

POSEIDON TRANSMISSION 1, LLC

POSEIDON PROJECT

EXHIBIT 7 – LOCAL ORDINANCES

PREPARED PURSUANT TO SECTION 86.8

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EXHIBIT 7 – LOCAL ORDINANCES

7.1 Introduction

The Poseidon Transmission Project (Project) will be located in the following jurisdictions: Nassau County, Town of Hempstead and Town of Oyster Bay, and Suffolk County, Town of Huntington (each a “Locality”).

This exhibit identifies, for each Locality, the substantive local legal provisions (ordinance, law, regulation, standard, and requirement) potentially applicable to the proposed Project. Because of the preemptive effect of Public Service Law (PSL) Section 130, no state agency, municipality, or any agency thereof may require any approval, consent, permit, certificate, or other condition for the construction or operation of the Project other than those provided by otherwise applicable state law for the protection of employees engaged in the construction and operation of the Project. Applicant will comply with, and the location of the Project as proposed will conform to, all substantive local law provisions that are applicable to the Project except for those provisions the Applicant specifically requests that the PSC override or waive because they are unreasonably restrictive in view of existing technology, factors of cost or economics, or the needs of consumers as they apply to the Project.

For each Locality, Applicant has presumed a broad interpretation of the local laws described below and has chosen to include as potentially relevant, many provisions that may be deemed inapplicable to the Project as finally approved by the PSC.

Tables 7-1 through 7-5 at the end of this exhibit provide summaries of all waiver requests including the justification and statutory basis for each request.

7.2 Nassau County

Project facilities located in Nassau County include the cable Landfall at Jones Beach State Park and approximately twenty-five (25) miles of Submarine Cable in NYS waters and seventeen (17) miles of underground Land Cable located in the Towns of Hempstead and Oyster Bay within the following roadway corridors:

- Jones Beach Causeway
- Wantagh Parkway
- State Highway 135/Seaford Oyster Bay Expressway
- Maple Street
- Seamans Neck Road
- Alken Ave
- Pineneck Road
- Flowerdale Road
- Arington Drive
- S. Britney Drive
- Shubert Lane
- Manchester Drive
- Barry Lane
- Round Swamp Road
- Winding Road

7.2.1 Nassau County Code – Chapter XII; Department of Public Works

§ 12-4.3. Deposits of Material on County Roads, prohibits the accumulation of sand, gravel, cinders, topsoil, mud, earth or other material or any container, box, dumpster, or other instrumentality for the storage of such materials to be placed, deposited, tracked, or flowed upon any county road unless such activity is done pursuant to a permit issued by the Commissioner of Public Works.

§ 12-4.5. Regulation of Motor Vehicle Dimension and Weights on County Roads, prohibits the operation on any county road of any vehicle or combination of vehicles of a size or weight exceeding the states limitations unless a permit has been received from the New York State Department of Transportation or Nassau County Department of Public Works; provided, however, that certain width, height, and weight restrictions shall not apply to vehicles of a corporation which is subject to the jurisdiction of the public service commission 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 of this state pertaining to over length vehicles.

The Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits for the Project is preempted by PSL Section 130.

7.3 Town of Hempstead Code

Within the Town of Hempstead, Applicant anticipates that the Project will be limited to underground HVDC transmission cables and associated structures, which will occupy either publically-owned utility right-of-ways or State owned parkland. Accordingly, several local law provisions listed below relating to lot size, setback distances, floor area, or similar regulations pertaining to building construction will not apply. Notwithstanding the foregoing, Applicant has chosen to include such local law provisions here.

7.3.1 Town of Hempstead – Chapter 86; Building Construction Administration

§ 86-9. Applications for Permit; Minimum Elevations for Erection of Structures and Construction of Roads, makes it illegal to construct, alter, or improve any building or structure or part thereof without first obtaining a permit from the Building Inspector. This Section also requires certain reports, satisfactory to the Town Engineer and the Manager of the Building Department, for any construction on land which has been filled or must be filled.

§ 86-19. Certificate of Completion, requires that the Building Inspector issue a certificate of completion to certify that work has been completed substantially in accordance with the permit and the laws applicable thereto and indicating the permitted use.

§ 86-21. Inspection Prior to Issuance of Certificate of Occupancy, Certificate of Completion, or Certificate of Approval of Plumbing or Drainage Work, requires that the Building Inspector examine all buildings, structures, sites and work before issuing a certificate of completion.

§ 86-47. Erosion Protection of Waterfront Properties, requires the installation of bulkheads for construction occurring on realty adjacent to and abutting inland tidal water, unless such requirement is varied by the Town Board as it may deem reasonable and in the public interest.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130.

For this Chapter, Applicant requests that the PSC refuse to apply the requirements contained in § 86-9 that require submittal of certain reports, satisfactory to the Town Engineer and the Manager of the Building Department, regarding the completed construction on the basis of cost and economics. Prior to construction, Applicant will have prepared an extensive EM&CP, which shall include detailed

information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Requiring Applicant to produce additional separate reports satisfactory to the Town Engineer will introduce uncertainty into the construction process and has the potential to introduce delay and additional engineering costs which are not supported by additional benefit to the consumer.

7.3.2 Town of Hempstead – Chapter 138; Smoke

§ 138-1. Emission of Dense Smoke, prohibits the emission of any dense smoke from any source whatever.

§ 138-2. Escape of Soot, Cinders, etc., prohibits the escape of soot, cinders, noxious acids, fumes and gases in such place or manner as to be detrimental to any person or to the public or in a manner that has a tendency to cause injury or damage to property or business.

Applicant will comply with the applicable substantive provisions of this Chapter.

7.3.3 Town of Hempstead – Chapter 140; Earth and Soil Removal

§ 140-2. Application for Permit, requires a written permit from the Town Board before any excavation is commenced for any purpose. Applicants for permits must also obtain a certificate of the Commissioner of Public Works of the County of Nassau stating that the excavation will not interfere with the Comprehensive Drainage Plan of the County of Nassau and will not endanger any road, street or highway of the County of Nassau or of the Town of Hempstead or other property of the said county or Town; and a certificate from the Commissioner of Agriculture and Markets of the State of New York stating any topsoil to be taken in the area described in the application is apparently free of golden nematode of potato.

§ 140-3. Pit and Bank Excavations, imposes limits and conditions on pit and bank excavations, including a prohibition against any pit excavation within 20 feet of any property line (§140-3A); and prohibition against excavations made below two feet above the maximum groundwater level at the site (§140-3H).

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130.

For this Chapter, Applicant requests that the PSC refuse to apply the requirements contained in §§ 140-3A and H that prohibit any pit or excavation within 20 feet of the property line or below two feet above the maximum groundwater level at the site on the basis that those requirements are overly restrictive in light of existing technology. The Project is a linear project to be located on a series of contiguous lots, primarily composed of existing roadways and existing utility easements. The portions of the Project located in the Town of Hempstead will consist primarily of underground HVDC transmission cable located within existing streets and highways, together with required connection and maintenance vaults, but also will include a portion of the submarine cable, together with transition facilities located beneath areas of Jones Beach State Park. Individual structure locations will depend upon span lengths, available space within the existing easements, and other technical requirements and limitations regardless of the distance to individual property lines. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. More detail regarding the proposed route and the environmental impacts are provided in Exhibits 2 and 4.

7.3.4 Town of Hempstead – Chapter 144; Unreasonable Noise

§ 144-5. Limitation of Noises, imposes daytime and nighttime limits on steady-state and transient noise created by the operation of “any mechanism or device which shall create a noise within the Town of Hempstead.” The maximum limits established for “transient noise” range from 52 decibels at 8000 cycles per second to 92 decibels at 63 cycles per second, for a period of 12 seconds during the daytime from 7:00 a.m. to 7:00 p.m., and for a duration of 6 seconds during the night, from 7:00 p.m. to 7:00 a.m. The maximum limits established for “steady state noise” range from 32 decibels at 8000 cycles per second to 72 decibels at 63 cycles per second.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter.

For this Chapter, Applicant requests that the PSC refuse to apply the provisions of this Chapter which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including nighttime hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These temporary activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC’s refusal to apply these local requirements.

Because the portions of the Project located in the Town of Hempstead will be limited to underground HVDC transmission Land Cables and associated structures, no permanent noise sources are associated with the Project in the town of Hempstead.

7.3.5 Town of Hempstead – Chapter 154; Environmental Quality Review

The Town of Hempstead has adopted the provisions of SEQRA and its implementing regulations (Env. Cons. Law § 08-0101 et. seq.; 6 NYCRR § 617). SEQRA, however, does not apply to Article VII transmission lines. See Env. Cons. Law § 08-0111(5)(b).

7.3.6 Town of Hempstead – Chapter 159; Dredging

§ 159-3. Permit Required, prohibits removal of “any material from the bed of any waterway or watercourse or from any private upland or any upland owned by the Town, without obtaining from the Town Clerk a written permit therefor, issued on the order of the Town Board; except that a dredging permit is not required where it is necessary to remove material to install bulkheading, and a permit has been obtained for that, as regulated by laws pertaining to “Structures in Waterways.”

Except as stated herein, Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking a written authorization from the Town Clerk for the Town of Hempstead, or seeking a permit for “Structures in Waterways.”

7.3.7 Town of Hempstead – Chapter 168; Structures in Waterways

§ 168-2. Permit Required, makes it unlawful to construct or install any structure over, on, into or adjacent to any waterway of the Town of Hempstead except after obtaining a permit from the Director of the Department of Conservation and Waterways; and provides for specific criteria relating to bulkheads, as follows:

- (1) Any bulkheading, including that which is required to be constructed pursuant to Chapter 86 of the Code of the Town of Hempstead, shall be constructed in conformity with plans and design computations prepared by a professional engineer or architect licensed in the State of New York, as approved in conjunction with the issuance of the permit. Where the existing depth of bog at the bulkhead line does not exceed six feet after consolidation, or where the existing depth of bog at the bulkhead line does not exceed eight feet before consolidation, bulkhead specifications of the Nassau County Planning Commission will be acceptable in lieu of plans and design computations prepared by a professional engineer or architect licensed in the State of New York.
- (2) The top whale of any bulkhead installed pursuant to this chapter of the Code shall be at a minimum elevation of six feet above the datum plane as defined in this chapter.

§ 168-7. Maintenance of Bulkheading, requires continuing maintenance of installed bulkheads.

§ 168-8. Maintenance of Structures Other Than Bulkheading, requires continuing maintenance of other structures installed under this chapter.

§ 168-9. Noninterference with Navigation of Waterways, prohibits the use or installation of any structure or mooring that causes interference with navigation or with public usage of the waterway.

§ 168-12. Regulations, imposes specific restrictions and criteria on the construction and design of mooring and other structures in waterways.

Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking written approval from the Director of the Department of Conservation and Waterways of the Town of Hempstead.

7.3.8 Town of Hempstead – Chapter 170; Coastal Erosion Hazard Areas

§ 170-6. Permit Required, requires a coastal erosion management permit for all regulated activity in an erosion hazard area.

§ 170-7. Structural Hazard Area Restrictions, requires that a coastal erosion management permit be obtained 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 located landward of the shoreline structures. The construction of nonmovable structures or 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. Any grading, excavation or other soil disturbance conducted within a structural hazard area is prohibited without a coastal erosion management permit from the permit administrator.

§ 170-8. Nearshore Area Restrictions, restricts all development in nearshore areas.

§ 170-9. Beach Area Restrictions, restricts development and activities in beach areas.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking a coastal erosion management permit from the permit administrator of the Town of Hempstead.

For this Chapter, Applicant requests that the PSC refuse to apply the requirements contained in §§ 170-7 through 179-9 that prohibit the construction of nonmovable structures within the dunes or seaward of the landward edge of the erosion hazard area line, or limit or restrict construction activities in the coastal areas affected by the Project, for reasons of existing technology. The Project includes a linear submarine cable including transition vaults necessary to transition the submarine cable to land. Portions of the cable system and related underground structures must be located in nearshore and beach areas. Prior to construction, Applicant will have received State and federal approvals for the location of the Project and an extensive EM&CP, which will include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. More detail regarding the proposed Route and the environmental impacts are provided in Exhibits 2 and 4.

