

# **Beacon Wind LLC**

Beacon Wind 1  
Article VII Application

## **Exhibit 7 Local Ordinances**

**May 2022**

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**ACRONYMNS AND ABBREVIATIONS**

BW1	Beacon Wind 1 project
Commission	New York State Public Service Commission
EM&CP	Environmental Management and Construction Plan
HVAC	high-voltage alternating current
HVDC	high-voltage direct current
km	kilometer(s)
kV	kilovolt(s)
Lease Area	Renewable Energy Lease Area OCS-A 0520
m	meter(s)

nm	nautical mile(s)
NYCRR	New York Codes, Rules and Regulations
NYSPSC	New York State Public Service Commission
POI	Point of Interconnection

## Exhibit 7 Local Ordinances

### 7.1 Introduction

Beacon Wind LLC (Beacon Wind or the Applicant) proposes to construct and operate the Beacon Wind 1 project (BW1) as one of two separate offshore wind projects to be located within the Bureau of Ocean Energy Management (BOEM)-designated Renewable Energy Lease Area OCS-A 0520 (Lease Area). The proposed transmission system for BW1 will connect the offshore wind farm to the point of interconnection (POI) at the Astoria power complex in Queens, New York, and will include one 320-kilovolt (kV) high-voltage direct current (HVDC) submarine export cable circuit approximately 115 nautical miles (nm) (213 kilometers [km]) in length in New York State waters, one 320-kV HVDC onshore export cable circuit approximately 600 feet (ft) (183 meters [m]) in length, and three 138-kV high-voltage alternating current (HVAC) interconnection cable circuits approximately 1,400 ft (427 m) in length. An electric transmission line with a design capacity of 125-kV or more, extending a distance of 1 mile or more, is subject to review and approval by the New York State Public Service Commission (Commission or NYSPSC) as a major electric transmission facility. This application is being submitted to the Commission pursuant to Article VII of the New York Public Service Law (PSL) for the portions of the BW1 transmission system to be located within the State of New York (collectively, the NY Project).

The NY Project's POI to the New York State Transmission System operated by the New York Independent System Operator (NYISO) will be at the existing Astoria West 138-kV Substation in Queens, New York. The Astoria West Substation is owned by the Consolidated Edison Company of New York, Inc. (ConEdison). The following Article VII components of BW1 constitute the NY Project:

- One 320-kV HVDC submarine export cable circuit (two cables) located within an approximately 115 nm (213 km)-long submarine export cable corridor from the boundary of New York State waters 3 nm (5.6 km) offshore to the cable landfall at Lawrence Point at the Astoria power complex in Queens, New York;
- A 2,000 ft (610 m) long onshore cable route and substation facility within the Astoria power complex including:
  - One 320-kV HVDC onshore export cable circuit (two cables) installed underground from the landfall to the onshore substation facility within the Astoria power complex (approximately 600 ft [183 m]);
  - One onshore substation facility (inclusive of an onshore converter station and onshore substation) to convert HVDC power to HVAC power and step down voltage from 320-kV to 138-kV; and
  - Three 138-kV cable circuits, each with nine HVAC onshore interconnection cables, buried underground from the onshore substation facility to the Astoria West POI (approximately 1,400 ft [427 m]).

This Exhibit addresses the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 86.8.

## 7.2 Local Ordinance Summary

The NY Project is proposed to be sited in the Long Island Sound, traversing several municipalities along the north shore of Long Island in Nassau County and Suffolk County, New York, as well as in Queens, New York, a borough of New York City that is coterminous with Queens County. Queens County does not have independent regulations, codes, or policies because it is wholly governed by the City of New York. This Exhibit therefore identifies the substantive Local Ordinance provisions of Nassau County, applicable municipalities along the Long Island Sound, and New York City that are applicable or potentially applicable to the NY Project. For technical codes to which the NY Project may be subject, this Exhibit summarizes their contents and affirms that the Applicant will comply with their substantive requirements.

The Local Ordinances listed below include provisions that require that permits, licenses, or other approvals be obtained from local authorities; although the procedural requirements of such Local Ordinances are preempted by PSL § 130, the Applicant will comply with the substantive requirements of those Local Ordinances. Local Ordinances that only contain procedural requirements have been omitted. The Applicant contends that certain of those Local Ordinances are unreasonably restrictive in view of the existing technology, factors of costs or economics, or the needs of consumers. Therefore, following the description of each Local Ordinance, the Applicant herein identifies whether the Local Ordinance is unreasonably restrictive and, if so, provides the justification for that determination. Pursuant to 16 NYCRR § 86.8, the Applicant will not comply with the substantive requirements of any Local Ordinance that the Commission determines is unreasonably restrictive. **Table 7.2-1** provides a summary of the potentially applicable Local Ordinances, and whether the Applicant contends such Ordinance is unreasonably restrictive. The text of each of these ordinances is provided in **Appendix K, Local Ordinances**.

**TABLE 7.2-1 SUMMARY OF LOCAL ORDINANCES**

Ordinance	Compliance or Request for Relief
<b>New York City Zoning Resolution</b>	
<b>Article IV, Chapter 2, Manufacturing District – Use Regulations</b>	The Applicant requests a waiver from the requirements of § 42-21 and § 42-22 because they are unreasonably restrictive in view of available technology.
<b>Article IV, Chapter 2, Manufacturing District – Bulk Regulations</b>	The Applicant requests a waiver from the requirements of § 43-12, § 43-26, § 44-21, § 44-22, § 44-31, § 44-41, § 44-42, § 44-52, and § 44-582 because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Article VI, Chapter 2, Special Regulations Applying in the Waterfront Areas</b>	The Applicant will comply with the substantive requirements of this chapter.

<p><b>Article VI, Chapter 4, Special Regulations Applying in Flood Hazard Areas</b></p>	<p>To the extent this optional chapter is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&amp;CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.</p>
<p><b>New York City Administrative Code</b></p>	
<p><b>Title 18, Parks</b></p>	<p>The Applicant will comply with the applicable substantive provisions of this section of the Code.</p>
<p><b>Title 19, Transportation</b></p>	<p>The Applicant will comply with the applicable substantive provisions of this section of the Code.</p>
<p><b>Title 24, Environmental Protection and Utilities</b></p>	<p>The Applicant requests a waiver from the requirements of the New York City Noise Control Code § 24-220 through § 24-224, § 24-228, § 24-228.1, § 24-229, 24-232 and the Drainage and Sewer Control Code § 24-508 and § 24-513. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.</p>
<p><b>Title 27, Construction and Maintenance, Chapter 3</b></p>	<p>The Applicant requests a waiver from these requirements as they are unreasonably restrictive in view of existing technology and economics, and because this Local Ordinance is not designed for the construction or operation of major electric transmission facilities.</p>
<p><b>Title 28, New York City Construction Codes</b></p>	<p>The Applicant requests a waiver from these requirements as they are unreasonably restrictive in view of existing technology and economics, and because this Local Ordinance is not designed for the construction or operation of major electric transmission facilities.</p>
<p><b>Title 29, New York City Fire Code</b></p>	<p>The Applicant will comply with the substantive provisions of this code.</p>

<b>Rules of the City of New York</b>	
<b>Title 1, Department of Buildings</b>	The Applicant requests a waiver from this section of the Rules because it is unreasonably restrictive in view of existing technology.
<b>Title 15, Department of Environmental Protection</b>	The Applicant requests a waiver from the requirements of § 8-01, § 13-04, § 13-05, § 13-06, § 13-08, § 28-101, § 28-102 and § 28-103. These requirements are unreasonably restrictive in view of costs, economics, and the needs of consumers.
<b>Title 34, Department of Transportation</b>	The Applicant requests a waiver from the requirements of § 2-06 and § 4-15 because they are unreasonably restrictive in view of factors of existing technology, costs and economics.
<b>Title 62, Department of City Planning</b>	The NY Project will be consistent with the substantive provisions of the Waterfront Revitalization Program policies section as detailed in <b>Appendix I, Coastal Consistency Statements</b> .
<b>Title 66, Department of Small Business Services</b>	The Applicant will comply with the applicable substantive provisions of this section of the Code.
<b>Town of East Hampton Code</b>	
<b>Part II: General Legislation</b>	The Applicant requests a waiver from the requirements of § 185-2, § 185-3, §185-4 and § 213-10 of the Code because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Land Use</b>	The Applicant requests a waiver from the requirements of § 255-4-20 and § 255-5-51 of the Code because they are unreasonably restrictive in view of existing technology.
<b>Town of Southold Code</b>	
<b>Part II: General Legislation</b>	The Applicant requests a waiver from the requirements of § 180-6, § 219-19, and § 280-11 of the Code because they are unreasonably restrictive in view of existing technology, factors

	of cost and economics, and the needs of consumers.
<b>Town of Riverhead Code</b>	
<b>Part II: General Legislation</b>	The Applicant requests a waiver from the requirements of § 229-7.1, § 251-5 and § 293-56 of the Code because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Town of Brookhaven Code</b>	
<b>General Legislation</b>	The Applicant requests a waiver from the requirements of § 13-11 and § 50-6 of the Code because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Land Use Legislation</b>	The Applicant requests a waiver from the requirements of § 81-7, § 81-10 and § 81-15 of the Code because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Town of Smithtown Code</b>	
<b>Part II: General Legislation</b>	The Applicant requests a waiver from the requirements of § 154-6, § 207-2 and § 318-4 of the Code because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Town of North Hempstead Code</b>	
<b>General Legislation</b>	The Applicant requests a waiver from the requirements of § 38-3, § 45-5 and § 69-12 of the Code because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Town of Oyster Bay Code</b>	
<b>Part II: General Legislation</b>	The Applicant requests a waiver from the requirements of § 156-4, § 156-7, § 196-38, § 241-25, § 10.3.1 and § 10.3.2 of the Code because they are unreasonably restrictive in

	view of existing technology and factors of cost and economics.
<b>Town of Huntington Code</b>	
<b>Part II: General Legislation</b>	The Applicant requests a waiver from the requirements of § 120-21, § 137-10, § 137-11, § 137-32, § 141-3, § 141-4, § 143-6 and § 166-14 of the Code because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Nassau County Administrative Code</b>	
<b>Chapter I: Board of Supervisors</b>	The Applicant requests a waiver from the requirements of § 1-6.0 because they are unreasonably restrictive in view of existing technology and factors of cost and economics.
<b>Chapter VIII: Department of Police</b>	The Applicant will comply with the applicable substantive provisions of this Chapter.
<b>Chapter XXI: Miscellaneous Officers</b>	The Applicant will comply with the applicable substantive provisions of this Chapter.
<b>Nassau County Fire Prevention Ordinance</b>	
<b>Fire Prevention Ordinance</b>	The Applicant will comply with the applicable substantive provisions of this Ordinance.
<b>Suffolk County Administrative Code</b>	
<b>Part II: Regulatory Local Laws</b>	The Applicant will comply with the applicable substantive provisions of this Part.

### 7.3 City of New York Local Ordinances

The Applicant has identified the following New York City Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

#### 7.3.1 New York Zoning Resolution

The Zoning Resolution provisions identified in this Exhibit apply to both the proposed NYPA Site landfall alternative (“NYPA Alternative”) and the Luyster Creek landfall alternative (“Luyster Alternative”) unless otherwise specified.

The landed portion of the NY Project – at either the proposed NYPA or alternative Luyster Creek location – will be located within the M3-1 Zoning District and the Coastal Zone Boundary, and partially within the high-risk flood zone (Zone A).

For the proposed NYPA Alternative, based on the definition of Zoning Lot provided in Article I, Chapter 2 § 12-10 of the New York Zoning Resolution, the Applicant considers the tax lot to be the Zoning Lot for the onshore substation (Queens, Block 850, Lot 100). For the Luyster Alternative, the chain of title indicates that the Zoning Lot for the onshore substation parcel is either Queens, Block 850, Lot 1 or Queens, Block 850, Lot 350. For purposes of this Article VII application, the Applicant has determined its obligations under the Zoning Resolution for both Zoning Lots 1 and 350.

### *7.3.1.1 Article IV, Chapter 2, Manufacturing District – Use Regulations*

#### § 42-14 – Use Group 17

This provision of the Zoning Resolution states that an electric substation is a use permitted as-of-right as part of Use Group 17-C.

*The Applicant will comply with the substantive provisions of this section.*

#### § 42-21 – Performance Standards Regulating Noise

This provision of the Zoning Resolution sets forth the maximum permitted decibel levels for all activity in manufacturing districts.

*To the extent this provision of the Code is applicable, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of noise conditions exceeding the Local Law's performance standards, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its Environmental Management and Construction Plan (EM&CP). Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction and operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 42-22 – Performance Standards Regulating Vibration

This provision of the Zoning Resolution sets forth the maximum permitted steady state vibration displacement for all activity in manufacturing districts.

*To the extent this Local Law is applicable, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to vibration limits to the extent that construction activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the*

*Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction and operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 42-23 – Performance Standards Regulating Smoke, Dust and Other Particulate Matter

This provision of the Zoning Resolution sets forth the maximum permitted density of smoke and dust emissions, and requires that emission of smoke and other particulate matter be controlled in a manner and quantity of emission as not to be detrimental to or endanger public health, safety, or comfort, or cause property damage.

*The Applicant will comply with the substantive provisions of this section.*

#### § 42-24 – Performance Standards Regulating Odorous Matter

This provision of the Zoning Resolution prohibits the emission of odorous matter in such quantities as to produce a public nuisance or hazard at or beyond lot lines.

*The Applicant will comply with the substantive provisions of this section.*

#### § 42-25 – Performance Standards Regulating Toxic Noxious Matter

This provision of the Zoning Resolution requires that the emission of toxic or noxious matter be in accordance with limits established by the New York City Department of Environmental Protection (NYCDEP), and that the emission be so controlled that no concentration at or beyond lot lines shall be detrimental to or endanger public health, safety, or comfort, or cause property damage.

*The Applicant will comply with the substantive provisions of this section.*

#### § 42-27 – Performance Standards Regulating Fire and Explosive Hazards

This provision of the Zoning Resolution establishes standards for the storage and use of flammable materials.

*The Applicant will comply with the substantive provisions of this section.*

#### § 42-28 – Performance Standards Regulating Humidity, Heat or Glare

This provision of the Zoning Resolution requires that any activity producing excessive humidity in the form of steam or moist air, or producing intense heat or glare, shall be carried out in such a manner as not to be perceptible at or beyond the district boundary.

*The Applicant will comply with the substantive provisions of this section.*

### § 42-52 – Permitted Signs

This provision of the Zoning Resolution states that signs are permitted, subject to the requirements of this section, including those set forth in § 42-53, § 42-54, and § 42-56.

*The Applicant will comply with the substantive provisions of this section.*

### § 42-53 – Surface Area and Illumination Provisions

This provision of the Zoning Resolution states that no illuminated sign shall have a degree or method of illumination that exceeds standards established by the New York City Department of Buildings by rule pursuant to the City Administrative Procedure Act. Such standards shall ensure that illumination on any illuminated sign does not project or reflect on residences or joint living-work quarters for artists so as to interfere with the reasonable use and enjoyment thereof. The total surface area of all permitted signs, including non-illuminated or illuminated signs, shall not exceed the limitation established for non-illuminated signs. Non-illuminated signs with total surface areas not exceeding six times the street frontage of the zoning lot, in feet, but in no event more than 1,200 square feet for each sign, are permitted. Illuminated or flashing advertising signs are not permitted.

Illuminated or flashing signs, other than advertising signs, and accessory or advertising signs with indirect illumination are permitted, provided that the total surface area of all such signs, in square feet, shall not exceed: (a) for illuminated or flashing signs other than advertising signs, five times the street frontage of the zoning lot, in feet, and that the surface area of each sign shall not exceed 500 square feet; and (b) for accessory or advertising signs with indirect illumination, five times the street frontage of the zoning lot, in feet, and that the surface area of each sign shall not exceed 750 square feet.

*The Applicant will comply with the substantive provisions of this section.*

### § 42-54 – Permitted Projection or Height of Signs

This provision of the Zoning Resolution states that all permitted signs are subject to the applicable regulations of this section, including the following: (a) no permitted signs shall project across a street line more than 18 inches for a double- or multi-faceted sign or 12 inches for all other signs; (b) non-illuminated signs may be displayed on awnings or canopies permitted by the Administrative Code, with a surface area not exceeding 12 square feet and with the height of letters not exceeding 12 inches. Any commercial copy on such signs shall be limited to identification of the name or address of the building or an establishment contained therein; (c) signs may be displayed on marquees permitted by the Administrative Code, provided that no such sign shall project more than 48 inches above nor more than 12 inches below such marquee; and (d) permitted signs shall not extend to a height greater than 40 feet above curb level, provided that non-illuminated signs or signs with indirect illumination may extend to a maximum height of 75 feet.

*The Applicant will comply with the substantive provisions of this section.*

### § 42-561 – Restrictions along district boundary located in a street

This provision of the Zoning Resolution states that within 100 feet of the street line of any street or portion thereof in which the boundary of an adjoining Residence District is located, or which adjoins a public park of one-half acre or more, advertising signs that face at an angle of less than 165 degrees away from such Residence District or park boundary shall not be permitted and all other signs facing at less than such an angle shall conform with all the sign regulations applicable in C1 Districts.

*This provision only applies to the Luyster Alternative. The Applicant will comply with the substantive provisions of this section.*

### 7.3.1.2 Article IV, Chapter 2, Manufacturing District – Bulk Regulations

#### § 43-12 – Maximum Floor Area Ratio

This provision of the Zoning Resolution sets forth the maximum floor area ratio (2.00) for buildings in the M3 zoning district.

*The new substation for the project will be located in the M3 District. In the event this Local law could be construed as a prohibition on the construction and operation of the NY Project's substation within the M3 zoning district, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. The size of the substation, including the floor area, will be dictated by project engineers and designed in conformity with applicable standards for major electric substations. The NY Project meets consumers' needs by helping meet long-term electric capacity needs and clean energy goals for New York State. There is no more cost effective way to meet this need using existing technology.*

#### § 43-22 – Level of Yards

This provision of the Zoning Resolution states that the level of a yard or rear yard equivalent shall not be higher than curb level; however, this provision does not require that natural grade level be disturbed to comply with this requirement. This provision also states that no building or other structure shall be erected above ground level in any required yard or rear yard equivalent except as otherwise provided in § 43-23, below.

*The Applicant will comply with the substantive provisions of this section.*

#### § 43-23 – Permitted Obstructions in Required Yards or Rear Yard Equivalents

This provision of the Zoning Resolution sets forth obstructions that are permitted within a required yard or rear yard equivalent, including eaves, gutters, or downspouts, projecting into such yard or rear yard equivalent the lesser of not more than 16 inches or 20 percent of the width of the yard or rear yard equivalent; fences; parking spaces for automobiles or bicycles; power systems; steps and ramps; and walls not exceeding eight feet in height and not roofed or part of a building. This provision further sets forth obstructions that are permitted in any rear yard or rear yard equivalent, including any building or portion of a building used for any permitted use, provided that the height of such building does not exceed one story or is 23 feet above curb level; breezeways; fire escapes; parking spaces for automobiles or bicycles, provided that the height of the accessory building used for such purposes

does not exceed 23 feet above curb level; and solar energy systems on the roof of a building (limited to 18 inches in height when located above a shed or detached parking structure, or on any roof with a slope greater than 20 degrees).

*The Applicant will comply with the substantive provisions of this section.*

#### § 43-24 – Measurement of Yard Width or Depth

This provision of the Zoning Resolution states that the width or depth of a yard or rear yard equivalent shall be measured perpendicular to lot lines.

*The Applicant will comply with the substantive provisions of this section.*

#### § 43-25 – Minimum Required Side Yards

This provision of the Zoning Resolution states that no side yards are required, but if an open area extending along a side lot line is provided, it shall be at least eight feet wide.

*The Applicant will comply with the substantive provisions of this section.*

#### § 43-26 – Minimum Required Rear Yards

This provision of the Zoning Resolution requires a rear yard with a depth of not less than 20 feet at every rear lot line on any zoning lot, except as otherwise provided in the Zoning Resolution.

