

**STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT**

FILED
3rd JUDICIAL DISTRICT COURT
Dona Ana County
10/21/2025 5:00 PM
BERNICE A. RAMOS
CLERK OF THE COURT
David A Moreno

NO: D-307-CV-2025-02766

**EMPOWERMENT CONGRESS OF
DOÑA ANA COUNTY,
JOSÉ SALDAÑA JR., and
VIVIAN FULLER**

Petitioners/Plaintiffs,

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOÑA ANA

Respondent/Defendant.

**PETITIONERS’/PLAINTIFFS’ OPPOSED
EXPEDITED MOTION FOR STAY**

Empowerment Congress of Doña Ana County; José Saldaña Jr., resident of Sunland Park; and Vivian Fuller, resident of Santa Teresa (hereinafter, “Petitioners/Plaintiffs”), by and through undersigned counsel, hereby respectfully submit to this Court a Motion for Stay, restraining Doña Ana County Ordinance No. 367-2025 (“IRB Ordinance”), Ordinance No. 368-2025 (“LEDA Ordinance 1”), and Ordinance No. 369-2025 (“LEDA Ordinance 2”), (collectively, "Ordinances") from going into effect, while pending review in this Court (*See Petitioners/Plaintiffs’ Petition and Complaint, Exhibit 1, Exhibit 2, and Exhibit 3, filed October 17, 2025*). Petitioners/Plaintiffs submitted a request for stay to Doña Ana County and the Doña Ana County Board of Commissioners on October 3, 2025, and received no response from Respondent/Defendant (*A copy of Petitioners/Plaintiffs’ request for a stay, on October 3, 2025, is attached hereto as Attachment 1*). Counsel for Respondent/Defendant were contacted for their position and did not respond. Accordingly, Respondent/Defendant’s opposition to this Motion is presumed. In support of this Motion, Petitioners/Plaintiffs state:

SUMMARY OF PROCEEDINGS

A. September 19 Hearing

1. Petitioners/Plaintiffs participated in Respondent/Defendant's September 19 public hearing, where Respondent/Defendant adopted Ordinance No. 367-2025, to issue Industrial Revenue Bonds ("IRBs") ("IRB Ordinance"), and Ordinance No. 368-2025, to issue Local Economic Development Act ("LEDA") funding ("LEDA Ordinance 1").
2. On August 15, 2025, unnamed companies ("Entity A," "Entity B," and "Entity C" in the IRB Application) submitted an IRB Application to Doña Ana County, titled "Project Jupiter Industrial Revenue Bond Application" (hereinafter, "Application") (*See Petitioners/Plaintiffs' Petition and Complaint, Exhibit 5, filed October 17, 2025*). The unnamed companies did not submit a separate application for LEDA funding.
3. On August 26, 2025, at a regular Board meeting, the Board voted 4-1 to hold a public hearing on September 19, 2025, to consider the adoption of the IRB Ordinance and LEDA Ordinance 1, based on the single IRB Application.
4. On September 3, 2025, the County posted in the Las Cruces Sun News public notice of the Board's intent to consider the IRB Ordinance and LEDA Ordinance 1.
5. On September 8, 2025, Petitioners/Plaintiffs submitted a formal written comment to the Board regarding the incompleteness of the Application, alleging the Application lacked the information and supporting materials necessary for the County to make a fully informed decision on whether the issuance of the IRBs and LEDA funding is within the public's interest and would not result in an unauthorized use of public funds and resources, as required by the Doña Ana County Code and state law.
6. On September 19, 2025, the Board held a public hearing within a regular meeting to consider the adoption of the two Ordinances.

7. At the September 19 Board public hearing, Board Commissioner and Vice Chair Susana Chaparro revealed to the public and on the record that the Application the Commission was to consider contained hundreds of pages of information, that several pages of the Application were missing or blank, and the Board had just received these hundreds of pages to review only days before the September 19 Board public hearing and vote.
8. On September 19, 2025, the Board voted 4-1 to adopt the IRB Ordinance, and voted 4-1 to adopt the LEDA Ordinance 1.
9. On September 22, 2025, the Doña Ana County Clerk recorded both Ordinances. Pursuant to Doña Ana County Code § 1-13.B, all enacted ordinances shall become effective 30 days from the date of recording by the County Clerk. Accordingly, the Ordinances become effective on October 22, 2025.

B. October 14 Hearing

1. Petitioners/Plaintiffs participated in Respondent/Defendant's October 14 public hearing, where Respondent/Defendant adopted Ordinance No. 369-2025 to issue LEDA funding for reduced permit fees.
2. On September 9, 2025, at a regular Board meeting, the Board voted 4-1 to hold a public hearing on October 14, 2025, to consider the adoption of an ordinance to issue LEDA funding for reduced permit fees for Project Jupiter ("LEDA Ordinance 2").
3. On September 10, 2025, Petitioners submitted a New Mexico Inspection of Public Records Act Request, NMSA 1978 §§ 14-2-1 *et seq.*, for the October 14 LEDA Ordinance Application. The County responded with the same IRB Application submitted on August 15, 2025. (*See Petitioners/Plaintiffs' Petition and Complaint, Exhibit 5, filed October 17, 2025*).

4. On September 14, 2025, the County posted in the Las Cruces Sun News public notice of the Board's intent to consider LEDA Ordinance 2.
5. On October 14, 2025, the Board held a public hearing within a regular meeting to consider the adoption of the LEDA Ordinance 2.
6. On October 14, 2025, the Board voted 4-1 to adopt LEDA Ordinance 2 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 a power generation, battery storage and microgrid facility, and four data center facilities to be located in Doña Ana County, New Mexico. Doña Ana County Ordinance No. 369-2025.
7. On October 15, 2025, the Doña Ana County Clerk recorded the Ordinance. Pursuant to Doña Ana County Code § 1-13.B, all enacted ordinances shall become effective 30 days from the date of recording by the County Clerk. Accordingly, Ordinance No. 369-2025 becomes effective on November 14, 2025.

ARGUMENT

This Court should stay the enforcement of the Ordinances pending review because Petitioners/Plaintiffs meet all four requirements for a stay under Rule 1-075(Q), as demonstrated below:

I. Petitioners/Plaintiffs will suffer irreparable injury unless a stay is granted.

1. Petitioners/Plaintiffs have a significant interest in their local governing body following its own rules, as well as state law. *See Concerned Residents for Neighborhood Inc. v. Shollenbarger*, 1991-NMCA-105, ¶ 17, 113 N.M. 667, 831 P.2d 603 ("...a petition for writ of certiorari acts as a check on the propriety of the division's actions with respect to

license transfers”); *see also High Ridge Hinkle Joint Venture v. City of Albuquerque*, 1994-NMCA-139, ¶ 31, 119 N.M. 29, 888 P.2d 475.

