

LEGAL NOTICE

**ORDINANCE NO. O-55-26
SP2025-094**

AN ORDINANCE authorizing a Special Use Permit pursuant to Chapter 27 of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas.

BE IT ORDAINED BY THE UNIFIED GOVERNMENT COMMISSION OF WYANDOTTE/COUNTY/KANSAS CITY, KANSAS:

Section 1. Special Use Permit Granted. Pursuant to the regulations set forth in Chapter 27, Sec. 27-214 of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas, permission is hereby granted to use in the manner set forth in Section 2 hereof, the following described real property as set forth in SP2025-094, commonly known as 8900 Metropolitan Avenue, Kansas City, Kansas, legally described as:

Beginning at a found 1/2" square iron bar at the southwest corner of said Lot 13, thence north 02 degrees 26 minutes 10 seconds west along the west line of said Lot 13, a distance of 1284.75 feet to a 1/2" iron bar with cap stamped DFE KS 1575 at the northwest corner of said Lot 13; Thence North 87 degrees 58 minutes 43 seconds east along the north line of said Lot 13, a distance of 1254.61 feet to a set 1/2" iron bar with cap stamped WPS CLS 172, thence departing the north line of said Lot 13, South 02 degrees 29 minutes 56 seconds east, a distance of 1283.16 feet to a set 1/2" iron bar with cap stamped WPS CLS 172 on the south line of said Lot 13; Thence south 87 degrees 54 minutes 20 seconds west along said south line, a distance of 1256.00 feet to the point of beginning, located at approximately 8900 Metropolitan Avenue, Kansas City, Kansas.

Section 2. That the real property hereinabove described shall hereafter be granted a Special Use Permit for a battery storage facility.

Section 3. Conditions and Stipulations. The Special Use Permit granted in Section 1 and 2 hereinabove, in addition to full compliance with any general provisions contained in Chapter 27 of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas, is hereby contingent upon the performance and observation of the following additional and supplementary regulations, stipulations, conditions and restrictions, of which any violation of any hereafter enumerated will be an additional basis for revocation in addition to those factors specified in Section 27-214:

1. Subject to approval of the Special Use Permit and Preliminary Development Plan, a Final Development Plan is required to be submitted to finalize landscaping and screening, site engineering and roadway improvements and approved by the City Planning Commission prior to the issuance of a building permit from the Development Review Committee (DRC);

2. Because the eastern half of the parcel has been acquired, east of Timmons Creek by the Applicant, this area shall remain as open space. A deed restriction designating this area as open space for the duration (lifecyle) of this Special Use Permit shall be recorded with the Register of Deeds;

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3. Section 27-700(a) In the R-1, R, A-G, R-1(B), R-2, and R-2(B) districts, one (1) shade tree per dwelling unit is required in the front or corner side yard, and one (1) tree per 7,000 square feet of site area for uses other than residences. 230 trees are required to be planted. The site is 37.00 acres, which requires 230 trees to be planted. Existing mature trees can count towards that total.

Given the proposed location of the battery storage, and what is visible from Metropolitan, no adjacent property owner should see this facility or substation from their rear yards (to the north and east) or from Metropolitan Avenue to the south or South 88th Street;

4. Create an open space easement along the blue line streamways (Intermittent stream, forested wetland and ephemeral stream depicted on sheet C100) in the southwest corner of the site;

5. The protected wetland throughout the property, preserving as an open space easement;

6. All landscaping shall be irrigated with an in-ground irrigation system;

7. The Facility shall not be operated as to emit noise at a neighboring residential structure(s) existing as of the effective date of this Special Use Permit that is of higher sound pressure level (dB(A)) than the ambient day-night average (Ldn) existing prior to commencement of Facility operations. Applicant shall submit acoustics modeling reports using prudent industry standards completed by a 3rd party with expertise in the field of acoustics to determine day-night average sound level conditions before and after Facility operations;