*This provision is only potentially applicable to the Luyster Alternative. To the extent this provision is applicable, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive at this location, where the rear lot line coincides with the East River, and in view of existing technology and factors of cost and economics. The NY Project meets consumers' needs by helping meet long-term electric capacity needs and clean energy standard goals for New York State. If the Luyster Alternative is utilized, there is no more cost effective way to meet this need using existing technology.*

#### § 44-21 – Required Accessory Off-Street Parking Spaces for Manufacturing, Commercial or Community Facility Uses, General Provisions

This section of the Zoning Resolution states that accessory off-street parking spaces, open or enclosed, shall be provided in conformity with the requirements set forth in the table in this section. For Use Group 17C in the M3-1 District, one parking space is required per 2,000 square feet of floor area, or one space per three employees, whichever will require a lesser number of parking spaces.

*The Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Requirements to build parking would add unnecessary costs to project construction.*

#### § 44-22 – Special Provisions for a Single Zoning Lot With Uses Subject to Different Parking Requirements

This section of the Zoning Resolution states that, where any building or zoning lot contains two or more uses having different parking requirements as set forth in section 44-21, the parking requirements for each type of use shall apply to the extent of that use.

*To the extent this provision is applicable to the NY Project, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Requirements to build parking would add unnecessary costs to project construction.*

#### § 44-31 – Restrictions on Location and Use of Accessory Off-Street Parking Spaces, General Provisions

This section of the Zoning Resolution states that all permitted or required off-street parking spaces, open or enclosed, accessory to any permitted use shall be provided on the same zoning lot as the building or use to which such spaces are accessory, except as otherwise set forth in sections 44-32, 44-33 and 44-34 (see below), and 73-45 (not applicable).

*To the extent this provision is applicable to the NY Project, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Requirements to build parking would add unnecessary costs to project construction.*

#### § 44-41 – General Provisions

This section of the Zoning Resolution states that all permitted or required off-street parking spaces shall conform to the requirements of this section.

*To the extent this provision is applicable to the NY Project, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Requirements to build parking would add unnecessary costs to project construction.*

#### § 44-42 – Size and Identification of Spaces

This section of the Zoning Resolution sets forth the required size of parking spaces. This provision states that accessory off-street parking spaces, open or enclosed, each 300 square feet of unobstructed standing or maneuvering area, shall be considered one parking space. However, an area of less than 300 square feet, but in no event less than 200 square feet, may be considered as one space, where the layout and design of the parking area are adequate to permit convenient access and maneuvering in accordance with regulations promulgated by the Commissioner of the Department of Buildings, or where the applicant for a building permit or certificate of occupancy certifies that such spaces will be fully attended. Furthermore, driveways used to access required parking spaces must be unobstructed for a width of at least eight feet and a height of eight feet above grade, and if connecting to a street, such driveway may only be accessed by a curb cut. In any case, where a

reduction of the required area per parking space is permitted on the basis of the applicant's certification that such spaces will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces shall be available to handle the parking and moving of automobiles at all times when such spaces are in use. In no event shall the dimensions of any parking stall be less than 18 feet long and 8 feet, 6 inches wide.

*To the extent this provision is applicable to the NY Project, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Requirements to build parking would add unnecessary costs to project construction.*

#### § 44-43 – Location of Access to the Street

This section of the Zoning Resolution states that the entrances and exits of all permitted or required accessory group parking facilities and all permitted public parking lots or public parking garages with 10 or more spaces, shall be located not less than 50 feet from the intersection of any two street lines. However, access located within 50 feet of such intersection may be permitted if the Commissioner of Buildings certifies that such a location is not hazardous to traffic safety and is not likely to create traffic congestion. The Commissioner of Buildings may refer such matter to the Department of Transportation for a report and may base its determination on such report.

The waiver provisions of section 44-24 (Waiver of Requirements for All Zoning Lots Where Access Would Be Forbidden) shall apply when the Commissioner of Buildings has certified that there is no way to arrange the spaces with access to the street to conform to the provisions of this section.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 44-44 – Surfacing

This section of the Zoning Resolution requires that all open accessory off-street parking spaces or permitted public parking lots be graded, constructed, surfaced, and maintained so as to provide adequate drainage and to prevent the release of dust, in accordance with rules and regulations promulgated by the Commissioner of Buildings. Any area intended to be used permanently for an open accessory group parking facility shall be surfaced with asphaltic or Portland cement concrete, or other hard-surfaced dustless material, at least four inches thick. However, permeable paving materials may be used in open parking areas where the Commissioner of Buildings determines that such materials are appropriate.

*The Applicant will comply with the substantive provisions of this section.*

#### § 44-52 – Required Accessory Off-Street Loading Berths

This provision sets forth the requirements for accessory off-street loading berths. For manufacturing uses within the M3-1 district, no off-street loading berths are required for the first 8,000 square feet of development. One off-street loading berth is required for the next 17,000 square feet of development.

*To the extent this provision is applicable to the NY Project, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Requirements to build an off-street loading berth would add unnecessary costs to project construction.*

§ 44-582 – Location of access to the street

This provision of the Zoning Resolution states that no permitted or required accessory off-street loading berth, and no entrance or exit thereto, shall be located less than 50 feet from the intersection of any two street lines. However, a location closer to such intersection may be permitted if the Commissioner of Buildings certifies that such a location is not hazardous to traffic safety and not likely to create traffic congestion. The Commissioner of Buildings may refer such matter to the Department of Transportation for a report and may base a determination on such a report. In addition, this provision states that the waiver provisions of section 44-55 shall apply when the Commissioner of Buildings has certified that there is no way to arrange the berths with access to the street to conform to the provisions of this section.

*To the extent this provision is applicable to the NY Project, the Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Requirements to build an off-street loading berth would add unnecessary costs to project construction.*

§ 44-584 – Surfacing

This provision of the Zoning Resolution states that all permitted open off-street loading berths shall be surfaced with asphaltic or Portland cement concrete, or other hand-surfaced dustless material, at least six inches thick.

*The Applicant will comply with the substantive provisions of this section.*

§ 44-585 – Screening

This provision of the Zoning Resolution states that all permitted or required open off-street loading berths which are located on zoning lots adjacent to the boundary of a Residence District shall be screened from all adjoining zoning lots in Residence Districts, including zoning lots situated across a street, by either a strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; or a wall or barrier or uniformly painted fence of fire-resistant material, at least six feet but not more than eight feet above finished grade. Such screening must be maintained in good condition at all times, may be interrupted by normal entrances or exists, and shall have no signs hung or attached thereto other than those permitted in section 42-52 (permitted signs).

*This provision only applies to the Luyster Alternative. The Applicant will comply with the substantive provisions of this section.*

### 7.3.1.3 Article VI, Chapter 2, Special Regulations Applying in the Waterfront Areas

#### § 62-30 – Special Bulk Regulations

This provision of the Zoning Resolution requires that all zoning lots within waterfront blocks comply with the bulk regulations of this section.

*The Applicant will comply with the substantive provisions of this section.*

#### § 62-31 – Bulk Computations on Waterfront Zoning Lots

This provision of the Zoning Resolution sets forth requirements for computing areas of the upland lot.

*The Applicant will comply with the substantive provisions of this section.*

#### § 62-326 – Buildings in Manufacturing District

This provision of the Zoning Resolution states that the maximum floor area ratio on waterfront blocks in manufacturing districts shall be in accordance with the applicable district regulations, except that no floor area bonuses shall be permitted.

*The Applicant will comply with the substantive provisions of this section.*

#### § 62-33 – Special Yard Regulations on Waterfront Blocks

This provision of the Zoning Resolution states that for developments in Manufacturing Districts comprised predominantly of uses in Use Group 17, yards shall be provided in accordance with the applicable district regulations.

*The Applicant will comply with the substantive provisions of this section.*

#### § 62-451 – Parking spaces on floating structures

This provision of the Zoning Resolution states that no accessory parking spaces shall be located on a floating structure except in conjunction with a special permit.

*The Applicant will comply with the substantive provisions of this section.*

### 7.3.1.4 Article VI, Chapter 4, Special Regulations Applying in Flood Zones

#### § 64-12 –Applicability

This provision of the Zoning Resolution contains optional provisions that apply to zoning lots located wholly or partially within flood zones.

*The Luyster Alternative and NYPA Alternative are both located partially within the high-risk flood zone (Zone A). To the extent this optional Local Law is applicable to the NY Project, the Applicant will*

*comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-22 – Special Use Regulations for Flood-resistant Buildings

This provision of the Zoning Resolution contains optional provisions that apply to zoning lots located wholly or partially within flood zones, which may be applied to zoning lots containing flood-resistant buildings. The provisions of this section modify the measurement of building height and ground floor use.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-31 – Special Bulk Regulations for All Buildings

This provision of the Zoning Resolution sets forth optional special bulk regulations applicable to zoning lots located wholly or partially within flood zones.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-311 – Special floor area modifications for all buildings

This provision of the Zoning Resolution sets forth optional modifications to special floor area regulations in zoning lots located wholly or partially within flood zones.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-312 – Permitted obstructions in required yards, courts, and open spaces for all zoning lots

This provision of the Zoning Resolution sets forth optional modifications to the regulations for permitted obstructions in yards, courts, and open spaces in zoning lots located wholly or partially within flood zones.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-313 – Special height and setback regulations for all buildings

This provision of the Zoning Resolution sets forth optional modifications to height and setback regulations for bulkheads and mechanical equipment in zoning lots located within manufacturing districts and wholly or partially within flood zones.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-321 – Measurement of height for flood-resistant buildings

This provision of the Zoning Resolution provides an alternative to measuring heights from base plane, curb level, or other applicable datum for height measurements in flood zones.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-322 – Special floor area modifications for flood-resistant buildings

This provision of the Zoning Resolution modifies the definition of floor area for flood-resistant buildings.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

#### § 64-323 – Special regulations for required yards and open spaces for zoning lots with flood-resistant buildings

This provision of the Zoning Resolution modifies the regulations for yards and open space for zoning lots with flood-resistant buildings.

*To the extent this optional Local Law is applicable to the NY Project, the Applicant will comply with the Certificate Conditions, EM&CP, and the standards of ASCE 24 with respect to flood-resistant design and construction.*

### 7.3.2 New York City Administrative Code

#### 7.3.2.1 Title 18, Parks

##### § 18-107 – Replacement of trees

This provision of the Code requires that any person that intends to remove a tree within the jurisdiction of the Commission, including trees located in streets, obtain a permit from the Department, and sets forth various requirements for the replacement of such trees.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### 7.3.2.2 Title 19, Transportation

#### § 19-102 – Unlawful use or opening of street

This provision of the Code requires any person removing, opening, disturbing the pavement of, or excavating in, a public street, or using any part of a public street in a way that obstructs travel on the same, to (i) obtain a permit from the New York City Department of Transportation (NYCDOT) and (ii) conduct any such activity in compliance with § 24-521 of the Code, which requires notice to public service corporations whenever any sewer, culvert, water main or pipe is constructed, altered, or repaired in any street in which the pipes, mains, or conduits of public service corporations are laid.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 19-103 – Permits

This provision of the Code sets forth the requirements for obtaining a permit under this section, and states that each permit shall be subject to such reasonable conditions as the commissioner may determine are necessary to protect public safety and safeguard the interests of the City.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain such local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 19-107 – Temporary closing of streets

This provision of the Code prohibits the partial or entire closure of a street to pedestrian or vehicular traffic without a NYCDOT permit. If the street will be closed for over 180 consecutive days, NYCDOT must issue a community reassessment, impact, and amelioration statement before the 210th day of the closure.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 19-108 – Display of permit

This provision of the Code requires that a copy of any permit issued pursuant to this subchapter be kept on the site of the opening or use or at the designated field headquarters of the work with respect to which the permit was issued, and must be presented on demand.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 19-109 – Protection at work site

This provision of the Code requires that any person who removes, opens, or otherwise disturbs the pavement of or excavates in a public street, or uses any part of the public street so as to obstruct travel, shall provide barriers, shoring, lighting, warning signs, or other protective measures in accordance with the rules of the department, and these protective measures shall be maintained

according to the rules until the work is completed or the danger removed. Legible signs must be displayed, indicating the names of the permittee, the person for whom the work is being done, and any contractors.

*The Applicant will comply with the substantive provisions of this section.*

#### § 19-111 – Curbs

This provision of the Code requires that all curbs for the support of sidewalks comply with the NYCDOT specifications for such work.

*The Applicant will comply with the substantive provisions of this section.*

#### § 19-112 – Ramps on curbs

This provision of the Code requires that, in the construction and installation of all new and reconstructed curbs at corner-located street intersections and pedestrian crosswalks not located at street intersections, provision shall be made for the installation of two ramps at corners located at street intersections and one ramp at pedestrian crosswalks not located at street intersections.

*The Applicant will comply with the substantive provisions of this section.*

#### § 19-113 – Construction generally

This provision of the Code requires that the materials and construction of streets, including the asphaltic concrete used in streets, comply with NYCDOT specifications for such work.

*The Applicant will comply with the substantive provisions of this section.*

#### § 19-115 – Paving, generally

This provision of the Code requires that all streets be paved and arched in full accordance with NYCDOT specifications for such work.

*The Applicant will comply with the substantive provisions of this section.*

#### § 19-117 – Licensing of vaults

This provision of the Code prohibits the construction of a vault without an NYCDOT license or a revocable consent issued pursuant to chapter 14 of the City Charter and applicable rules. Vaults must be constructed in accordance with the provisions of the New York City Building Code. A license does not permit vault construction to extend beyond the line of the sidewalk or curbstone of any street.

*The Applicant will comply with the substantive provisions of this section and will seek a revocable consent from NYCDOT if applicable.*

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### § 19-118 – Construction

This provision of the Code requires that all vaults be constructed of materials conforming to the requirements of the Building Code, and so that the outward side of the grating/opening is within 12 inches of the outside of the curbstone of the sidewalk.

*The Applicant will comply with the substantive provisions of this section.*

### § 19-119 – Vault openings; protection of

This provision of the Code prohibits any person from removing or insecurely fixing, or causing, procuring, suffering, or permitting to be removed or insecurely fixed any grate or covering or aperture of any vault or chute under any street.

*The Applicant will comply with the substantive provisions of this section.*

### § 19-121 – Construction and excavation sites; storage of materials and equipment on street

This provision of the Code requires a permit before any portion of a street may be obstructed with construction materials or equipment, and sets forth conditions for the permit, including: the permit must be posted conspicuously; sidewalks, gutters, crosswalks and driveways must be kept clear and unobstructed at all times, although NYCDOT may authorize encumbrance of the sidewalk with equipment/material which will not prevent safe passage of pedestrians; the outer surface of construction material or equipment must be clearly marked with high intensity fluorescent paint, reflectors, or other marking which is capable of producing a warning glow when illuminated; all construction material and equipment must display the name, address and telephone number of the owner; the street under such construction material or equipment must be shielded by wooden planking, skids, or other protective covering approved by the commissioner; and construction material or equipment cannot obstruct a fire hydrant, bus stop, or any other area as set forth in the rules of the department the obstruction of which would impair the safety or convenience of the public.

*The Applicant will comply with the substantive provisions of this section.*

### § 19-122 – Removal of debris

This provision of the Code requires that any person other than the commissioner of environmental protection or the commissioner of design and construction who paves or causes any street to be paved, must remove the sand, dirt, rubbish, or debris from such street and every part thereof, within 7 days after the pavement is completed.

*The Applicant will comply with the substantive provisions of this section.*

### § 19-127 – Use of hand trucks on the streets

This provision of the Code prohibits any person from using hand trucks for commercial purposes upon any street unless each hand truck shall have attached thereon a sign or plate displaying the name and address of the owner.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 19-137 – Land Contour Work

This provision of the Code requires a permit for “land contour work,” including clearing, grubbing, grading, filling, or excavating vacant lots and other land areas. It prohibits the creation or maintenance of a condition that will interfere with existing drainage unless a substitute is provided which is satisfactory to the NYCDOT commissioner and the commissioner of environmental protection.

*The Applicant will comply with the substantive provisions of this section. The Applicant will prepare a Stormwater Pollution Prevention Plan (SWPPP) and obtain a Stormwater Construction Permit from NYCDEP and coverage under the State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-20-001). Other procedural requirements, including any requirement to obtain a local permit, are preempted under PSL § 130.*

#### § 19-139 – Excavations for private purposes

This provision of the Code requires that the person by whom or for whose benefit any excavation is to be made in any street give notice in writing to any corporation whose pipes, mains, or conduits are laid in the street about to be disturbed by such excavation at least 48 hours before commencing the same; and shall, at his or her expense, sustain, secure and protect such pipes, mains or conduits from injury, and replace and pack the earth wherever the same shall have been removed, loosened or disturbed, under or around them, so that they shall be well and substantially supported.

*The Applicant will comply with the substantive provisions of this section.*

#### § 19-142 – Workers on excavations

This provision of the Code requires a person to whom a permit may be issued to use or open a street shall be required, before such permit may be issued, to agree that none but competent workers shall be employed, and that the prevailing scale of union wages shall be the prevailing wage for similar titles as established by the fiscal officer pursuant to section two hundred twenty of the labor law, paid to those so employed.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 19-144 – Issuance of permit to open street within five years after completion of city capital construction project requiring resurfacing or reconstruction of such street

This provision of the Code requires that any person proposing to install facilities in, on, or over any street must review the City’s capital budget, capital plan, and capital commitment plan. No permit to use or open any street will be issued within five years after the completion of a capital project relating to such street requiring resurfacing or reconstruction unless the person demonstrates that the need for the work could not have reasonably been anticipated prior to or during such construction.

*The Applicant will comply with the substantive provisions of this section.*

§ 19-146 – Prevention of disturbances of street surface

This provision of the Code requires a permit before any person may: (1) fill in or raise, or cause to be filled in or raised, any street or any part thereof; or (2) take up, remove, or carry away, or cause to be taken up, removed, or carried away, any asphalt or asphalt blocks, concrete, flagstones, turf, stone, gravel, sand, clay or earth from any street or part thereof.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

§ 19-147 – Replacement of pavement and maintenance of street hardware

This provision of the Code requires any person who takes up any pavement, sidewalk, curb, or gutter in any street to restore such pavement, sidewalk, curb, or gutter to its proper condition to the satisfaction of NYCDOT. Whenever rock is excavated, not more than one-third of the total excavation shall be refilled with the broken stone, which must be in pieces not exceeding six inches in their largest dimension, mingled with clean earth and sand, and restored so as to insure the thorough and compact filling of all spaces. All utility maintenance hole (manhole) covers, castings, and other street hardware shall be maintained flush with the existing surrounding grade.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

§ 19-152 – Duties and obligations of property owner with respect to sidewalks and lots

This provision of the Code requires that an owner of any real property, at his or her own cost and expense, (1) install, construct, repave, reconstruct and repair the sidewalk flags in front of or abutting such property, including but not limited to the intersection quadrant for corner property, and (2) fence any vacant lot or lots, fill any sunken lot or lots and/or cut down any raised lots comprising part or all of such property whenever the commissioner of the department shall so order or direct.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

§ 19-153 – Inspection, testing and repair of electrical-related infrastructure

This provision of the Code applies to electrical-related infrastructure within New York City that is capable of emitting stray voltage, and includes the following requirements: (1) where practicable and appropriate to protect public safety, all local electric corporations shall utilize non-conductive protective materials to insulate electrical-related infrastructure to prevent stray voltage; (2) written guidelines and procedures for the annual inspection or testing of electrical-related infrastructure used to provide electrical service must be established and implemented; (3) every piece of qualifying electrical-related infrastructure (including underground cables) found to emit stray voltage must be repaired or made safe within 24 hours of such discovery; (4) by January 15 of each year, a written report must be submitted upon completion of the annual inspection, testing, and repair program; and (5) the electric

corporation must establish and implement a public educational program designed to inform the public how to identify and protect oneself from the dangers of stray voltage must be established and implemented.

*The Applicant will comply with the substantive provisions of this section.*

### 7.3.2.3 Title 24, Environmental Protection and Utilities

Title 24, Chapter 1 contains the New York City Air Pollution Control Code.

