

AUSTIN COUNTY, TEXAS — BATTERY ENERGY STORAGE SYSTEM AND DATA CENTER MORATORIUM

AN ORDER OF AUSTIN COUNTY, TEXAS, DECLARING A TEMPORARY MORATORIUM ON SURFACE AND CONSTRUCTION OPERATIONS RELATED TO THE COMMENCEMENT, BUILDING AND/OR COMPLETION OF ALL BATTERY ENERGY STORAGE SYSTEMS AND DATA CENTER PROJECTS WITHIN THE UNINCORPORATED AREAS OF AUSTIN COUNTY; REQUIRING PLAN REVIEW AND WRITTEN APPROVAL BY THE COUNTY FIRE MARSHAL PURSUANT TO TEXAS LOCAL GOVERNMENT CODE § 352.016 AND AN INDEPENDENT THIRD-PARTY ENGINEERING EVALUATION PURSUANT TO TEXAS UTILITIES CODE § 187.003(e) AND TEXAS HEALTH AND SAFETY CODE § 121.003 PRIOR TO THE COMMENCEMENT OF CONSTRUCTION; DIRECTING THAT THE COUNTY FIRE MARSHAL AND THE COUNTY ENGINEER SHALL CONDUCT A STUDY TO DETERMINE THE BEST LOCATIONS WITHIN AUSTIN COUNTY FOR DESIGNATING AN ENERGY DEVELOPMENT ZONE FOR THE CONSTRUCTION AND DEVELOPMENT OF ALL BATTERY ENERGY STORAGE SYSTEMS AND DATA CENTER PROJECTS AND PROTECTING THE HEALTH AND SAFETY OF AUSTIN COUNTY CITIZENS; DIRECTING THAT ALL COUNTY OFFICERS, INCLUDING THE COUNTY FIRE MARSHAL, SHALL NOT APPROVE ANY PERMITS, REVIEWS, OR RELATED DOCUMENTATION FOR THE COMMENCEMENT, BUILDING, AND/OR COMPLETION OF ANY BATTERY ENERGY STORAGE SYSTEMS OR DATA CENTER PROJECT UNTIL THE COUNTY HAS COMPLETED A COMPREHENSIVE HEALTH AND SAFETY REVIEW PURSUANT TO TEXAS HEALTH AND SAFETY CODE § 121.003, INCLUDING VERIFICATION THAT NO EQUIPMENT FROM ANY MANUFACTURER OWNED, CONTROLLED, OR INFLUENCED BY THE CHINESE COMMUNIST PARTY OR OTHER FOREIGN ADVERSARY IS INCORPORATED IN ANY BATTERY ENERGY STORAGE SYSTEMS OR DATA CENTER PROJECT, REVIEW OF THE FINDINGS OF THE TEXAS ATTORNEY GENERAL'S ONGOING INVESTIGATION INTO CATL AND FOREIGN-ADVERSARY INVOLVEMENT IN TEXAS ENERGY INFRASTRUCTURE, AND ASSESSMENT OF LOCAL EMERGENCY RESPONSE CAPACITY; PROVIDING THAT THE COUNTY COMMISSIONERS, IN CONSULTATION WITH THE COUNTY FIRE MARSHAL AND COUNTY ENGINEER, SHALL HAVE SOLE DISCRETION TO DETERMINE WHEN THE HEALTH AND SAFETY REVIEW IS COMPLETE; DIRECTING THE COUNTY'S LEGAL COUNSEL TO SEEK INJUNCTIVE RELIEF AGAINST ANY PERSON WHO COMMENCES CONSTRUCTION OF ANY BATTERY ENERGY STORAGE SYSTEM OR DATA CENTER PROJECT WITHOUT THE FIRE MARSHAL'S REVIEW AND APPROVAL; MAKING WRITTEN FINDINGS OF NECESSITY PURSUANT TO TEXAS HEALTH AND SAFETY CODE § 121.003; PROVIDING FOR NOTICE AND PUBLIC HEARING; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Commissioners Court of Austin County, Texas (the "Commissioners Court"), has both the responsibility and authority to protect the public health, safety, and general welfare of the citizens of Austin County under Texas Health and Safety Code § 121.003; and