7.3.9 Town of Hempstead – Chapter 165; Freshwater Wetlands

§ 165-3. Permits, requires a permit or letter of permission for all regulated activity in freshwater or adjacent areas.

Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking a letter of permission for activity which may occur in freshwater or adjacent areas.

7.3.10 Town of Hempstead – Chapter 175; Excavations In Streets

§ 175-2. Permit Required for Highway and Sidewalk Excavation, establishes that any person, public service, water, light or power company shall not excavate in any highway or sidewalk in the Town for any purpose without first obtaining a permit from the Town of Hempstead.

§ 175-5. Street Opening Regulations and Restrictions, requires compliance with various safety codes, including: (1) United States Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction;(2) Industrial Code Rule 23: State of New York Department of Labor, Bureau of Standards and Appeals, entitled "Protection of Persons Employed in Construction and Demolition Work"; and (3) (3) Industrial Code Rule 53: State of New York Department of Labor, Bureau of Standards and Appeals, as relates to "Construction and Demolition Operations At or Near Underground Facilities."

§ 175-5(C). Openings on Newly Constructed or Resurfaced Highways, prohibits excavation in any newly constructed or resurfaced highway for a period of not less than five years. This subsection does not preclude excavation outside of the paved area within the right-of-way.

§ 175-5(D). Notifications, imposes the following notification requirements and related restrictions:

- (1) The Highway Department shall receive at least 72 hours' advance written notice, except for emergency work, including a diagram, engineering drawings or the equivalent thereof, of the proposed excavation in any Town highway or sidewalk area.
- (2) Work must commence within 30 days from the date of the permit and be satisfactorily restored within 90 days thereafter unless otherwise extended, in writing, by the Highway Department.
- (3) Residents of the project areas must be notified of intentions to close off driveways by use of a form approved by the Town of Hempstead.

§ 175-6. Maintenance of Traffic and Protection of the Public, establishes work procedures in order to assure proper maintenance of pedestrian and vehicular traffic during construction, including adherence to §§ 1680 and 1682 of the Vehicle and Traffic Law of the State of New York, which require that all traffic control associated with maintenance, repair and construction within the highway

limits shall be carried out in accordance with standards set forth in the New York State Manual of Uniform Traffic Control Devices, latest edition.

§ 175-7. Detail of Construction, provides 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 the Nassau County Department of Public Works. This Section also establishes specific criteria for closing highways and safeguarding trenches during construction.

The proposed Project will require excavations in streets, highways, and sidewalks in the Town of Hempstead. Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130.

Applicant requests that the PSC refuse to apply the prohibition contained in §175-5(C) that bars the opening of newly resurfaced streets for a period of five years. The Project requires the use of roadway corridors and rights-of-way and the potential requirement to reroute the cable to avoid recently resurfaced roadways would impose impacts and costs that are not justified by any offsetting benefit.

7.3.11 Town of Hempstead – Chapter 177; Materials: Deposit

§ 177-1. Deposits on roads, prohibits any accumulation of sand, gravel, cinders, topsoil, mud, earth or other material to be placed, deposited, tracked or flowed upon any Town road.

The Applicant will comply with the substantive provisions of this Chapter.

7.3.12 Town of Hempstead – Chapter 192; Weight Restrictions: Commercial Vehicles

§ 192-1. Gross weight restrictions upon commercial vehicles using certain Town highways, prohibits the operation of any commercial vehicle, tractor-trailer combination or truck with a gross weight in excess of 8,000 pounds upon or along specified Town highways.

The Applicant requests a waiver of this limitation to accommodate construction, and cable and equipment delivery vehicles because it may be unreasonably restrictive on the basis of existing technology. The Project will require certain heavy equipment to move portions of the HVDC cable to the construction site and the limitation set forth above would prevent Applicant from using such equipment.

7.4 Town of Hempstead – Chapter BZ; Building Zone Ordinance

This Chapter of the Town of Hempstead Code, designated as the “Building Zone Ordinance of the Town of Hempstead, New York,” establishes regulations for all development within the several zoning districts located within the Town of Hempstead.

Within the Town of Hempstead, the Project will consist of underground HVDC cable located within existing publically-owned right-of-ways or State owned parkland. Accordingly, several local law provisions relating to lot size, setback distances, and floor area will not apply.

7.4.1 Town of Hempstead BZ – Article III; Enumeration of Districts; Zoning Map; Boundaries

§ 12. Enumeration of districts, establishes that the Town of Hempstead, outside of incorporated villages and cities, is divided into several zoning districts, including “Residence Districts”, “Business Districts”, “Commercial Districts”, “Educational Districts”. “Industrial Districts”, “Manufacturing Districts”, and “Recreational Districts.”

§ 13. Zoning Map, provides that the boundaries of the established zoning districts shall be as shown upon the Official Map, as amended, which is hereby designated as the "Building Zone Map of the Town of Hempstead, Nassau County, New York."

Except as specifically requested for each zoning district affected by the Project, Applicant will comply with the applicable substantive provisions of the Building Zone Ordinance of the Town of Hempstead, New York. Public utility buildings and structures are permitted in all zoning districts affected by the Project as either specifically permitted uses or special permit uses which may be authorized by the Zoning Board of Appeals for the Town of Hempstead. For all residence and business districts, §310 Public Utility Buildings, specifically authorizes the Board of Appeals to permit public utility structures and provides that that height, area, and setback provisions are inapplicable. In all Commercial Districts, Industrial Districts, and Manufacturing Districts, public utility buildings and structures are permissible uses because they are not specifically excluded. Public utility buildings and structures are specifically listed in Educational Districts. The Project is not located in either of a Marine Recreational District or a Marine Resort District. Because the need to obtain special use permits and approvals for the Project is preempted by PSL Section 130, the Applicant does not anticipate seeking such permits from the Board of Zoning Appeals for the Town of Oyster Bay.

For all affected zoning districts, to the extent that such prohibitions may be deemed to apply, Applicant requests that the PSC refuse to apply the requirements that prohibit excavations for purposes other than the construction of a driveway or walk because they would be unreasonably restrictive in light of existing technology and the purpose of the Project. These include §§19, 29, 34, 50, 66, 76, 86, and 198. The proposed Project will require excavations in streets, highways, and sidewalks in the Town of Hempstead, New York. The portions of the Project located in the Town of Hempstead will consist primarily of underground HVDC transmission cable, together with required transition vaults and joint vaults. Prior to construction, Applicant will have received all necessary approvals for the location of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. More detail regarding the proposed Route and the environmental impacts are provided in Exhibits 2 and 4.

7.4.2 Town of Hempstead BZ – Article IV; A Residence Districts (A)

§ 19. Excavations, prohibits all excavations, or the removal of topsoil, except for those excavations which have been permitted or approved by the Board of Appeals.

§ 20. Special Uses, provides that special used may be located in this zoning district when approved by the Board of Appeals pursuant to §272. (Public utility uses may be permitted in Residence A districts as special uses pursuant to §272)

7.4.3 Town of Hempstead BZ – Article IVA; AA Residence Districts (AA)

§ 29.6. Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.

§ 29.7. Special permit uses, provides that special uses are permitted when approved by the Board of Zoning Appeals pursuant to § 272. (Public utility uses may be permitted in Residence AA districts as special uses pursuant to §272)

7.4.4 Town of Hempstead BZ – Article V; A1 Residence Districts (A1)

§ 34. Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.

7.4.5 Town of Hempstead BZ – Article VI; A2 Residence Districts (A2)

§ 50. *Excavations*, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.

7.4.6 Town of Hempstead BZ – Article VII; B Residence Districts (B)

§ 66. *Excavations*, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.

7.4.7 Town of Hempstead BZ – Article VIIA; BB Residence Districts (BB)

§ 76.6. *Excavations*, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.

7.4.8 Town of Hempstead BZ – Article IX; C Residence Districts (C)

§ 86. *Excavations*, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.

7.4.9 Town of Hempstead BZ – Article XVI; X Business Districts (X)

§ 197. *Special Use*, provides that special uses approved by the Board of Appeals pursuant to § 272, are permitted.

§ 198. *Excavations*, provides that no excavation for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto, or to remove topsoil from one part of the lands of an owner to another part of the same premises shall be made unless approved by the Board of Appeals.

7.4.10 Town of Hempstead BZ – Article XVII; LM Light Manufacturing Districts (LM)

§ 209. *Special Exceptions*, provides that public utility buildings and structures are permitted when approved as a special exception by the Town Board.

7.4.11 Town of Hempstead BZ – Article XXVII; Board of Appeals

This Article sets forth the authority of the Boards of Appeals to approve special exceptions or special uses in designated zoning districts.

§ 272. *Special Permit*, provides that the Board of Appeals may, after public notice and hearing, permit public utility buildings and structures within (A) an A Residence District, AA Residence District, B Residence District or the Levittown Planned Residence District (LPRD); and (B) in a C Residence District:

7.4.12 Town of Hempstead BZ – Article 31; General Provisions

§ 298. *Height of Towers, Steeples and Poles*, provides that no tower, steeple, or pole be erected or maintained at a height greater than 30 feet in any residence district.

§ 302(F). *Prohibitive Uses*, provides that, in any use district, no premises may be used or occupied and no structure may be erected or maintained that may be determined by the Department of Buildings to be noxious or offensive by reason of the emission of odor, dust, fumes, smoke, gas, vibration, or noise.

§ 310. Public Utility Buildings, provides that Public utility buildings or structures are permitted in any residence or business districts, if approved by the Board of Appeals. The height, area, and setback provisions of this ordinance shall be inapplicable to such buildings or structures if and when approved, except that, as a condition to the granting of the approval, the Board of Appeals may impose reasonable restrictions in order to promote the health, safety, morals, or the general welfare of the community.

Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain local permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking a special permit from the Board of Appeals.

7.5 Town of Oyster Bay Code

Within the Town of Oyster Bay, Applicant anticipates that the Project will be limited to underground HVDC transmission cables and associated structures, which will occupy either publically-owned utility right-of-ways or State owned parkland. Accordingly, several local law provisions listed below relating to lot size, setback distances, floor area, or similar regulations pertaining to building construction will not apply. Notwithstanding the foregoing, Applicant has chosen to include such local law provisions here.

7.5.1 Town of Oyster Bay: Chapter 93; Building Construction – Article I; General Provisions

§ 93-4. Conformance Required, provides that no building or structure shall be constructed, altered, repaired or removed, nor shall the equipment of a building, structure or premises be constructed, installed, altered, repaired or removed except in conformity with the provisions of this chapter or authorized rule or approval of the Commissioner of the Department of Planning and Development or his designee made and issued thereunder.

§ 93-14.1. Temporary Fences, provides for the use of temporary fences before, during and after any excavation is made in or upon any lot or plot or premises within the Town of Oyster Bay. Such fencing shall be not less than six feet high of wood or other suitable material, which shall be built solid for its full length except for such openings provided with sliding doors or doors sliding inwards as may be necessary for a proper prosecution of the work.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130.

7.5.2 Town of Oyster Bay: Article II; Building Permits

§ 93-15. When Required; Exceptions, provides that it shall be unlawful to excavate or construct, alter, remove or demolish or to commence the construction, alteration, removal or demolition of a building or structure, without first obtaining a building permit from the Division of Building of the Department of Planning and Development. It shall also be unlawful to alter, add to or subtract from the existing or natural grade of a parcel or part thereof without first obtaining a grading permit therefor from the Commissioner of the Department of Planning and Development, except that when a grading plan is included as part of a building permit application, a separate permit shall not be required.

Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking a permit from the Commissioner of the Town of Hempstead for excavations, or other written approvals from the Town of Hempstead Engineering Department.