#### § 24-109 – Registrations

This provision of the Code requires that a contractor register with NYCDEP prior to undertaking activities that could cause air pollution, including: spraying insulating material; demolishing a building or structure; installing, altering, or using an individual boiler or water heater that has a heat input equal to or greater than three hundred fifty thousand Btu per hour but less than four million two hundred thousand Btu per hour; installing, altering, or using any boilers, including water heaters, that are owned by the same person in a single building and would not individually require a registration or certificate of operation, if in the aggregate such boilers have a heat input equal to or greater than three hundred fifty thousand Btu per hour; the use or operation of fuel burning equipment or portable equipment with a heat input equal to or greater than three hundred fifty thousand Btu per hour but less than four million two hundred thousand Btu per hour, except as otherwise provided in this section; the use or operation of any emergency generator that has an output equal to or greater than forty kilowatts; the use or operation of any portable generator with an output equal to or greater than forty kilowatts; the use or operation of a portable engine with an input equal to or greater than fifty horsepower but less than six hundred horse power, unless such engine is used to power self-propelled construction or landscaping equipment; the use or operation of a stationary generator, other than an emergency generator, with an output equal to or greater than forty kilowatts but less than four hundred fifty kilowatts; the use or operation of a stationary engine with an input of equal to or greater than fifty horsepower but less than six hundred horsepower; the use or operation of an engine with an input equal to or greater than fifty horsepower that is used exclusively at a construction site, unless such engine is used to power self-propelled construction or landscaping equipment; the use or operation of equipment with an environmental rating of C that produces a flow rate equal to or greater than one hundred standard cubic feet per minute but less than two thousand standard cubic feet per minute; the use or operation of a cogeneration system that has a total input equal to or greater than three hundred fifty thousand Btu per hour but less than four million two hundred thousand Btu per hour; the installation, use or operation of any flare; any other emission source or activity that the commissioner requires by rule to be registered with the department.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-141 – Emission of odorous air contaminants

This provision of the Code states that no person shall cause or permit the emission of an odorous air contaminant or steam or water vapor, if the air contaminant or steam or water vapor causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal

life, or causes or may cause damage to property or business, or if it reacts or is likely to react with any other air contaminant or natural air, or is induced to react by solar energy to produce a solid, liquid or gas or any combination thereof which causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or which causes or may cause damage to property or business.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-142 – Emission of air contaminants; standard smoke chart

This provision of the Code requires that no person shall cause or permit the emission of an air contaminant of a density which appears as dark or darker than number two on the standard smoke chart or of an opacity which obscures vision to a degree equal to or greater than smoke of number two density on the standard smoke chart; or a density which appears as dark or darker than number one on the standard smoke chart, but less than number two on said chart, or of such opacity as to obscure vision to a degree equal to or greater than smoke of number one density on the standard smoke chart, but less than number two on said chart, if such an emission continues for longer than two minutes in the aggregate in any sixty minute period.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-143 – Emission of air contaminant from internal combustion engine; visibility standard.

This provision of the Code requires that no person shall cause or cause or permit the emission of a visible air contaminant from the internal combustion engine of a motor vehicle that is stationary for longer than ten consecutive seconds, or after the vehicle has moved continuously for more than ninety yards. The operator or registered owner of a vehicle in violation of this section shall be responsible for such violation.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-145 – Emission of particulates

This provision requires equipment used in a process covered by 6 NYCRR § 212.3 meet requisite emission limits for particulates.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-146 – Preventing dust from becoming air-borne; spraying of insulating material and demolition regulated

This provision of the Code states that no person shall cause or permit any material that may generate dust to be transported or stored without taking such precautions as may be ordered by the commissioner or as established by the rules of the department to prevent dust from becoming air-borne; no person shall cause or permit a building or its appurtenances or a road to be constructed, altered or repaired without taking such precautions as may be ordered by the commissioner or as established by the rules of the department to prevent dust from becoming air-borne; no person shall

cause or permit any use, as defined by section 12-10 of the zoning resolution of the city of New York, to be implemented or maintained without taking reasonable precautions as established by the rules of the department, including, but not limited to, planting or covering, to prevent dust from becoming airborne; no person shall cause or permit the spraying of any insulating material, not otherwise prohibited by this code, in or upon any building or other structure during its construction, alteration or repair, unless he or she complies with the rules of the department regarding precautions for the spraying of insulating material; and no person shall cause or permit a building or other structure to be demolished, unless he or she complies with the precautions set forth in this section.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-147 – Emission of nitrogen oxides

This provision prohibits the use of fuel burning equipment covered by 6 NYCRR § 227-2 unless it meets requisite emission limits for nitrogen oxides.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-148 – Architectural coatings; solvents

This provision of the Code requires that certain architectural coatings be in compliance with volatile organic compound limits.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-149.6 – Stationary engines

Any stationary reciprocating compression ignition internal combustion engine that is required to obtain a certificate of operation pursuant to section 24-122 of this code shall be equipped with an engine certified to the tier four emissions standards established by the United States environmental protection agency as set forth in 40 CFR § 60.4201 or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent; On or after January 1, 2025, the certificate of operation for a stationary reciprocating compression ignition internal combustion engine will be renewed only if the owner or operator of such engine can demonstrate in accordance with department rules that the engine meets the tier four emissions standards established by the United States environmental protection agency as set forth in 40 CFR § 60.4201 or any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-151 – Emission of air contaminant; concealment and masking restricted

This provision of the Code requires that no person shall cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air

contaminant emitted, conceals an emission of the air contaminant which would otherwise violate subchapter six of this code.

This provision of the Code also prohibits any person causing or permitting the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes or may cause detriment to the health, safety or welfare of any person.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-152 – Malfunctions, breakdowns, and removal from service; emergency action plan

This provision of the Code sets forth the requirements for when any control apparatus required by this code is or will be inoperative for more than six hours.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-153 – Emissions of air contaminant; environmental ratings

This provision of the Code requires that no person shall cause, permit or allow the emission of an air contaminant from any equipment used in a process covered by 6 NYCRR 212 (process emission sources) where such emission exceeds permissible emission rates specified in the environmental ratings for process emissions sources.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-155 – Maintenance of equipment and apparatus

This provision of the Code requires that the owner of equipment and apparatus maintain such equipment in good operating order.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-156 – Use of fuel burning equipment without using apparatus prohibited.

This provision of the Code requires that no person shall cause or permit the use of fuel burning equipment that is fitted with apparatus, other than experimental apparatus, unless the required apparatus is used.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-159 – Use of less than fully automatic equipment using fuel oil and use of any fuel burning equipment using residual fuel oil; supervision by licensed person.

This provision of the Code requires that no person shall cause or permit the use of fuel burning equipment that uses fuel oil and is less than fully automatic, or the use of fuel burning equipment,

whether fully automatic or not, that uses residual fuel oil, except under the direct supervision of a person having a certificate of fitness pursuant to the New York City Fire Code.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-163 – Operation of motor vehicle; idling of engine restricted

This provision of the Code requires that no person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-168 – Use of proper fuel in fuel burning equipment

This provision of the Code requires that no person shall cause or permit the use of a kind or grade of fuel in fuel burning equipment that is not designed to burn that kind or grade of fuel. This provision prohibits any person from causing or permitting the burning of refuse material in fuel burning equipment unless the equipment is designed to burn refuse material; causing or permitting a boiler to burn residual fuel oil or fuel oil grade no. 4; and from causing or permitting the use of a kind or grade of fuel in a diesel powered generator other than ultra-low sulfur diesel.

*The Applicant will comply with the substantive provisions of this section.*

Title 24, Chapter 2 contains the New York City Noise Control Code.

§ 24-218 – General prohibitions

This provision of the Code prohibits any person from making or permitting to be made any unreasonable noise, but exempts construction devices and activities from this general prohibition.

*The Applicant will comply with the substantive provisions of this section during operation of the proposed transmission facility.*

§ 24-220 – Noise mitigation plan

This provision of the Code requires any person, corporation, or business entity performing construction work to adopt and implement a noise mitigation plan for each construction site in accordance with the provisions of this subchapter whenever any one or more of the construction devices or activities listed in § 24-219 (including sledgehammers, bulldozers, off-road construction vehicles other than trucks, pumps, blasting, power tools) are employed or performed at the site.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that*

*construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-221 – Alternative noise mitigation plan

This provision of the Code authorizes the commissioner to approve, upon application, an alternative noise mitigation plan for a particular construction site that does not strictly comply with the noise mitigation rules.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-222 – After-hours and weekend limits on construction work.

This provision of the Code limits construction work to weekdays between 7 a.m. and 6 p.m. After-hours work authorization may be obtained in certain circumstances set forth in § 24-223.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology to the extent that construction activities may require work outside of the specified hours in order to ensure the NY Project is completed on schedule, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Extended construction work hours, continuous construction and/or activities on weekends may be required for certain construction and installation work, including but not limited to when necessary for reasons of safety and/or to protect property or the environment, in order to comply with restrictions on daytime construction within roadways and public access, or as part of traffic impact minimization. Extended hours will also be required for testing and commissioning activities that are required to run continuously for longer than 12 hours. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-223 – After hours work authorization

This provision of the Code authorizes agencies to issue an after hours work authorization which permits construction work to be performed before 7 a.m. or after 6 p.m. on weekdays and/or weekends

under certain limited circumstances, including when planned construction activities will cause a minimal noise impact or when the work hours will cause the permit holder undue hardship and the permit holder has obtained an alternative noise mitigation plan pursuant to § 24-221.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology to the extent that construction activities may require work outside of the specified hours in order to ensure the NY Project is completed on schedule, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Extended construction work hours, continuous construction and/or activities on weekends may be required for certain construction and installation work, including but not limited to when necessary for reasons of safety and/or to protect property or the environment, in order to comply with restrictions on daytime construction within roadways and public access, or as part of traffic impact minimization. Extended hours will also be required for testing and commissioning activities that are required to run continuously for longer than 12 hours. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-224 – Construction work without noise mitigation plan unlawful

Where a noise mitigation plan is required, this provision of the Code prohibits construction work that does not comply with that plan.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology to the extent that construction activities may result in transient and temporary occurrences in exceedance of noise limits, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-226 – Air Compressors

This provision of the Code requires an appropriate muffler with no exhaust leaks for operation of an air compressor and sets maximum sound levels for air compressors.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-227 – Circulation devices

This provision of the Code sets maximum and cumulative sound levels for circulation devices.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-228 – Construction devices

This provision of the Code prohibits the use or operation of a construction device or combination of devices in such a way as to create an “unreasonable noise,” including, but not limited to, (1) sound, other than impulsive sound, attributable to the source or sources, that exceeds 85 Db(A) as measured 50 or more feet from the source or sources at a point outside the property line where the source or sources are located or as measured 50 or more feet from the source or sources on a public right-of-way; (2) Impulsive sound, attributable to the source, that is 15 Db(A) or more above the ambient sound level as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way; and (3) Sound that exceeds the decibel levels set forth in subdivision (d) of section 24-223 during the time that an after hours authorization is required to be in effect.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 24-228.1 – Exhausts

This provision of the Code prohibits any person from causing or permitting discharge into the open air of the exhaust of any device, including but not limited to any steam engine, diesel engine, internal combustion engine, power tools, compressors, or turbine engine, so as to create an unreasonable noise, as defined in § 24-228.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction and operation activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 24-229 – Containers and construction material

This provision of the Code prohibits any person from handling, transporting, or causing to be handled or transported on any public right-of-way any container or construction material in such a manner as to create an “unreasonable noise,” including, but not limited to, (1) sound, other than impulsive sound,

attributable to the source measured at a level of 10 Db(A) or more above the ambient sound level, as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way; and (2) impulsive sound, attributable to the source, measured at a level of 15 Db(A) or more above the ambient sound level, as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 24-230 – Paving breakers

This provision of the Code requires that a paving breaker be operated with a pneumatic discharge muffler, unless the breaker is operated hydraulically or electrically.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-232 – Allowable decibel levels-octave band measurement

This provision of the Code states that no person shall cause or permit a sound source operating in connection with any commercial or business enterprise to exceed the decibel levels in the designated octave bands set forth in this section.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its Environmental Management and Construction Plan (EM&CP). Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 24-236 – Motor vehicles

This provision of the Code states that no person shall cause or permit any motor vehicle to operate on a public right-of-way where the muffler or exhaust generates a sound that is plainly audible to another individual at a distance a certain distance, depending on the maximum gross weight of the vehicle. This provision also prohibits the use of compression brake systems on New York City streets with a

speed limit of less than 35 miles per hour except in cases of emergency, and sets total sound limits from motor vehicles operating on public rights-of-way.

*The Applicant will comply with the substantive provisions of this section.*

Title 24, Chapter 5 governs Drainage and Sewer Control

§ 24-508 – Construction of sewers by the owners of private property

This provision of the Code requires the submission of plans and specifications of the proposed sewer, a duplicate copy of the contract for the sewer's construction showing the cost thereof, and a satisfactory guarantee of the payment of the supervision of such construction to the commissioner of environmental protection, after which a permit for the construction of the proposed sewer shall be issued.

*In the event that this Local Law could be interpreted as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. The location and configuration of the NY Project's proposed transmission lines are a function of the appropriate span length and clearance, reliability and safety requirements, and are based on engineering design and industry-approved standards adopted specifically for the construction and operation of transmission facilities, with which the Applicant will comply, and will not include any sewer or related facilities.*

§ 24-509 – Construction of sewers

This provision of the Code prohibits any person from making a connection with any sewer or drain without a permit. It states that the permit applicant will be required to demonstrate that the proposed discharges to the sewer will be in compliance with section 24-523 of this chapter (see below) and regulations promulgated pursuant to that section.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

§ 24-513 – Constructors; license and bond

This provision of the Code requires that all openings into any sewers or drains be made by persons licensed by the NYCDEP commissioner to perform such work.

*In the event that this Local Law could be interpreted as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. The location and configuration of the NY Project's proposed transmission lines are a function of the appropriate span length and clearance, reliability and safety requirements, and are based on engineering design and industry-approved standards adopted specifically for the construction and operation of transmission facilities, with which the Applicant will comply, and will not include any sewer or related facilities.*

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#### § 24-514 – Sewer rents

This provision of the Code requires that the owner of any parcel of real property connected with the sewer system, including but not limited to real property connected with the sewer system by means of a private sewer or drain emptying into the sewer system, pay a sewer rent or charge for the use of the sewer system.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 24-518 – Obstructing substances

This provision of the Code prohibits any person from permitting any substance to flow or pass into any sewer, drain or receiving basin, connecting with a public sewer, if such substance may form a deposit tending to choke such sewer, drain or basin.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-519 – Volatile, flammable liquids

This provision of the Code prohibits any connection with, opening into, or gutter leading into, any sewer or drain, either public or private, for the conveyance or discharge, directly or indirectly, into such sewer or drain, of any volatile flammable liquid, gas or vapor. A volatile, flammable liquid is any liquid that will emit a flammable vapor at a temperature specified in rules of the department.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-520 – Steam and hot water

This provision of the Code prohibits the discharge of wastewater into any sewer at a temperature higher than prescribed by the commissioner of environmental protection.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-520.1 – Non-stormwater discharges prohibited

This provision of the Code prohibits any person from discharging or causing to be discharged, directly or indirectly, into any storm sewer any substance other than stormwater or allowable runoff.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-523 – Industrial waste; sewer surcharges

This provision of the Code provides that a permit may be required for direct or indirect discharges into the sewer system, or into any private sewer or drain emptying into the sewer system, of sewage, industrial wastes, or other wastes that do not conform with the characteristics of normal sewage as provided for in this section.

The commissioner may require any person discharging directly or indirectly into the sewer system or into any private sewer or drain emptying into the sewer system to (i) establish and maintain such records, (ii) make such reports, (iii) install, use and maintain such monitoring equipment or methods (including where appropriate biological monitoring methods) (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals and in such manner as the commissioner shall prescribe) and (v) provide such other information as he or she may reasonably require.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

Chapter 5-A governs Water Pollution Control

#### § 24-551 – Stormwater construction permit required

This provision of the Code requires a stormwater construction permit prior to the commencement of development activity on the site of a covered development project.

*The Applicant will comply with the substantive provisions of this section. The Applicant will prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) to the City and obtain coverage under the State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-20-001) from NYSDEC. Other procedural requirements, including any requirement to obtain a local permit, are preempted under PSL § 130.*

#### § 24-552 – Review of stormwater pollution prevention plan or SWPPP

This provision of the Code requires that, before the commencement of development activity on the site of a covered development project, the developer must submit to the department for review in accordance with rules of the department a stormwater pollution prevention plan, certified by a qualified professional.

*The Applicant will comply with the substantive provisions of this section. The Applicant will prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) to the City and obtain coverage under the State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-20-001) from NYSDEC. Other procedural requirements, including any requirement to obtain a local permit, are preempted under PSL § 130.*

#### § 24-554 – SWPPP to be retained on site

This provision of the Code requires that a copy of the SWPPP be retained at the site of the project.

*The Applicant will comply with the substantive provisions of this section.*

#### § 24-555 – Recordkeeping

This provision of the Code requires that a developer keep and maintain records of all inspections and tests required to be performed pursuant to this subchapter and rules of the department, as follows: records of inspections and tests performed during construction must be maintained throughout construction and for 5 years after completion of construction; and records of post-construction

inspections and tests must be maintained for 5 years after performance of such inspections or tests. Such records and tests shall be made available to the department in accordance with the rules of the department.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-556 – Compliance with terms and conditions of SWPPP required

This provision of the Code requires that every stormwater construction permit issued by the department shall include the condition that the applicant and all contractors and subcontractors performing work at the site will comply with this subchapter, rules of the department and the terms and conditions of the SWPPP. Any changes in the SWPPP are subject to the prior approval of the department in accordance with rules of the department.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-559 – Post-construction stormwater management facilities

This provision of the Code requires that, where post-construction stormwater management facilities are required, the department shall not issue a stormwater construction permit for the project until the execution and recording of a maintenance easement, which shall be binding on all subsequent owners of the real property served by such post-construction stormwater management facility, except where the corporation counsel has determined that such a maintenance easement is not necessary due to the property's ownership or use by a public agency or instrumentality. For post-construction stormwater management facilities subject to such an exception, when there is a subsequent conveyance or cessation of public use, the corporation counsel may require the execution and recording of a maintenance easement at that time. The easement shall provide for access to post-construction stormwater management facilities at reasonable times in accordance with law for periodic inspection by the department or qualified professionals authorized by the department to ensure that such facilities are maintained in good working condition to meet the applicable design standards. The easement shall be recorded by the grantor in the office of the city register or, if applicable, the county clerk after approval by the corporation counsel.

*The Applicant will comply with the substantive provisions of this section.*

§ 24-560 – Stormwater maintenance permit

This provision of the Code requires that all owners of real property served by a post-construction stormwater management facility required by a SWPPP accepted by the department pursuant to this subchapter must provide for the inspection and maintenance of such facility in accordance with this section and the rules of the department. As soon as practicable after final stabilization of a site, the owner of property served by a postconstruction stormwater management facility shall submit to the department an application for a stormwater maintenance permit for such facility. Such owner shall provide for the renewal of such permit every 5 years in accordance with the rules of the department. The department shall issue or renew such permit upon receipt of a satisfactory inspection report certified by a qualified professional retained by the owner indicating that the facility has been installed and/or is operated and maintained in good working condition to meet applicable design standards and

the rules of the department. A facility shall be maintained in good working condition throughout its useful life and replaced in accordance with the rules of the department.

*The Applicant will comply with the substantive provisions of this section.*

#### Title 27, Construction and Maintenance

Chapter 3 sets forth the New York City Electrical Code, which regulates the installation, alteration, and repair of electrical wiring and appliances for power. This chapter requires that an electrical permit be issued for any electrical work.

*In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. By operation of PSL § 130, the NY Project's Certificate of Environmental Compatibility and Public Need (CECPN) will pre-empt the substantive requirements of this Local Law and will require compliance with the National Electric Safety Code. The Applicant will comply with its CECPN conditions and these industry approved standards, adopted specifically for the construction and operation of transmission facilities.*

#### Title 28, New York City Construction Codes

Chapter 1, which governs the administration of the New York City Construction Codes, makes it unlawful to construct, enlarge, alter, move, demolish, remove, or change the use or occupancy of any building or structure in the city, to change the use or occupancy of an open lot or portion thereof, or to erect, install, alter, repair, or use or operate any sign or service equipment in or in connection therewith, or to erect, install, alter, repair, remove, convert, or replace any gas, mechanical, plumbing, fire suppression or fire production system in or in connection therewith or to cause any such work to be done unless and until a written permit therefore shall have been issued by the commissioner in accordance with the requirements of this code.