WHEREAS, Texas Local Government Code § 352.016 authorizes a county fire marshal to inspect for fire or life safety hazards any structure, appurtenance, fixture, or real property, to review plans of a business or commercial property for fire or life safety hazards, and to order the owner or occupant of premises to correct any hazardous situation identified during such inspection or review; and

WHEREAS, in the absence of a county fire code, the county fire marshal may conduct an inspection using any nationally recognized code or standard adopted by the state; and

WHEREAS, Texas Utilities Code Chapter 187, which directs the Commissioner of Insurance to adopt by rule fire safety standards and testing requirements for the design, installation, operation, and safety of battery energy storage facilities based on nationally recognized standards, and which applies to battery energy storage facilities with a capacity of one megawatt hour or greater and a commercial operations date on or after January 1, 2027; and

WHEREAS, Texas Utilities Code § 187.003(e) expressly authorizes a county in which a battery energy storage facility is located to request, before the commercial operations date, an independent third-party engineering evaluation of the design, safety, and installation of the facility to ensure compliance with state standards, and § 187.004(d) requires battery operators to provide site-specific emergency operations plans to local first responders; and

WHEREAS, this Moratorium is not inconsistent with the standards for design, installation, operation, and safety contemplated by Texas Utilities Code Chapter 187, but rather seeks to ensure compliance with those standards and with other applicable state laws, including the Lone Star Infrastructure Protection Act, through the exercise of existing county authority; and

WHEREAS, battery energy storage systems ("BESS") are complex industrial facilities that rely on complex technology and systems, and parts and components that present unique and serious risks in the event of catastrophe; and

WHEREAS, different battery chemistries present materially different fire, explosion, and toxic gas risks, and nationally recognized standards such as NFPA 855 treat technologies on a performance- and risk-basis, including separate provisions for flow batteries, lithium-ion batteries, and other chemistries; and

WHEREAS, flow batteries use non-flammable aqueous electrolytes, do not undergo thermal runaway, and therefore do not present the same deflagration and fire propagation risks as lithium-ion battery systems, although they remain subject to reasonable fire and life-safety review; and

WHEREAS, the Governor of Texas, acting under his authority, has issued executive actions identifying and restricting prohibited technologies associated with foreign adversaries, including the Chinese Communist Party ("CCP"), and has updated the Governor's Prohibited Technologies List in consultation with Texas Cyber Command; and

WHEREAS, Contemporary Amperex Technology Co. Limited ("CATL"), a global manufacturer of lithium-ion batteries for energy storage, has been placed on the Governor's Prohibited Technologies List due to cybersecurity and national security concerns arising from CATL's documented ties to the CCP and the People's Liberation Army; and

WHEREAS, the Lone Star Infrastructure Protection Act, Texas Business and Commerce Code Chapter 117, prohibits business entities from entering into agreements that would grant certain foreign-owned companies direct or remote access to critical Texas infrastructure; and

WHEREAS, in November 2025, Texas Attorney General Ken Paxton launched an investigation into the use of CATL products in critical state infrastructure, specifically citing potential violations of state law through involvement in Texas power grid-related facilities, including battery energy storage systems, and such investigation remains ongoing; and

WHEREAS, battery energy storage systems and data centers have rapidly proliferated across the State of Texas with little to no regulation at the county level, and multiple Texas counties have expressed concern regarding the absence of adequate safety, cybersecurity, and siting standards for such facilities; and

WHEREAS, data centers are rapidly expanding across Texas, presenting significant demands on local infrastructure, including water, power, and emergency services, and introducing fire safety, cybersecurity, and environmental considerations that warrant comprehensive review prior to construction; and

WHEREAS, data centers may incorporate hardware, software, and communications systems manufactured by entities owned, controlled, or influenced by foreign adversaries, raising similar cybersecurity and national security concerns as battery energy storage systems; and

WHEREAS, the Commissioners Court finds that a review process needs to take place to evaluate Austin County's emergency response resources necessary to safely respond to a potential BESS or data center incident including fire involving technology-specific hazards, including thermal runaway, toxic gas release, battery cell explosion, electrolyte release, electrical hazards, or other hazardous events, as applicable to the system proposed; and

WHEREAS, nationally recognized standards governing stationary energy storage systems distinguish among battery technology classes, including lithium-ion and flow batteries, and evaluate applicable safeguards based on the hazards presented by the technology used; and

