

BAXTER COUNTY QUORUM COURT AGENDA

September 6, 2022

THE BAXTER COUNTY QUORUM COURT WILL MEET FOR REGULAR SESSION ON TUESDAY, SEPTEMBER 6, 2022 AT 6:00 PM IN THE 2ND FLOOR COURTROOM OF THE COURTHOUSE, WITH JUDGE MICKEY PENDERGRASS PRESIDING.

- CALL TO ORDER
- DISPOSITION OF MINUTES FROM PREVIOUS MEETING
- COMMITTEE REPORTS: Personnel Committee
- TREASURERS REPORT:
- PRESENTATION: Baxter County Conservation District – Tina Haun

OLD BUSINESS

NEW BUSINESS

1. AN ORDINANCE APPROPRIATING FEES AND REIMBURSEMENTS RECEIVED IN THE MONTH OF JULY TO THE SHERIFF'S DEPARTMENT 2022 BUDGET.
2. AN ORDINANCE APPROPRIATING FUNDS IN THE AMOUNT OF \$45,902.00 WITHIN THE JUVENILE PROBATION FEES FUND (#3031).
3. AN ORDINANCE APPROPRIATING FUNDS IN THE AMOUNT OF \$165,000.00 FROM THE JAIL MAINTENANCE AND OPERATION FUND (#3401) INTO THE JAIL MAINTENANCE AND OPERATION 2022 BUDGET.
4. AN ORDINANCE APPROPRIATING FUNDS IN THE AMOUNT OF \$57,329.70 INTO THE #3020 EMERGENCY 911 2022 BUDGET.
5. AN ORDINANCE TO AMEND BAXTER COUNTY SHERIFF'S PERSONNEL POLICY MANUAL; TO DECLARE AN EMERGENCY TO EXIST, AND FOR OTHER PURPOSES.
6. AN ORDINANCE APPROVING THE FUNDING OF A TEMPORARY POSITION IN THE BAXTER COUNTY ANIMAL CONTROL DEPARTMENT.
7. AN ORDINANCE TO AMEND ORDINANCE NO. 2001-52 AND 2006-81 AND 2014-10 – "AN ORDINANCE ESTABLISHING GUIDELINES FOR THE USE OF TRAVEL EXPENSES BY BAXTER COUNTY ELECTED OFFICIALS AND EMPLOYEES AND AUTHORIZING APPROVAL BY THE COUNTY JUDGE OF EXTRAORDINARY EXPENSES."
8. AN ORDINANCE TO APPROVE THE SALE OF PROPERTY IN BAXTER COUNTY INDUSTRIAL PARK
9. A RESOLUTION SUPPORTING OPERATION GREEN LIGHT FOR VETERANS.
10. A RESOLUTION CERTIFYING LOCAL GOVERNMENT ENDORSEMENT OF UNITED PARCEL SERVICE, INC. TO PARTICIPATE IN THE TAX BACK PROGRAM (AS AUTHORIZED BY SECTION 15-4-2706(d) OF THE CONSOLIDATED INCENTIVE ACT OF 2003).

11. A RESOLUTION CONFIRMING THE RE-APPOINTMENTS OF MIKE ST. ROMAINE AND STEVEN OBENAUF BY THE COUNTY JUDGE TO THE GAMALIEL FIRE PROTECTION DISTRICT BOARD OF COMMISSIONERS.

▪ ANNOUNCEMENT

▪ ADJOURNMENT

APPROPRIATION ORDINANCE NO. 2022 - _____

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE APPROPRIATING FEES AND REIMBURSEMENTS RECEIVED IN THE MONTH OF JULY TO THE SHERIFF'S DEPARTMENT 2022 BUDGET.

WHEREAS, the Sheriff's Department has collected the following fees, reimbursements and donations in excess of the anticipated budgeted revenue amount in the month of July, 2022:

\$ 105.00 received from DWI Fines from District Court
\$ 5,664.00 received from Donation (Check)
\$ 1,752.00 received from Act 770 Fees
\$ 2,000.00 received for Installment Fees
\$ 100.00 received for VIN Checks
\$ 396.01 received for reimbursement (overpayment)
\$ 1,200.00 received for Inmate Social Security
\$ 590.13 reimbursement Inmates' Medical
\$ 1,448.52 reimbursement for Inmates' Prescriptions
\$ 70.00 reimbursement Court Ordered Restitution (Extradition – Prisoner Transport)
\$ 15.00 reimbursement Court Ordered Restitution (Parts & Repairs – Jail)
\$ 1,049.56 reimbursement Inmate Prescriptions (sent from BXS0 to Treasurer's Office)

WHEREAS, it is necessary to appropriate said monies totaling **\$14,390.22** to the appropriate line items in the Sheriff's Department 2022 budget.

Section 1. There is hereby appropriated from the 2022 County General Fund (#1000) **\$7,691.00** for the following designated expenditures:

\$ 5,664.00 to GL# 1000-0400-1003 (Sheriff: Extra Help)
\$ 1,852.00 to GL# 1000-0400-2001 (Sheriff: General Supplies)
\$ 175.00 to GL# 1000-0400-2007 (Sheriff: Fuel, Oil, Lubricants)

Section 2. There is hereby appropriated from the 2022 County Jail Fund (#3400) **\$2,000.00** for the following designated expenditures:

\$ 2,000.00 to GL# 3400-0400-3003 (Sheriff's Projects - Computer Services)

Section 3. There is hereby appropriated from the 2022 Sheriff's Special Projects Fund (#3401) \$4,699.22 the following designated expenditures:

\$ 2,498.08 to GL# 3401-0418-2004 (Jail: Medicine & Drugs)

\$ 15.00 to GL# 3401-0418-2023 (Jail: Parts & Repairs)

\$ 2,186.14 to GL# 3401-0418-3006 (Jail: Medical, Dental & Hospital)

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

APPROPRIATION ORDINANCE NO. 2022 -

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE APPROPRIATING FUNDS IN THE AMOUNT OF \$45,902.00 WITHIN THE JUVENILE PROBATION FEES FUND (#3031).

WHEREAS, it is necessary to appropriate funds in the amount of \$45,902.00 within the Juvenile Probation Fees Fund (#3031) for the purpose of appropriate expenditure assignment; and

WHEREAS, sufficient funds are available within the Juvenile Probation Fees Fund for allocation.

NOW THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS, THAT:

Section 1. The Baxter County Quorum Court authorizes the IT Manager to make the following appropriations in the Probation Fees Fund (#3031):

- \$ 1,210.00 appropriated into GL# 3031-0450-2001 (General Supplies)
- \$ 6,720.00 appropriated into GL# 3031-0450-2007 (Fuel)
- \$ 37,972.00 appropriated into GL# 3031-0450-3009 (Other Professional Services)

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

APPROPRIATION ORDINANCE NO. 2022 - _____

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE APPROPRIATING FUNDS IN THE AMOUNT OF \$165,000.00 WITHIN THE JAIL MAINTENANCE AND OPERATION FUND (#3401) 2022 BUDGET.

WHEREAS, there are sufficient funds available in the Jail Maintenance and Operation Fund for allocation.

