

DOÑA ANA COUNTY, NEW MEXICO
ORDINANCE NO. 368-2025

1 AN ORDINANCE APPROVING LEDA PROJECT FOR [RED CHILES A,
2 LLC, A DELAWARE LIMITED LIABILITY COMPANY, RED CHILES B,
3 LLC, A DELAWARE LIMITED LIABILITY COMPANY, RED CHILES C,
4 LLC, A DELAWARE LIMITED LIABILITY COMPANY, RED CHILES D,
5 LLC, A DELAWARE LIMITED LIABILITY COMPANY
6 (COLLECTIVELY, AND TOGETHER WITH THEIR SUCCESSORS,
7 ASSIGNS AND AFFILIATES, "RED CHILES") AND YUCCA GROWTH
8 INFRASTRUCTURE, LLC, A DELAWARE LIMITED LIABILITY
9 COMPANY (TOGETHER WITH ITS SUCCESSORS, ASSIGNS AND
10 AFFILIATES, "YUCCA GROWTH" AND TOGETHER WITH RED
11 CHILES, THE "COMPANIES") PURSUANT TO THE LOCAL
12 ECONOMIC DEVELOPMENT ACT AND THE DOÑA ANA COUNTY
13 ECONOMIC DEVELOPMENT PLAN; APPROVING ECONOMIC
14 ASSISTANCE TO THE COMPANIES FOR A PORTION OF THE COSTS
15 OF THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF
16 DATA CENTER FACILITIES TO BE LOCATED IN DOÑA ANA
17 COUNTY, NEW MEXICO (THE "COUNTY"); AUTHORIZING THE
18 EXECUTION OF A PROJECT PARTICIPATION AGREEMENT AMONG
19 THE COMPANIES, THE STATE OF NEW MEXICO (THE "STATE"),
20 AND THE COUNTY (THE "AGREEMENT") AND SUCH OTHER
21 AGREEMENTS AS ARE NECESSARY OR CONVENIENT TO PROVIDE
22 THE APPROVED ECONOMIC ASSISTANCE TO THE COMPANIES;
23 AUTHORIZING THE EXECUTION OF ALL OTHER NECESSARY
24 DOCUMENTS; MAKING CERTAIN DETERMINATIONS AND
25 FINDINGS RELATING TO THE PROJECT; RATIFYING CERTAIN
26 ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS
27 INCONSISTENT WITH THIS ORDINANCE.

28
29 WHEREAS, the Local Economic Development Act, Sections 5-10-1 through 5-10-17
30 NMSA 1978, as amended (the "Act"), authorizes municipalities and counties to provide certain
31 economic assistance to qualifying entities as defined under the Act; and

32 WHEREAS, pursuant to the Act, the Board of County Commissioners (the "Commission")
33 has adopted County Ordinance No. 246-2009, which approved the Doña Ana County Economic
34 Development Plan, as amended from time to time (the "LEDA Plan"); and

35 WHEREAS, the purpose of the LEDA Plan is to allow public support of economic
36 development projects to foster, promote and enhance local economic development efforts while
37 continuing to protect against the unauthorized use of public money and other public resources;
38 and



1 **WHEREAS**, pursuant to the Act and the LEDA Plan, the Companies have applied for and
2 requested that the County and State provide them with certain economic assistance in connection
3 with the reimbursement of eligible expenditures associated with the costs of the acquisition,
4 construction, and improvement of data center facilities and related infrastructure and facilities by
5 the Companies (the “Project”); and

6 **WHEREAS**, the contributions made to the Project pursuant to this Ordinance would be in
7 exchange for certain commitments made by the Companies; and

8 **WHEREAS**, the Act and the LEDA Plan require each of the State and the County to enter
9 into a project participation agreement with the Companies meeting the requirements of the Act
10 and the LEDA Plan, including as to LEDA contributions supporting the Project and funded to the
11 Companies from the dedication by: (i) the State of fifty percent of the state gross receipts and
12 compensating tax increments generated by the taxable expenses related to the construction of the
13 Project for ten years and available for dedication to the Project; and (ii) the County of fifty
14 percent of the local gross receipts and compensating tax increments generated by the taxable
15 expenses related to the construction of the Project for ten years and available for dedication to
16 the Project; and

17 **WHEREAS**, the County staff, with assistance from the State Economic Development
18 Department, has worked with the Companies to prepare, and has negotiated the terms of, the
19 Agreement with the Companies,

