership
- ☐ Sole Proprietorship

Project Information

Please include detailed information such as:

- Executive Summary; Business description and history

Question: Description of the emergency situation that requires funding.

BayoTech is working to retain all existing team members (which include engineers, researchers, technicians, and support staff including financial, administrative and managerial positions). In addition, we work closely with our partner company PESCO to provide our outsourced manufacturing. PESCO provides many heavy manufacturing positions in the four corners region of the state. We have been challenged with delays in commercialization due to the global pandemic but continue to focus on moving the company forward.

Question: Provide a detailed scope of work that is specific to the funding request/award and what the funds will be used for.

We expect that once we secure our first productions orders we will be adding manufacturing support personnel, service department staff, additional researchers, engineers and technicians, a Chief Operations Officer, etc.

Question: Supporting Documentation

No Attachments

Financial Information

Question: Provide financial statements (balance sheet, profit and loss and cash flow) or tax returns for the past three years.

[BayoTech, Inc. - 2019 Final Audited Financial Statements.pdf](#) (7/10/2020 8:53 AM)
[BayoTech Inc Audited Financial Statements 2018 and Balance Sheet 2017 12.pdf](#) (7/10/2020 8:52 AM)

Question: What is the collateral/security to be pledged to the funds awarded?

- ☐ Security Interest/Lien
- ☐ Letter of Credit
- ☐ Mortgage Security
- ☐ Security Agreement/Escrow
- ☐ Security Agreement/Lien
- ☒ Security Interest/Equipment

☐ TBD

Question: What is the method of appraisal for stated security?

Taxable value

Question: What is the equity investment from the applicant?

\$0.00

Question: External Equity Investment Sources

Venture capital and strategic investor funding

Question: External Equity Investment Amount

\$17,353,186.00

Question: Bank Loan Source (financial institution names), type (commercial, USDA, SBA 504, etc.), and stage (applied or approved)

Bank of America PPP loan Approved

Question: Bank Loans Amount Total

\$406,630.00

Question: Other Loans Source

N/A

Question: Other Loans Amount

\$0.00

Question: Other Sources

N/A

Question: Other Sources Amount

\$0.00

Question: Total Loan Requested

\$346,216.00

Question: Requested Loan Duration (Months)

24.00

Company History and Background

Question: How long has the company been in operation, as of the date of application?

5 Years, 1 month

Question: At the time of this application, how many full-time employees do you currently employ? Please provide the most recent Department of Workforce Solutions report below. If no employees, disregard report. Enter 0.

21.00

Question: List owners with more than 20% ownership stake in the company. Additionally, please list principal directors and/or officers.

Investor:

Agrium Investments U.S. Inc. 29% Ownership

Officers:

Mo Vargas-CEO

Wendy Rollstin-CFO

Wish Krishnamoorthy-CTO

Stewart Stewart-CCO

Directors:

David Blivin

Sally Corning

Ashley Harris

Jeremy Richard

Robert Jung

Scott Dyer

Question: Are owners and/or officers current with financial obligations/payments to the State of New Mexico or any other Federal or State entity? If no, please explain.

Yes

Question: Does the applicant have any loans or other financial obligations on which payments are not current?

No

Question: Please identify any financially affiliated/associated companies in which any of the applicant's owners have a 20% stake.

None

Community Aspects

Question: What will be the impact to the community if you don't receive this loan?

BayoTech is working to retain all existing team members (which include engineers, researchers, technicians, and support staff including financial, administrative and managerial positions). In addition, we work closely with our partner company PESCO to provide our outsourced manufacturing. PESCO provides many heavy manufacturing positions in the four corners region of the state. We have been challenged with delays in commercialization due to the global pandemic but continue to focus on moving the company forward.

Job Retention / Performance

Please download the job retention worksheet to work up the required information for this section.

- [Job Retention Worksheet](#)

Question: Outline the number and types of jobs to be retained.

2 Researcher/PhDs
5 Engineers
5 Technicians

Question: Outline the existing pay scale and payroll.