NOW THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS, THAT:

Section 1. The IT Manager is hereby authorized to make the following appropriations:

\$ 45,000.00 to GL #3401-0418-1005 (Overtime and Other)

\$ 3,000.00 to GL #3401-0418-1010 (Workers Comp)

\$ 20,000.00 to GL #3401-0418-2001 (General Supplies)

\$ 15,000.00 to GL #3401-0418-2004 (Medicine and Drugs)

\$ 40,000.00 to GL #3401-0418-2005 (Food)

\$ 5,000.00 to GL #3401-0418-2006 (Clothing and Uniforms)

\$ 15,000.00 to GL #3401-0418-2023 (Parts and Repairs)

\$ 2,000.00 to GL #3401-0418-3020 (Telephone and Fax)

\$ 10,000.00 to GL #3401-0418-3302 (Gas – Jail)

\$ 10,000.00 to GL #3401-0418-3402 (Water – Jail)

APPROPRIATION ORDINANCE NO. 2022 - _____

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE APPROPRIATING FUNDS IN THE AMOUNT OF \$57,329.70 WITHIN THE EMERGENCY 911 FUND (#3020) 2022 BUDGET.

WHEREAS, it is necessary to appropriate funds within the Emergency 911 Department Budget for purpose of overtime forecast for remainder of 2022.

WHEREAS, there are sufficient funds available in the Emergency 911 Revenue Fund (#3020) and the ARPA Revenue Replacement Fund (#1006) for said allocation.

NOW THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS, THAT:

Section 1: The IT Manager is hereby authorized to make the following appropriations:

- \$ 18,000.00 appropriated to GL #1006-0501-1005 (Overtime/Prem. Comp.)
- \$ 32,048.74 appropriated to GL #3020-0501-1005 (Overtime/Prem. Comp.)
- \$ 2,272.05 appropriated to GL #3020-0501-1006 (Social Security)
- \$ 4,550.04 appropriated to GL #3020-0501-1007 (Retirement)
- \$ 421.74 appropriated to GL #3020-0501-1010 (Workmen's Compensation)
- \$ 37.13 appropriated to GL #3020-0501-1011 (Unemployment Compensation)

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

ORDINANCE NO. 2022 -

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS,
AN ORDINANCE TO BE ENTITLED:

**AN ORDINANCE TO AMEND BAXTER COUNTY SHERIFF'S PERSONNEL POLICY
MANUAL; TO DECLARE AN EMERGENCY TO EXIST, AND FOR OTHER PURPOSES.**

WHEREAS, the Sheriff submitted a request to the Personnel Committee to make certain amendments to the Baxter County Sheriff's Personnel Policy Manual in order that it may conform to existing law and practice; and

WHEREAS, the Personnel Committee heard such request, conducted deliberations on such request, and has recommended to the Quorum Court that such amendments be adopted.

**NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY
ARKANSAS:**

Section 1. Amendments to Policy: To the existing Baxter County Sheriff's Personnel Policy Manual the amendments set forth in ATTACHMENT A hereto, which is incorporated herein by reference, are hereby approved in their entirety, and said Sheriff's Personnel Policy Manual shall be, and hereby is, revised to fully incorporate these amendments.

Section 2. Repealer: All ordinances or parts of ordinances that may be found to be in conflict herewith are hereby repealed.

Section 3. Emergency Clause: In order that all sections of the Baxter County Sheriff's Personnel Policy Manual be in compliance with state and federal legal standards and practices, an emergency is hereby declared, and this ordinance shall take effect immediately after its passage, approval, and publication

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR:

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

APPROPRIATION ORDINANCE NO. 2022 - _____

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS,
AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE APPROVING THE FUNDING OF A TEMPORARY POSITION IN THE
BAXTER COUNTY ANIMAL CONTROL DEPARTMENT.

WHEREAS, the Baxter County Budget Committee approved a request to fund a temporary
position in the Baxter County Animal Control Department for the purpose of training the
replacement for the Animal Control Shelter Manager.

WHEREAS, the full-time temporary position will be funded from excess revenue from County
General Fund #1000.

THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY,
ARKANSAS, THAT:

Section 1. The funding of a full-time temporary position in the Animal Control Department is
hereby approved.

Section 2. The Baxter County Quorum Court authorizes the County Treasurer to make the
following transfer:

\$16,420.49 from County General Fund #1000 into Animal Control Fund #1800

Section 3. The Baxter County Quorum Court authorizes the IT Manager to make the following
changes and appropriations within the Animal Control 2022 Budget:

- A. \$11,884.80 to GL #1800-0191-1001 (Salaries)
- B. \$ 909.19 to GL #1800-0191-1006 (Social Security)
- C. \$ 1,820.75 to GL #1800-0191-1007 (Retirement)
- D. \$ 1,622.13 to GL #1800-0191-1009 (Health Insurance)
- E. \$ 168.76 to GL #1800-0191-1010 (Work Comp)
- F. \$ 14.86 to GL #1800-0191-1011 (Unemployment Comp)

Total \$16,420.49 to be appropriated.

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

ORDINANCE NO. 2022 -

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE TO AMEND ORDINANCE NO. 2001-52 AND 2006-81 AND 2006-81 AND 2014-10 – “AN ORDINANCE ESTABLISHING GUIDELINES FOR THE USE OF TRAVEL EXPENSES BY BAXTER COUNTY ELECTED OFFICIALS AND EMPLOYEES AND AUTHORIZING APPROVAL BY THE COUNTY JUDGE OF EXTRAORDINARY EXPENSES.”

WHEREAS, Section 111 of the 1977 *Acts of Arkansas* allows that Elected Officials and County Employees shall be reimbursed for reasonable travel expenses in the conduct of county affairs where such incurrence of expense is not discretionary in the conduct of duties assigned by law; and

WHEREAS, Section 111 of the 1977 *Acts of Arkansas* allows for the reimbursement of expense for meals, lodging and travel; and

WHEREAS, the Baxter County Personnel Committee met on August 18, 2022 and recommended that the following modifications to the Baxter County Travel Reimbursement Policy be implemented.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY ARKANSAS:

Section 1. When a personally owned vehicle is used for County business travel, expenses shall be reimbursed at the current Federal rate. Such travel expense claims shall show location of travel, purpose of the trip, and total number of road miles traveled between beginning and ending locations using the shortest route between the two locations.

Section 2. Attached Exhibit “A” (*Baxter County Travel Reimbursement Form*) shall be completed and accompanied by receipts and/or registration copy, and attached to the Affidavit to County Account when reimbursement for travel expense is being requested.

Section 3. That this policy is effective immediately and supersedes Section 3 of Ordinance No. 2014-10, and will be included in the *Baxter County Personnel Policy Manual*. The remainder of Ordinance No. 2014-10 remains in effect.

Section 4. This policy shall be effective immediately for travel expenses as of September 6, 2022.

Section 5. Emergency Clause. This Ordinance shall take effect immediately upon its passage and approval by the Baxter County Quorum Court.

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

ORDINANCE NO. 2022 -

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS,
AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE FOR THE APPROVAL OF THE SALE OF PROPERTY IN BAXTER COUNTY
INDUSTRIAL PARK, RATIFYING THE ACTS OF THE COUNTY JUDGE IN ENTERING INTO A
CONTRACT WITH REGARD TO SAID PROPERTY, AND AUTHORIZING THE COUNTY
JUDGE TO SIGN ALL NECESSARY DOCUMENTS, AND TO WAIVE THE RESTRICTIONS OF
THE PROTECTIVE COVENANTS.

WHEREAS, the County has researched the feasibility of selling Lots 3 & 4 out of the Baxter
County Industrial Park, Map Number 9, being approximately 10.4 acres, Baxter County,
Arkansas.

