Planned Industrial Technology District:

Permitted District: Planned Industrial Technology District

Conditionally Permitted District with an Approved SUP: Planned Business Districts, MXD. PUD and Planned Industrial Uses

PURPOSE

The purpose of these standards is to limit the impact of data centers on surrounding land uses and ensure that adequate public utilities are available. These standards allow data centers in more districts when the impact is minimized to improve active uses that support the vitality of the public realm adjacent to a building.

Section 1: Planned Industrial Technology District Standards

(1) Planned Industrial Technology District Standards support developing digital technological Infrastructure and technology research and development within controlled industrial environment aligned with modern standards. A Planned Industrial Technology District (PITD District) accommodates primary uses such as high-capacity facilities for data processing and storage, technological research and development and data and energy transmission, along with supporting uses such as utilities, warehousing, offices, and light manufacturing subordinate and ancillary to permitted principal use.

(2) The PIT District ensures compatibility with surrounding areas by minimizing noise, dust, traffic, light and negative environmental effects. Buildings. Signage and site design shall coordinate to create a uniform modern aesthetic.

(3) Permitted uses by right in an PIT district

a. Data Centers and accessory Uses as noted in approved Development Plans
b. Technology research and development facilities

(4) Permitted uses with an SUP in associative planned districts:

a. Small and Medium scale Data Centers
b. Technology research and development facilities
c. Light Industrial, assembly, processing, warehousing and storage operations associated with and subordinate to data center maintenance or technology research and production

(5) Permitted Accessory Uses: The following are subject to approval by the Board of County Commissioners of potential site and operational plans:

a. Office, storage, power supply and other such uses including utilities and battery storage facilities, normally auxiliary to the permitted use.
b. Off- Street parking and parking garages, security facilities and structures.
c. Employee Fitness Centers. When as a stand-alone facility, otherwise permitted by right when located within a primary use.
d. Employee childcare facilities. When as a stand-alone facility, otherwise permitted by right when located within a permitted primary use.

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e. Employee parking garages
f. Office, when as a stand-alone facility, otherwise permitted by right when located within a primary use.

(6) Prohibited Uses
a. Residential Uses of any type
b. Retail sales unrelated to data center operations
c. Hazard waste Disposal Facilities
d. Any use involving public assembly
e. Any use not expressly listed as permitted or accessory

Definitions:

Data Center: An establishment engaging in the storage, management, processing, and/or transmission of digital data, and housing computer and/or network equipment, systems, servers, appliances, and other associated components related to digital operations.

Data Center Accessory Use: Utilities, utility lines, electrical substations, pump stations, water towers, mechanical equipment and environmental controls (air conditioning or cooling towers, fire suppression, etc.), redundant/backup power supplies, redundant data communications connections, and security when located on the same tract or assemblage of adjacent parcels developed as a unified development for a Data Center.

Data Center - BACKUP UTILITY GENERATION: means an on-site, independent power source and system, that automatically activates to provide electricity during a main electric power line outage. Back up generation shall not function as a primary power or bridging source for any structure or any accessory use described in these regulations. All back up generation systems shall be independent of the public power grid and shall only operate as a temporary measure to ensure continuous operation of critical IT equipment and infrastructure. The system may consist of generator, battery energy storage systems (BESS), automated transfer switches, and UPS (Uninterruptible Power Supply) systems with batteries, or any other type of backup system which can provide immediate, short-term power until the main power grid comes back on line and functional. This ensures data integrity, prevents system crashes, and maintains essential services by bridging the gap between the outage of the primary utility power and the startup of the backup generator. All generators will be tier 4 Final or better.

Data Center - COMPLEX: a specialized, secure, facility or a complex of multiple data center main and accessory buildings, and their associated site improvements, support structures, and utilities that house the critical IT infrastructure, such as servers, storage systems, and networking equipment, along with essential supporting systems like power, cooling, and security, to store, process, manage, and deliver data and applications for an organization or a cloud service provider. Also, all data center site improvements, support structures, and on-site utilities necessary to support the operations of the data center.

Data Center - SITE IMPROVEMENTS: are the physical buildings, structures, or infrastructure with designed and installed improvement upgrades and enhancements to the real property surrounding a data center as part of a data center complex to enhance capacity, performance, sustainability, and redundancy. Cloud availability services, such as connectivity, security, on-site power generation and storage, backup power, cooling systems, water management, air quality and noise control, and enhancing visual appeal. Some improvements may include, but are not limited to:

DRAFT

1. Automatic Transfer Switches (ATS) Systems;
2. Backup Utility System (BUS);
3. Battery energy storage system(s) (BESS) and facilities;
4. Chillers/cooling systems;
5. Electric power facilities such as, lines, plant, or substation;
6. Fencing, security
7. Fiber-based broadband infrastructure;
8. Generators, including diesel fueled;
9. Natural gas facilities such as, lines, plant, power plant, or substation (compressor or regulator);
10. Parking areas, lots, or structures for employee and visitor parking, in compliance with the most current regulations of the Authority Having Jurisdiction (AHJ);
11. Loading areas, lots, or structures for large trucks and equipment in compliance with the most current regulations of the AHJ;
12. Maintenance facilities
13. Solar energy project
14. Uninterruptible power supply (UPS) system
15. Utilities, public and private

Types Further Defined:

a**. Small Scale Data Center (SSDC)**. A facility that houses computing and networking equipment, along with storage and management systems, to support the storage, processing, and distribution of digital data and applications. A data center typically features high-performance servers, storage arrays, networking equipment, cooling systems, and power backup solutions to ensure uninterrupted operation. Server rooms or similar IT operations that are subordinate to a primary use are not included in this definition. SSDC will be limited to a structural footprint of less than 20,001 square feet and an energy draw of 5MW or less.

b. **Medium Scale Data Center (MSDC)**. A facility that houses computing and networking equipment, along with storage and management systems, to support the storage, processing, and distribution of digital data and applications. A data center typically features high-performance servers, storage arrays, networking equipment, cooling systems, and power backup solutions to ensure uninterrupted operation. Server rooms or similar IT operations that are subordinate to a primary use are not included in this definition. MSDCs have a structural footprint of less than 100,001 square feet and an energy draw of 100MW or less.