2. The New Mexico Industrial Revenue Bond Act, the New Mexico Local Economic Development Act, and the Doña Ana County Code requires Respondent/Defendant to make a fully informed decision within the public’s interest, in a manner that prevents the abuse and waste of public funds and resources. Doña Ana County Code § 56-8.A; NMSA 1978 § 5-10-2, § 4-59-3.
3. The New Mexico County Industrial Revenue Bond Act, NMSA 1978 §§ 4-59-1 *et seq.*, authorizes counties to “issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds ...” NMSA 1978 § 4-59-4(C).
4. Doña Ana County Code § 56-8.A further mandates that the County can issue IRBs “only after the County has been fully informed concerning the applicant and its current status and future plans,” necessitating that “the protection of the County's interests requires thorough investigation of any request for industrial revenue bonds.”
5. The Application the Board received before adopting the Ordinances was for the issuance of IRBs only.
6. The Application is incomplete; missing pages and information; lacking any evaluation of the proposed project’s impacts on water quantity, water quality, soil quality, vegetation, any threatened or endangered species, risk of pollutants and contaminants, anticipated emissions, distances to schools and other youth facilities, likely effects on adjacent property values, and any other adverse impacts reasonably anticipated and associated

with the proposed project; and failing to provide any written and demonstrated commitment to the community.

7. Thus, the Board cannot properly consider whether Project Jupiter will be a significant threat to the public health, safety, and welfare, and the Board cannot engage in a meaningful cost-benefit analysis of the project, in violation of the New Mexico Industrial Revenue Bond Act and the Doña Ana County Code. *See* NMSA 1978 § 4-59-3, Doña Ana County Code § 56-8.A.
8. Moreover, the New Mexico Local Economic Development Act (hereinafter, “Act”), NMSA 1978 §§ 5-10-1, *et seq.*, only permits “qualifying entities” to apply for and receive LEDA grants. NMSA 1978 § 5-10-3(L).
9. The Act requires the County’s evaluation of an application for LEDA funding be based on “the provisions of the economic development plan, the financial and management stability of the qualifying entity, the demonstrated commitment of the qualifying entity to the community, a cost-benefit analysis of the project and any other information the local or regional government believes is necessary for a full review of the economic development project application.” NMSA 1978 § 5-10-9(B).
10. Doña Ana County Code § 166-4 further requires an applicant’s proposal for LEDA funding to “describe the proposed project, including the names and addresses of persons with an interest in the project, the number and types of jobs to be created, wages and benefits associated with the jobs to be created, the type and amount of assistance sought from the County, and all other information requested by the County.”
11. The Application the Board received was for IRB funding, not LEDA funding.

12. The Application the Board received lacked the necessary information for the Board's consideration: missing pages and information, while also failing to show that "Project Jupiter" is a qualifying entity under the Act.
13. Thus, the Board improperly and arbitrarily considered an incomplete application for LEDA funding from a non-qualified entity, and the Board could not have reasonably made a fully-informed decision on whether to adopt the Ordinances.
14. The Ordinances, when in effect, permit a proposed project development to move forward that stands to significantly impact Petitioners/Plaintiffs' public water supply and availability of water; substantially and adversely impact Petitioners/Plaintiffs' air quality and health; likely increase dust and sandstorms due to the inappropriate and excessive development for the Project and the particular characteristics of the area's geology; significantly increase the traffic, noise, and light pollution surrounding Petitioners/Plaintiffs' residences; and likely decline Petitioners/Plaintiffs' adjacent property values, overall detrimentally impacting Petitioners/Plaintiffs' quality of life. *See* Affidavit of Empowerment Congress of Doña Ana County; Affidavit of José Saldaña Jr.; and Affidavit of Vivian Fuller, *attached hereto this Motion*.
15. Construction of Project Jupiter is proposed to take at least two years and upon information and belief, construction is already in its preliminary stages, in preparation for the Ordinances going into effect on October 22, 2025. *See* Julian Resendiz, *Signs Point to Start of Construction at \$165 Billion Project Jupiter AI Data Center*, KRQE (Oct. 17, 2025), <https://www.krqe.com/news/new-mexico/signs-point-to-start-of-construction-at-165-billion-project-jupiter-ai-data-center/?nxsparam=6>.

16. Following the completion of construction, the proposed development's facilities will operate 24 hours a day, 7 days a week, 365 days a year. Once in operation, the proposed development will draw significant amounts of water from the public water supply, as well as emit extreme levels of several air pollutants and toxins, jeopardizing the public health. Based on the recent public notice for two air quality permit applications for the construction of Project Jupiter's microgrid facilities, published in the Las Cruces Sun News on October 10, 2025, *see Petitioners/Plaintiffs' Petition and Complaint, Exhibit 4 (filed October 17, 2025)*, the proposed development stands to emit at least 436.87 tons of Particulate Matter ("PM") 10; 436.87 tons of PM 2.5; 64.74 tons of Sulfur Dioxide ("SO₂"); 498.77 tons of Nitrogen Oxides ("NO_x"); 494.26 tons of Carbon Monoxide ("CO"); 195.76 tons of Volatile Organic Compounds ("VOC"); 43.81 tons of Hazardous Air Pollutants ("HAPs"); 273.07 tons of Ammonia ("NH₃"); and 46,560,414 tons of Greenhouse Gas Emissions – per year.
17. Petitioners/Plaintiffs note that these are proposed emissions for only the microgrid facilities for Project Jupiter, and do not include the proposed emissions for the four data centers, battery storage center, desalination plant, or other facilities anticipated to be included in the proposed development – meaning the total emissions, and associated adverse health impacts, are most likely to be significantly higher than just the emissions listed above.
18. Adverse health impacts from PM 2.5 and PM 10 exposure can include: heart disease; lung cancer; chronic obstructive pulmonary disease ("COPD"); lower-respiratory infections like pneumonia; strokes; type 2 diabetes; other respiratory diseases and illnesses; adverse birth outcomes, such as premature birth, low birth weight, infant and

fetal mortality; and overall lower life expectancies in affected populations.¹ Adverse health impacts from SO₂ exposure can include: wheezing; shortness of breath and chest tightness; asthma; respiratory illnesses and diseases; and lung cancer.² Adverse health impacts from NO_x exposure can include: increased inflammation of the airways; worsened cough and wheezing; reduced lung function; increased asthma attacks; increased asthma in children; cardiovascular disease; kidney harm; neurological harm; affected pregnancy and adverse birth outcomes; autoimmune disorders, and cancer.³ Adverse health impacts from CO exposure can include: neurological harm; cardiovascular harm and disease; exacerbation of pre-existing heart and lung disease; miscarriages and developmental delays in children.⁴ Adverse health impacts from VOC exposure can include: dizziness; fatigue; visual disorders; memory impairment; loss of coordination; skin and eye irritation; lung and breathing problems; headaches; damage to the liver, kidneys and central nervous system; and cancer.⁵ Adverse health impacts from HAPs exposure can include: damage to the immune system; harm to neurological, reproductive, developmental, respiratory systems; and cancer.⁶ Adverse health impacts

¹ See *PM 2.5*, State of Global Air, <https://www.stateofglobalair.org/pollution-sources/pm25> (last accessed October 16, 2025); see *Particle Pollution*, American Lung Association, <https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/particle-pollution> (last updated May 27, 2025).