WHEREAS, the Commissioners Court finds that existing County review processes and regulations are insufficient to evaluate the unique and serious risks posed by battery energy storage systems and data centers, and that a comprehensive health and safety review is necessary before any BESS or data center construction may be authorized within the unincorporated areas of Austin County; and

WHEREAS, the Commissioners Court finds that this Moratorium is (1) taken in response to a real and substantial threat to public health and safety, (2) designed to significantly advance the health and safety purpose, and (3) does not impose a greater burden than necessary to achieve the health and safety purpose; and

WHEREAS, the Commissioners Court has published notice of this proposed Moratorium and conducted a public hearing, as required by law;

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF AUSTIN COUNTY, TEXAS:

SECTION 1. DEFINITIONS

The following words and terms, when used in this Moratorium, shall have the following meanings, unless the context clearly indicates otherwise:

"Battery Energy Storage Facility" has the meaning assigned by Texas Utilities Code § 187.001(1), and includes (A) a Battery Energy Storage Resource, and (B) any facility or equipment necessary to support the operation of a Battery Energy Storage Resource, other than a facility or equipment owned by an electric utility as defined by Section 31.002, Texas Utilities Code.

"Battery Energy Storage Resource" has the meaning assigned by Texas Utilities Code § 187.001(2), and means an electrochemical device, whether connected at the transmission or distribution level, that charges from the grid or a co-located generation resource and discharges that energy at a later time.

"Battery Energy Storage System" or "BESS" means a Battery Energy Storage Facility as defined, including all associated facilities and equipment necessary to support the operation of a Battery Energy Storage Resource, including but not limited to battery cells, battery modules, battery racks, battery management systems, inverters, transformers, substations, switchgear, SCADA systems, communications equipment, containment structures, fire suppression systems, cooling systems, foundations, fencing, and access roads.

"CATL" means Contemporary Amperex Technology Co. Limited, including any subsidiary, affiliate, joint venture partner, or successor entity.

"Commissioners Court" means the Commissioners Court of Austin County, Texas, consisting of the County Judge and the four County Commissioners.

****"Comprehensive Health and Safety Review"** means the review described in Section 4 of this Moratorium, encompassing fire safety, cybersecurity, foreign adversary equipment verification, emergency response capacity assessment, and energy development zone study, applicable to both Battery Energy Storage Systems and Data Centers.

"Construction" means any activity related to the commencement, building, installation, erection, assembly, or completion of a battery energy storage system or data center, including but not limited to site preparation, grading, foundation work, equipment installation, electrical interconnection, and testing or commissioning.

"Data Center" means a facility or group of facilities used primarily to house computer systems and associated components for the purpose of processing, storing, or distributing data, including but not limited to internet hosting, cloud computing, artificial intelligence computing, cryptocurrency mining, data storage, data transfer, and payment processing, together with all

associated cooling systems, power generation equipment, backup power systems, substations, switchgear, and related infrastructure. For purposes of this Moratorium, a Data Center does not include a facility with less than 500 square feet of total floor area that is used solely for personal or residential purposes and is not operated as a commercial enterprise.

"County" means Austin County, Texas.

"County Fire Marshal" means the fire marshal appointed by the Commissioners Court of Austin County pursuant to Texas Local Government Code § 352.012, or such person's authorized designee.

"Developer" means any person, firm, corporation, partnership, limited liability company, joint venture, association, or other entity that proposes to construct, own, operate, or maintain a battery energy storage system or data center within the unincorporated areas of Austin County.

"Energy Development Zone" means a designated area or areas within Austin County identified by the County Fire Marshal and County Engineer as suitable for the construction and operation of battery energy storage systems and data centers, based on considerations of fire safety, emergency response access, proximity to residences and schools, environmental impact, water availability, and infrastructure capacity.

"Flow Battery" means a battery energy storage system that uses non-flammable aqueous electrolytes and does not undergo thermal runaway, including but not limited to vanadium redox flow batteries, zinc-bromine flow batteries, and iron-chromium flow batteries.

"Foreign Adversary" has the meaning assigned by the Lone Star Infrastructure Protection Act, Texas Business and Commerce Code Chapter 117, and includes any government, entity, or person identified as a foreign adversary by the Governor of Texas, the United States Department of Commerce, or other applicable state or federal authority.