WHEREAS, that Black Mountain Energy Storage, II, LLC have offered to purchase land in the
Baxter County Industrial Park from Baxter County for consideration of the sum of NINETY-ONE
THOUSAND DOLLARS \$91,000.00, and

WHEREAS, said property is described on "Exhibit A" attached hereto and made a part hereof,
and

WHEREAS, this court has recognized the purpose of this transaction is the securing or
developing industry in Baxter County, Arkansas, and has authorized and directed the County
Judge of Baxter County, Arkansas, to execute such instruments, or things as necessary to
complete and/or approve this transaction, and

WHEREAS, the Baxter County Quorum Court hereby waives and releases the restrictions of the
Amended Bill of Assurance and Protective Covenants attached hereto as Exhibit "B".

NOW THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY,
ARKANSAS, THAT: the sale of said property to Black Mountain Energy Storage, II, LLC be
consummated in accordance with the terms of the contract existing between said Black Mountain
Energy Storage, II, LLC and Baxter County, a copy of which is attached hereto and made a part
of hereof as Exhibit "C".

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

Exhibit A: Property: Property

Being lots 3 and 4 out of the Baxter County Industrial Park, Map Number 9, being approximately 10.4 acres, Baxter County Arkansas

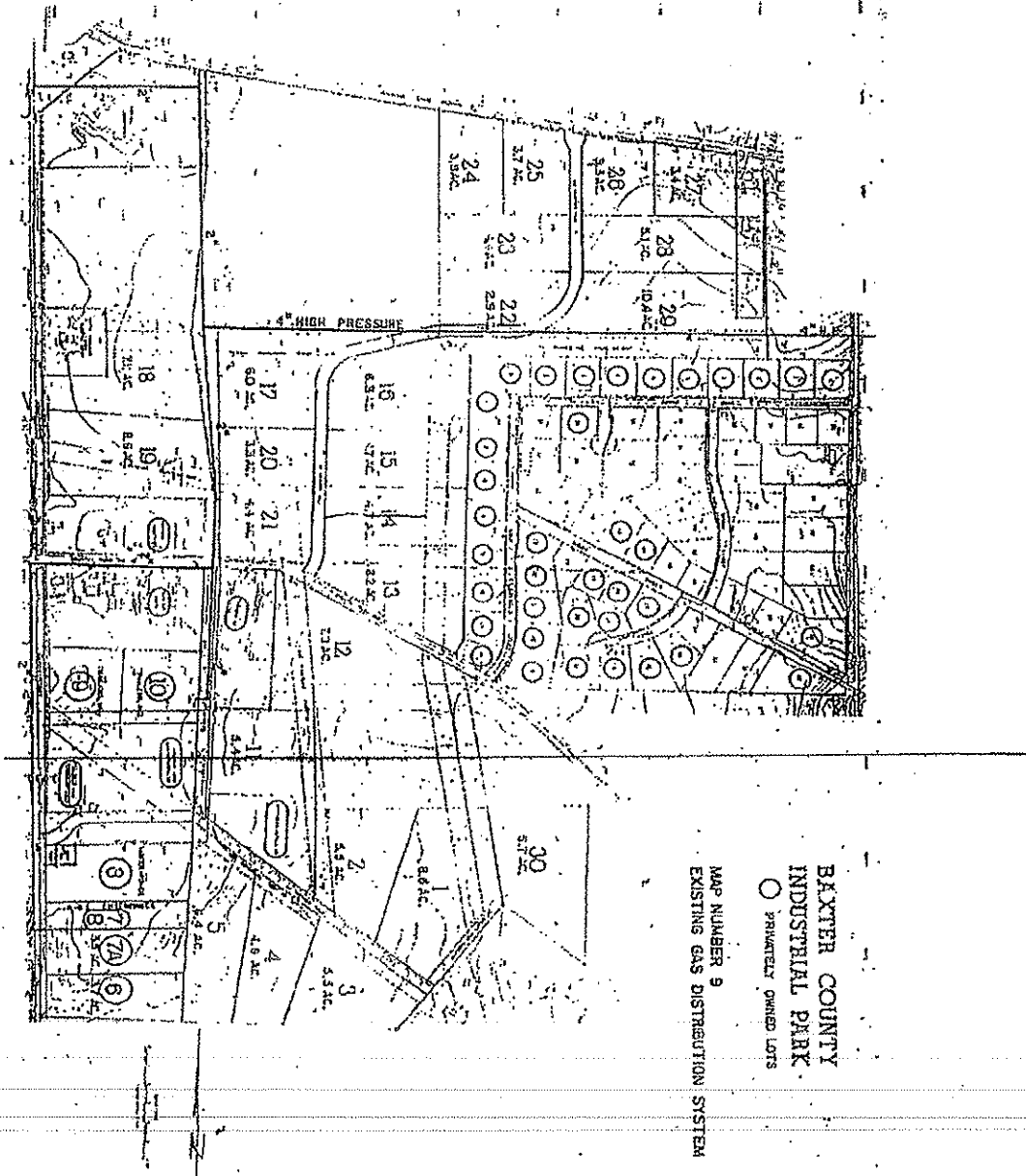


Exhibit B

FILED

EXHIBIT "A" 2:30 P.M.

BILL OF ASSURANCE AND PROTECTIVE COVENANTS

-As Amended-

DEC 10 1993

CLERK
by D.C. [Signature]

KNOWN ALL MEN BY THESE PRESENTS:

That the County of Baxter is the owner of the following described lands in Baxter County, Arkansas, as described on attached Exhibit A.

Said lands shall hereinafter be held, owned and conveyed as platted, subject to the protections herein contained in order to enhance the value and use of said property.

NOW THEREFORE, the fee simple owner of said property hereby makes the following dedications and imposes the following restrictions and covenants:

All real estate transferred, sold, conveyed and occupied shall be subject to the conditions, covenants, restrictions, reservations and easements hereafter set forth:

1. Use of Property. The lands subject to these covenants shall be used only for industrial, manufacturing, industrial warehousing or industrial distribution purposes, and related purposes, and shall not be used for residential purposes, nor for the retail sale of any merchandise or services, except that merchandise and those services which the County may authorize.

2. Height Limitations. Improvements erected on property subject to these covenants as described shall not exceed forty-five (45) feet in height, provided, however, that water, towers or tanks, standpipes, penthouses or structures for housing elevators or elevator equipment, stairways, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, cooking tanks, or other towers, wireless radio or television masts, roof signs, flagpoles, chimneys, smokestacks, gravity flow storage, modular identification sign, and/or mixing towers or similar structures may exceed this height with the written approval of the county under terms as provided for herein.

3. Distance Between Building. No structures or buildings shall be located closer than ten (10) feet to any side building site line or rear property line, it being the intent that an open

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area of at least 20 feet shall exist between all adjacent but separately owned improvements, both at sides and rear. However, should a building exceed twenty-five (25) feet in height, then an additional one (1) foot of setback shall be required for each additional five (5) feet of building height, provided that where a rear property line adjoins a dedicated alley, this provision regarding the rear property line shall not apply.

All owners shall provide sufficient parking on their own property to accommodate the needs of the owner and no vehicles will be parked on streets or other easements.

All set back areas are reserved for utility easements and all utilities in these set back areas shall be underground and otherwise shall not impose an impediment to access for maintenance and public safety equipment and personnel.

The County of Baxter reserves a ten (10) feet easement on all four sides of all property within the Industrial Park.