² See *Sulfur Dioxide*, American Lung Association, <https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/sulfur-dioxide> (last updated October 26, 2023).

³ See *Nitrogen Dioxide*, American Lung Association, <https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/nitrogen-dioxide> (last updated October 26, 2023).

⁴ See *Public Health Statement for Carbon Monoxide*, Agency for Toxic Substances and Disease Registry, <https://wwwn.cdc.gov/TSP/PHS/PHS.aspx?phsid=1146&toxid=253> (last updated Dec. 13, 2012).

⁵ See Ketur Persellin, *What Are VOCs?*, Environmental Working Group (Sept. 11, 2023), <https://www.ewg.org/news-insights/news/2023/09/what-are-vocs>.

⁶ See *Health Effects Notebook for Hazardous Air Pollutants*, U.S. Environmental Protection Agency, <https://www.epa.gov/haps/health-effects-notebook-hazardous-air-pollutants> (last updated December 5, 2024).

from NH₃ exposure can include: respiratory irritation; eye, nose, and throat irritation; lung damage; and other respiratory complications.⁷

19. Petitioners/Plaintiffs are residents of Doña Ana County. One residence of which is located, upon information and belief, approximately 2 miles from the proposed “Project Jupiter” development described in the Application. One residence of which is located, upon information and belief, approximately 3 miles from the proposed “Project Jupiter” development described in the Application.
20. The incomplete Application, which the Board relied upon for its decision to adopt all three Ordinances, explicitly states, “[t]he location decision for Project Jupiter remains competitive and is contingent on securing the necessary IRB package proposed in this application,” meaning the proposed Project intends to move forward upon the Ordinances becoming effective (*See Petitioners/Plaintiffs’ Petition and Complaint, Exhibit 5, filed October 17, 2025*).
21. If this Court does not grant a stay, and Respondent/Defendant implements the Ordinances, the proposed project will move forward, allowing a local governing body to exercise its authority unlawfully, without following the mandated considerations and evaluations designed to protect the public health, safety, welfare, and economic vitality of the community. Petitioners/Plaintiffs will suffer irreparable injury to their interest in their local governing body abiding by all laws, codes, and regulations, as well as suffer irreparable injury to their health, wellbeing, residences, communities, and overall quality of life if the Project is allowed to move forward. Moreover, Petitioners/Plaintiffs own

⁷ See *Public Health Statement for Ammonia*, Agency for Toxic Substances and Disease Registry, <https://wwwn.cdc.gov/TSP/PHS/PHS.aspx?phsid=9&toxid=2> (last updated October 26, 2011).

property and live adjacent to the proposed development, which once in operation, will likely cause Petitioners/Plaintiffs' property value to decline substantially.

II. Petitioners/Plaintiffs are likely to prevail on the merits.

22. Petitioners/Plaintiffs raise significant issues surrounding Respondent/Defendant's non-compliance with and violations of the Doña Ana County Code and the New Mexico Local Economic Development Act, NMSA 1978 §§ 5-10-1, *et seq.*, demonstrating that Respondent/Defendant has arbitrarily considered an incomplete IRB application, yet adopted the IRB Ordinance anyway, contrary to law.
23. The Doña Ana County Code required Respondent/Defendant to consider and evaluate the following criteria when granting applications for IRBs: "(1) The extent to which the proposed project will create new or preserve existing employment opportunities within the community; (2) The extent to which the proposed project with industrial revenue bonds will increase the County's tax base compared to the extent to which the proposed project without industrial revenue bonds will increase the County's tax base; (3) The extent to which the proposed project will enhance and strengthen the County as a center of commerce, including, but not limited to, research, food processing, and manufacturing or distribution point location; and (4) The extent to which the proposed project will upgrade and improve structures, improve site accessibility and usefulness, and otherwise provide for the public health, safety and welfare." Doña Ana County Code § 56-8.D.
24. The Application that Respondent/Defendant considered, prior to the adoption of the IRB Ordinance, is incomplete and does not provide information, supporting materials, or evidence required for Respondent/Defendant to properly apply the four criteria and make

a fully-informed decision, as required by the Doña Ana County Code. Doña Ana County Code § 56-8.A.

25. Respondent/Defendant's arbitrary adoption of the IRB Ordinance is contrary to law because based on the incomplete Application, Respondent/Defendant could not properly consider, evaluate, and apply the required criteria and ultimately, make a "fully informed" decision as required by the Doña Ana County Code.

26. Moreover, Respondent/Defendant has adopted two LEDA Ordinances, issuing funds to a non-qualifying entity, in the absence of information and supporting materials necessary for the Board to make a fully informed decision on whether doing so serves the public's interest and would not result in an unauthorized use of public funds and resources, as required by law.

27. The New Mexico Local Economic Development Act mandates that only "qualifying" entities can apply for and receive LEDA funding. Qualifying entities under the Act are those that will manufacture, process, assemble, store, warehouse, distribute, or sell products; or are a tribal nation or pueblo; telecommunications sales enterprise; farmers' market; metropolitan redevelopment project; cultural facility; or retail business. Non-qualifying entities under the Act include businesses in which all or part of the activities involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but not including businesses primarily engaged in the sale of goods or commodities at retail. NMSA 1978 § 5-10-3(L); *See Local Economic Development Act (LEDA)*, New Mexico Economic Development Department, <https://edd.newmexico.gov/business-development/edd-programs-for-business/finance-development/leda/> (last accessed October 16, 2025).

28. The scope of the proposed project in the Application does not fall into any one of the nine qualifying categories under the Act, and the project will be primarily supplying its services to a specific industry and more broadly to the general public, establishing the project as a non-qualifying entity under the Act.
29. Respondent/Defendant's adoption of Ordinance No. 368-2025 and Ordinance No. 369-2025 to issue LEDA funding is contrary to law because the proposed project is not a qualifying entity under the Act.
30. Both the New Mexico Local Economic Development Act and the Doña Ana County Code further require an application for LEDA funding to include several details and materials, including "the financial and management stability of the qualifying entity, the demonstrated commitment of the qualifying entity to the community, a cost-benefit analysis of the project," and "the names and addresses of persons with an interest in the project, the number and types of jobs to be created, wages and benefits associated with the jobs to be created, the type and amount of assistance sought from the County." NMSA 1978 § 5-10-9(B); Doña Ana County Code § 166-4.
31. Respondent/Defendant considered an application for IRBs, but not LEDA funding, to inform its decision to adopt the LEDA Ordinances. The IRB Application that Respondent/Defendant evaluated was incomplete and lacked several of the materials required by law, including but not limited to, the financial and management stability of the project applicants, the demonstrated commitment to the community, a cost-benefit analysis of the project, the names and addresses of interested persons to the project, specific details on the number and types of jobs to be created, as well as wages and benefits associated with the projected jobs, and the type and specific amount of assistance

sought from the County. (*See Petitioners/Plaintiffs' Petition and Complaint, Exhibit 5, filed October 17, 2025*).