c. **Large Scale Data Center (LSDC)** means one or more data centers and/or other facilities used to house, and in which are operated, maintained and replaced from time to time, computer systems and associated components, such as telecommunications and storage systems, cooling systems, power supplies and systems for managing property performance (including generators and mechanical and electrical yards), and equipment used for the transformation, transmission, distribution and management of electricity (including private substations), internet-related equipment, data communications connections, private communication towers, environmental controls and security devices, structures and site features, as well as certain accessory uses or buildings located on the land and other related or

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associated uses, buildings or structures such as utility buildings; private utility facilities; office; buildings for support staff; warehousing for logistics, storage and/or other similar uses; cafeteria; guardhouse; fuel storage for emergency generators; water storage tanks; security fencing; and other structures, improvements and appurtenances. LSDCs typically have a structural footprint of over 100,000 square feet and an energy draw of over 100MW, however, for purposes of these regulations any data center with an energy draw of over 100MW, whether or not the footprint exceeds 100,000 square feet, will be a LSDC.

d. **Research and development facilities**. Facilities that investigate, design, test, and refine new or improved technologies. They involve systematic study and experimentation to create innovative products, enhance existing solutions, or discover new methods and materials. Engineering, healthcare, information technology, and manufacturing users use these facilities.

e. **Power Generation Facilities**. Systems and facilities developed in association with a Data Center and intended to support all or a portion of the Data Center campus's electrical requirements, whether delivered directly or indirectly through an electric utility or grid arrangement. Such facilities must be located on the same parcel, adjacent parcels, or within a coordinated development area, and may be owned or operated by one or more entities. Eligible technologies include natural gas-fired turbines, reciprocating engines, and other similar or successor generation technologies. Privately controlled utility grade generation shall not utilize nuclear facilities.

Procedures: Follow the planned district process to include:

1) Preliminary Development plan submittal/approval at the time of rezoning or original application
2) Pre-Development, funding and associative agreements finalized and executed before moving on to FDP
3) Final Development Plan submittal/approval
4) Final Development agreement approved and executed prior to filing a FDP with the ROD
5) Final Plat *(If Applicable*)

All preliminary development plan processes approvals will submit to a public hearing before the Planning Commission. The Planning Commission will follow the zoning amendment process to achieve a recommendation status then forward to the governing body for final action.

Factors to be considered:

Land Use: Allowable in planned ITD. Conditionally allowed in Business Districts, MXD. PUD and Planned Industrial Districts by SUP in accordance with the approved land use tables. All PITD uses either by SUP or by-right must have access and utilize public water and sewer facilities. If land use tables do not specifically include these described uses, the Director or Administrator will determine placement in a respective zoning district.

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Sustainable Construction:

All construction shall utilize BMP's for sustainable site improvements and structures to include, monitoring and *Energy Star* utility benchmarking, Site efficiency metrics may include but are not limited to; PU, WU whether public or private and energy sourcing.

All data center cooling and heating must be in the form of a closed loop system, waterless system or more efficient technology to limit water usage over the life span of constructed improvements. Coolants utilized must be ecologically friendly.

Utilities:

All utilities to the maximum extent possible shall be located underground at the point of entry to the development site.

Site Studies:

Minimum Site Study Requirements. The following list of preliminary studies shall be required but may not be limited to:

- ALTA survey
- Geotechnical investigation
- Wetlands delineation
- Phase I Environmental Site Assessment / Full Environmental Impact Study
- Water quality sampling
- Threatened & Endangered species survey
- Traffic Impact Analysis
- Ambient sound monitoring
- Narrow Band Frequency analysis and Tonal analysis pre and post developed condition(s)

These studies shall be submitted and reviewed as part of the application process. Leavenworth County reserves the right to request additional studies as impacts are identified.

IN ALL PERMITTED DISTRICTS

All data centers are required to submit a Service Availability (Will Serve) Letter from local utility providers that confirms the capacity and commitment to serve the utility demand for the proposed data center. The letter shall be submitted at the time of the filing an application for a development plan. Any pertinent communications from the Kansas Corporation Commission in relationship to submittal shall also be submitted.

Development Standards

A. Development Plan. A Data Center Development Plan shall be required as part of the application (Article 60, Section 20). Additional items may be required at the discretion of County Staff or Board of County Commissioners.

B. Development Agreements. All Pre development and development agreements between the developer and/or applicant and the County shall be written, accepted and executed by the Board of

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County Commissioners before any final administrative or County Commission action can be granted to include any construction phase.

C. Height Regulations. Buildings shall not exceed a height of forty (40) feet, measured from structure pad level to the height of the furthest architectural projection. Height limitations shall not apply to accessory structures such as water towers, conveyor belts and other incidental and uninhabited structures. These heights will be approved per development plan.

D. Setbacks/Lot Design. May vary per approved development plan.

1. *Minimum lot frontage*: three hundred (300) feet adjoining a street.

2. *Minimum lot -width at the building line*: three hundred (300) feet.

Small Scale DC:

1. *Minimum lot acreage: 10 acres*

2. *Front yard setback: Seventy-Five (75) feet.*

3. *Side yard setback: Fifty (50) feet*.

4. *Rear yard setback: Fifty (50) feet.*

Medium Scale Data Centers

1. *Minimum lot acreage of 10 acres*

2. *Front Yard setback: seventy-five (75) Feet*
3. *Side Yard setback: seventy-five (75) Feet*
4. *Rear Yard setback: seventy-five (75) Feet*

Large Scale Data Centers

1. *Minimum lot acreage: 400 acres*
2. *Front yard Setback three hundred (300) feet*
3. *Side Yard Setback three hundred (300) feet*
4. *Rear yard Setback three-hundred (300) feet*

E. Minimum buffer requirements: In addition to required setbacks, a buffer as set forth in the classification of each site, which can include the required setback, shall be required along all property lines which abut a residential district or use or an agricultural use in order to provide a visual screen. *Additional buffering may be required depending on development plan submittal requirements.*

***F. Air conditioning units and HVAC systems*.** Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using buildings, walls, fencing, roof elements, or landscaping.