"Governor's Prohibited Technologies List" means the list of prohibited technologies, hardware, software, and services maintained by the Governor of Texas in consultation with Texas Cyber Command, as updated from time to time.

"Unincorporated Areas" means those areas of [County Name] County that are not located within the corporate limits of any municipality.

SECTION 2. PURPOSE

The purpose of this Moratorium is to allow Austin County sufficient time to study, review, and evaluate compliance with health, fire, and safety requirements, cybersecurity safeguards, and enforcement mechanisms applicable to battery energy storage systems and data center projects within the unincorporated areas of the County, including the designation of an Energy Development Zone for the construction of battery energy storage systems and data centers. Austin County has a duty to protect the health, safety, and welfare of its citizens, and to ensure that all construction within the County complies with applicable fire and life safety standards as enforced by the County Fire Marshal. The County has determined that it needs to conduct an extensive

review to evaluate the unique and serious risks posed by battery energy storage systems and data centers.

During the period of this Moratorium, the County shall evaluate:

1. Risks to public health, safety, and welfare arising from battery energy storage systems and data centers including but not limited to fire suppression requirements, equipment listing, technology-specific hazard mitigation, including thermal runaway mitigation where applicable, emergency response capacity, proximity to residences and schools, water consumption and availability, noise and light pollution, and adequacy of hazardous materials response resources.
2. Cybersecurity and operational technology risks associated with foreign-manufactured hardware, software, firmware, and components incorporated in battery energy storage systems and data centers, with particular attention to equipment and components manufactured by entities that have been placed on the Governor of Texas's Prohibited Technologies List or that are owned, controlled, or influenced by the Chinese Communist Party or other foreign adversary as defined by the Lone Star Infrastructure Protection Act, Texas Business and Commerce Code Chapter 117.
3. Compliance with current and anticipated State of Texas directives, including executive actions of the Governor addressing prohibited technologies, critical infrastructure protection, and foreign adversary influence, as well as the findings and conclusions of the Texas Attorney General's ongoing investigation into CATL and foreign-adversary involvement in Texas energy infrastructure.
4. Adequacy of existing County regulations, inspection capacity, and enforcement mechanisms to ensure compliance with state law to regulate the siting, construction, operation, monitoring, and decommissioning of battery energy storage systems and data centers while protecting critical infrastructure and the citizens of Austin County in accordance with said state laws.
5. The appropriate locations within Austin County for designating an Energy Development Zone for the construction and development of battery energy storage systems and data center projects, to be studied and recommended by the County Fire Marshal and County Engineer, in order to minimize risks to residential areas, critical infrastructure, and emergency services.
6. The immediate necessity for this Moratorium arises because at least one battery energy storage facility in Texas—the Amador Energy Storage Project in Van Zandt County—has been confirmed to use equipment from a manufacturer placed on the Governor's Prohibited Technologies List, and a temporary restraining order has been in place against that facility since April 2025 due to non-compliance with NFPA 855 fire safety standards. Austin County has received or anticipates receiving development plans for battery energy storage systems and data centers and must review those submissions to determine whether any current or future projects similarly incorporate equipment from prohibited manufacturers or otherwise fail to comply with applicable fire, safety, and cybersecurity standards. Austin County is responsible for the health, safety, and welfare of its citizens and cannot responsibly authorize construction until it completes a thorough review of current and proposed projects to ascertain whether they incorporate potentially compromised foreign-adversary-linked technology and to evaluate their impact on water resources, emergency services, and public infrastructure. The Commissioners Court, in consultation with the

County Fire Marshal, shall have sole discretion to determine when the Comprehensive Health and Safety Review required by this Moratorium is complete.