*In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. By operation of PSL § 130, the NY Project's CECPN will pre-empt the substantive requirements of this Local Law and will require compliance with the National Electric Safety Code. The Applicant will comply with its CECPN conditions and these industry-approved standards, adopted specifically for the construction and operation of transmission facilities.*

Chapter 6 sets forth the New York City Plumbing Code, which regulates the erection, installation, alteration, repair, relocation, replacement, addition to, use or maintenance of plumbing systems.

*In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards, adopted specifically for the construction and operation of such transmission facilities, with which the Applicant will comply.*

Chapter 7 sets forth the New York City Building Code, which regulates the construction, alteration, movement, addition, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings and structures. This chapter provides that it is unlawful to construct, alter, repair, move, demolish, remove, or change the use of any building or structure without obtaining a building permit.

*In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. By operation of PSL § 130, the NY Project's CECPN will pre-empt the substantive requirements of this Local Law and will require compliance with the National Electric Safety Code. The Applicant will comply with its CECPN and these industry-approved standards, adopted specifically for the construction and operation of transmission facilities.*

Chapter 8 sets forth the New York City Mechanical Code, which regulates the design, installation, maintenance, alteration, and inspection of mechanical systems. This chapter requires that mechanical permits be issued for all mechanical work.

*In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. By operation of PSL § 130, the NY Project's CECPN will pre-empt the substantive requirements of this Local Law and will require compliance with the National Electric Safety Code. The Applicant will comply with its CECPN and these industry-approved standards, adopted specifically for the construction and operation of transmission facilities.*

Chapter 10 sets forth the New York City Energy Code, which regulates the design and construction of buildings for the use and conservation of energy over the life of the building.

*In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards, adopted specifically for the construction and operation of such transmission facilities, with which the Applicant will comply.*

#### Title 29, New York City Fire Code

Chapter 2 sets forth the New York City Fire Code, which governs the design, installation, operation and maintenance of devices, equipment, and systems designed to prevent, mitigate, control, and extinguish fire, explosions, or other safety hazards. This chapter requires permits for various construction and maintenance activities, as well as for various building uses.

*The Applicant will comply with the applicable substantive provisions of this Chapter and the corresponding Fire Department rules; however, the need under this Local Law to obtain work permits and approvals for the NY Project is preempted by PSL § 130.*

### 7.3.3 Rules of the City of New York

#### 7.3.3.1 Title 1, Department of Buildings

Title 1 of the Rules of the City of New York sets forth specifications for specific aspects of building construction, including requirements for drums for derrick load and boom heists; pressure tanks; refuse chutes and rooms; signs; sprinkler systems; ventilation of garage spaces; venting of gas water heaters or other gas appliances; entrance doors, locks, and intercommunication systems; fire protection systems; accessibility; and construction site signs.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. This Local Law is not designed for the construction of major electric transmission facilities or major electric substations. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### 7.3.3.2 Title 15, Department of Environmental Protection

##### Chapter 8: Industrial Equipment

Section 8-01 requires that Environmental Rating Reports be submitted for every industrial process capable of emitting solid, liquid, or gaseous contaminants to the open air.

*Due to the undefined nature of this Local Law, the Applicant requests that the Commission refuse to apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of costs or economics. The Applicant indicated it would comply with the substantive provisions of New York City Code § 24-153. In the absence of objective definitions for “operational industrial equipment,” a waiver from this Local Law is needed. In addition, any procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

##### Chapter 11: Hazardous Substances Emergency Response

Section 11-03 requires notification to the NYCDEP in the event of a release of a listed hazardous substance.

*The Applicant will comply with the substantive provisions of this section.*

##### Chapter 13: Rules Pertaining to the Prevention of the Emission of Dust from Construction Related Activities

Section 13-04 requires that every construction site undertake actions to control the amount of airborne dust released off site from construction operations, by wetting the construction material as necessary with appropriate spraying agents, provided wetting will not damage utility infrastructure or create any safety hazards. This section also requires that trucks and other vehicles used to transport particulate

matter be covered and any particulate matter kept on site be sufficiently wetted or stored to prevent it from becoming airborne. This section further sets forth the method for the wet method dust control – for excavation jobs, a fine mist is deemed to be an adequate supply of water.

*The Applicant requests that the Commission not apply this Local Law for construction activities, because it is unreasonably restrictive in view of existing technology with regard to airborne dust to the extent that construction activities may result in transient and temporary occurrences of airborne dust, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures to control the amount of airborne dust generated during construction and comply with the Certificate Conditions and EM&CP, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

Section 13-05 requires that wetting be used to control dust where drilling, grinding, or other similar construction activities occur.

*The Applicant requests that the Commission not apply this Local Law for construction activities, because it is unreasonably restrictive in view of existing technology to the extent that construction activities may result in transient and temporary occurrences of airborne dust, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures to control the amount of airborne dust generated during construction and comply with the Certificate Conditions and EM&CP, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

Section 13-06 identifies construction activities requiring additional forms of dust control and sets forth dust control requirements for such activities.

*The Applicant requests that the Commission not apply this Local Law for construction activities, because it is unreasonably restrictive in view of existing technology to the extent that construction activities may result in transient and temporary occurrences of airborne dust, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures to control the amount of airborne dust generated during construction required by this section and comply with the Certificate Conditions and EM&CP, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

Section 13-07 requires a NYCDEP demolition registration be filed prior to commencement of a demolition and sets forth dust control requirements for demolition activities.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

Section 13-08 sets forth dust control requirements for sandblasting activities.

*The Applicant requests that the Commission not apply this Local Law for construction activities, because it is unreasonably restrictive in view of existing technology to the extent that construction activities may result in transient and temporary occurrences of airborne dust, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures to control the amount of airborne dust generated during construction and comply with the Certificate Conditions and EM&CP, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

Section 13-09 requires that all persons constructing or operating a large article, machine, device, equipment, such as a rock crusher, or other contrivance or facility capable of causing or permitting emission of dust into the atmosphere at a construction site shall keep on site a document detailing such equipment that includes the ownership, location, design, etc. of the equipment and outlines the measures utilized to reduce dust emissions resulting from the use of the equipment.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

Section 13-10 sets forth requirements for open areas to prevent dust emissions from becoming airborne after demolition occurs.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 19 – Use of the Public Sewers

Section 19-02 prohibits any person from discharging into any storm sewer or into any catch basin or manhole any substance other than stormwater or allowable runoff. This section also prohibits any connection to the sewerage system without the written approval of the Commissioner. This section also prohibits any person from discharging, or cause to be discharged, directly or indirectly, groundwater into a public sewer without a groundwater discharge permit from the NYCDEP's Bureau of Customer Services; provided that no person shall discharge, or cause to be discharged, directly or indirectly, over 10,000 gallons per day of groundwater, into a public sewer without a letter of groundwater quality approval from the NYCDEP's Bureau of Wastewater Treatment, a letter of approval contingent upon a review of the capacity and capabilities of the receiving sewer from the NYCDEP's Bureau of Water and Sewer Operations, and a groundwater discharge permit from the NYCDEP's Bureau of Customer Services. Finally, this section requires that any groundwater discharges to a storm sewer which discharges directly to a receiving water receive a State Pollution Discharge Elimination System permit, a non-jurisdictional determination letter, or such other written approval as may be required from the NYSDEC, in addition to a groundwater discharge permit from the NYCDEP's Bureau of Customer Services, and if over 10,000 gallons a day, a letter of approval contingent upon a review of the capacity and capabilities of the receiving sewer from NYCDEP's Bureau of Water and Sewer Operations.

*The Applicant will comply with the substantive provisions of this section.*

Section 19-03 sets forth strict liability for discharge of certain materials and substances into combined and sanitary sewers.

*The Applicant will comply with the substantive provisions of this section.*

Section 19-04 requires that the concentration in wastewater of toxic substances must not exceed specified concentrations before discharge to a combined or sanitary sewer.

*The Applicant will comply with the substantive provisions of this section.*

Section 19-08 establishes the conditions under which a permit may be obtained for connection of a construction trailer to the public sewer system.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

## Chapter 19.1: Industrial, Commercial, Construction, and Post-Construction Stormwater Sources

### § 19.1-03.3 – Permits

Section 19.1-03.3 states that no developer may commence development activity in connection with a covered development project, public or private, without having first obtained a stormwater construction permit from the department. The application for a permit must include a SWPPP prepared by a qualified stormwater professional.

*The Applicant will comply with the substantive provisions of this section. The Applicant will prepare a Stormwater Pollution Prevention Plan (SWPPP) and obtain a Stormwater Construction Permit from NYCDEP and coverage under the State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-20-001). Other procedural requirements, including any requirement to obtain a local permit, are preempted under PSL § 130.*

### § 19.1-03.4 – Selecting SMPs using the SMP Hierarchy

Section 19.1-03.4 sets forth the requirements for selecting Stormwater Management Practices (SMPs), which must be included in the SWPPP for the site.

*The Applicant will comply with the substantive provisions of this section. The Applicant will prepare a Stormwater Pollution Prevention Plan (SWPPP) and obtain a Stormwater Construction Permit from NYCDEP and coverage under the State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-20-001). Other procedural requirements, including any requirement to obtain a local permit, are preempted under PSL § 130.*

## Chapter 20: Governing and Restricting the Use and Supply of Water

Section 20-02 sets forth the requirements for taps to City water mains.

*The Applicant will comply with the substantive provisions of this section.*

Section 20-03 sets forth the requirements for the installation of water service pipes.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

Section 20-05 requires the installation of an approved water meter wherever City water is supplied and for all wells or other water sources that discharge into the City sewer system.

*The Applicant will comply with the substantive provisions of this section.*

Section 20-07 states that all taps, wet connections, meters, service pipe installations, repairs, plugs, and relays shall be subject to inspection by the NYCDEP.

*The Applicant will comply with the substantive provisions of this section.*

Section 20-08 sets forth water use restrictions and restricts fire hydrant use without a permit.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 22 – Withdrawal of Water from the New York City Water Supply System

Section 22-01 sets forth the documents required for permission to connect to and obtain water from the New York City water supply system.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 23 – Construction of Private Sewers or Private Drains

This chapter sets forth the requirements for constructing private sewers or drains.

*The Applicant will comply with the substantive provisions of this chapter.*

#### Chapter 28 – Citywide Construction Noise Mitigation

Section 28-101 sets forth required noise mitigation measures for general construction.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Extended construction work hours, continuous construction and/or activities on weekends may be required for certain construction and installation work, including but not limited to when necessary for reasons of safety and/or to protect property or the environment, in order to comply with restrictions on daytime construction within roadways and public access, or as part of traffic impact minimization. Extended hours will also be required for testing and commissioning activities that are required to run continuously for longer than 12 hours. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP,*

*and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction activities can always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

Section 28-102 requires that impact equipment, earth moving devices, construction trucks, stationary devices, and manual devices adopt additional noise mitigation measures as set forth in this section.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

Section 28-103 requires that equipment shall be used only during the hours of 7:00 a.m. and 6:00 p.m. on weekdays, unless the responsible party obtains an after hours work authorization, and requires additional noise mitigation measures and/or techniques.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology to the extent that construction activities may require work outside of the specified hours in order to ensure the NY Project is completed on schedule, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Extended construction work hours, continuous construction and/or activities on weekends may be required for certain construction and installation work, including but not limited to when necessary for reasons of safety and/or to protect property or the environment, in order to comply with restrictions on daytime construction within roadways and public access, or as part of traffic impact minimization. Extended hours will also be required for testing and commissioning activities that are required to run continuously for longer than 12 hours. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction activities can always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 31: Rules Governing House/ Site Connections to the Sewer System

This chapter sets forth the requirements for connecting to a City sewer, private drain, or approved outlet, including the stormwater performance standards and standards for issuance of permits.

*The Applicant will comply with the substantive provisions of this chapter. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

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## Chapter 57: Rules Concerning Drilling and Excavation

Section 57-05 sets forth the general permit conditions for a drilling and/or excavation permit.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### 7.3.3.3 Title 34, Department of Transportation

## Chapter 2: Highway Rules

### § 2-05 – Construction Activity

This provision requires that, unless these rules provide otherwise, or the permit so stipulates, a separate permit is required for each of the following activities: placing construction material on street during working hours; placing construction equipment other than cranes or derricks on the street during working hours; temporarily closing sidewalk; constructing temporary pedestrian walk in roadway; temporarily closing roadway; placing shanty or trailer on street; crossing a sidewalk; placing crane or derrick on street during working hours; storing construction material on the street during non-working hours; storing construction equipment on the street during non-working hours. This provision provides conditions imposed on permits issued for each of the listed activities.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### § 2-06 – Land Contour Work

This provision states that a permit is required to perform land contour work including the clearing, grubbing, grading, filling or excavation of vacant lots and other specified land parcels. This provision also requires the drainage of an excavation until the excavation is finished. This provision sets forth conditions for such permits, including: no condition shall be created or maintained that interferes with or obstructs existing drainage; all excavations must be drained; and fill material shall consist of inert, inorganic material.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of costs or economics. During replacement of the bulkhead at the cable landfall it may be impracticable and inefficient to dewater excavations behind the existing bulkhead wall, if needed. In addition, in certain onshore locations work in the wet may be necessary and result in less potential environmental impact than fully dewatering excavations, including but not limited to during remediation work activities. The Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP. Procedural requirements to obtain any local approval, consent, permit or certificate are preempted under PSL § 130.*

### § 2-07 – Underground Street Access Covers, Transformer Vault Covers and Gratings

This provision states that the owner of a cover or grating on a street is responsible for monitoring the condition of the covers and gratings, as well as an area extending twelve inches outward from its perimeter.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### § 2-11 – Street Openings and Excavations

This provision requires that permittees and owners of underground facilities comply with State of New York Industrial Code Rule 53 relating to Construction, Excavation and Demolition Operations at or near Underground Facilities. Permittees also must bear the expense of taking all necessary precautions to protect pipes, mains, conduits, and other appurtenances. The Police Department and the Communications Centers of the Fire Department and the NYCDOT must be notified at least twenty-four hours in advance of nonemergency construction operations which require street closing permits. The precutting of pavement wearing course and base is required for all pavement removal. This provision also requires the sheeting and bracing of every open excavation five feet or more in depth. Office of Construction Mitigation and Coordination stipulation or Commissioner approval is necessary to obstruct more than one lane of traffic. Any unattended street opening or excavation must be plated. If traffic must be diverted to another lane, the permittee must provide either a flagperson or an authorized plan for the maintenance and protection of traffic at the point where traffic is diverted to assist motorists and pedestrians. This provision also regulates worksite maintenance, storage of materials, backfill and compaction, plating and decking, base, wearing course, concrete pavements, color coding at each excavation, and the quality control program requirement for roadways. Finally, the permittee must maintain a street opening location form to be presented upon request.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### § 2-13 – Vaults

This provision requires a license prior to either the construction of a new vault or the enlargement of an existing vault. If the vault is to extend beyond the sidewalk or curbstone of any street, a revocable consent must be obtained. A street opening permit must also be obtained from the Department before any vault is constructed, altered or repaired.

*The Applicant will comply with the substantive provisions of this section.*

### § 2-16 – Street Closings Lasting More Than 180 Days

This provision requires an applicant to submit a community reassessment, impact, and amelioration statement to the Department for approval if the issuance of a permit will result in closure of a publicly mapped street for more than 180 consecutive calendar days.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 4: Traffic Rules and Regulations

##### § 4-02, § 4-06, § 4-07, § 4-08, § 4-09, § 4-12 – Compliance with and Effect of Traffic Rules

These provisions require operators of all vehicles to comply with traffic rules, including maximum speed limits, parking rules, other rules for restrictions on movement, and compliance with directions of law enforcement officers.

*The Applicant will comply with the substantive provisions of this section.*

##### § 4-15 – Limitations Upon Dimensions and Weights of Vehicles

This provision requires a permit for the operation or movement of any vehicle that exceeds the size or weight limit criteria set forth in this provision.

*The Applicant requests the Commission refuse to apply the weight and dimensional restrictions detailed in this Local Law because they are unreasonably restrictive in view of factors of costs and economics. Access to the NY Project site for the delivery of equipment and materials will be necessary and it may not be possible to comply with the weight and dimensional provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130. Notwithstanding the above, the Applicant will direct the construction contractor to secure any necessary NYCDOT permits and approvals for the transport of overweight or oversize equipment or materials.*

#### 7.3.3.4 Title 62, Department of City Planning

#### Chapter 4: Procedures for New York City Waterfront Revitalization Program (WRP) Consistency

##### Review by the City Coastal Commission and the Department of City Planning

This chapter sets forth the procedures applicable to the review of actions located within the Coastal Zone Boundary. State actions that are subject to WRP consistency review by the relevant state agency and are within the Coastal Zone Boundary must be reviewed by the Department of City Planning, Waterfront and Open Space Division, for consistency with Waterfront Revitalization Program policies.

*The NY Project will be consistent with the substantive provisions of the Waterfront Revitalization Program policies section as detailed in **Appendix I, Coastal Consistency Statements**. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### 7.3.3.5 Title 66, Department of Small Business Services

#### § 2-11 – Hazardous, Flammable or Explosive Substances

This provision prohibits any person from loading, unloading, discharging, placing, storing, or keeping any material, fluid, gas, or substance of any flammable, radioactive, or hazardous nature upon any waterfront property or marginal street without a permit from the department. The same rule applies to the draining, removal, or discharge of gasoline, oil, or any explosive, flammable, or hazardous liquid, gas, or substance from any vehicle upon any waterfront property or marginal street.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

## 7.4 Town of East Hampton

The Applicant has identified the following Town of East Hampton Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.4.1 Town of East Hampton Code

#### 7.4.1.1 Part II: General Legislation

##### Chapter 167: Littering and Dump Control

#### § 167-2 – Public places

This provision of the Code prohibits any person from throwing or depositing litter in any bay, lake, pond, stream, or other body of water within the Town of East Hampton.

*The Applicant will comply with the substantive provisions of this section.*

##### Chapter 180: Natural Resources

#### § 180-7 – Protection of natural resources

This provision of the Code prohibits the discharge of toxic or radioactive substances, industrial waste, sewage or other contaminants into the air, water or earth in quantities, of characteristics or for such duration which cause or are likely to cause detriment to health, safety, welfare, property, surface water or groundwater.

*The Applicant will comply with the substantive provisions of this section.*

## Chapter 185: Noise

## § 185-2 – Prohibition of noise pollution

This provision of the Code prohibits any person from permitting the establishment of a condition of noise pollution, defined in § 185-1 as the presence of an amount of acoustic energy for that amount of time necessary to cause temporary or permanent hearing loss in persons exposed; be injurious, or tend to be injurious, to the public health or welfare; cause a nuisance; exceed the standards or restrictions established in § 185-3; or interfere with the comfortable enjoyment of life and property or the conduct of business.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of noise conditions exceeding the Local Law's performance standards, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its Environmental Management and Construction Plan (EM&CP). Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction and operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

## § 185-3 – Noise standards and § 185-4 – Exceptions

Section 185-3 of the Code prohibits any person from creating or causing to be emitted any noise which, when measured at any real property line in a residential district, exceeds the standards set forth in this section (including airborne sound that has a sound level in excess of 70 dBa between the hours of 7:00 a.m. to 7:00 p.m., and airborne sound that has a sound level in excess of 55 dBa from 7:00 p.m. to 7:00 a.m.). Section 185-4 exempts construction activities between 7:00 a.m. and 8:30 p.m. and the associated use of construction devices and the noise generated thereby from the requirements in § 185-3.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

## Chapter 213: Shellfish

## § 213-10 – General restrictions

This provision of the Code prohibits any person who does not have a shellfish permit to have in his possession any forks, tongs, rakes, dredges or scrapes in Town waters. This provision also prohibits any person from dumping or depositing any garbage, rubbish, sewage, or fish carcasses in Town waters.