G. Front building facade. The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts. This requirement shall not apply if the front of the building is greater than 500 feet from the public right-of-way or not visible from the public right-of-way. Facade requirements shall be determined at submittal and within the development plan.

DRAFT

H. Security fencing. Security fencing and walls shall not be located within the required buffer unless part of an approved development plan. Fences and walls outside the required setback and buffer provided above shall not be subject to height limitations as determined by the approved development plan.

I. Accessory Structures. Accessory structures shall be subject to the general provisions. Further, notwithstanding other provisions, guard houses and secured entry features shall be permitted at public road entrances as approved by the development plan.

J. Required setbacks and buffers shall only apply to external property boundaries with other properties not part of the Data Center Development. Minimum lot frontages, lot width and minimum lot acreage shall not apply to subdivided lots within the Data Center Development, so long as the entirety of the contiguous tract comprising the overall Data Center Development complies with the requirements of this ordinance, subject to the approved development plan.

K. Roads. Private roads are permitted within the Data Center Development. They shall be designed and built subject to the development plan approval process.

L. Utilities. A Data Center Development is required to have access to public water and sewer. Alternative utilities may be considered on a case-by-case basis and subject to administrative approvals.

M. Monitoring. All utilities and ambient sound at the property lines will be permanently monitored by a publicly accessible website 24 hours a day 7 days a week.

N. Lighting.

(1) Horizontal Surfaces. For the lighting of predominantly horizontal surfaces, such as, but not limited to, parking areas, roadways, vehicular and pedestrian passage areas, loading docks, building entrances, sidewalks, bicycle paths, and site entrances, luminaires shall be aimed down, and shall meet Illuminating Engineering Society of North America (IESNA) full cut-off/fully shielded criteria and as approved by the development plan.

(2) Non-Horizontal Surfaces. For the lighting of predominantly non-horizontal surfaces, such as, but not limited to, facades, landscaping, and signs, luminaires shall be shielded and shall be installed and aimed to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward, or onto a public roadway and as approved by the development plan.

(3) Adjacent Residential Uses. The illumination projected onto a residential use shall at no time exceed 0.1 footcandle, as measured at the property line on the adjacent residential property.

(4) Adjacent Non-Residential Uses. The illumination projected from any property onto a non-residential use shall at no time exceed 0.5 initial footcandle, as measured at the property line on the adjacent properties.

(5) Glare. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily using such means as cutoff luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle, and luminaire placement.

DRAFT

(6) LED Lights. LED light sources shall have a correlated color temperature that does not exceed 3000K.

(7) Luminaires. Luminaires shall not be mounted more than 20 feet above the finished grade of the surface being illuminated. No pole-mounted lighting on the roof shall be permitted.

(8) The goal of the design guidelines is to comply with *Dark Sky* requirements. To that end. approval of the lighting components of the PDPO will be subject to third party reviews to achieve the intended goal.

O. Sound.

(1) A Noise Study shall be completed and included as part of development plan. The study shall include:

a. Pre and Post development narrow band frequency analysis and tonal analysis
b. BMP (Best Management Practices)/BAT (Best Available Technology) to address study findings

(2) Soundproofing. For Data Centers on property adjacent to property with existing residential development, an approved development plan, or plat, or plan showing residential development, or Zoning District permitting residential uses, any Data Center Mechanical Equipment located on the property, whether on a roof top, on the ground level, or elsewhere on the exterior of the property, must be screened on all four sides by an acoustical barrier. For purposes of this section, acoustical barrier is defined as an exterior solid or louvred wall containing soundproofing materials designed to absorb noise and protect neighboring properties from noise pollution.

(3) Generator Noise Adjacent to Residential. For Data Centers on property adjacent to property with existing residential development, an approved development plan, or plat, or plan showing residential development, or Zoning District permitting residential uses, the following standard applies to generator testing, subject to Leavenworth County regulations or permits issued for the property:

a. Generator testing is limited to between 11:00 a.m. and 7:00 p.m.

b. Except for generator testing or commissioning activities, generator use is limited to backup/emergency use only.

(4) Pre and Post development narrow band frequency analysis and tonal analysis. Noise levels shall be determined through the required study and incorporated into the development plan process/ included as part of final development plan submittal**.** Post developed levels may not exceed 65 decibels (Dba) at the property line. If the required study cannot prove no tonal content in a developed condition, an automatic decrease of -10 Dba in overall site generation will be required.

Field verification of post development noise levels will be required for the issuance of any full or partial certificate of occupancy. Should additional sound reduction be required as a remedial action to field conditions, it shall be at the discretion of the AHJ and added as an addendum to the Final Development Plan.

P. Buffering & Screening Area.

Data Center sites abutting Sensitive Receptors or collector/arterial roads must include an enhanced buffer yard with required plantings located on an earthen berm with a grade no steeper than 2:1. The minimum height of the berm abutting Sensitive Receptors as defined as, residentially used structures or properties will be determined through the development plan process and included in the approval documents.

(1) Where the combined footprint of the principal structure or structures is less than 5,000–20,000 square feet:

a. A minimum 100-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.

(2). Where the combined footprint of the principal structure or structures is up to 100,000 square feet:

a. A minimum 250-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.

(3). Where the combined footprint of the principal structure or structures exceeds 100,000 square feet:

a. A minimum 300-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.

(4). Utilities should be located outside of buffer yards to the maximum extent feasible to maintain a cohesive buffer yard, protect landscaping, and preserve open space. Utilities should be co-located when feasible to minimize the number of utility crossings through the required buffer yard, particularly when such crossings cannot be avoided.

(5). Use of existing vegetation for landscaping and screening is strongly encouraged and may be substituted for new berms and plantings if approved by the final development plan.

DRAFT

(6). The required number of plant units shall be determined by the intensity of use, adjoining land uses, and the development plan process.

(7). Buffer yards along roadways shall be measured from the street right-of-way line.

(8). Where a lot line drainage or utility easement is required, the buffer yard shall be measured from the inside edge of the easement.

(9). Buffer yards shall not include environmental encumbrances such as, but not limited to, wetlands, wetland transition areas, riparian buffers, and flood hazard areas as may be imposed by outside agencies.

