

Empire Offshore Wind LLC  
and  
EW Offshore Wind Transport Corporation

Empire Wind 2 Project  
Article VII Application

**Exhibit 7**  
**Local Ordinances**

August 2023

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**ACRONYMS AND ABBREVIATIONS**

BMP	best management practice
BOEM	Bureau of Ocean Energy Management
CECPN	Certificate of Environmental Compatibility and Public Need
EM&CP	Environmental Management and Construction Plan
Empire or the Applicant	Empire Offshore Wind LLC and EW Offshore Wind Transport Corporation
EW 2 Project	Empire Wind 2 Project
FEMA	Federal Emergency Management Agency
FERC	Federal Energy Regulatory Commission
HVAC	high-voltage alternating-current
km	kilometer
kV	kilovolt
Lease Area	BOEM-designated Renewable Energy Lease Area OCS-A 0512
LIPA	Long Island Power Authority
mi	mile
MS4	municipal separate storm sewer system
NERC	North American Electric Reliability Corporation
NESC	National Electric Safety Code
nm	nautical mile
NYCRR	New York Codes, Rules and Regulations
NYISO	New York Independent System Operator, Inc.
NY Project	EW 2 Project transmission facilities in New York
NYSPSC or Commission	New York State Public Service Commission
OSHA	Occupational Safety and Health Administration
POI	Point of interconnection at the Hampton Road substation
PSEG-LI	PSEG Long Island
PSL	New York Public Service Law
SMO	Stormwater Management Officer
SMP	stormwater management practice
SPDES	State Pollutant Discharge Elimination System
SWPPP	Stormwater Pollution Prevention Plan
TOD Overlay	Transit Oriented Development Overlay District

## EXHIBIT 7: LOCAL ORDINANCES

### 7.1 Introduction

Empire Offshore Wind LLC and EW Offshore Wind Transport Corporation (collectively, Empire or the Applicant) proposes to construct and operate the Empire Wind 2 (EW 2) Project 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 0512 (Lease Area). The EW 2 Project will require an electric transmission system to connect the offshore wind farm to the point of interconnection (POI) to the New York State Transmission System. An electric transmission line with a design capacity of 125-kilovolt (kV) or more, extending a distance of one 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 pursuant to Article VII of the New York Public Service Law (PSL). The EW 2 Project transmission system will extend a total of approximately 12.2 miles (mi) (19.6 kilometers [km]) within the State of New York and includes two 345-kV cable circuits.

The POI will be located on a parcel located along Hampton Road in Oceanside, within the Town of Hempstead, New York. The POI facilities (referred to herein collectively as the Hampton Road substation) will include both 345-kV and 138-kV substation facilities. The Applicant is proposing to permit all of these facilities, as well as the 138-kV “loop-in / loop-out” lines that will connect the substation facilities to two existing 138-kV cable circuits located under Lawson Boulevard owned by the Long Island Power Authority (LIPA) and operated by PSEG Long Island (PSEG-LI). LIPA will own and PSEG-LI will operate these loop-in / loop-out lines and the 138-kV facilities at the Hampton Road substation site. The ownership and/or operation of the 345-kV facilities at the Hampton Road substation will be determined through a mutually acceptable Interconnection Agreement between the Applicant and LIPA, as developed through the New York Independent System Operator, Inc. (NYISO) interconnection process.

This application is being submitted to the Commission pursuant to Article VII of the PSL for the portions of the EW 2 Project transmission system that are located within the State of New York (the NY Project). The onshore portion of the NY Project will be located entirely within Nassau County, New York.

The NY Project includes:

- Two three-core 345-kV high-voltage alternating current (HVAC) submarine export cables located within an approximately 7.7-nautical mile (nm, 14.2-km)-long submarine export cable corridor from the boundary of New York State waters 3 nm (5.6 km) offshore to the cable landfall;
- A cable landfall in the City of Long Beach, New York;
- Two 345-kV onshore export cable circuits, each with three single-core HVAC onshore export cables within an approximately 1.6-mi (2.5-km)-long onshore export cable corridor from the cable landfall to the onshore substation;
- An onshore substation in the Village of Island Park, within the Town of Hempstead, New York, which will house major control components for the electrical system and perform functions such as voltage regulation, reactive power compensation, and harmonic filtering;
- Two 345-kV interconnection cable circuits, each with three single-core HVAC interconnection cables within an approximately 1.7-mi (2.8-km)-long interconnection cable corridor from the onshore substation to the Hampton Road substation;

- The new Hampton Road substation in Oceanside in the Town in Hempstead, New York, which will include substation facilities that will provide the necessary breaker arrays and 345-kV/138-kV transformers; and
- Four 138-kV loop-in / loop-out line cable circuits, located within an approximately 0.1-mi (0.2-km) long cable corridor from the Hampton Road substation to existing LIPA transmission lines located under Lawson Boulevard in Oceanside, New York.

The Article VII regulations require the Applicant to “submit a list of all local ordinances, laws, resolutions, regulations, standards, and other requirements applicable to the proposed facility [collectively, “Local Ordinances”], together with a statement that the location of the facility as proposed conforms to all such local legal provisions, except any that the applicant requests that the Commission refuse to apply because, as applied to the proposed facility, such local legal provision is unreasonably restrictive in view of the existing technology, factors of costs or economics, or the needs of consumers.” 16 New York Codes, Rules and Regulations (NYCRR) § 86.8. This Exhibit addresses the requirements of 16 NYCRR § 86.8, as well as the applicability of PSL § 130’s preemption of local and state approvals, consents, permits, certificates, or other conditions (Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 [issued August 20, 1993] [finding “[s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility {including those which afford agencies other than the Commission the discretion to apply their provisions} are inapplicable under PSL §130.”]).

## 7.2 Local Ordinance Summary

Proposed NY Project components including the cable landfall, onshore substation, export and interconnection cable routes, Hampton Road substation and loop-in / loop-out lines are to be sited in the City of Long Beach, Village of Island Park, and the Town of Hempstead, which are within Nassau County, New York. This Exhibit therefore identifies the substantive City of Long Beach, Village of Island Park, Town of Hempstead, and Nassau County Local Ordinance provisions 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. However, 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 M Local Ordinances**.

**Table 7.2-1 Summary of Local Ordinances**

<b>Ordinance</b>	<b>Compliance or Request for Relief</b>
<b>City of Long Beach Code of Ordinances</b>	
Code of Ordinances Chapter 3 – Advertising, Signs and Posting Bills	The Applicant will comply with the substantive requirements of this chapter.
Code of Ordinances Chapter 4 – Air Pollution	The Applicant will comply with the substantive requirements of this chapter.
Code of Ordinances Chapter 6 – Boats, Docks and Waterways	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §6-48 and §6-49. These requirements are unreasonably restrictive in view of existing technology, and factors of cost and economics.
Code of Ordinances Chapter 7 – Building Code	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §7-162, §7-163, §7-179, §7-180, and §7-227. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Code of Ordinances Chapter 10 – Electrical Code	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §10-3, §10-14, §10-40, §10-41, and §10-62. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Code of Ordinances Chapter 11 – Fire Prevention and Protection	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances § 11-19. These requirements are unreasonably restrictive in view of existing technology.
Code of Ordinances Chapter 12 – Garbage and Refuse	The Applicant will comply with the substantive requirements of this chapter.
Code of Ordinances Chapter 13 – Housing and Property Rehabilitation and Conservation Code	The Applicant will comply with the substantive requirements of this chapter.
Code of Ordinances Chapter 15 – Motor Vehicles and Traffic	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §15-119, §15-120, §15-149, §15-151, §15-152.1, §15-153, §15-154, §15-159, §15-160, §15-161, §15-162, §15-162.1, §15-164, §15-165, §15-166, §15-171, §15-173, §15-173.1, §15-174, §15-175, and §15-177. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 16 – Noise	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §16-5 and §16-6. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 17 – Offences – Miscellaneous	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §17-1 and §17-5. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 18 – Parks and Recreation	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §18-17 and §18-32. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 21 – Plumbing Code	The Applicant will comply with the substantive requirements of this chapter.



Ordinance	Compliance or Request for Relief
Chapter 23 – Streets, Sidewalks, and Public Ways	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §23-3, §23-4, §23-24, and §23-25. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 25 – Water and Sewers	The Applicant requests a waiver from the requirements of the City of Long Beach Code of Ordinances §25-101, §25-176, §25-177, §25-178, §25-196, §25-197, and §25-198. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
<b>Village of Island Park</b>	
Chapter 183 – Boats and Boating	The Applicant will comply with the substantive provisions of this code.
Chapter 188 – Building Construction	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §188-9. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 220 – Construction Codes, Uniform	The Applicant will comply with the substantive provisions of this code.
Chapter 239 – Electricians, Licensing of	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §239-3 and §239-5. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 258 – Fire Prevention	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §258-8 and §258-14. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 264 – Flood Damage Prevention	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §264-14, §264-15, and §264-17. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 286 – Hazardous Materials	The Applicant will comply with the substantive provisions of this code.
Chapter 326 – Licenses, Permits and Certificates	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §326-6. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 349 – Noise	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §349-2 and §349-3. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 373 – Outdoor Storage	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §373-1 and §373-2. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 381 – Parking	The Applicant will comply with the substantive provisions of this code.

Ordinance	Compliance or Request for Relief
Chapter 386 – Parking Fields, Municipal	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances § 386-12. These requirements are unreasonably restrictive in view of existing technology and factors of cost and economics.
Chapter 417 – Plumbers, Licensing of	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinance §417-1. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 431 – Property Maintenance	The Applicant will comply with the substantive provisions of this code.
Chapter 482 – Signs	The Applicant will comply with the substantive provisions of this code.
Chapter 489 – Solid Waste	The Applicant will comply with the substantive provisions of this code.
Chapter 496 – Storm Sewers	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinance §496-5. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 503 – Stormwater Management and Erosion and Sediment Control	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinance §503-7. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 510 – Streets and Sidewalks	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinance §510-30. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 560 – Trees	The Applicant will comply with the substantive provisions of this code.
Chapter 583 – Vehicles and Traffic	The Applicant will comply with the substantive provisions of this code.
Chapter 625 –Zoning	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §625-32, §625-33, §625-35, §625-51 and §625-52. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
<b>Village of Island Park Local Law No. 2 of 2021</b>	
Island Park Transit Oriented Development Overlay District (TOD Overlay)	The Applicant requests a waiver from the requirements of the Village of Island Park Code of Ordinances §6, §7, §9, §10, and §12. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
<b>Village of Island Park Local Law No. 5 of 2023</b>	
Lighting, Outdoor	The Applicant will comply with the substantive provisions of this code.

Ordinance	Compliance or Request for Relief
<b>Town of Hempstead Code</b>	
Chapter 70 – Department of Water, Rates and Regulations	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinance §70-40. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 78 – Parks	The Applicant will comply with the substantive provisions of this code.
Chapter 80 – Public Parking Fields	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinances §80-9. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 84 – Master Electricians	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinances §84-5, §84-11, and §84-361. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 86 – Business Construction Administration	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinances § 86-36. These requirements are unreasonably burdensome in view of existing technology and factors of cost and economics.
Chapter 91 – Public Nuisances	The Applicant will comply with the substantive provisions of this code.
Chapter 94 – Emergency Lighting and Power	The Applicant will comply with the substantive provisions of this code.
Chapter 128 – Garbage and Rubbish	The Applicant will comply with the substantive provisions of this code.
Chapter 132 – Flammable and Combustible Liquids	The Applicant will comply with the substantive provisions of this code.
Chapter 138 – Smoke	The Applicant will comply with the substantive provisions of this code.
Chapter 140 – Earth and Soil Removal	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinance §140-3. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 144 – Unreasonable Noise	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinances §144-2, §144-3, §144-5, and §144-6. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 155 – Boats and Seaplanes	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinances §155-4 and §155-9. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 159 – Dredging	The Applicant will comply with the substantive provisions of this code.
Chapter 161 – Illicit Discharges	The Applicant will comply with the substantive provisions of this code.

Ordinance	Compliance or Request for Relief
Chapter 163 – Marinas and Docks	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinance §163-33. These requirements are unreasonably restrictive in view of existing technology, factors of cost and economics, and the needs of consumers.
Chapter 164 – Public Wetlands Preservation	The Applicant will comply with the substantive provisions of this code.
Chapter 165 – Freshwater Wetlands	The Applicant will comply with the substantive provisions of this code.
Chapter 167 – Dune Protection Zone	The Applicant will comply with the substantive provisions of this code.
Chapter 168 – Structures in Waterways	The Applicant will comply with the substantive provisions of this code.
Chapter 170 – Coastal Erosion Hazard Areas	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinances §170-7, §170-8, §170-9, §170-10, §170-11, and §170-12. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 175 – Excavations in Streets	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinance §175-5. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 176 – Roll-Off Containers	The Applicant will comply with the substantive provisions of this code.
Chapter 177 – Materials; Deposit	The Applicant will comply with the substantive provisions of this code.
Chapter 181 – Sidewalks, Roads and Streets	The Applicant will comply with the substantive provisions of this code.
Chapter 182 – Streets: Construction of Curb Cuts and Driveways	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinance §180-6. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 184 – Tree Preservation	The Applicant will comply with the substantive provisions of this code.
Chapter 190 – Vehicle Speed Limits	The Applicant will comply with the substantive provisions of this code.
Chapter 192 – Weight Restrictions: Commercial Vehicles	The Applicant requests a waiver from the requirements of the Town of Hempstead Code of Ordinance §192-1. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter 198 – Tow Away Zones	The Applicant will comply with the substantive provisions of this code.
Chapter 202 – Parking	The Applicant requests a waiver from the parking restrictions referenced in the Town of Hempstead Code of Ordinance Chapter 202, Article I, and the requirements of the Town of Hempstead Code of Ordinance §202-64. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.

Ordinance	Compliance or Request for Relief
<b>Town of Hempstead Building Zone Ordinance</b>	
Article XVII – Y Industrial Districts	The Applicant requests a waiver from the requirements of the Town of Hempstead Building Zone Ordinance §225 to the extent it is applicable to construction/temporary fencing for the Project. These requirements are unreasonably restrictive in view of existing technology.
Article XXIV – Signs	The Applicant will comply with the substantive provisions of this code.
Article XXXI – General Provisions	The Applicant requests a waiver from the requirements of the Town of Hempstead Building Zone Ordinance §319 to the extent it is applicable to the Project. These requirements are unreasonably restrictive in view of existing technology and factors of cost and economics.
Article XXXIV – Flood Hazard Zones	The Applicant requests a waiver from the requirements of the Town of Hempstead Building Zone Ordinance §352. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Article XXXVIII – Stormwater Management and Erosion and Sediment Control	The Applicant will comply with the substantive provisions of this code.
<b>Nassau County Charter</b>	
Article XI – County Attorney	The Applicant will comply with the substantive provisions of this code.
Article XIV – Franchises	The Applicant will comply with the substantive provisions of this code.
Chapter I – The Board of Supervisors	The Applicant requests a waiver from the requirements of the Nassau County Administrative Code §1-6.0. These requirements are unreasonably restrictive in view of available technology and factors of cost and economics.
Chapter XII – Department of Public Works	The Applicant will comply with the substantive provisions of this code.
Chapter XXI – Miscellaneous Officers	The Applicant will comply with the substantive provisions of this code.
<b>Nassau County Ordinances</b>	
Fire Prevention Ordinance	The Applicant will comply with the substantive provisions of this code.
Public Health Ordinance	The Applicant requests a waiver from the requirements of Nassau County Administrative Code 7.7.6.2 Public Health Ordinance, and 7.7.6.3 Rules and Regulations. These requirements are unreasonably restrictive in view of costs, economics, and the needs of consumers.
Rules and Regulations	The Applicant requests a waiver from the requirements of Nassau County Rules and Regulations Pertaining to Permits for Work on County Roads and Within County Right-of-Way 2016. These requirements are unreasonably restrictive in view of costs, economics, and the needs of consumers.

The Applicant has identified the following ordinance provisions in the noted jurisdictions that are applicable, or potentially applicable, to the construction, operation, and maintenance of the NY Project: City of Long Beach, Village of Island Park, Town of Hempstead, and Nassau County.

### **7.3 City of Long Beach Code of Ordinances**

#### **7.3.1 Chapter 3 - Advertising, Signs and Posting Bills**

##### **§ 3-3 – Exemptions**

This provision of the Code of Ordinances exempts construction signs from the requirements of this Article, and sets forth certain requirements for construction signs, such as limiting signs to one sign per project and requiring that they not exceed sixteen square feet in sign area.

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

#### **7.3.2 Chapter 4 - Air Pollution**

##### **§ 4-2 – Emission of Dense Smoke Prohibited**

This provision of the Code of Ordinances states it is unlawful for any person, firm or corporation to permit the emission of any smoke from any source, of a density equal to or greater than 40% black, 60% white, as described as No. 2 on the Ringelmann Chart published by the United States Bureau of Mines.

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

##### **§ 4-4 – Escape of Soot, Cinders, Noxious Acids, Fumes and Gases Prohibited**

This provision of the Code of Ordinances states it is unlawful for any person, firm or corporation to permit or cause the escape of such quantities of soot, cinders, noxious acids, fumes and gases in such place or manner to be detrimental to, or endanger the health, comfort, and safety of, any person or the public or to cause or have a tendency to cause injury or damage to property or business.

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

##### **§ 4-12 – Interference with Performance of Duty of Building Commissioner**

This provision of the Code of Ordinances states that any person, firm, or corporation interfering in any manner or impeding the performance of duty of the building commissioner shall be deemed guilty of a misdemeanor and shall be subject to the penalties hereinafter provided for the violation of the provisions of this chapter. This section shall likewise apply to the performance of duty of employees and representatives of the building commissioner.

*The Applicant will comply with the substantive provisions of this section and will not interfere or impede with the performance of the duty of the building commissioner.*

##### **§ 4-14 – The Ringelmann Chart**

This provision of the Code of Ordinances incorporates the Ringelmann Chart, published by the United States Bureau of Mines, and provides that such Chart is the standard for measuring the density of smoke. The provision further provides for the use of the Chart and required observation distances when determining the density of smoke.

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

### 7.3.3 Chapter 6 - Boats, Docks and Waterways

#### Article I – General

##### § 6-2 – Unlawful Use or Obstruction of Bulkheads, Piers and Wharves

This provision of the Code of Ordinances states it is unlawful to obstruct or encumber any bulkhead, pier or wharf property, or to obstruct navigation by any floating, stranded or sunken vessel or craft. It is also unlawful to place, discharge or deposit offal, timber, dredging, dirt, ashes, oil or other floatable matter or otherwise, in the waters adjacent to the City.

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

#### Article III – Boats and Boating

##### § 6-46 – Applicability of State and Federal Laws

This provision of the Code of Ordinances requires that all vessels navigating the waters of Reynolds Channel, as depicted on U.S. Coast and Geodetic Survey Chart No. 579 issued by the U.S. Navy Hydrographic Office, comply with the applicable New York State Navigation Law, the Inland Rules enacted by Congress and the Pilot Rules for the United States Inland Waters, in relation to vessel lighting, passing and other matters consistent with the proper use of the Channel.

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

##### § 6-47 – Dumping of Refuse Prohibited

This provision of the Code of Ordinances prohibits dumping oil, refuse, garbage or waste in the waters within the City.

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

##### § 6-48 – Mooring or Anchoring Vessels Generally

This provision of the Code of Ordinances provides that boats shall not moor or anchor except at the edges of the navigable channel on the US Coast and Geodetic Survey Chart No. 579 or in areas designated as dock or mooring areas on the chart in the City Clerk's Office, and in no case shall vessels moor to or anchor within fifty (50) feet of the channel markers or as to interfere with the full use of the channel.

*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, and factors of cost and economics. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and Environmental Management and Construction Plan (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.*

##### § 6-49 – Time Restrictions on Mooring and Anchoring

This provision of the Code of Ordinances provides that no vessel shall be tied up or made fast to any public dock, bulkhead or any other City property for longer than twelve (12) continuous hours, and that no vessel shall moor for longer than twelve (12) continuous hours, except in areas designated as a dock or mooring area on a chart on file with the City Clerk.

*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, 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 for longer than 12 continuous hours.*

§ 6-51 – Removal of Disabled Vessels and Vessels Constituting a Hazard to Navigation

This provision of the Code of Ordinances provides that any vessel that becomes a menace to navigation, is unseaworthy, sinks, grounds or becomes otherwise disabled, shall be removed by the owner of the vessel or by the City Council's order.

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

§ 6-52 – Safe Operation of Boats and Vessels

This provision of the Code of Ordinances requires careful and prudent operation of boats or vessels within the navigable waters of the City or within waters adjacent to the City within 1,500 feet of the shore and prohibits the operation of a boat or vessel within such waters at a speed which causes a wake or wave when approaching or passing another vessel or which is likely to endanger a person's life or safety or cause property damage.

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

§ 6-53 – Speed of Boats and Vessels

This provision of the Code of Ordinances limits the maximum speed of boats and vessels to: (a) 12 miles per hour in or within waters adjacent to the City to a distance of 1,500 feet from the shore; and (b) 5 miles per hour in any waters within the City or adjacent to the City within 100 feet from the shore or from any anchored or moored vessel. However, commercial vessels having a valid marine document issued by the United States or a foreign government are exempt from subsection (b) above.