4. **Setback Requirements.** No building, parking lot or other structure shall be erected, constructed or maintained within twenty-five (25) feet of any street right-of-way, and said restricted area shall be landscaped with lawn, trees or shrubs, and shall be kept free of vehicle parking. The backs of buildings served by rail shall be setback 17 feet from the railroad right-of-way. Provided, the County may, at its election, permit fuel pumps for vehicles, to be maintained at any point not less than twenty (20) feet from any street.

5. **Use of Land Between Buildings.** No building or structure above ground shall encroach upon or into the setback area between buildings and said area is to be used either for open landscaped areas or for off street surfaced parking areas. In either event said area shall be maintained in accordance with plans to be first approved by the County.

6. **Types of Building Materials.** All buildings or other structures erected on the property shall be of Masonry or other generally accepted permanent material recommended in the Southern Standard Building Code. All buildings shall have face type brick or other attractive facing material and this shall be used on all

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walls facing streets.

The Quorum Court and the Industrial Park Commission shall be entitled to reasonable inspection of all structures and buildings located in the park for compliance with these restrictions.

7. Excavations. No excavation shall be made on the said lands except excavations for the purpose of building on the same at the time of commencement of such building or for the improvement of the grounds thereof and except excavations for the installation of underground storage tanks from petroleum products. No soil, sand or gravel shall be removed from the said lands except as part of such excavations.

8. Cutting of Trees. No living tree shall be cut down or removed from the said lands other than those standing in an area to be excavated for the erection of a building thereon or within an area for parking as indicated in the site plans, or as needed for streets, roadways and other appropriate easements.

9. Open storage of Materials. No goods equipment, supplies or other materials shall be stored in the open except on the rear two-thirds (2/3) of any lot, and then only when such open storage is fenced with screening fence at least six (6) feet in height. All fencing for screening, security or other purposes shall be attractive in appearance and shall be of an all-metal industrial type fence of galvanized or non-ferrous material, or other comparable material.

10. Maintenance of Premises. Each owner shall keep its premises, buildings, improvements, and appurtenances in a safe, clean, neat, wholesome condition, and shall comply in all respects with all government, health, and police requirements; each owner will remove at its own expense any rubbish of any character which may accumulate on his property.

11. Signboards. No billboards or advertising signs other than those identifying the name, business and products of the person or firm occupying the premises shall be permitted, except that a sign not to exceed ten (10) feet by twenty (20) feet in size offering the premises for sale or lease may be permitted.

12. Fencing. No fence, masonry wall, hedge or mass planting

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shall be permitted to extend beyond the building lines established herein excepted upon approval in writing by the County.

13. **Oil Tanks.** No oil drilling, oil development operation, refining mining operations of any kind or quarry shall be permitted upon or in any of the building sites subject to these covenants nor shall oil wells, tanks, tunnels, mineral excavations or shafts related mining or oil drilling be permitted upon or in any of the building sites covered by these covenants. Fuel and oil storage tanks as a part of heating equipment of any establishment shall be permitted only if in full compliance with rules and regulations of any governmental agency or agencies having jurisdiction over such matters, and in a location as approved by those agencies. Bulk storage of all liquids including gasoline or petroleum products on the outside of buildings shall be permitted only in locations as approved by the appropriate State or Federal agency and only if the same be in full compliance with all appropriate State or Federal or local regulations and any other governmental agency or agencies having jurisdiction over such matters.

14. **Nuisances.** The said lands of any part thereof of any building or erection thereon or to be erected or placed thereon shall not be used for any purpose or in such a manner which shall be a nuisance to the occupants or owners of any neighboring lands or buildings or to the Industrial Park in general by reason of the emission from the said lands or any part thereof or the creation thereon of odors, gases, dust, smoke, noise, fumes, waste or otherwise. Hazardous materials shall not be stored on the property unless used in connection with a manufacturing operation.

Any industry or business use shall be subject to Quorum Court approval prior to the commencement of said business or industry.

Determination of whether an industry or business is objectionable for any of the above reasons shall be at the sole discretion of the Baxter County Quorum Court as directed herein. Said land shall not be used for manufacture, store, distribution or sale of any materials or products which shall increase the insurance rates of the adjoining property or for any purposes which constitute a nuisance in the generally accepted definition of that

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term, and any party claiming hereunder agrees to use said property in compliance with all laws of the State of Arkansas and of the United States.

15. **Sale of Liquor.** No intoxicating liquors shall be sold at retail or offered for retail sale on said premises or any part thereof.

16. **Parking Facilities.** It shall be the responsibility of the property owner to provide parking space for employees, customers and visitors; public streets shall not be used for parking. Space for employee parking shall be on the basis of one space per three employees. Each owner shall be responsible for compliance by its employees and visitors. The surface of all driveways and permanent parking area shall be concrete, asphalt or other type of all weather material. It shall be the property owner's responsibility to extend driveways to existing or presently projected streets at no expense to the county even though part of this construction is within the street right-of-way.

17. **Sale of property.** All real estate sold by the county of Baxter shall be closed through escrow with the Industrial Park Commission acting as escrow agent. The Sales Agreement shall contain the following terms:

"The sale of this real estate shall be binding upon Baxter County and said sale shall be closed if and only if the Buyer has met the following terms and conditions:

"A. The Buyer has proof of sufficient capital to complete the construction of the Industrial Project as proposed to the County.

"B. Proof that the Buyer has complete plans and specifications together with architect and engineer certificates for construction of the proposed building on the real estate being purchased.

"C. Proof that the Buyer has met all Federal, state and local building requirements and has obtained all the proper permits to begin construction."

18. **Covenants Become Effective.** These covenants shall become effective upon the 7th day of December 1993. And shall be binding upon and inure to the benefit of said lands for a period

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of one (1) year from the date of imposition hereof and shall automatically be renewed for like periods of one (1) year thereafter unless the County of Baxter by and through its governing body i.e. the Quorum Court by a majority vote of all members elected thereto shall suspend these covenants as to a any parcel or portion thereof by ordinance, said ordinance shall be thereafter filed and recorded before it is effective to amend these covenants.

19. **First Refusal.** The County shall be given first refusal for the proposed sale, or resale of the parcel or any part thereof.

This covenant does not apply to any parcel which has completed the proposed construction project.

20. **Amendments.** Any amendments to these covenants shall be made only upon majority vote of the Quorum court of Baxter County, Arkansas, and said amendments shall be effective only when properly filed of record.

21. **Invalidation.** Invalidation of any one of these covenants or any part thereof by judgments or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

22. **Repealer.** Any and all instruments heretofore filed for record and purporting to restrictive covenants upon the above-described lands are hereby expressly repealed.

23. **Enforcement.** Enforcement of these covenants shall be by proceedings of law or inequity against any person or persons violating or attempting to violate any provision hereof, either to restrain such violation or to recover damages for such violation, or both.

24. **Dedication and Property Description.** The lands described above and embraced within said plat shall be forever known as Baxter County Industrial Park, and the undersigned do hereby rededicate to the public forever an easement on and over the streets shown on said plat, to be used as public streets. The filing of said plat and of these covenants shall be a valid and complete delivery and dedication of the streets and easements shown on said plat, and thereafter, any conveyance and description of any said lands by lot number as shown on said plat shall be a proper

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and sufficient description thereof.

EXECUTED on this 7 day of December, 1993.