(10). A Landscape Plan submitted and stamped by a Kansas licensed Landscape Architect shall be submitted and approved as part of the development plan process.

a. The plantings shall be arranged to provide a complete visual screen of the property at least 12 feet in height, measured in addition to the height of any required berm, within three (3) years.

(11). The buffer yard may be located within the required building setback lines. No impervious surface is permitted within the buffer yard aside from access drives, sidewalks, and associated improvements.

Q. Renewable Energy Plan (REP)

An REP will be incorporated into preliminary and final development agreements to encourage sustainable energy programs that may include local, state and national programs.

(1) 25% of accredited capacity will be produced by renewal sources within the southwest power pool.

(2) The data center's annual electrical energy consumption shall be matched by renewable energy credits (RECs) from renewable energy resources located within and interconnected to the Southwest Power Pool (SPP), as verified through evidence of retirement of such RECs on an annual basis.

(3) Energy Benchmarking

(a) Use Best Practices to implement energy efficient design practices, such as proper air management and cooling systems, to enhance overall energy efficiency.

(b) Utilize Energy Star Portfolio Manager to report the site’s energy and water consumption annually. Energy efficiency targets will be determined through the executed development agreement and reviewed annually.

DRAFT

R. Environmental Protection

(1) A full environmental impact assessment is required at the developer's expense
(2) A Stormwater Management plan that exceeds state requirements and accepted by the county engineer
(3) Potable water uses shall be minimized during design and subject to public monitoring as listed previously in this document.

S. Public Improvement Plan.

Applicant/Developer acknowledges that they may have to comply with Article 55 Leavenworth County Zoning Regulations.

(1) Any approved development plan will be required to comply with all state, local and federal requirements.

T. 3rd Party Construction Inspection

Given the scope and size of proposed Data Center Projects, impacts to the community and overall necessary level of oversite, Leavenworth County will require an onsite professional engineer to represent the AHJ to complete code required inspections with subsequent reporting to the jurisdiction. A certificate of occupancy or temporary certificates of occupancy will be granted at the discretion of the AHJ.

1. **Licensed Engineer**.

A licensed professional engineer or firm or certified inspection company selected by the AHJ shall conduct all inspections on each data center project with respect to the foundation, structural assembly, mechanical, plumbing and electrical aspects of the data center construction. Documentation regarding each approved inspection shall be submitted to the Planning and Zoning Director.

All expenses of such engineer or engineering firm shall be the responsibility of the Applicant or holder of the Special Use Permit. Leavenworth County, its officers, agents, and employees shall be held harmless from all claims, costs, liabilities, damages or expenses including costs of suits and fees and expenses for legal services from any damage claimed by any third party, including such claims by agents or employees of said third party arising from any approval or non-approval of any inspection.

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U. Penalties

The site developer and operators shall enter into a development agreement(s) with the AHJ to establish minimum performance standards or thresholds of site performance. These standards and penalties will be included in the executed DA.

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BATTERY ENERGY STORAGE SYSTEM (BESS)

CRITERIA AND STANDARDS FOR A SPECIAL USE APPLICATION

LEAVENWORTH COUNTY, KANSAS

A. **Intent; Definitions**.

a. A Battery Energy Storage System (BESS) shall be permitted only as a Special Use according to the provisions provided below.

b. All Battery Energy Storage Systems (BESS) shall submit to a development plan process. A preliminary development plan shall be submitted as part of the SUP application process. Final Development plans that are in general conformance with the approved SUP and preliminary development plan (PDP) shall be administratively approved prior to the issuance of the building permit.

These criteria are intended to address potential issues associated with any Battery Energy Storage System (BESS); however, they are not all inclusive. Additional issues not listed may emerge and be deemed significant due to studies, public input, etc. during the course of review. These criteria are not intended to regulate the installation of smaller individual Battery Energy Storage Systems.

Definitions.

BATTERY ENERGY STORAGE SYSTEM — An engineered facility (inclusive of all ancillary facilities required to interconnect and operate the facility) that is capable of charging batteries from an electrical transmission system, storing the electrical energy, and discharging the electrical energy to later reenergize the same system and does not include a power plant or other manner of generating electricity for distribution and storage.

A Battery Energy Storage System shall have, among other equipment, a battery management system, gas, and fire detection devices, and be installed in accordance with NFPA 70 and with NFPA Standard 855 for installation of stationary energy storage systems or the equivalent or higher standard in existence at the time. BESS may also include one or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone twelve-volt car battery or an electric motor vehicle. A Battery Energy Storage System is classified as a Tier 1, Tier 2, or Tier 3 Battery Energy Storage System, as defined herein.

BATTERY(IES) A single cell or a group of cells connected electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of these regulations, batteries utilized in consumer products are excluded from these requirements.

DRAFT

CELL — The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING — A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING — A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy, as defined in the International Building Code, and complies with the following:

(1) The building's only use is battery energy storage and other electrical grid related operations.

(2) No other occupancy types are permitted in the building.

(3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

(4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage systems provided the following:

(a) The areas do not occupy more than 10% of the building area of the story in which they are located.

(b) A means of egress is provided from the administrative and support use areas to the exterior of the building that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

TIER 1 BATTERY ENERGY STORAGE SYSTEMS — Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 80 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

TIER 2 BATTERY ENERGY STORAGE SYSTEMS — Tier 2 Battery Energy Storage Systems have an aggregate energy capacity between 81 and 600 kWh or are comprised of more than one energy storage system technology in a room or enclosed area.

TIER 3 BATTERY ENERGY STORAGE SYSTEMS — Tier 3 Battery Energy Storage Systems have an aggregate energy capacity greater than 600 kWh and, if in a room or enclosed area, consist of only one energy storage system technology.

B**. Key Issues**.

Land Use	Electromagnetic Interference
Visual Impact	
Noise	
Endangered Species	Native Vegetation/Weeds

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Cumulative Impact	Soil Erosion
Water Quality	Wildlife Habitat
Infrastructure	Public Health and Safety
Lighting	Decommissioning/Restoration
Financial Security Agreement	

C. **Area to be Included**.

a. Any BESS Special Use Permit shall encompass the entire perimeter of the proposed BESS and all supporting BESS improvements and infrastructure.