SECTION 3. MANUFACTURER EQUIPMENT AUDIT AND COMPLIANCE VERIFICATION

(a) Prior to the commencement of Construction of any Battery Energy Storage System or Data Center within the Unincorporated Areas of Austin County, the Developer shall submit to the County a complete Equipment Manufacturer Audit, which shall include:

7. A complete list of all equipment, components, battery cells, battery modules, inverters, battery management systems, SCADA systems, communications equipment, software, firmware, and hardware proposed for use in the project, including the manufacturer, country of origin, and parent company for each item;
8. A sworn certification by an authorized officer of the Developer that no equipment, components, software, firmware, or communications systems from any manufacturer on the Governor's Prohibited Technologies List, or from any entity owned, controlled, or influenced by the Chinese Communist Party or other Foreign Adversary as defined by the Lone Star Infrastructure Protection Act, is or will be incorporated in the project;
9. Documentation sufficient to establish the complete supply chain for all battery cells, modules, and energy storage components, including identification of any CATL-manufactured or CATL-sourced components at any tier of the supply chain; and
10. Such other documentation as the County may require to verify compliance with the Lone Star Infrastructure Protection Act, the Governor's Prohibited Technologies List, and applicable fire and life safety standards.

(b) The County shall review the Equipment Manufacturer Audit to verify that the proposed project does not incorporate equipment from any prohibited manufacturer or Foreign Adversary. No Construction shall be approved until the County Fire Marshal has completed the Equipment Manufacturer Audit review and issued a written determination of compliance.

(c) The County hereby exercises its authority under Texas Utilities Code § 187.003(e) to require, before the commercial operations date, an independent third-party engineering evaluation of the design, safety, and installation of any Battery Energy Storage Facility proposed within the Unincorporated Areas of Austin County. The cost of such evaluation shall be borne by the Developer.

(d) The Developer shall provide to the County Fire Marshal and all local first responders a site-specific emergency operations plan for Battery Energy Storage Systems and as required by this Moratorium for Data Centers.

(e) The Commissioners Court by order may authorize to charge a reasonable fee to the Developer for the Equipment Manufacturer Audit review and any inspection conducted under this section, in an amount determined by the Commissioners Court to cover the cost of the review or inspection, as authorized by Texas Local Government Code § 352.016(c).

(f) Construction of a Battery Energy Storage System or Data Center without completion of the Equipment Manufacturer Audit and written determination of compliance by the County shall constitute a violation of this Moratorium and shall be subject to the enforcement and penalty provisions set forth in Section 6 of this Moratorium.

SECTION 4. SUSPENSION OF CONSTRUCTION PENDING EQUIPMENT AUDIT

(a) No Construction of any Battery Energy Storage System or Data Center shall commence within the Unincorporated Areas of Austin County until the Developer has completed the Equipment Manufacturer Audit required by Section 3 of this Moratorium and the County has issued a written determination of compliance.

(b) A Developer may submit its Equipment Manufacturer Audit to the County at any time. The County shall review the submission and issue a written determination of compliance or non-compliance within a reasonable time after receipt of a complete submission.

(c) If the County determines that a proposed project incorporates equipment from any manufacturer on the Governor's Prohibited Technologies List, or from any entity owned, controlled, or influenced by the Chinese Communist Party or other Foreign Adversary, the County shall deny the Equipment Manufacturer Audit and the Developer shall not commence Construction until it has substituted all non-compliant equipment and submitted a revised Equipment Manufacturer Audit demonstrating compliance.

(d) Nothing in this section shall be construed to prohibit the County from accepting and reviewing Equipment Manufacturer Audit submissions at any time; however, no Construction shall commence until the County has issued a written determination of compliance.

SECTION 5. ENERGY DEVELOPMENT ZONE STUDY

(a) The County Fire Marshal and County Engineer are hereby directed to conduct a study to determine the best locations within Austin County for designating one or more Energy Development Zones for the construction and development of Battery Energy Storage Systems and Data Center projects.

(b) The study shall consider, at a minimum, the following factors:

11. Proximity to residences, schools, places of worship, health care facilities, parks, and other sensitive land uses;
12. Adequacy of road access for emergency response vehicles and heavy equipment transport;
13. Availability of water supply for fire suppression purposes;
14. Proximity to existing electrical transmission and distribution infrastructure;
15. Floodplain and drainage considerations;
16. Environmental impact, including groundwater protection and soil contamination risks;

17. Compatibility with existing and planned land uses in the surrounding area;
 18. The battery chemistry and associated hazard profile of the proposed technology, including whether the system uses non-flammable electrolytes and is not subject to thermal runaway, which factors may support less restrictive siting criteria relative to lithium-ion systems; and
 19. Such other factors as the County deems relevant to the protection of public health, safety, and welfare.
- (c) Upon completion of the study, the County Fire Marshal and County Engineer shall present their findings and recommendations to the Commissioners Court for consideration and action.