32. Even if Respondent/Defendant could consider the IRB Application from a non-qualifying entity for LEDA funding, Respondent/Defendant's arbitrary adoption of Ordinance No. 368-2025 and Ordinance No. 369-2025 is contrary to law because the Board could not properly consider and evaluate the requests for LEDA funding, as required by the Doña Ana County Code and the Act.

III. Other interested persons will not suffer substantial harm if a stay is granted.

33. The injury to Respondent/Defendant and other interested persons if the stay is granted is minimal, if it exists at all. The stay will restore the status quo and ensure the Board follows all legal processes and requirements in adopting ordinances and issuing public funds to proposed projects in Doña Ana County.

34. Requiring Respondent/Defendant to follow all legal processes and requirements will not harm Respondent/Defendant because as a local governing body, Respondent/Defendant is required to follow all legal processes and requirements when it acts.

35. No person has a right to the issuance of industrial revenue bonds because the County's issuance of industrial revenue bonds is discretionary. *See* Doña Ana County Code § 56-8.E ("The Board of County Commissioners (hereinafter "the Board") reserves the right to deny any application for financing at any stage of the proceedings prior to the issuance of the bonds"). Thus, other interested persons who may benefit from the issuance of industrial revenue bonds will not suffer substantial harm if the Court requires the Board to follow all applicable laws and regulations in its consideration of the IRB Ordinance.

36. Likewise, no person has the right to receive LEDA funding because the County's issuance of LEDA funding is discretionary. *See* Doña Ana County Code § 166-4 ("The County may accept or reject applications in its sole discretion"). Thus, other interested persons who may gain from the issuance of LEDA funding will not suffer substantial harm if the Court requires the Board to follow all applicable laws and regulations in its consideration of the LEDA Ordinances.
37. Meanwhile, if the Court does not grant a stay and permits a local governing body to exercise its authority unlawfully, without following the mandated considerations and evaluations designed to protect the public health, safety, welfare, and economic vitality of the community, Petitioners/Plaintiffs will suffer irreparable injury to their interest in their local governing body abiding by all laws, codes, and regulations, as well as to their health, wellbeing, and quality of life, as discussed above.
38. The substantial harm Petitioners/Plaintiffs will experience, if this Court does not grant a stay, significantly outweighs any harm, if it exists at all, that other interested persons may experience if this Court grants a stay.

IV. The public interest will not be harmed by granting a stay.

39. The assurance that governing bodies abide by all applicable laws, regulations, and codes in their public processes is always in the public interest, as it is a centerpiece of a democratic government operating in the public interest and with the public trust.
40. Requiring Respondent/Defendant to properly consider and evaluate a proposed project's potential adverse impacts on public health, safety, and welfare, and engage in a meaningful cost-benefit analysis, before Respondent/Defendant determines whether to adopt the Ordinances, is solely requiring Respondent/Defendant to abide by the laws and

regulations designed to protect members of the public – which is well within the public interest.

41. This Court’s grant of a stay of Ordinance No. 367-2025, Ordinance No. 368-2025, and Ordinance No. 369-2025 would ultimately serve the public interest.

REQUEST FOR RELIEF

WHEREFORE, Petitioners/Plaintiffs respectfully request the following relief:

- A. Issuance of a stay enjoining Respondent/Defendant from implementing and enforcing Ordinance No. 367-2025, Ordinance No. 368-2025, and Ordinance No. 369-2025, pending the duration and outcome of this litigation;
- B. Such further relief as this court deems just and proper.

RESPECTFULLY SUBMITTED on this 21st day of October, 2025, by:

NEW MEXICO ENVIRONMENTAL LAW CENTER

/s/ Kacey J. Hovden

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CERTIFICATE OF SERVICE

I certify that I caused a copy of this motion to be electronically served through the court's e-filing system on this 21st day of October, 2025, to the attorney for Defendant/Respondent in the administrative proceeding:

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/s/ Kacey J. Hovden

October 3, 2025

Submitted via email

Doña Ana County Board of Commissioners

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**APPLICATION FOR STAY OF IMPLEMENTATION OF
ORDINANCE NO. 367-2025 AND ORDINANCE NO. 368-2025**

To the Doña Ana County Board of Commissioners,

The New Mexico Environmental Law Center (“NMELC”), on behalf of Sunland Park and Santa Teresa community members and Empowerment Congress of Doña Ana County (collectively, “Community”), submits this Application for Stay of Doña Ana County Ordinance No. 367-2025 and Ordinance No. 368-2025 (hereinafter, “Ordinances”). On September 19, 2025, during a regular meeting and public hearing, the Doña Ana County Board of Commissioners (hereinafter, “Board”) adopted Ordinance No. 367-2025, an ordinance issuing taxable industrial revenue bonds (“IRB”), and Ordinance No. 368-2025, an ordinance for Local Economic Development Act (“LEDA”) funding, both for the development of “Project Jupiter.”

For the foregoing reasons, NMELC demands the Board stay the implementation of both Ordinances, unless and until the following issues are resolved:

I. New Mexico Open Meetings Act Violation and Voidness of Ordinances

First, the Board must stay its implementation of the Ordinances because the Board violated the New Mexico Open Meetings Act, NMSA 1978 § 10-15-1, *et seq.*, during the September 19, 2025, regular meeting and public hearing by the Board, which in turn has effectively rendered the Ordinances void. On September 19, 2025, during a regular meeting and public hearing by the Board, the Board moved into closed session without proper notice providing reasonable specificity for the closed session, in violation of the New Mexico Open Meetings Act (“OMA”). The OMA requires the Board, prior to moving into a closed session pursuant to an exception provided under the OMA, to state “the authority for the closure and the subject to be discussed . . . with reasonable specificity in the motion calling for the vote on a closed meeting.” NMSA 1978 § 10-15-1(I)(1) (emphasis added). According to the Office of the New Mexico Attorney General, a public body complies with the “reasonable specificity” requirement of the OMA only if the body “provides sufficient information to give the public a general idea about what will be discussed without compromising the confidentiality conferred by the exception.” *See Open Meetings Act Compliance Guide*, Office of the New Mexico Attorney General at 31 (2015). Furthermore, the OMA explicitly mandates that “[o]nly those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting.” *Id.*