*To the extent this Local Law is applicable to cable installation activities, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that cable installation activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

## Chapter 246: Waterways and Boats

## § 246-3 – Placement of boats, floats, moorings, and anchorings

This provision of the Code prohibits any person from placing a mooring or float in Town waters or waters controlled by the Trustees of the Freeholders and Commonalty of the Town of East Hampton without a permit, and sets forth various requirements for the mooring vessels or floats, including that no person moor or anchor a vessel or float in such a way that it rests within the line of any channel, within 50 feet of any channel marker or other navigational aid, or endangers or damages any vessel previously moored or anchored.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

## § 246-4 – Removal of disabled boats and beached vessels

This provision of the Code states that any vessel which becomes a menace to navigation or unseaworthy, or sinks, grounds or otherwise becomes disabled, shall be removed by the owner or person in charge thereof on order of the Town Harbormaster, Bay Constable or the Town Police. This provision also states that no vessel shall be left upon any Town or Trustee beach after November 1 of any year. Any vessel which is found in violation of this section shall be subject to impoundment.

*The Applicant will comply with the substantive provisions of this section.*

## § 246-5 – Wharfage fees at certain public docks

This provision of the Code prohibits any vessel from tying up or remaining berthed at a publicly owned dock or bulkhead in Three Mile Harbor or Lake Montauk, unless such vessel has paid a slip rental or wharfage fees for such space. Emergency slips at Town-maintained public docks shall be available at a fee for the maximum time period established by Town Board resolution and payable to the Town Clerk.

*The Applicant will comply with the substantive provisions of this section.*

#### § 246-6 – Operating boats near bathers

This provision of the Code prohibits any boat from cruising or operating within 100 feet of any lifelines or bathing float or within 200 feet of any public or semipublic beach regularly used for bathing or swimming, nor shall such boat cruise or be operated in excess of five miles per hour within 100 feet of any person bathing or swimming, except at inlets or where a channel approaches the shoreline closer than the distances set forth in this section.

*The Applicant will comply with the substantive provisions of this section.*

#### § 246-7 – Speed of boats

This provision of the Code prohibits any boat from operating at a speed in excess of that posted by speed markers, or as otherwise set forth in this provision. No boat shall be operated in any harbor or in any area where there is congestion of boats, either underway or at anchor, at a speed in excess of five miles per hour. No vessel of more than 2,000 installed horsepower shall operate at a speed in excess of 15 miles per hour within or upon Town waters.

*The Applicant will comply with the substantive provisions of this section.*

#### § 246-8 – Use of Town launching ramps

No person shall launch a boat from any Town-owned launching ramps unless the vehicle to which said boat and trailer is connected displays a valid parking permit or ramp use permit duly issued by the Town Clerk for said vehicle.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

#### § 246-9 – Required equipment

This provision of the Code prohibits any person from operating a boat propelled wholly or partly by an engine operated by the explosion of gasoline, naphtha or other substance without having the exhaust from the engine run through a muffler so constructed and used as to muffle the noise of the exhaust in a reasonable manner, and requires that all boats operating in Town or Trustee waters meet U.S. Coast Guard requirements with respect to safety equipment.

*The Applicant will comply with the substantive provisions of this section.*

### 7.4.1.2 Land Use

#### Chapter 150: LWRP Consistency Review

This chapter sets forth the procedures applicable to the review of actions located within the Town's coastal area. Projects within the Town's coastal area must be reviewed for consistency with the Town of East Hampton Local Waterfront Revitalization Program.

*The NY Project will be consistent with the substantive provisions of the Local Waterfront Revitalization Program policies section as detailed in **Appendix I, Coastal Consistency Statements**. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

## Chapter 255: Zoning

### § 255-1-50 – Nuisance prohibited

This provision of the Code prohibits any trade, industry, activity or use which, when lawfully conducted, is determined to create toxic or harmful fumes, gases, smoke or odors or obnoxious dust, vapors, noises or vibrations disruptive of the quiet enjoyment of neighboring properties.

*The Applicant will comply with the substantive provisions of this section.*

### § 255-1-83 – General lighting standards

This provision of the Code requires that exterior lighting be designed, installed, and maintained to minimize glare. It further prohibits any light source from being visible beyond the boundary of the property on which the light source is located, including from a body of water or roadway. Finally, it prohibits the use of searchlights, except those used for governmental or emergency purposes; strobe lights, laser lights, or revolving lights; blinking, pulsating, tracing, or flashing lights, unless otherwise permitted herein; and any light source with a color temperature greater than 3,000 Kelvin. U.S. Coast Guard approved maritime navigational lighting is except from the requirements of this section.

*The Applicant will comply with the substantive provisions of this section.*

### § 255-3-85 – Coastal Erosion Overlay District -- Regulations

All construction and related activities, including the clearing and grading of land, shall be undertaken in a manner which minimizes the damage caused to wetlands, beaches, bluffs, dunes, and vegetation growing thereon by flooding and erosion.

*The Applicant will comply with the substantive provisions of this section.*

### § 255-4-20 – Activities requiring natural resources special permits and § 255-5-51 – Specific standards and safeguards for natural resources special permits

Section 255-4-20 states that no person shall undertake digging, dredging, excavation, or depositing fill or other material within any nearshore area, tidal water, or watercourse without a natural resources special permit. Section 255-5-51 requires that the activity for which a natural resources special permit is sought be compatible with the purposes set forth in § 255-1-11 and § 255-4-10 of this chapter, which includes the protection of watercourses and marine habitat from damage and the preservation of coastal habitats. This provision also requires that all uses be located so that no natural resource, feature, or system designated in § 255-4-12 (which includes tidal and freshwater wetlands, tidal waters and watercourses, and nearshore areas) will be diminished in size, polluted, degraded, or lost, or placed in peril.

*To the extent this Local Law is applicable to the NY Project, or may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate, its EM&CP, and the plan set forth in Exhibit 4 to this Application, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

## 7.5 Town of Southold

The Applicant has identified the following Town of Southold Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.5.1 Town of Southold Code

#### 7.5.1.1 Part II: General Legislation

##### Chapter 96: Boats, Docks and Wharves

##### § 96-2 – Restricted areas at end of Town highways

This provision of the Code prohibits mooring, anchoring, or placing of boats on any public land at the end of any Town highway.

*The Applicant will comply with the substantive provisions of this section.*

##### § 96-8– Sanitary regulations

This provision of the Code prohibits dumping of oil, refuse, garbage, and waste.

*The Applicant will comply with the substantive provisions of this section.*

##### § 96-9– Ramps

This provision of the Code requires boat engines be shut off when loading or unloading at any Town boat ramp, and prohibits leaving parked vehicles unattended on any ramps.

*The Applicant will comply with the substantive provisions of this section.*

##### § 96-10 – Unnavigable boats; hazards to navigation

This provision of the Code requires that boats that become unnavigable shall be removed or restored to navigable condition upon notice to the registered owner, absent which the Town Board may direct its removal, destruction, or sale at auction.

*The Applicant will comply with the substantive provisions of this section.*

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#### § 96-11 – Operation of boats near beaches and bathers

This provision of the Code prohibits or limits speed of boats within a certain distance of beaches and bathers.

*The Applicant will comply with the substantive provisions of this section.*

#### § 96-13 – Speed limits; manner of operation

This provision of the Code requires, among other things, operation of a boat in a careful and prudent manner that does not unreasonably endanger others or interfere with other uses of the waters, prohibits boats from operating at an excess of 45 miles per hour unless a lower speed limit is posted, makes it a violation to exceed such speed limits, and prohibits creation of a dangerous wake.

*The Applicant will comply with the substantive provisions of this section.*

#### § 96-14 – Equipment

This provision of the Code requires proper equipping and lighting of vessels, as required under the Federal Boat Safety Act of 1971, as amended, and the regulations adopted pursuant thereto and contained in Title 46 of the Code of Federal Rules, Subchapter C, Parts 24, 25 and 26, and pursuant to the provisions of § 40 of the Navigation Law of the State of New York.

*The Applicant will comply with the substantive provisions of this section.*

#### § 96-15 – Operators

This provision of the Code sets forth certain requirements for the of vessels, including that no person under the age of 18 shall operate a mechanically propelled vessel unless accompanied by a person 18 years of age or older, or the operator is 10 years of age and holds a boat safety certificate, and that no person shall operate a vessel while impaired by alcohol or drugs.

*The Applicant will comply with the substantive provisions of this section.*

#### § 96-17 – Internal-combustion engines; mufflers

This provision of the Code requires the use of a muffler device to limit noise from engines operated by the explosion of gas, gasoline, naphtha or other substances.

*The Applicant will comply with the substantive provisions of this section.*

#### § 96-22 – Mooring and anchoring

This provision of the Code prohibits mooring or anchoring within any channel that interferes with such use, or within 50 feet of any dock, pier or other boat docking facilities.

*The Applicant will comply with the substantive provisions of this section.*

### § 96-25 – Mooring without a permit

This provision of the Code prohibits installation or use of mooring in Town waters without a permit, and requires that any mooring without such a permit be removed upon notice from the Southold Town Trustees or its designated agent.

*The Applicant will comply with the substantive provisions of this section.*

## Chapter 172: Outdoor Lighting

### § 172-5 – Standards for exterior lighting

This provision of the Code sets forth standards for exterior lighting, which is defined as lighting that is mounted, located, lamped or used, whether inside or outside, to illuminate outdoor features, to prevent excessive lighting, energy waste, glare, light trespass, and unnecessary skyglow. This provision requires that nonessential lighting be turned off when not in use, with certain placement, height and number limitations, with a light source not to exceed 3,000 Kelvin. This provision also prohibits searchlights, strobe lights, laser lights, revolving lighting, blinking lights, floodlighting, lighting to outline or illuminate a structure or window, and any light fixture that may be confused with a traffic control device or maritime navigational marker. Vehicular lights, United States Coast Guard approved maritime navigational lighting, and temporary lighting associated with nighttime construction are exempt from the provisions of this chapter.

*The Applicant will comply with the substantive provisions of this section.*

## Chapter 180: Prevention of Noise

### § 180-6 – Standards

This provision of the Code prohibits the creation of noise pollution that exceeds specific decibel levels at various days and time of day (Sunday through Thursday, from 7:00 a.m. to 7:00 p.m., 65 dBA, and from 7:00 p.m. to 7:00 a.m., 50 dBA; Friday and Saturday, from 7:00 a.m. to 11:00 pm., 65 dBA, and from 11:00 p.m. to 7:00 a.m., 50 dBA), as measured from the property line of a complaining property owner.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology to the extent that construction activities may require work outside of the specified hours in order to ensure the NY Project is completed on schedule, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Extended construction work hours, continuous construction and/or activities on weekends may be required for certain construction and installation work, including but not limited to when necessary for reasons of safety and/or to protect property or the environment, in order to comply with restrictions on daytime construction within roadways and public access, or as part of traffic impact minimization. Extended hours will also be required for testing and commissioning activities that are required to run continuously for longer than 12 hours. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be*

*technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 219: Shellfish and Other Marine Resources

##### § 219-19 – Dredges and scrapes

This provision of the Code prohibits use of a dredge, eel dredge, hydraulic means or similar device operated by mechanical power or other means except by special permission of the Trustees for scientific study projects.

*To the extent this Local Law is applicable to cable installation activities, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that cable installation activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### Chapter 268: Waterfront Consistency Review

##### § 268-5 – Review of actions

This provision of the Code under the Town of Southold Local Waterfront Revitalization Program (LWRP) Consistency Review Law provides for review of a proposed action within the Town's coastal area for determination that it is consistent with the LWRP policy standards.

*The NY Project will be consistent with the substantive provisions of the Local Waterfront Revitalization Program policies section as detailed in **Appendix I, Coastal Consistency Statements**.*

#### Chapter 275: Wetlands and Shoreline

##### § 275-3.1 – Licensing of coastal contractors

This provision of the Code prohibits coastal construction in the Town of Southold without first obtaining a license from the Board of Trustees office, except that certain architects, engineers, surveyors, or others who are required by state or Town law to attain certain standards are exempt.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 280: Zoning

##### § 280-8 – Effect of Establishment of Districts

This provision of the Code states that, notwithstanding the limitations imposed by any other provisions of this chapter, no dredging or filling operation is to be permitted below the datum of mean high water

of tidal waters unless such activity has been authorized by and is conducted in conformity with all laws, ordinances, rules and regulations of all governmental agencies having jurisdiction thereof.

*The Applicant will obtain all necessary governmental authorizations, except for local approvals, consents, or permits, which are preempted under PSL § 130.*

#### § 280-111 – Prohibited uses in all districts

This provision of the Code prohibits certain uses from all zoning districts, including uses that are noxious, offensive, or objectionable by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form in such manner or amount as to cause permanent damage to the soil and streams.

*The Applicant will comply with the substantive provisions of this section.*

#### § 280-113 – Land under water; filled land

This provision of the Code provides that portions of Long Island Sound lying within the boundaries of the Town of Southold shall be considered as being in the most-restricted use district abutting thereon, and such zoning classification shall continue in force regardless of any filling or draining of such lands. Nothing in this provision is to be construed to permit filling and dredging of such land.

*In the event this Local Ordinance could be construed as a prohibition on the construction and placement of the NY Project's electric transmission lines within the Long Island Sound, the Applicant requests that the Commission not apply this Local Ordinance because it is unreasonably restrictive in view of existing technology, factors of cost and economics, and the needs of consumers. The NY Project meets consumers' needs by continuing to maintain reliability through the region and helping to meet long-term electric capacity needs and clean energy mandates for New York State.*

## 7.6 Town of Riverhead

The Applicant has identified the following Town of Riverhead Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.6.1 Town of Riverhead Code

#### 7.6.1.1 Part II: General Legislation

#### Chapter 229: Excavation and Grading

#### § 229-5 – Plan for reclamation

This provision of the Code requires that each application for excavation, exportation, or importation must include a reclamation plan, which may be referred by the Town Board to the Planning Board for its review and recommendations.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL §130.*

### § 229-7.1 – Open excavations and piles of material

This provision of the Code prohibits leaving an open excavation or pile of fill in an unsecured, or dangerous, or hazardous condition or place. Any excavation or pile must be barricaded to prevent unsafe conditions.

*To the extent this Local Law is applicable to cable installation activities, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be possible to ensure that cable installation activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

## Chapter 251: Noise, Public Nuisances and Property Maintenance

### § 251-4 – Maximum permissible sound-pressure levels

This provision of the Code prohibits the operation of any source of sounds that exceed certain levels, as measured at or within the real property line of the receiving property. Noise from construction activity is exempt, except as provided in § 251-5.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

### § 251-5 – Prohibited acts

This provision of the Code prohibits certain acts, including, without limitation, construction and demolition work, excavating or earthmoving equipment: (a) between 8:00 p.m. and 7:00 a.m. the following day on weekdays or at any time on Sundays or legal holidays, such that the sound therefrom creates unreasonable noise across a residential real property boundary, or (b) at any other time such that the continuous sound-in-air level at or across a real property boundary exceeds an L{10} of 80 dBA, or (c) at any other time such that the impulsive sound-in-air has a peak sound-pressure level at or across a real property boundary in excess of 130 dBA. This provision further prohibits continuous sound-in-air which has crossed the property line of such sound source site and enters property zoned for residential use or property within a noise-sensitive zone shall not exceed either of the following levels: (a) between the hours of 7:00 a.m. and 8:00 p.m with (i) a sound level in excess of 65 dBA measured with the slow response of sound-level meter, or (ii) an L{10} in excess of 60 dBA, or (b) between the hours of 8:00 p.m. and 7:00 a.m. the following day (i) a sound level in excess of 50 dBA measured with the slow response of a sound-level meter, or (ii) an L{10} in excess of 45 dBA.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction or*

*operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### Chapter 293: Waterways and Water-Related Activities

##### § 293-2 – Use restricted

This provision of the Code prohibits use of the any Town dock for any purpose other than receiving and discharging passengers and freight, and transient dockage.

*The Applicant will comply with the substantive provisions of this section.*

##### § 293-14 – Anchoring, docks and moorings

This provision of the Code prohibits vessels from mooring or anchoring in any channel within 50 feet of any dock, pier, other vessel docking, launching facilities, or channel markers. This provision also restricts any vessel from restricting or obstructing use of a bulkhead, dock, or landing owned by the Town. This provision further prohibits mooring or anchoring that endangers safety or causes damage to any other boat previously moored or anchored so as to interfere with the mooring of such boat.

*The Applicant will comply with the substantive provisions of this section.*

##### § 293-16 – Operation and speed restrictions

This provision of the Code requires navigation of vessels in a careful and prudent manner and at such rate of speed as not to unreasonably interfere with the free and proper use of the navigable waters of the Town or unreasonably endanger any vessel or person, prohibits creating dangerous wakes when approaching or passing, and sets forth other speed restrictions, e.g., no greater than five statute miles per hour within 1/4 of a statute mile from shore, except at inlets or where a channel approaches the shoreline closer than 1/4 of a statute mile, or in excess of 45 mph within 1500 feet of any shoreline. The provision also allows the Town Board to suspend the enforcement of this section with respect to any portion or portions of the Town waterways and designate speeds for such areas by the location of speed rafts or other suitable markings.

*The Applicant will comply with the substantive provisions of this section.*

##### § 293-18 – Restrictions on operators

This provision of the Code sets forth certain requirements for the operators of vessels, including that no person under the age of 18 shall operate a mechanically propelled vessel unless the operator is 10 years of age and holds a boat safety certificate, and that no person shall operate a vessel while impaired by alcohol or drugs.

*The Applicant will comply with the substantive provisions of this section.*

### § 293-20 – Equipment and lights

This provision requires certain equipment and lighting requirements for vessels, as required under the Federal Boat Safety Act of 1971, as amended, and the regulations adopted pursuant thereto and contained in Title 46 of the Code of Federal Rules, Subchapter C, Parts 24, 25 and 26, and pursuant to the provisions of § 40 of the Navigation Law of the State of New York. Vessels must also be equipped with a muffler if propelled by an explosive fuel medium.

*The Applicant will comply with the substantive provisions of this section.*

### § 293-22 – Searchlights; registration and numbering of motorboats

This provision of the Code prohibits the use of searchlights in a manner so as to annoy other persons or vessels. In addition, this provision requires all motorboats to be registered and numbered under Article 48 of the New York State Vehicle and Traffic Law.

*The Applicant will comply with the substantive provisions of this section.*

### § 293-56 – Dragging or dredging

This provision of the Code prohibits dragging or dredging that removes lands or lands under water, except that this provision does not apply to a bona fide dredging service while engaged in work authorized by a permit, and does not apply to any bona fide haul seine not in excess of 50 feet. This provision further prohibits any person from pulling, dragging, shoving, or moving any device that disturbs lands or lands under water.

*To the extent this Local Law is applicable to cable installation activities, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be possible to ensure that cable installation activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

### § 293-58 – Abandoned vessels; deteriorated or unsafe docks

This provision of the Code prohibits any person from abandoning any vessel in any waters of the Town of Riverhead. Any abandoned vessel shall be removed at the direction of the Town of Riverhead at the expense of the owners.

*The Applicant will comply with the substantive provisions of this section.*

## 7.7 Town of Brookhaven

The Applicant has identified the following Town of Brookhaven Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

## 7.7.1 Town of Brookhaven Code

### 7.7.1.1 General Legislation

#### Chapter 8: Bay and Harbor Bottoms

##### § 8-6 – Duration of mooring season

This provision of the Code states that moorings may be placed from March 1 through November 30.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 13: Boat Control

##### § 13-2 – Navigation laws

This provision of the Code states that all Navigation Laws of the state shall be complied with by all boats using the navigable waters within the boundary lines of the Town of Brookhaven.

*The Applicant will comply with the substantive provisions of this section.*

##### § 13-4 – Operation of boats

This provision of the Code states that every person operating a boat shall operate it in a careful and prudent manner and at such a rate of speed as not to disturb the reasonable comfort or endanger the property of another or so as to interfere with the use of the navigable waters within the Town of Brookhaven. In addition, this provision prohibits any person from failing to comply with any lawful order or direction of any police officer, bay constable, harbormaster, dock master, or other person empowered to regulate boat traffic in the navigable waters within the Town of Brookhaven and at any marine and dock facilities under the ownership and jurisdiction of the Town of Brookhaven.