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

§ 6-54 – Mufflers Required for Certain Vessels

This provision of the Code of Ordinances provides that a boat may not be propelled in whole or in part by an engine operated by the explosion of gas, gasoline, naphtha, or other substances without a muffler to muffle the noise of the exhaust in a reasonable manner.

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

**Article IV – Bulkheads**

§ 6-68 Projecting Structures Beyond Bulkhead Lines Prohibited

This provision of the Code of Ordinances makes it unlawful to maintain, build, or commence the building of any structure beyond the bulkhead lines, or to alter existing structures so as to cause them to project beyond the lines.

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

**Article V – Structures in Waterways**

§ 6-74 – Permit Required



This provision of the Code of Ordinances provides that no person shall maintain, construct, install, rehabilitate or repair any structure (including any underground cable) over, on, into or adjacent to any waterway in the City except after obtaining a permit from the City Building Department, and unless that person is the owner or lessee of the upland of the place where such structure or mooring pile is proposed to be constructed or maintained.

*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.*

#### § 6-79 – Maintenance of Structures

This provision of the Code of Ordinances provides that any structure or mooring pile, erected or installed, rehabilitated or repaired under this Article shall be maintained in good repair and condition all times by the permittee or successor or assignee of the adjacent upland, and not as a menace to navigation or to persons using the structure or mooring pile. Further, every owner, lessee, permittee, successor or assignee of the adjacent upland shall: (a) make, maintain, repair and keep the structure or mooring pile free and clear of snow, ice or other obstructions; and (b) be liable for any injury or damage by the omission, failure or negligence to do the foregoing or for a violation or nonobservance of the ordinances pertaining to the foregoing.

*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.*

#### § 6-80 – Noninterference with Navigation of Waterways

This provision of the Code of Ordinances states that a structure or mooring pile erected in accordance with this Article shall be maintained so that there shall be no interference with navigation nor with public usage of the waterway.

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

#### § 6-81 – Necessary Conditions

This provision of the Code of Ordinances states that in approving any structure or mooring, the City Building Commissioner may impose any conditions necessary for the public health, safety or welfare.

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

#### § 6-82 – Regulations

This provision of the Code of Ordinances provides that no structure or mooring pile shall be installed, constructed, maintained, rehabilitated or repaired under this Article unless it complies with the following regulations: (i) the structure is of sound, approved engineering design and shall have a minimum waterway and freeway clearance of six (6) feet above mean sea level, Nassau County Datum Plane, and be of open pile design, and supporting bents shall have minimum distance of six (6) feet on centers in any direction; (ii) the location, design and use of the structure or mooring pile shall comply with all applicable laws, requirements and standards of construction consistent with the prevention of fire hazards; and (iii) no structure that is installed, constructed, maintained, rehabilitated or repaired and the boats moored or tied thereto, shall encroach into the waterway beyond one-third of the width of the waterway or the specific distances set forth from certain bulkhead lines of the City's four (4) canals, whichever is less.

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

### 7.3.4 Chapter 7 - Building Code

#### Article I – In General

##### § 7-2 – Applicability of State Building Construction Code

This provision of the Code of Ordinances makes the most recent New York State Building Code, Residential Code, Fire Code, Property Maintenance Code, Existing Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code and Energy Conservation Code applicable to the City.

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

##### § 7-5 – Work which is Required to Comply with this Chapter

This provision of the Code of Ordinances provides that no wall, structure, building or part thereof shall be constructed, nor shall the equipment of any building, structure or premises be altered or demolished except in conformity with the provisions of this Chapter and the New York State building construction code.

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

##### § 7-6 – Contractor to be Licensed

This provision of the Code of Ordinances provides that no person shall engage in the building business in the City as a contractor, without first obtaining a license pursuant to § 14-14.

*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.*

#### Article VIII – Construction Excavations

##### § 7-161 – Protection of Excavations; Duty of Sublateral Support

This provision of the Code of Ordinances requires that prior to providing for permanent support, all excavations shall be properly guarded and protected to prevent the excavation from becoming dangerous to life or limb and shall be sheetpiled, braced or shored by the person causing the excavation to prevent adjoining earth from caving in.

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

##### § 7-162 – When Retaining Wall Required

This provision of the Code of Ordinances provides that a retaining wall shall be constructed when an excavation is made on any lot to support the adjoining earth. The retaining wall shall be to the height of the adjoining earth and protected by coping.

*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, and to the extent the requirements of this Local Law exceed those of the Occupational Safety and Health Administration (OSHA). 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 or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law. Applicant will comply with OSHA standards related to safe and healthy construction and excavation.*

##### § 7-163 – Lateral Support; Support of Neighboring Walls

This provision of the Code of Ordinances sets forth the different requirements for excavations above and exceeding four (4) feet below the curb, including the responsible parties to preserve and protect the safety of any affected wall, building or structure from injury and support the structure by proper foundations.

*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, to the extent the requirements of this Local Law exceed those of OSHA, and to the extent this Local Law allows the inspection of construction by persons owning properties adjoining the proposed NY Project route. This Local Law is not designed for the construction of major electric transmission facilities. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EMECP, it may not be 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. Applicant will comply with OSHA standards related to safe and healthy construction, which do not allow for the inspection of construction sites of major electric transmission facilities by lay persons.*

## Article IX – Fences

### 7-179 – Height Limitations Generally

This provision of the Code of Ordinances requires fences conform to height limitations of four feet in front yards, six feet in side yards, and eight feet in rear yards.

*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. Some temporary fencing or sound curtains may be required that exceeds the requirements here, including the height limitation, to protect the safety of the public and the integrity of the NY Project. This Local Law is not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards and best practices, including those of the Federal Energy Regulatory Commission (FERC), North American Electric Reliability Corporation (NERC), and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply.*

### 7-180 – Sight Obstructions at Intersections

This provision of the Code of Ordinances requires fences on corner lots not exceed two and one-half feet in height for a distance of twenty feet from the point of a curb where street lines intersect.

*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. Some temporary fencing or sound curtains may be required that exceeds the requirements here, including the height limitation, to protect the safety of the public and the integrity of the NY Project. This Local Law is not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards and best practices, including those of the FERC, NERC, and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply.*

## Article XII – Flood Hazard Zones

### § 7-227 – Administration

This provision of the Code of Ordinances requires a floodplain development permit for all construction and other development in areas of special flood hazard, and sets forth the permit application requirements, including technical and construction requirements and certifications, as well as information related to the alteration of watercourses and inspections. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 7-226(b), without a floodplain development permit.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology. The location and configuration of the proposed transmission lines are a function of the appropriate 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. The Applicant will qualify for the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a Stormwater Pollution and Prevention Plan (SWPPP) as part of its EM&CP. The NY Project will take measures to mitigate erosion during construction and manage stormwater during operation of the substation and transmission lines. In addition, the proposed transmission lines are not prone to flood damage, and will not increase flood heights or alter floodplains.*

#### § 7-228 – Construction Standards

This provision of the Code of Ordinances sets forth the construction standards for new development in areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 7-226(b), and provides standards for new structures and electrical equipment, including that any equipment or materials located in a special flood hazard area shall be elevated, anchored, and floodproofed to prevent flotation, flood damage, and the release of hazardous substances. Underground and above-ground storage tanks shall be anchored to prevent flotation, collapse and later movement during base flood conditions. Above-ground tanks shall be installed above the base flood elevation plus three feet.

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

### Article XIII – Roll-off Containers; Storage Containers or Dumpsters

#### § 7-243 – Application for Permit

This provision of the Code of Ordinances provides the application requirements for the issuance of a permit by the commissioner for the use of a roll-off container as a temporary street obstruction. The subject street must be a minimum width of twenty (20) feet, curb to curb; the roll-off container or dumpster must be placed parallel to the curb so that no part of the same shall extend into the street more than eight (8) feet six (6) inches from the adjacent curb; the roll-off container or dumpster shall have no less than sixteen (16) square feet of diagonal reflectorized stripping material at each end thereof, as well as the name address and phone number of the owner-lessor permanently printed thereon in letters at least two (2) inches high.

*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.*

#### § 7-244 – Regulations

This provision of the Code of Ordinances provides for regulations applicable to a roll-off container or dumpster. A roll off container or dumpster shall not be permitted to remain on any street or highway in the City at any time between 5:00 pm on Friday and 8:00 am on Monday and shall not obstruct any part of the sidewalk or the sidewalk areas adjacent to the street. The contents of the container shall be emptied and disposed of before the contents reach the container's water line.

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

## 7.3.5 Chapter 10 - Electrical Code

### Article I – In General

#### § 10-3 – Electrical Code Standards Adopted

This provision of the Code of Ordinances provides that no electrical wiring or installation of electrical apparatus or appliances for furnishing light, heat or power shall be introduced into or placed in any building or structure by any master electrician except in conformance with the current code and requirements of the National Fire Protection Association, known as the Electrical Code, which are made a part of this Chapter.

*To the extent this provision 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. This local law is not designed or intended for the construction or operation of major transmission facilities. Rather, there are industry-approved standards and best practices, including those of the FERC, NERC, and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply. Procedural requirements, including any requirement to obtain a permit, are pre-empted under PSL § 130.*

## **Article II – Administration and Enforcement**

### **§ 10-14 – Persons eligible to perform electrical work**

This provision of the Code of Ordinances requires all electrical work be performed by a master electrician licensed in the City of Long Beach.

*To the extent this provision 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. This local law is not designed or intended for the construction or operation of major transmission facilities. Work will be performed in accordance with industry-approved standards and best practices, including those of the FERC, NERC, and under the supervision of qualified personnel. Procedural requirements, including any requirement to obtain a permit, are pre-empted under PSL § 130.*

## **Article III – Electricians**

### **Division 2 – Licenses**

#### **§ 10-40 – When Required**

This provision of the Code of Ordinances provides that no person shall engage in or carry on work installing, repairing, altering or making additions or changes to the existing systems of electrical wiring or electrical apparatus for heat, light or power as a master electrician in the City, without having a license as provided in this Division.

*To the extent this provision 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. This local law is not designed or intended for the construction or operation of major transmission facilities. Work will be performed in accordance with industry-approved standards and best practices, including those of the FERC, NERC, and under the supervision of qualified personnel. Procedural requirements, including any requirement to obtain a permit, are pre-empted under PSL § 130.*

#### **§ 10-41 – Employment of Unlicensed Electricians**

This provision of the Code of Ordinances provides that it shall be unlawful to employ any person to do any electrical construction work in the City who is not licensed as a master electrician pursuant to this Division.

*To the extent this provision 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. This local law is not designed or intended for the construction or operation of major transmission facilities. Work will be performed in accordance with industry-approved standards and best practices, including those of the FERC, NERC, and under the supervision of qualified personnel. Procedural requirements, including any requirement to obtain a permit, are pre-empted under PSL § 130.*

**Article IV – Electrical Requirements****§ 10-62 – Electrical Requirements**

This provision of the City’s Code of Ordinances provides the requirements for existing electrical fixtures, devices, wiring and systems, and alterations to such electrical devices or major repairs or additional installations shall comply with the National Electrical Code and local codes.

*To the extent this provision 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. This local law is not designed or intended for the construction or operation of major transmission facilities. Rather, there are industry-approved standards and best practices, including those of the FERC, NERC, and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply. Procedural requirements, including any requirement to obtain a permit, are pre-empted under PSL § 130.*

**Article V – Electrical Standards****§ 10-63 – Wiring Methods**

This provision of the Code of Ordinances prohibits armored cable (BX) in any electrical installation in the City.

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

**7.3.6 Chapter 11 - Fire Prevention and Protection****Article I – In General****§ 11-19 – Use of Certain Portable Heating Facilities Prohibited**

This provision of the Code of Ordinances prohibits the use of portable appliances or fuel-burning devices that utilize gasoline, kerosene or similar flammable liquids for heating purposes anywhere in the City.

*To the extent this provision is 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. The Applicant may need to utilize portable heating facilities on a temporary, limited basis during the construction phase of the Project.*

**§ 11-20 – Fires in Public Places**

This provision of the Code of Ordinances prohibits any person from building or igniting a fire upon the street, highway, a lot, or an uninhabited place within the city.

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

**7.3.7 Chapter 12 – Garbage and Refuse****Article I – In General****§ 12-1 – Improper Disposal of Refuse**

This provision of the Code of Ordinances states that no person shall dump any ashes, garbage, refuse, or debris on any land within the City or those areas within the City in which the City has jurisdiction, except with the prior written consent of the City Council.

*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.*



§ 12-26 – Private Incineration or Burning of Solid Waste Prohibited

This provision of the Code of Ordinances prohibits any person from using or permitting the use of refuse-burning equipment or incinerators.

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

**7.3.8 Chapter 13 – Housing and Property Rehabilitation and Conservation Code**

**Article VII – Dune Protection**

§ 13-123 – Prohibitions

This provision of the Code of Ordinances prohibits the damage, destruction, removal, excavation or relocation of a sand dune or portion thereof within the dune protection zone. No person, firm, or public or private corporation shall kill, destroy, or remove any vegetation within the dune protection zone, except those species planted or removed for erosion control and authorized by the City manager or a representative of same. In addition, no person, firm or private corporation shall trespass upon the dunes, and it is unlawful to trespass or walk upon any sand dune within a sand dune in a dune protection zone. Moreover, it is unlawful for any person, firm, corporation or municipality to operate any vehicle within the dune protection zone, except as necessary for erosion control when authorized by the City manager or designated representative.

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

**7.3.9 Chapter 15 - Motor Vehicles and Traffic**

**Article I – In General**

§ 15-2 – State Vehicle and Traffic Law Applicable

This provision of the Code of Ordinances adopts the New York State Vehicle and Traffic Law applicable to cities.

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

§ 15-5 – Uses of Vehicles, Bicycles and Tricycles on Pedestrian Ways

This provision of the City’s Code of Ordinances provides that no person shall ride, drive or otherwise propel any automobile, motorcycle or other like vehicle on or over any sidewalk, boardwalk, beach or other place reserved for the use of pedestrians or bathers.

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

§ 15-11 – Traffic Control Signals - Obedience to

This provision of the Code of Ordinances provides that official traffic control signals must be complied with, unless otherwise directed by a traffic or police officer.

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

§ 15-12 – Same - Legend

This provision of the Code of Ordinances provides the procedures and requirements for vehicular traffic and pedestrians to follow in connection with the various colors of traffic-control signals. In addition, vehicular traffic must obey signs and pavement markings at intersections where traffic signals do not exist.

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

## **Article III – Operation**

### **Division 1 – Generally**

#### **§ 15-106 – Maximum Speed Limits**

This provision of the Code limits the speed of a motor vehicle to fifteen miles per hour on certain enumerated streets within the City and thirty miles per hour on any other public highway or street in the City.

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

#### **§ 15-108 – Vehicles not to be Driven on a Sidewalk**

This provision of the Code of Ordinances provides that the driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

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

#### **§ 15-109 – Entering and Leaving Controlled-Access Facilities**

This provision of the Code of Ordinances provides that no person shall drive a vehicle onto or from any controlled-access roadway except at entrances and exits established by public authority.

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

#### **§ 15-110 – One-Way Streets; Signposting**

This provision of the Code of Ordinances provides the streets upon which only one-way vehicular traffic is permitted, when signs are posted.

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

#### **§ 15-111 – Authority to Designate One-Way Roadways During Certain Time Periods; Reversible Lanes**

This provision of the Code of Ordinances states that it is unlawful to operate a vehicle in violation of markings, signs, barriers or other devices designating the one-way direction permitted on streets during certain periods.

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

#### **§ 15-112 – Prohibition of “U” Turns; Locations Enumerated**

This provision of the Code of Ordinances delineates the streets upon which U-turns are prohibited.

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

### **Division 2 – Restrictions on Use**

#### **§ 15-119 – Load Restrictions upon Vehicles Using Certain Streets**

This provision of the Code of Ordinances states that no person shall operate any vehicle when in excess of the gross weight posted on the sign on designated streets.

*The Applicant requests the Commission not apply the weight restrictions detailed in this provision of the Code of Ordinances because they are unreasonably restrictive in view of factors of costs and economics. Construction of the NY Project may necessitate that overweight vehicles travel on streets near the NY Project to facilitate the work. Due to the construction requirements of the NY*



*Project, it would be unduly burdensome, in view of cost and economics, to comply with the weight limitations of this section during the construction phase of the NY Project. The Applicant will comply with the applicable traffic management plan and will endeavor to comply with posted weight restrictions to the maximum extent practicable.*

#### § 15-120 – Commercial Vehicles Prohibited from Using Certain Streets

This provision of the Code of Ordinances provides that no person shall operate a commercial vehicle on streets in which signs are posted prohibiting same, except for delivering or picking up materials or merchandise.

*The Applicant will comply with the substantive provisions of this section. 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. Construction of the NY Project may necessitate that commercial vehicles travel on the roads and highways near the NY Project to facilitate the work. Due to the construction requirements of the NY Project, it would be unduly burdensome, in view of cost and economics, to comply with this local law during the construction phase of the NY Project. The Applicant will comply with the applicable traffic management plan and will endeavor to comply with posted weight restrictions to the maximum extent practicable.*

### Article V – Stopping, Standing and Parking

#### Division 1 – Generally

#### § 15-149 – Bus Stops: Designation; Observances

This provision of the Code of Ordinances provides that no person shall stop, stand or park a vehicle at an authorized bus stop or between the right curb and any bus stop.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-151 –Designation of Passenger and Freight Loading Zones

This provision of the Code of Ordinances prohibits, during stated hours, stopping, standing or parking a vehicle in any marked passenger curb loading zone other than for loading and unloading of passengers for longer than three (3) minutes. In addition, stopping, standing, or parking a vehicle is prohibited in any place marked as a freight curb loading zone during the stated hours, other than for unloading and delivery or pickup of materials, and in no case shall this occur for longer than thirty (30) minutes.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-152.1 – Restricted use of Bus and Taxicab Stands

This provision of the Code of Ordinances prohibits stopping, standing or parking a vehicle other than a bus in a designated bus stop or a taxi in a designated taxi stand, except for temporarily stopping while unloading and loading passengers, and if it doesn't interfere with a bus or taxi waiting to enter such designated areas.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order*

*to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

§ 15-153 – Angle (diagonal and perpendicular) Parking; Locations Established and Enumerated; Obedience to Signs and Markings

This provision of the Code of Ordinances provides that angle parking is permitted for passenger vehicles, but prohibited for commercial vehicles, at the locations delineated in this Section. In addition, no person shall park or stand a vehicle at an angle except on those streets listed in this Section, and must park vehicles head-on.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

§ 15-154 – Parking Restrictions as Indicated by Signs

This provision of the Code of Ordinances provides that no person shall park a vehicle at any time during any twenty-four (24) hour period, nor during such other period of time, as designated on a sign erected in any block giving notice thereof.

*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. Parking for construction or maintenance vehicles will be temporary for access to facilitate the work. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

§ 15-156 – Display of Lights upon Vehicles Parked at Night

This provision of the Code of Ordinances provides that vehicles parked lawfully at nighttime within a business or residence district, are not required to display lights, and any lights on a parked vehicle shall be depressed or dimmed.

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

§ 15-158 – Parking so as not to obstruct traffic

This provision of the Code of Ordinances requires persons parking a vehicle in a manner that leaves at least 10 feet of the width of the roadway free for vehicle traffic.

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

§ 15-159 – Parking for extended period prohibited

This provision of the Code of Ordinances prohibits parking in the same space for a period exceeding two weeks.

*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. Parking for construction or maintenance vehicles will be temporary for access to facilitate the work. While the Applicant will endeavor to avoid parking in any area for an extended period of time, these parking restrictions could impede construction progress and should not be required as such parking will be temporary in nature.*

§ 15-160 – Designation of No Parking Zones in Proximity to Schools

This provision of the Code of Ordinances prohibits parking in designated areas, on either side of a street, adjacent to or near any school property or recreation area.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-161 – Establishing No-Parking Zones on Narrow Streets

This provision of the Code of Ordinances prohibits parking on narrow streets as defined in this Section, when designated by signs.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations*

*specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-162 – Prohibiting Standing or Parking on One-Way Streets

This provision of the Code of Ordinances prohibits vehicles from parking or standing on the left-hand side of a one-way street when designated by signs.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-162.1 – Standing or Parking on One-way Roadways Permitted when Signs Erected

This provision of the Code of Ordinances prohibits the parking or standing of a vehicle on a highway which includes two or more separate roadways and traffic is restricted to one direction upon any roadway, unless signs are erected permitting such parking or standing.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-163 – Prohibiting stopping, standing, or parking in hazardous locations.

This provision of the Code of Ordinances prohibits parking at locations designated to be hazardous or congested.

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

#### § 15-164 – Stopping, Standing or Parking During Certain Hours as indicated by Signs

This provision of the Code of Ordinances provides that when signs are erected, no person shall stop, stand or park a vehicle in a residential area of the City for longer than thirty (30) minutes, excluding loading and unloading, between the hours of any day specified.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-165 – Parking Time Limited as indicated by Signs

This provision of the Code of Ordinances prohibits the parking of a vehicle for longer than two (2) hours, between 8:00 am and 5:00 pm, any day of the week where signs are posted.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

#### § 15-166 – Parking Commercial Vehicles, Trucks, Trailers, Buses, Limousines and Livery Vehicles Generally

This provision of the Code of Ordinances sets forth the locations and timeframes for parking any commercial vehicle, truck, trailer, bus, school car, limousine or livery vehicles. Furthermore, no person shall stop, stand or park any trailer or vehicle more than five (5) feet in height, adjacent to any median on Broadway within one hundred (100) feet of any intersecting street, avenue or boulevard.