D. **Permitting Requirements for Battery Energy Storage Systems; Compliance with County Codes.**

(1) All Battery Energy Storage Systems are subject to an approved Special Use Permit~~:~~.

(2) Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Zoning Code and the battery energy storage system permit, and exempt from site plan review. Tier 1 Battery Energy Storage Systems shall maintain the setback requirements of the zoning district in which they are located.

(3) Tier 2Battery Energy Storage Systems shall be permitted in all zoning districts subject to the Zoning Code, shall be subject to site plan review, which may be waived at the discretion of the Planning and Zoning Director, and shall be subject to the following conditions:

(a) Tier 2 Battery Energy Storage Systems shall meet the requirements of the principal building within the zoning district in which they are located.

(b) Where a Tier 2 Battery Energy Storage System will be located within 200 feet of a residential use or zone, additional screening may be required and approved via the site plan approval process.

(4) Tier 3 Battery Energy Storage Systems shall be permitted in all zoning districts subject to the Zoning Code, shall be subject to site plan review, and shall be subject to the following conditions~~;~~ :

(a) Tier 3-Battery Energy Storage Systems shall meet the requirements of the principal building within the zoning district in which they are located.

(b) Tier 3 Battery Energy Storage Systems that are accessory to a permitted principal use and are under 2,000 square feet of total area dedicated to the use do not require a special use permit, unless and may not be located within 200 feet of a residential use or zone; however, such systems are subject in all respects to the requirements of these criteria and standards whether or not there is a special use permit. Unless approved by a separate development plan in a planned district and accessory to a primary use, location and size will be determined by the development plan associated with the project.

DRAFT

(5) All Battery Energy Storage Systems, irrespective of the location, shall comply with all applicable codes (building, fire, property, etc.) as may currently be in effect or hereafter amended in Leavenworth County.

E**. Noise Standards.**

(1) A Noise Study shall be completed and included as part of development plan. The study shall include:

a. Pre and Post development narrow band frequency analysis and tonal analysis
b. BMP (Best Management Practices)/BAT (Best Available Technology) to address study findings

(2) Soundproofing. For BESS on property adjacent to property with existing residential development, an approved development plan, or plat, or plan showing residential development, or Zoning District permitting residential uses, any Mechanical Equipment located on the property, whether on a roof top, on the ground level, or elsewhere on the exterior of the property, must be screened on all four sides by an acoustical barrier. For purposes of this section, acoustical barrier is defined as an exterior solid or louvred wall containing soundproofing materials designed to absorb noise and protect neighboring properties from noise pollution.

(3) Pre and Post development narrow band frequency analysis and tonal analysis. Noise levels shall be determined through the required study and incorporated into the development plan process/ included as part of final development plan submittal. Post developed levels may not exceed 65 decibels (Dba) at the property line. If the required study cannot prove no tonal content in a developed condition, an automatic decrease of -10 Dba in overall site generation will be required.

Field verification of post development noise levels will be required as a condition of approval of any Special Use Permit issued under this article. Should additional sound reduction be required as a remedial action to field conditions, it shall be at the discretion of the Authority Having Jurisdiction (AHJ) and added as an addendum to the conditions of approval for the site.

F. **Special Use Permit Standards**.

(1) Dimensional criteria. Lot size requirements for the applicable zoning district where the battery energy storage system shall be followed; the minimum setback for all yards is 100’; yard setbacks shall be 300’ if adjacent property is zoned or used for residential purposes; required minimum width of access or frontage roads on the property shall be not less than 20’ and constructed of dustless paving materials.

(2) Fencing requirements. Unless housed in a dedicated-use building, Tier 3 **-**Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a minimum of eight-foot fence with security or anti-scaling components with a self-locking and self-closing gate to prevent unauthorized access.

(3) Screening and visibility. Tier 2 and Tier 3 Battery Energy Storage Systems shall be screened from view from adjacent properties that may be in residential zoning districts using architectural features, earth berms, walls, fencing, landscaping, or other screening methods that will

DRAFT

harmonize with the character of the property and surrounding area. A minimum 25 foot of landscaping buffer shall be required along all sides for all Tier 3 Battery Energy Storage Systems. Engineering review shall be required for all Tier 2 and 3 systems. Review costs will be paid by the applicant before any permit is issued. Tier 3 Battery Energy Storage Systems shall not be allowed inside dedicated use buildings. However, battery energy storage system facilities may be permitted to install an acceptable barrier for all or a portion of a BESS for noise mitigation, visual screening and or security as shown on an approved development plan. Any such barrier shall be earthen in tone and representative of the surrounding area and or construction. Exterior BESS enclosures shall be earthen in tone and architecturally representative of the surrounding constructed environment.

(4) Architectural elevations of the BESS enclosures shall be submitted with the preliminary development plan.

(5) Stacking of Enclosures: Tier 2 and Tier 3 BESS shall not be permitted to stack individual BESS enclosures

(6) No Heavy Metals: The BESS system shall not involve the storage, handling or use of heavy metals in the batteries or on the site.

(7) Hazardous Materials: Lubricants and/or Hazardous materials located on the premises shall be stored and transported in accordance with all state and federal regulations.

G. **Site Plan Application Requirements**.

For a Tier 2 or 3 battery energy storage system requiring site plan approval, the applicant's submission shall include those items as required in The Leavenworth County Zoning regulations as may be applicable and also identification in a code footprint of the foundation type that will be utilized for the battery energy storage system facilities, fire suppression designs, emergency operations plan, photometric plan and a stormwater runoff/detention and drainage plan, a site specific hydrology study, and a statement identifying applicable state or federal environmental permits or any other necessary state or federal permits or regulations and assurance of compliance or copies of said permits if available in addition to the typical site plan requirements.