7.5.3 Town of Oyster Bay: Chapter 110; Environmental Quality Review

The Town of Oyster Bay has adopted the provisions of SEQRA and its implementing regulations (Env. Cons. Law § 08-0101 *et. seq.*; 6 NYCRR § 617). SEQRA, however, does not apply to Article VII transmission lines. See Env. Cons. Law § 08-0111(5)(b).

7.5.4 Town of Oyster Bay: Chapter 156; Noise

§ 156-4. Prohibited Act, provides that (A) No person shall make, continue or cause to be made or continued any noise disturbance at any time, and (B) that the following activities are specifically prohibited:

§ 156-4.B(5) Loading and Unloading, prohibits loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 10:00 p.m. the previous day to 7:00 a.m., Monday through Saturday, and 10:00 p.m. the previous day to 8:00 a.m. on Sunday or Holidays in such a manner as to cause a noise disruption across a residential real property boundary or within a noise-sensitive zone.

§ 156-4.B(6) Commercial Equipment, prohibits operating or permitting the operation of any commercial tools or commercial equipment (e.g., air-conditioning and refrigeration systems) between the hours of 10:00 p.m. the previous day and 8:00 a.m. in such a manner as to create a noise disturbance across a residential real property or within a noise-sensitive zone.

§ 156-4.B(7) Construction, prohibits operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work between the hours of 10:00 p.m. the previous day to 7:00 a.m., Monday through Saturday, and at any time on Sunday or Holidays, such that the sound therefrom creates a noise disruption across a residential real property boundary or within a noise-sensitive zone, except for emergency work or public service utilities.

§ 156-4.B(12) Vibration, prohibits the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at approximately 50 feet from the source if on a public space or public right-of-way. This section, however, does not apply to construction activities performed in compliance with all applicable federal, state and any local laws and ordinances.

§ 156-6(D). Standing Motor Vehicles, provides that no person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds or any auxiliary equipment attached to such a vehicle for a period longer than 10 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion on a public right-of-way or public space, within 150 feet of a residential area between the hours of 10:00 p.m. the previous day to 9:00 a.m., Monday through Saturday, and 9:00 p.m. the previous day to 8:00 a.m. on Sunday or Holidays.

§ 156-7. Immediate Threats to Health and Welfare; Other Remedies, prohibits exposing any person to continuous sound levels in excess of noise above 90 decibels for a period of 24 hours through a range of 108 decibels for a period of 22 minutes; or intermittent sound levels in excess of 125 decibels occurring 100 times through 145 decibels occurring 1 time.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter.

For this Chapter, Applicant requests that the PSC refuse to apply the provisions of §§156-4, 6 & 7, which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including overnight hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce

composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.

Additionally, because under this local law, a "noise disturbance" is not precisely defined, there is a potential, if left to local enforcement, for construction activities to be found in violation. The use of phrases like "annoys or disturbs a reasonable person" may leave the determination of whether a violation has occurred to the subjective opinions of local officials charged with enforcing the code. Consequently, the Applicant's onsite personnel will have no predictable, reliable, or objective way to determine whether they are complying with the law at all times during the construction process. This type of unpredictability may result in conflicting opinions, which, even if resolved amicably in favor of Applicant, would tend to impair the critical timing and pace of construction because unnecessary stoppage at one segment of Project due to noise or performance issues will delay subsequent construction of other segments in other localities that are dependent upon the cable being laid according to a strict schedule and sequence.

Because the portions of the project located in the Town of Oyster Bay will be limited to underground HVDC transmission land cables and associated underground structures, no permanent noise sources are associated with the Project after construction.

7.5.5 Town of Oyster Bay: Chapter 184; Public Nuisances

§ 184-3. Prohibition, provides that it shall be unlawful and a violation of this chapter for any person or legal entity to own, lease, occupy or otherwise be in control of a premises, structure, place or lot, developed or underdeveloped, which is a public nuisance.

Applicant will comply with the applicable substantive provisions of this Chapter

7.5.6 Town of Oyster Bay: Chapter 205; Streets and Sidewalks

§ 205-1. Accumulations of Materials, prohibits the accumulation of sand, gravel, cinders, topsoil, mud, earth or other materials to be placed, deposited, tracked or flowed upon any street or highway.

§ 205-10. Conformance with Specifications, requires that the construction of sidewalks, curbs and gutters shall be constructed so as to conform to the lines, grades and specifications furnished by the Commissioner of Highways and in conformity with all the specifications and requirements established by rules and regulations of the Town Board.

§ 205-11. Application and Issuance of Permit, requires a permit for the construction or repair of sidewalks, curbs or gutters. No permit required by this section shall be issued without the approval of the Commissioner of Highways endorsed on the application therefor, unless so directed by resolution of the Town Board.

Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking a permit from the Town Board.

7.5.7 Town of Oyster Bay: Chapter 225; Trees

§ 225-3. Regulated Activities; Permit Required, provides that it shall be unlawful to remove a tree unless a tree removal permit is granted pursuant to the requirements of this chapter.

§ 225-7. Public Utilities, provides that any person doing business as a public utility subject to the jurisdiction of the New York State Public Service Commission and any duly constituted public agency authorized to provide utility service is hereby granted a continuing permit to trim, remove or perform such other acts with respect to trees growing adjacent to the public streets of the Town, or which grow upon private property to the extent that they encroach upon such public streets, as may be necessary to comply with the safety regulations of said Commission and as may be necessary to maintain the safe operation of its business.

§ 225-8. Trees in Streets and Other Public Places, provides that no tree shall be removed from any public street or property owned or under the control of the Town of Oyster Bay without the prior written consent of the Town Superintendent of Highways.

Applicant will comply with the applicable substantive provisions of this Chapter; however, the need to obtain work permits and approvals for the Project is preempted by PSL Section 130. Accordingly, the Applicant does not anticipate seeking a permit from the Commissioner of the Town of Oyster Bay for excavations, or other written approvals from the Town of Hempstead Engineering Department.

7.5.8 Town of Oyster Bay: Chapter 229; Trespassing

§ 229-1. Prohibited Acts, prohibits entering upon any land owned by the town for the purpose of occupying the property or erecting any structure thereon or for removing from such lands any soil, topsoil, sand or gravel without prior approval.

Applicant will comply with the applicable substantive provisions of this Chapter.

7.5.9 Town of Oyster Bay: Chapter 233; Vehicles and Traffic

Applicant will comply with the substantive provisions of this Chapter. Prior to construction Applicant will have received all necessary authorizations for construction activities occurring on roads and highways within the Town of Oyster Bay.

7.5.10 Town of Oyster Bay: Chapter 246; Zoning

§ 246-3. Establishment of Districts

3.1. District Classifications, provides that the Town of Oyster Bay is hereby divided into several zoning districts, including: (1) "Residence Districts" designated as R1-1A, R1-10, R1-7, RMF-16; and (2) "Nonresidence Districts" designated as NB, GB, and LI. **3.2. Zoning Map Establishment**, established the zoning districts as shown on a map entitled "Building Zone Map, Town of Oyster Bay, Nassau County, New York" dated April 25, 2006, and as amended from time to time by the Town Board and certified by the Town Clerk.

Except as specifically requested below for each zoning district, Applicant will comply with the applicable substantive provisions of each Chapter.

7.5.11 Town of Oyster Bay: § 246-4; General Regulations

4.1.1 Conformity Required, provides that no structure shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any property be used, designed or arranged to be used, for any purpose except in conformity with this chapter.

4.10.2 Regulations, prohibits the disturbance of steep slopes.

Except as specifically requested below for each zoning district, Applicant will comply with the applicable substantive provisions of each Chapter.

7.5.12 Town of Oyster Bay: § 246-5; District Regulations

5.2. Schedule of Use Regulations, provides that any use not specifically listed on the Schedule of Use Regulations shall be deemed to be prohibited, unless the Town Board determines by the grant of a special permit that such use is of the same general character as other permitted uses in the district and that such use will not be detrimental to the district.

The Project is intended to be located in or adjacent to “Residence Districts” designated as R1-1A, R1-10, R1-7, RMF-16. Because public utility buildings or structures are not listed as permitted uses on the Schedule of Use Regulations for Residential Districts, such uses are deemed prohibited in these Residential Districts.

For portions of the Project intended to be located in or adjacent to “Nonresidence Districts” designated as NB, GB, and LI, public utility buildings or structures are designated as special permit uses subject to approval by the Zoning Board of Appeals for the Town of Oyster Bay.

Except as specifically requested below for each zoning district, Applicant will comply with the applicable substantive provisions of each Chapter.

5.3. Schedule of Dimensional Regulations, provides that the Schedule of Dimensional Regulations sets forth the minimum and maximum dimensional requirements to be met in each zoning district.

The Schedule of Dimensional Regulations establishes the following dimensional requirements for each district affected by the Project:

For the R1-1A Residence District, it requires: (i) a 1 Acre minimum lot area; (ii) a 1 Acre/unit maximum dwelling unit density; (iii) a minimum lot width frontage of 125 ft; (iv) a maximum building coverage of 10%; (v) a maximum front yard setback of 100 ft, (vi) minimum front, side, and rear yard setbacks of 30 ft, 10 ft single and 25 ft combined, and 25 ft, respectively; (vii) and maximum building height of 28 ft.

For the R1-7 Residence District, it requires: (i) a 7,000 square feet minimum lot area; (ii) a 10,000 square ft/unit maximum dwelling unit density; (iii) a minimum lot width frontage of 80 ft; (iv) a maximum building coverage of 20%; (v) a maximum front yard setback of 75 ft, (vi) minimum front, side, and rear yard setbacks of 50 ft, 20 ft single and 50 ft combined, and 25 ft, respectively; (vii) and maximum building height of 28 ft.

For the RMF-16 Residence District, it requires: (i) a 5 Acre minimum lot area; (ii) a 16 units/Acre maximum dwelling unit density; (iii) no minimum lot width frontage; (iv) a maximum building coverage of 25%; (v) no maximum front yard setback, (vi) minimum front, side, and rear yard setbacks of 25 ft, 25 ft single and 50 ft combined, and 25 ft, respectively; (vii) and maximum building height of 30 ft.

For the OB Nonresidence District, it requires: (i) a 20 Acre minimum lot area; (ii) a maximum building coverage of 10%; (iii) a maximum floor area ratio of 0.25; (iv) minimum front, side, and rear yard setbacks of 200 ft, 100 ft single or 200 ft combined, and 100 ft, respectively; (vii) and maximum building height of 40 ft.

For the NB Nonresidence District, it requires: (i) a 10,000 square ft minimum lot area; (ii) a maximum building coverage of 60%; (iii) no maximum floor area ratio; (iv) minimum front, side, and rear yard setbacks of 10 ft, 0 ft, and 20 ft, respectively; (vii) and maximum building height of 30 ft.

For the LI Nonresidence District, it requires: (i) a 1 Acre minimum lot area; (ii) a maximum building coverage of 50%; (iii) no maximum floor area ratio; (iv) minimum front, side, and rear yard setbacks of 50 ft, 0 ft, and 30ft, respectively; (vii) and maximum building height of 50 ft.

5.4. Additional Regulations, sets forth the additional regulations for specific uses in each district. Public utility uses and structures, excluding antennas, are not addressed.

Except as requested below, Applicant will comply with the substantive provisions of this Section; however the need for obtaining a special use permit from the Zoning Board of Appeals is pre-empted by PSL §130. Also, because the portions of the Project located in the Town of Oyster Bay will consist primarily of underground HVDC cables and be located in existing publically-owned rights-of-way or State parkland, Applicant anticipates that listed dimensional restrictions intended to regulate the construction of buildings or structures are not applicable.