*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. Parking for construction or maintenance vehicles will be temporary for access to facilitate the work. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required as such parking will be temporary in nature.*

#### § 15-169 – Parking for Physically Handicapped Persons

This provision of the Code of Ordinances prohibits persons other than those certified as a physically handicapped person from parking, stopping or standing in designated handicapped parking spaces.

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

#### § 15-170 – Standing or parking close to curb

This provision of the Code of Ordinances prohibits parking in a manner that is not parallel with the edge of the roadway and that faces the vehicle in a direction other than that of the lawful traffic movement.

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

#### § 15-171 – Parking prohibited at all times on certain streets.

This provision of the Code of Ordinances prohibits parking on certain specified locations.

*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. Parking for construction or maintenance vehicles will be temporary for access to facilitate the work. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede*

*construction progress and should not be required as such parking will be temporary in nature. The Applicant will comply with the applicable traffic management plan and will endeavor to comply with posted parking restrictions to the maximum extent practicable.*

§ 15-172 – Stopping, standing, or parking prohibited, no signs required.

This provision of the Code of Ordinances prohibits parking on certain designated locations, including on a sidewalk, in front of driveways, within an intersection or cross walk, etc.

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

§ 15-173 – Parking Prohibited During Certain Hours on Certain Streets

This provision of the Code of Ordinances prohibits parking, during the hours of 8:00 am and 9:00 pm, on certain blocks when signs are posted.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

§ 15-173.1 – Parking Prohibited on Certain Days During Certain Times on Certain Streets

This provision of the Code of Ordinances prohibits parking on certain streets during the stated times, when signs are erected on such streets.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

§ 15-175 – Vehicle Unattended

This provision of the Code of Ordinances provides that it is unlawful for any vehicle to be left unattended for longer than three (3) minutes on the City's street, without stopping the engine and locking and removing the key.

*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. Parking for construction or maintenance vehicles will be temporary in order to facilitate construction work. While the Applicant will endeavor to avoid leaving vehicles unattended for an extended period of time, some construction vehicles may need to be left unattended for longer than three minutes during the construction phase of the Project. The parking restrictions set forth in this provision could impede construction progress and should not be required as such parking will be temporary in nature.*

§ 15-175.3 – Angled Parking; Head-in Parking

This provision of the Code of Ordinances states that all vehicles parked in an angled space must park front end first.

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

§ 15-174 – Identification of Commercial Vehicles

This provision of the Code of Ordinances provides that every commercial vehicle operating on the City streets shall display on both sides and in print no less than three (3) inches in height, the name and address of the owner thereof.

*The Code of Ordinances relies upon the definitions given in the New York State Vehicle and Traffic Law, section 100, which does not provide a definition for “commercial vehicles.” In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests the Commission not reply this local law because it is unreasonably restrictive in view of existing technology and factors of costs and economics. While the Applicant will endeavor to ensure that any vehicles utilized at the NY Project can be identified appropriately, it may not be possible to ensure that any identifying print on the vehicle meets the minimum height standards of this section, or that name and address information will be displayed as required.*

## **Division 2**

### **§ 15-177 – Parking Limited**

This provision of the Code of Ordinances prohibits vehicles from parking or standing in certain parking fields for more than two (2) hours during the hours of 8:00 am and 8:00 pm, Monday through Fridays, excepting holidays, and the vehicle must be registered to a resident of the City.

*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. Parking for construction or maintenance vehicles will be temporary in nature in order to access and facilitate the work, and Parking will only be at locations specifically identified in the EM&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because such parking will be temporary in nature.*

## **Article VI – Motor Vehicles**

### **Division 1 - Abandoned Vehicles**

#### **§ 15-202 – Abandonment of Vehicle**

This provision of the Code of Ordinances provides that no person shall cause the abandonment of any vehicle as defined in Section 1224 of the New York State Vehicle and Traffic Law.

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

## **7.3.10 Chapter 16 - Noise**

### **Article II – Prohibited Acts**

#### **§ 16-5 – Unreasonable Noise Prohibited**

This provision of the Code of Ordinances states that no person shall make, cause, allow or permit to be made any unreasonable noise within the City or those areas in which the City has jurisdiction, including the water and beaches, adjacent to, abutting or bordering the City.

*The Code of Ordinances relies upon the definitions given in the New York State Vehicle and Traffic Law, section 100, which does not provide a definition for “commercial vehicles.” In the event this Local Law could be construed as applicable to the NY Project, the Applicant requests the Commission not reply this local law because it is unreasonably restrictive in view of existing technology and factors of costs and economics. While the Applicant will endeavor to ensure that any vehicles utilized at the NY Project can be identified appropriately, it may not be possible to ensure that any identifying print on the vehicle meets the minimum height standards of this section, or that name and address information will be displayed as required.*

#### **§ 16-6 – Specific Acts Considered to be Unreasonable Noise**



This provision of the Code of Ordinances sets forth the various acts which violate the Chapter and constitute unreasonable noise, including prohibiting: (a) the operation of any tools or equipment used in construction, drilling excavations or demolition work, between the hours of 8:00 pm and 8:00 am the following day or any time on Sunday or legal holidays prior to noon; and (b) the operation of any device, vehicle or construction equipment (including, but not limited to any diesel engine, internal combustion engine or turbine engine) without a properly functioning muffler in constant operation, regardless of the sound level produced.

*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, to the extent that construction and operation 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 or continuous construction and/or activities on weekends or holidays 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 or operational activities can be carried out in a manner that will always comply with the parameters set forth within this particular Local Law.*

#### § 16-9 - Motor Vehicles

This provision of the Code of Ordinances requires compliance with sound level limits of the NYS Vehicle and Traffic Law, and that a vehicle may not be operated so as to cause unreasonable noise by spinning or squealing the tires of such vehicle.

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

#### § 16-10 – Vessels and Boats

This provision of the Code of Ordinances provides that vessel and boat sound level limits and equipment shall be in compliance with New York State law, including Section 44 of the New York State Navigation Law. No person shall operate or permit to be operated any vessel, boat or similar machinery in any canal, channel, ocean or tidal waterway at any time, manner or speed so as to exceed sixty-five (65) dBA at the nearest shoreline or at fifty (50) feet, whichever distance is less.

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

### Article III – Exceptions

#### § 16-11 – Exceptions

This provision of the Code of Ordinances exempts noise from construction activity, regardless of decibel limits, from this Chapter, provided all motorized equipment is equipped (where applicable) with functioning mufflers, with the exception of acts constituting unreasonable noise under § 16-6.

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

### 7.3.11 Chapter 17 - Offenses – Miscellaneous

#### § 17-1 – Excavations of Sand, Topsoil and Other Earthen Materials

This provision of the Code of Ordinances requires a permit from the City Building Commissioner to excavate soil, earth, sand, gravel or other materials and the application for such permit must include a plot plan depicting the exact location, area and depth of the excavation. An excavation must be made in such a manner that will prevent injury to neighboring properties, to the streets which adjoin the lot and to the public health and comfort. It is unlawful for excavation subject to this Section to exceed a depth below the grade of the streets or adjacent thereto.

*To the extent this Local Law could be considered 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 or operational 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, in some circumstances, to excavate soil below the grade of the streets or adjacent thereto. Applicant will comply with OSHA standards related to safe and healthy construction and excavation.*

#### § 17-5 – Injuring Shade Trees, Flowers and Plants

This provision of the Code of Ordinances prohibits the injury or destruction of any shade tree, plant or flower planted along the streets, malls or sidewalks of the City and requires a permit from the City Building Department, upon application to the Building Department Commissioner, to conduct tree or shrub removal.

*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 will endeavor to avoid shade trees, plants, and flowers along the streets of the City, and to comply with this Local Law to the maximum extent practicable, the Applicant may be required to remove trees, plants, and flowers that are in or near the NY Project route in order to accommodate construction and installation work. 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 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 Local Law. Procedural requirements to obtain any local approval, consent, permit, or certificate are pre-empted under PSL § 130.*

### 7.3.12 Chapter 18 – Parks and Recreation

#### Article II – Ocean Beach Park

##### § 18-17 – Entrances

This provision of the Code of Ordinances provides that no person shall be permitted to enter upon Ocean Beach Park except through regular entrances provided by the City.

*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. This Local Law is not designed for the construction of major electric transmission facilities. The Applicant, and the necessary equipment needed for construction of the NY Project, may not be able to access the portions of the NY Project that are in Ocean Beach Park through the regular entrances provided by the City. The Applicant will enter through pre-determined access points that may differ from the regular, public entrances provided by the City.*

##### § 18-32 – Hours of Operation

This provision of the Code of Ordinances prohibits person(s) in or upon the Ocean Beach Park for any purpose between the hours of 11:00 p.m. and 5:00 a.m. Such prohibition does not apply to the boardwalk but does apply to the beach under the boardwalk.



*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 hourly restrictions on entrance to Ocean Beach Park. The Applicant may need to conduct construction activities outside of the parameters of this Local Law in order to ensure timely completion of the NY Project.*

§ 18-42 – Pollution of Water

This provision of the Code of Ordinances prohibits any person within Ocean Beach Park to throw, cast, lay drop or discharge into the waters any substance, matter or thing, liquid or solid, which may pollute the water.

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

§ 18-43 – Removal of Sand

This provision of the Code of Ordinances prohibits the removal of more than five (5) pounds of sand from any part of Ocean Beach Park, except by a city employee in the performance of his or her duties.

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

§ 18-45 – Rubbish and Refuse Matter

This provision of the Code of Ordinances prohibits any person from taking, carrying, leaving, throwing, casting, laying, dropping or discharging in or on the Ocean Beach Park any ashes, dross, cinders, shells, paper, dirt, sand, oil, grease, clay loam, stone or building rubbish, hay straw, oats, sawdust, shavings, or manufacturing, trade or household waste, old iron or other metal or object from same or rubbish of any sick, diseased or dead animals, organic refuse or other offensive matter, include swill, brine, urine, offal, fecal, fecal matter, garbage or rubbish. In addition, no person shall throw, cast, lay or deposit any glass bottles or pieces of crockery, nor any glass or metallic substance on any bathing area in or adjoining Ocean Beach Park. No person shall take, carry, possess or use any glass bottle or other breakable article on any portion of the beach or Boardwalk within Ocean Beach Park.

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

§ 18-48 – Beach Jetties

This provision of the Code of Ordinances prohibits a person from standing, walking, or running on the jetties, unless providing authorized services related to the jetties and the Ocean Beach Park.

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

### 7.3.13 Chapter 21 – Plumbing Code

#### Article I – In General

§ 21-2 – Applicability of New York State Building Construction Code

This provision of the Code of Ordinances provides that the New York State Building Construction Code adopted by the City, and the section thereof applying to plumbing, is applicable to plumbing installations in the City.

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

### 7.3.14 Chapter 23 - Streets, Sidewalks and Public Ways

#### Article I – In General

##### § 23-3 – Obstruction of Streets

This provision of the Code of Ordinances provides that it shall be unlawful for any person to obstruct any street, alley, sidewalk or public square by allowing any vehicle, stand, garbage, debris, wood, sand, ashes, snow, ice, coal, coke, brick or any encumbrance to remain.

*To the extent this Local Law could be considered 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. This Local Law is not designed for the construction of major electric transmission facilities. Parking for construction or maintenance vehicles will be temporary for access to facilitate the work. In addition, street closures may be necessary for the safe construction of the NY Project. While the Applicant will endeavor to avoid parking in any restricted area, or otherwise obstructing any street, alley, sidewalk, or public square with construction materials or vehicles, these restrictions could impede construction progress and should not be required as such obstructions will be temporary in nature in order to complete construction of the NY Project.*

##### § 23-4 – Encroachments

This provision of the Code of Ordinances provides that it shall be unlawful to erect, build, or maintain any wall or fence, building, or area which projects over the building line or is upon any street or boardwalk in the City.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology. Some fencing may be required that exceeds the requirements here, to protect the safety of the public and the integrity of the NY Project. This Local Law is not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards and best practices, including those of the FERC, NERC, and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply. Any procedural requirements are preempted.*

##### § 23-8 – Duty of Property Owners and Others to Keep Sidewalks, Curbs and Gutters Clean

This provision of the Code of Ordinances requires that all sidewalks and curbs in residential areas of the City be kept clean and clear of litter, garbage, trash, and refuse.

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

#### Article II – Excavations and Alteration of Grades

##### § 23-22 – Bond and Insurance

This provision of the Code of Ordinances requires that a bond be posted with the City's Commissioner of Public Works by the applicant for a permit under § 23-20, to insure the payment of any and all expenses of the City to restore and/or maintain the street, highway, pavement, curb or gutter in accordance with the requirements of the Commissioner of Public Works, and sets forth the sum and requirements for such bond (including that the bond must indemnify and hold the City harmless). The filing of one (1) bond by a public service, water, light, power or telephone company which indemnifies the City for an unlimited number of street openings shall be deemed sufficient compliance with this Section. This provision also requires the filing of evidence of insurance and requirements pertaining thereto.

*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.*

##### § 23-24 – Protection of Excavations

This provision of the Code of Ordinances requires persons conducting excavations in streets to surround them with barriers and guards to protect persons using the street, and to provide lighting from twilight to daylight. The type and numbers of such barriers and lights shall conform to the requirements of the City's Commissioner of Public Works.

*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. Some fencing and lighting may be required that exceeds or differs from the requirements of the City's Commissioner of Public Works. This Local Law was not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards and best practices, including those of the FERC, NERC, and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply.*

#### § 23-25 – Protection of Property

This provision of the Code of Ordinances requires that all permits granted for City streets or highway excavation shall be conditioned upon adequate protection and repair as set forth this Section; all excavations shall be properly backfilled with acceptable materials in accordance with the regulations of the City Department of Public Works and temporarily paved within a period of five (5) days after making the excavation; patches will be removed and prepared for permanent restoration between sixty (60) and ninety (90) days after the installation of temporary paving.

*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. It may not be possible to ensure that backfill materials are in compliance with the regulations of the City Department of Public Works, but the Applicant will endeavor to comply with those requirements to the greatest extent possible. This Local Law was not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards and best practices, including those of the FERC, NERC, and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply.*

### Article III – Abandonment of Property on Public Ways

#### § 23-38 – Prohibited

This provision of the Code of Ordinances provides that it is unlawful for any person to leave any vehicle, cart, wagon, box, barrel, bale of merchandise or other movable property, either owned or in its possession, custody or control, upon any street, although this does not apply to materials lawfully placed on curbs or sides of streets for collection by the department of sanitation or to vehicles legally parked.

*In the event this Local Law could be construed as applicable to this NY Project, the Applicant will comply with the substantive portions of the same.*

### 7.3.15 Chapter 25 - Water and Sewers

#### Article I – In General

##### § 25-3.1 – Road Opening Permits

This provision of the Code of Ordinances requires a road opening permit once a connection deposit has been paid, and also provides the requirements for the road opening permit, including a survey or diagram of the proposed work, escrow, insurance, hold harmless and indemnification requirements as set forth therein.

*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.*

### **Article III – Sewage and Sewage Disposal**

#### **§25-86 – Use of Public Sewers Required**

This provision of the Code of Ordinances provides that it is unlawful for any person to place or deposit any human or animal excrement, garbage or other objectionable waste on any public or private property within the City. It is further unlawful to discharge any sewage or polluted waters into any natural outlet within the City, or any area under the jurisdiction of the City, except where suitable treatment has been provided.

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

#### **§25-101 – Installation Standards Generally**

This provision of the Code of Ordinances sets forth the methods to be used for construction and excavation of sewers and requires compliance with the building and plumbing code or other applicable City rules and regulations, as well as the A.S.T.M. and W.P.C.F. Manual Practice No. 9.

*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 based on engineering design and industry-approved standards adopted specifically for the construction and operation of transmission facilities, with which the Applicant will comply. The Applicant may be required to modify the location of existing utilities, and may not be able to comply with the standards and requirements of this Local Law.*

#### **§ 25-111 – Manner of disposal of unpolluted water**

This provision of the Code of Ordinances prohibits the discharge of stormwater, surface groundwater, and other water to any sanitary sewer, and requires that such stormwater and all other unpolluted drainage be discharged to designated storm sewers.

*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.*

#### **§ 25-112 – Materials not to be discharged into public waters**

This provision of the Code of Ordinances prohibits discharges or deposits of various substances into public sewers.

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

### **Article VI – Stormwater Management**

#### **§ 25-176 – Stormwater pollution prevention plans**

This provision of the Code of Ordinances establishes minimum stormwater management requirements and controls for land development activities including preparation of Stormwater Pollution Prevention Plans.

*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP as part of its EM&CP, the*

*Applicant will comply with the substantive portions of this Local Law. The procedural requirements of this local law, including any requirement to obtain review and approval by the City, are preempted under PSL § 130. However, the Applicant will provide certified drawings as part of its EM&CP submission to the PSC, and the Applicant's submission will make the certified engineering drawings available to all interested parties.*

§ 25-177 – Performance and design criteria for stormwater management and erosion and sediment control.

This provision of the Code of Ordinances requires that performance and design criteria for stormwater management plans comply with applicable technical standards, imposed by specific manuals and articles, as well as water quality standards.

*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP as part of its EM&CP, the Applicant will comply with the substantive portions of this Local Law. The procedural requirements of this local law, including any requirement to obtain review and approval by the City, are preempted under PSL § 130. However, the Applicant will provide certified drawings as part of its EM&CP submission to the PSC, and the Applicant's submission will make the certified engineering drawings available to all interested parties.*

§ 25-178 Maintenance, inspection and repair of stormwater facilities

This provision of the Code of Ordinances provides requirements for maintenance and inspection of stormwater facilities during and after construction, as well as provisions governing easements and maintenance agreements.

*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP as part of its EM&CP, the Applicant will comply with the substantive portions of this Local Law. The procedural requirements of this local law, including any requirement to obtain review and approval by the City, are preempted under PSL § 130. However, the Applicant will provide certified drawings as part of its EM&CP submission to the PSC, and the Applicant's submission will make the certified engineering drawings available to all interested parties.*

## **Article VII – Prohibition of Illicit Discharges, Activities, and Connections to Separate Storm Sewer System**

§ 25-195 – Discharge Prohibitions

This provision of the Code of Ordinances prohibits discharge of any materials other than stormwater into the municipal separate storm sewer system (MS4), with exceptions including discharges permitted under an SPDES permit, waiver, or waste discharge, provided the Applicant is in compliance with such permit, waiver, or order.

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

§ 25-196 – Prohibition against activities contaminating stormwater.

This provision of the Code of Ordinances requires that a person who is notified that they are engaged in activities that cause or contribute to violations of the City's MS4 SPDES permit will take all reasonable actions to correct such violations.



*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP as part of its EM&CP, the Applicant will comply with the substantive portions of this Local Law. The procedural requirements of this local law, including any requirement to obtain review and approval by the City, are preempted under PSL § 130. However, the Applicant will provide certified drawings as part of its EM&CP submission to the PSC, and the Applicant's submission will make the certified engineering drawings available to all interested parties.*

§ 25-197 – Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices

This provision of the Code of Ordinances provides that the City may require implementation of certain best management practices to control illicit discharges and activities where such activities are identified.

*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP as part of its EM&CP, the Applicant will comply with the substantive portions of this Local Law. The procedural requirements of this local law, including any requirement to obtain review and approval by the City, are preempted under PSL § 130. However, the Applicant will provide certified drawings as part of its EM&CP submission to the PSC, and the Applicant's submission will make the certified engineering drawings available to all interested parties.*

§ 25-198 – Suspension of access to MS4

This provision of the Code of Ordinances provides that the City's stormwater management officer may take action, without prior notice, to suspend MS4 discharge access where such suspension is necessary to stop an actual or threatened discharge, and may terminate MS4 discharge access if such termination would abate or reduce an illicit discharge.

*In the event this Local Law could 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 in view of existing technology and factors of cost and economics. The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP as part of its EM&CP, the Applicant will comply with the substantive portions of this Local Law. The procedural requirements of this local law, including any requirement to obtain review and approval by the City, are preempted under PSL § 130. However, the Applicant will provide certified drawings as part of its EM&CP submission to the PSC, and the Applicant's submission will make the certified engineering drawings available to all interested parties.*

§ 25-199 – Industrial or construction activity discharges

This provision of the Code of Ordinances requires any person subject to a SPDES discharge permit to comply with all provisions of the permit, and that proof of compliance may be required in order to allow discharges to the MS4.

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

§ 25-200 – Access and monitoring of discharges

This provision of the Code of Ordinances applies to facilities that must be inspected by the stormwater management officer to enforce the provisions of the Local Law.

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

§ 25-201 – Notification of spills

This provision of the Code of Ordinances requires that as soon as a person responsible for a facility or operation has information of any known or suspected releases of illegal discharges into the MS4, the person must take steps to ensure the discovery, containment, and cleanup of said release.

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

## 7.4 Incorporated Village of Island Park General Legislation

### 7.4.1 Chapter 183 - Boats and Boating

§ 183-4 – Discharging or dumping prohibited

This provision of the Code prohibits the disposal of sewage and refuse in the channel systems.

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

§ 183-5 – Operations Restrictions

This provision of the Code requires every person operating a boat to do so in a safe and prudent manner, so as not to interfere with the free and proper use of the waters of the channel.

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

§ 183-6(A) – Speed limits; sport activity and racing restrictions.

