

CITY of ALBUQUERQUE

TWENTY SEVENTH COUNCIL

COUNCIL BILL NO. O-26-19 ENACTMENT NO. _____

SPONSORED BY: Renée Grout, by request

1 ORDINANCE

2 APPROVING A PROJECT INVOLVING MANTIS SPACE INC. PURSUANT TO THE
3 LOCAL ECONOMIC DEVELOPMENT ACT AND CITY ORDINANCE F/S O-04-10,
4 THE CITY'S IMPLEMENTING LEGISLATION FOR THAT ACT, TO SUPPORT THE
5 LEASING, CONSTRUCTION AND IMPROVEMENT OF A FACILITY TO SUPPORT
6 ADVANCED OPTICS RESEARCH AND DEVELOPMENT AND LIMITED SCALE
7 SATELLITE COMPONENT MANUFACTURING FOR DEVELOPMENT OF ON-
8 DEMAND POWER IN SPACE TO BE LOCATED IN ALBUQUERQUE, NEW MEXICO;
9 AUTHORIZING THE EXECUTION OF A PROJECT PARTICIPATION AGREEMENT
10 AND OTHER DOCUMENTS IN CONNECTION WITH THE PROJECT; MAKING
11 CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE PROJECT
12 INCLUDING THE APPROPRIATION OF FUNDS; RATIFYING CERTAIN ACTIONS
13 TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH
14 THIS ORDINANCE.

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

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

22 WHEREAS, pursuant to the Act, the City has adopted Ordinance No. F/S 04-
23 10 (the "LEDA Ordinance"), approving an economic development plan for the City
24 and authorizing the City to assist economic development projects in any legally
25 permissible manner, subject to the terms of the LEDA Ordinance; and

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1 WHEREAS, pursuant to the LEDA Ordinance, Mantis Space Inc. (the
2 "Company"), has submitted to the Council and the Albuquerque Development
3 Commission (the "Commission") an application (the "Application") requesting
4 certain economic development assistance for the leasing, construction and
5 improvement of a facility to support advanced optics research and development
6 and limited scale satellite component manufacturing for development of on-
7 demand power in space to be located in Albuquerque, New Mexico, and which
8 will include the addition of 186 new employees (the "Project"); and

9 WHEREAS, the City will administer and disburse to the Company funds
10 totaling up to \$3,000,000, of which \$2,500,000 is to be received by the City from
11 the State Economic Development Department and \$5,000,000 are to be City funds;
12 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 Section 2. **GOALS AND OBJECTIVES.** The goals and objectives of the
33 Project are, as set forth in the Agreement, to create and support an economic

1 development project that fosters, promotes and enhances local economic
2 development efforts and that provides job growth and career opportunities for
3 Albuquerque-area residents and otherwise makes a substantive contribution to
4 the community.

5 Section 3. THE PROJECT. The Project will consist of the leasing,
6 construction and improvement of a facility to support advanced optics research
7 and development and limited scale satellite component manufacturing for
8 development of on-demand power in space to be located in Albuquerque, New
9 Mexico, and which will include the addition of 186 new employees, and the
10 Company's commitment to operate the facility within the City for a minimum of
11 ten years, and the Company's commitment to hire New Mexico residents.

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

18 Section 5. AUTHORIZATION AND APPROVAL OF THE PROJECT AND
19 THE AGREEMENT; APPROPRIATION OF FUNDS. The City hereby approves the
20 Project and the Agreement, which provides, among other things, that the City will
21 administer and disburse to the Company funds totaling up to \$3,000,000, of which
22 \$2,500,000 is to be received by the City from the State Economic Development
23 Department and \$500,000 are to be City funds, in exchange for which the
24 Company will complete the Project as specified in the Agreement. There is
25 hereby appropriated for the Project up to \$2,500,000 of funds received from the
26 State Economic Development Department and up to \$500,000 of City funds.

27 Section 6. AUTHORIZATION OF OFFICERS; APPROVAL OF
28 DOCUMENTS.

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

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

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

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

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

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

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

31 Section 9. **RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE**
32 **DATE.** This Ordinance, immediately upon its final passage and approval, shall be
33 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.

