

CITY of ALBUQUERQUE

TWENTY-FIFTH COUNCIL

COUNCIL BILL NO. F/S O-22-6 ENACTMENT NO. D-2022-0016

SPONSORED BY: Benton, by request

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ORDINANCE

APPROVING A PROJECT INVOLVING HERITAGE DEFENDER, LLC 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 ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF AN AUTOMOTIVE FABRICATION, LIGHT MANUFACTURING AND RESTORATION FACILITY FOR HERITAGE DEFENDER, LLC LOCATED 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; 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, Heritage Defender, LLC (the "Company"), has submitted to the Council and the Albuquerque Development

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1 Commission (the "Commission") an application (the "Application") requesting certain
2 economic development assistance for the acquisition, construction and improvement of
3 an automotive fabrication, light manufacturing and restoration facility for Heritage
4 Defender, LLC located in Albuquerque, New Mexico (the "Project"); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 3. THE PROJECT. The Project will consist of the acquisition,
26 construction and improvement of an automotive fabrication, light manufacturing and
27 restoration facility to operate within the City for a minimum of ten years.

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

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

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

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

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

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

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

31 Section 7. SEVERABILITY. If any section, paragraph, clause or provision of
32 this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity

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1 or unenforceability of that section, paragraph, clause, or provision shall not affect any of
2 the remaining provisions of this Ordinance.

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

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

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1 PASSED AND ADOPTED THIS 7th DAY OF February, 2022
2 BY A VOTE OF: 9 FOR 0 AGAINST.

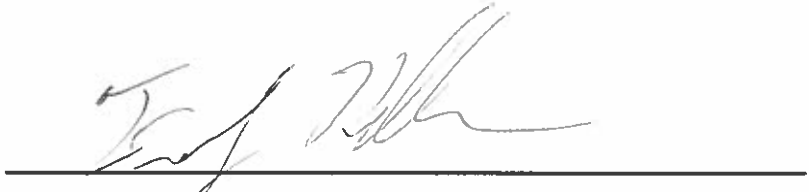
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Isaac Benton, President
City Council

APPROVED THIS 15 DAY OF February, 2022

Bill No. F/S O-22-6



Timothy M. Keller, Mayor
City of Albuquerque

ATTEST:



Ethan Watson, City Clerk

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