This provision of the Code prohibits operation of a boat at greater than four miles an hour in areas designated as a boat basin, anchorage, bathing area or any area where speed signs are posted.

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

### 7.4.2 Chapter 188 - Building Construction

## Article II - Procedures, Rules and Regulations

§ 188-9 – Building permit required; Application

This provision of the Code provides that no person, firm or corporation shall commence construction without obtaining a building permit and requires the installation of six-foot-high chain-link construction fencing at construction work sites that are unoccupied during construction, at locations directed by the Building Inspector. In addition, excavation and construction activities may only take place between the hours of 8:00 a.m. and 6:00 p.m. on weekdays and 9:00 a.m. and 5:00 p.m. on Saturdays, except in the case of an urgent necessity in the interest of public safety, and then only with a permit from the Building Inspector, which permit may be renewed for a period of three days or less while the emergency continues.

*The Applicant requests that the Commission refuse to apply this Local Law because it is unreasonably restrictive in view of existing technology, with regard to the hourly and daily restrictions on excavation and construction activities 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, or 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, 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. In addition, procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 188-12 – Performance of Work Under Building or Plumbing Permit; Conditions of Permit

This provision of the Code provides that permits issued by the Department of Buildings shall be displayed and affixed so as to be readily seen from adjacent thoroughfares during the progress of construction.

*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.*

#### § 188-13 – Abandonment of Project

This provision of the Code requires all open excavation to be backfilled and all uncompleted structures to be boarded up in the event that the project is abandoned, in order to prevent access and danger to persons or property and possible fire hazards.

*The Applicant will comply with the substantive provisions of this section (if necessary).*

#### § 188-22 – Tests

This provision of the Code states that whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, the Building Inspector may require the same to be subjected to tests by a testing agency designated by the Building Inspector at the applicant's own cost in order to furnish proof of such compliance.

*If the Building Inspector determines that a test of any material, construction, equipment or assembly is necessary, 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.*

#### § 188-25 – Unsafe buildings

This provision of the Code states that buildings or structures which are structurally unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are unsafe buildings. This provision states that unsafe buildings are illegal, and sets forth procedure for the repair, rehabilitation, or demolition of unsafe buildings.

*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.*

#### § 188-26 – Zoning Restrictions

This provision of the Code provides that this Article shall not be deemed to modify the restrictions of Chapter 625, Zoning, with respect to the location of trades and industries, the use and occupancy of buildings, the areas of yards and other open spaces and the height of buildings and structures. The restrictions of Chapter 625 shall



be controlling except when this Article imposes greater restrictions by reason of the type of construction used, in when event the provisions of this Article shall control.

*The Applicant will comply with the substantive provisions of this section, except where otherwise indicated.*

### **7.4.3 Chapter 220 - Construction Codes, Uniform**

#### **Article I - International Energy Conservation Code and New York State Uniform Prevention and Building Code.**

##### **§ 220-2 – Administration and Enforcement**

This provision of the Code adopts the 2015 International Energy Conservation Code and the New York State Uniform Prevention and Building Code and establishes the powers and duties of the Building Inspector of the Village.

*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.*

### **7.4.4 Chapter 239 - Electricians, Licensing of**

##### **§ 239-3 – License required for work in Village**

This provision of the Code provides that no person shall install any electrical installation within the Village of Island Park except a person holding an electrician's license issued by the Village of Island Park.

*To the extent this provision of the Code is applicable to the NY Project, and to the extent the NY Project could be considered an "electrical installation" within the Village, the Applicant requests the Commission not apply this Local Law as it is unreasonably burdensome in view of existing technology and factors of costs and economics. This Local Law is not designed for the construction and operation of transmission facilities. Rather, there are industry-approved standards with which the Applicant will comply, including standards for retaining appropriately licensed and qualified technicians to design and construct the NY Project.*

##### **§ 239-5 – Conformity with Town Electrical Code**

This provision requires all electrical installations, alterations, or repairs to conform with the Town of Hempstead Electrical Code.

*In the event this Local Law could be construed as applicable to the NY Project, and to the extent the NY Project could be considered an "electrical installation" within the Village, 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. The NY Project's CECPN will pre-empt the substantive requirements of this Local Ordinance and will require compliance with the National Electric Safety Code (NESC). The Applicant will comply with its CECPN conditions and these industry-approved standards, adopted specifically for the construction and operation of transmission facilities.*

### **7.4.5 Chapter 258 - Fire Prevention**

#### **Article II - Fire Hydrants**

##### **§ 258-3 – Placement of Materials to Block Hydrants Prohibited**

This provision of the Code forbids the placement of boxes, goods, wares, merchandise or any object in or upon any of the sidewalks, highways or public streets or other places in the Village within a distance of 15 feet from any hydrant without a permit in writing from the Board of Trustees.

*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.*

#### § 258-5 – Placement of Snow or Ice Near Hydrants Prohibited

This provision of the Code forbids the obstruction of any hydrant in the Village by placing or causing or permitting to be placed any ice or snow around or about the same.

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

### Article III - Sprinkler Systems

#### § 258-8 – Requirements

This provision of the Code sets forth sprinkler system requirements for buildings, including that: (a) sprinkler systems must comply with the current edition of the National Fire Protection Association Standards for the Installation of Sprinkler Systems, NFPA 13, in effect at the time of the issuance of a building permit; (b) sprinklers shall not be required in spaces where the discharge of water would be hazardous and other fire-extinguishing equipment approved by the Building Inspector shall be provided in such spaces; and (c) sprinkler systems operated from a dedicated fire line tap shall be inspected at least once annually and a certificate of proper operation shall be filed with the Building Department on or before October 31 of each year.

*To the extent this provision of the Code is applicable to the NY Project, and to the extent the substation is considered a “building” under the Code, the Applicant requests that the Commission not apply this Local Law as it is unreasonably burdensome in view of existing technology and factors of costs and economics. This Local Law is not designed for the construction and operation of transmission facilities. The NY Project’s CECPN will pre-empt the substantive requirements of this Local Ordinance and will require compliance with the NESC. The Applicant will comply with its CECPN conditions and these industry-approved standards, adopted specifically for the construction and operation of substations, including the use and installation of fire deterrent and fire prevention materials in the construction of the substation. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 258-14 – Required Documents and Certifications

A plumber or sprinkler contractor must be licensed in the Village.

*To the extent this provision of the Code is applicable to the NY Project, the Applicant requests the Commission not apply this Local Law as it is unreasonably burdensome in view of existing technology and factors of costs and economics. This Local Law is not designed for the construction and operation of transmission facilities. The NY Project’s CECPN will pre-empt the substantive requirements of this Local Ordinance and will require compliance with the NESC. The Applicant will comply with its CECPN conditions and these industry-approved standards, adopted specifically for the construction and operation of substations and transmission lines. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

### 7.4.6 Chapter 264 - Flood Damage Prevention

#### Article V - Construction Standards

#### § 264-14 – General Standards

This provision of the Code provides the standards applicable to new development in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 264-6, including that utilities shall be located and constructed to minimize flood damage; adequate drainage shall be provided to reduce exposure to flood damage; within Zone AE, no new construction or other development (including fill) shall be permitted unless

the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location or that the Village of Island Park agrees to apply to FEMA for a conditional FIRM revision; on streams with a regulatory floodway, no new construction will be permitted unless a technical evaluation by a licensed professional engineer shows that such encroachment shall not result in any increase in flood levels during occurrence of the base flood or that the Village of Island Park agrees to apply to FEMA for a conditional FIRM and floodway revision.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law. The procedural requirements of this Local Law, including any requirement to obtain review by the Village of certified drawings from a professional engineer or architect, and any associated fee requirements, are preempted under PSL §130. Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “(1) [s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130”). However, the Applicant will provide certified drawings as part of its EM&CP submission to the Commission, and the Applicant’s submission will make the certified engineering drawings available to all interested parties. In addition, the proposed transmission lines and substation are not prone to flood damage, and will not increase flood heights or alter floodplains.*

#### § 264-15 – Standards for All Structures

This provision of the Code provides that new structures in areas of special flood hazard shall be anchored to prevent floatation, collapse or lateral movement during the base flood. New construction shall be constructed with materials and utility equipment resistant to flood damage and using methods that minimize flood damage. For enclosed areas below the lowers floor of a structure within the AE Zone, new structures shall have fully enclosed areas below the lowest floor that are suitable solely for parking vehicles, building access or storage. New electrical equipment, heating, ventilating, air conditioning, plumbing connections and other service equipment shall be located at the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring, outlets, switches, junction boxes and panels shall be to or above the base flood elevation unless they conform to the Building Code of the State of New York for location of such items in wet locations. New water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage for buildings with openings below the base flood elevation shall have automatic backflow valves or other devices installed in each discharge line passing through a building’s exterior wall. On-site waste disposal systems shall be located to avoid impairment to or contamination from such systems during flooding.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law. The procedural requirements of this Local Law, including any requirement to obtain review by the Village of certified drawings from a professional engineer or architect, and any associated fee requirements, are preempted under PSL §130. Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “(1) [s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130”). However, the Applicant will provide certified drawings as part of its EM&CP submission to the Commission, and the Applicant’s*

*submission will make the certified engineering drawings available to all interested parties. In addition, the proposed transmission lines and substation are not prone to flood damage, and will not increase flood heights or alter floodplains.*

#### § 264-17 – Nonresidential Structures

This provision of the Code provides that new commercial, industrial and other nonresidential structures located in areas of special flood hazard within the AE Zone shall have the lowest floor elevated to or above two feet above the base flood elevation or be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. If the structure is to be floodproofed, a floodproofing certificate or other certification shall be provided to the local administrator certifying that the design and methods of construction are in accordance with the accepted standards of practice for meeting the provisions of Subsection A(2) of this Section.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law. The procedural requirements of this Local Law, including any requirement to obtain review by the Village of certified drawings from a professional engineer or architect, and any associated fee requirements, are preempted under PSL §130. Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “(1) [s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130”). However, the Applicant will provide certified drawings as part of its EM&CP submission to the Commission, and the Applicant’s submission will make the certified engineering drawings available to all interested parties. In addition, the proposed transmission lines and substation are not prone to flood damage, and will not increase flood heights or alter floodplains.*

### 7.4.7 Chapter 286 - Hazardous Materials

#### Article I - Inflammable Liquids

##### § 286-1 – Storage restrictions

Prohibits storage inflammable liquids in excess of 5 gallons within 20 feet of any dwelling, unless kept in metal containers and kept in a fireproof building.

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

#### Article II - Keeping Premises Free from Inflammable Material

##### § 286-3 – Standards

This provision of the Code requires all parcel owners to keep the premises free from papers, rubbish or other inflammable materials which are likely to cause damage by fire.

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

### 7.4.8 Chapter 326 - Licenses, Permits and Certificates

##### § 326-6 – Demolition Contractors

This provision of the Code requires that all demolition contractors have a current demolition license from Nassau County Consumer Affairs.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology. This local law is not designed or intended for the construction or operation of major transmission facilities. Work will be performed in accordance with industry-approved standards and best practices, including those of the FERC, NERC, and under the supervision of qualified personnel. Procedural requirements, including any requirement to obtain a permit, are pre-empted under PSL § 130.*

#### **7.4.9 Chapter 349 - Noise**

##### **§ 349-2 – General Prohibition**

This provision of the Code provides that no person shall permit or make unreasonable noise with the intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk, including disturbing, excessive or offensive sounds that disturbs a reasonable person of normal sensitivities. Acts which violate this Chapter include erection, excavation, demolition, alteration or repair of any building beyond the hours of 7:00 a.m. and 9:00 p.m.

*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 EME&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 EME&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. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL §130.*

##### **§ 349-3 – Time Limitations**

This provision of the Code provides that no person, corporation or contractor shall perform or permit the operation of any machine or power tools or any other power equipment before 8:00 a.m. or later than 9 p.m., Monday through Saturday or before 9:00 a.m. or later than 9:00 p.m., on Sunday.

*To the extent this provision of the Code is applicable, 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 and economics, with regard to the hourly and daily restrictions on excavation and construction activities 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 EME&CP. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EME&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, and the Applicant may need to conduct some construction activities outside of the parameters of this Local Law in order to ensure timely completion of the NY Project. In addition, procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

##### **§ 349-5 – Exceptions**

Noise generated by the installation and maintenance of utilities are exempt from this Chapter.

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



#### 7.4.10 Chapter 367 – Nuisances

##### § 367-3 Public nuisances prohibited

This provision makes it illegal to be in control of a building or structure that has become a public nuisance.

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

#### 7.4.11 Chapter 373 - Outdoor Storage

##### Article I - General Restrictions

##### § 373-1 – Screening Required; Storage of Trailers and Boats

This provision of the Code provides that no article or material shall be kept, stored or displayed outside of a building unless screened by a special planting or a fence as approved by the Board of Trustees or Building Department. Storage is not permitted in the front yard or a side yard adjoining a street, and must meet the setback requirements from property lines for accessory buildings. Outdoor storage or parking of construction equipment shall only be permitted during the course of construction on the premises.

*The Applicant requests that the Commission refuse to apply this provision of the Code because it is unduly restrictive in view of the needs of consumers which are best met by enabling the Applicant to construct the NY Project and operate and maintain it safely and reliably pursuant to procedures that are based on the Public Service Law, the Commission approved EM&CP for the NY Project, reliability standards, and the Commission precedent that govern screening surrounding substations. Planting vegetation or erecting fencing around the perimeter of the substation or during construction to satisfy this section of the Code's screening requirements could endanger the security of the substation and transmission line and may not be consistent with the NESC. In addition, storage of some equipment near the NY Project during construction may be necessary on a temporary basis.*

##### § 373-2 – Exceptions

This provision provides that outdoor storage is prohibited except for trash and garbage in containers and in locations as approved by the Board of Trustees or Building Department.

*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, factors of cost and economics, and to the extent that construction activities may result in transient and temporary occurrences of storage of construction equipment 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, and storage of some construction equipment that is not trash or garbage may be needed on a temporary basis to facilitate NY Project construction.*

#### 7.4.12 Chapter 381 - Parking

##### Article I - Public Parking

##### § 381-1 – Parking Contrary to Official Signs or Directions

This provision of the Code provides that no automobile may be left on any public park, bathing beach, public parking field or other parking place in the Village of Island Park contrary to posted signs or instructions of the Police Department or Board of Trustees.

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

§ 381-3 – Interference with Streets or Highways

This provision of the Code provides that no automobile may be left or parked on any public or private place that is not a street or highway, so that it protrudes on any adjacent street or sidewalk.

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

§ 381-4 – Tampering with signs prohibited

This provision of the Code states that no person shall injure, deface, displace, remove or destroy any sign, inscription or markings, placed or displayed in public places, directing, restricting or regulating parking thereon, or giving information or direction to the public in relation thereto, except by proper authority.

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

**Article II - Conduct in Parking Lots**

§ 381-6 – Operation of Vehicles

This provision of the Code provides that a motor vehicle shall not be operated on any parking lot in a careless manner or in excess of ten miles per hour.

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

**7.4.13 Chapter 386 – Parking Fields, Municipal**

§ 386-12 – Certain vehicles restricted

This provision of the Code states that no commercial vehicle in excess of 2 1/2 tons shall be parked or left standing in any of the parking fields of the Village of Island Park, and no truck containing sewage effluent or any equipment used in connection therewith, no truck of any size containing any flammable, explosive, toxic or obnoxious materials, and no commercial vehicle in excess of 20 feet shall be permitted to stand, park or to be loaded or unloaded in any portion of said parking fields within the Village of Island Park.

*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 NY Project requires certain construction and installation work within Village of Island Park parking fields, and some of the vehicles referenced in this provision may be utilized. These restrictions could impede construction progress and should not be required because the parking or use of such vehicles will be temporary in nature. The Applicant will coordinate with the Village of Island Park regarding its plans for parking during construction.*

§ 386-14 – Handicapped parking spaces

This provision of the Code requires that vehicles using designated handicapped parking spaces in all municipal parking field have proper handicapped permits or handicapped license plates, as well as a Village parking 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.*

**7.4.14 Chapter 403 – Peace and Good Order**

§ 403-14 – Prohibited Conduct

This provision of the Code prohibits any person from injuring any fire hydrant, lamppost, electric lamp or globe within the limits of the Village of Island Park.

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



#### **7.4.15 Chapter 417 - Plumbers, Licensing of**

##### **§ 417-1 – License Required; Fee**

This provision of the Code requires that all plumbers conducting work in the Village of Island Park be licensed by the Village.

*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. This local law is not designed for the construction or operation of major electric transmission facilities. While the Applicant will endeavor to comply with this Local Law, it may not be possible for the Applicant to ensure that any plumber performing work at the NY Project is licensed by the Village, but the Applicant will ensure that any personnel retained to work on the NY Project will be appropriately qualified, and work will be performed in accordance with industry-approved standards and best practices, including those of the FERC and the NERC.*

##### **§ 417-5 – Conformity with State Plumbing Code**

All plumbing, installations, alterations or repairs in the Village of Island Park shall be in conformity with the Plumbing Code of the State of New York and any amendments thereto.

*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.*

#### **7.4.16 Chapter 431 - Property Maintenance**

##### **Article III - Cement Truck Residue**

##### **§ 431-7 – Containment of Cement**

This provision of the Code requires the contractor to provide perimeter controls to contain residue and a lined and maintained washout area for disposal of wet construction material (concrete, stucco, paint, etc.) or for cleaning tools and equipment. Further, it is illegal to wash out concrete, stucco and paint from equipment or trucks onto the ground or streets.

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

##### **§ 431-8 – Concrete Truck Washout**

This provision of the Code prohibits the washing of concrete material into a street, catch basin or other public facility or natural resource; the licensed general contractor and/or concrete contractor and/or driver must comply with all requirements under the New York State SPDES General Permit for Stormwater Systems MS4 as set forth in Chapter 496 of the Code.

*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.*

##### **Article VI - Standards for Enforcement**

##### **§ 431-10 – General Property Maintenance Requirements**

This provision of the Code provides general property maintenance requirements, including those related to fences, paved areas, ground cover and accumulation of garbage.

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

##### **§ 431-19 – General Responsibilities of Owners**

This provision of the Code provides that owners of parcels are responsible for compliance with the Property Maintenance Standards and this Article, including responsibility for the removal of garbage, refuse and junk.

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

#### § 431-21 – Specific Responsibilities of Owners

This provision of the Code provides that owners of parcels are responsible for compliance with this Article, including maintenance of the premises in a clean, safe, and sanitary condition; disposing of garbage and refuse in a sanitary manner; and extermination of pests.

*To the extent this provision is applicable to the Project, the Applicant will comply with the substantive provisions of this section.*

### 7.4.17 Chapter 482 - Signs

#### §482-2 – Design and Construction Requirements

This provision of the Code requires that any sign erected shall be at least eight feet above the sidewalk.

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

#### § 482-5 – Placement on public property, utility poles or light fixtures prohibited

This provision of the Code prohibits any sign, banner or other emblem or insignia from being placed, installed or anchored on any property owned by the Village of Island Park or to any utility poles or light fixtures located within the jurisdiction of the Village of Island Park.

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

### 7.4.18 Chapter 489 - Solid Waste

#### Article I - Building Material in Streets

##### § 489-1 – Restrictions on Placement; Permits

This provision of the Code prohibits stone, timber, concrete blocks, building materials or any other substances from being placed so that they will impede the free and uninterrupted use of the 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.*

#### Article II - Depositing of Materials on Streets

##### § 489-3 – Certain Accumulations Prohibited

This provision of the Code prohibits the accumulation of sand, gravel, cinders, topsoil, mud, earth or other material or substance to be placed, tracked or spilled upon any street, road or highway in the Village.

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

#### Article III - Garbage, Refuse, Recycling and Composting

##### § 489-6 – Uncovered Garbage

This provision of the Code prohibits garbage or other material from remaining anywhere in the Village except in a tightly covered refuse container.

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

#### § 489-8 – Deposit on Streets

This provision of the Code provides it is unlawful to deposit, or permit to fall from any vehicle, any garbage, refuse or ashes on any public street or sidewalk in the Village, except when the same is placed in a container complying with this Article.

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

#### § 489-10 – Recycling

This provision of the Code provides that it is unlawful to combine recyclable materials with regular garbage.

*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.*

#### § 489-15 – Containers

This provision of the Code provides that garbage containers for refuse which is collected by the Village are limited to a capacity of 30 gallons and total weight of 75 pounds.

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

#### § 489-16 – Building Material

This provision requires builders or contractors to dispose of building material or other refuse caused by construction at their own expense.

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

### 7.4.19 Chapter 496 - Storm Sewers

#### Article I - Illicit Discharges, Activities and Connections

##### § 496-5 – Discharge Prohibitions

This provision of the Code provides that no person shall discharge into the municipal separate storm sewer systems (MS4) anything other than stormwater, except for the following, including but not limited to, water line flushing, existing diverted stream flows, uncontaminated groundwater infiltration to storm drains, foundation or footing drains, natural riparian habitat or wetland flows, or discharge approved by the stormwater management officer. Further, the construction or use of illicit connections to the MS4 is prohibited.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law. The procedural requirements of this Local Law, including any requirement to obtain review by the Village of certified drawings from a professional engineer or architect, and any associated fee requirements, are preempted under PSL §130. Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “(1) [s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130”). The Applicant will provide certified drawings as part of its EM&CP submission to the Commission, and the Applicant’s submission will make the certified engineering drawings available to all interested parties.*

## § 496-7 – Activities contaminating stormwater prohibited

This provision of the Code prohibits activities that cause or contribute to a violation of the municipality's MS4 SPDES permit, or to the municipality being subject to the special conditions defined in this Chapter (e.g., a violation of an applicable water body standard or the Total Maximum Daily Load stormwater allocations). Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities.