Researcher/PhD Average Salary 160K
Engineer Average Salary 105k
Technician Average Salary 65k

Question: Outline the benefits offered to the employees, including but not limited to health care and retirement.

We offer the following benefits:
Medical
Dental
Vision
FSA
Life insurance
AD&D
Legal
401K

Question: Total number of Jobs to be retained for loan duration period.

12.00

Attachments

Please download the authorization for examination and release of information template and the example employer quarterly wage and contribution report.

- [Authorization for examination and release of information form](#)
- [Employer quarterly wage and contribution report example](#)

Please download the LEDA Application Affirmation Template here:

[LEDA Application Affirmation Template](#)

[Click here](#) to view a filled out sample.

Question: New Mexico Economic Development Department authorization for examination and release of information.

[Authorization for examination and release of information \(1\).pdf](#) (7/10/2020 9:01 AM)

Question: Latest New Mexico employer's quarterly wage and contribution report submitted to the Department of Workforce Solutions.

[TriNet Letter of Explanation-PEO.pdf](#) (7/9/2020 9:06 AM)

[TriNet Quarterly State Tax Summary Q2 2020.pdf](#) (7/9/2020 9:05 AM)

Question: Officer Application Affirmation Attestation

[2019 LEDA Application Affirmation \(1\).pdf](#) (7/10/2020 9:01 AM)



Fiscal Impact Overview

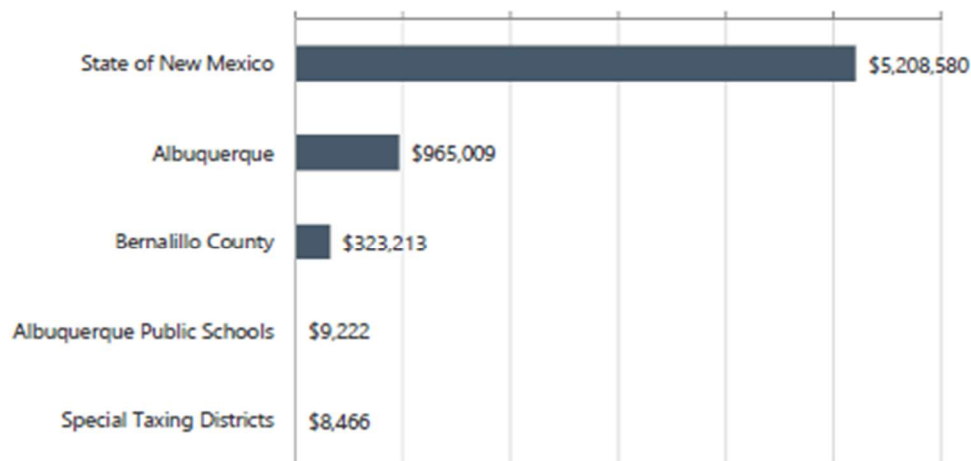
The Project will generate additional benefits and costs for local taxing districts, a summary of which is provided below. The source of specific benefits and costs are provided in greater detail for each taxing district on subsequent pages. Overall, the City will receive approximately \$965,000 in net benefits over the 10-year period and the Project will generate \$6,514,500 in total for all local taxing districts.

Table 5. Fiscal Net Benefits Over the Next 10 Years for the State and Local Taxing Districts

	Benefits	Costs	Net Benefits	Present Value of Net Benefits*
State of New Mexico	\$5,868,954	(\$660,374)	\$5,208,580	\$3,662,063
Albuquerque	\$990,874	(\$25,865)	\$965,009	\$679,114
Bernalillo County	\$323,213	\$0	\$323,213	\$227,948
Albuquerque Public Schools	\$9,222	\$0	\$9,222	\$7,147
Special Taxing Districts	\$8,466	\$0	\$8,466	\$0
Total	\$7,200,728	(\$686,239)	\$6,514,489	\$4,582,833

* The Present Value of Net Benefits expresses the future stream of net benefits received over several years as a single value in today's dollars. Today's dollar and a dollar to be received at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 6.75% to make the dollars comparable.