BAXTER COUNTY INDUSTRIAL PARK

BY: [Signature]
Chairman

ATTEST:

[Signature]
Secretary

APPROVED:

BAXTER COUNTY QUORUM COURT

BY: [Signature]
Robert L. Coffee, County Judge

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Exhibit C

PURCHASE AND SALE AGREEMENT

THIS PURCHASE OPTION AND SALE AGREEMENT (this "Agreement") is made as of June 22nd, 2022 ("Effective Date"), by and between Black Mountain Energy Storage II, LLC, a Texas limited liability company or its assigns ("Purchaser"), and County of Baxter (Seller"). Purchaser and Seller are each a "Party", and collectively the "Parties".

RECITALS

Seller desires to sell and convey, and Purchaser desires to purchase and pay for, the Site (as hereinafter defined).

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the benefits to be derived by each Party hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree as follows:

ARTICLE I ACQUISITION OF THE PROPERTY

Section 1.01 The Property. Subject to the terms and provisions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all of the following described property (collectively, the "Property"): all real and personal property, improvements and appurtenant rights, including but not limited to permits, licenses, access easements, access to utilities, rights of way, and similar rights as described on Exhibit "A" attached hereto and incorporated by this reference, being approximately 10.4 acres located in Baxter County, AR. The final legal description may be revised and redefined by the Survey prior to Closing. The Agreement and all Exhibits attached shall be revised to contain the legal description stated in the Survey prior to Closing.

Section 1.02 Purchase Price. The purchase price for the Property shall be \$8,750.00 per acre (the "Purchase Price") as determined by the Survey. The Purchase Price shall be delivered to the Title Company (as defined herein) in immediately available funds on or before the Closing and released to the Seller at the Closing.

Section 1.03 Earnest Money. Within ten (10) business days after the Effective Date, Purchaser shall deposit with: Fidelity National Title Agency, Inc.; Attn: Lindsay Evans; Phone: (817) 377-4100; Email: levans@fidelity-usa.com (the "Title Company"), the sum of \$4,466.88 as earnest money under this Agreement (the "Earnest Money"). The Earnest Money and all accrued interest shall be delivered to Purchaser or Seller subject to the conditions of this Agreement

Section 1.04 Independent Consideration. Ten Dollars (\$10.00) ("Independent Consideration") of the Earnest Money paid by Purchaser pursuant to Section 1.03 shall be retained by Seller as independent consideration for Purchaser's right to terminate this Agreement as set forth in Section 2.04(c). The Independent Consideration shall not be credited toward the Purchase Price at Closing, and shall otherwise be non-refundable. The Parties acknowledge and agree that the Independent Consideration is adequate consideration paid by Purchaser to Seller for entering into this Agreement and for the right and ability of Purchaser to commence its due diligence of the Property, to evaluate the transaction contemplated by this Agreement, and to terminate this Agreement. Seller acknowledges receipt of the Independent Consideration as of the signing of this and Sale Agreement.

ARTICLE II
SURVEY AND TITLE

Section 2.01 Survey. Within five (5) business days after the Effective Date, Seller shall deliver to Purchaser an existing survey of the Property (the "*Existing Survey*"). If the Existing Survey does not exist or is not acceptable to the Purchaser or Title Company, then the Purchaser, at its sole expense and discretion, may procure a new survey of the Property by a licensed surveyor (the "*New Survey*") during Purchaser's Review Period (defined below). The Existing Survey and New Survey are sometimes collectively referred to herein as the "*Survey*".

Section 2.02 Title Insurance. Within five (5) business days after the Effective Date, the Parties shall order from the Title Company to deliver to Purchaser a commitment for title insurance and complete, legible copies of all exception documents (the "*Title Commitment*"), covering the Property and addressed to Purchaser, binding the Title Company to issue to Purchaser at Closing an owner's policy of title insurance (the "*Title Policy*"). The Title Policy will be on the standard form of Owner's Policy authorized in Arkansas, name Purchaser as the insured, be in the full amount of the Purchase Price, and ensure that Purchaser has good and indefeasible fee simple title to the Site, free and clear of all Unacceptable Exceptions, as that term is defined below, and free and clear of restrictions, easements, encumbrances, liens, and other matters recorded against the Site after issuance of the Title Commitment. Notwithstanding anything to the contrary herein, at the Closing there will be no liens, assessments, or security interests against the Site except those which will be satisfied with all or part of the Purchase Price at the Closing.

Section 2.03 Purchaser's Review Period.

Purchaser shall have until the expiration of ninety (90) days ("*Purchaser's Review Period*") after the Effective Date to examine the Title Commitment and Survey, and any other tests Purchaser deems necessary to determine the feasibility of the Property for Purchaser's intended use, and may deliver to Seller, in writing, Purchaser's objections to any items contained or set forth in the Title Commitment, the Survey, or in any of Purchaser's other tests (the "*Unacceptable Exceptions*"). At the end of the Purchaser's Review, The Title Company shall distribute the Earnest Money and all accrued interest to Sellers. If Seller is unable or unwilling to eliminate and remove all of the Unacceptable Exceptions prior to Closing, then within five (5) business days after the receipt of Purchaser's written objections, Seller shall notify Purchaser, in writing, of its inability or unwillingness to remove the Unacceptable Exceptions (and such notice shall set forth which Unacceptable Exceptions that Seller is unable or unwilling to remove). If Seller is unable or refuses to eliminate and remove the Unacceptable Exceptions, Purchaser may terminate this Agreement by giving written notice to Seller within the Purchaser's Review Period. If Purchaser so terminates this Agreement, the Title Company shall, upon demand by Purchaser, return the Earnest Money and all accrued interest, less the Independent Consideration, to Purchaser and thereafter neither Party shall have any further rights, duties or obligations to the other hereunder, except as expressly provided in this Agreement to the contrary. If Purchaser elects not so terminate this Agreement pursuant to this section after receiving Seller's written notice, then the Unacceptable Exceptions together with other exceptions not objected to by Purchaser shall become Permitted Exceptions (the "*Permitted Exceptions*").

Section 2.04 Feasibility Option Period.

(a) Seller shall allow Purchaser and its agents access to the Property for tests Purchaser deems necessary to determine the feasibility of the Property for Purchaser's intended use (the "*Feasibility Study*"), for a period commencing on the Effective Date and expiring twelve (12) months after the Effective Date (the "*Feasibility Option Period*"). Purchaser shall bear all costs and expenses of its Feasibility Study and shall reasonably restore the Property, to the extent the Feasibility Study directly causes any damage to the Property, to the substantially same condition as existed prior to the Feasibility Study. Except for pre-existing conditions and any issues caused by the negligence or misconduct of Seller, Purchaser shall indemnify and

hold harmless Seller from and against all loss, costs, injury, damage or expense, including reasonable attorneys' fees, directly caused by the Feasibility Study.

(b) Purchaser may, in its sole discretion, elect to extend the Feasibility Option Period up to one (1) time for an additional two (2) years each by providing written notice thereof on or before the expiration of the then current Feasibility Option Period. If Purchaser elects to extend the Feasibility Option Period as provided herein, Purchaser shall deliver to the Title Company the sum of thirty two thousand, six hundred and seventy and No/100 Dollars (\$4,466.88) (the "Additional Earnest Money") for each extension on or before the expiration of the then current Feasibility Option Period, who shall immediately release same to Seller. The Additional Earnest Money shall be non-refundable (except in the event this Agreement terminates as a result of Seller's default of the terms hereof) and not applicable to the Purchase Price at Closing, shall be considered part of the Earnest Money and shall be treated accordingly as otherwise provided in this Agreement.

(c) During the Feasibility Option Period Seller will reasonably cooperate with Purchaser's requests related to its diligence and/or the MISO interconnection process.