To the extent they are applicable to the Project, Applicant requests that the PSC refuse to apply the use, dimensional, setback, and area requirements detailed Town of Oyster Bay zoning ordinance and listed in the Schedule of Use Regulations and Schedule of Dimensional Regulations described therein because they are unduly restrictive in view of existing technology and factors of cost. The proposed route for the Project has been developed with strong considerations of cost, efficiency, and technical feasibility. The individual structure locations for the HVDC cable will depend upon the location of existing site conditions and Applicants ability to utilize the existing rights-of-way, regardless of area and setback requirements. Failure to waive the use requirements in the Residence Districts affected by the Project would require the Applicant to seek a change in the zoning law, which would require substantial time and expense, while also injecting substantial uncertainty regarding the outcome. While re-routing the Project to avoid all Residence Districts, if possible, would increase the overall length of the Project and add substantial additional expense. Because of the configuration of the Project, waiver of these zoning restrictions would have no impact on the municipality. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.

7.5.13 Town of Oyster Bay: § 246-7; Site Design Standards

7.8. Hours of operation, provides that the reviewing agency may establish reasonable limitations on the hours of operation of any nonresidence use when such use is of a nature or location that could reasonably be expected to have a significant impact on neighboring residences at unreasonable hours of the day. Any such limitations imposed shall also include limits on hours of delivery, the operation of property maintenance equipment and any other potential sources of noise disturbance.

Applicant will comply with the applicable substantive provisions of each Chapter.

7.5.14 Town of Oyster Bay: § 246-9; Special Use Permit Review

9.1. General Provisions, provides for special permit uses as listed in the Schedule of Use Regulations, which uses will be considered to be permitted uses in their respective districts, subject to compliance with the additional standards as set forth in this Section and, where the Town Board is the approval authority, any other requirements as deemed appropriate by said Board.

9.4. Standards, sets forth specific standards for all special permit uses, including the requirements that all special permit uses conform to the regulations of the zoning district in which the use is located.

Applicant will comply with the applicable substantive provisions of each Chapter.

7.5.15 Town of Oyster Bay: § 246-10; Performance Standards

10.2. Conformance Required, states that no business or industrial use shall be maintained or established unless it complies with the performance standards set forth in this section.

10.3. Standards, establishes specific standards for Noise, Vibration, Odor, and other emissions, and established methods for the measurement or evaluation thereof.

10.3.1.1. Noise, establishes a maximum permissible noise limit of 66 decibels at 0-74 cycles per second and 35 decibels at 4,800 to 20,000 cycles per second. § **10.3.1.3. Exemptions**, provides that the noise level regulations do not apply to (1) reasonable and customary noises emanating from construction and construction maintenance activities between 8:00 a.m. and sunset (§10.3.1.3.2); the noises of safety signals, warning devices, emergency pressure relief valves or other emergency warning signals. (§10.3.1.3.3); or, (3) transient noises of moving sources such as automobiles, trucks, airplanes and railroads (§10.3.1.3.4).

10.3.2. Vibration, provides for regulations of vibration and requires that no activity shall cause or create a steady-state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of listed values.

10.3.3. Smoke, Dust and Other Atmospheric Pollutants, provides for regulation of emissions of smoke and dust, including the prohibition of any emission of smoke and other particulate matter if it will be in any way detrimental to the public health, safety, welfare or comfort, or a source of potential damage to property (§10.3.3.1), and a requirement that there be no measurable emission of smoke, gas or other atmospheric pollutant (§10.3.3.3)

10.3.7. Electromagnetic Interference, provides that no operation shall be permitted which produces any perceptible electromagnetic interference with normal radio or television reception in any area within or without the town.

10.3.10. Liquid Wastes, provides that the discharge of any or all wastes must be in complete accordance with all standards, laws and regulations of the Nassau County Board of Health, New York State Department of Environmental Conservation and any other regulatory agency having jurisdiction thereof.

10.3.11. Vehicular Traffic, provides that no use shall be permitted where it is determined by the Town Board that the type and number of vehicle trips to be generated would be expected to produce unusual traffic hazards or congestion, or cause or induce emissions which may be expected to interfere with the maintenance of air quality standards established by the U.S. Environmental Protection Administration, the New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction thereof, unless such impact is adequately mitigated.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter.

For this Chapter, Applicant request that the PSC refuse to apply the provisions of this Chapter, including §§ 10.3.1, 10.3.2 and 10.3.11, which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including nighttime hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local

provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Additional details are provided in Exhibit 4.

Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.

Because the portions of the project located in the Town of Oyster Bay will be limited to underground HVDC transmission cables and associated underground structures, no permanent noise sources are associated with the Project in the Town of Oyster Bay.

7.5.16 Town of Oyster Bay: § 246-14; Enforcement and Administration

14.4 Site Work and Construction Activity, prohibits site clearing, excavation or other similar activity in preparation for construction unless a permit or approval for such activity has been duly issued by the appropriate town agency or official and any required bond has been posted therefor.

Applicant will comply with the applicable substantive provisions of each Chapter.

7.6 Suffolk County Code

7.6.1 Suffolk County Code: Chapter 450; Environmental Quality Review

Suffolk County has adopted the provisions of SEQRA and its implementing regulations (Env. Cons. Law § 08-0101 et. seq.; 6 NYCRR § 617). SEQRA, however, does not apply to Article VII transmission lines. See Env. Cons. Law § 08-0111(5)(b).

7.6.2 Suffolk County Code: Chapter 618; Noise

§ 618-3. Prohibitions, prohibits any noise disturbance on any County highway or within the limits of the right-of-way of such highway.

§ 618-4. Restrictions, defines a "noise disturbance" as noise that exceeds the following sound level limits:

- Residential 7:00 a.m. to 10:00 p.m. (dBA) – 65
- Residential 10:00 p.m. to 7:00 a.m. (dBA) – 50
- Commercial all times (dBA) -- 65
- Industrial all times (dBA) – 70

§ 618-5. Applicability, provides an exception for the noise from construction activity, except for operating or permitting the operation of any tools or equipment used in construction, drilling, earth-moving, excavating or demolition work between the hours of 6:00 p.m. and 7:00 a.m. the following day on weekdays or at any time on weekends or legal holidays, except when the sound level does not exceed any applicable limit as specified; and noise from stationary emergency signaling devices owned and operated by any public utility.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter.

For this Chapter, Applicant request that the PSC refuse to apply the provisions of this Chapter which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including overnight hours for reasons of existing technology

and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures.

Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.

7.6.3 Suffolk County Code: Chapter 639; Parking, Off-Street

§ 639-3. Restrictions on Parking, Standing and Stopping, prohibits parking, standing, or stopping a vehicle within County property except those places where parking, standing or stopping is permitted by order of the Commissioner of Buildings and Grounds.

The Applicant will comply with the substantive provisions of this Chapter.

7.6.4 Suffolk County Code: Chapter 763; Stormwater Management

§ 763-4. Dumping Prohibited, provides that no person shall throw, dump, deposit, place or cause to be thrown, dumped, deposited or placed upon any recharge basin owned and/or operated or maintained by the County of Suffolk, in whatever capacity and for whatever purpose, any refuse, trash, garbage, debris, rubbish or litter, without the written consent of the County of Suffolk.

The Applicant will comply with the provisions of this chapter.

7.6.5 Suffolk County Code: Chapter 433; Dumping and Littering

§ 433-1. Deposit of Waste Materials Prohibited, prohibits dumping dirt, sand, gravel, clay, loam, stone, building rubbish, sawdust, shavings, light materials of any sort, manufacturing, trade or household waste, refuse, rubbish of any sort or ashes, manure or other garbage on any County highway or upon any County owned land (§433-1(A),(B),(C)).

The Applicant will comply with the provisions of this Chapter.

7.7 Suffolk County Sanitary Code

Section 760-705; General Restrictions and Prohibitions, makes it unlawful to discharge sewage, industrial wastes, offensive materials, toxic or hazardous materials or other wastes into any surface waters or groundwaters, unless such discharge is in accordance with a State Pollutant Discharge Elimination System permit or other permit (§ 760-705(B)(1)).

The Applicant will comply with the provisions of this section.

Section 760-1017; Operation of Motor Vehicles, prohibits emission of a visible air contaminant of a shade of blue, black or gray of an opacity greater than twenty percent (20%) from any motor vehicle for a continuous period of more than five (5) seconds.

The Applicant will comply with the provisions of this section.

7.8 Town of Huntington

Within the Town of Huntington, Applicant anticipates that the Project will consist of a Converter Station located on approximately 3.5 acres of land in an R-40 zoning district. Applicant anticipates that the remaining portions of the Project located within the Town of Huntington will occupy publically owned utility right-of-ways. Accordingly, several local law provisions listed below relating to lot size, setback distances, floor area, or similar regulations pertaining to building construction will not apply. Notwithstanding the foregoing, Applicant has chosen to include such local law provisions here.

7.8.1 Town of Huntington: Chapter 87; Building Construction – Article III. Building Permits

§ 87-14. Permit Required; Exemptions, makes it unlawful to construct, alter, repair, modify, remove or demolish, or to cause the construction, alteration, repair, modification, removal or demolition of a building or structure; or to own a building or structure which has been constructed, altered, repaired, modified, removed, or demolished, in whole or in part, without a permit having been issued by the Department of Engineering Services.

§ 87-21. Expiration of Building Permit, requires that work performed under a building permit shall be commenced one (1) year from the date of issuance unless the permit is renewed by the Department of Engineering Services.

§ 87-52. Fences, Freestanding and Retaining Walls, makes it unlawful to erect a fence more than six (6) feet in height, or a retaining wall or freestanding wall more than four (4) feet in height without a building permit having been issued by the Department of

Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project is preempted by PSL Section 130, Applicant will not be requesting a permit from the Department of Engineering Services.

7.8.2 Town of Huntington: Article XII; Grading of Land

§ 87-84. Permit Required, makes it unlawful to regrade, alter or change the contour or topography of any land, or to fill depressions or excavate land without a grading permit having been issued by the Department of Engineering Services.

§ 87-90. Permit; Prohibited Acts, requires that all grading be conducted in strict compliance with a grading permit issued by the Department of Engineering Services for the Town of Huntington.

§ 87-91. Standards, sets for standards for the use of fill, including setbacks for certain lots and standards for grading affected areas, including a prohibition on grading within wetlands areas.

§ 87-98. Inspection of Work; Issuance of Certificate, requires that work for which a grading permit has been issued shall be subject to inspections, and a Certificate of Completion be issued, by the Department of Engineering Services at appropriate stages of the project, including prior to covering any portion thereof and upon completion of each stage of the project, including but not limited to, site preparation, excavation and regarding; and that

Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project is preempted by PSL Section 130, Applicant will not be requesting a permit from the Department of Engineering Services

7.8.3 Town of Huntington: Chapter 120; Harbors and Waterways – Article I. Regulations and Restrictions

§ 120-3. Pollution of Waterways, provides that no person shall release or cause to be released into waters within the jurisdiction of the Town of Huntington a pollutant or other liquid or solid material

which renders the water unsightly, noxious or otherwise unwholesome, or is detrimental to the public health, safety and/or welfare, or to the use and/or enjoyment of the waters for recreational purposes.

Applicant will comply with the applicable substantive provisions of this Article.

7.8.4 Town of Huntington: Chapter 133: Littering and Dumping

§ 133-1. Prohibited Acts, prohibits the placement of debris or material weighing less than five (5) pounds, including vegetation, dirt or garbage upon any street, highway, roadway, easement, recharge basin, sidewalk, park, public place or private property without the proper permits or permission from the property owner; or to cause an accumulation of sand, gravel, cinders, topsoil, mud, earth, vegetation or other material to be located, placed or deposited in such manner so as to enable the material to flow, drift, discharge or stream onto any public street, highway, roadway, sidewalk, drain, gutter, right-of-way, easement or other public place or public improvement, or onto any private land within the Town of Huntington.

§ 133-2. Accumulation of Trash, Waste, Rubbish, Debris, Garbage and Other Hazards or Nuisances Prohibited on Private Property, makes it unlawful for any person or business entity who owns or occupies any parcel of land, whether or not occupied or improved by building structures, to cause, suffer, permit, allow and/or maintain an accumulation of trash, waste, rubbish, litter, refuse, debris, rubble or garbage thereon which is visible from a public street or from adjoining property; or which constitutes a menace or nuisance; or endangers the health, safety and/or welfare of the public; or endangers private or public property in any way.

Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project is preempted by PSL Section 130, Applicant will not be requesting a permit from the Town of Huntington.

7.8.5 Town of Huntington: Chapter 141: Noise

§ 141-2. Prohibition: Noise Disturbance Prohibited, prohibits the making or continuing of any “noise disturbance” by any means within the Town of Huntington.

§ 141-3. Noise Disturbances Enumerated, establishes that certain enumerated activities are prohibited as noise disturbances, including the sounding of any horn or signaling device on any vehicle on any street or public place of the Town of Huntington except as a danger warning (§143-3(B)); the operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, pneumatic hammer, derrick, electric hoist or other appliance, the use of which creates a noise disturbance (§143-3(E)); loud disturbance in connection with the loading or unloading of any vehicle, boat, barge or train or the opening and destruction of bales, boxes, crates and containers (§143-3(H)); construction (including excavating) other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays; operation of any noise-creating blowers for longer than 2 hours or prior to 8:00 a.m. or after 7:00 p.m. or on a Saturday, Sunday or legal holiday prior to 9:00 a.m. or after 5:00 p.m. The Building Inspector is authorized to grant permission for construction such work to be done between the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.

Except as requested herein, the Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Board of Appeals of the Town of Huntington is preempted by PSL Section 130, Applicant will not be requesting approval from the Building Inspector for portions of the Project located in the Town of Huntington.

The portions of the project located in the Town of Huntington will consist of underground HVDC transmission cables and associated structures, together with the proposed Converter Station, and associated structures required to interconnect the Project with the existing LIPA AC substation. Noise

associated with the Project will be generated during construction. Noise generated by operation of the Converter Station will also be controlled so as not to constitute a “noise disturbance” using methods and technologies commonly associated with similar facilities. Additional details are provided in Exhibit 4. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures.

For this Chapter, Applicant requests that the PSC refuse to apply the provisions of this §§141-2 and 141-3 relating to noise disturbances and time-of-day restrictions which would prevent the operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including nighttime hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. Additionally, because under this local law, a “noise disturbance” is not precisely defined, there is a potential, if left to local enforcement, for construction and operation of the Converter Station to be found in violation. The use of phrases like “annoys or disturbs a reasonable person” or “disturbs two or more residents who are in general agreement” may leave the determination of whether a violation has occurred to the subjective opinions of local officials charged with enforcing the code. Consequently, the Applicant’s onsite personnel will have no predictable, reliable, or objective way to determine whether they are complying with the law at all times during the construction process or while the Project is in operation. This type of unpredictability may result in conflicting opinions, which, even if resolved amicably in favor of Applicant, would tend to impair the critical timing and pace of construction because unnecessary stoppage at one segment of Project due to noise or performance issues will delay subsequent construction of other segments in other localities that are dependent upon the cable being laid according to a strict schedule and sequence. The inability to adhere strictly to such schedules has the potential to add significant cost to the Project, which would provide no corresponding value to consumers.

Once in operation, sound produced at the Converter Station as measured in nearby sensitive receptors will meet relevant standards.

7.8.6 Town of Huntington: Chapter 171; Streams, Watercourses and Wetlands

§ 171-1. Control Over Filling or Diversion; Permits, prohibits the placement of fill in any stream, watercourse or creek, or the diversion of the same from its natural course, or the draining of any pond or impoundment, unless and until a permit shall have been applied for and secured from the Town Board.

Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Board of Appeals of the Town of Huntington is preempted by PSL Section 130, Applicant will not be requesting approval from the Town Board for portions of the Project located in the Town of Huntington.

7.8.7 Town of Huntington: Article II; Freshwater Wetlands

§ 171-8. Management of Water Recharge Protection Areas, sets forth specific restrictions and criteria for operating within a water recharge protection area, including prohibitions against the dumping of any material, use of protective fencing, maintenance of plantings in surrounding areas, and removal of trash and garbage.

§ 171-9. Prohibitions, prohibits the dumping or deposit of trash, garbage, refuse, or debris in any water recharge protection area; or the accumulation of sand, gravel, cinders, topsoil, mud, earth or

other material; or the storage of any vehicles, trucks, trailers, machinery, construction equipment or any other material in or upon a water recharge protection area; or the disturbance of any fencing, planting or leaching functions in or upon any water recharge protection area without first obtaining the written consent of the Superintendent of Highways.

The Applicant will comply with the substantive provisions of this Article.

7.8.8 Town of Huntington: Chapter 173; Streets and Sidewalks Article I. Excavation and Construction of Streets, Sidewalks and Curbs

§ 173-1. Permit Required, prohibits any person, including public-service companies from making any excavation in any Town street, highway or sidewalk or constructing any sidewalk, curb or making any curb cut along any such street or highway in the Town of Huntington for any purpose without first obtaining a permit therefor from the Superintendent of Highways of the Town of Huntington.

§ 173-3. Notice to Public Utilities, requires that any person making a highway excavation give notice of such excavation to public service companies or municipal districts having lines, mains or other property in the streets and that no work shall be commenced or done until such requirement of notice has been fully complied with to the satisfaction of the Superintendent of Highways.

§ 173-4. Guarding and Illuminating Excavations; Protection of Property, requires that any person making an excavation or doing any construction covered by this article erect suitable barriers or guards for the protection of persons using the streets or sidewalks and, in addition thereto, shall set up and maintain during the hours of darkness sufficient lights or flares to properly illuminate the area and shall also take all necessary precautions for the protection of the property of the Town and of public-service companies or municipal districts and others which may be endangered by such excavations or construction or the work incident thereto, and shall comply with all directions given by the Superintendent of Highways with respect to such barriers, lights, flares and protective measures.

§ 173-5. Right-of-Way to be Provided, requires that any person making an excavation or doing any construction covered by this article shall provide a right-of-way for pedestrians and motor vehicles, and that excavators shall excavate only one-half (1/2) the width of any sidewalk, road or highway within the Town of Huntington so as not to impede the flow of traffic or pedestrians thereby and so as to maintain a continuous flow.

§ 173-6. Minimum Size of Openings; Tunneling and Trenching, requires that openings in concrete roads shall have a minimum length of ten (10) feet and a minimum width of at least one-half (1/2) the width of the pavement where there is no center joint or to the center joint where such exists; all cuts shall be saw cuts; and that no roads are to be tunneled but pipes may be driven or trenched across.

§ 173-7. Completion of Work; Inspection; Resurfacing, requires that notification be provided to the Superintendent of Highways when work has been completed, and authorizes Superintendent of Highways to approve the work and grant a release.

The Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Town of Huntington is preempted by PSL Section 130, Applicant does not anticipate requesting permit from the Superintendent of Highways of the Town of Huntington.

7.8.9 Town of Huntington: Article III; Damage to Highways

§ 173-12. Operation of Certain Vehicles Prohibited

No tractor, tractor crane, power shovel, farming equipment or other vehicle or conveyance equipped with metal lugs, chains or spiked wheels such that they threaten damage to the surface of a paved road shall be operated upon or over any Town highway.

Except as requested below, Applicant will comply with the substantive provisions of this Article.

For this Article, Applicant requests that the PSC refuse to apply the provisions of §173-12 which prohibit the operation of certain vehicles, conveyance equipment, or power shovels to the extent that it would prevent Applicant from employing standard construction techniques commonly used in projects similar to the Project for reasons that such prohibition would be unreasonably restrictive in light of existing technologies and factors of cost and economics. Installation of the HVDC cable will require applicant to perform dredging operations, transport lengths of cable, and other materials which will require the use of cranes and other vehicles which might threaten damage to the surface of roads. Prior to construction, Applicant will have received all necessary approvals through the Article VII process and prepared a comprehensive EM&CP addressing construction techniques, including protective measures for affected roadways, schedules, verification procedures, and appropriate remediation and restoration work. The additional restriction imposed by this local law may result in Applicant being required to obtain specialized equipment or alter construction methods in a manner that would increase costs without providing additional benefit to consumers. Because Applicant will comply fully with construction measures and remediation requirements set forth in the EM&CP, there will be no impact to the municipality from waiving this provision.

7.8.10 Town of Huntington: Chapter 186; Tree Preservation and Protection

§ 186-3. Prohibited Acts, sets forth several restriction and other requirement for the protection of trees on private and public property and during construction.

§ 186-8. Permit Required, prohibits the removal, destruction, or substantial alteration of any Landmark Tree, Large Tree, Medium Tree, or more than three (3) Small Trees or Woodland trees, within a one (1) year period, without first obtaining a permit from the Department of Planning and Environment of the Town of Huntington.

Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Town of Huntington is preempted by PSL Section 130, Applicant does not anticipate requesting a permit from the Department of Planning and Environment of the Town of Huntington.

7.8.11 Town of Huntington: Chapter 198; Zoning

The elements of the Project proposed to be located in the Town of Huntington will consist of several linear sections of underground HVDC transmission cable, associated underground joint vaults, a Converter Station, and approximately 0.6 miles of underground AC transmission cable, together with related facilities for interconnection to the existing Ruland Road Substation. The underground HVDC transmission lines and related vaults are proposed to be located in, or adjacent to, Residence Districts designated as “R-5” and “R-40”, General Business Districts designated as “C-6” and “C-8”, and Light Industrial Districts designated as “I-2”. The Converter Station and AC transmission cable are proposed to be located in a Residence District designated as “R-40”. The existing Ruland Road Substation is located in a Residence District designated as “R-40”.

7.8.12 Town of Huntington: Article I; General Provisions

§ 198-4. Stricter Provisions to Govern, provides that that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by other ordinances or rules and regulations or agreements, the provisions of this chapter shall control.

7.8.13 Article II; Zoning Districts; Map; General Regulations

§ 198-6. Designation of Districts, established that the Town of Huntington outside of its incorporated villages is divided into several zoning districts, including Residence Districts, General Business Districts, and Light Industrial Districts.

§ 198-7. Zoning Map, establishes the zoning districts for the Town of Huntington by reference to the "Amended Building Zone Map of the Town of Huntington."

§ 198-10. General Restrictions, sets forth a number of restrictions regarding land use, including §§ 198-10 (A)-(F), which require that: (A) no land may be used except for a purpose permitted in the district in which it is located; (B) no building may be erected except for a purpose permitted in the district in which it is located; (C) no building shall be erected except in conformity with the area regulations in the district in which it is located; (D) no building shall be erected which exceeds the height limits established for the district in which the building is located; (E) no building shall be constructed, except in conformity with the off-street parking and loading regulations; (F) minimum lot areas shall not be reduced. In addition, §198-10(G) states:

In no case shall the Planning Board approve more than one (1) main (principal) building on a lot where any of the main buildings is less than ten thousand (10,000) square feet or within one hundred (100) feet of a front property line and, in commercial zoning districts, within fifty (50) feet of any residence district boundary and, in the industrial zoning districts, within one hundred fifty (150) feet of any residence district boundary.

§ 198-12. Screening and Buffer Area, sets forth a number of criteria relating to required or designated screening areas or buffer areas that must be maintained by the owner of the property.

Except as requested for below and for each zoning district, the Applicant will comply with the substantive provisions of this Article.

For this Article, Applicant requests that the PSC refuse to apply the height, area, and setback, provisions of §198-10, because, as applied to the Converter Station, such requirements would be unduly restrictive in light of existing technology. The Converter Station and facilities necessary to connect the Project to the existing Ruland Road Substation will be located in the R-40 district. Underground HVDC transmission cables will be located primarily within the bed of existing roadways and location of individual underground structures along the route will depend upon possible span lengths regardless of dimensional requirements. The Converter Station including all buildings, structures, roadways and boarder fencing will fully occupy the 3.1 acre (135,040 sq. ft.) parcel Poseidon has optioned. The area covered by structures (approximately 65%) within the Converter Station is the minimum possible given the demands of the chosen technology. The Converter Station Primary building will be 55 feet above grade and the next tallest structure will be 30 feet above grade, again heights dictated by existing technology. The size and configuration of the Converter Station and associated equipment have been determined on the basis of prudent engineering considerations, available alternative designs, and on factors of cost. Accordingly, it would be technically impossible to meet the maximum building height restrictions without resort to extra-ordinary and costly measures. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local height and area requirements.