Figure 1. Net Benefits Over the Next 10 Years for the State and Local Taxing Districts





BAYO TECH | FISCAL IMPACT

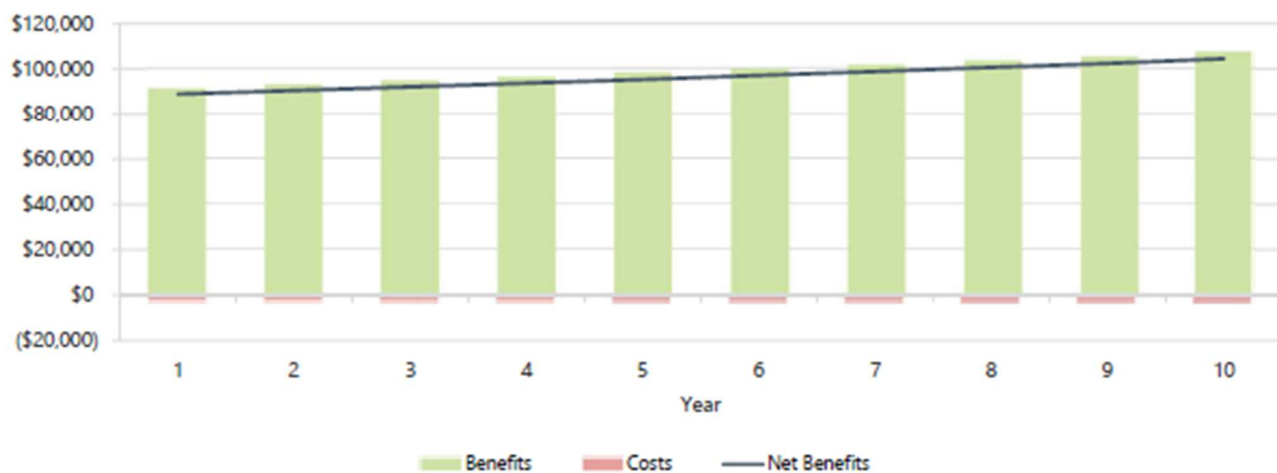
Albuquerque

The table below displays the estimated additional benefits, costs, and net benefits to be received by the City over the next 10 years of the Project. Appendix C contains the year-by-year calculations.

Table 7. Albuquerque: Benefits, Costs, and Net Benefits Over the Next 10 Years

	Amount
Gross Receipts Taxes	\$948,737
Real Property Taxes - Project	\$0
FF&E Property Taxes - Project	\$9,377
Property Taxes - New Residential	\$0
Utility Revenue	\$25,112
Utility Franchise Fees	\$7,647
Building Permits and Fees	\$0
Lodgers Taxes	\$0
Miscellaneous Taxes & User Fees	\$0
Subtotal Benefits	\$990,874
Cost of Providing Municipal Services	\$0
Cost of Providing Utility Services	(\$25,865)
Subtotal Costs	(\$25,865)
Net Benefits	\$965,009
<i>Present Value (6.75% discount rate)</i>	<i>\$679,114</i>

Figure 3. Annual Fiscal Net Benefits for the Albuquerque



LEDA 20-4: BayoTech Corporation Project



Michelle Lujan Grisham • Governor
Alicia J. Keyes • Cabinet Secretary

LEDA Loan Program

Purpose

In response to the Covid-19 pandemic and the negative impacts that it was having on the business community and the economy of New Mexico the State of New Mexico Economic Development Department has developed a short term loan program within the State of New Mexico LEDA fund to allow for short term loans (up to two years) to help maintain and sustain jobs during this time of pandemic.

LEDA Loan Uses

In order to stay in compliance with the LEDA statute the proceeds from a LEDA loan can only be available to a qualified entity as established in the LEDA statute and must be used for land, building and infrastructure. The State of New Mexico understands that in this time of pandemic that new land acquisition, building purchases of expansions and new infrastructure are unlikely, therefore the State Economic Development Department will work with qualified entities under the LEDA statute in determining what costs associated with their operations can be qualified as land, building or infrastructure. In most cases we anticipate that this will be costs associated with mortgage and/or lease payments, but all costs will be evaluated.