(d) If Purchaser, in its sole discretion, finds the Property unacceptable for any reason whatsoever, then Purchaser, in its sole discretion, may terminate this Agreement by written notice to Seller on or before the expiration of the Feasibility Option Period. If Purchaser so terminates this Agreement, the Title Company shall distribute the Earnest Money and all accrued interest, to Seller, and thereafter neither Party shall have any further rights, duties or obligations to the other hereunder, except as expressly provided in this Agreement to the contrary.

(e) Within five (5) business days after the Effective Date, Seller shall deliver the most recent environmental site assessments, the preliminary plat and site plan(s), any cross access and easement documents in connection with the Property, any development agreements affecting the Property and any other documents Purchaser may reasonably request (and to the extent each such document exists).

Section 2.05 Subdivision Approval. During the Feasibility Option Period, Purchaser may, at Purchaser's sole cost and expense, apply for and seek all required approvals and satisfy all regulatory conditions and requirements to legally subdivide the Land to create the separate parcel for the Site to be purchased by Purchaser. Purchaser shall be responsible for any and all expenses of surveys, engineering and professional services required in creating the separate legal parcel. Seller shall fully support and cooperate with Purchaser in Purchaser's efforts to obtain approval of the subdivision request, including, without limitation, joining with Purchaser in the signing of any application, filing, request, waiver, variance, plat, survey, land use permit and/or approvals, in each case as Purchaser may deem necessary or desirable to obtain subdivision approval. The Closing of the Property is expressly conditioned upon the legal subdivision of the Land, including the approval and the filing of a final plat and any other documentation as may be required under the applicable laws and regulations of (i) the State of Arkansas, (ii) the county in which the Property is located, (iii) the city in which the Property is located and (iv) all other government or quasi-governmental authorities having jurisdiction over the Property. This legal parcel condition is not subject to waiver by the Parties.

ARTICLE III REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 3.01 Representations and Covenants of Seller. Seller hereby represents to Purchaser that the facts recited below are true and accurate and will be true and accurate at Closing: (i) Seller has good and marketable title, in fee simple to the Property, free and clear of all liens (except those to be satisfied with the Purchase Price at the Closing); (ii) Seller has no knowledge of any pending condemnation, liens, special assessments, or similar proceedings affecting the Property; (iii) there are no leases, options or contracts granting any rights to acquire any right, title or interest in any portion of the Property, except as may be listed in a Title Commitment; (iv) Seller has not received any notice of

any violation of any ordinance, regulation, law or statute of any government agency or instrumentality pertaining to the Property; (v) no underground storage tanks are located on the Property; (vi) the Property is not located in the 100 year Flood Plain; (vii) except as expressly mentioned in this Agreement or as may be imposed by the Permitted Exceptions, Seller is not a party to any agreement affecting or restricting the Property, including its usage and development, and so long as this Agreement is in force Seller will enter into no agreements affecting the Property without the prior written approval of Purchaser (viii) the Property has full, free and uninterrupted access to and from all public streets and rights of way adjacent to the Property; and (ix) to Seller's knowledge, the Property is free from all hazardous materials. (x) Seller has not filed bankruptcy or made a general assignment for the benefit of creditors; (xi) the Agreement has been duly authorized, executed and delivered by Seller and does not violate any agreement or judicial order to which Seller is a party or the Property is subject; and (xii) the Property is not the subject of any litigation or threatened litigation. All representations and warranties by Seller shall survive the Closing for a period of 12 months.

Section 3.02 Environmental Matters. Seller will be responsible for all environmental obligations which arose prior to the Closing and shall indemnify Purchaser for same. Notwithstanding anything to the contrary contained elsewhere in this Agreement, the provisions of this Section 3.02 shall survive the Closing.

Section 3.03 New Encumbrances. During the term of this Agreement Seller shall not sell, assign, or convey any right, title or interest whatsoever in or to the Property, or allow any lien to attach to the Property or any part thereof except the lien for ad valorem taxes, or grant, create or voluntarily allow the creation of, or amend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease or other right affecting the Property or any part thereof, without Purchaser's prior written consent during the, which may be withheld in Purchaser's sole discretion. Nothing herein shall prevent Purchaser from negotiating any of the foregoing so long as same are not executed prior to Closing.

ARTICLE IV CLOSING

Section 4.01 Closing.

(a) Subject to the conditions set forth in this Agreement, the sale by Seller and purchase by Purchaser of the Property pursuant to this Agreement (the "Closing") shall occur on or before fourteen (14) days following the expiration of the Feasibility Option Period (the "*Scheduled Closing Date*"), or on such other date as agreed in writing by the Parties. The date Closing actually occurs shall be the "Closing Date".

(b) At the Closing, Seller shall deliver to Purchaser the following: (i) a duly executed and acknowledged general warranty deed, conveying good and marketable title in fee simple to all the Property in the form attached hereto as Exhibit B, modified to the extent required by the Title Company for issuance of the Title Policy; (ii) a Bill of Sale on the form attached hereto as Exhibit C; (iii) such other instruments and documents that are customarily executed by a seller of real property in the county in which the Property is located, including, without limitation, any affidavits required by the Title Company for issuance of the Title Policy, a completed IRS Form 1099 for the Seller, and a FIRPTA affidavit; (iv) the Title Policy; (v) exclusive possession of the Property, free and clear of any interests or rights of tenants, licensees, or other occupants in possession (any existing leases or contracts affecting the Property must be terminated prior to Closing at Seller's expense, and evidence of termination shall be provided to Purchaser at the Closing); (vi) notwithstanding anything to the contrary elsewhere in this Agreement, a Consent, Non-disturbance and Attornment Agreement shall be provided from Seller's lender and from any additional lienholders as to the Access Easement; and (vii) the Property shall be delivered free and clear of any liens or mortgages (in no event shall any liens or mortgages against the Site be deemed to be Permitted Exceptions). Additionally, at the Closing, all of Seller's representations and warranties set forth in Section 3.01 shall be true and correct.

(c) At the Closing, Purchaser shall deliver to Seller the following: (i) the Purchase Price; and (ii) such other instruments and documents that are customarily executed by a purchaser of real property in the county in which the Property is located.

Section 4.02 Closing Costs and Prorations. Property taxes shall be apportioned as of the Closing Date based on the latest available tax bill. Seller and Purchaser shall each pay one-half (1/2) of any escrow fee charged by the Title Company. Seller shall be responsible to pay for all transfer taxes, documentary transfer taxes and sales taxes arising out of the sale of the Property to Purchaser. Seller will pay the entire premium for the Title Policy. Purchaser will pay the additional premium necessary to obtain survey coverage and the cost of any endorsements to such title insurance policy requested by Purchaser. All other costs and charges of the escrow for the sale not otherwise provided for in this Section 4.02 or elsewhere in this Agreement shall be allocated in accordance with the applicable closing customs for the county in which the Property is located, as determined by the Title Company. If any of the aforesaid pro-rations cannot be calculated accurately as of the Closing Date, then they shall be calculated as soon after the Closing as feasible. Either party owing the other party a sum of money based on such subsequent proration(s) shall promptly pay said sum to the other party. If Purchaser's change of use of the Property after the Closing results in the assessment of additional taxes, penalties or interest for periods prior to Closing, such amounts shall be the responsibility of the Purchaser. If such amounts are imposed because of Seller's change of use of the Property prior to the Closing, they will be the responsibility of the Seller. The Parties obligations under this Section 4.02 shall survive the Closing.