H. **Additional Requirements for Tier 2 and 3 Battery Energy Storage Systems**.

(1) Utility lines and electrical circuitry. All on-site utility lines interconnecting individual enclosures of a BESS system shall be placed underground in appropriate conduits to the maximum extent feasible and as permitted by the serving utility. An exception may be made for the main service connection at the utility company right-of-way and new interconnection equipment. All electrical lines and circuitry must comply with existing NEC, NFPA, and fire codes pertaining to battery energy storage systems as may currently be in effect and adopted by Leavenworth County, the State of Kansas or responding Fire agency.

(2) Signage.

(a) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special

hazards associated, the type of fire suppression system installed in the area of battery energy storage systems, and twenty-four hour emergency contact information, including a call-back phone number.

(b) As required, disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(3) Lighting. All lighting associated with battery energy storage systems shall be limited to that minimally required for safety, security, and operation of the facility and in accordance with the approved photometric plan.

(4) Vegetation and tree cutting. Areas within 10 feet on each side of Tier 2 or 3 battery energy storage systems and equipment shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground cover shall be permitted to be exempt, provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the maximum extent possible and is only permitted in association with an approved development plan or other applicable permits.

(5) One-line electric diagram. A one-line electric diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all NEC compliant disconnects and overcurrent devices, shall be required at the time of a Special Use Permit application.

(6) All equipment or materials and enclosures shall be integrated and UL certified offsite to ensure the highest level of performance for the intended design. The use of any non-UL equipment in the battery energy storage system must be pre-approved by Leavenworth County.

I. **Contents of BESS Development Plan**.

1. **General Introduction.**

The Development Plan shall be written in a style that is easily understood by the general reader. Technical terminology shall be avoided as much as possible. Detailed technical data, statistics, and supplementary information required to support the main text is to be included as appendices. All sources of information are to be referenced, and must be current. Information presented in the form of maps, diagrams or plans is preferred as it is generally easier to understand. The Applicant shall pay to the county a fee established by the adopted fee schedule upon filing the Special Use Permit.

Close consultation with the Leavenworth County Planning and Zoning Director during preparation of the Development Plan is highly recommended. The Leavenworth County Zoning Director may be contacted at the Leavenworth County Courthouse, 300 Walnut St. 212

DRAFT

Leavenworth KS. More than one draft may be required before it is considered suitable for presentation to the Planning Commission.

Leavenworth County reserves its right to determine further studies that may impact project sites or surrounding uses. Any such studies shall be accomplished through a third party, financed by the applicant and subject to the review and acceptance of the Planning Commission and BOCC of Leavenworth County.

If approved, the Special Use shall encompass all property within the perimeter of the proposed BESS site.

a. Applicant must provide proof of lease agreements with landowners within the project area.

b. Applicant must provide the names and addresses of all landowners within the BESS project area and all landowners within 1000 ft. of the exterior perimeter of the BESS area. Notice of hearing on the Development Plan shall be sent by the Planning and Zoning Department to all such landowners by first class mail and shall be published once in the official county newspaper. At least 20 days shall elapse between the date of the last publication and the date set for the public hearing.

c. Nothing in the approval of the Special Use shall impose any liability or duty whatsoever on Leavenworth County or any of its agencies, including, but not limited to any liability for taxes, wages or any other employee benefits for any person or entity. Contractors, suppliers, or consultants accepting and relying on documents, materials and other information from the Applicant or Special Use Holder will do so on their own responsibility and at their risk.

2. **Topographical Map**.

A topographical map with contours at intervals of 2 feet at a 1:200 Scale showing the locations of the following features: (U.S.G.S. Scale)

a. Lot lines for each parcel under separate ownership included in the proposed BESS area and within one thousand feet of its boundaries together with a key identifying the owner of each parcel by owner name and CAMA parcel number.

b. All Residential buildings and ownership within the boundaries of the proposed BESS and within one thousand feet of the exterior perimeter of the BESS area.

c. All public roads within the BESS area and within one thousand feet of the exterior perimeter of the BESS area. The access points to the public roads to be used for both the construction and the operation phases of the project shall be designated. Bonding may be required to protect public improvements at the discretion of the Public Works Director.

d. ALTA Surveys to include Utility lines and pipelines within the BESS area must be provided prior to construction.

e. Proposed setbacks of all other structures from the BESS boundary lines.

DRAFT

f. Boundaries of any 100-year floodplain as identified on the National Flood Insurance Program maps for Leavenworth County.

g. Location of all transformers, substations, connecting power lines and other structures to be used as part of the operation of the project (including the dimensions of such structures). Any changes in location of structures must comply with the setback rules set out herein. Applicant will notify county in writing of any plan or location changes prior to commencement of construction.

3. **Commercial Operation**.

If the BESS is Commercially Operational, the term of permit recommendation shall be limited to a period not to exceed 5-10 years from the date that the Special Use is approved by resolution or the BESS's Commercial Operation Date (COD). The COD date will be defined as being the date when the power purchase utility or other entity first receives purchased power produced from the operator of units located in the BESS project plan. The Board of County Commissioners must approve any time extension of the approved Special Use.

4. **Wildlife and Wetlands**.

Applicant shall comply with all requirements provided by law and obtain all permits required by the U. S. Fish and Wildlife Service (USF&WS), the Kansas Department of Wildlife, Parks, and Tourism (KDWP&T), the Natural Resources Conservation Service (NRCS) and the Farm Service Agency (FSA) regarding the protection of wildlife and wetlands.

5. **General Construction Document Requirements**.

Applicant shall provide a general description of major components of the BESS and associated facilities to the point of interconnection including draft specifications, transmission lines and accessory facilities such as control rooms, transformers, inverters, substations, maintenance facilities, underground infrastructure, and interior access roads. Construction documents will be signed and sealed by a licensed Kansas Professional Engineer.

6. **Soil Erosion Sediment Control and Storm Water Runoff.**

Applicants shall prepare and provide to the County a KDHE approved Storm Water Pollution Prevention Plan for all construction sites prior to building permit issuance.