Applicant also requests that the PSC refuse to apply the screening and buffer requirements contained in §198-12 to the extent that they would requiring landscaping that is different that the landscaping approved in the Article VII conditions, because, as applied to the Converter Station, such requirements would be unduly restrictive in light of reliability criteria, security concerns and the needs of Applicant's customers, which are best met by enabling the Applicant to construct the Project and

employ vegetation management and landscaping designs which are based on state law, reliability standards, and the experiences of similar facilities. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local requirements.

7.8.14 Town of Huntington: Article III: Residence Districts

§ 198-14. R-40 Residence District, sets forth the uses specifically permitted in the R-40 zoning district. In addition, §§ 198-14 (B)-(E) specify the applicability, within the R-40 district, of regulations contained in Articles VII and VIII (Off-street parking and loading regulation); Article IX (Height, area and bulk regulation); and Article XI (Supplementary use regulations and conditionally permitted uses). Public utility buildings and structures are not specifically listed uses within this zoning district.

The dimensional requirements for the R-40 district include a lot area of 1 Acre (43,560 square feet), a minimum lot width of 125 feet, front and rear yard depth of 50 feet, a minimum side yard depth of 25 feet, and a maximum building height of 35 feet.

§ 198-19. R-5 Residence District, sets forth the uses specifically permitted in the R-40 zoning district. In addition, §§ 198-19 (C)-(F) specify the applicability, within the R-40 district regulations contained in Articles VII and VIII (Off-street parking and loading regulation); Article IX (Height, area and bulk regulation); and Article XI (Supplementary use regulations and conditionally permitted uses). Public utility buildings and structures are not specifically listed uses within this zoning district.

Because the construction of public utility uses in these zoning district may be permitted by the Board of Appeals pursuant to Article XI, all portions of the Project located in these zoning districts are permissible uses. Except as requested herein, the Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Board of Appeals is preempted by PSL Section 130, Applicant does not anticipate requesting a special use permit from the Board of Appeals.

For this Article, Applicant requests that the PSC refuse to apply the height, area, and bulk restriction detailed in Article VII and Article IX of the Town of Huntington zoning ordinance, for reasons of existing technology and availability of property. The portions of the Project located in these zoning districts will include portions of the underground HVDC transmission cables, together with associated facilities necessary to connect the spans. Applicant also requests that the PSC refuse to apply the minimum yard requirements. The Converter Station and facilities necessary to connect the Project to the existing Ruland Road Substation will be located in the R-40 district. Underground HVDC transmission cables will be located primarily within the bed of existing roadways and location of individual underground structures along the route will depend upon possible span lengths regardless of dimensional requirements. Moreover, the installation of the underground HVDC transmission cables will not change the dimensions of any lot or street used. The Converter Station including all buildings, structures, roadways and boarder fencing will fully occupy the 3.1 acre (135,040 sq. ft.) parcel Poseidon has optioned. The area covered by structures (approximately 65%) within the Converter Station is the minimum possible given the demands of the chosen technology. The Converter Station Primary building will be 55 feet above grade and the next tallest structure will be 30 feet above grade, again heights dictated by existing technology. The size and configuration of the Converter Station and associated equipment have been determined on the basis of prudent engineering considerations, available alternative designs, and on factors of cost. Accordingly, it would be technically impossible to meet the maximum building height restrictions without resort to extraordinary and costly measures. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local height and area requirements.

7.8.15 Town of Huntington: Article IV; Commercial Districts

§ 198-27. C-6 General Business District, sets forth uses specifically permitted in the C-6 district. § 198-27(A)(4) establishes public utility buildings and substations are specifically permitted in the C-6 zoning district. In addition, §§ 198-27(E)-(I) specify the applicability, within the C-6 district, of regulations contained in Articles VII (Parking regulation); Article IX (Height, area and bulk regulation); and Article XI (Supplementary use regulations and conditionally permitted uses).

§ 198-29. C-8 General Business A District, sets forth the uses specifically permitted in the C-8 zoning district. In addition, §§ 198-29 (B)-(E) specify the applicability, within the C-8 district regulations contained in Articles VII and VIII (Off-street parking and loading regulation); Article IX (Height, area and bulk regulation); and Article XI (Supplementary use regulations and conditionally permitted uses). Public utility buildings and structures are not specifically listed uses within this zoning district.

Because the construction of public utility uses in this zoning district may be permitted by the Board of Appeals pursuant to Article XI, all portions of the Project located in this zoning district are permissible uses. Therefore, the Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Board of Appeals is preempted by PSL Section 130, Applicant does not anticipate requesting a special use permit from the Board of Appeals.

7.8.16 Article V; Industrial Districts

§ 198-35. I-2 Light Industry District, sets forth the uses specifically permitted in the I-2 zoning district. In addition, §§ 198-35 (C)-(G) specify the applicability, within the I-2 district regulations contained in Articles VII and VIII (Off-street parking and loading regulation); Article IX (Height, area and bulk regulation); and Article XI (Supplementary use regulations and conditionally permitted uses). Public utility buildings and structures are not specifically listed uses within this zoning district.

Because the construction of public utility uses in this zoning district may be permitted by the Board of Appeals pursuant to Article XI, all portions of the Project located in this zoning district are permissible uses. Therefore, the Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Board of Appeals is preempted by PSL Section 130, Applicant does not anticipate requesting a special use permit from the Board of Appeals.

7.8.17 Article VII; Off-Street Parking

§ 198-43. General Requirements and Procedures, provides that no building in a zoning district shall be erected unless off-street parking spaces as specified in §198-47, the table of this article, or in another section of this chapter are provided for the entire premises. In addition, §198-45 states that parking requirements for uses not listed in §198-47 shall be the same as for a listed use of the same general characteristics of demand generation. Public utility structures are not specifically listed in §198-47.

§ 198-48. Design Standards, sets forth specific design standards for required parking spaces.

Except as requested herein, Applicant will comply with the substantive provisions of this Article.

For this Article, Applicant requests that the PSC refuse to apply the requirements of §198-43 in a manner that would require more than ten (10) parking spaces for the Converter Station Site, because such a requirement would be unreasonably restrictive based on factors of cost. The site of the Converter Station has been chosen based on a consideration of available parcels and proximity to points of interconnection. The size of the parcel is limited by the available land. The operation of the Converter Station will be automated and require only a minimum number of personnel at any given time, together with the intermittent presence of maintenance personnel. Applicant intends to provide

sufficient parking spaces to accommodate such personnel; however, a requirement to construct additional parking facilities would be interfere with the design of the Converter Station and impose additional, unnecessary expense. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local height and area requirements.

7.8.18 Town of Huntington: Article IX; Height, Area and Bulk Regulations

§ 198-55. Chart of Height, Area and Bulk Requirements, sets forth height, area and bulk requirements for the various districts, together with other height, area and bulk requirements contained elsewhere in the chapter.

§ 198-56. Height Exceeding Specified Building Height, prohibits the issuance of any permit for any building where any structure appurtenant thereto, is designed to exceed the specified building height limit for the district by more than twenty-five (25) feet until the Town Board has reviewed and approved the site and building plans.

Except as requested herein, the Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Board of Appeals of the Town of Huntington is preempted by PSL Section 130, Applicant does not anticipate requesting a special use permit from the Board of Appeals from for the portion for the Project located in the Town of Huntington.

For this Article, Applicant request that the PSC refuse to apply the requirements contained in §§ 198-55 and 198-56, which requires a maximum building height of 35 feet in the R-40 zoning district and limit permits for structures that exceed that limit by greater than 25 feet on the basis of current technologies and/ or factors of cost and economics. The configuration of the Converter Station is anticipated to have a maximum height greater than 55 feet. The configuration of the Project has been determined on the basis of prudent engineering considerations, available alternative designs, and on factors of cost. Accordingly, it would be technically impossible or unreasonably expensive to configure the Converter Station to meet the height restriction. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.

7.8.19 Town of Huntington: Article XI; Conditional Uses; Supplementary Regulations

§ 198-66. Conditional Uses; Special Use Permits, provides that conditional uses may be permitted by the Board of Appeals or the Town Board

§ 198-68. Uses Permitted by Board of Appeal, establishes the authority of the Zoning Board of Appeals to authorize the construction of public utility uses after making all of the required findings and after public hearing and after a conclusion by the Board that such public utility uses and buildings are necessary to the service of the neighborhood or that its location is fixed by the technical requirements of the utility system. On making such finding, the Board may also vary the minimum lot area and width requirements, only upon making the following findings:

- (a) The proposed facility is necessary to provide service to a primary area within a radius of not more than one (1) mile.
- (b) The minimum yard requirements for the district in which the facility is to be located have been met.
- (c) No equipment or vehicles, except as necessary to the provision of the utility service in the location proposed, shall be stored or serviced on the premises.
- (d) The maintenance of the full lot area and width requirements for the district is not necessary to the proposed facility nor to the maintenance of neighborhood character.

- (e) The design of the proposed building or structure shall be in keeping with the character of the neighborhood, or the separation of structures and screening will be adequate to nullify any adverse effect upon adjoining properties.
- (f) No parcel of land proposed for any such public utility use shall be less than ten thousand (10,000) square feet in area, except that in districts where the minimum lot area is less than ten thousand (10,000) square feet, such minimum lot area shall apply but shall not be reduced.
- (g) No adjoining parcel of land shall be made nonconforming as a result of the grant of such variance.

§ 198-74. Vision Obstructions at Intersections, prohibits the erection or maintenance of any wall, fence, hedge, shrub, sign or other structure or growth more than three (3) feet high, nor any other obstruction to vision, on a corner lot within the triangular area bounded by the lines connecting the street corner of the lot and a point twenty-five (25) feet from such corner on each of the intersecting street lines.

§ 198-75. Subdivision of Land into Nonconforming Lots, prohibits the subdivision of land in a manner that results in the establishment of one (1) or more parcels that are nonconforming in respect to the minimum area, yard or other requirements for the district in which the lot is located.

§ 198-76. Commercial Vehicles, Construction Equipment, Boats and Trailers, prohibits the keeping and maintenance of commercial vehicles or construction equipment without proper municipal authorization or Zoning Board grant.

§ 198-77. Landscaping and Screening, establishes criteria for landscaping and screening for the protection of residential areas from the adverse effects of nonresidential development resulting from the transmission of dust, glare and noise. A screening strip not less than ten (10) feet is required, and all other areas not used for structures, parking or loading areas must be planted with grass and shrubs.

Except as requested herein, the Applicant will comply with the substantive provisions of this Article; however, because the need to obtain approvals for the Project from the Board of Appeals of the Town of Huntington is preempted by PSL Section 130, Applicant does not anticipate requesting a special use permit from the Board of Appeals from for the portion for the Project located in the Town of Huntington.

For this Article, Applicant request that the PSC refuse to apply the requirements contained in §§ 198-77 which may be perceived as requiring landscaping that is different that the landscaping approved in the Article VII conditions, because, as applied to the Converter Station, such requirements would be unduly restrictive in light of reliability criteria, security concerns and the needs of Applicant's customers, which are best met by enabling the Applicant to construct the Project and employ vegetation management and landscaping designs which are based on state law, reliability standards, and the experiences of similar facilities. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local requirements.

7.8.20 Town of Huntington: Article XIII; Performance Standards

§ 198-86. Purpose and Scope, establishes performance standards for limiting the creation or effects of dangerous or objectionable elements incident to public utility substations and generating plants; and sets forth criteria relating to "fire, explosion, radioactivity or other hazard; noise or vibration; smoke, dust, odor, effluent discharge or other pollution; electrical or other disturbance; glare or flash; storage or discharge of waste or other material conducive to the breeding of insects, rodents or other vermin."