20 **WHEREAS**, the total amount of public money expended and the value of credit pledged in
21 each fiscal year in which money is expended by the County for the Project (and any other
22 approved projects) pursuant to the Act does not and will not exceed ten percent (10%) of the
23 general fund expenditures of the County in such fiscal year; and

24 **WHEREAS**, after having considered the Project and the Agreement, the Commission has
25 concluded that the benefits of the Project to the County will be substantial, that it is desirable and
26 necessary at this time to authorize the County to enter into the Agreement and such other
27 agreements as are necessary or convenient to provide assistance to the Companies consistent
28 with the Act, and that the County's provision of the assistance contemplated by the Agreement
29 will constitute a valid public purpose under the Act;

30 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
31 **COMMISSIONERS OF DOÑA ANA COUNTY:**

1 Section 1. Findings. The Commission finds that: (a) the Companies are each
2 qualifying entities as defined in Subsection 5-10-3(J) NMSA 1978; (b) that under the Agreement
3 the Companies will provide substantive contributions for the Project as described in Section 5-
4 10-10(B) NMSA 1978; (c) the Agreement complies with the requirements of the Act; (d) the
5 benefits of the Project to the County, in terms of increased tax revenues and other benefits
6 arising from retained and sustained employment, exceed the cost to the County of providing to
7 the Companies the assistance specified in the Agreement; and (e) the Agreement sets out (i) the
8 contributions to be made by the County and the Companies to the Project, (ii) the security
9 provided to the County by the Companies and the Companies' pledge of financial or material
10 participation and cooperation to guarantee the Companies' performance, (iii) a schedule for
11 project development and completion, including measurable goals and time limits for those goals,
12 and (iv) provisions for performance review and actions to be taken upon a determination that
13 performance is unsatisfactory.

14 Section 2. Approval of the Project and the Agreement. The County hereby approves
15 the Project and the Agreement in the form presented to the Commission with this Ordinance,
16 which provides, among other things, that the County will direct to the Project 50% of the
17 County's gross receipts and compensating tax increments generated from the taxable expenses
18 related to the construction of the Project for ten years (the "LEDA Project Funds"), such amount
19 to be applied to a portion of the costs of the Project, in exchange for which the Companies will
20 complete the Project and otherwise comply with the terms of the Agreement. There is hereby
21 appropriated for the Project the LEDA Project Funds generated by the Project.

22 Section 3. Authorization. The form, terms, and provisions of the Agreement in the
23 form presented to the Commission with this Ordinance, are in all respects approved and
24 authorized, and the County shall enter into such Agreement and such other agreements as are
25 necessary or convenient to provide assistance to the Companies consistent with the Act. The
26 Chair or Vice Chair acting in his or her absence, is authorized to execute the Agreement, with
27 only such changes as are not inconsistent with this Ordinance or such changes as may be
28 recommended by County's legal counsel. The Chair, County Manager and other officers of the
29 County are hereby authorized and directed to execute and deliver all other necessary documents,
30 and to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

CONTINUATION PAGE 4, ORDINANCE 368-2025

1 Section 4. Severability. If any section, paragraph, clause or provision of this
2 Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or
3 unenforceability of that section, paragraph, clause, or provision shall not affect any of the
4 remaining provisions of this Ordinance.

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

9 Section 6. Effective Date. Upon due adoption of this Ordinance, it shall be recorded
10 in the book of ordinances of the County kept for that purpose and this Ordinance shall be in full
11 force and effect 30 days thereafter, in accordance with law.

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13 *[The Remainder of this Page is Intentionally Left Blank.]*
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Passed and Adopted this 19th day of September 2025.



BOARD OF COUNTY COMMISSIONERS OF
DOÑA ANA COUNTY, NEW MEXICO

Christopher Schaljo Hernandez
Christopher Schaljo-Hernandez, District 1, Chair For/Against

Susana Chaparro
Susana Chaparro, District 4, Vice Chair For/Against

Gloria Gameros attended meeting via webex
Gloria Gameros, District 2 For/Against

Shannon Reynolds
Shannon Reynolds, District 3 For/Against

Manuel A. Sanchez
Manuel A. Sanchez, District 5 For/Against

ATTEST:

Amanda López Askin



Amanda López Askin, Ph.D.
County Clerk

DRAFT