Loan Rates and Requirements

The LEDA loan will be 0 % interest for up to 2 years. The State of New Mexico Economic Development Department will work with the qualifying entity to determine their base full-time headcount and monthly payroll to be utilized for the purpose of the loan agreement. This baseline will be used to ensure that the company is maintaining their payroll and full-time positions during the terms of the loan. There will be penalties for not maintaining those levels as part of the loan agreement. Those penalties are as follows:

1. If the qualified entities payroll falls below 90% of the monthly payroll interest rate will increase to 3% from inception
2. If the qualified entities payroll falls below 80% of the monthly payroll interest rate will increase to 6% from inception
3. If the qualified entities payroll falls below 70% of the monthly payroll the loan will immediately come due and payable.

As required for all LEDA projects these loans will require security equal to the total amount of the loan and will be held by the State of New Mexico Economic Development Department's designated Fiscal Agent until the loan is satisfied.

Joseph M. Montoya Building 1100 South Saint Francis Drive Santa Fe, NM 87505-4147

LEDA 20-4: BayoTech Corporation Project



Michelle Lujan Grisham • Governor
Alicia J. Keyes • Cabinet Secretary

Valued New Mexico Business,

Thank you for looking into this loan program especially designed to help New Mexico e-based businesses weather these uncertain economic times of the Covid-19 pandemic.

We strive to make the application process as user-friendly, efficient, and transparent as possible given the statutory parameters under which these funds are administrated.

Here is a quick summary explaining how the LEDA loan can be utilized and the process of applying for this loan:

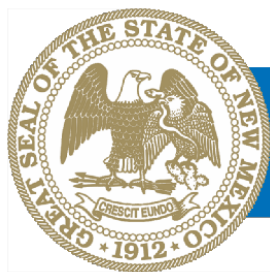
LEDA is a fund administered by the New Mexico Economic Development Department; it is a discretionary fund that can be used to offset the costs associated with land, building, and infrastructure for economic based businesses. ***Economic based business is defined as a business that manufactures or a non-retail service provider that derives over 50% of their revenue from outside of New Mexico.*** This loan can also be used for lease abatement and mortgage assistance.

The process to determine your loan eligibility and the size of the loan is fairly simple and our team at EDD will work with you and gather the information necessary to make the determination. In essence, you will be asked to respond to the following:

- What do you do?
- How long has the company been in business?
- What is the company's NAICS Code?
- How many jobs will be saved by these funds?
- What is the anticipated payroll of these jobs?
- What was the company's 2019 annual revenues?
- What are the company's projected 2020 revenues?

After we gather this information, it will be summarized and given to the Cabinet Secretary and the Governor for review. Once they determine if we can support you, an amount of the loan will be established and we will open a formal application. This application is an online portal and can be completed entirely online. We will require a financial review (3 years) of the business as part of the formal application. Simultaneously, with the completion of the application, we will also work with the local fiscal agent (City or County) who will administer this loan.

LEDA 20-4: BayoTech Corporation Project



Drive Santa Fe, NM 87505-4147

Michelle Lujan Grisham • Governor
Alicia J. Keyes • Cabinet Secretary

The public process will include:

Introduction of an Ordinance
Public Hearing
Approval of the Ordinance

Fiscal Agent may add additional committee hearings

Included in the ordinance will be 3 key documents:

Project Participation Agreement (PPA) – This is the contract between the company and the fiscal agent stating the amount and terms of the loan;

Intergovernmental Agreement (IGA) – This document mirrors the PPA and also lays out how the State of New Mexico will provide the funds to the fiscal agent and how we expect them to handle our money.

Security (Collateral) – We are statutorily bound to hold security equal to the amount of the loan. This can be a first lien on property, letter of credit, surety bond or other agreed upon security.

Thank you for your commitment to New Mexico.