8. Applicant shall be permitted to install a barrier around all or a portion of the Facility for noise mitigation, visual screening and/or security (e.g., wall, screened fencing, etc.). Any barrier shall be colored an earthen tone representative of the surrounding area. If no barrier is installed, then the exterior Facility enclosures shall be colored an earthen tone representative of the surrounding area;

9. The Facility shall not be permitted or so operated within a fully enclosed building. For the purposes of satisfying this requirement, the individual Facility enclosures shall not be considered fully enclosed buildings;

10. The battery enclosures shall be integrated and UL certified offsite to ensure the highest level of quality related to assembly and installation;

11. The Facility shall not involve the storage, handling or use of heavy metals in the batteries or otherwise;

12. The Facility shall not be permitted to stack individual enclosures;

13. The Facility shall maintain ongoing compliance with National Fire Protection Association (NFPA) and International Fire Code (IFC) fire and electrical codes applicable to the Facility. To verify compliance, Applicant shall submit a code analysis report to the Unified Government of Wyandotte County on an annual basis;

14. The Facility shall be operated by the Applicant using a state-of-the-art battery management system capable of remote management of overall system health including temperature, state-of-charge and voltage;

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15. Prior to commencement of construction of the Facility, Applicant shall improve the following roadways: (i) South 88th Street from Kaw Drive up to Metropolitan Avenue, and (ii) Metropolitan Avenue from South 88th Street to the most western Facility entrance. Applicant shall not be responsible for any improvements beyond a rural residential cross section in accordance with the specifications of the Unified Government of Wyandotte County. Applicant shall restore any public roadways damaged solely due to Applicant or its subcontractor's negligence during its construction activities;

16. The Applicant, at its expense, shall demonstrate to the satisfaction of the Unified Government of Wyandotte County that commercially reasonable efforts have been made to extend existing internet service to all properties within 1,000 feet of the Facility Property;

17. The Applicant shall coordinate with local emergency responders including the KCK Fire Department on an emergency response guide (the "ERG"). At a minimum, the ERG will be developed per NFPA standards and guidance. The plan should include the following key elements: Roles and Responsibilities: Clearly define the roles and responsibilities of the key stakeholders including the Applicant, Facility operator, equipment supplier and local emergency response teams;

18. Establish well-defined emergency response protocols that are easily accessible, regularly reviewed, and communicated to all relevant personnel. These protocols should include (at a minimum) procedures for emergency identification and response, evaluating emergency situations, and notifying first responders;

19. Plans shall be in accordance with the NFPA and include necessary submittals to the applicable authorities having jurisdiction;

20. Ensure that personnel are properly trained and prepared for emergency situations. Applicant, at its expense, shall provide training to local emergency responders including the KCK Fire Department prior to commencement of operations and annually during operations;

21. The Applicant shall report on the potential emissions resulting from a Facility fire by providing a plume modeling and dispersion study report using prudent industry standards completed by a 3rd party with expertise in the field of plume modeling and dispersion. The modeling shall take into account the Facility design, equipment technology, meteorology, topography, nearby structures and suppression techniques;

22. Prior to construction, Applicant shall provide a Hazard Mitigation Analysis (the "HMA") by evaluating potential energy storage system failure modes and the safety-related consequences contributed to the failure modes. At a minimum, the HMA will assess the implications of the failure modes required per NFPA and IFC. The Facility design will be evaluated against these failure modes to verify the appropriate mitigation has been incorporated to address the potential safety-related consequences;

23. The Facility will be decommissioned by Applicant at its expense if it ceases operations for up to two (2) years or reaches the end of its

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lifespan. All project components will be removed, and the land will be restored to its pre-existing condition. Applicant shall provide financial assurance in the form of a bond or letter of credit for the benefit of the Unified Government of Wyandotte County in an amount equal to 100% of the estimated cost of decommissioning the Facility, after deducting salvage or recycling value (the "Net Removal Cost"). The Net Removal Cost shall be estimated by a third-party engineer licensed in the state of Kansas with expertise in decommissioning plans (the "Decommissioning Plan"). The first posting date of the financial assurance shall be on the fifth (5th) anniversary of the commercial operations date of the Facility, with additional posting dates occurring not less frequently than every five (5) years following the first payment. Applicant shall update the Decommissioning Plan with the initial posting and each subsequent posting thereafter;