SECTION 6. ENFORCEMENT

- (a) **Texas Local Government Code Chapter § 352.** The County will enforce all penalties applicable to fire code and safety as allowed by state law, including fines and criminal penalties associated with Texas Local Government Code Chapter § 352.
- (b) **Injunctive Relief.** The County's legal counsel is hereby authorized and directed to file suit in a court of competent jurisdiction seeking injunctive relief, including temporary restraining orders, temporary injunctions, and permanent injunctions, against any person or entity that commences or threatens to commence Construction of a Battery Energy Storage System or Data Center within the Unincorporated Areas of Austin County in violation of this Moratorium.
- (c) **Referral to State Authorities.** The County Fire Marshal and County's legal counsel are authorized to refer any violation or suspected violation of this Moratorium, the Lone Star Infrastructure Protection Act, the Critical Infrastructure Protection Act, or any other applicable state or federal law to the State Fire Marshal's Office, the Texas Attorney General, or any other appropriate state or federal authority for investigation and enforcement.
- (d) **Cumulative Remedies.** The enforcement remedies provided in this section are cumulative and are in addition to any other procedures or remedies provided by state or federal law. The pursuit of any one remedy shall not preclude the pursuit of any other remedy.

SECTION 7. APPLICABILITY

- (a) This Moratorium applies to all Battery Energy Storage Systems and Data Centers proposed, planned, or under development within the Unincorporated Areas of Austin County as of the effective date of this Moratorium, and to all Battery Energy Storage Systems and Data Centers proposed, planned, or commenced after the effective date of this Moratorium.
- (b) This Moratorium does not apply to:
20. Battery energy storage systems with a capacity of less than one megawatt hour that are used solely for residential purposes and are not connected to the electrical grid for wholesale energy transactions;

21. Data centers with less than 500 square feet of total floor area that are used solely for personal or residential purposes and are not operated as a commercial enterprise;
22. Areas within the corporate limits of any municipality located within Austin County; or
23. Flow Batteries, as defined herein, which remain subject to reasonable fire and life-safety review but are not subject to the full Moratorium requirements applicable to lithium-ion battery energy storage systems.
24. Any battery energy storage system or data center for which all required state and federal permits have been issued and construction has been substantially completed prior to the effective date of this Moratorium.

(c) Nothing in this Moratorium shall be construed to limit or supersede the authority of any state or federal agency with jurisdiction over the permitting, construction, or operation of battery energy storage systems or data centers.

SECTION 8. NOTICE AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Commissioners Court of Austin County, Texas, conducted a public hearing on this Moratorium pursuant to Texas Health and Safety Code § 121.003 and the Texas Open Meetings Act, Texas Government Code Chapter 551.

DATE: [INSERT DATE]

TIME: [INSERT TIME]

LOCATION: Austin County Courthouse, One East Main Street, Bellville, Texas

All interested persons were invited to appear and be heard. Written comments were accepted prior to the hearing. The Commissioners Court considered all testimony and written comments received at or before the public hearing prior to taking action on this Moratorium.

THE BUILDING IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUEST FOR INTERPRETERS OR LISTENING DEVICES MUST BE MADE 72 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE COUNTY JUDGE'S OFFICE AT (979) 856-5911 FOR FURTHER INFORMATION.

SECTION 9. FINDINGS OF FACT

The Commissioners Court hereby makes the following findings of fact in support of this Moratorium:

EXHIBIT A — PUBLIC SAFETY AND INFRASTRUCTURE

25. Battery energy storage systems increasingly rely on complex, interconnected operational technology and communications systems integral to critical infrastructure.
26. Failures or compromises of such systems pose material risks to public safety, emergency response, and property.

27. Rural counties such as Austin County face heightened risks due to limited emergency response resources, including reliance on volunteer fire departments that lack specialized BESS firefighting training and equipment.
28. The National Fire Protection Association has developed a comprehensive standard (NFPA 855) for the installation of stationary energy storage systems, which addresses fire safety, thermal runaway mitigation, explosion control, emergency response, and decommissioning requirements. Compliance is essential to protecting public safety. Such standards distinguish among battery technology classes, including lithium-ion and flow batteries, and provide for technology-appropriate safety review.
29. Austin County currently lacks a county fire marshal's office with the specialized technical expertise to evaluate BESS and data center installations and requires time to develop or contract for such expertise.
30. Data centers present significant demands on local infrastructure, including water for cooling, electrical power, and emergency services, and may incorporate complex operational technology and communications systems integral to critical infrastructure.