§ 198-87. Procedure for Issuance of Permits for Uses Subject to Performance Standards, requires that all public utility substations and generating plants comply with the performance standards set forth in this chapter.

§ 198-88. Measurement of Objectionable Elements at Point of Emission, sets forth specific performance criteria applicable to, *inter alia*, public utility substations and generating plants, as measured at any point inside the premises.

§ 198-89. Measurement of Elements at Lot Line, sets forth specific performance criteria applicable to, *inter alia*, public utility substations and generating plants, as measured at any point inside the premises, including a maximum allowable vibration (§198-89A), and maximum allowable noise level (§198-89B). Maximum permissible sound-pressure levels for noise radiated continuously from an establishment between the hours of 10:00 p.m. and 7:00 a.m. range from 69 decibels at 20-75 cycles per second to 28 decibels at 4,800 to 10,000 cycles per second. If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., decibel levels may be adjusted up or down, depending upon the characteristic of the noise.

Except as requested herein, Applicant will comply with the applicable substantive provisions of this Chapter.

For this Chapter, Applicant request that the PSC refuse to apply the requirements contained in §§198-87 through 198-89, which restrict noise levels and vibration to the extent that such restrictions will prevent the use of customary construction equipment and practices on the grounds that such local legal provision is unreasonably restrictive in view of the existing technology. During construction, Applicant will employ standard construction techniques and equipment commonly used to construct similar facilities, including motorized equipment for vegetation clearing , excavation, and the erection of structures. These activities typically produce composite noise levels between 80-90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1,000 feet from the source. Permanent noise sources will include only minor sources from routine inspections and maintenance of the facilities. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.

7.8.21 Town of Huntington: Article XVIII; Administration and Enforcement

§ 198-119. Building Permit Required, makes it unlawful to construct or own a building or structure without a permit having been issued by the Department of Engineering Services.

§ 198-120. Certificate Required, makes it unlawful to maintain, occupy or use a building, structure or land, or any part thereof, for which a certificate of occupancy and/or a certificate of permitted use has not been issued; or to change the use or occupancy of any land, premises or building until a certificate of permitted use has been issued.

Because the need to obtain permits for the Project from the Department of Engineering Services of the Town of Huntington is preempted by PSL Section 130, Applicant does not anticipate requesting a permit from the Town of Huntington or seeking the issuance related certificate of permitted use or similar by the Town of Huntington.

Tables





Table 7-1: Compliance Summary

Local Ordinances	Compliance Summary
Nassau County Code	
Chapter XII; Department of Public Works	
§ 12-4.3 Deposits of material on county roads	Preempted
§ 12-4.5 Regulation of Motor Vehicle Dimension and Weights on County Roads	Will Comply
Town of Hempstead Code	
Chapter 86; Building Construction Administration	***
§ 86-9 Applications for permit; minimum elevations for erection of structures and construction of roads	Partial Refusal Requested
§ 86-19 Certificate of completion	Preempted
§ 86-21 Inspection prior to issuance of certificate of occupancy, certificate of completion, or certificate of approval of plumbing or drainage work	Preempted
§ 86-47 Erosion protection of waterfront properties	Will Comply
Chapter 138; Smoke	***
§ 138-1 Emission of dense smoke	Will Comply
§ 138-2 Escape of soot, cinders, etc.	Will Comply
Chapter 140; Earth and Soil Removal	***
§ 140-2 Application for permit	Preempted
§ 140-3 Pit and bank excavations	Partial Refusal Requested
Chapter 144; Unreasonable Noise	***
§ 144-5 Limitation of noises	Partial Refusal Requested
Chapter 154; Environmental Quality Review	Preempted
Chapter 159; Dredging	***
§ 159-3 Permit required	Preempted
Chapter 168; Structures in Waterways	***
§ 168-2 Permit required	Preempted
§ 168-7 Maintenance of bulkheading	Will Comply
§ 168-8 Maintenance of structures other than bulkheading	Will Comply
§ 168-9 Noninterference with navigation of waterways	Will Comply
§ 168-12 Regulations	Will Comply
Chapter 170; Coastal Erosion Hazard Areas	***
§ 170-6 Permit required	Preempted
§ 170-7 Structural Hazard Area Restrictions	Partial Refusal Requested
§ 170-8 Nearshore area restrictions	Partial Refusal Requested
§ 170-9 Beach area restrictions	Partial Refusal Requested
Chapter 165; Freshwater Wetlands	***
§ 165-3 Permits	Preempted
Chapter 175; Excavations In Streets	***
§ 175-2 Permit required for highway and sidewalk excavation	Preempted
§ 175-5 Street opening regulations and restrictions	Will Comply
§ 175-5(C) Openings on newly constructed or resurfaced highways	Partial Refusal Requested
§ 175-5(D) Notifications	Will Comply



Table 7-1: Compliance Summary

Local Ordinances	Compliance Summary
§ 175-6 Maintenance of traffic and protection of the public	Will Comply
§ 175-7 Detail of construction	Will Comply
Chapter 177; Materials: Deposit	***
§ 177-1 Deposits on roads	Will Comply
Chapter 192; Weight Restrictions: Commercial Vehicles	***
§ 192-1 Gross weight restrictions upon commercial vehicles using certain Town highways	Partial Refusal Requested
Town of Hempstead Chapter BZ. Building Zone Ordinance	
Article III. Enumeration of Districts; Zoning Map; Boundaries	***
§ 12 Enumeration of districts	Will Comply
§ 13. Zoning Map	Will Comply
Article IV; A Residence Districts (A)	***
§ 19 Excavations	Partial Refusal Requested
§ 20 Special Uses	Preempted
Article IVA; AA Residence Districts (AA)	***
§ 29.6 Excavations	Partial Refusal Requested
§ 29.7 Special Permit Uses	Preempted
Article V; A1 Residence Districts (A1)	***
§ 34 Excavations	Partial Refusal Requested
Article VI; A2 Residence Districts (A2)	***
§ 50 Excavations	Partial Refusal Requested
Article VII; B Residence Districts (B)	***
§ 66 Excavations	Partial Refusal Requested
Article VIIA; BB Residence Districts (BB)	***
§ 76.6 Excavations	Partial Refusal Requested
Article XI; C Residence Districts (C)	***
§ 86 Excavations	Partial Refusal Requested
Article XVI; X Business Districts (X)	***
§ 197 Special Use	Will Comply
§ 198 Excavations	Partial Refusal Requested
Article XVII; LM Light Manufacturing Districts (LM)	***
§ 209 Special Exceptions	Will Comply
Article XXVII. Board of Appeals	***
§ 272 Special Permit	Preempted
Article 31; General Provisions	***
§ 298 Height of Towers, Steeples and Poles	Will Comply
§ 302(F) Prohibitive Uses	Will Comply
§ 310 Public Utility Buildings	Will Comply



Table 7-1: Compliance Summary

Local Ordinances	Compliance Summary
Town of Oyster Bay Code	
Chapter 93; Building Construction – Article I; General Provisions	***
§ 93-4. Conformance Required	Preempted
§ 93-14.1. Temporary Fences	Will Comply
Article II. Building Permits	***
§ 93-15. When Required; Exceptions	Preempted
Chapter 110; Environmental Quality Review	Preempted
Chapter 156; Noise	***
§ 156-4 Prohibited Act	Partial Refusal Requested
§ 156-4.B(5) Loading and Unloading	Partial Refusal Requested
§ 156-4.B(6) Commercial Equipment	Partial Refusal Requested
§ 156-4.B(7) Construction	Partial Refusal Requested
§ 156-4.B(12) Vibration	Partial Refusal Requested
§ 156-6(D). Standing Motor Vehicles	Partial Refusal Requested
§ 156-7 Immediate Threats to Health and Welfare; Other Remedies	Partial Refusal Requested
Chapter 184; Public Nuisances	***
§ 184-3. Prohibition	Will Comply
Chapter 205; Streets and Sidewalks	***
§ 205-1. Accumulations of Materials	Will Comply
§ 205-10. Conformance with Specifications	Will Comply
§ 205-11. Application and Issuance of Permit	Preempted
Chapter 225; Trees	***
§ 225-3. Regulated Activities; Permit Required	Preempted
§ 225-7. Public Utilities	Will Comply
§ 225-8. Trees in Streets and Other Public Places	Will Comply
Chapter 229. Trespassing	***
§ 229.1 Prohibited Acts	Will Comply
Chapter 233. Vehicles and Traffic	Will Comply
Chapter 246. Zoning	***
3.1. District Classifications	Will Comply
3.2. Zoning Map Establishment	Will Comply
§ 246-4. General Regulations	***
4.1.1 Conformity Required	Will Comply
4.10.2 Regulations	Will Comply
§ 246-5 District Regulations	***
5.2. Schedule of Use Regulations	Partial Refusal Requested
5.3. Schedule of Dimensional Regulations	Partial Refusal Requested
5.4 Additional Regulations	Will Comply



Table 7-1: Compliance Summary

Local Ordinances	Compliance Summary
§ 246-7. Site Design Standards	***
7.8. Hours of operation	Will Comply
§ 246-9. Special Use Permit Review	***
9.1. General Provisions	Preempted
9.4. Standards	Will Comply
§ 246-10. Performance Standards	***
10.2. Conformance Required	Preempted
10.3. Standards	Partial Refusal Requested
10.3.1.1. Noise	Partial Refusal Requested
10.3.2. Vibration	Partial Refusal Requested
10.3.3. Smoke, Dust and Other Atmospheric Pollutants	Will Comply
10.3.7. Electromagnetic Interference	Will Comply
10.3.10. Liquid Wastes	Will Comply
10.3.11. Vehicular Traffic	Will Comply
§ 246-14. Enforcement and Administration	***
14.4 Site Work and Construction Activity	Will Comply
Suffolk County Code	
Chapter 450. Environmental Quality Review	Preempted
Chapter 618; Noise	***
§ 618-3. Prohibitions	Partial Refusal Requested
§ 618-4. Restrictions	Partial Refusal Requested
§ 618-5. Applicability	Partial Refusal Requested
Chapter 639. Parking, Off-Street	***
§ 639-3. Restrictions on Parking, Standing and Stopping	Will Comply
Chapter 763; Stormwater Management	***
§ 763-4. Dumping Prohibited	Will Comply
Chapter 433. Dumping and Littering	***
§ 433-1. Deposit of Waste Materials Prohibited	Will Comply
SUFFOLK COUNTY SANITARY CODE	***
Section 760-705; General Restrictions and Prohibitions	Will Comply
Town of Huntington	
Chapter 87. BUILDING CONSTRUCTION – Article III. Building Permit	***
§ 87-14. Permit Required; Exemptions	Preempted
§ 87-21. Expiration of Building Permit	Preempted
§ 87-52. Fences, Freestanding and Retaining Walls	Will Comply
Town of Huntington: Article XII. Grading of Land	***
§ 87-84. Permit Required	Preempted
§ 87-90. Permit; Prohibited Acts	Preempted