At the Board’s September 19th regular meeting and public hearing, during discussion on Agenda Item 10, Chair Schaljo-Hernandez made a motion to move the meeting into closed session “for a limited personnel matter, the purchase, acquisition or disposal of real property and water rights, and to discuss information covered by attorney-client privilege pertaining to threatened or pending litigation, as authorized by § 10-15-1(H)(2), (7), and (8).” Chair Schaljo-Hernandez read this language directly from a general clause written on the September 19 Board Meeting Agenda. When NMELC directly asked the Board and its County Attorney, before the Board moved into closed session, to provide reasonable specification on what constituted “limited personnel matters,” the Board declined to specify, referencing only that “it was on the agenda.” When NMELC further requested specification on the Board’s reason for moving into closed session, the County Attorney stated the Board would be discussing “attorney-client privileged matters.” When NMELC requested the County Attorney and Board speak to the overarching matter in which attorney-client privilege applied and justified the Board’s move into closed session, the County Attorney responded “No, we do not have to specify what kind of matter it is.” The Board then moved into closed session, during which NMELC also, on information and belief, has reason to conclude the Board discussed subjects outside of the protected exceptions for closed meetings. The Board later reconvened into the regular meeting and public hearing in which the Board voted 4-1 to adopt Ordinance No. 367-2025 and Ordinance No. 368-2025, or Agenda Items 10 and 11, respectively.

By moving into closed session without providing reasonable specificity for the subject matter to be discussed, and likely discussing subject matters outside of the OMA's limited exceptions for closed sessions, the Board has violated Section 10-15-1(I)(1) of the New Mexico Open Meetings Act. NMSA 1978 § 10-15-1(I)(1).

Under the OMA, “[n]o resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of NMSA 1978, Section 10-15-1.” NMSA 1978 § 10-15-3(A). Accordingly, because the OMA violations occurred during a public meeting in which the Board adopted two ordinances, Ordinance No. 367-2025 and Ordinance No. 368-2025, both Ordinances are void. NMELC has submitted a written Notice of Violation of the OMA to this Board, placing the Board effectively on notice of its OMA violation and the invalidity of the Ordinances. NMELC thus demands the Board stay its implementation of the Ordinances, until the Board's OMA violation is corrected and cured.

II. Incomplete Project Jupiter Application

Secondly, the Board must stay the implementation of the Ordinances until the Board receives full, complete, and separate applications for industrial revenue bonds and New Mexico Local Economic Development Act (“LEDA”) funding, to ensure that the Board makes a decision in compliance with the Doña Ana County Code and the New Mexico Local Economic Development Act. Currently, to the best of NMELC's knowledge, BorderPlex Digital Assets, LLC, and other involved and unnamed entities (hereinafter, “Companies”) submitted one application for the Board's consideration and potential adoption of both Ordinances, on August 15, 2025. The sole Project Jupiter Application (hereinafter, “Application”) is explicitly for the distribution of IRBs, and not for LEDA funding. However, based on a New Mexico Inspection of Public Records Act Request, submitted by NMELC on September 2, 2025, the Companies submitted the same IRB Application for the County's consideration and potential distribution of LEDA funding.

Thus, as submitted, the Project Jupiter Application is incomplete, both because the Companies failed to submit a separate application for LEDA funding and because the sole Application lacks the information and supporting materials necessary for the County to make a fully informed decision on whether the issuance of the IRBs and LEDA funding serves the public's interest and would not result in an unauthorized use of public funds and resources. NMELC raised the issue of incompleteness of the Application, in significant detail, to the Board through a written public comment, submitted on September 8, 2025.

NMELC then learned, during the Board's public hearing on September 19, 2025, that the Companies had provided the Board with an application packet containing blank documents and missing pages. Commissioner Susana Chaparro read into the record, on September 19, 2025, that several pages she and the Board had received, within the same week as the scheduled vote, were

missing or blank. Moreover, Commissioner Susana Chaparro revealed, on the record, that the Companies had provided the Board with hundreds of pages of documents only days before the scheduled vote, leaving the Board little to no time to read through and fully understand the documents and commitment the Companies were requesting from the Board.

Both the Doña Ana County Code and the New Mexico Local Economic Development Act, NMSA 1978 § 5-10-1, *et seq.*, require the Board, before adopting ordinances to issue IRBs and LEDA funding, to make a fully-informed decision within the public's interest, in a manner that prevents the abuse and waste of public funds and resources. *See* Doña Ana County Code § 56-8.A; *see* NMSA 1978 § 5-10-2. Because the Companies failed to submit a separate application for LEDA funding; the current Application is incomplete; and the Board did not have access to, nor adequate time to consider, all of the documents necessary to make a fully-informed decision prior to the Board's vote to adopt the Ordinances, the Board's adoption of the Ordinances is in violation of the Doña Ana County Code and the New Mexico Local Economic Development Act. Accordingly, NMELC demands the Board stay the implementation of the Ordinances unless and until the Companies submit complete and separate applications and the Board has sufficient time to evaluate the applications and all associated materials and documents.

III. Incomplete and Inadequate Environmental Assessment

Moreover, the Board must stay its implementation of the Ordinances until the Board receives full and complete environmental assessments for Project Jupiter, its microgrid, and other associated projects and plants. The Doña Ana County IRB application form requires the Companies submit a complete Environmental Assessment alongside the application. In part, this is because the Doña Ana County Code requires the Board to thoroughly consider, in the public interest, the extent to which a proposed project "...provide[s] for the public health, safety and welfare." Doña Ana County Code § 56-8.D(4). Additionally, the New Mexico Local Economic Development Act requires the Board to consider a cost-benefit analysis of a proposed project, before adopting an ordinance to issue LEDA funding. *See* NMSA 1978 § 5-10-9(B).

Not only does the Application lack any information, supporting materials, evidence, commitment, or guarantee that it will provide for the public health, safety, and welfare of Doña Ana County communities, but the accompanying Phase I Environmental Assessments lack any evaluation whatsoever of the proposed project's impacts on water quantity; water quality; soil quality; vegetation; any threatened or endangered species; risk of pollutants and contaminants; anticipated emissions; and any adverse impacts reasonably anticipated and associated with the proposed project. The Environmental Assessments contain no evaluation of these critical environmental concerns, meaning the Board cannot properly consider whether Project Jupiter will be a significant threat to the public health, safety, and welfare, and the Board cannot engage in a meaningful cost-benefit analysis of the project. Moreover, the Application further states that the "[e]nvironmental assessments have not been completed for the supporting offsite infrastructure extensions needed for the development and co-located microgrid," and that "[t]o

the extent environmental assessments are required, the Applicant expects to complete within the next six months.”