EXHIBIT B — CYBERSECURITY AND FOREIGN INFLUENCE

31. The Governor of Texas, acting under his authority, has issued executive actions identifying and restricting prohibited technologies associated with foreign adversaries, including the Chinese Communist Party.
32. Contemporary Amperex Technology Co. Limited (CATL) has been placed on the Governor's Prohibited Technologies List due to cybersecurity and national security concerns arising from its documented ties to the CCP and the People's Liberation Army.
33. CATL's involvement in global battery markets, estimated to influence a substantial majority of BESS builds through global supply chains, creates a significant risk that CATL components may be incorporated in BESS projects within Austin County, either directly or through suppliers.
34. Battery energy storage systems and data centers may incorporate foreign-linked software, firmware, hardware, and communications systems capable of remote access, monitoring, or control, creating opportunities for exploitation by foreign adversaries.
35. Review is necessary to ensure compliance with State policy and to prevent irreversible installation of prohibited or high-risk technologies in battery energy storage systems and data centers.

EXHIBIT C — NECESSITY AND LEGAL BASIS

36. Texas Health and Safety Code § 121.003 authorizes the commissioners court of a county to enforce any law that is reasonably necessary to protect the public health.
37. Texas Local Government Code § 352.016 authorizes the county fire marshal to inspect for fire or life safety hazards, review plans for fire or life safety hazards, and order correction of hazardous situations, using any nationally recognized code or standard adopted by the state.
38. The Lone Star Infrastructure Protection Act, Texas Business and Commerce Code Chapter 117, prohibits business entities from entering into agreements that would grant a Chinese-controlled business direct or remote access to critical Texas infrastructure.

39. The Texas Attorney General has opened an active investigation into the use of CATL products in critical state infrastructure, and the County requires the completion of this investigation to fully evaluate compliance with state law.
 40. Texas Utilities Code Chapter 187 expressly authorizes counties to request independent third-party engineering evaluations of the design, safety, and installation of certain facilities and to receive site-specific emergency operations plans.
 41. This Moratorium is a reasonable, proportional, and narrowly tailored response to protect the public interest while the Comprehensive Health and Safety Review is conducted, the Attorney General's investigation is completed, and appropriate regulations for battery energy storage systems and data centers are developed.
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SECTION 10. SEVERABILITY

If any provision of this Moratorium or the application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Moratorium that can be given effect without the invalid provision or application, and to this end the provisions of this Moratorium are declared to be severable.

SECTION 11. EFFECTIVE DATE

This Moratorium shall take effect immediately upon its adoption by the Commissioners Court.

SIGNATURES

County Judge: _____ [INSERT NAME]

Precinct 1 Commissioner: _____ [INSERT NAME]

Precinct 2 Commissioner: _____ [INSERT NAME]

Precinct 3 Commissioner: _____ [INSERT NAME]

Precinct 4 Commissioner: _____ [INSERT NAME]

SCHEDULE 1

November 24, 2025 — Press Release: Attorney General Ken Paxton Launches Investigation into Use of CCP-Aligned Technology Products in Critical State Infrastructure

[ATTACH AG PRESS RELEASE]

SCHEDULE 2

Governor's Prohibited Technologies List

[ATTACH CURRENT LIST]

SCHEDULE 3

Governor's Executive Order GA-49 — Protecting Critical Infrastructure from Foreign Adversaries

[ATTACH EXECUTIVE ORDER]

SCHEDULE 4

Governor's Executive Order GA-48 — Hardening State Government Against CCP Threats

[ATTACH EXECUTIVE ORDER]

SCHEDULE 5

Expert Affidavit(s)

[ATTACH SWORN AFFIDAVITS FROM ENGINEERS OR CYBERSECURITY EXPERTS SUPPORTING THE ORDER — RECOMMEND MIMICKING THE VAN ZANDT COUNTY APPROACH WITH AFFIDAVITS FROM QUALIFIED EXPERTS IN OT CYBERSECURITY AND FIRE SAFETY]