24. The Applicant will establish a 24-hour hotline for Unified Government of Wyandotte County staff and residents to call in the event of complaints during construction. Owner and Contractor will maintain a log to track all complaints and ensure adequate responses;

25. Applicant shall establish a cost recovery account with the Unified Government of Wyandotte County for recovery of direct and reasonable inspection and review fees associated with the development, construction, commissioning and operations of the Facility not to exceed \$150,000;

26. While the Applicant indicated that no signage is proposed, per Section 27-723(a), no sign (including the structure or sign surface) shall be erected, installed, altered, relocated, rebuilt, or refaced until the Unified Government issues a sign permit. Only those signs permitted in this division shall be granted a sign permit. Contact the Department of Planning and Urban Design at (913) 573-5750 or signpermits@wycokck.org to begin this process;

27. If approved, the Applicant may need additional licenses or permits for safe and proper operation. The approval of this application does not mitigate the need for additional licenses as this application is for Zoning approval only;

28. If approved, occupying businesses must file and maintain a current business occupation tax application with the Business Licensing Division. Their office is located at the Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102. Their contact information is (913) 573-8780 or businesslicense@wycokck.org;

29. Any business in Wyandotte County that is required to obtain any Special Use Permit shall be responsible to ensure that all vehicle parking or vehicle storage must occur entirely on private property of the same land parcel and at all times be compliant with all applicable local ordinances [27-463 through 27-470; 27-592 through 27-616; 27-667 through 27-676; 35-468 through 35-492]. No such business shall use the public right of way for any business operation. Any shared parking with another property is only allowed by a properly executed legal document that has been filed with the Unified Government and ratified by the City Planning Commission. Failure to comply at all times with parking

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regulations will result in municipal summons, administrative citation, or revocation of the Special Use Permit;

30. Approval of this case by the Board of Commissioners, and the conditions of approval contained herein, has been granted independent of any and all covenants, conditions, and restrictions (CC&R) of the plat or subdivision within which the subject property is located. It is the responsibility and duty of the applicant and/or landowner to ensure that the real or constructive operation of any use allowed under this Special Use Permit, or any portion thereof, does not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located;

31. The Special Use Permit is not valid for the approved use to be in operation until all the conditions of approval are met. The Applicant acknowledges that both the property owner and the business owner are collectively responsible to ensure that the use of the property is compliant with all ordinances, conditions, and other requirements of this approval. Failure to meet all these requirements may result in revocation of this permit. The property may also be subject to enforcement actions and administrative citations;

32. Due to the capital and infrastructure needed to construct this facility and the length of the construction timeline, the Special Use Permit shall be valid for 10 years from the publication of the associated Ordinance, afterwards requiring three (3) renewals spaced every five (5) years subject to passing compliance checks from staff. The Applicant is solely responsible for renewing their Special Use Permit. The Applicant should contact the Planning and Urban Design Department no less than two (2) months prior to the expiration of the permit to begin the renewal process. Any application for renewal that is submitted after the expiration date will be considered a new application with the associated application fee and approval term. If the renewal deadline is not met, all operations must cease until such time as a new Special Use Permit is approved.

33. Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Planning and Urban Design Department (checks made payable to the Unified Treasurer) within 30 days following the Unified Government Board of Commissioners meeting. If a check is not submitted within 30 days, the petition becomes invalid. The approval will not go into effect until the ordinance is published in the newspaper;

34. Substantive action towards the completion of all conditions of approval herein must commence within six (6) months of approval unless otherwise determined by the Director of Planning or their designee; and,

35. Conditions #7, #17, #18, #19, #21 and #24 shall be submitted with the Final Development Plan for review by the requisite departments and agencies.

Section 4. Take Effect. This ordinance shall take effect as of the date of its publication as provided by law.

PASSED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, THIS 30TH DAY OF APRIL, 2026.

Christal E. Watson