7. **Fire Safety and Emergency Response Guide.**

The applicant shall coordinate with local emergency responders including the fire department and Emergency Management on an emergency response guide (the ERG). At a minimum, such plan must be approved the Emergency Management Director and developed per NFPA standards and guidance. A draft of the ERG shall be submitted with the Preliminary Development Plan. The ERG should include at a minimum these key elements:

a. The ERG shall include a Fire Safety and Emergency Plan identifying the potential fire risk associated with the project including both prescribed burning and non-prescribed burning. The ERG shall address fire originating within the site, fires escaping from the site and potential effects of fire originating from outside the site.

b. The ERG shall address all provisions for fire suppression, fire and emergency medical response that are to be provided by the applicant both during construction and during operation of the project. The plan shall identify what equipment is not presently owned by the public fire department or other first responder which may be needed to respond to emergencies at the project. Any equipment so identified shall be purchased by applicant.

c. The ERG shall clearly define the roles and responsibilities of key stakeholders including the applicant, facility operator, equipment supplier and local emergency response teams. Upon an occurrence of an extraordinary event, the applicant or facility operator shall notify the Emergency Management Director and the Director of Planning and Zoning of such event, and if the event is deemed to be a possible threat to public safety, immediately notify the Leavenworth County Sherrif's Department. Extraordinary events may include but are not limited to damaged storage containers, fire, explosion, collector-feeder line failure or an injured person.

d. The ERG shall establish well-defined emergency response protocols that are easily accessible, regularly reviewed and communicated to all relevant personnel. These protocols at a minimum should include: protocols for emergency identification and response, evaluating emergency situations and notifying first responders.

e. Plans shall be in accordance with NFPA guidelines and include necessary submittals to applicable authorities having jurisdiction.

f. The ERG shall ensure that personnel are properly trained and prepared for emergency situations. The applicant at its expense, shall provide training to local emergency responders including the local fire department prior to the commencement of operations and provide said training annually thereafter.

8. **Ground Water Resources**.

Applicants must notify County of any risks it finds to ground water aquifers in connection with the construction of a BESS project and all mitigation measures the applicant proposes to utilize to mitigate such risk.

9. **Air Quality**.

Applicants shall submit a plan to control dust on roads which will be used during construction, which plan shall be a part of the Road Maintenance Agreement required below.

10. **Land Use and Development**.

Applicant shall identify potential constraints or benefits the BESS may place on the current or future use of the land within the project property and the surrounding area. The extent of any impact due to public health and safety risks shall be specifically addressed, and the effects on the following activities shall also be addressed:

a. Existing or proposed tourist or recreational activities including hunting and fishing

b. Agricultural activities

c. Residential activities

d. Commercial activities

e. Industrial activities

11. **Bibliography.**

The Development Plan shall provide a bibliography of the authorities consulted and documents relied on in completing the Development plan.

12. **Appendices**.

All Detailed technical information that supports the Development Plan shall be included in the appendices. The features of the appendices shall be included in the main body of the Development Plan.

J. **Prerequisites to Construction Under an Approved Special Use**.

1. **Decommissioning Agreement**. A Decommissioning Agreement as described in Section L below must be approved and accepted by the Board of County Commissioners before any construction begins.

2. **Road Maintenance Agreement**. Transportation routes used for construction shall be coordinated with the Leavenworth County Public Works Director. Leavenworth County may require Applicant to provide and pay for an independent study of all or some of the roads, bridges, and culverts over which equipment for the BESS will travel during the construction phase to determine the ability of said roads, bridges, and culverts to withstand the expected traffic. Applicant shall be held liable for any damages to County roads or rights of way resulting from construction, deconstruction and /or maintenance activities. A Road Agreement by which the developer or operator of the BESS assumes financial responsibility for infrastructure improvements needed for construction and repair for infrastructure damages caused by construction must be entered into by the Applicant and by the Board of County Commissioners before any construction begins.

3. **Plume Modeling**: 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 and completed by a third party with expertise in the field of plume modeling and dispersion. The modeling shall evaluate facility design, equipment technology, metrology, topography nearby structures and suppression techniques.

4**. Hazard Mitigation Analysis**: The applicant shall provide a hazard mitigation analysis (the HMA) by evaluating potential energy system failure modes and the safety related consequences related to the failure modes. At a minimum the HMA will assess the implications of failure modes required by NFPA and the IFC. Facility design will be evaluated against these failure modes to verify the appropriate mitigation has been incorporated to address safety related consequences.

DRAFT

K. **Construction Requirements**.

1. **Licensed Engineer**.

A licensed professional structural engineer or certified structural engineering firm selected by the Applicant shall conduct all inspections on each BESS with respect to the foundation, structural assembly, mechanical and electrical aspects of the BESS construction. Documentation regarding each approved inspection shall be submitted to the Planning and Zoning Director.

All expenses of such engineer or engineering firm shall be the responsibility of the Applicant or holder of the Special Use. Leavenworth County, its officers, agents, and employees shall be held harmless from all claims, costs, liabilities, damages or expenses including costs of suits and fees and expenses for legal services on account of any damage claimed by any third party, including such claims by agents or employees of said third party arising from any approval or non-approval of any inspection.

2. **Site Clearance**.

Site clearance and preparation shall be conducted in accordance with law and applicable landowner agreements.

3. **Field Representative**.

Prior to the start of and continuously throughout the construction and site restoration, Applicant shall designate a field representative responsible for overseeing compliance with the conditions of the Special Use. Such representative shall be accessible by telephone during normal business hours. The address, phone number and emergency phone number of such representative shall be provided to the Emergency Managements Director, Planning and Zoning Director and 911 Emergency Services. Applicant shall notify the Emergency Management Director, Planning and Zoning Director and 911 Emergency Services of any change in contact information.

4. **Cleanup.** Applicant shall remove all waste and scrap that is the product of construction, operation, restoration, and maintenance from the site and properly dispose of it upon the completion of each task. Any land restoration shall be done in a manner that is consistent with the terms of the lease agreement executed between the Applicant and the landowner.

L. **Decommissioning/Restoration/Abandonment/Financial Security**.

1. **Decommissioning Agreement**.