*The Applicant will comply with the substantive provisions of this section.*

##### § 13-5 – Speed limit

This provision of the Code prohibits any person from operating a boat at a speed in excess of 12 miles per hour in any channel or at a speed in excess of five miles per hour within 100 feet of any area designated as a boat basin, marina, harbor, river, stream, creek or bathing area, or an anchored or moored vessel, provided that in any such area in which speed limit signs are posted, no person shall operate a boat at a speed in excess of the speed limit posted.

*The Applicant will comply with the substantive provisions of this section.*

##### § 13-6 – Muffler required

This provision of the Code prohibits any person from operating a boat with an outboard motor or an inboard motor unless equipped with an adequately muffled exhaust, nor shall any such person use

any siren or other noise-producing or noise-amplifying instrument on a boat in such a manner that the peace and good order of the neighborhood is disturbed.

*The Applicant will comply with the substantive provisions of this section.*

§ 13-7 – Compliance with Coast Guard equipment regulations required

This provision of the Code prohibits any person from operating a boat which does not meet all applicable equipment requirements of the United States Coast Guard.

*The Applicant will comply with the substantive provisions of this section.*

§ 13-8 – Operating under the influence of alcoholic beverages and narcotics prohibited

This provision of the Code prohibits any person from operating a boat while under the influence of intoxicating liquor, narcotic drugs or opiates.

*The Applicant will comply with the substantive provisions of this section.*

§ 13-9 – Disturbing other boats

This provision of the Code prohibits any person from operating a boat in such a manner as to unjustifiably or unnecessarily annoy, frighten, or endanger the occupants of any other boat or throw up a dangerous wake when approaching other boat.

*The Applicant will comply with the substantive provisions of this section.*

§ 13-10 – Use of searchlights

This provision of the Code prohibits any person operating a boat from using searchlights indiscriminately or in such a manner as to annoy or disturb other persons or boats.

*The Applicant will comply with the substantive provisions of this section.*

§ 13-11 – Hours for running engines

This provision of the Code prohibits any person from running or operating any boat engine for the purpose of charging batteries, running auxiliary equipment or testing between the hours of 10:00 pm and 7:00 am.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics, with regard to the prohibited hours of boat operation for the purpose of charging batteries, running auxiliary equipment or testing. The Applicant may need to operate the boat engine outside of the parameters of this Local Law in order to ensure timely completion of the NY Project.*

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### § 13-12 – Improper mooring

This provision of the Code prohibits any boat from being moored or anchored in any channel except at the edges thereof, and in no case closer than 50 feet to channel markers or so as to interfere with the full use of the channel by others.

*The Applicant will comply with the substantive provisions of this section.*

### § 13-13 – Navigation hazards

This provision of the Code states that every boat in the navigable waters of the Town of Brookhaven which becomes a menace to navigation or unseaworthy or sinks, grounds or becomes otherwise disabled is a nuisance, and the person in charge thereof shall abate such nuisance within two days after notice from the Town Board.

*The Applicant will comply with the substantive provisions of this section.*

### § 13-15 – Boats to observe sanitary regulations

This provision of the Code requires persons in charge of or occupying boats docked at or moored to land, docks, piers or wharves abutting navigable waters to observe all the health and sanitary regulations of the Town of Brookhaven and of the County of Suffolk, and prohibits the discharging of toilets or oil in areas designed as boat basin anchorage or bathing areas.

*The Applicant will comply with the substantive provisions of this section.*

### § 13-20 – Defacing or removing serial numbers or identification marks on motors

This provision of the Code prohibits any person from willfully removing, defacing, covering, altering, or destroying the manufacturer's serial number or any other distinguishing number or identification mark on any inboard, outboard or inboard-outboard motor. This provision also prohibits any person from knowingly buying, selling, receiving, disposing of, concealing, or knowingly having in his possession any motor in which the identification mark has been removed for the purpose of concealing or misrepresenting the identity of the motor.

*The Applicant will comply with the substantive provisions of this section.*

## Chapter 22: Docks

### § 22-3 – Mooring restricted

This provision of the Code prohibits any person from tying up, mooring, or fastening any boat, vessel, or watercraft to the dock at Cherry Grove, with limited exceptions.

*The Applicant will comply with the substantive provisions of this section.*

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## Chapter 50: Noise Control

### § 50-5 – Maximum permissible sound pressure levels

This provision of the Code prohibits any person from causing any source of sound on a particular category of property or any public land or right-of-way in such a manner as to create a sound level that exceeds the sound limits set forth in this Chapter (50 dBA on residential properties at night; 65 dBA on commercial properties at all times) when measured at or within the real property line of the receiving property. Noise from construction activity is exempt from the sound level limits in this Chapter, except as provided in § 50-6.

*The Applicant will comply with the substantive provisions of this section.*

### § 50-6 – Prohibited acts

This provision of the Code prohibits any person from causing, suffering, allowing, or permitting any noise disturbance; this includes a prohibition on operating or permitting the operation of any tools or equipment used in construction, drilling, earth moving, excavating, or demolition work between the hours of 6:00 p.m. and 7:00 a.m. the following day on weekdays or at any time on weekends or legal holidays.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology to the extent that construction activities may require work outside of the specified hours in order to ensure the NY Project is completed on schedule, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Extended construction work hours, continuous construction and/or activities on weekends may be required for certain construction and installation work, including but not limited to when necessary for reasons of safety and/or to protect property or the environment, in order to comply with restrictions on daytime construction within roadways and public access, or as part of traffic impact minimization. Extended hours will also be required for testing and commissioning activities that are required to run continuously for longer than 12 hours. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

## Chapter 74: Brookhaven Port Jefferson Harbor Complex Waterway

### § 74-6 – Vessel speed limits

This provision of the Code prohibits any person from operating a vessel in excess of 30 miles in any waters of the Harbor Complex, or in operating a vessel in excess of 5 miles per hour in certain areas within the Harbor Complex.

*The Applicant will comply with the substantive provisions of this section.*

### § 74-7 – Anchoring

This provision of the Code prohibits anchoring of any vessel within any area such that the swing radius allows the vessel to be within 100 feet of any swimming area or within 50 feet of the Federal Navigation Channel, a mooring or moored vessel, another vessel at anchor, any aid to navigation or marker buoy, or any dock or pier, except in case of emergency.

*The Applicant will comply with the substantive provisions of this section.*

### § 74-8 – General prohibitions and restrictions

This provision of the Code prohibits any person from operating or maneuvering any vessel within the waters of the Harbor Complex in an unreasonable manner that may result in endangering or causing injury or damage to, or placing at risk, any person, property, or the environment. This provision also prohibits any person from rafting any vessel in a manner that interferes with any other vessel, any other person's lawful use of the Harbor Complex's surface waters, or the safe and proper functioning of adjacent moorings or vessel anchorage; discharging at any time any untreated sanitary waste or other pollutants; operating a vessel with an outboard or an inboard motor unless equipped with an adequately muffled exhaust; engaging in any activity or causing any noise disturbance that disturbs the reasonable quiet, comfort or repose of occupants of adjacent vessels or adjacent shorefront residences; and beaching any vessel in an area containing tidal wetlands.

*The Applicant will comply with the substantive provisions of this section.*

### § 74-9 – Harbor use area regulations

This provision of the Code states that the mooring of any vessel or the placement of any mooring in or upon any surface water and underwater lands within the Harbor Complex shall only be permitted within a designated mooring area.

*The Applicant will comply with the substantive provisions of this section.*

### § 74-11 – Mooring restrictions

This provision of the Code prohibits any person from securing a vessel to any mooring in a manner that causes such vessel to interfere with or be within the riparian access of a waterfront property owner, one hundred feet of any swimming area, the swing radius of any adjacent moored vessels, fifty feet of the Federal Navigation Channel or any access lane, or any aid to navigation or buoy marker. No person shall install, place or cause to be placed any mooring within the Harbor Complex unless such mooring is of sufficient size, strength and condition to hold the moored vessel safely in severe storm conditions. All installed moorings must include a nonmetallic mooring buoy and a pennant float, commonly known as a "pick up stick." No person shall secure any vessel to an installed mooring unless the mooring tackle is of sufficient size and strength to hold the moored vessel. All mooring owners shall be responsible for maintaining their mooring lines, tackle and chafe gear in order to provide for the safe and secure mooring of their vessels and liable for any damage caused to their own vessel or to any other vessel resulting from the mooring owner's reckless action or negligence in maintaining any mooring lines, tackle and chafe gear. With the exception of moorings located within

the designated Barge Mooring Area, all moorings and mooring tackle must be removed within five days of the expiration of the mooring season.

*The Applicant will comply with the substantive provisions of this section.*

#### 7.7.1.2 Land Use Legislation

### Chapter 81: Wetlands and Waterways

#### § 81-6 – Application for permits

This provision of the Code sets forth requirements for permit applications to conduct regulated activities upon any wetland or waterway. The permit applicants must demonstrate that the proposed activity will be in accordance with the policies and provisions of this Chapter.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

#### § 81-7 – Incompatible and prohibited activities; 81-10 – Category B permits

Section 81-7 lists activities that are incompatible under this Chapter, including (1) that which would cause or allow the filling or excavation of a tidal or freshwater wetland or within a waterway except for applications to dredge an existing waterway and (2) the clearing of natural vegetation, the excavation and/or grading of soils within 25 feet of the landward boundary of a tidal or freshwater wetland or water body. Section 81-10 states that incompatible activities described in 81-7 may be issued a Category B permit, provided the applicant provides and agrees to mitigation measures listed in this Chapter, or other practicable alternatives acceptable to the Director that will offset the environmental impacts associated with the incompatible activity.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. The Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

#### § 81-15 – Granting, denying or limiting projects, Category A and Category B

This provision of the Code states that, among other provisions, in considering the granting, the conditional granting, or denial of any permit application, the Town Board or the Director shall impose conditions or constraints designed to carry out the intent of this chapter. If a proposed activity causes an unavoidable loss of wetlands or unavoidably adversely impacts a waterway, said impacts having been minimized to the extent practicable, the applicant shall develop a mitigation plan which shall specify mitigation measures that provide the replacement of the resources which are lost due to the proposed activity. This provision also sets forth mitigation measures that may provide relief from mandatory restrictions, setbacks and buffer zones otherwise established in this Chapter.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing*

*technology and factors of cost and economics. The Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP. The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

## 7.8 Town of Smithtown

The Applicant has identified the following Town of Smithtown Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.8.1 Town of Smithtown Code

#### 7.8.1.1 Part II: General Legislation

##### Chapter 108: Boat Basin and Mooring Areas

###### § 108-8 – Mooring requirements

This provision requires mooring to have a minimum anchor weight based on vessel length.

*The Applicant will comply with the substantive provisions of this section.*

##### Chapter 138: Dredging

###### § 138-14 – Standards

This provision of the Code provides that removal and deposition of material will not undermine, weaken, or deprive support of lands in the vicinity or otherwise adversely affect the watercourse, nor adversely affect fish, shellfish, wildlife or other natural resources.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL §130.*

##### Chapter 154: Excavation and Regrading

###### § 154-5 – Standards

This provision of the Code provides detailed standards for excavations and finished grading and rehabilitation of affected surfaces.

*The Applicant will comply with the substantive provisions of this section.*

###### § 154-6 – Prohibited hours of operation

This provision prohibits excavation or regrading of materials or earth products between 11:00 p.m. and 6:00 a.m.

*To the extent this Local Law is applicable to cable installation activities, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing*

*technology, and factors of cost and economics, with regard to the prohibited hours of work. The Applicant may need to conduct cable installation activities outside of the parameters of this Local Law in order to ensure timely completion of the NY Project.*

#### Chapter 207: Noise

##### § 207-2 – Prohibitions

This provision of the Code prohibits certain noise disturbances, including operation of construction equipment between the hours of 6:00 p.m. and 7:00 a.m. the following day on weekdays or at any time on weekends or legal holidays.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology to the extent that construction activities may require work outside of the specified hours in order to ensure the NY Project is completed on schedule, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Extended construction work hours, continuous construction and/or activities on weekends may be required for certain construction and installation work, including but not limited to when necessary for reasons of safety and/or to protect property or the environment, in order to comply with restrictions on daytime construction within roadways and public access, or as part of traffic impact minimization. Extended hours will also be required for testing and commissioning activities that are required to run continuously for longer than 12 hours. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

##### § 207-3 – Maximum permissible A-weighted sound pressure levels.

This provision prescribes sound level limits at receiving property lines. The noise from construction activity is exempted from the sound pressure limits.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 315: Water Pollution

##### § 315-2 – Pollution of waters prohibited

This provision of the Code prohibits any discharge into the waters of the Town which may render said waters unfit or undesirable for bathing, boating, fishing or other recreational purposes, or which may be deposited upon the public beaches or shores of the Town parks or upon the flats or beds containing clams, oysters, mussels or other shellfish, or which may be carried by high tides or floods into wells or springs along the banks of said waters.

*The Applicant will comply with the substantive provisions of this section.*

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## Chapter 318: Waterways

### § 318-4 – Mooring of boats

This provision of the Code prohibits vessels from anchoring or mooring within the lines of any channel, or within 50 feet of any channel marker, in a way that interferes with the channel's full use. This provision also prohibits vessels from anchoring or mooring within 100 feet of any municipal dock or other marine facility. This provision also restricts any vessel from restricting or obstructing use of a bulkhead, dock, or landing owned by the Town. This provision further prohibits mooring or anchoring that endangers safety or causes damage to any other boat previously moored or anchored so as to interfere with the mooring of such boat.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

### § 318-5 – Securing of boats or vessels

This provision of the Code requires that vessels be moored in a way that is secure at all times and under all conditions.

*The Applicant will comply with the substantive provisions of this section.*

### § 318-6 – Hazards to navigation

This provision of the Code requires that, except in emergencies, boats that become unseaworthy or a menace to navigation shall be removed, or may be removed by the enforcing authorities.

*The Applicant will comply with the substantive provisions of this section.*

### § 318-8 – Use of boats near swimming areas

This provision of the Code prohibits vessels from operating within 200 feet of any lifelines or bathing floats, or within 300 feet of any public or private beach or area used for bathing or swimming.

*The Applicant will comply with the substantive provisions of this section.*

### § 318-9 – Speed limits; penalties

This provision of the Code prohibits the operation of a motorboat in excess of 45 miles per hour within Town waters, unless otherwise lawfully posted, or in excess of five miles per hour in Stony Brook Harbor or the Nissequogue River. Penalties for speeding offenses may be imposed.

*The Applicant will comply with the substantive provisions of this section.*

### § 318-13 – Equipment requirements

This provision of the Code requires that vessels carry United States Coast Guard-approved-type life preservers or life jackets for each individual on the vessel, have a mechanical appliance capable of producing certain sound blasts, safe anchorage equipment, fire extinguishing equipment with certain specifications, distress flags, flares, and lights, and be fitted with approved devices for arresting backfire and a muffler, where applicable.

*The Applicant will comply with the substantive provisions of this section.*

### § 318-14 – Operating restrictions for vessels

This provision of the Code sets forth certain requirements for operators of vessels, including that no person under the age of 16 shall operate a mechanically propelled vessel unless accompanied by a person 16 years of age or older, or the operator is 10 years of age and holds a boat safety certificate, and prohibits operation while intoxicated or while occupants have extended limbs over the bow of the vessel.

*The Applicant will comply with the substantive provisions of this section.*

### § 318-15 – Nuisances; penalties

This provision of the Code prohibits operating a boat in a manner that unnecessarily annoys or frightens or endangers occupants of other boats or frightens or endangers seabirds, including without limitation swans. This provision also prohibits causing a dangerous wake when passing another boat.

*The Applicant will comply with the substantive provisions of this section.*

### § 318-16 – Certain dumping prohibited

This provision of the Code prohibits dumping of oil refuse, sewage, or garbage in Town waterways.

*The Applicant will comply with the substantive provisions of this section.*

## 7.9 Town of North Hempstead

The Applicant has identified the following Town of North Hempstead Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.9.1 Town of North Hempstead Code

#### Chapter 25: Grading and Soil Removal

#### § 25-4 – Application for permit

This provision of the Code requires that a permit be obtained prior to any grading or filling of land. This provision of the Code also requires approval of the U.S. Army Corps of Engineers where the proposed work is to be accomplished on lands under water within the jurisdiction of the Corps.

*The applicant will obtain a permit from the Army Corps of Engineers. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 34: Littering and Dumping

##### § 34-8 – Litter in public waters

This provision of the Code prohibits any person from throwing or depositing litter in any body of water within the Town.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 38: Noise

##### § 38-3 – Prohibited acts

This provision of the Code prohibits any person from making, continuing or causing to be made any noise disturbance at any time. Specific prohibitions include: (1) Repairing, rebuilding, modifying or testing any motorboat in such a manner as to cause a noise disruption across a residential real property boundary or within a noise-sensitive zone from 7:00 p.m. to 8:00 a.m., weekdays, and at any time on weekends or holidays. (2) Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at approximately 50 feet from the source. Construction activities performed in compliance with all applicable laws are exempt from this prohibition. (3) Operating or permitting the operation of any motorboat in any waterway in such manner as to create a noise disruption at approximately 50 feet or the nearest shoreline.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of noise conditions exceeding the Local Law's performance standards, and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its Environmental Management and Construction Plan (EM&CP). Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible for the Applicant to ensure that construction and operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

##### § 38-5 – Immediate threats to health and welfare; other remedies

This provision of the Code states that the Town shall order an immediate halt to any sound which exposes any person to continuous or impulsive sound levels in excess of those set forth in this provision (for continuous sound, 90 dBA for 24 hours; 93 dBA for 12 hours; 96 dBA for 6 hours; 99 dBA for 3 hours; 102 dBA for 1.5 hours; 105 dBA for 45 minutes; and 108 dBA for 22 minutes; for impulsive sound, 1 repetition of sound at 145 dBA per 24 hour-period; 10 repetitions at 135 dBA; and 100 repetitions at 125 dBA).

*The Applicant will comply with the substantive provisions of this section.*

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## Chapter 39: Regulation of Town Parks, Town Gardens, and Town Docks

### § 39-38 – Docks, floats and runways

This provision of the Code prohibits the use of docks, floats, and runways for the launching, hoisting out, repairing, or storing of boats or equipment.

