

DOÑA ANA COUNTY ORDINANCE (No. 2) NO. 369-2025

AN ORDINANCE APPROVING AN ECONOMIC DEVELOPMENT PROJECT FOR RED CHILES A, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RED CHILES B, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RED CHILES C, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RED CHILES D, LLC, A DELAWARE LIMITED LIABILITY COMPANY (COLLECTIVELY, AND TOGETHER WITH THEIR SUCCESSORS, ASSIGNS AND AFFILIATES, "RED CHILES") AND YUCCA GROWTH INFRASTRUCTURE, LLC, A DELAWARE LIMITED LIABILITY COMPANY (TOGETHER WITH ITS SUCCESSORS, ASSIGNS AND AFFILIATES, "YUCCA GROWTH" AND TOGETHER WITH RED CHILES, THE "COMPANIES") PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT AND THE DOÑA ANA COUNTY ECONOMIC DEVELOPMENT PLAN; APPROVING ECONOMIC ASSISTANCE TO THE COMPANIES FOR A PORTION OF THE COSTS, IN THE FORM OF A REDUCTION OF CERTAIN BUILDING PERMIT FEES, OF THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF (I) A POWER GENERATION, BATTERY STORAGE AND MICROGRID FACILITY AND (II) FOUR DATA CENTER FACILITIES TO BE LOCATED IN DOÑA ANA COUNTY, NEW MEXICO (THE "COUNTY"); AUTHORIZING THE EXECUTION OF A PROJECT PARTICIPATION AGREEMENT AMONG THE COMPANIES AND THE COUNTY (THE "AGREEMENT") TO PROVIDE THE APPROVED ECONOMIC ASSISTANCE TO THE COMPANIES; MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO THE PROJECT; RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY; AND REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE.

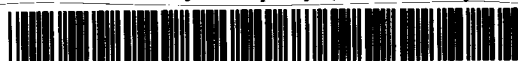
WHEREAS, the County of Doña Ana (the "County"), acting through its Board of County Commissioners, is a political subdivision duly organized and existing under the laws of the State of New Mexico (the "State"); and

WHEREAS, Article 9, Section 14 of the State constitution permits counties to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses, provided that adequate safeguards are employed to protect public monies and resources; and

WHEREAS, pursuant to the Local Economic Development Act, NMSA 1978, Sections 5-10-1 through 5-10-17 (the "Act"), no public support for economic development may be provided until the governmental entity has adopted by ordinance an economic development plan and has approved by a second ordinance an application for a project in keeping with such plan; and

WHEREAS, on September 22, 2009, pursuant to Doña Ana County Ordinance No. 246-2009 (the "Economic Development Plan Ordinance"), now codified as Chapter 166 in the Doña Ana County Code, the County established the Doña Ana County Economic Development Plan (the "LEDA Plan") as the County's economic development plan as required by NMSA 1978, Section 5-10-6; and

WHEREAS, as provided in the Economic Development Plan Ordinance, the County considers an application from Red Chiles A, LLC, a Delaware limited liability company, Red Chiles B, LLC, a Delaware limited liability company, Red Chiles C, LLC, a Delaware limited liability company, Red Chiles D, LLC, a Delaware limited liability company (collectively, and together with their successors,



assigns and affiliates, "Red Chiles") and Yucca Growth Infrastructure, LLC, a Delaware limited liability company (together with its successors, assigns and affiliates, "Yucca Growth" and together with Red Chiles, the "Companies") seeking a fee reduction for building permits (as defined in NMSA 1978, Section 5-10-3(K)) to develop the project. The project will include the construction, development and acquisition of a hyperscale, artificial intelligence data center campus, a collocated energy production and storage microgrid facility, and related infrastructure, all located within the County (the "Project"); and

WHEREAS, the County has determined that the Companies are a "qualifying entity" and the Project is an "economic development project" as those terms are defined by the Act; and

WHEREAS, the County contributions made to the Companies and the Project pursuant to this Ordinance will be in exchange for certain commitments made by the Companies, all of which shall be memorialized in a project participation agreement by and between the County and the Companies; and

