Legislation Details (With Text)

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Title: 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)

Sponsors: Isaac Benton (By Request)

Indexes:

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Attachments: 1. O-75, 2. O-75Enacted

Date	Ver.	Action By	Action	Result
10/10/2019	2	City Clerk	Published	
10/3/2019	2	Mayor	Signed by the Mayor	
9/26/2019	2	City Council	Sent to Mayor for Signature	
9/18/2019	1	City Council	Passed	Pass
9/4/2019	1	President	To be heard at the Council Meeting	
9/4/2019	1	City Council	Introduced	

CITY of ALBUQUERQUE
TWENTY-THIRD COUNCIL

COUNCIL BILL NO. O-19-75 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton, by request

ORDINANCE

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)

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.

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

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

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

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

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

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

WHEREAS, City staff has worked with the Company to prepare, and has negotiated the terms of, a project participation agreement (the "Agreement") and related documents that will govern the

relationship between the City and the Company with respect to the Project; and

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

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

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

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

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

WHEREAS, the total amount of public money expended and the value of credit pledged in each fiscal year in which money is expended by the City for the Project (and any other approved projects) pursuant to the Act does not and will not exceed ten percent of the general fund expenditures of the City in such fiscal year; 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 Council has concluded that the economic and other benefits of the Project to the City will be substantial, that it is desirable and necessary at this time to authorize the City to enter into the Agreement, and that the City's provision of the assistance contemplated by the Agreement will constitute a valid public purpose under the Act; and

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

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

Section 1. RATIFICATION. All actions not inconsistent with the provisions of this Ordinance

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previously taken by the Council and the officials of the City directed toward the provision of economic development assistance in connection with the Project be approved and the same hereby are ratified, approved and confirmed.

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

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

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

Section 5. AUTHORIZATION AND APPROVAL OF THE PROJECT AND THE AGREEMENT; APPROPRIATION OF FUNDS. The City hereby approves the Project and the Agreement, which provides, among other things, that the City will administer and disburse to the Company funds totaling up to $1,000,000, of which $750,000 is to be received by the City from the State Economic Development Department and $250,000 are to be City funds, in exchange for which the Company will complete the Project as specified in the Agreement. There is hereby appropriated for the Project up to $750,000 of funds received from the State Economic Development Department and up to $250,000 of City funds.

Section 6. AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS.

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

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

supplemental resolution of the Council.

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

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

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

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

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

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