*The Applicant will comply with the substantive provisions of this section.*

## Chapter 42: Public Waterways; Structures

### § 42-8 – Maintenance or damage to permitted structures

This provision of the Code requires any person who shall erect, cause to be erected or maintain any structure or mooring pursuant to this chapter to keep such structure in good repair and condition at all times so that it will not become a hazard to navigation, to persons using the structure, or to the environment, and shall maintain in force the insurance required by this Chapter. If damage to a permitted structure is equal to or exceeds \$5,000, the permittee must notify the Commissioner of Buildings and Director of Harbor and Marine Enforcement that the structure has been damaged and that repairs will be made, and the repaired structure must comply with all provisions of this chapter.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### § 42-9 – Standards

This provision of the Code states that no structure shall be constructed, erected, enlarged, installed, altered or improved unless it complies with the standards set forth in this section, including that it does not unreasonably impede, obstruct, or interfere with navigation, the rights of adjoining owners, the public use of or passage along the foreshore or waterway, or harmfully affect the environment and it does not extend within 50 feet of any federal, state or Town designated channel, vessel accessway, fairway or anchorage. This provision also requires that all structures be constructed in accordance with generally accepted engineering and design standards; that the location, design and use of any structure in the waterway be compatible with this chapter; and that all structures be composed only of materials which, in the judgment of the Commissioner of Planning, will have no adverse effects on the environment or water quality.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### § 42-12 – Moorings

This provision of the Code requires that no person shall place or use any mooring or permanent anchorage facility in the waterways of the Town without obtaining a permit. All moorings shall be placed and maintained in accordance with federal, state, and Town procedures, and moorings maintained for commercial purposes must also adhere to the requirements of the U.S. Coast Guard. Upon the expiration of a permit, any mooring and all mooring tackle shall be removed by the owner.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### Chapter 45: Sand Bank and Pit Excavations

##### § 45-5 – Operating standards

This provision of the Code sets forth operating standards for sand bank and pit excavations, including that no waste products or process residues or any other material from a planned excavation area shall be disposed of in any stream, harbor, bay; all operations shall be conducted in a safe manner; and all material used as fill shall be free from garbage, refuse, offal, combustibles or any deleterious matter.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### Chapter 69: Waterways and Regulation of Boats

##### § 69-6 – Speed and operation of boats

This provision of the Code prohibits the operation of a boat at a speed greater than five miles per hour or at a speed which generates an excessive wake, whichever speed is lower, in an area used as a boat basin, beach area, anchorage or mooring area, or within 300 feet of the shoreline or of a dock, raft, float or anchored vessel. Every person operating a boat shall at all times operate the same in a careful and prudent manner and at such a rate of speed as to not disturb the reasonable comfort of the occupants of other boats or endanger the property of another or so as to interfere with the free and proper use of the waters, and no person may operate a boat while intoxicated. No boat shall be operated in such a manner as to cause a wake which is dangerous to life or limb of a person or to other boats or property, and that, except where a slower speed is mandated by this Chapter, no boat or vessel shall be operated at a speed greater than 10 miles per hour in Manhasset Bay southeast of a line drawn southerly from Plum Point to Kennilworth Club's dock in Great Neck.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

##### § 69-7 – Mufflers required

This provision of the Code states that no person shall operate a boat propelled wholly or partly by an engine operated by the explosion of gas, gasoline, naphtha or other substance without having the exhaust from the engine run through a muffler or controlled by the introduction of water into the exhaust pipe or line so as to muffle the noise of exhaust in a reasonable manner.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

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#### § 69-9 – Skin diving

This provision of the Code prohibits skin diving in any channel or in any waters where the same may be said to interfere with reasonable and proper operation of boats or within 300 feet of any public beach used for bathing or swimming or within 150 feet of any person bathing or swimming within an area designated for bathing or swimming. Any person engaged in skin diving shall maintain a visible red flag with a diagonal white bar on the boat or on the surface of the water in the area of the skin diving operation.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-10 – Boat ramps

This provision of the Code states that no person shall lift, drag or launch any boat from any facility owned by the Town without authorization from the Director of Harbor and Marine Enforcement. No boat more than 25 feet in length shall be launched from any Town boat ramp.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 69-12 – Mooring and anchoring

This provision of the Code prohibits any person from anchoring any boat or vessel in any channel or within 100 feet of any channel marker, buoy or other fixed navigation aid or within 300 feet of lifelines maintained at any public beach. No person shall moor or anchor any boat so as to endanger the safety of or cause damage to any boat previously anchored or previously laid down. Any occupied or unoccupied barge which is to be anchored or moored within any waterway of the Town for more than 10 consecutive days shall post with the Town Clerk a surety bond.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 69-13 – Prolonged mooring to public docks prohibited

This provision of the Code prohibits any boat from being tied up to any public dock or Town property for longer than 12 hours, or in excess of the time indicated by posted signs.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-14 – Environmental regulations

This provision of the Code prohibits the discharge of petroleum products, by-products, and other pollutants into or upon any water, waterways, beaches and lands adjoining the shorefront under the

jurisdiction of the Town from any vessel or boat. All boats or vessels operating within the waters of the Town shall fully comply with all federal and state laws, rules, and regulations.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-15 – Discharge of sewage and litter prohibited

This provision of the Code prohibits any person from placing, throwing, depositing, discharging, or causing to be placed, thrown, deposited, or discharged into the Town waters any litter, sewage, or other liquid or solid materials which render the water unsightly, noxious, or otherwise detrimental to the public health or welfare, or to the enjoyment of the water for recreational purposes.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-16 – Abandonment of vessels prohibited

This provision of the Code prohibits any person from causing a boat or vessel to become an abandoned vessel within the waterways of the Town.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-19 – Removal of vessels

This provision of the Code states that any vessel which becomes a hazard to navigation or sinks, becomes abandoned, grounds, or is otherwise disabled may be removed by the Town or County at the expense of the owner.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-23 – Certain equipment required

This provision of the Code requires that every mechanically-propelled vessel with any person aboard on the waterways under the jurisdiction of the Town carry a whistle, anchors, carburetor backfire flame arrestors, fire extinguishers (except for outboard motorboats less than 26 feet in length), distress flag and night flares, and ventilators. Motorboats more than 26 feet in length must also carry a bell.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-24 – Lights to be displayed

This provision of the Code requires that vessels of various sizes carry certain types of lights and lanterns, as further specified in this section. Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea 1948, Act of October 11, 1951, as amended, in lieu of the lights required by this section.

*The Applicant will comply with the substantive provisions of this section.*

#### § 69-26 – Sources of debris; prevention

This provision of the Code states that the Director of Harbor and Marine Enforcement may declare debris placed or deposited on the banks of any waterway which is likely to be washed into such waterway, or any structure in a public waterway which is dilapidated and deteriorated, to be a public nuisance and, therefore, order that it may be removed, abated, altered, or repaired.

*The Applicant will comply with the substantive provisions of this section.*

## 7.10 Town of Oyster Bay

The Applicant has identified the following Town of Oyster Bay Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.10.1 Town of Oyster Bay Code

#### 7.10.1.1 Part II: General Legislation

##### Chapter 156: Noise

##### § 156-4 – Prohibited acts

This provision of the Code prohibits any person from making, continuing or causing to be made any noise disturbance at any time unless it is an emergency, per § 156-5. Specific prohibitions include: (1) Operating or permitting the operation of tools or equipment used in construction, drilling, or demolition between the hours of 10:00 pm. to 7:00 a.m., Monday through Saturday, and at any time on Sunday or holidays, such that the sound therefrom creates a noise disruption across a residential real property boundary or within a noise-sensitive zone. (2) Repairing, rebuilding, modifying or testing any motorboat in such a manner as to cause a noise disruption across a residential real property boundary or within a noise-sensitive zone from 10:00 p.m. to 8:00 a.m., Monday through Saturday, and 10:00 p.m. to 9:00 a.m. on Sunday or Holidays. (3) Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at approximately 50 feet from the source. Construction activities performed in compliance with all applicable laws are exempt from this prohibition. (4) Operating or permitting the operation of any motorboat in any waterway in such manner as to create a noise disruption at approximately 50 feet or the nearest shoreline. (5) Removing or rendering inoperative, other than for purposes of maintenance, repair or replacement, any noise control device, element of design, or sound-monitoring instrument or device positioned by or for the Town of Oyster Bay; or using a product which has a noise control device or element of design which has been rendered inoperative, with knowledge that such action has occurred.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

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§ 156-7 – Immediate threats to health and welfare; other remedies

This provision of the Code states that the Town of Oyster Bay shall order an immediate halt to any sound which exposes any person to continuous or impulsive sound levels in excess of those set forth in this provision (measured at 50 feet or 15 meters: for continuous sound, 90 dBA for 24 hours; 93 dBA for 12 hours; 96 dBA for 6 hours; 99 dBA for 3 hours; 102 dBA for 1.5 hours; 105 dBA for 45 minutes; and 108 dBA for 22 minutes; for impulsive sound, 1 repetition of sound at 145 dBA per 24 hour-period; 10 repetitions at 135 dBA; and 100 repetitions at 125 dBA).

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

Chapter 164: Oil, Storage and Handling of

§ 164-3 – Discharging prohibited; applicability

This provision of the Code prohibits the discharge of oil onto any public or private land or water within the Town in excess of one gallon, or which creates a visible sheen, or which is intentional.

*The Applicant will comply with the substantive provisions of this section.*

§ 164-17 – Telephone report of violations

This provision of the Code requires that a telephone report of any discharge of oil be immediately made by the responsible party or his representative to the Division of Environmental Control of the Department of Public Works of the Town of Oyster Bay (the “Division”). If the discharge takes place into a harbor or waterway, or into water flowing into a harbor or waterway, the person shall also notify the United States Coast Guard, pursuant to federal regulations. The report must include the time and location of the discharge; the type and amount of oil discharged; the assistance required; the name and telephone number of the person making the report; and other pertinent information.

*The Applicant will comply with the substantive provisions of this section.*

§ 164-18 – Complete written reports of violations

This provision of the Code states that, after removal of an oil discharge has been completed, the person responsible shall prepare a complete written report of the occurrence and submit the report to the Division within 10 days. The report should include the date, time, and place of discharge; the name of the licensee, owner of the vessel, or other party involved; the amount and type of oil discharged; a complete description of the circumstances causing the discharge; a complete

description of containment and removal operations; and procedures, methods, and precautions instituted to prevent a similar occurrence from reoccurring.

*The Applicant will comply with the substantive provisions of this section.*

#### § 164-20 – Reports by responsible dischargers

This provision of the Code requires that any person responsible for a discharge of oil in violation of this chapter immediately report the discharge to the Division, and if the discharge takes place into a harbor or waterway or into any waters flowing into a harbor or waterway, such person shall immediately inform the United States Coast Guard.

*The Applicant will comply with the substantive provisions of this section.*

#### § 164-21 – Removal and cleanup of discharges

This provision of the Code states that a person responsible for the discharge of oil as prohibited herein shall also immediately undertake to contain and remove such discharges and shall clean and restore any areas affected by the discharged oil under the supervision and to the satisfaction of the on-scene coordinator of the United States Coast Guard and the Division.

*The Applicant will comply with the substantive provisions of this section.*

### Chapter 168: Parks and Recreation

#### § 168-2 – Use of facilities restricted

This provision of the Code states that the use of any boating and docking facilities which may be provided by the Town in any of the Town parks shall be subject to fees and charges established by the Town Board, and to such rules and regulations for the proper and efficient operation of the facilities as the Town Board may impose.

*The Applicant will comply with the substantive provisions of this section.*

### Chapter 196: Shellfish and Marine Life

#### § 196-38 – Return of unintentionally taken animals

This provision of the Code states that if any fish or crustacea are unintentionally taken contrary to any provisions of the Fish and Wildlife Law or the Marine Life Ordinance of the Town of Oyster Bay, they shall be returned to the water at once without unnecessary injury. Starfish, drills, and periwinkles when taken shall not be returned alive to the waters of the Town.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Although the Applicant and its contractors will employ environmental mitigation measures for marine species as set forth in Exhibit 4, and will comply with the Certificate Conditions and EM&CP, it may not be possible to ensure*

*that all activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### Chapter 201: Solid Waste

##### § 201-59 – Litter in watercourses

This provision of the Code prohibits any person from throwing or depositing litter into any body of water in the Town.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 241: Waterways

##### § 241-3 – State and federal regulations

This provision of the Code states that all boats or vessels operating within the waters of the Town shall comply with all applicable laws, rules and regulations of the state and federal governments.

*The Applicant will comply with the substantive provisions of this section.*

##### § 241-4 – Registration

This provision of the Code states that no motor vessel shall be attached to any mooring, pier, float or dock or operated in waters of the Town of Oyster Bay except if it has currently in effect a registration issued by the State of New York, or in the case of a nonresident owner, by a bureau in the state of his or her residency.

*The Applicant will comply with the substantive provisions of this section.*

##### § 241-14 – Operation of vessels

This provision of the Code states that each person operating a boat or vessel shall at all times operate it in a careful manner, having regard of the existing hazards and at such rate of speed as not to endanger the property of another or the life or safety of any person or so as to interfere with the free and proper use of the waterway by others. It shall be unlawful to operate a boat at a greater speed than five miles per hour within 200 feet of the shoreline, a dock, raft, float, a moored vessel or channel system. Within the portion of the state boating channel within the Town of Oyster Bay, a twelve-mile-per-hour speed zone shall exist and excessive wake shall be prohibited. No boat shall be operated in such a manner as to cause a dangerous wake. Finally, no person may operate a boat or vessel within the waters and waterways of the Town while intoxicated.

*The Applicant will comply with the substantive provisions of this section.*

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#### § 241-15 – Muffler required for certain engines

This provision of the Code prohibits any person from operating a boat propelled wholly or partly by an engine operated by gas, gasoline, naphtha, diesel oil or other fuel without having the exhaust from the engine run through a muffler or controlled by the introduction of water into the exhaust pipe or line.

*The Applicant will comply with the substantive provisions of this section.*

#### § 241-16 – Pollution

This provision of the Code prohibits the dumping or discharging of marine toilets, sewage, oil, gasoline, chemicals, refuse, garbage or wastes or any pollutant in any waters or waterways from any boat or vessel or dock facility. This provision also requires that, prior to launching any vessel into Town waterways, the bilge areas, live wells, ballast tanks, and any other water-holding area be emptied and properly disinfected.

*The Applicant will comply with the substantive provisions of this section.*

#### § 241-18 – Prohibited locations for certain water activities

This provision of the Code prohibits boating at the following locations: Beach Road, at its south end between cul-de-sac and South Oyster Bay in Massapequa; Berkley Place, at its dead end at Seaford Creek; Cleveland Place, at its dead end at Seaford Creek; Franklin Place, at its dead end at Seaford Creek; Garfield Place, at its dead end at Seaford Creek; Harrison Place, at its dead end at Seaford Creek; Jackson Place, at its dead end at Seaford Creek; Jefferson Place, at its dead end at Seaford Creek; Jetmore Place, at its dead end at Seaford Creek; Lincoln Place, at its dead end at Seaford Creek; McKinley Place, at its dead end at Seaford Creek; Roosevelt Place, at its dead end at Seaford Creek; and St. Mark's Place, at its dead end at Seaford Creek.

*The Applicant will comply with the substantive provisions of this section.*

#### § 241-20 – Skin diving

This provision of the Code states that no skin diving shall be undertaken in any channel or in any waters where it may interfere with reasonable and proper operation of boats or within 200 feet of any public or semipublic beach used for bathing and swimming or within 200 feet of any person bathing or swimming within an area designated for bathing or swimming. Any person engaged in skin diving shall maintain a visible red flag with a diagonal white bar on the boat or on the surface of the water in the area of the skin diving operations. No boat or vessel shall approach within a one-hundred-foot radius of an area displaying a red flag with a diagonal white bar.

*The Applicant will comply with the substantive provisions of this section.*

#### § 241-22 – Mooring and anchoring rules and regulations

This provision of the Code states, among other provisions, that no person shall place a mooring anchor buoy in the waters of Oyster Bay Harbor designated on the mooring grid established by this article without having first obtained and having then in force a mooring or courtesy permit. No person shall

attach a vessel to an anchor mooring buoy unless an anchorage area identification tag has been attached to the vessel as required herein. Each vessel anchored to a mooring buoy shall be anchored so that no part of the vessel shall, at any time, extend into a dredged or marked channel.

No anchor mooring buoy or courtesy anchoring buoy shall be placed or remain within any permitted space unless such buoy meets with the approval of the Commissioner of the Department of Environmental Resources or his or her designee. Each mooring chain, line, pennant, anchor, anchor mooring buoy and courtesy anchoring buoy, etc., shall be inspected prior to being placed within the Town waters of Oyster Bay Harbor. Such inspection shall be performed by the mooring placement permit holder who placed the mooring or, in the case of individuals who place their own moorings, by a certified mooring placement permit holder. Each mooring found to be in compliance with these regulations will be marked by the mooring placement permit holder or, in the case of individuals who place their own moorings, by a certified mooring placement permit holder, with a permanent tag indicating mooring permit number and mooring weight.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 241-24 – Minimum requirements for mooring tackle

This provision sets forth the minimum requirements for mooring tackle. This provision also sets forth the minimum requirements for mooring buoys. An anchor mooring buoy or a courtesy anchoring buoy shall extend at least 12 inches above the surface of the water. An anchor mooring buoy or a courtesy anchoring buoy shall be white with a blue horizontal stripe above the waterline. Each buoy shall also carry a stripe of white reflector tape or white reflector paint at least one inch in width all around the uppermost part of the buoy. An anchor mooring buoy or a courtesy anchoring buoy shall have the permit numbers painted thereon in black paint four inches high and, in addition thereto, a courtesy anchoring buoy shall have the weight of mushroom anchor clearly painted thereon in black paint two inches high. This provision also states that upon the termination, expiration or revocation of a mooring permit or the ordering of the relocation thereof, an anchor mooring buoy and all attachments shall be removed or relocated by the person to whom the mooring permit has been issued.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 241-25 – Prohibited locations for certain activities

This provision of the Code prohibits any person from mooring or anchoring a boat in any channel, within 50 feet of any channel marker, within 200 feet of any public beach, or within the distance designated on any sign duly authorized by the Town Board, unless specific authority is granted by the Town Board or its duly authorized representative, or in the case of a Town-authorized mooring. No person shall moor or anchor any boat so as to endanger the safety of or cause damage to any boat previously anchored or previously laid down. No boat shall be tied up or made fast to a public dock or float or to property of the Town for a continuous period in excess of the time indicated by a sign at that location. This provision also prohibits the mooring of boats upon that portion of the highway of the Town known as "St. Mark's Place," from Ocean Avenue east to the bay; upon that portion of the Town known as "Beach Road," at the south end between cul-de-sac and South Oyster Bay in Massapequa;

and upon that portion of the highway of the Town known as "Clocks Boulevard," from Lincoln Avenue southerly to the bay.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law, and it may be necessary for boats or vessels used in the construction of this NY Project to moor or anchor within 50 feet of any channel marker, within 200 feet of a public beach, or within the distance designated on any sign authorized by the Town Board.*

#### § 241-26 – Restrictions on mooring

This provision of the Code states that no boat may be docked to any mooring except by specific permission of the Commissioner of the Department of Public Safety or his or her designee, except as may heretofore exist. No boat may be docked at a dock, pier, floating dock or bulkhead directly to another boat overnight, except as such may be specifically temporarily allowed by the Commissioner of the Department of Public Safety or his or her designee. No gasoline diesel fuel or similar flammable materials in an amount in excess of five gallons may be kept upon or within a dock or mooring for more than three hours. No boat owner or operator shall allow any hazardous or dangerous condition to exist or be maintained upon any boat attached to any mooring or within Town waters. All protective coverings used to protect engines, accessories and combustibles shall be of fire-resistant materials. All moorings and systems within and upon them must be kept in good repair.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 241-28 – General requirements

This provision of the Code states that no boat shall be moored closer than three feet to any property line or closer than two feet horizontally from any other mooring, and no vessels or other obstructions shall be placed in any location which would impede firefighting operations or other similar emergency operations.

*The Applicant will comply with the substantive provisions of this section.*

### Chapter 246: Zoning

#### § 10.3.1 – Noise

This provision of the Code states that the decibels resulting from any activity shall not exceed the maximum decibel level for the designated octave band as set forth in this section. Reasonable and customary noises emanating from construction and construction maintenance activities between 8:00 a.m. and sunset are excluded from this requirement.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 10.3.2 – Vibration

This provision of the Code states that no activity shall cause or create a steady-state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of that listed in this section.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology with regard to vibration limits to the extent that construction activities may result in transient and temporary occurrences of these conditions and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 10.3.3 – Smoke, dust and other atmospheric pollutants

This provision of the Code prohibits the emission of smoke and other particulate matter if it will be in any way detrimental to the public health, safety, welfare or comfort, or a source of potential damage to property. There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating. There shall be no emission of heat which would cause a temperature increase in excess of 1° F. along any adjoining lot line, whether such change be in the air, in the ground or in any watercourse or water body. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Nassau County Board of Health, New York State Department of Environmental Conservation and any other regulatory agency having jurisdiction thereof.

*The Applicant will comply with the substantive provisions of this section.*

#### § 10.3.7 – Electromagnetic interference

This provision of the Code prohibits any operation which produces any perceptible electromagnetic interference with normal radio or television reception in any area within or without the town.

*The Applicant will comply with the substantive provisions of this section.*

### § 10.3.9 – Heat

This provision of the Code states that there shall be no emission of heat which would cause a temperature increase in excess of 1° F along any adjoining lot line, whether such change be in the air, in the ground, or in any watercourse or water body.

*The Applicant will comply with the substantive provisions of this section.*

### § 10.3.10 – Liquid waste

This provision of the Code states that the discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Nassau County Board of Health, the New York State Department of Environmental Conservation, and any other regulatory agency having jurisdiction thereof.

*The Applicant will comply with the substantive provisions of this section.*

## 7.11 Town of Huntington

The Applicant has identified the following Town of Huntington Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.11.1 Town of Huntington Code

#### 7.11.1.1 Part II: General Legislation

#### Chapter 120: Harbors and Waterways

#### § 120-3 – Pollution of waterways

This provision of the Code prohibits the release of a pollutant or other material into the waters within the Town's jurisdiction. In the event of such release, the Department of Maritime Services must be notified within one hour.