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

## § 496-8 – Use of best management practices to prevent, control and reduce stormwater

This provision of the Code provides that, where the Stormwater Management Officer has identified illicit discharges or activities contaminating the stormwater, the municipality may require implementation of best management practices to control those illicit discharges and activities. The owner or operator of a commercial or industrial establishment shall provide, at his or its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs. Any person responsible for a property or premises which is, or may be, the source of an illicit discharge or an activity contaminating stormwater may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permits and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law.*

## § 496-10 – Industrial or Construction Activity Discharges

This provision of the Code provides that any person subject to an industrial or construction activity State Pollutant Discharge Elimination System (SPDES) stormwater discharge permit shall comply with all provisions of such permit and proof of compliance may be required prior to allowing discharges to the MS4.

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

## § 496-11 – Access to facilities; monitoring of discharges

This provision of the Code states that the Stormwater Management Officer ("SMO") shall be permitted to enter and inspect facilities subject to regulation under this article to determine compliance, facility operators shall allow the SMO ready access to all parts of the premises for the inspection, the municipality shall have the right to set up on the facility devices that are necessary to monitor and/or sample groundwater, the municipality has the right to require facilities to install monitoring equipment, and unreasonable delays in allowing access to a facility subject to this article are violations of this article. If the SMO has been refused access to a relevant part of the premises, he may seek issuance of a search warrant.

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

## § 496-12 – Notification of Spills

This provision of the Code provides that as soon as any person responsible for a facility or operation has information of any known or suspected release of materials which may result in illegal discharges to the MS4, said person shall take all steps to ensure discovery, containment and cleanup. This provision also contains

notification requirements in the event of a release of hazardous or nonhazardous materials. An on-site written record of the discharge and actions taken to prevent recurrence shall be retained for at least three years, if the discharge is emitted from a commercial or industrial establishment.

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

#### **7.4.20 Chapter 503 - Stormwater Management and Erosion and Sediment Control**

##### **§ 503-7 – Stormwater Pollution Prevention Plans**

This provision of the Code provides that a stormwater pollution prevention plan (SWPPP), prepared in accordance with the requirements of this Chapter, is required before an application for land development activity will be reviewed. This provision also sets forth all information required in connection with the SWPPP and specifies what land development activities shall also include water quantity and quality controls (post-construction stormwater runoff controls). The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity, prior to approval of the final stormwater design plan. Each contractor and subcontractor identified in the SWPPP must certify that it will comply with the terms and conditions of the SWPPP. The SWPPP shall be retained at the site during construction.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law. The procedural requirements of this Local Law, including any requirement to obtain review by the Village of certified drawings from a professional engineer or architect, and any associated fee requirements, are preempted under PSL §130. Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “(1) [s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130”). The Applicant will provide certified drawings as part of its EM&CP submission to the Commission, and the Applicant’s submission will make the certified engineering drawings available to all interested parties.*

##### **§ 503-8 – Performance and Design Criteria**

This provision of the Code provides that stormwater management practices that are designed and constructed in accordance with the following technical documents are presumed to comply with the standards in this Chapter: New York State Stormwater Management Design Manual and New York State Standards and Specifications for Erosion and Sediment Control. If stormwater management practices are not in accordance with technical standards, the applicant/developer must demonstrate equivalence with the aforementioned standards, and the SWPPP shall be prepared by a licensed professional. No land development activity shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

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

##### **§ 503-9 – Maintenance, Inspection and Repair of Stormwater Facilities**

This provision of the Code provides for maintenance easements and agreements recorded in the Office of the County Clerk, as well as maintenance requirements for stormwater management practices (SMPs) after construction, including a preventive/corrective maintenance program, written operating, maintenance and

training procedures and the prohibition of discharges from the SMPs which would exceed the design criteria or cause or contribute to water quality standard violations in accordance with § 503-8(C).

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

#### § 503-10 – Construction inspections

This provision of the Code states that the Village of Island Park Stormwater Management Officer may require inspections that are necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP). To obtain inspections, the applicant shall notify the Village of Island Park enforcement official at least 48 hours before any of the following: start of construction, installation of sediment and erosion control measures, completion of site clearing, completion of rough grading, completion of final grading, close of the construction season, completion of final landscaping, and successful establishment of landscaping. This provision further provides that all applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. After completion, inspection programs shall be established on any reasonable basis. The Village of Island Park Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Village of Island Park the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law. The procedural requirements of this Local Law, including any requirement to notify the Village of the commencement of various construction activities and submit “as built” plans for stormwater management practices, are preempted under PSL §130. Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “(1) [s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130”).*

### 7.4.21 Chapter 510 - Streets and Sidewalks

#### Article II - Removal of Snow, Ice and Debris

##### § 510-3 – Duty to Remove Snow and Ice

This provision of the Code provides that every owner of a lot must keep sidewalks free from snow and ice in front of or adjacent to a building or lot.

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

##### § 510-4 – Time frame for clearing

This provision of the Code provides that no person shall cause or allow any snow or ice to collect or remain on any sidewalk fronting on or adjacent to a house, building lot or lots so as to impede, obstruct or render difficult public travel upon such sidewalk later than 10:00 a.m. following the day that the snow or ice has fallen, and in no event later than 24 hours after the snow or ice has fallen, or for more than two hours after being notified by an office of the Village.



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

#### § 510-5 – Duty to Maintain Sidewalks

This provision of the Code provides that owners of property abutting any sidewalk must maintain such sidewalk in a reasonable safe condition.

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

### **Article IV - Sidewalk Construction**

#### § 510-10 – Grading Requirements

This provision of the Code provides no person shall construct a curb or sidewalk of cement, concrete, brick or stone on any street or highway in the Village without obtaining the proper grade for such curb or sidewalk upon such street, avenue or highway from the Board of Trustees.

*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.*

### **Article V - Protection of New Construction**

#### § 510-15 – Interference with safety structures prohibited.

This provision of the Code provides that no person shall remove, displace or interfere with any barrier, guardrail or other object which shall have been placed along or across any public street in the Village.

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

### **Article VI - Driveways**

#### § 510-21 – Specifications

This provision of the Code states that the construction and material of a driveway shall be of equal material to the existing paving in the adjacent public sidewalk.

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

#### § 510-22 – Grading

This provision of the Code requires that any driveway be sufficiently graded between the front building line and the street to create a gradual descent, which is a minimum of ¼ inch vertical to one foot horizontal.

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

### **Article VII - Obstruction of Dedicated Streets**

#### § 510-24 – Prohibited Conduct

This provision of the Code provides that it shall be unlawful for any person to encumber, block, build upon or interfere with access to and use of any dedicated street, road highway, thoroughfare or sidewalk.

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

### **Article VIII - Repair of Street Openings**

#### § 510-30 – Street Opening Regulations and Restrictions



This provision of the Code provides that the permittee must comply with the United States Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction, and Industrial Code Rules 23. It also prohibits excavation on any highway for a period of five years after it has been constructed or resurfaced.

*To the extent this provision of the Code is applicable to the NY Project, the Applicant requests the Commission not enforce the provisions of this Local Law due to the needs of consumers and factors of cost and economics. In order to construct the transmission line, opening of some streets or highways that were constructed or resurfaced within the past 5 years may be necessary in order to construct the NY Project in the most cost-efficient and expeditious manner possible. The Applicant cannot ensure that all of the roads or highways under which the transmission line will be constructed were resurfaced more than 5 years prior to the commencement of construction. The Applicant will ensure that all road or highways that are disturbed during construction will be appropriately resurfaced after construction is complete.*

#### § 510-31 – Maintenance of Traffic and Protection of Public

This provision of the Code provides that in areas where construction interferes with vehicular or pedestrian traffic, traffic control devices shall be placed in compliance with Vehicle and Traffic Law including §§ 1680 and 1682. A permittee may also be required to submit a traffic control plan in accordance with the aforementioned New York State requirements.

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

#### § 510-32 – Construction Details

This provision of the Code states that all procedures and materials shall be in conformance with the latest edition of Nassau County Specifications for Construction of Highways and Bridge and Nassau County Traffic Signal Specifications prepared by the Nassau County Department of Public Works. In addition, the following requirements, among others, shall be adhered to: no Village highway shall be closed without consent; no trench area shall be left open after working hours; a space at least four feet wide shall be maintained at all times on all sides of the right-of-way for safe use of pedestrians; all possible care shall be taken to prevent undermining the adjoining pavement; and road openings within an intersection may not exceed 1/3 the width of a the highway. This provision also provides specifications for pavement restoration.

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

### **Article IX - Driveway Curb Cuts**

#### § 510-34 – Approval required

This provision of the Code requires that any owner of real property seeking to install a driveway curb cut submit an application to the Building Department and comply with certain safety and zoning requirements.

*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.*

### **Article X - Roll-Off Containers**

#### § 510-36 – Prior approval required

This provision of the Code prohibits the placement of roll-off containers on public roadways unless prior written approval is granted by the Chief Building Inspector.

*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.*

#### **7.4.22 Chapter 560 - Trees**

##### **§ 560-1 – Planting in sidewalk area; existing planting**

This provision prohibits planting of trees, shrubs, or hedges between the sidewalk and curb.

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

##### **§ 560-2 – Removing and Trimming; Repairing Root Damage to Sidewalks**

This provision of the Code requires property owners to maintain trees and shrubs in front of or adjacent to their premises such that dead limbs are removed and overhanging limbs do not interfere with the sidewalk or roadway. Sidewalks adjacent to the premises that have been damaged by trees or roots must be repaired.

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

##### **§ 560-3 – Village Approval Required for Certain Trees**

This provision of the Code provides that no person shall injure or remove any shade tree of ten feet in height planted within the sidewalk and curb or adjacent to any private premise without first obtaining written approval of the Village Board.

*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.*

##### **§ 560-4 – Certain Types of Trees Prohibited**

This provision of the Code provides that no person shall plant trees known as “swamp maple trees” on any street in the Village or within 25 feet of water conduit, sewer main or strain drains.

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

##### **§ 560-5 – Hedges at Intersections**

This provision of the Code provides that no fence, hedge, ornamental planting, bush or other structure that is greater than 2 ½ feet may be located within the area of the triangle formed by the property corner and a line connecting the two property cutback points, as tabulated in the cutback distance chart included in this Section, which reduces visibility and creates a hazard to vehicular traffic.

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

##### **§ 560-7– Prohibited Conduct**

This provision of the Code provides that no person shall in any way injure or destroy any shade trees planted along the public streets or sidewalks within the Village.

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

#### **7.4.23 Chapter 583 - Vehicles and Traffic**

#### **Article II - Traffic Regulations**

##### **§ 583-4 – Street markings**

This provision of the Code states that it shall be unlawful, except in an emergency, to drive a vehicle across a double line marked on the street surface by or under the authority of the Board of Trustees of the Village of Island Park.

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

#### §§ 583-6 and 583-7– Speed Limits & School Speed Limits

These provisions of the Code establish a 30 miles per hour speed limit in the Village; during the school hours of 7:00 am to 6:00 pm, the speed limit shall be 20 miles per hour in certain locations, as set forth in Schedule II (§ 528-43).

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

#### §§ 583-9 through 583-13

These provisions of the Code provide the locations in which u-turns and other turns are prohibited, as well as stop and yield intersections.

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

#### § 583-14 – Commercial Vehicles over Certain Weights Excluded

These provisions of the Code provide that commercial vehicles, as defined in § 583-1, are excluded from the streets or parts of streets as set forth in Schedule X (§ 583-50), except for the pickup and delivery on such streets.

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

#### § 583-15 – Truck Route System

This provision of the Code sets forth the truck route system in which all trucks, tractors, and tractor trailers having a gross weight in excess of five tons are permitted to travel, as set forth in Schedule XI (§ 583-51). Such trucks shall not be prevented from delivering or picking up merchandise on the streets where they are prohibited.

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

### **Article III - Parking, Standing and Stopping**

#### §§ 583-17 – 583-35

These provisions of the Code provide the regulations for vehicles parking, stopping and standing in the Village, as set forth in Schedules XIV, XVI, XVII, XVIII, XIX, XXI and XXII. A truck trailer may not be parked in the street, and no commercial vehicle may be parked on any street in a residential area between the hours of 8:00 pm and 8:00 am.

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

### **7.4.24 Chapter 625 - Zoning**

#### **Article VIII - Commercial Districts**

#### § 625-32 - Commercial A Permitted and Prohibited Uses

This provision of the Code sets forth the permitted and prohibited uses in the Village’s “Commercial A” zoning district. Land in the Commercial A zoning district may only be used for the purposes listed in this provision, and an electrical substation is not listed as a permitted use. Any use which is noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes, radiation, or which presents a hazard to public health and safety, is prohibited.

*In the event this Local Ordinance could be construed as a prohibition on the construction and operation of the NY Project’s substation and electric transmission lines within the Commercial A District, 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. There is no more cost-effective way to meet this need using existing technology.*

#### § 625-33 - Commercial B Permitted Uses

This provision of the Code sets forth the permitted uses in the Village’s “Commercial B” zoning district. An electrical substation is not listed as a permitted use.

*In the event this Local Ordinance could be construed as a prohibition on the construction and operation of the NY Project’s substation and electric transmission lines within the Commercial B District, 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. There is no more cost-effective way to meet this need using existing technology.*

#### § 625-35 - Bulk, Parking and Loading Requirements

This provision of the Code sets forth the following bulk and parking requirements for the Village’s “Commercial A” and “Commercial B” zoning districts, among other things:

<b>Bulk Requirement</b>	<b>Commercial A District</b>	<b>Commercial B District</b>
Maximum Building Height	2 stories to 35 feet	3 stories to 45 feet
Minimum First Floor Area	None	None
Minimum Lot Area	None	20,000 square feet
Minimum Lot Frontage	None	None
Maximum Land/Building Coverage	50%	80%
Minimum Front Yard	None	20 feet
Minimum Rear Yard	15 feet	10 feet
Minimum Side Yard	None (unless the subject property is situated along a residential boundary, in which case a 15-foot side yard setback is required)	None (unless the subject property is situated along a residential boundary, in which case a 15-foot side yard setback is required)
Minimum Corner Yard	None	None
Minimum Off-Street Loading	1 space for each 7,500 square feet of building area	1 space for each 7,500 square feet of building area
Minimum Parking	1 space for each 1,000 square feet of building area	1 space for each 400 square feet of floor area

*The Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technologies and factors of cost and economics. Parking for construction vehicles will be temporary to facilitate construction of the substation and transmission line, and will only be at permitted locations specifically identified in the EM&CP. If the NY Project has to comply with this Local Law, such requirements would impede construction progress.*

## **Article IX - Parking Regulations**

### **§ 625-36 - General Regulations**

This provision of the Code sets forth general parking regulations for all zoning districts, among other things.

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

## **Article X - Additional Regulations**

### **§ 625-41 - Use Limitations**

This provision of the Code provides that all uses permitted in the Village shall be in a structure erected in accordance with the Village building code requirements, after the issuance of a permit and certificate of occupancy. No building shall be erected and no lot area shall be so reduced that the minimum dimensions of yards, courts or other open spaces shall be less than prescribed by this Chapter, except where a practical difficulty or unnecessary hardship results.

*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.*

### **§ 625-51 - Fences, hedges and walls**

This provision of the Code provides location, dimensional and design requirements for fences, hedges, walls, evergreen screens or other property line demarcations. Specifically, any fence shall have its most pleasant or decorative side facing the adjacent lot, with all posts being in the applicant's yard unless such posts are an integral part of the decorative design of the fence. The pleasant or decorative side of a fence may face an applicant's yard where such fence will be adjacent to a preexisting opaque fence or screening on the adjoining property of the same height or higher. Commercial properties will be subjected to rules and regulations set by the Board of Trustees, Zoning Board of Appeals and Building Inspector.

*The Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology. Some fencing for the NY Project may not meet the standards provided in this Local Law to protect the safety of the public and integrity of the NY Project. 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 substations and transmission facilities, with which the Applicant will comply.*

### **§ 625-52 - Minimum Elevation for Structures; Required Finish**

This provision of the Code provides the construction and exterior finish requirements for structures with certain base flood elevations. Further, unfinished exterior concrete walls are prohibited and an exterior façade facing the street must be finished with a coating approved by the Building Inspector including, but not limited to, siding, shingles, stucco and veneer. The exterior sides and rear of the structure must, at a minimum, be painted so that no bare concrete is exposed.

*The Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technology. This Local Law is not designed for the construction or operation of major electric transmission facilities. The exterior*

*finish of the substation will be designed to ensure it is properly screened from view and is also build in conformity with requirements for major electric transmission projects, including the NESC, which addresses substation requirements.*

## 7.5 Incorporated Village of Island Park Local Law No. 2 of the year 2021

### 7.5.1 Island Park Transit Oriented Development Overlay District (TOD Overlay)

#### § 6 - Permitted uses in the TOD Overlay – Business Subdistrict

This provision of the Code sets forth the permitted principal and accessory uses in the Village’s TOD Overlay – Business Subdistrict. An electrical substation is not listed as one of such permitted uses. However, pursuant to § 625-41(H) of the Code, the Board of Trustees reserves to itself the discretion, approval, and authority to issue permits for the erection, enlargement, or increase of buildings and uses for public utility companies for public utility use, upon such conditions as it may deem necessary for the public health, safety, and general welfare.

*In the event this Local Ordinance could be construed as a prohibition on the construction and operation of the NY Project’s substation and electric transmission lines within the TOD Overlay – Business Subdistrict, 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. There is no more cost-effective way to meet this need using existing technology.*

#### § 7 - Permitted uses in the TOD Overlay – Waterfront Subdistrict

This provision of the Code sets forth the permitted principal and accessory uses in the Village’s TOD Overlay –Waterfront Subdistrict. An electrical substation is not listed as one of such permitted uses. However, pursuant to § 625-41(H) of the Code, the Board of Trustees reserves to itself the discretion, approval and authority to issue permits for the erection, enlargement or increase of buildings and uses for public utility companies for public utility use, upon such conditions as it may deem necessary for the public health, safety, and general welfare.

*In the event this Local Ordinance could be construed as a prohibition on the construction and operation of the NY Project’s substation and electric transmission lines within the TOD Overlay –Waterfront Subdistrict, 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. There is no more cost-effective way to meet this need using existing technology.*

#### § 9 - Off-street Parking

This provision of the Code requires off-street parking spaces to be located on or within 1,500 feet of the premises, and sets forth the following parking requirements for the TOD Overlay District:

Use	TOD Business District	TOD Waterfront District
Retail/Commercial	1 space per 300 SF	See §625-35
Multiple Dwelling/Apartment House: Studios	1 space per unit	1 space per unit
Multiple Dwelling/Apartment House: One-bedroom units	1 space per unit	1.3 spaces per unit



Multiple Dwelling/Apartment House: Two-bedroom units	1.5 spaces per unit	1.75 spaces per unit
Multiple Dwelling/Apartment House: Three or more bedroom units	1.75 spaces per unit	2 spaces per unit
All Other Permitted Uses	Shall comply with the parking requirements outlined in §§625-35 and/or 625-38 of the Village Zoning Code	

*The Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technologies and factors of cost and economics. Parking for construction vehicles will be temporary to facilitate construction of the substation and transmission line, and will only be at permitted locations specifically identified in the EME&CP. There is no need to maintain permanent public parking spaces at the substation as such facility should not be accessed by the public.*

#### § 10 - Sustainability and Green Building Design

This provision of the Code requires that buildings be designed for resiliency, durability, and adaptability. New buildings created under this Chapter shall be compliant with Federal and State guidelines related to environmental regulations, including but not limited to the Federal Emergency Management Agency and New York State Energy Conservation Construction Code.

*The Applicant requests the Commission not apply this provision of the Code because it is unreasonably restrictive in view of existing technologies and factors of cost and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. The substation will be designed and built in conformity with requirements for major electric transmission projects, including the NESC. It may not be possible for the Applicant to construct the substation in a manner that meets the requirements of this Local Law with respect to applicable sustainability guidelines.*

#### § 12 Schedule of Bulk and Dimensional Regulations for the TOD Overlay District:

	<b>TOD Overlay Business Subdistrict</b>	<b>TOD Overlay Waterfront Subdistrict</b>
Minimum Lot Size	None	2 acres
Maximum Building Coverage	80%	30%
Maximum Building Height Without Surface Parking Below	3 stories and 45 feet	3 stories and 40 feet
With Surface Parking Below	4 stories and 50 feet	4 stories and 50 feet
Minimum Front Yard	10 feet	25 feet
Minimum Side Yard(s) (1)	0 feet	20 feet each side yard
Minimum Rear Yard	10 feet	25 feet

Note: If there is more than one principal building on a lot, the minimum side yard shall be calculated to the property line, and the minimum distance between buildings shall be 10 feet.

*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 and the dimensional restrictions contained within this Local Law because it is unreasonably restrictive in view of existing technology and factors of cost and economics. This Local Law is not designed for the construction or operation of major electric transmission facilities. Rather, the location and configuration of the NY Project's proposed substation, and proposed*



*transmission lines, are a function of the reliability and safety requirements, and are based on engineering design and industry-approved standards adopted specifically for the construction and operation of substation, with which the Applicant will comply.*

## **7.6 Incorporated Village of Island Park Local Law No. 5 of the year 2023**

### **7.6.1 Lighting, Outdoor**

#### **§ 3 – Light Sources are to be Directed Away from Adjacent Property**

This provision of the Code provides that exterior lighting shall be appropriately shielded and directed away from the adjacent area landowner's property.