WHEREAS, the County has worked with the Companies to prepare, and has negotiated the terms of, the Project Participation Agreement with the Companies; and

WHEREAS, after having considered the Project and the Project Participation Agreement, the Commission has concluded that the benefits of the Project to the County will be substantial, that it is desirable and necessary at this time to authorize the County to enter into the Project Participation Agreement to provide assistance to the Companies consistent with the Act, and that the County's provision of the assistance contemplated by the Project Participation Agreement will constitute a valid public purpose under the Act;

NOW, THEREFORE, BE IT ORDERED BY THE DOÑA ANA COUNTY BOARD OF COUNTY COMMISSIONERS:

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

Section 2. Approval of the Project and the Project Participation Agreement. The County hereby approves the Project and the Project Participation Agreement (PPA), pursuant to the Act and Section 5 of the Economic Development Plan Ordinance, in the form presented to the Commission with this Ordinance (No. 2), which provides, among other things, that the County

agrees to a reduced fee schedule for County building permits related to the Project as provided below:

Permit Fee Structure

Year	Annual Payment
2025	\$500,000
2026	\$1,500,000
2027	\$1,500,000
2028	\$1,000,000
Total Payments to County	\$4,500,000

In exchange, the Companies will complete the Project and otherwise comply with the terms of the Project Participation Agreement.

Section 3. Authorization. The form, terms, and provisions of the Project Participation Agreement in the form presented to the Commission with this Ordinance, are in all respects approved and authorized, and the County shall enter into such Project Participation Agreement to provide assistance to the Companies consistent with the Act. The Chair or Vice Chair acting in his or her absence, is authorized to execute the Project Participation Agreement, with only such changes as are not inconsistent with this Ordinance (No.2) or such changes as may be recommended by County's legal counsel. The Chair, County Manager and other officers of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance (No.2).

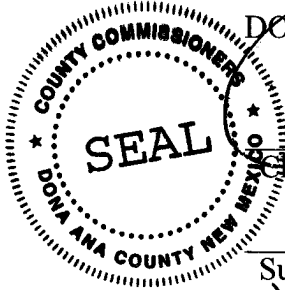
Section 4. Severability. If any section, paragraph, clause or provision of this Ordinance (No.2) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance (No.2).


Section 5. Repealer. All bylaws, ordinances, resolutions, and orders, or parts thereof, inconsistent with this Ordinance (No.2) 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 6. Effective Date. Upon due adoption of this Ordinance (No.2), it shall be recorded in the book of ordinances of the County kept for that purpose and this Ordinance (No.2) shall be in full force and effect 30 days thereafter, in accordance with law.

ADOPTED this 14th day of October 2025.

BOARD OF COUNTY COMMISSIONERS OF
DONA ANA COUNTY, NEW MEXICO

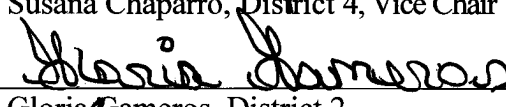



Christopher Schaljo-Hernandez, District 1, Chair

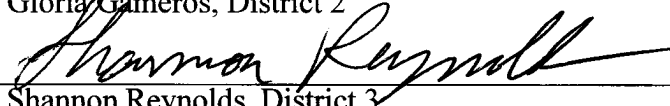
☒ For ☐ Against


Susana Chaparro, District 4, Vice Chair

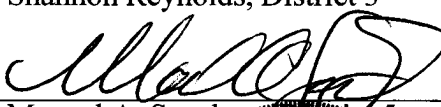
For ☒ Against


Gloria Gameros, District 2

☒ For ☐ Against

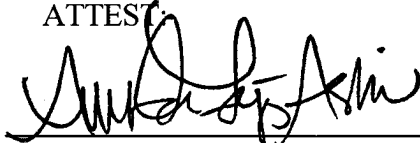

Shannon Reynolds, District 3

☒ For ☐ Against


Manuel A. Sanchez, District 5

☒ For ☐ Against

ATTEST:



Amanda López Askin, Ph.D. County Clerk