Unless and until all Environmental Assessments are completed, finalized and include sufficient documentation and supporting evidence demonstrating that Project Jupiter will not be a significant threat to the public health, safety, and welfare – which includes the full documentation and analysis of the proposed project’s impacts on water quantity; water quality; soil quality; vegetation; any threatened or endangered species; risk of pollutants and contaminants; anticipated emissions; and any adverse impacts reasonably anticipated and associated with the proposed project – the Board cannot make a fully-informed decision on whether to adopt the Ordinances. Thus, the Board violated the Doña Ana County Code and the New Mexico Local Economic Development Act in its adoption of the Ordinances on September 19, 2025, and must stay its implementation of the Ordinances until all Environmental Assessments are adequately completed and finalized.

IV. Pending New Mexico Inspection of Public Records Act Requests

Finally, the Board must stay the implementation of the Ordinances until Doña Ana County fulfills all pending New Mexico Inspection of Public Records Act (“IPRA”) requests, NMSA 1978 §14-2-1 *et seq.*, Community has submitted in relation to Project Jupiter and BorderPlex Digital Assets, LLC. Not only is the Board under a legal obligation to make a fully-informed decision on whether to commit IRBs and LEDA funding to the proposed project, but the public has a significant interest in being fully informed and provided the opportunity to meaningfully engage in public processes relating to Project Jupiter. This includes any and all decisions and actions by the Board to commit funding for Project Jupiter, like the Board’s adoption of the Ordinances on September 19, 2025. To date, however, the County has failed to meaningfully respond to pending IPRA requests relating to Project Jupiter and ultimately, has failed to comply with IPRA.

On May 30, 2025, NMELC submitted an IPRA request to Doña Ana County seeking all records relating to communications, meetings, agreements, contracts, and press materials regarding or concerning BorderPlex Digital Assets, LLC; EPCOR and EPCOR, USA; the State of New Mexico’s partnership with the corporate entities, also including Lanham Napier, Daniel Bailet, Rob Black, Davin Lopez, Kelly Tomblin, Peter Gibson, and Valerio Ferme; and Doña Ana County. *See* IPRA-2025-00994. On June 2, 2025, the County attempted to forward NMELC’s request to other public entities and in response, NMELC requested the County keep NMELC’s IPRA request open and comply with the requirements of IPRA and produce the requested records. On June 4, 2025, the County attempted to close NMELC’s IPRA request, providing two separate documents that did not relate to, in any way, the requested records. On June 10, 2025, NMELC responded and informed the County that the two produced records did not contain any materials related to the records requested in NMELC’s IPRA Request, and again demanded the County comply with IPRA and produce the requested records.

Since June 10, the County has failed to provide the requested records in a reasonable time frame and ultimately, has failed to comply with IPRA. The County has provided few documents, and only recently, on September 16, 2025, began providing copies of signed agreements between Doña Ana County and the Companies that the County has had in its possession since at least May 28, 2025, if not earlier. The only other documents the County has produced include press releases and local news articles surrounding Project Jupiter, all also released only weeks, to days, prior to the Board's public hearing on September 19, 2025.

The New Mexico Inspection of Public Records Act mandates that “[e]very person has a right to inspect public records of this state,” so that public bodies and representative governments can ensure an informed electorate. NMSA 1978 § 14-2-1. However, because Doña Ana County has openly misled and continues to refuse to provide requested records relating to Project Jupiter and BorderPlex Digital Assets, LLC, the public continues to lack access to the public records necessary for the public to be meaningfully informed in the Board's decisions surrounding Project Jupiter. Unless and until Doña Ana County completes the pending IPRA requests and complies with IPRA, this Board must stay its implementation of the Ordinances.

For the above reasons, Community demands the Doña Ana County Board of Commissioners stay its implementation of Doña Ana County Ordinance No. 367-2025 and Ordinance No. 368-2025 until the County and the Board satisfy all legal requirements associated with the Ordinances and the proposed Project.

RESPECTFULLY SUBMITTED on this 3rd day of October, 2025,

NEW MEXICO ENVIRONMENTAL
LAW CENTER

/s/ Kacey J. Hovden

Kacey J. Hovden

Maslyn K. Locke

P.O. Box 12931

Albuquerque, NM 87195

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khovden@nmelc.org

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*Attorneys for Empowerment Congress of
Doña Ana County, and residents of Santa
Teresa and Sunland Park, New Mexico*

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT

NO: D-307-CV-2025-02766

EMPOWERMENT CONGRESS OF
DOÑA ANA COUNTY,
JOSÉ SALDAÑA JR., and
VIVIAN FULLER

Petitioners/Plaintiffs,

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOÑA ANA

Respondent/Defendant.

AFFIDAVIT OF EMPOWERMENT CONGRESS OF DOÑA ANA COUNTY

I, Daisy Maldonado, being duly sworn, do hereby state:

1. I have read the entire Motion for Stay (“Motion”) filed in the above captioned matter.
2. The statements set forth in the Motion are true, complete, and correct, to the best of my knowledge.
3. I am over the age of 18 and have knowledge of the facts and matters stated below.
4. I am a resident of Doña Ana County, New Mexico.
5. I am the Director of the organization Empowerment Congress of Doña Ana County.
6. Empowerment Congress of Doña Ana County is located in Doña Ana County, New Mexico.
7. The mission of Empowerment Congress of Doña Ana County is to transform high-need Doña Ana colonia communities into equitable, healthy and resourced places to live and enjoy a whole and prosperous life.

8. Empowerment Congress has worked in Sunland Park, Santa Teresa, and Doña Ana County since early 2018, focusing on flood mitigation efforts in Anapra; running a health program for Doña Ana County that includes hosting vaccine clinics, diabetes education and resources, mental health education, and resource connection for community members; community advocacy and connections with the City of Sunland Park and Doña Ana County government; and youth workshops at Santa Teresa High School.
Empowerment Congress also engages in and leads community-led advocacy for clean and safe drinking water in Sunland Park and Santa Teresa, New Mexico, which includes promoting environmental awareness and public health; public education programs; local, state, and federal advocacy and policy-work, and grassroots services with Sunland Park and Santa Teresa community members.
9. On August 26, 2025, at a regular Doña Ana County Board of Commissioners meeting, the Board voted 4-1 to hold a public hearing on September 19, 2025, to consider the adoption of two ordinances, one for the issuance of industrial revenue bonds (“IRBs”), Ordinance No. 367-2025, and one for the issuance of Local Economic Development Act (“LEDA”) funding, Ordinance No. 368-2025, based on an application submitted for a proposed development entitled “Project Jupiter.”
10. On September 8, 2025, Empowerment Congress of Doña Ana County submitted written public comments on the Doña Ana County Board of Commissioners’ consideration of Ordinance No. 367-2025 and Ordinance No. 368-2025, to the Board, in advance of the September 19 Doña Ana County Board of Commissioners public hearing, regarding the incompleteness of the Project Jupiter Application, raising that the Application lacked the information and supporting materials necessary for the County to make a fully informed

decision on whether the issuance of IRBs and LEDA funding is within the public's interest and would not result in an unauthorized use of public funds and resources, as required by the Doña Ana County Code and state law.