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

#### **§ 4 – Light Sources to be Directed Away from Public Streets**

This provision of the Code provides that no exterior light source shall shed light directly upon any public street or any other parcel, nor impact motorists' vision or safe driving conditions.

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

## **7.7 Town of Hempstead Code**

### **7.7.1 Part I - Administrative Legislation**

#### **Chapter 70 – Department of Water, Rates and Regulations**

##### **Article I - Rates and Regulations**

#### **§ 70-40 – Fire Hydrants**

This provision of the Code provides that no person or persons shall cause the obstruction of a Department of Water fire hydrant, limiting its visibility or accessibility for fire-fighting purposes and maintenance and repair by the Department.

*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 may require access to fire hydrants and water in order to carry out construction operations. 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.*

### **7.7.2 Part II - Public Places**

#### **Chapter 78 – Parks**

##### **Part 1 – General Provisions**

##### **Article I – Regulations of Parks**

#### **§ 78-20 – Protection of Property**

This provision of the Code provides that a person shall not injure, deface, displace, remove, fill in, raze, destroy or tamper with any drive, path or walk; take up, remove or carry away trees, shrubs, turf or other materials; remove, deface or destroy any structure, building or any appurtenance connected with the park, or other property or equipment, real or personal, owned by the Town of Hempstead or others under the jurisdiction and control of the Town or the Director of the Department of Parks and Recreation.

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

#### § 78-21 – Refuse or Garbage

This provision of the Code provides that a person shall not take, carry, leave, throw, lay, drop or discard any garbage, rubbish or waste into or on any parks, and that litter must be placed in receptacles provided.

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

#### § 78-25 – Traffic Control

This provision of the Code states that it shall be unlawful for the operator of a vehicle to disobey the direction of any sign or marking related to traffic control in any park and the speed limit throughout shall be 15 miles per hour, unless otherwise posted; all persons must comply with the direction of the parking attendant, and overnight parking shall not be allowed except in designated areas. Furthermore, this provision prohibits: (a) the operation of any type of vehicle within the area between the parking fields and beach or shore area; (b) the obstruction of traffic by vehicle or otherwise; and (c) the operation, parking or standing of any vehicle with an expired vehicle registration or inspection sticker.

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

#### § 78-25.1 – Additional Traffic Control Regulations

This provision of the Code delineates the locations in which a vehicle cannot stop, stand or park within a park and further provides that no person shall disobey any instructions, directions, or time periods contained in any sign duly posted by the Town in any parking field within a park.

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

### **Chapter 80 – Public Parking Fields**

#### § 80-9 – Passenger and Commercial Vehicles

This provision of the Code prohibits vehicles from parking in any portion of the Town or district parking fields, other than those designated as loading zones, except for those vehicles owned and occupied by occupants of business property abutting the parking field in which said vehicles shall stand or be parked.

*To the extent this provision 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 may need to temporarily utilize parking fields within the Town of Hempstead for construction staging purposes. Parking will only be at locations specifically identified in the EMO&CP.*

### **Part III - Buildings and Structures**

#### Chapter 84 – Master Electricians

#### § 84-5 – Master Electrician’s License Required; Applications

This provision of the Code provides that no person shall engage in the installation and wiring of electrical apparatus in the Town of Hempstead until such person applies for and obtains a master electrician’s license.

*To the extent this provision of the Code is applicable to the NY Project, and to the extent the NY Project could be considered an “electrical apparatus” within the Town, the Applicant requests the Commission not apply this Local Law as it is unreasonably burdensome in view of existing technology and factors of costs and economics. This Local Law is not designed for the construction*

*and operation of transmission facilities. Rather, there are industry-approved standards with which the Applicant will comply, including standards for retaining appropriately licensed and qualified technicians to design and construct the NY Project.*

#### § 84-11 – Accepted Methods and Practices

This provision of the Code provides that except as may be provided otherwise in duly adopted rules and regulation, the regulations of the most current issue of the National Electric Code or its equivalent shall be deemed the accepted methods and practices for electrical trade in the Town of Hempstead.

*To the extent this provision of the Code is applicable to the NY Project, 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, the Applicant requests the Commission not apply this local law in view of existing technology and factors of cost 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 86 – Business Construction Administration

##### § 86-9 – Applications for Permit; Minimum Elevations for Erection of Structures and Construction of Roads

This provision of the Code provides that no building permit shall be issued in connection with any parcel of realty, unless the street abutting such parcel shall have an elevation specified by the Town Engineer, which is at least 7 ½ feet above mean sea level. This provision further outlines the instances where compliance with the foregoing street elevation is not required, as well as conditions and requirements relating to land which is filled to comply with the provisions of this Chapter or with the specifications of the Town Engineer.

*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.*

##### § 86-10 – Applications for Plumbing Permit

This provision of the Code provides that all new plumbing systems shall connect to the public sewer when an accessible public sewer abuts a lot on which there is a building or structure, and sets forth the requirements, including that it shall be unlawful to (a) construct, repair or pump or in any way alter any cesspool or septic tank for the use of any building or structure and (b) make any connections of a plumbing system to a stormwater drainage system or a watercourse for the removal of sewage.

*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.*

##### § 86-36 – Master Plumber's License Required

This provision of the Code provides that a master plumber's license is required to conduct any matters related to plumbing in the Town of Hempstead.

*To the extent this provision of the Code is applicable to the NY Project, the Applicant requests the Commission not apply this Local Law as it is unreasonably burdensome in view of existing technology and factors of costs and economics. This Local Law is not designed for the construction and operation of transmission facilities. Rather, there are industry-approved standards with which the Applicant will comply, including standards for retaining appropriately licensed and qualified technicians to design and construct the NY Project.*

##### § 86-49 – Violation of Certain State Law

This provision of the Code provides it shall be unlawful for any person, firm or corporation to construct, alter, use or occupy any building, structure or portion thereof, in violation of any provision of the Uniform Fire Prevention and Building Code or in a manner not permitted by an approved building or plumbing permit, certificate of completion or certificate of occupancy. It shall also be unlawful to fail to comply with any notice, directive or order of the Town Building Commissioner.

*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.*

#### § 86-50 – Construction Site Safety Training

This provision of the Code requires that a major construction site, a foreman or other person shall be designated as a site safety designee to ensure that the permit holder or any person performing work at the site maintains a current OSHA thirty-hour class certificate. The Applicant, permit holder or any person performing the work shall certify that all New York State and OSHA safety requirements have been met, and the permit holder must maintain a daily log identifying the workers and their compliance with this provision.

*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 91 – Public Nuisance

#### § 91-3 – Prohibition

This provision makes it unlawful to own, lease or control a public nuisance building/structure.

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

### Chapter 94 – Emergency Lighting and Power

#### § 94-2 – Occupancies Where Required

This provision of the Code requires the installation and maintenance of emergency lighting systems in accordance with this Chapter, in order to occupy a building. In all buildings, there shall be provided an emergency lighting system for all exits, stairways, stair enclosures, elevators and escalators and in all halls, passageways and corridors exceeding 100 feet in length.

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

#### § 94-3 – Approved Sources

This provision of the Code provides that sources of emergency lighting and power are subject to the approval of the Commissioner of the Department of Buildings and sources and methods may include, among other things: (a) portable light units – battery operated, fixed in position and connected to the principal lighting system; (b) gasoline-powered generators –housed in a separate building without any other equipment or storage, with sufficient exterior ventilation; and (c) gas- powered generators – housed in a fireproof enclosure (without storage of any kind within the enclosure), within a room with sufficient exterior ventilation and containing no other 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.*

#### § 94-4 – Plans; Conditions; Approval

This provision of the Code requires emergency lighting and power sources to be capable of sustaining lighting and/or power for a minimum of 30 minutes, or for longer periods of time as required by the Commissioner of Buildings, due to special or unusual conditions. Transfer to the emergency lighting and/or power source shall be made within 15 seconds of failure of the principal system and all exit lights and directional signs shall be connected to or supplied with emergency lighting. Further, all emergency lighting and power systems shall be maintained in operative condition at all times while buildings are occupied.

*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.*

### **7.7.3 Part V - Garbage, Refuse and Nuisances**

#### **Chapter 128 – Garbage and Rubbish**

##### **Article I – Solid Waste Collection and Disposal**

###### **§§ 128-1 through 128-22**

These provisions of the Code require that owners, lessees, tenants or other persons having management, control or occupancy of land in the Town must keep the same free and clear of any accumulation of ashes, refuse, garbage, offal or any offensive substances at all times, except as are properly deposited in containers. It shall be unlawful to deposit, throw, cast or bury any of the foregoing on any vacant lot in the Town.

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

##### **Article II – Littering**

###### **§ 128-23 through 128-42**

These provisions of the Code prohibit throwing or littering in or on any street, sidewalk or other public place except in public receptacles, private receptacles for collection or in official Town rubbish pits. No person shall drive or move any truck unless such vehicle is loaded so as to prevent any load or contents from being blown or deposited upon any street, alley or public place, nor shall any person drive any vehicle or truck with wheels that deposit mud, dirt, sticky substances, litter or foreign matter of any kind on any street or alley. No person shall litter in any park within the Town, or private occupied or vacant property.

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

##### **Article III – Dumping of Refuse and Garbage**

###### **§ 128-43 – Dumping on Vacant Lots or Streets Prohibited**

This provision of the Code provides it shall be unlawful for any person, firm, association corporation or any servant, agent or employee thereof, to throw, cast, lay, bury or leave among other things, any ashes, garbage, cinders, shells, straw, shavings, paper, dirt, filth, metal, rubber, tires, or any other refuse or rubbish of any kind in or upon any vacant lot, or in or upon any street or road, except where ashes or dirt may be used for filling-in purposes under a permit secured from the department or bureau have jurisdiction 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.*

##### **Article IV – Solid Waste Management**

###### **§ 128-52 – Disposal regulations; construal provisions**

This provision requires that all acceptable solid waste, other than construction and demolition debris, yard waste, and recyclables be delivered to a Town Solid Waste Management Facility.

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

#### § 128-54 – Hazardous Waste and Unacceptable Waste

This provision of the Code prohibits the delivery of hazardous waste or unacceptable waste by any person to a solid waste management processing facility or any other disposal facility designated by the Town, including: hazardous waste, wastes designated by NYSDEC as having an adverse impact on air quality; sewage sludge or free liquids; infectious waste; and other such waste as the Commissioner may designate.

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

#### § 128-61 – Accumulation of garbage, litter, refuse, rubbish or rubble; height of lawns, weeds or brush.

This provision of the Code provides that it shall be unlawful for any owner, agent of such owner, and/or any person, firm or corporation in possession of any improved real property within the Town to permit lawns, weed, grass or brush of any kind to grow to a height in excess of eight (8) inches, or any garbage, litter, refuse, rubbish or rubble to accumulate on said property. This section further prohibits the growing and/or maintaining of bamboo.

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

#### § 128-72 – Mandatory commercial, industrial and institutional recycling

This provision of the Code requires commercial establishments to recycle cardboard and office paper where there exist economic markets for alternate uses for the same. This provision further requires that the arrangement for collection of office paper and cardboard is the responsibility of the person who owns, manages or operates the commercial, industrial or institutional establishment at which these materials are generated (the “generator”) or the person contractually obligated to the generator to arrange for collection and disposal of its solid waste and requires that generators of recyclable material who use private carters or recyclers for collection and marketing of recyclable materials must be provided with sufficient containers by such private carters or recyclers to meet the requirements of this Article.

*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 132 – Flammable and Combustible Liquids

#### Article I – General Provisions

*§ 132-9 – Limit of Size This provision of the Code provides that no storage tank for flammable or combustible liquids shall contain more than 1,000,000 gallons except as provided in § 132-18. § 132-18 allows for the storage of liquids having a flash point of 100° F or more in a tank with a capacity of 1,000,000 gallons to 3,000,000 gallons provided that (A) the tank is not installed within 1,000 feet of any building occupied as a hospital, sanatorium, church, school, theater or other place of public amusement or public assembly, nor within 250 feet of a public park or land zoned for residential purposes; and (B) the distance between the shell of the tank and the property line of the property on which it is located or the nearest building is not less than 1 1/2 times the greatest dimension of the tank, except that for tanks equipped with either a permanently attached extinguishing system or a floating roof, such distance may be reduced to not less than the greatest dimension of the tank. The Applicant will comply with the substantive provisions of this section.*

#### § 132-14 – Method of Storage



This provision of the Code requires that containers for flammable and combustible liquids be built in accordance with Underwriters' Laboratories, Inc. or American Petroleum Institute Standards. Flammable or combustible liquid containers installed inside buildings shall not exceed 500 gallons and storage of flammable and combustible liquids shall be in accordance with the National Fire Protection Association Flammable and Combustible Liquid Code (NFPA No. 30, 1976 Edition, and all future addenda). No tank, drum or other container for which a permit has been issued shall be provided with a faucet or other bottom-drawing device to permit gravity flow, if located within a building.

*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.*

## Article II – Aboveground Flammable and Combustible Liquid Tanks

### §§ 132-15 through 132-33

These provisions of the Code govern the installation of aboveground flammable and combustible liquid tanks on a property, including requirements regarding the location, height, design and construction of the same.

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

## Article III – Underground or Buried Flammable and Combustible Liquid Tanks

### §132-34 through 132-41

These provisions of the Code govern the installation of underground flammable and combustible liquid tanks, including requirements regarding the location, capacity, design and construction of the same.

## **The Applicant will comply with the substantive provisions of this section. Chapter 138– Smoke**

### § 138-1 – Emission of Dense Smoke

This provision of the Code provides that it shall be unlawful for any person, firm or corporation to permit the emission of any dense smoke from any source.

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

### § 138-2 – Escape of Soot, Cinders, Etc.

This provision of the Code provides that it shall be unlawful to permit the escape of such quantities of soot, cinders, noxious acids, fumes and gases in such place or manner as to be detrimental to any person or the public, or to endanger the health, comfort or safety of any such person or of the public, or to cause injury to property or business.

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

## **Chapter 140– Earth and Soil Removal**

### Article I – General Provisions

### § 140-3 – Pit and Bank Excavations

This provision of the Code sets forth the requirements related to pit and bank excavations, including prohibiting pit or bank excavation within 20 feet of a property line and excavation below two feet above the maximum ground water level. This provision also requires security and protection measures for the removal of more than



75 cubic feet of earth in a vertical dimension of more than three feet, the spreading of a dust layer on access roads and other traveled areas used in connection with very pit or bank excavation, and the refilling of a pit excavation area with clean, nonburnable fill and grading of such area to the levels of the nearest abutting streets or roads, upon completion of the removal of earth. No removal of earth shall undermine or weaken the support of other lands in the vicinity, impede, affect or change the flow of any public waterway or body of water (including that which is used as party of any public drainage system), or expose any underground water used as a public water supply to any possible pollution.

*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. Applicant will comply with OSHA standards related to safe and healthy construction and excavation.*

## Article II – Topsoil Stripping and Removal

### § 140-4 – No Stripping or Removal

This provision of the Code provides that no stripping or removal of topsoil shall be made within 10 feet of any property line. If the property is below grade, when the work is completed, the premises shall be graded to the level of the abutting highway or the original grade if same were below the level of the highway. Dust-down or its equal shall be spread to prevent dust from flying and no less than six inches of topsoil shall be left upon the land surface. No topsoil shall be removed between the first day of October and the first day of April.

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

## Article III – Provisions Applicable to Both Bank and Pit Excavations and Topsoil Removal

### § 140-8 – Exceptions

This provision of the Code provides that no permit is required for the removal of topsoil for purposes of installing public improvements or public utilities, or for either the installation of public utilities under a road opening permit or for the removal of material regulated by Chapter 159 (Dredging).

*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 144– Unreasonable Noise

### Article I – General Provisions

#### § 144-2 – General Prohibitions

This provision of the Code provides that it is unlawful for any person to unreasonably make, continue or cause to be made or continued any unreasonable noise or noise disturbance.

*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.*

§ 144-3 – Specific Prohibitions

This provision of the Code contains conduct that is considered to be an offense under this Chapter, which includes: (i) the erection, including excavation, demolition, alteration or repair of any building other than the hours of 7:00 am and 6:00 pm on weekdays, except in the case of an urgent necessity in the interest of public safety, and only then with a permit by the Department of Buildings; (ii) the operation of any mechanical powered devices which creates unreasonable noise across a property boundary other than between 8:00 a.m. and 9:00 p.m. on Saturdays and Sundays and between 7:00 a.m. and 9:00 p.m. on Mondays through Fridays; and (iii) the operation of any machinery, equipment, pump, fan, air-conditioning apparatus or similar mechanical device as to create an unreasonable noise across a real property line.

*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 and limitations on time to perform construction, 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 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.*

Article II – Transient Sound from Aircraft in Flight and Other Devices

§ 144-5 – Limitation of Noises

This provision of the Code provides that no person shall operate or cause to be operated any mechanism or device, which shall create a noise within the Town exceeding the noise limits for transient and steady noise as set forth in Table I and Table II of 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, 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.*

§ 144-6 – Noise Measurement Practices

This provision of the Code requires that noise measurements for any mechanism or device be made at least 100 feet from the longitudinal centerline of the vehicle and that noise measurements for machinery noise on private property be measured at the property line of the noise source.

*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.*

#### **7.7.4 Part VI - Conservation and Waterways**

### **Chapter 155 – Boats and Seaplanes**

#### **Article I – Speed and Operation of Boats**

##### **§ 155-2 – Other Laws and Provisions to be Complied With**

This provision of the Code provides that all vessels navigating the Town of Hempstead waterways must comply with all provisions of the Navigation Law of New York State, the Inland Rules enacted by Congress and governing the navigation of the inland waters of the United States and of the Pilot Rules for United States inland waters.

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

##### **§ 155-4 – Mooring Restrictions**

This provision of the Code provides that boats and vessels cannot be moored or anchored in any channel except at the edges and in no case within 50 feet of a channel marker or buoy in a manner that could interfere with navigation. No boat or vessel shall be moored or anchored to endanger the safety of or cause damage to or interfere with any boat or vessel previously anchored or moored in a Town of Hempstead waterway or at a public dock or Town landing, nor can it be moored or docked at the end of any Town street, Town landing, public dock or other Town property. No boat or vessel shall be moored, anchored or docked in any waterway of the Town so that any part projects into the waterway more than  $\frac{1}{4}$  of the width of such waterway. No structure, dock or mooring shall be erected or constructed on any waterway within the Town of Hempstead except in accordance with this Code.

*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 EMECP, 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.*

##### **§ 155-5 – Reckless or negligent operation of vessels**

This provision of the Code provides that no person shall operate a vessel in a reckless manner. Reckless operation is defined as someone operating a vessel in willful or wanton disregard for the safety of persons or property or without due regard, caution and circumspection or at a rate of speed or in a manner as to endanger or likely to endanger life or limb or damage the property of or injure any person.

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

##### **§ 155-6 – Regulation of Speed of Boats; Waterskiing**

This provision of the Code provides that no person shall operate a boat on any waterway within the Town at a speed which will cause wake or wave that could endanger life or safety of any person or cause damage to property, including erosion of salt marsh. In any Town waterway, no boat shall be operated at a speed greater than the posted limits of 12 miles per hour or five miles per hour, except as provided herein. Further, no boat shall be operated within 100 feet of the shore, dock, pier, raft, float or an anchored or moored vessel at a speed exceeding five miles per hour.

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

§ 155-8 – Regulation of Power-Driven Boats

This provision of the Code provides that no person shall operate a boat propelled wholly or partly by an engine operated by gas, naphtha, diesel or an oil or other explosive or flammable substance unless the engine contains an underwater exhaust or muffler to muffle the noise of the engine.

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

§ 155-9 – Restrictions on Commercial Marine Vessels

This provision of the Code prohibits commercial marine vessels from anchoring or stopping within 100 yards (300 feet) of a residence.

*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 EMECP, 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, and it may be necessary for boats or vessels used in the construction of this NY Project to stop within 100 yards of a residence.*

## **Chapter 159 – Dredging**

§ 159-15 – Conduct of Operations; Liability for Injuries

This provision of the Code provides that operations pursuant to this Chapter shall be done such that the removal of the material and redepositing and storage thereof will not undermine, weaken or deprive the support to other lands in the vicinity, nor adversely affect the Town's waterways or abutting lands, nor substantially change the course of any channel or natural movement of any waters or cause or accelerate the drift of underwater soil, sand, gravel, bog or mud.

*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 160 – Precautions Against Oil Spills**

§ 160-2 – Oil discharge prohibited

This provision of the Code prohibits by either omission, commission, failure to take proper precautions or otherwise, discharge any oil into or upon any drainage system leading to tributaries to Hempstead Bay Estuary or upon estuarine waters within the Town or waters adjoining the shoreline thereof.

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

§ 160-6 – Liability and corrective measure relating to spillage

This provision of the Code requires that any person responsible for allowing any oil discharge to take immediate and appropriate measures to contain, collect and remove said oil discharge and to return the area affected to its original state as reasonably as possible. If the person responsible does not take immediate corrective measures to contain, collect and remove an oil discharge, the Town Commissioner is hereby authorized to take appropriate measures to contain, collect and remove the oil discharge at the cost and expense of the person responsible.