ARTICLE V **DEFAULTS AND REMEDIES**

Section 5.01 Default and Remedies. Seller shall be in default under this Agreement if (i) any of Seller's warranties or representations set forth in this Agreement is or becomes untrue at any time on or before the Closing; or (ii) Seller fails to comply with, or perform any covenant, agreement, or obligation within the time limits and in the manner required in this Agreement. If Seller defaults under this Agreement, Purchaser may: (x) terminate this Agreement by written notice to Seller, in which event Seller shall be obligated to refund the Earnest Money to Purchaser; (xx) enforce specific performance of this Agreement against Seller; or (xxx) pursue such other remedies as may be available at law or in equity, including, without limitation, a suit for damages or for the recovery of Purchaser's actual out-of-pocket third-party costs incurred as part of Purchaser's due diligence efforts hereunder. Purchaser shall be in default under this Agreement if Purchaser fails to comply with, or perform any covenant, agreement, or obligation within the time limits and in the manner required in this Agreement, and said failure is not timely remedied by Purchaser. If Purchaser fails to timely remedy a default by Purchaser under this Agreement, Seller's exclusive remedy shall be to terminate this Agreement and to retain the Earnest Money as liquidated damages. THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF AN UNCURED DEFAULT HEREUNDER BY PURCHASER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE AMOUNT OF THE EARNEST MONEY (TO THE EXTENT PAID TO SELLER) HAS BEEN AGREED UPON, AFTER NEGOTIATION AND TAKING INTO CONSIDERATION ALL CIRCUMSTANCES EXISTING AS OF THE AGREEMENT DATE, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AS WELL AS THE RELATIONSHIP OF THE SUM TO THE RANGE OF HARM TO SELLER THAT COULD BE ANTICIPATED AND SUCH SUM SHALL BE PAID TO AND RETAINED BY SELLER AS SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST PURCHASER, AT LAW OR IN EQUITY, IN THE EVENT OF A DEFAULT BY PURCHASER UNDER THIS AGREEMENT. IN PLACING THEIR INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED

BY COUNSEL WHO EXPLAINED THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION AT THE TIME THIS AGREEMENT WAS MADE.

Purchaser Initials: _____

Seller Initials: MMF

Section 5.02 Attorney's Fees. If either party defaults under this Agreement, and the non-defaulting party employs an attorney to enforce the terms hereof, such non-defaulting party shall be entitled to reasonable attorney's fees and costs from the defaulting party.

ARTICLE VI
MISCELLANEOUS PROVISIONS

Section 6.01 Notices. All notices, demands and requests which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when sent to the address or telecopy number of the party to receive such notice set forth below if effected by telecopy, e-mail or other electronic transmission (notice sent via e-mail or other electronic transmission shall have a subject heading "OFFICIAL NOTICE UNDER _____ PURCHASE AND SALE AGREEMENT" and shall be effective so long as a duplicate is sent via non-electronic transmission (i.e. hand delivery, FedEx or US Mail (certified or registered, return receipt requested)) within 48 hours),, hand delivery, by Federal Express or other reputable courier service, or when deposited in any post office or mail receptacle regularly maintained by the United States Government, certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

If to Purchaser:

Black Mountain Energy Storage II, LLC.
425 Houston St. STE 400
Fort Worth, TX 76102
Attn: Rhett Bennett
Tel: _____
Fax: _____
Email: rhett.bennett@blackmtn.com

With a copy to:

Baker Monroe, PLLC
1612 Summit Ave., Ste. 100
Fort Worth, TX 76102
Attn: Justin P. Huston
Tel: 817-623-6301
Email: jhuston@bamolaw.com

If to Seller:

County of Baxter
OFC County Judges
Mountain Home, Arkansas 72653
Attn: Judge Mickey Pendergrass
Tel: 870-425-2755

Fax: 800 425 8633
Email: judge@baxtercounty.org

Section 6.02 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARKANSAS AND ALL PROCEEDINGS OR OBLIGATIONS HEREUNDER SHALL BE MADE AND ARE PERFORMABLE IN BAXTER COUNTY, ARKANSAS.

Section 6.03 Successors, Assigns and Counterparts. This Agreement shall apply to, inure to the benefit of and be binding upon and enforceable against the parties hereto and their respective heirs, administrators, successors and assigns and may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 6.04 Casualty Loss. The risk of loss to the Property shall pass to Purchaser upon delivery of possession of the Property to Purchaser.

Section 6.05 Ambiguities Not to Be Construed against Party Who Drafted Agreement. The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Agreement.

Section 6.06 Business Day. The term "business day" means Monday through Friday of each week, exclusive of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving and Christmas Day. If the final date of any period which is set out any section of this Agreement falls upon a day which is not a business day, then the time of such period will be extended to the next business day.

Section 6.07 Notice of Default. If Seller or Purchaser fails to comply with any or all the provisions, covenants, warranties or agreements to be performed or observed by Seller or Purchaser under this Agreement, and such default is not cured within ten (10) business days after written notice thereof, then the non-breaching party may elect to exercise its remedies set forth in Section 5.

Section 6.08 Brokers and Finders. Neither Party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein.

Section 6.09 Recording and Cooperation. Purchaser may not record this Agreement, but concurrent with the execution hereof, Seller and Purchaser shall execute a memorandum of this Agreement in the form attached hereto as Exhibit D, which Purchaser may record in the real property records of the county in which the Property is located. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall execute and deliver to Purchaser any owner's affidavit reasonably requested by any title company or attorney reviewing title to the Property.

Section 6.10 Confidentiality. Each Party agrees to maintain in confidence, and not to disclose to any third party, the information contained in this Agreement or pertaining to the sale contemplated hereby and the information and data furnished or made available by Seller to Purchaser, its agents and representatives in connection with Purchaser's investigation of the Property and the transactions contemplated by the Agreement; provided, however, that each party, its agents and representatives may disclose such information and data (a) to such party's accountants, attorneys, prospective lenders, accountants, partners, consultants and other advisors in connection with the transactions contemplated by this Agreement (and Purchaser may disclose such information and data to utility companies) (collectively

"Representatives") to the extent that such Representatives reasonably need to know (in Purchaser's or Seller's reasonable discretion) such information and data in order to assist, and perform services on behalf of, Purchaser or Seller, but the disclosing party shall remain responsible for its Representatives' compliance with the confidentiality provisions of this Agreement; (b) to the extent required by any applicable statute, law, regulation, governmental authority or court order; (c) in connection with any securities filings, registration statements or similar filings undertaken by Purchaser; and (d) in connection with any litigation that may arise between the parties in connection with the transactions contemplated by this Agreement. In addition, Purchaser shall be permitted to provide a redacted copy of this Agreement and related purchase documents to utility companies as may be necessary for Purchaser's interconnection and solar facility applications. The provisions of this Section shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement.

Section 6.11 Assignment. Purchaser may assign its rights under this Agreement without the prior written consent of Seller

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under proper authority and effective and binding as of the Effective Date.

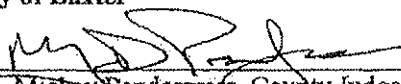
PURCHASER:

Black Mountain Energy Storage II, LLC.
a Texas limited liability company

By: 
Rhett Bennett, CEO

SELLER:

County of Baxter

By: 
Mickey Fendergrafs, County Judge

9001222202037 TW

Approx. 10.4 acres
Lots 3 and 4, Baxter County Industrial Park

Baxter County



Fidelity National Title

Agency, Inc.