11. Representatives of Empowerment Congress participated at the September 19 hearing by giving verbal public comment at the September 19 hearing concerning Ordinance No. 367-2025 and Ordinance No. 368-2025.
12. The Doña Ana County Board of Commissioners adopted Ordinance No. 367-2025 and Ordinance No. 368-2025 on September 19, 2025.
13. On September 9, 2025, at a regular Board meeting, the Board voted 4-1 to hold a public hearing on October 14, 2025, to consider the adoption of an ordinance to issue LEDA funding for reduced permit fees for Project Jupiter, Ordinance No. 369-2025.
14. Representatives of Empowerment Congress also participated at the October 14 hearing by giving verbal public comment on Ordinance No. 369-2025.
15. The Doña Ana County Board of Commissioners adopted Ordinance No. 369-2025 on October 14, 2025.
16. I have read and understand Ordinance No. 367-2025, Ordinance No. 368-2025, and Ordinance No. 369-2025.
17. The Ordinances allow a proposed development to move forward in Santa Teresa and Doña Ana County that stands to significantly impact the public water supply and availability of water; substantially and adversely impact community air quality and health; likely increase dust and sandstorms due to the inappropriate and excessive development for the Project and the particular characteristics of the area's geology; and significantly increase the traffic, noise, and light pollution surrounding local residences.

overall detrimentally impacting residents' quality of life. This proposed development directly and adversely affects - and directly and adversely will affect - the quality of life in and around Santa Teresa, Sunland Park, and Doña Ana County, and therefore the ability of Empowerment Congress to fulfill its mission.

18. Empowerment Congress works directly with Santa Teresa and Sunland Park community members and residents who have not been adequately informed and consulted about Project Jupiter; who will be significantly impacted and harmed by the proposed development; and who avidly oppose Project Jupiter.

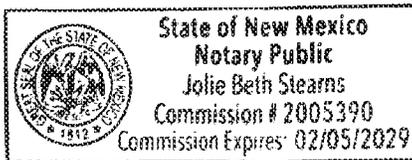
19. The Doña Ana County Board's actions have caused the Empowerment Congress of Doña Ana County harm and will continue to harm the organization in the future.

This 17 day of October, 2025.

By: Daisy A Maldonado
Signature

Daisy A Maldonado
Printed Name

Signed and sworn to (or affirmed) before me this 17 day of October, 2025.



Jolie Beth Stearns
Notary Public

My commission expires: 2-5-29

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT

NO: D-307-CV-2025-02766

EMPOWERMENT CONGRESS OF
DOÑA ANA COUNTY,
JOSÉ SALDAÑA JR., and
VIVIAN FULLER

Petitioners/Plaintiffs,

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOÑA ANA

Respondent/Defendant.

AFFIDAVIT OF JOSÉ SALDAÑA JR.

I, José Saldaña Jr., being duly sworn, do hereby state:

1. I have read the entire Motion for Stay (Motion) filed in the above captioned matter.
2. The statements set forth in the Motion are true, complete, and correct, to the best of my knowledge.
3. I am over the age of 18 and have knowledge of the facts and matters stated below.
4. I am a resident of Sunland Park in Doña Ana County, New Mexico.
5. I live approximately 2 miles from the proposed "Project Jupiter" development.
6. I have been actively involved in community matters and community organizing in Sunland Park, Santa Teresa, and Doña Ana County for 1 years *and 10 months*.
7. I have been volunteering with Empowerment Congress of Doña Ana County for 1 yr and 9 months years.
8. I have actively participated in community efforts for clean and safe drinking water in Sunland Park and Santa Teresa, New Mexico, which has included promoting

environmental awareness and public health; public education programs; local, state, and federal advocacy and policy-work, and grassroots services with Sunland Park and Santa Teresa community members, for 1 years, and 10 months

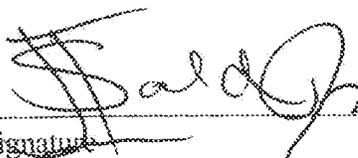
9. On August 26, 2025, at a regular Doña Ana County Board of Commissioners meeting, the Board voted 4-1 to hold a public hearing on September 19, 2025, to consider the adoption of two ordinances, one for the issuance of industrial revenue bonds (“IRBs”), Ordinance No. 367-2025, and one for the issuance of Local Economic Development Act (“LEDA”) funding, Ordinance No. 368-2025, based on an application submitted for a proposed development entitled “Project Jupiter.”
10. On September 8, 2025, I jointly submitted a written public comment, alongside Empowerment Congress of Doña Ana County, on the Doña Ana County Board of Commissioners’ consideration of Ordinance No. 367-2025 and Ordinance No. 368-2025, to the Board, in advance of the September 19 Doña Ana County Board of Commissioners public hearing, regarding the incompleteness of the Project Jupiter Application, raising that the Application lacked the information and supporting materials necessary for the County to make a fully informed decision on whether the issuance of IRBs and LEDA funding is within the public’s interest and would not result in an unauthorized use of public funds and resources, as required by the Doña Ana County Code and state law.
11. I attended and gave in-person verbal public comment at the September 19 Board public hearing. I have provided public comment multiple times regarding the proposed Project Jupiter, the Ordinances, and on general quality-of-life issues in Sunland Park and Santa Teresa.

12. The Doña Ana County Board of Commissioners adopted Ordinance No. 367-2025 and Ordinance No. 368-2025 on September 19, 2025.
13. On September 9, 2025, at a regular Board meeting, the Board voted 4-1 to hold a public hearing on October 14, 2025, to consider the adoption of an ordinance to issue LEEDA funding for reduced permit fees for Project Jupiter, Ordinance No. 369-2025.
14. The Doña Ana County Board of Commissioners adopted Ordinance No. 369-2025 on October 14, 2025.
15. I have read and understand Ordinance No. 367-2025, Ordinance No. 368-2025, and Ordinance No. 369-2025.
16. On October 6, 2025, I drove by the Project Jupiter site location, where I witnessed multiple contractors present; roads being graded out; stakes set into the ground; and other activity and land disturbances occurring in anticipation of construction. I spoke to one contractor present on the site, who informed me that a sign with all the construction companies would be placed on site in the next few weeks, in anticipation of construction beginning.
17. To the best of my knowledge, construction at the Project Jupiter site is imminent, following Ordinance No. 367-2025 and Ordinance No. 368-2025 becoming effective.
18. Because the construction will be occurring within two miles of my place of residence, and is anticipated to take at least two years, there will be a significant increase in traffic near my residence; ongoing noise and light pollution; and an increased risk of exposure to several pollutants, contaminants, and dusts while construction activities are underway -- all of which will adversely affect my health and quality of life.