*The Applicant will comply with the substantive provisions of this section.*

#### § 120-4 – Freestanding floats

This provision of the Code states that it shall be unlawful to anchor, tie, or maintain a freestanding float or a combination of freestanding floats upon the waters over which the Town of Huntington and/or the Board of Trustees have ownership or jurisdiction that, when joined, are larger than two hundred square feet without first obtaining a marine conservation permit pursuant to Chapter 137 of the Code of the Town of Huntington. Freestanding floats that are two hundred square feet or less must obtain a mooring permit from the Department. All freestanding floats shall be anchored or moored in such a way as to be secure at all times and under all conditions, and such anchoring or mooring shall be subject to the supervision of the Department. Floats stored in harbors, bays and coves shall not rest on any tidal wetlands, or be moored in a channel or accessway, or interfere with the safe navigation of vessels. It shall be unlawful to store flammable, noxious and/or hazardous material or liquid,

unsalted bait or debris on floats moored within the Town of Huntington. The minimum requirement for mooring a single float, 200 square feet or less in size, shall be one 150-pound mushroom anchor. All other ground tackle shall be the same size and diameter as required for a 20- to 24-foot vessel. For mooring a single float more than two hundred (200) square feet in size, the weight of the mushroom anchor shall be increased using the minimum standard chart for the appropriately sized vessel. All other ground tackle shall meet the requirement of the next highest category on the vessel chart. In all other respects, the provisions of § 120-21 pertaining to the mooring of vessels shall apply equally to the anchoring or mooring of freestanding floats.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 120-5 – Public docks and floats

This provision of the Code states that it shall be unlawful to tie or make fast a vessel to any public dock or float for longer than one hour, except as otherwise posted; or to tie or make fast a vessel to a pump-out area except for the purpose of promptly loading or unloading, or for sanitary pump-out purposes, and thereafter the owner or person in charge of the vessel shall immediately disengage the vessel from the float. In the event a vessel is disabled, the vessel may remain at such public dock or float for a period not to exceed twenty-four hours with the permission of the Department of Maritime Services. At no time shall a disabled vessel be tied up or made fast to the south float “pump-out area.”

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 120-6 – Use of Town boat ramps; resident beach parking stickers

This provision of the Code prohibits use of a Town launching ramp for commercial purposes without a permit or by anyone without a valid beach sticker. This provision also prohibits tying a vessel to a Town launching ramp for more than 15 minutes except in an emergency, or for certain recreational, lobstering, or shellfishing purposes. Also prohibited on ramps are motorized vehicles weighing over five tons. The easterly side of the launching ramp and floats at Mill Dam Road may only be used by recreational boaters for certain purposes.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 120-7 – Restrictions on operations of vessels; liability

This provision of the Code prohibits the operation of vessels within 300 feet of a lifeline or bathing float, within 300 feet of the shoreline of any public or semipublic beach, or within 300 feet of anyone swimming or bathing, except when existing or entering the water, then no closer than 50 feet at a speed no greater than five miles per hour. Otherwise, vessels may not exceed five miles per hour in the any harbor, in the Huntington Inlet Channel from the northerly end of Huntington Harbor to the Huntington Lighthouse, all waters north of a fence at the southerly end of Hobart Beach parking area running east 1,500 feet and to the southerly end, in a portion of Northport Bay Channel, and in a portion of Centerport Harbor. This provision also prohibits operation of a vessel in excess of 45 miles

per hour, except in congested areas, then at 5 miles per hour, or in an unsafe manner. Vessels may not be operated in a harbor or controlled speed area that creates a dangerous wake, and in all locations, must be operated in a safe, careful, and prudent manner. Further, no one may operate a vessel with an engine whose horsepower exceeds the US Coast Guard recommendation. Also, operators of mechanically propelled vessels should be at least 18, with some exceptions, and should not be impaired or intoxicated. Further, owners are liable for death and injury resulting from negligence.

*The Applicant will comply with the substantive provisions of this section.*

#### § 120-10 – Scuba diving, diving operations and snorkeling

This provision of the Code prohibits scuba diving, or any diving or snorkeling in a channel unless incidental to an approved salvage operation. Further, no vessels (other than an attending vessel) may be operated within 100 feet of an area marked for diving or snorkeling. This provision prohibits scuba diving, diving or snorkeling without marking the area with a red diving flag with diagonal white bar or blue alpha signal flag.

*The Applicant will comply with the substantive provisions of this section.*

#### § 120-14 – Defacing or removal of identification marks on motors

This provision of the Code prohibits destruction or defacing serial numbers and other distinguishing identification marks on a motor. It also prohibits the knowing receipt, concealing, and/or possession of a motor where such identification mark has been removed, defaced, covered, altered, and/or destroyed for the purpose of concealing or misrepresenting the identity of the motor.

*The Applicant will comply with the substantive provisions of this section.*

#### § 120-16 – Equipment and lights

This provision of the Code requires that all vessels be equipped and lighted as required by all state and federal rules, regulations, and laws.

*The Applicant will comply with the substantive provisions of this section.*

#### § 120-17 – Unseaworthy, sunk or abandoned vessels

This provision of the Code prohibits the owner or person in charge of a vessel to permit the vessel to remain in the waters and/or harbors of the Town, or to wash ashore, if the vessel becomes unseaworthy, swamped, sunk, wrecked, derelict, abandoned, or are in a condition that causes danger to the public or property. Such vessel shall be removed upon notice to the registered owner, absent which the vessel may be directed to be removed, impounded, destroyed, or sold at auction.

*The Applicant will comply with the substantive provisions of this section.*

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### § 120-18 – Charter and commercial vessels

This provision of the Code prohibits charter or commercial vessels carrying more than six passengers to use Town docks, slips or ramps for discharging passengers without a permit. The permit, once issued, shall be placed and at all times displayed in a conspicuous location on the vessel's wheel house.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

### § 120-20 – Town marinas

This provision of the Code prohibits boats to be confined or secured at a town marina without a permit.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

### § 120-21 – Mooring of vessels and floats

This provision of the Code prohibits mooring without a permit. All individuals placing moorings must mark each ball or float. This provision further sets forth minimum standards for mooring vessels and floats, and states that no person shall tamper with mooring not under their control. This provision prohibits vessels to be moored so that any portion of the vessel is within a channel, or closer than 50 feet of a channel marker or designated swimming area, or closer than 100 feet of a town dock, float or ramp, or at a location that impedes other vessels already moored, or in a manner that impedes or creates navigational hazards. There shall be no less than 50 feet between mooring buoys, unless otherwise approved.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

### § 120-28 – Report of spillage required; penalties; cleanup requirements

This provision of the Code states that any person owning or operating any vessel, vehicle or facility within the Town of Huntington from which any oil, toxic or flammable material is spilled in significant quantities onto the land or into the surface waters or onto any surface where there is a potential for contamination of ground or surface waters shall, as soon as he has knowledge of the spill, notify the Town of Huntington Department of Maritime Services of such spillage. Any person owning or operating any vessel, vehicle or facility within the Town of Huntington from which oil, toxic or flammable material is spilled shall be fully responsible for the containment, cleanup and removal, and for all costs incurred resulting from such spillage, and shall fully compensate the Town for all expenses incurred by the

Town to contain and prevent the spilled material from contaminating or degrading the environment or from causing a hazard to public health or safety to clean up and remove the spilled material.

*The Applicant will comply with the substantive provisions of this section.*

#### § 120-29 – Spillage, penalties for violations

This provision of the Code prohibits any person or business entity from spilling or discharging any oil, toxic or flammable material of significant quantity into or onto any land or waters of the Town of Huntington.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 133 Littering and Dumping

##### § 133-1 – Prohibited acts

This provision of the Code prohibits dumping and littering in bodies of water.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 137: Marine Conservation and Regulation of Marine Structures

##### § 137-10 – Commercial marine structures

This provision of the Code sets forth standards and regulations for the design, operation, and maintenance of floating platforms. It also prohibits the placement of floating platforms within 50 feet of any federally or locally designated navigational channel vessel accessway, fairway, or channel.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

##### § 137-11 – Maintenance of structures

This provision of the Code requires a permit holder and/or property owner of a marine structure to provide maintenance, repair, and service of said structure.

*To the extent this Local Law is applicable to the NY Project, or may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

*Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-29 – Display of permit; non-transferability; alteration; assignment plans

This provision of the Code states that a certified copy of the approved plans and specifications shall be kept at the premises at all times from the commencement of work to completion thereof. A complete copy of the plans and specifications shall be provided to Town officers and/or inspectors upon request.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-31 – Standards for operations allowed under the permit

This provision of the Code requires that any removal or depositing of material, done pursuant to a permit, shall be done in a manner that does not undermine, weaken, or deprive of support other lands in the vicinity, or otherwise adversely affect the watercourse, impede navigation, or change the course of any channel substantially.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-32 – Certification of Dredge material removed; compliance with this Article

This provision of the Code requires that, at the completion of dredging of material, applicant must submit a certificate by a registered surveyor or professional engineer to the Department of Engineering regarding the amount of the material removed and certifying that the removal operations have been in compliance with the provisions of this chapter and the conditions imposed by the resolution directing the issuance of the permit.

*To the extent this Local Law is applicable to the NY Project, or may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, it may not be technologically possible to ensure that construction activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-33 – Procedure upon completion

This provision of the Code requires that upon completion of the work done under a permit under this article, a registered surveyor or professional engineer must submit a certificate that the work is complete, along with a survey and topographical material.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-35 – Other required permits

This provision of the Code states that no operations shall be initiated by the applicant until other required permits, including but not limited to permits from the New York State Department of Environmental Conservation, New York State Department of State, and the Department of the Army Corps of Engineers, are issued and submitted to town.

*The Applicant will comply with the substantive provisions of this section and will obtain necessary state and federal permits. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-36 – Display of permit; non-transferability; alteration; assignment; plans

This provision of the Code states that a certified copy of the approved plans and specifications shall be kept at the premises at all times from the commencement of work to completion. A complete copy of the plans and specifications shall be promptly provided to Town officers and/or inspectors upon request.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-41 – Permit required

This provision of the Code prohibits, within 1500 feet of the shorelines, mooring on any underwater land, and securing a vessel to a mooring, without a permit, absent which such vessels may be removed, or impounded at owner's cost.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-46 – Acceptance of mooring permit or transient mooring permit

This provision of the Code states that acceptance of a mooring permit or transient mooring permit constitutes an agreement by the permit holder that he or she will defend and hold the Town of Huntington and the Board of Trustees harmless from any claim, loss, damage, suit or judgment for property damage and/or personal injury, including death and reasonable attorney fees, that may arise from or in connection with the operation, tying, removal or disposal of the vessel or float, or the placing and maintenance of the mooring; that He or she agrees to be liable to the Town and Board of Trustees for any costs, expenses, charges, and losses incurred by the Town or Board of Trustees for the removal, impound, storage, disposal, and sale of any vessel or float that becomes unseaworthy, swamped, sunk, derelict or abandoned while tied to the mooring; and that the permit holder agrees to comply with applicable law.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-47 – Non-transferability of mooring permit or transient mooring permit

This provision of the Code states that a mooring shall be utilized only by the vessel or float for which the permit is issued and a permit holder may not sublease the use of the mooring to another, with the exception of transient mooring permit holders.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-48 – Display of permit decals; identification of moorings

This provision of the Code states that all individuals placing moorings shall conspicuously mark each mooring ball or mooring float under their control with the name of the vessel or the name of the owner so as to be easily identified from the surface of the water.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-49 – Regulations and restrictions

This provision of the Code sets forth the minimum standards for mooring vessels and floats. This provision also states that no vessel or float shall be moored so that any portion of the vessel or float is within a channel; or closer than fifty feet of a channel marker or a designated public swimming area; or closer than one hundred feet of a town dock, float or ramp; or at a location which impedes or restricts the swing of any vessel or float already moored; or in such location as to impede or create a hazard to navigation; or for any other reason that has the potential to harm life or property. There shall be no less than fifty feet between mooring buoys, unless otherwise approved by the Department. If, in the judgment of the Department, a mooring and/or vessel or float tied thereto severely impedes or severely restricts navigation, or is in such location so as to cause immediate and/or serious danger to life or property, the Department may immediately impound and/or relocate the mooring and/or vessel or float at the expense of the owner without providing such three-day prior notice.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

§ 137-52 – Transient mooring permit

This provision of the Code sets forth requirements for transient mooring permits. The Town may deny an application for a transient mooring permit if, in the judgment of the Department, the issuance of a permit to the applicant would, because of the mooring's intended location or other reason, jeopardize the safety of permit holders, their vessels, floats, public or private property; or impede or restrict safe navigation; or would create a hazard or danger; or would negatively impact or unduly disturb marine organisms and/or the underwater lands; or would jeopardize the peace and good order. An application may also be denied if, in the judgment of the Department, the location of the vessel or float does not

comply with applicable village, town, federal, state or local environmental or safety laws, rules or regulations, or with the applicable laws, rules or regulations of any governmental agency having jurisdiction over navigation. This provision further states that it shall be unlawful for any person, within 1,500 feet of the shorelines of the Incorporated Villages of the Town of Huntington, to place or maintain a transient mooring on the underwater lands over which the Town of Huntington and/or the Board of Trustees have ownership, or to tie or secure a vessel or float or any other object to a transient mooring if a transient mooring permit has been denied or revoked. Holders of transient permits shall conspicuously mark each mooring ball being utilized with the organization, club, marina or association's name so as to be easily identified from the surface of the water.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, permit or certificate are pre-empted under PSL § 130.*

#### § 137-57 – Unseaworthy, sunk or abandoned vessels

This provision of the Code requires that, within 1500 feet of village shorelines, vessels that become unseaworthy, sunk, wrecked, abandoned, or are in a condition that causes danger to the public or property shall be removed upon notice to the registered owner, absent which the vessel may be direct to be removed, impounded, destroyed, or sold at auction.

*The Applicant will comply with the substantive provisions of this section.*

#### Chapter 141: Noise

#### § 141-3 – Noise disturbance prohibited & § 141-4 – Noise disturbances enumerated

This provision of the Code prohibits noise disturbances within the Town, defined in § 141-4 (Noise disturbances enumerated) to include horns other than as a danger warning, exhaust of any internal-combustion or motorboat except through a muffler, pile drivers and hammers between 10PM and 7AM, loading and unloading, construction other than between the hours of 7AM and 6PM on weekdays without a permit, and loudspeakers.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, with regard to noise level limits to the extent that construction activities may result in transient and temporary occurrences of these conditions and to the extent this Local Law may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EM&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EM&CP, and the Applicant will prepare a noise mitigation plan, it may not be technologically possible to ensure that construction or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

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## Chapter 143: Outdoor Lighting

### § 143-6 – Outdoor lighting in all zoning districts; requirements

This provision of the Code requires that exterior lighting be designed, located, and lamped to prevent over lighting, energy waste, glare, light trespass, unnecessary sky glow, interference with traffic on streets, and public hazard or nuisance. Exterior lighting should be shielded and downward-facing, with some exceptions, and not to exceed 25 feet. Unshielded wall packs and floodlights, searchlights, pulse and laser lights, blinking lights, and mercury vapor lights are prohibited.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law in view of existing technology and factors of cost and economics. Some lighting on vessels may be required that differs from the requirements of this Local Law. The Applicant will comply the conditions imposed by the Commission in its Article VII Certificate and its EM&CP.*

### § 143-7 – Outdoor lighting in non-residentially-utilized properties; requirements

This provision of the Code requires that exterior lighting be turned off within an hour of the end of the activity, should not cause a glare, and should not exceed IESNA Publication levels for various common tasks.

*The Applicant will comply with the substantive provisions of this section.*

## Chapter 166: Shellfish Management

### § 166-14 – Area and time restrictions

This provision of the Code prohibits taking shellfish from any uncertified area, any management area closed to the taking of shellfish, or from town lands underwater between sunset and sunrise. Possession of a rake, tong, dredge, scrape, or other digging or harvesting device overboard in such areas or during such time will be prima facie evidence of unlawful taking of shellfish.

*To the extent this Local Law and the prohibition on the possession of dredging devices is applicable to the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. Although the Applicant and its contractors will employ environmental mitigation measures for marine species as set forth in Exhibit 4, and will comply with the Certificate Conditions and EM&CP, it may not be possible to ensure that all activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

### § 166-22 – Interference with marking devices

This provision of the Code prohibits anyone from removing or tampering with stakes, buoys, signs, boundary markers or other devices used to mark any management areas, uncertified areas, conditionally certified areas, seasonally certified areas or leased lands.

*The Applicant will comply with the substantive provisions of this section.*

## § 166-24 – Taking of starfish, drills, moon snails and conchs

This provision of the Code states that starfish, drills, moon snails, and conchs, when taken, shall not be returned alive to town lands underwater.

*The Applicant will comply with the substantive provisions of this section.*

## 7.12 Nassau County

The Applicant has identified the following Nassau County Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.12.1 Nassau County Administrative Code

#### Chapter I: The Board of Supervisors

##### Title A - In General

#### § 1-6.0 – Regulating and licensing powers concerning use and operation of steam boilers and hoisting and contractors' machinery in the County

This provision of the Code provides that the Board of Supervisors, by local law, ordinance or resolution, may regulate steam boilers carrying over fifteen pounds of steam and over ten horsepower, which are operated and used within the County. The Board may also prohibit the following if a license has not been obtained: (1) operating and/or running steam boilers and (2) running or operating any machinery used for hoisting purposes or cableways, regardless of motive power, or for construction or excavation work.

*To the extent this Local Law is applicable to the NY Project, the Applicant requests the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology. The Applicant may need to utilize a steam boiler during the construction of the NY Project. Such use will be in compliance with the NY Project's Article VII Certificate and its EM&CP. Procedural requirements are preempted under PSL § 130.*

#### Chapter VIII: Department of Police

#### § 8-70.2 – Prohibited Activity

This provision of the Code prohibits any person from willfully removing, covering, altering, or destroying the manufacturer's serial numbers or identification numbers or symbols on any marine equipment, marine motor or boat hull.

*The Applicant will comply with the substantive provisions of this section.*

## Chapter XXI: Miscellaneous Officers

### Title D-15 - Prevention the Spread of Invasive Species in Nassau County

#### § 21-24.2 – Prohibitions

This provision of the Code provides that no person shall dump or deposit invasive plant species listed in subdivision b of this section into any river, stream, lake, pond, wetland or storm water drain.

*The Applicant will comply with the substantive provisions of this section.*

### 7.12.2 Nassau County Fire Prevention Ordinance

Adopted as of 2017, and incorporated by reference in Chapter XVII of the Administrative Code, footnote 78, these provisions outline the fire safety standards for the County, and set forth the requirements for the storage and handling of flammable and combustible liquids, including loading and unloading such materials from boats and vessels. Further, these provisions set forth requirements for applications, plans and approvals for the foregoing. At Section 1.1, the Ordinance provides that the National Fire Protection Association standards are adopted by this Ordinance and are incorporated by reference in its Articles. Where there is a difference between the provisions of the Ordinance and the standards referenced therein, the provisions of the Ordinance and/or the New York State Uniform Fire Prevention and Building Code shall apply. In the case of conflict between the Ordinance and the New York State Uniform Fire Prevention and Building Code or any federal, state or Nassau County law, the more restrictive provision shall apply.

*The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

## 7.13 Suffolk County

The Applicant has identified the following Suffolk County Local Ordinances that are applicable or potentially applicable to the construction and operation of the NY Project.

### 7.13.1 Suffolk County Administrative Code

#### Part II: Regulatory Local Laws

#### § 325-3 – Removal or defacing of serial numbers prohibited

This provision of the Code prohibits any person from willfully removing, defacing, covering, altering or destroying the manufacturer's serial number or other distinguishing number or identification mark on any marine motor or marine hull.

*The Applicant will comply with the substantive provisions of this section.*

### § 446-3 – Prohibitions

This provision of the Code prohibits any person from introducing, throwing, dumping, depositing, placing or causing to be introduced, thrown, dumped, deposited or placed in any river, stream, lake, pond, wetland or stormwater drain, in whatever capacity and for whatever purpose, anything containing an invasive nonnative aquatic animal or an invasive nonnative aquatic plant.

*The Applicant will comply with the substantive provisions of this section.*