CONTACT SHEET

SELLER:

County of Baxter
Attn: Judge Mickey D. Pendergrass
OFC County Judges
Mountain Home, Arkansas 72653
(870) 425-2755 phone
(820) 425-8633 fax
judge@baxtercounty.org
cc: Trish Beck
trish.beck@baxtercounty.org

PURCHASER:

Black Mountain Energy Storage, LLC
Attn: Rhett Bennett
425 Houston Street, Suite 400
Fort Worth, Texas 76102
(817) 698-9901 phone
(817) 698-9902 fax
rhett.bennett@blackmtn.com
cc: Dan Ditto
dan.ditto@blackmtn.com
cc: Chrissy Greenwood
chrissy.greenwood@blackmtn.com

WITH A COPY TO:

Baker Monroe, PLLC
Attn: Justin Huston
1612 Summit Avenue, Suite 100
Fort Worth, TX 76102
(817) 632-6301 phone
jhuston@bamolaw.com
cc: Jessica Anderson
janderson@bamolaw.com
cc: Patricia Nicholson
pnicholson@bamolaw.com

TITLE COMPANY:

Fidelity National Title
Attn: Timothy Watts
4541 Bellaire Drive South, Suite 101
Fort Worth, Texas 76109
(817) 377-4100 phone
(817) 377-4111 fax
TBWatts@fidelity-usa.com
cc: Erica Morales
EMorales@fidelity-usa.com

July 5, 2022



Fidelity National Title

Agency, Inc.

CRITICAL DATE LIST

CONTRACT INFORMATION	
Title of Contract	Purchase and Sale Agreement
Purchase Price	Approx. \$91,000.00 (\$8,750.00/acre)
Earnest Money Deposit	\$4,466.88

DEADLINES/DUE DATES	
Effective Date of Contract	June 22, 2022
Earnest Money Due	July 7, 2022, within ten (10) Business Days after the Effective Date
Existing Survey Due	June 29, 2022, within five (5) Business Days after the Effective Date, Seller shall deliver
Title Commitment Due	June 29, 2022, within five (5) Business Days after the Effective Date, the Parties shall order
Purchaser Review Period	September 20, 2022, within ninety (90) days after the Effective Date, Purchaser must object in writing
Seller Cure Period	Within five (5) Business Days after receipt of Purchaser's objection, Seller shall notify Purchaser
Feasibility Option Period	June 22, 2023, twelve (12) months after the Effective Date, Purchaser may terminate or extend ¹
Closing Date	July 6, 2023, on or before fourteen (14) days following the expiration of the Feasibility Option Period, or on such date as agreed in writing by the Parties

No representations are made with the respect to the accuracy of the above dates. Such dates are provided merely as a convenience. Please consult your legal counsel and verify these dates on your own behalf.

¹ Pursuant to Section 2.04, Purchaser may, in its sole discretion, elect to extend the Feasibility Option Period up to one (1) time for an additional two (2) years each by providing written notice thereof on or before the expiration of the then-current Feasibility Option Period. If Purchaser elects to extend the Feasibility Option Period as provided herein, Purchaser shall deliver to the Title Company the sum of _____ (the "Additional Earnest Money") for each extension on or before the expiration of the then-current Feasibility Option Period, who shall immediately release to Seller.

July 5, 2022

RESOLUTION No. 2022 - ____

**BE IT RESOLVED BY THE QUORUM COURT OF THE
COUNTY OF BAXTER, STATE OF ARKANSAS, THAT:**

**A RESOLUTION SUPPORTING OPERATION GREEN LIGHT FOR
VETERANS**

WHEREAS, the residents of Baxter County have great respect, admiration, and the utmost gratitude for all of the men and women who have selflessly served our country and this community in the Armed Forces; and

WHEREAS, the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

WHEREAS, Baxter County seeks to honor these individuals who have paid the high price for freedom by placing themselves in harm's way for the good of all; and

WHEREAS, Veterans continue to serve our community in the American Legion, Veterans of Foreign Wars, religious groups, civil service, and by functioning as County Veteran Service Officers in 29 states to help fellow former service members access more than \$52 billion in federal health, disability and compensation benefits each year; and

WHEREAS, Approximately 200,000 service members transition to civilian communities annually; and

WHEREAS, an estimated 20 percent increase of service members will transition to civilian life in the near future; and

WHEREAS, studies indicate that 44-72 percent of service members experience high levels of stress during transition from military to civilian life; and

WHEREAS, Active Military Service Members transitioning from military service are at a high risk for suicide during their first year after military service; and

WHEREAS, the National Association of Counties encourages all counties, parishes and boroughs to recognize Operation Green Light for Veterans; and

WHEREAS, Baxter County appreciates the sacrifices of our United State Military Personnel and believes specific recognition should be granted; therefore be it

RESOLVED, with designation as a Green Light for Veterans County, Baxter County hereby declares from November 7, 2022 through November 13th 2022 a time to salute and honor the service and sacrifice of our men and women in uniform transitioning from Active Service; therefore, be it further

RESOLVED, that in observance of Operation Green Light, Baxter County encourages its citizens in patriotic tradition to recognize the importance of honoring all those who made immeasurable sacrifices to preserve freedom by displaying a green light in a window of their place of business or residence.

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

RESOLUTION NO. 2022 - _____

A RESOLUTION CERTIFYING LOCAL GOVERNMENT ENDORSEMENT OF UNITED PARCEL SERVICE, INC. TO PARTICIPATE IN THE TAX BACK PROGRAM (AS AUTHORIZED BY SECTION 15-4-2706(d) OF THE CONSOLIDATED INCENTIVE ACT OF 2003).

BE IT RESOLVED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS, THAT:

WHEREAS, in order to be considered for participation in the Tax Back Program, the local government must endorse a business to participate in the Tax Back Program; and

WHEREAS, said endorsement must be made on specific form available from the Arkansas Economic Development Commission; and

WHEREAS, United Parcel Service, Inc. located at 580 Dillard Drive has sought to participate in the program and more specifically has requested benefits accruing from construction of the specific facility; and

WHEREAS, United Parcel Service, Inc. has agreed to furnish the local government all necessary information for compliance.

NOW THEREFORE BE IT RESOLVED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS, THAT:

1. United Parcel Service, Inc. be endorsed by the Quorum Court or Baxter County for benefits from the sales & use tax refunds as provided by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003.
2. The Department of Finance and Administration is authorized to refund local sales and use taxes to United Parcel Service, Inc.
3. This Resolution shall take effect immediately.

APPROVED:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

SPONSOR: _____

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____

RESOLUTION NO. 2022 - _____

A RESOLUTION CONFIRMING THE RE-APPOINTMENTS OF MIKE ST. ROMAIN AND STEVEN OBENAUF BY THE COUNTY JUDGE TO THE GAMALIEL FIRE PROTECTION DISTRICT BOARD OF COMMISSIONERS.

BE IT RESOLVED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS, THAT:

Section 1. The following members of the Gamaliel Fire Protection District Board of Commissioners, having been re-appointed by the County Judge for terms of three (3) years to expire October 2025, are hereby confirmed by the Quorum Court:

MIKE ST. ROMAIN

STEVEN OBENAUF

Section 2. This resolution shall be in full force and effect from and after its passage and approval.

APPROVAL:

MICKEY D. PENDERGRASS, COUNTY JUDGE

Date Signed: _____

ATTEST:

CANDA J. REESE, COUNTY CLERK

Sponsors: W Roth – JP #3

Date Adopted: _____

Votes: For: _____ Against: _____

Abstain: _____ Present: _____ Absent: _____