Applicant shall enter into a Decommissioning Agreement with the Board of County Commissioners before any construction begins. Compliance with the Plan shall, at all times, be a condition of the Special Use whether or not explicitly listed in any document reflecting the agreement. The Plan shall describe the manner in which the BESS improvements will be dismantled and removed from the site within 18 months of the abandonment or the end of the useful life of the BESS or of such improvement and shall require the removal of all above-ground components of the BESS. Foundations shall be removed to a depth of at least 4 feet below grade and the area refilled with soil which is reasonably similar in quality, structure, and fertility to

DRAFT

that of the original excavation and up to the landowner's satisfaction. Access roads shall be removed in accord with the terms of the property owners' lease agreements.

2. **Abandonment**.

The BESS shall be deemed abandoned at the end of a one-year period following the mailing by certified mail of written notice of abandonment to the BESS owner of record sent when a BESS does not store or provide electrical energy for distribution and there is no demonstrated plan to restore the equipment to operating condition. The Board of County Commissioners may require the current Special Use holder to decommission any abandoned BESS or may undertake such decommissioning with the proceeds of the escrow account, surety bond or insurance policy or otherwise at the expense of the last approved holder of the Special Use.

3. **Financial Security**. In accord with the Decommissioning agreement, Applicant shall submit an Escrow Account/Surety Bond/Insurance Policy or other approved financial security agreement at the time and in the amount specified in the Decommissioning Agreement in order to guarantee removal of all equipment and to restore the site, as near as possible, to its pre-BESS topography, topsoil quality and to generally guarantee compliance with the Decommissioning Plan at the end of the project's life or in the event of abandonment of the BESS.

M. **Operational Requirements for BESS Special Uses**.

1. **Hazardous Materials.**

Lubricants and/or hazardous material located on the premises shall be kept and transported in accordance with all state and federal regulations.

2. **Visual Impact.**

Applicants shall take reasonable measures such as planting trees, install fencing, etc. to mitigate specific adverse visual impacts affecting residences within or immediately adjacent to the BESS Special Use area.

3. **Electromagnetic Interference**.

Applicants shall conduct a microwave beam path survey and take such other actions necessary to comply with FCC requirements regarding electromagnetic interference.

4. **Extraordinary Event Response**.

Upon an occurrence of an extraordinary event, the Applicant or Operator shall notify the Emergency Management Director and the Planning and Zoning Director of such event and, if the event is deemed to be a possible threat to public safety immediately notify the Leavenworth County Sheriff. Extraordinary events include damaged storage containers, fire, explosion, collector-feeder line failure, injured worker or citizen, or kills or damages to threatened or endangered species. In the event of any extraordinary endangered species mortality, the Applicant or Operator shall notify Kansas Department of Wildlife, Parks and Tourism and the U.S. Fish and Wildlife Service as required by law. 12

DRAFT

5. **Financial Security**.

The applicant shall submit and maintain the financial security described above under the caption "Decommissioning/Restoration/Abandonment/Financial Security."

N. **Transfer of Special Use**.

Transfers of BESS Special Use Permits shall be in accordance with the approved Development Agreement. If the Special Use is to be transferred from the BESS owner/operator (first party) to a different BESS owner/operator (second party), said transfer must first be approved by the Board of County Commissioners. First party shall inform the second party of all requirements of the BESS Special Use. The second party or new holder of the Special Use shall meet all requirements of the BESS Special Use. The County Commissioners may direct the Administrator and/or a designated person to field inspect the BESS Special Use project to determine current compliance with required conditions. A transfer fee of $5,000.00 shall be paid to the County to compensate for work related to the transfer.

O. **Indemnification; Proof of Insurance.**

Applicant shall indemnify and hold County harmless from and against any and all claims demands, suits and losses to the extent arising out of, relating to, or resulting from or in connection with the negligent action or omission of applicant or its contractors or assigns during the development, construction, or operation of applicant's BESS project located in Leavenworth County, Kansas. Notwithstanding the foregoing, in no event shall applicant, its contractors or assigns (or any of their respective affiliates, members, shareholders, officers, directors, agents, or employees) be liable for consequential, incidental, indirect, special, exemplary, or punitive damages.

During the construction phase of the project, Applicant or its main contractor shall, at their own expense, maintain the following insurance policies:

(a) Commercial General Liability Insurance. Applicant or its main contractor shall maintain Commercial General Liability Insurance for the BESS project on an "occurrence" basis, including coverage for: Premises and Operations Liability; Explosion, Collapse and Underground Damage Liability; Personal Injury Liability; Broad Form Property Damage Liability; Broad Form Contractual Liability supporting Applicant's indemnification agreements in favor of the additional insureds; Completed Operations and Products Liability for a period of one (1) year following the date of final completion of the BESS project; and Independent Contractor's Protective Liability. Such policy shall have primary coverage limits of One Million Dollars ($1,000,000.00) for injuries or death to one or more persons or damage to property resulting from any one occurrence and a Two Million Dollars ($2,000,000.00) aggregate limit.

(b) Commercial Automobile Liability Insurance. Applicant or its main contractor shall maintain Commercial Automobile Liability Insurance, including coverage for owned, non-owned, rented, leased, and hired automobiles for both bodily injury and property damage in accordance with state legal requirements, with a combined single limit of not less than One Million Dollars ($1,000,000) per accident with respect to bodily injury, property damage or death.

(c) Umbrella Excess Liability Insurance. Applicant or its main contractor shall maintain Umbrella Excess Liability Insurance with a limit of Twenty-Five Million Dollars ($25,000,000.00) per

occurrence and annual aggregate limit of Twenty-Five Million Dollars ($25,000,000.00) with Completed Operations and Products Liability coverage, which coverage shall remain in effect for one (1) year after the date of final completion of the BESS project.

(d) Workers' Compensation and Employer's Liability Insurance. Applicant or its main contractor shall maintain Workers' Compensation Insurance with statutory limits (as may be amended from time to time), including Employer's Liability Insurance with limits of liability of not less than (i) One Million Dollars ($1,000,000.00) for bodily injury by accident, each accident, (ii) One Million Dollars ($1,000,000.00) for bodily injury by disease, each employee, and (iii) One Million Dollars ($1,000,000.00) aggregate liability for disease.

After construction is complete and during the operational phase of the project, Applicant shall maintain the insurance policies provided above, except that the limits of the Umbrella Excess Liability Insurance may be reduced to a lower figure if approved by the Board of County Commissioners.

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