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

## **Chapter 161 – Illicit Discharges**

### **§161-6 – Discharge Prohibitions**

This provision of the Code prohibits discharges into the municipal separate storm sewer system (MS4) other than stormwater, except as provided in this Section. The discharge shall not apply to any discharge permitted under a State Pollutant Discharge Elimination System (SPDES) permit, waiver or waste discharge order.

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

### **§ 161-9 – Requirement to prevent, control, and reduce Stormwater pollutant by use of best management practices**

This provision of the Code requires that, if illicit discharges or activities contaminating Stormwater are identified in the municipality, the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities including that the owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.

*To the extent this provision of the Code is applicable, 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.*

### **§ 161-11 – Industrial or Construction Activity Discharges**

This provision of the Code provides that any holder of an industrial or construction SPDES stormwater discharge permit shall comply with the provisions of such permit and that proof of compliance may be required prior to allowing discharges into the MS4.

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

### **§ 161-12 – Access and Monitoring of Discharges**

This provision of the Code applies to all facilities that the Stormwater Management Officer (“SMO”) must inspect to enforce any provision of this Chapter. It requires that facilities grant access to the SMO to enter and inspect facilities to determine compliance with this chapter, and states that municipalities have the right to set up on any facility such devices as are necessary to monitor stormwater discharge.

*To the extent this provision of the Code is applicable, 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.*

### **§ 161-13 – Notification of Spills**

This provision of the Code requires that as soon as any person responsible for a facility or operation is aware of any known or suspected illegal discharges or pollutants discharging into the MS4, he/she must take all steps necessary to address such release. This provision also provides the required notifications for the release of hazardous and non-hazardous materials and requires on-site written records of the discharge and actions taken to prevent its reoccurrence, with such records to be retained for a minimum of three years.

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

## **Chapter 163 – Marinas and Docks**

### **§ 163-17 – Damage to Marina Property Prohibited; Authorization Required for Construction**

This provision of the Code provides that it shall be an offense for any person to mark or damage any dock, piling or wharf and any appurtenances thereto, or to erect any structure or attachment made of wood, metal or other material upon such property owned by the Town or under the jurisdiction of the Town Board and Commissioner, without the Commissioner's written authorization.

*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.*

#### § 163-18 – Unauthorized Boat Movement or Launching

This provision of the Code prohibits any person from lifting, dragging, launching or taking a boat across any dock, piling, bulkhead, dockage facilities, wharf or catwalk belonging to the Town unless authorized to do so by the Commissioner of the Department of Conversation and Waterways.

*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.*

#### § 163-19 – Discharge of Water of Solid or Liquid Waste Prohibited

This provision of the Code prohibits a person in charge of a boat, vessel or other watercraft from emptying, cleaning out, pumping out or discharging water, oil or solid or liquid waste material from the bilge, boat toilets or waste treatment holding device into marine waters.

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

#### § 163-20 – Dumping of Garbage or other Waste Prohibited

This provision of the Code prohibits a person from dumping, throwing, or depositing any trash, debris, garbage, waste, sewage or other materials into marina waters, or upon Town docks, except in receptacles.

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

#### § 163-25 – Boat Lines Required

This provision of the Code requires boat owners to supply and maintain their own lines for mooring, tying and securing boats; sizes of lines shall be adequate for the safe mooring of boats and approved by the Commissioner or his/her authorized representative; all lines and equipment shall be neatly coiled or stowed at all times and shall not be left on docks so as to constitute a danger to persons walking on said docks.

*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.*

#### § 163-26 – Small Craft at Marinas

This provision of the Code requires dinghies, rowboats, floats or any small craft carried by a larger boat or vessel to remain secured to a deck of the carrying boat or vessel while moored or docked in marinas.

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

#### § 163-31 – Electricity

This provision of the Code allows a boat owner's gratuitous use of one electrical outlet at a facility for their boat; however, a surcharge shall be levied for use of electricity in excess of 10 amperes, 115 volts. The operation of electrical power generating engines on boats berthed or moored at a Town marina shall be prohibited.



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

#### § 163-33 – Repairs

This provision of the Code requires written permission from the Commissioner or his authorized representative to do minor painting or minor emergency engine repair during the time a boat is berthed or moored at a Town marina. This provision further prohibits anything other than minor repairs and requires that vessels be kept in good condition at all times.

*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, factors of cost and economics, and the needs of consumers. At times, the Applicant may need to perform more than minor repairs on vessels. Further, procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL § 130.*

#### § 163-34 – Fueling at Marina Restricted

This provision of the Code provides that no boat, vessel or other watercraft shall take in gasoline, diesel oil or other fuel at marinas unless written authorization is given by the Commissioner or his/her authorized representative.

*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.*

#### § 163-37 – Traffic Control

This provision of the Code provides the traffic control procedures for the operation of vehicles within Town marinas. This provision further requires that it will be unlawful for the operator of any vehicle to disobey the direction of any sign or marking relating to traffic control in any marina; that, unless otherwise posted, the speed limit throughout any marina will be 15 miles per hour; all persons shall comply with the directions of the posted parking instructions or marina attendant and shall occupy the designated parking stall assigned to them and further requires that, except where angle parking is authorized, all vehicles shall be parked parallel to the curb or edge of the roadway.

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

### **Chapter 164 – Public Wetlands Preservation**

#### § 164-4 – Permitted Uses

This provision of the Code provides the permitted purposes and uses of the lands held pursuant to this Chapter, including: (i) the promotion of natural propagation and maintenance of desirable species in ecological balance in the Town wetlands and waterways; (ii) the preservation, maintenance and improvement of channels, bays and other Town waterways in a manner meeting the needs of boatmen and consistent with sound conservation practices; (iii) the construction and maintenance of structures in waterways for the use of abutting private property owners to permit proper docking of boats and access to navigable channels, provided that permits are obtained; and (iv) private and commercial marine purposes accessory to the use of abutting upland pursuant to leases duly executed by the Town and consistent with the conservation, management principles and purposes hereinbefore set forth. Any material removed pursuant to this Section must only be used for public purposes.

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

#### § 164-9 – Rules and regulations

This provision of the Code prohibits dumping or depositing of certain materials within the wetlands, underwater lands and waterways included herein; it is unlawful to remove or excavate sand from any beach or from any sand dune from a part of the barrier island of Long Beach and other unincorporated areas of the Town of Hempstead lying between Long Beach and other unincorporated areas of the Town of Hempstead lying between Jones Beach inlet and East Rockaway inlet on the Atlantic Ocean; these provisions shall not apply to any excavation necessary for construction, erection or installation of a lawful structure under a permit issued under this Code nor to the removal of any sand as necessary for any public use recommended by the Commissioner of the Department of Conservation and Waterways; and it shall be unlawful to operate any motor vehicle within a tidal wetland and any motor boat within a marsh, except as authorized by the Commissioner or authorized personnel.

*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 165 – Freshwater Wetlands**

### **§ 165-7 – Standards for Permit Decision**

This provision of the Code provides the required considerations and findings for granting, denying or conditioning any permit. The considerations include the effect of the proposed activity and the benefits derived therefrom (as set forth in § 165-1) as well as provisions and standards as set forth in 6 NYCRR 665.7(e). The findings include that the proposed regulated activity is: consistent with the policy of this law and the land use regulations applicable in the Town pursuant to § 24-0903 of Article 24 of the State Environmental Conservation law; compatible with the public health and welfare; reasonable and necessary; and there is no practicable alternative for the proposed regulated activity on a site, which is not a freshwater wetland or adjacent 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.*

## **Chapter 167 – Dune Protection Zone**

### **§ 167-4 – Prohibitions**

This provision of the Code states that it shall be unlawful for any person, firm, corporation to: (i) damage, destroy, remove, excavate or relocate any sand dune or portion thereof within the dune protection zone; (ii) kill, destroy, or remove any vegetation growing within the dune protection zone (with the exception of certain species of vegetation that may be removed or planted specifically for erosion control, with the approval of the Commissioner of the Department of Conservation and Waterways); (iii) trespass or walk upon any sand dune within the dune protection zone, when signs are posted regarding same; or (iv) operate or direct the operation of a vehicle within the dune protection zone, except by approval of the Commissioner.

*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 168 – Structures in Waterways**

### **§ 168-9 – Noninterference with Navigation of Waterways**

This provision of the Code provides that a structure, mooring pile or spile erected in accordance with this Chapter shall be maintained so that there is no interference with navigation or with public usage of waterways.

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

## § 168-12 – Regulations

This provision of the Code provides that no structure, mooring pile or spile shall be installed, constructed or maintained unless it complies with the regulations set forth therein, including that structures subject to § 168-4 shall be of sound engineering design and shall have minimum waterway and freeway clearance of six feet above mean sea level, Nassau County Datum Plane, and be of open pile-type design; the location, design and use shall comply with all local laws, public health laws and requirements and conform to standards of construction consistent with prevention of fire hazards; and whenever bulkheading shall be installed or replaced in accordance with this Chapter, navigable water shall be provided on the waterway side of the bulkheading consistent with the existing channels.

*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 170 – Coastal Erosion Hazard Areas**

## § 170-7 – Structural Hazard Area Restrictions

This provision of the Code provides that a coastal erosion management permit is required for the installation of public-service distribution, transmission or collection systems for gas, electricity, water or wastewater systems installed along the shoreline and must be landward of the shoreline structures. The construction of nonmovable structures within the dunes or seaward of the landward edge of the erosion hazard area line is prohibited. No permanent structure may be located seaward of the local erosion hazard area line. Debris from structural damage due to sudden unanticipated dune migration or wave action must be removed within 60 days of the damaging event.

*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. Portions of the NY Project may be installed seaward of shore structures. The Applicant will take measures to mitigate erosion during construction. The location and configuration of the NY Project's proposed transmission lines 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.*

## § 170-8 – Nearshore Area Restrictions

This provision of the Code restricts regulated activities in shoreline areas. All development is prohibited on nearshore areas unless specifically provided for by this Chapter. Pursuant to § 170-4, “nearshore area” is defined as “Those lands under water beginning at the mean low-water line and extending waterward in a direction perpendicular to the shoreline to a point where the mean low-water depth is 15 feet or to a horizontal distance of 1,000 feet from the mean low-water line, whichever is greater.” Excavation, grading, mining or dredging which diminishes erosion protection is prohibited and clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within nearshore areas. Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the New York State Department of Environmental Conservation and Town Commissioner of Conservation and Waterways.

*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, factors of cost and economics, and the needs of consumers. The NY Project meets consumer's needs by continuing to maintain reliability through the region and helping meet long-term electric capacity needs and clean energy mandates for New York State. There is no more cost-effective way to meet this need using existing technology.*

## § 170-9 – Beach Area Restrictions

This provision of the Code provides restrictions applicable to regulated activities in beach areas. All development is prohibited on beaches unless specifically provided for by this Chapter. Excavation, grading, or mining which diminishes erosion protection is prohibited and clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within nearshore areas for expansion or stabilization of beaches, subject to a coastal erosion management permit. Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the New York State Department of Environmental Conservation and Town Commissioner of Conservation and Waterways. Furthermore, no vehicles may be operated within the erosion hazard area except as permitted by the Commissioner of the Department of Conservation and Waterways and only four-wheel-drive vehicles are permitted to be used for specific purposes and in designated corridors. No person, firm or corporation may excavate or remove any sand from the beach being a part of the Long Beach barrier island without a coastal erosion management permit.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, factors of cost and economics, and the needs of consumers. The Applicant may need to access the beach in order to complete construction of the NY Project and installation of the transmission line conduit under the beach. Such access may also include the use of vehicles and will also involve excavation in order to construct and install transmission line conduit. The Applicant will only work in areas so designated for access, installation, and construction of the NY Project. The NY Project meets consumer's needs by continuing to maintain reliability through the region and helping meet long-term electric capacity needs and clean energy mandates for New York State. There is no more cost-effective way to meet this need using existing technology.*

## § 170-10 – Dune Area Restrictions

This provision of the Code provides the restrictions that are applicable to regulated activities in primary and secondary dune areas.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, factors of cost and economics, and the needs of consumers. The Applicant may need to access primary and/or secondary dune areas in order to complete construction of the NY Project and installation of the transmission line conduit under the beach. Such access may also include the use of vehicles and will also involve excavation in order to construct and install transmission line conduit. The Applicant will only work in areas so designated for access, installation, and construction of the NY Project. The NY Project meets consumer's needs by continuing to maintain reliability through the region and helping meet long-term electric capacity needs and clean energy mandates for New York State. There is no more cost-effective way to meet this need using existing technology.*

## § 170-11 – Erosion Protection Structure Requirements

This provision of the Code provides for requirements that apply to the construction, modification or restoration of erosion control protection structures.

*In the event this Local Law could be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EMECP, the Applicant requests that the Commission not apply this Local Law in view of existing technology. The Applicant will take measures to mitigate erosion during construction and manage stormwater during operation and construction of the transmission lines. Although the Applicant and its contractors will employ mitigative measures and comply with the Certificate Conditions and EMECP, 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.*

## § 170-12 – Traffic Control

This provision of the Code provides that all motorized and nonmotorized traffic are not permitted to travel on vegetation and must operate waterward of the debris line or waterward of the waterward toe of the primary line. Motor vehicle traffic is prohibited on all dunes, except officially designated areas. Vehicles approved for use in coastal erosion management areas must be equipped with four-wheel drive and floatation tires. Pedestrian passage across dunes must utilize elevated walkways and stairways.

*The Applicant requests the Commission refuse to apply the weight and dimensional restrictions detailed in this Local Ordinance 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 locational requirements of this provision, the motor vehicle requirements of this provision, or the pedestrian access requirements of this provision in order to complete construction of the NY Project and installation of the transmission line conduit under the beach. The Applicant will only work in areas so designated for access, installation, and construction of the NY Project. The NY Project meets consumer's needs by continuing to maintain reliability through the region and helping meet long-term electric capacity needs and clean energy mandates for New York State. There is no more cost-effective way to meet this need using existing technology.*

### **7.7.5 Part VII - Streets, Vehicles and Traffic**

#### **Chapter 175 – Excavations in Streets**

##### **§ 175-5 – Street Opening Regulations and Restrictions**

This provision of the Code states that the permittee shall comply with the following safety codes: United States Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction, Industrial Code Rule 23, and Industrial Code Rule 53. In the event it becomes necessary to enter upon a Town highway for making emergency repairs, an application for a permit must be filed within 24 hours of such work. No excavation shall be permitted on any newly constructed or resurfaced highway for a period of not less than five years (except for excavation on the right-of-way abutting a new highway).

*To the extent this provision of the Code is applicable to the NY Project, the Applicant requests the Commission not enforce the provisions of this Local Law due to the needs of consumers and factors of cost and economics. In order to construct the transmission line, opening of some streets or highways that were constructed or resurfaced within the past 5 years may be necessary in order to construct the NY Project in the most cost-efficient and expeditious manner possible. The Applicant cannot ensure that all of the roads or highways under which the transmission line will be constructed were resurfaced more than 5 years prior to the commencement of construction. The Applicant will ensure that all road or highways that are disturbed during construction will be appropriately resurfaced after construction is complete.*

##### **§ 175-6 – Maintenance of Traffic and Protection of the Public**

This provision of the Code provides that where the work performed by the permittee interferes with vehicular or pedestrian traffic, the permittee shall place and maintain traffic control devices pursuant to §§ 1680 and 1682 of the New York State Vehicle and Traffic Law. A traffic control plan showing provisions for maintaining, protecting and/or detouring of traffic may be required with a permit application. When a traffic lane is closed or traffic must use other than its normal lanes, a permittee must notify the local police, fire and school districts in advance.

*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.*

##### **§ 175-7 – Detail of Construction**

This provision of the Code provides the specific requirements relating to construction operations and pavement restoration, including, but not limited to, that all procedures and materials shall be in conformance with the

latest edition of the Nassau County Specifications for Construction of Highways and Bridges and the Nassau County Traffic Signal Specifications as prepared by Nassau County Department of Public Works; no Town highway shall be closed without prior written notice to the Highway Department; no trench area shall be left open after working hours; and all possible care shall be taken to prevent undermining the adjoining pavement.

*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 176 – Roll-Off Containers**

### **§ 176-3 – Rules and Regulations**

This provision of the Code provides the regulations related to roll-off containers, including, but not limited to, the following: (a) a permit must be displayed on the container; (b) the street upon which the container is located must meet a minimum width requirement of 30 feet, curb to curb; (c) the container must be placed parallel to the curb with the street side of the container not more than 8'-6" from nearest curb and shall not obstruct any part of a sidewalk; (c) the owner/lessor shall be responsible for the repair of any street, sidewalk and curb damage caused by the placement and removal of the roll-off container; and (d) no container shall remain at particular location beyond fourteen days, although the permit can be renewed.

*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 177 – Materials: Deposit**

### **§ 177-1 – Deposits on Roads**

This provision of the Code prohibits the accumulation of sand, gravel, cinders, topsoil, mud, earth or other material from being placed, deposited, tracked or flowed upon any Town road.

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

## **Chapter 181 – Sidewalks, Roads and Streets**

### **Part 1 – Sidewalks**

#### **Article I – Obligation of Abutting Owner**

### **§ 181-2 – Requirements of Construction**

This provision of the Code provides that no sidewalk, curb or gutter shall be constructed or repaired along any street, road, highway or parkway in the Town unless it shall be of concrete and conform to the lines and grades furnished by the Town Engineer and in conformity with all of the specifications and requirements established by rules and regulations of the Town Board.

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

### **§ 181-4 – Trees**

This provision of the Code states that no tree shall be planted within the sidewalk area in front of or adjacent to any private premises except those trees that will not cause damage to sidewalks, curbs or utility installations.

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

### **§ 181-11 – Removal of snow, ice and obstructions**



This provision of the Code provides that every owner or occupant of any house or other building, and every owner or person entitled to possession of any vacant lot, or any public building in the Town, will keep the sidewalk in front of such lot or house free from obstruction by snow or ice and icy conditions, and shall at all times keep such sidewalk in good and safe repair and maintain the same clean, free from filth, dirt, weeds or other obstructions or encumbrances.

*To the extent this provision of the Code is applicable, the Applicant will comply with the substantive provisions of this section.*

#### § 181-13 – Littering

This provision prohibits littering throughout the Town.

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

#### § 181-14 – Obstructing walks

This provision prohibits owners, occupants or lessees of any premises abutting on any street, road, highway or parkway in the unincorporated area of the Town from obstructing the sidewalks of the Town.

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

### **Chapter 182 – Streets: Construction of Curb Cuts and Driveway Entrances**

#### § 182-2 – Permit Required

This provision of the Code provides that all curb cuts and driveways shall be constructed pursuant to the detailed plan and specifications included as an attachment to 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.*

#### § 182-4 – Permit

This provision of the Code states that a permit will be issued provided the Commissioner determines that the proposed driveway entrance or curb cut will not interfere with the orderly and reasonable use of adjacent property, will not create undue interference with vehicular traffic in the adjoining highway and will not adversely affect the health, safety, welfare and comfort and convenience of the inhabitants of the Town.

*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.*

#### § 182-6 – Driveway and Curb Cut Specifications for Commercial Use

This provision of the Code regulates commercial use curb cuts and provides that the same shall not be greater than 25 feet at curblines; however, consideration will be given for a greater width to accommodate larger vehicles. At a corner property, the distance between the curb cut and the property line forming the adjoining street extended to the curblines shall be ten feet. A five foot minimum distance from side property lines shall be maintained at the curblines for a curb cut. Curb cuts may be supplemented by additional commercial-use curb cuts provided that such curb cuts are not less than 25 feet from the other at the curblines.

*The Applicant requests the Commission not apply this local law as it is unreasonably restrictive in view of existing technology and factors of cost and economics. This Local Law is not designed for the construction and operation of major electric transmission facilities. The NY Project may require curb cuts outside of the specifications provided in this Local Law, and may involve minimum*

*distances that do not conform to the standards of this Local Law. These restrictions would impede construction progress and access to the NY Project.*

## **Chapter 184 – Tree Preservation**

### **§ 184-2 – Removal of Trees Prohibited without Permit; Replacement Required**

This provision of the Code provides that no person shall destroy, remove or substantially alter any tree within the Town curbside area without obtaining a permit from the Commissioner of Highways and in the event a tree is removed, it must be replaced by planting of a tree in a species set forth in § 184-5, which must have a trunk diameter of not less than two inches when measured six inches above ground. The Commissioner may waive the requirement mandating the planting of a replacement tree, if it would interfere with utility services or other subsurface improvements.

*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.*

### **§ 184-5 – Permissible Trees in Sidewalk Area**

This provision of the Code states that no trees shall be planted within the sidewalk area in front of or adjacent to any private premises except trees that do not normally cause damage to sidewalk, curbs or utility installations.

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

### **§ 184-6 – Maintenance responsibilities of Owners and Occupants; Damage by Roots**

This provision of the Code requires every owner, tenant or occupant of any structure and of vacant land to remove trees when required to do so by Town authorities, to keep trees trimmed along sidewalks and to repair any sidewalk or curb cut adjacent to such premises that are damaged by tree roots. When trees are removed, tree stumps must be ground down to six inches below ground level and covered flush with the surface.

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

### **§ 184-9 – Method of Protecting Trees**

This provision of the Code provides that trees on properties to be graded or near excavation or construction of any building shall be guarded with a substantial fence, frame or box not less than four feet high and eight feet square, or measured 12 inches from grade, whichever is greater. All dirt and debris shall be kept outside of the barrier.