19. Once construction is complete, the proposed development intends to operate 24 hours a day, 7 days a week, 365 days a year, within two miles of my residence. The proposed development, once in operation, will cause consistent and extreme noise and light pollution, as has been demonstrated by other similar projects sited near residences. While in operation, the development will also significantly impact my access to water in my household, as has also been demonstrated by other similar projects sited near residences and because Project Jupiter intends to rely upon the public water supply. The development also intends to emit several major air pollutants and toxins while in operation, all of which will directly and adversely impact my health because I live within two miles of the development. Moreover, because I own property and live adjacent to Project Jupiter, once in operation the Project will likely cause my property value to decline substantially. This proposed development directly and adversely affects - and directly and adversely will affect - my quality of life living in Sunland Park and Doña Ana County.

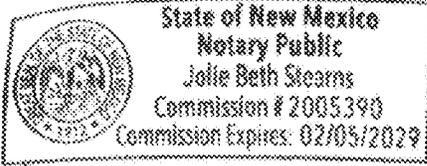
20. As a resident of Sunland Park and Doña Ana County, the Doña Ana County Board's actions have caused me harm and will continue to harm me in the future.

This 17 day of October, 2025.

By: 
Signature

Jose Saldaña Jr.
Printed Name

Signed and sworn to (or affirmed) before me this 17 day of October, 2025.



Jolie Beth Stearns
Notary Public

My commission expires:

2-5-29

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT

NO: D-307-CV-2025-02766

EMPOWERMENT CONGRESS OF
DOÑA ANA COUNTY,
JOSÉ SALDAÑA JR., and
VIVIAN FULLER

Petitioners Plaintiffs,

v.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOÑA ANA

Respondent/Defendant.

AFFIDAVIT OF VIVIAN FULLER

I, Vivian Fuller, being duly sworn, do hereby state:

1. I have read the entire Motion for Stay (Motion) filed in the above captioned matter.
2. The statements set forth in the Motion are true, complete, and correct, to the best of my knowledge.
3. I am over the age of 18 and have knowledge of the facts and matters stated below.
4. I am a resident of Santa Teresa in Doña Ana County, New Mexico.
5. I live approximately 3 miles from the proposed "Project Jupiter" development.
6. I have been actively involved in community matters and community organizing in Sunland Park, Santa Teresa, and Doña Ana County for 3 years.
7. I have been employed with Empowerment Congress of Doña Ana County, as a Community Program Manager, for 3 1/2 years.
8. I have actively participated in community efforts for clean and safe drinking water in Sunland Park and Santa Teresa, New Mexico, which has included promoting

environmental awareness and public health; public education programs; local, state, and federal advocacy and policy-work, and grassroots services with Sunland Park and Santa Teresa community members, for 5 years.

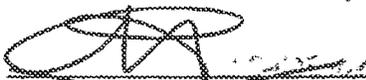
9. On August 26, 2025, at a regular Doña Ana County Board of Commissioners meeting, the Board voted 4-1 to hold a public hearing on September 19, 2025, to consider the adoption of two ordinances, one for the issuance of industrial revenue bonds (“IRBs”), Ordinance No. 367-2025, and one for the issuance of Local Economic Development Act (“LEDA”) funding, Ordinance No. 368-2025, based on an application submitted for a proposed development entitled “Project Jupiter.”
10. On September 8, 2025, I jointly submitted a written public comment, alongside Empowerment Congress of Doña Ana County, on the Doña Ana County Board of Commissioners’ consideration of Ordinance No. 367-2025 and Ordinance No. 368-2025, to the Board, in advance of the September 19 Doña Ana County Board of Commissioners public hearing, regarding the incompleteness of the Project Jupiter Application, raising that the Application lacked the information and supporting materials necessary for the County to make a fully informed decision on whether the issuance of IRBs and LEDA funding is within the public’s interest and would not result in an unauthorized use of public funds and resources, as required by the Doña Ana County Code and state law.
11. I attended and gave verbal public comment at the September 19 Board public hearing. I have provided public comment multiple times regarding the proposed Project Jupiter, the Ordinances, and on general quality-of-life issues in Sunland Park and Santa Teresa.
12. The Doña Ana County Board of Commissioners adopted Ordinance No. 367-2025 and Ordinance No. 368-2025 on September 19, 2025.

13. On September 9, 2025, at a regular Board meeting, the Board voted 4-1 to hold a public hearing on October 14, 2025, to consider the adoption of an ordinance to issue LEEDA funding for reduced permit fees for Project Jupiter, Ordinance No. 369-2025.
14. I participated at the October 14 hearing by giving verbal public comment on Ordinance No. 369-2025.
15. The Doña Ana County Board of Commissioners adopted Ordinance No. 369-2025 on October 14, 2025.
16. I have read and understand Ordinance No. 367-2025, Ordinance No. 368-2025, and Ordinance No. 369-2025.
17. Because the construction will be occurring within three miles of my place of residence, and is anticipated to take at least two years, there will be a significant increase in traffic near my residence; ongoing noise and light pollution; and an increased risk of exposure to several pollutants, contaminants, and dusts while construction activities are underway – all of which will adversely affect my health and quality of life.
18. Once construction is complete, the proposed development intends to operate 24 hours a day, 7 days a week, 365 days a year, within three miles of my residence. The proposed development, once in operation, will cause consistent and extreme noise and light pollution, as has been demonstrated by other similar projects sited near residences. While in operation, the development will also significantly impact my access to water in my household, as has also been demonstrated by other similar projects sited near residences and because Project Jupiter intends to rely upon the public water supply. The development also intends to emit several major air pollutants and toxins while in operation, all of which will directly and adversely impact my health because I live within

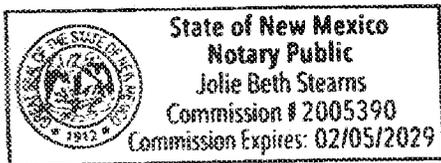
three miles of the development. Moreover, because I own property and live adjacent to Project Jupiter, once in operation the Project will likely cause my property value to decline substantially. This proposed development directly and adversely affects - and directly and adversely will affect - my quality of life living in Sunland Park and Doña Ana County.

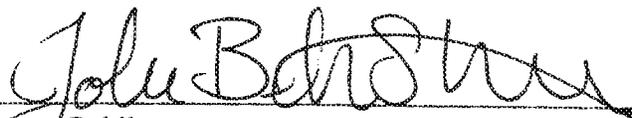
19. As a resident of Santa Teresa and Doña Ana County, the Doña Ana County Board's actions have caused me harm and will continue to harm me in the future.

This 17 day of October, 2025.

By: 
Signature
Patricia V Fuller Pina
Printed Name

Signed and sworn to (or affirmed) before me this 17 day of October, 2025.




Notary Public

My commission expires: 2-5-29