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

### **§ 184-10 – Prohibited Deposits on Public Property**

This provision of the Code states that no person shall deposit or store stone, brick, sand, concrete or other materials on any public place in the Town which may impede the free passage of water, air and fertilizer to the roots of any tree.

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

## **Chapter 190 – Vehicle Speed Limits**

### **Article I – General Provisions**

### § 190-2 – General Limits

This provision of the Code states that no person shall drive on a public highway at a speed greater than is reasonable and prudent under the conditions, and drive at an appropriate and reduced speed in certain situations. No person shall drive a vehicle on a public highway in excess of 30 miles per hour, except as otherwise provided in this Chapter.

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

## Article II –Special Limits

### § 190-4 – School Buildings

This provision of the Code provides that no person shall drive a motor vehicle within a school speed zone during school days between the hours of 7:00 am and 6:00 pm, in excess of 15 miles per hour where there is a sign posting, except as provided in this Section where the speed limit is increased to 20, 25, 30 and 35 miles per hour in those areas designated noted therein.

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

### §§ 190-7 through 190-10

These provisions of the Code set forth the maximum speed limits permitted in certain areas within the Town.

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

## Chapter 192 – Weight Restrictions: Commercial Vehicles

### § 192-1 – Gross Weight Restrictions upon Commercial Vehicles Using Certain Town Highways

This provision of the Code states that, when a sign is erected thereon as hereinafter provided, no person shall operate any commercial vehicle, tractor-trailer combination or truck with a gross weight in excess of 8,000 pounds upon certain Town highways delineated in this provision.

*The Applicant requests the Commission refuse to apply the weight restrictions provided in this provision of the Code because it is 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.*

### § 192-3 – Exception

This provision of the Code provides that the operations of commercial vehicles on the highways which are delivering or picking up materials or merchandise or obtaining ingress or egress to or from a place of business shall not be prohibited, provided that the vehicle entered the highway at an intersection nearest the destination of the vehicle and proceeded no further than the nearest intersection.

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

## Chapter 195 – Pavement Markings

### § 195-2 – Markings Enumerated

This provision of the Code provides that motorists will keep to the right of single broken lines except when passing and overtaking under conditions not rendering it dangerous; that motorists will not cross a single solid line except under unusual circumstances and when no approaching car is in sight; that motorists shall not cross

double solid lines; that motorists will only cross a double line consisting of a solid line and a broken line if the solid line is on the driver's side and it is safe to do so.

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

## **Chapter 198 – Tow Away Zones**

### **§ 198-2 – Location of Tow-Away Zones**

This provision of the Code states that no person shall stop, stand or park in the locations delineated in this section, which are designated as “tow-away zones,” including streets in Island Park.

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

## **Chapter 202 – Parking**

Chapter 202, Article I refers to specific parking restrictions that are available only at the Town of Hempstead’s Clerk Office. These parking restrictions are supplemented and amended on an ongoing basis and apply to specific geographical locations and streets within the Town.

*To the extent that these restrictions apply 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. Any parking for construction or maintenance vehicles within the Town of Hempstead will be temporary in nature in order to access and facilitate the work, and parking locations will be specifically identified in the EME&CP. While the Applicant will endeavor to avoid parking in any restricted area, these parking restrictions could impede construction progress and should not be required because any such parking will be temporary in nature.*

## **Article IV – Night Parking of Buses, Trailers, Trucks and Commercial Motor Vehicles**

### **§ 202-64 – Night Parking**

This provision of the Code provides that it shall be unlawful for the owner or driver to park or leave any commercial vehicle, semitrailer, tractor, trailer or truck on any street, roadway or public highway in the Town on any day, between the hours of midnight and 6:00 am. This section shall not apply to loading or unloading of merchandise or passengers.

*The Applicant requests 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 will endeavor to comply with this Local Law to the greatest extent possible, but it may be required to park vehicles overnight during construction of the NY Project.*

## **7.8 Town of Hempstead Chapter BZ Building Zone Ordinance**

### **7.8.1 Article XVII – Y Industrial Districts**

#### **§ 220 – Permitted Uses**

This provision of the Code provides that a building may be erected, altered, or used and a lot may be used for any lawful purpose, except those uses specifically listed in this Section to be prohibited. An electrical substation is not listed as a prohibited use. Any use which may be determined by the Board of Appeals to be noxious or offensive by reason of emissions of odor, dust, fumes, smoke, gas, vibration or noise is also prohibited.

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

#### **§ 222 – Front Yards**

This provision of the Code provides that a front yard depth shall not be less than 20 feet on each street. Roofs, mansards, awnings or similar projections that do not exceed 24 inches into the required front yard setback are a permitted encroachment.

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

#### § 223 – Rear Yards

This provision of the Code requires a rear yard of not less than 10 feet. For buildings over 40 feet high, the rear yard depth shall be increased 5 feet for each 12 feet or portion thereof by which the building exceeds 40 feet in height.

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

#### § 224 – Height; Floor Area Ratio; Existing Uses

This provision of the Code provides that no building shall exceed six stories in height, and a maximum of 75 feet. Elevator shafts and heating, ventilating and air-conditioning units are permitted above the top of the roof, but cannot exceed more than 20% of the roof area and shall be no higher than 15 feet above the roofline. The maximum floor area ratio shall be zero and four-tenths (.04) for all uses within this district, unless authorized as a special exception by the Board of Appeals under Article XXVII of the Code.

*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.*

#### § 225 – Fences

This provision of the Code provides that no fence or wall may exceed six feet in height without a permit, and except when authorized by the Board of Appeals pursuant to Article XXVII of the Code.

*In the event this Local Law could be construed as applicable to construction/temporary fencing used for the NY Project, the Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology. Some temporary fencing or sound curtains may be required that exceeds the requirements here, including the height limitation, to protect the safety of the public and the integrity of the NY Project. This Local Law is not designed for the construction or operation of major electric transmission facilities. Rather, there are industry-approved standards and best practices, including those of the Federal Energy Regulatory Commission (FERC), North American Electric Reliability Corporation (NERC), and the Commission, which have been adopted specifically for the construction and operation of such transmission facilities, and with which the Applicant will comply.*

### 7.8.2 Article XXIV – Signs

#### § 244 – Signs Permitted in Specific Use Districts

This provision of the Code delineates signage which is permitted with a permit, including construction signs.

*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.*

#### § 245 – Setback Requirements

All signs installed pursuant to this Article must comply with the setback distances set forth herein. No signs may be erected on a corner lot at intersecting streets, which may interfere with traffic visibility.

*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.*

#### § 246 – General Provisions

This provision of the Code provides for general requirements applicable to all signs, including prohibiting the attachment of signs to fences, trees, or utility poles and prohibiting the location of signs so as to obstruct the vision of a pedestrian or vehicular traffic or create a hazard or disturbance to the health and welfare of the general public. Further, no portion of any sign shall project out, over or into a sidewalk or parking area unless the lowest portion of such encroachment is at least seven feet above such area, except as otherwise stated in this Article.

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

### 7.8.3 Article XXXI – General Provisions

#### § 302 – Prohibited and Restricted Uses

This provision of the Code states that in any use district, no premises may be used or occupied and no structure may be erected which may be determined by the Department of Buildings to be noxious or offensive due to emission of odor, dust, fumes, gas, vibration or noise.

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

#### § 305 – Site Plans

This provision of the Code sets forth the Town Board considerations for approval of a site plan, as 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.*

#### § 311 – Clear Sight Triangle

This provision of the Code provides that on any corner lot, no wall, fence or other structure shall be erected or altered, and no hedge, tree or shrub shall be maintained at height greater than 2 ½ feet within a 20 foot radius formed by the point of any intersecting property lines adjacent to a road. Such height shall be measured from the existing elevation of the center line of such road opposite such wall, fence, other structure, hedge, tree or shrub.

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

#### § 312 – Fences and Planting Screens

This provision of the Code provides that fencing, planting screens or open fences installed along a road on an interior lot must not exceed four feet in height, when installed closer to the street than the streetside building line of any buildings on adjoining lots, except when authorized by the Board of Appeals. On any corner lot, not controlled by § 311, the height of a fence, planting screen or open fence installed along a road may not exceed four feet in height, when installed closer to the street than the streetside building line of any buildings located on the corner lot, except when authorized by the Board of Appeals.

*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.*



§ 316 – Interpretation; Effect on Other Regulations

This provision of the Code provides that where the Building Zone Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building, or requires larger open spaces than are imposed or required by the Town Building Code or the rules and regulations of the Department of Health of the County of Nassau, the provisions of this Ordinance shall control.

*The Applicant will comply with the applicable substantive provisions of the Code, except where otherwise indicated.*

§ 319 – Accessory Parking

This provision of the Code provides the parking requirements for certain uses as set forth therein, including industrial plants. Industrial plants must have one parking space for each 2 1/2 employees or for each 800 square feet of total floor area, whichever is the greater. All parking areas shall have sufficient self-contained drainage, asphalt paving and adequate levels of lighting. Each parking space shall be a minimum of 9 feet in width by 18 feet long. Employee spaces may be eight and one-half feet in depth. All parking spaces shall be: (a) separated by double painted lines in accordance with the specifications illustrated on Figure 1: Typical Parking Space Details; and (b) designated at ninety degree angles with a twenty-four foot wide two-way drive aisle, unless a different angle is permitted by the approving authority in accordance with the table of minimum parking space and maneuvering aisle dimensions. On all sites one acre or larger, raised landscaped islands are required at the ends of parking bays containing at least ten or more spaces. The requirements pertaining to landscaped islands and landscaping for off-street parking areas are also set forth herein. Parking is not permitted in the minimum area required for the front yard, except when permitted by Town Board resolution or a special exception is granted by the Board of Appeals in accordance with Article XXVII of this Ordinance.

*To the extent this provision is applicable to the 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 provide parking would add unnecessary costs to project construction since the electrical substation is not a traditional place of business and will be an unmanned structure. The substation facility will provide sufficient parking for operations and maintenance staff when maintenance visits are needed.*

§ 321 – Projections over Public Ways

This provision of the Code provides that in any use district, no sign, awning or other encroachment may project over or into a sidewalk or street, unless the lowest portion of the encroachment is at least seven feet in height above the sidewalk or street, except as otherwise modified by this provision.

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

**7.8.4 Article XXXIV – Flood Hazard Zones**

§ 351 – Administration

This provision of the Code provides the requirements for the floodplain development permit for all construction and other development in areas of special flood hazard including: (a) certificates from a licensed professional engineer or architect that any utility floodproofing will meet the criteria of § 352(B)(3); (b) a description of the extent any watercourse will be altered or relocated; and (c) a technical analysis by a licensed professional engineer, if required by the local administrator, which show whether the proposed development may result in physical damage to any other property.

*The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. By complying with the SPDES General Permit and submitting a SWPPP, as part of its EM&CP, and the standards of ASCE 24, the Applicant will comply with the substantive provisions of this Local Law. The procedural requirements of this Local Law, including any requirement to obtain review by the Town of Hempstead, certified drawings from a professional engineer or architect, and any associated fee requirements, are preempted under PSL §130. Niagara Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, \*21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “(1) [s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130”). However, the Applicant will provide certified drawings as part of its EM&CP submission to the Commission, and the Applicant’s submission will make the certified engineering drawings available to all interested parties.*

#### § 352 – Construction Standards

This provision of the Code sets forth the standards applicable to new development, including accessory structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated as § 350(B), including: on streams without regulatory floodway within the A1-A30 and AE zones, no new construction or other development (including fill) shall be permitted unless the applicant demonstrates that the cumulative effect will not increase the water surface elevation of the base flood more than one foot at any location or that the Town of Hempstead agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision; on streams with regulatory floodway, (depicted on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 350(B)), no new construction or other development in the floodway (including fill) shall be permitted unless a technical evaluation by a licensed professional engineer shows the encroachment will not result in any increase in flood levels during the base flood or the Town agrees to apply to FEMA for a conditional FIRM and floodway revision and FEMA approval is received; new electrical equipment and plumbing connections must be at or above base flood elevation; new electrical equipment and plumbing connections and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses; and electrical wiring, outlets, switches, junction boxes and panels shall be to or above the base flood elevation unless they conform to the Building Code of the State of New York for location of such items in wet locations. Any equipment or materials located in a special flood hazard area shall be elevated, anchored and floodproofed as necessary to prevent flotation, flood damage, and the release of hazardous substances. An Accessory Structure, defined as a structure used for limited storage and representing a minimal investment of not more than 10% of the primary structure value, must meet the following requirements: the anchoring standards (requiring that structures be anchored to prevent flotation, collapse, or lateral movement during base flood); any portion of the accessory below the base flood elevation must be constructed with flood resistant materials; mechanical and utility equipment must be elevated or dry floodproofed to or above base flood elevation plus two feet of freeboard and must be wet floodproofed to protect the structure from hydrostatic pressure. Underground and above-ground storage tanks shall be anchored to prevent flotation, collapse and lateral movement during base flood conditions. Above-ground tanks shall be installed at or above the base flood elevation plus two feet.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology. The location and configuration of the proposed transmission lines are a function of the appropriate 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. The Applicant will qualify for the SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) by making the necessary filings with NYSDEC and submitting a SWPPP as part of its EM&CP. The NY Project will take measures to mitigate erosion during construction*

*and manage stormwater during construction of the transmission lines. In addition, the proposed transmission lines are not prone to flood damage, and will not increase flood heights or alter floodplains.*

### **7.8.5 Article XXXVIII – Stormwater Management and Erosion and Sediment Control**

#### **§ 391 – Stormwater Pollution Prevention Plans**

This provision of the Code provides that a stormwater pollution prevention plan (SWPPP), prepared in accordance with the requirements of this Article, is required for submittal to the Department of Engineering before an application for land development activity will be reviewed. This provision also sets forth all information required in connection with the SWPPP and specifies what land development activities shall also include water quantity and quality controls (post-construction stormwater runoff controls). The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity, prior to approval of the final stormwater design plan. Each contractor and subcontractor identified in the SWPPP must certify that it will comply with the terms and conditions of the SWPPP. The SWPPP shall be retained at the site during construction.

*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 Town 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 § 130.*

#### **§ 392 – Performance and Design Criteria**

This provision of the Code provides that stormwater management practices that are designed and constructed in accordance with the following technical documents are presumed to comply with the standards imposed by this law: New York State Stormwater Management Design Manual and New York State Standards and Specifications for Erosion and Sediment Control. Section 392(B) states that no land development activity shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

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

#### **§ 393 – Maintenance and Repair of Stormwater Facilities**

This provision of the Code provides for maintenance easements and agreements recorded in the Office of the County Clerk, as well as maintenance requirements for stormwater management practices (SMPs) during and after construction, including inspection reports a preventive/corrective maintenance program, written operating, maintenance and training procedures and the prohibition of discharges from the SMPs which would exceed the design criteria or cause or contribute to water quality standard violations in accordance with § 392(B).

*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.*

#### **§ 395 – Inspections**

This provision of the Code provides that the Town Stormwater Management Officer is responsible for conducting inspections of the stormwater management practices (SMPs) to determine compliance with this Article; all applicants are responsible for submitting “as-builts” after construction is final, showing the final design specifications for all stormwater management facilities, certified by a New York State licensed engineer.

*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.*

#### § 396 – Performance Guarantee

This provision of the Code requires the applicant or developer to provide, prior to construction, a performance bond, cash escrow or irrevocable letter for credit which guarantees satisfactory completion of the project and names the Town of Hempstead as the beneficiary. When stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or corporation that owns an industrial facility, the developer may be required to provide the Town with an irrevocable letter of credit from an approved financial institution to ensure proper operation and maintenance of all stormwater management and erosion control facilities during and after construction and until the facilities are removed from operation.

*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.*

### 7.9 Nassau County Charter

#### 7.9.1 Article XI – County Attorney

##### Title B

Article XI, §§ 1110–1224, addresses the disclosures by persons and entities doing business with Nassau County or seeking to do business with the County. These Sections cover all lobbyists, vendors and prospective vendors and all other contractors and prospective contractors or other parties wishing to do business with the County. The disclosures include identifying all principals, shareholders, affiliated and related companies and lobbyists to the subject party to do business with the County.

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

#### 7.9.2 Article XIV – Franchises

##### § 1401 – Granting of Franchises and Consents; Hearing

This section of the Charter provides that no franchise for the establishment or location of any public utility shall be granted by the County except by adopting an ordinance. The ordinance shall not be adopted unless (1) a written report from the County Executive has been submitted to the Board of Supervisors and (2) it has been posted in the official newspapers and (3) a public hearing has been held. The franchise must not exceed thirty years, and shall contain provisions for the adjustment of rates at intervals, of not more than five years.

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

### 7.10 Nassau County Administrative Code

#### 7.10.1 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 section 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.

*The Applicant requests the Commission not apply this provision of the Code 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 and/or may need to operate machinery for hoisting purposes. 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.*

## **7.10.2 Chapter XII - Department of Public Works**

### **Title B - Roads and Parkways**

#### **§ 12-4.1 – Sidewalks and Curbs on State Highways and County Roads Outside of Incorporated Villages and Cities**

This section of the Code provides that owners or occupants of land adjoining state highways and County roads referred to in this title or County roads constructed pursuant to Article six of the Highway Law, and outside of incorporated villages or cities, may construct, relay or repair sidewalks or curbs at their own expense upon obtaining a permit from the Department of Public Works. All construction and grading done in connection with sidewalks or curbs laid or repaired by the owners of adjoining land shall be in accordance with the specifications of the Department of Public Works.

*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.*

#### **§ 12-4.3 – Deposits of Material on County Roads**

This section of the Code provides that no person shall cause or permit any accumulation of sand, gravel, cinders, topsoil, mud, earth or other material, or any container, box, dumpster, or other storage of such materials to be placed, deposited, tracked, or flowed upon any County road.

*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.*

#### **§ 12-4.5 – Regulation of Motor Vehicle Dimension and Weights on County Roads**

This section of the Code provides that permits are required from the New York State Department of Transportation or Department of Public Works for vehicles which exceed the size or weight limits set forth herein. The width of a vehicle on any County road designated as an access highway, inclusive of load, shall be not more than ninety-six inches plus safety devices, and inclusive of load, shall be one hundred two inches, plus safety devices. The height of a vehicle, from under side of tire to top of vehicle, inclusive of load, shall not exceed thirteen and one half feet. The length of a single vehicle, inclusive of load and bumpers, shall not exceed forty feet, and the length of a semitrailer or trailer shall be forty-eight feet provided that the length of semi-trailer operated in combination with another semi-trailer shall not exceed twenty-eight and one-half. Further, the total length of a combination of vehicles, inclusive of load and bumpers, shall not be more than sixty-five feet. However, the foregoing does not appear to apply to vehicles of a corporation which is subject to the jurisdiction of the interstate commerce commission, the public service commission or other regulatory body and which are used in the construction, reconstruction, repair or maintenance of its property or facilities, provided that any such vehicle complies with the safety requirements of the laws and regulations of the United



States and New York pertaining to over length vehicles. This section also addresses the total weight of axles permitted on County roads.

*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.*

### **7.10.3 Chapter XXI – Miscellaneous Officers**

#### **Title D-15 - Prevention the Spread of Invasive Species in Nassau County**

##### **§ 21-24.2 – Prohibitions**

This section 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.*

### **7.11 Nassau County Ordinances**

#### **7.11.1 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. 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.*

#### **7.11.2 Public Health Ordinance**

Adopted as of June 2014, pursuant to the Nassau County Charter, these requirements include a variety of areas of regulation, including but not limited to Toxic and Hazardous Materials, Storage, Handling and Control (Article XI), which regulates the prevention and control of water pollution caused by toxic and hazardous materials into the groundwater. This Article prohibits the discharge of toxic and/or hazardous materials or wastes in Nassau County without obtaining a State Pollutant Discharge Elimination System (SPDES) Permit or a permit issued by the Nassau County Health Department; requires a permit to construct petroleum storage facilities with a total storage capacity greater than 1,100 gallons, which must also be registered with the Department, although there are several noted exemptions to this Article related to toxic or hazardous materials and waste; and regulates storage and transfer facilities, including above ground and underground facilities.

*The Applicant requests that the Commission not apply this Local Ordinance because it is unreasonably restrictive in view of existing technology and economics. This Local Ordinance is not designed for the construction or operation of major electric transmission facilities. The NY Project may require limited use of hazardous materials, including oil cooling in the transformers, SF6 in the switchgears, and fuel to operate temporary emergency generators. The NY Project's CECPN will pre-empt the substantive requirements of this Local Ordinance and will require compliance with the NESC. The Applicant will comply with its CECPN and these industry-approved standards, adopted specifically for the construction and operation of transmission facilities.*



*In addition, the Applicant will 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 § 130.*

### **7.11.3 Rules and Regulations**

#### **Rules and Regulations Pertaining to Permits for Work on County Roads and Within County Right-of-Way 2016**

This manual, prescribed by the Commissioner of the Department of Public Works, pursuant to the approval of the Nassau County Legislature and the Nassau County Executive, provides the following regulations and details related to permits for work within County roadways and rights-of-way. Such regulations include maintenance and traffic protection plans, construction detail requirements, curb cut regulations, and maintenance and guarantee requirements.

*The Applicant requests that the Commission not apply this Local Law because it is unreasonably restrictive in view of existing technology, with regard to limitations on time to perform construction, 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.*