Table 7-1: Compliance Summary

Local Ordinances	Compliance Summary
§ 87-91. Standards	Will Comply
§ 87-98. Inspection of Work; Issuance of Certificate	Preempted
Chapter 120; Harbors and Waterways – Article I. Regulations and Restrictions	***
§ 120-3 Pollution of Waterways	Will Comply
Chapter 133; Littering and Dumping	***
§ 133-1. Prohibited Acts	Will Comply
§ 133-2. Accumulation of Trash, Waste, Rubbish, Debris, Garbage and Other Hazards or Nuisances Prohibited on Private Property	Will Comply
Chapter 141. Noise	***
§ 141-2. Prohibition: Noise Disturbance Prohibited	Partial Refusal Requested
§ 141-3. Noise Disturbances Enumerated	Partial Refusal Requested
Chapter 171. Streams, Watercourses and Wetlands	***
§ 171-1. Control Over Filling or Diversion; Permits	Will Comply
Article II. Freshwater Wetlands	
§ 171-8. Management of Water Recharge Protection Areas	Will Comply
§ 171-9. Prohibitions	Will Comply
Chapter 173. Streets and Sidewalks Article I. Excavation and Construction of Streets, Sidewalks and Curbs	
§ 173-1. Permit Required	Preempted
§ 173-3. Notice to Public Utilities	Will Comply
§ 173-4. Guarding and Illuminating Excavations; Protection of Property	Will Comply
§ 173-5. Right-of-Way to be Provided	Will Comply
§ 173-6. Minimum Size of Openings; Tunneling and Trenching	Will Comply
§ 173-7. Completion of Work; Inspection; Resurfacing	Will Comply
Article III. Damage to Highways	***
§ 173-12 Operation of Certain Vehicles Prohibited	Partial Refusal Requested
Chapter 186. Tree Preservation and Protection	***
§ 186-3 Prohibited Acts	Will Comply
§ 186-8 Permit Required	Will Comply
Chapter 198. Zoning	***
Article I. General Provisions	***
§ 198-4 Stricter Provisions to Govern	Preempted
Article II. Zoning Districts; Map; General Regulations	***
§ 198-6 Designation of Districts	Will Comply
§ 198-7 Zoning Map	Will Comply
§ 198-10 General Restrictions	Partial Refusal Requested
§ 198-12 Screening and Buffer Area	Partial Refusal Requested
Article III. Residence Districts	***
§ 198-14 R-40 Residence District	Partial Refusal Requested



Table 7-1: Compliance Summary

Local Ordinances	Compliance Summary
§ 198-19. R-5 Residence District	Will Comply
Article IV. Commercial Districts	***
§ 198-27. C-6 General Business District	Will Comply
§ 198-29. C-8 General Business A District	Will Comply
Article V. Industrial Districts	***
§ 198-35. I-2 Light Industry District	Will Comply
Article VII. Off-Street Parking	***
§ 198-43. General Requirements and Procedures	Will Comply
§ 198-48. Design Standards	Will Comply
Article IX. Height, Area and Bulk Regulations	***
§ 198-55. Chart of Height, Area and Bulk Requirements	Partial Refusal Requested
§ 198-56. Height Exceeding Specified Building Height	Partial Refusal Requested
Article XI. Conditional Uses; Supplementary Regulations	***
§ 198-66. Conditional Uses; Special Use Permits	Preempted
§ 198-68. Uses Permitted by Board of Appeal	Preempted
§ 198-74. Vision Obstructions at Intersections	Will Comply
§ 198-75. Subdivision of Land into Nonconforming Lots	Will Comply
§ 198-76. Commercial Vehicles, Construction Equipment, Boats and Trailers	Will Comply
§ 198-77. Landscaping and Screening	Partial Refusal Requested
Article XIII. Performance Standards	***
§ 198-86. Purpose and Scope	Preempted
§ 198-87. Procedure for Issuance of Permits for Uses Subject to Performance Standards	Partial Refusal Requested
§ 198-88. Measurement of Objectionable Elements at Point of Emission	Partial Refusal Requested
§ 198-89. Measurement of Elements at Lot Line	Will Comply
Article XVIII. Administration and Enforcement	***
§ 198-119. Building Permit Required	Preempted
§ 198-120. Certificate Required	Preempted



Table 7-2: Town of Hempstead Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Town of Hempstead Code			
Chapter 86; Building Construction Administration			
§ 86-9	Applications for permit; minimum elevations for erection of structures and construction of roads, makes it illegal to construct, alter, or improve any building or structure or part thereof without first obtaining a permit from the Building Inspector. This Section also requires certain reports, satisfactory to the Town Engineer and the Manager of the Building Department, for any construction on land which has been filled or must be filled.	Factors of Cost and Economics	Applicant requests that the PSC refuse to apply the requirements contained in § 86 9 that require submittal of certain reports, satisfactory to the Town Engineer and the Manager of the Building Department, regarding the completed construction on the basis of cost and economics. Prior to construction, Applicant will have prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Requiring Applicant to produce additional separate reports satisfactory to the Town Engineer will introduce uncertainty into the construction process and has the potential to introduce delay and additional engineering costs which are not supported by additional benefit to the consumer.
Chapter 140; Earth and Soil Removal			
§ 140-3	Pit and bank excavations, imposes limits and conditions on pit and bank excavations, including a prohibition against any pit excavation within 20 feet of any property line (§140-3A); and prohibition against excavations made below two feet above the maximum groundwater level at the site (§140-3H).	Existing Technology	Applicant requests that the PSC refuse to apply the requirements contained in §§ 140-3A and H that prohibit any pit or excavation within 20 feet of the property line or below two feet above the maximum groundwater level at the site on the basis that those requirements are overly restrictive in light of existing technology. The Project is a linear project to be located on a series of contiguous lots, primarily composed of existing roadways and existing utility easements. The portions of the Project located in the Town of Hempstead will consist primarily of underground HVDC transmission cable located within existing streets and highways, together with required connection and maintenance vaults, but also will include a portion of the submarine cable, together with transition facilities located beneath areas of Jones Beach State Park. Individual structure locations will depend upon span lengths, available space within the existing easements, and other technical requirements and limitations regardless of the distance to individual property lines. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. More detail regarding the proposed route and the environmental impacts are provided in Exhibits 2 and 4.

Table 7-2: Town of Hempstead Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Chapter 144; Unreasonable Noise			
§ 144-5	<p>Limitation of noises, imposes daytime and nighttime limits on steady-state and transient noise created by the operation of “any mechanism or device which shall create a noise within the Town of Hempstead.” The maximum limits established for “transient noise” range from 52 decibels at 8000 cycles per second to 92 decibels at 63 cycles per second, for a period of 12 seconds during the daytime from 7:00 a.m. to 7:00 p.m., and for a duration of 6 seconds during the night, from 7:00 p.m. to 7:00 a.m. The maximum limits established for “steady state noise” range from 32 decibels at 8000 cycles per second to 72 decibels at 63 cycles per second.</p>	Existing Technology and Factors of Cost and Economics	<p>Applicant requests that the PSC refuse to apply the provisions of this Chapter which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including nighttime hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These temporary activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC’s refusal to apply these local requirements. Because the portions of the Project located in the Town of Hempstead will be limited to underground HVDC transmission Land Cables and associated structures, no permanent noise sources are associated with the Project in the town of Hempstead.</p>

Table 7-2: Town of Hempstead Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Chapter 170; Coastal Erosion Hazard Areas			
§ 170-7	Structural hazard area restrictions, requires that a coastal erosion management permit be obtained 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 located landward of the shoreline structures. The construction of nonmovable structures or 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. Any grading, excavation or other soil disturbance conducted within a structural hazard area is prohibited without a coastal erosion management permit from the permit administrator.	Existing Technology	Applicant requests that the PSC refuse to apply the requirements contained in §§ 170-7 through 179-9 that prohibit the construction of nonmovable structures within the dunes or seaward of the landward edge of the erosion hazard area line, or limit or restrict construction activities in the coastal areas affected by the Project, for reasons of existing technology. The Project includes a linear submarine cable including transition vaults necessary to transition the submarine cable to land. Portions of the cable system and related underground structures must be located in nearshore and beach areas. Prior to construction, Applicant will have received State and federal approvals for the location of the Project and an extensive EM&CP, which will include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. More detail regarding the proposed Route and the environmental impacts are provided in Exhibits 2 and 4.
§ 170-8	Nearshore area restrictions, restricts all development in nearshore areas.		
§ 170-9	Beach area restrictions, restricts development and activities in beach areas.		
Chapter 175; Excavations In Streets			
§ 175-5(C)	Openings on newly constructed or resurfaced highways, prohibits excavation in any newly constructed or resurfaced highway for a period of not less than five years. This subsection does not preclude excavation outside of the paved area within the right-of-way.	Factors of Cost and Economics	Applicant requests that the PSC refuse to apply the prohibition contained in §175-5(C) that bars the opening of newly resurfaced streets for a period of five years. The Project requires the use of roadway corridors and rights-of-way and the potential requirement to reroute the cable to avoid recently resurfaced roadways would impose impacts and costs that are not justified by any offsetting benefit.
Chapter 192; Weight Restrictions: Commercial Vehicles			
§ 192-1	Gross weight restrictions upon commercial vehicles using certain Town highways, prohibits the operation of any commercial vehicle, tractor-trailer combination or truck with a gross weight in excess of 8,000 pounds upon or along specified Town highways.	Existing Technology	Applicant requests a waiver of this limitation to accommodate construction, and cable and equipment delivery vehicles because it may be unreasonably restrictive on the basis of existing technology. The Project will require certain heavy equipment to move portions of the HVDC cable to the construction site and the limitation set forth above would prevent Applicant from using such equipment.

Table 7-2: Town of Hempstead Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
CHAPTER BZ. BUILDING ZONE ORDINANCE			
BZ – Article IV; A Residence Districts (A)			
§ 19	Excavations, prohibits all excavations, or the removal of topsoil, except for those excavations which have been permitted or approved by the Board of Appeals.	Existing Technology	For all affected zoning districts, to the extent that such prohibitions may be deemed to apply, Applicant requests that the PSC refuse to apply the requirements that prohibit excavations for purposes other than the construction of a driveway or walk because they would be unreasonably restrictive in light of existing technology and the purpose of the Project. These include §§19, 29, 34, 50, 66, 76, 86, and 198. The proposed Project will require excavations in streets, highways, and sidewalks in the Town of Hempstead, New York. The portions of the Project located in the Town of Hempstead will consist primarily of underground HVDC transmission cable, together with required transition vaults and joint vaults. Prior to construction, Applicant will have received all necessary approvals for the location of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. More detail regarding the proposed Route and the environmental impacts are provided in Exhibits 2 and 4.
BZ – Article IVA; AA Residence Districts (AA)			
§ 29.6	Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.		
BZ – Article V; A1 Residence Districts (A1)			
§ 34	Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.	Existing Technology	
BZ – Article VI; A2 Residence Districts (A2)			
§ 50	Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.	Existing Technology	

Table 7-2: Town of Hempstead Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
BZ – Article VII; B Residence Districts (B)			
§ 66	Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.	Existing Technology	
BZ – Article VIIA; BB Residence Districts (BB)			
§ 76.6	Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.	Existing Technology	
BZ – Article IX; C Residence Districts (C)			
§ 86	Excavations, prohibits excavations for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto or to remove topsoil from one part of the lands of an owner to another part of the same premises.	Existing Technology	
BZ – Article XVI; X Business Districts (X)			
§ 198	Excavations, provides that no excavation for purposes other than the construction of a driveway, walk, a permitted wall or building or part thereof or accessory thereto, or to remove topsoil from one part of the lands of an owner to another part of the same premises shall be made unless approved by the Board of Appeals.	Existing Technology	



Table 7-3: Town of Oyster Bay Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Town of Oyster Bay Code			
Chapter 156; Noise			
§ 156-4	Prohibited Act, provides that (A) No person shall make, continue or cause to be made or continued any noise disturbance at any time, and (B) that the following activities are specifically prohibited:	Existing Technology and Factors of Cost and Economics	Applicant requests that the PSC refuse to apply the provisions of §§156-4, 6 & 7, which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including overnight hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.
§ 156-4.B(5)	Loading and Unloading, prohibits loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 10:00 p.m. the previous day to 7:00 a.m., Monday through Saturday, and 10:00 p.m. the previous day to 8:00 a.m. on Sunday or Holidays in such a manner as to cause a noise disruption across a residential real property boundary or within a noise-sensitive zone.		
§ 156-4.B(6)	Commercial Equipment, prohibits operating or permitting the operation of any commercial tools or commercial equipment (e.g., air-conditioning and refrigeration systems) between the hours of 10:00 p.m. the previous day and 8:00 a.m. in such a manner as to create a noise disturbance across a residential real property or within a noise-sensitive zone.		
§ 156-4.B(7)	Construction, prohibits operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work between the hours of 10:00 p.m. the previous day to 7:00 a.m., Monday through Saturday, and at any time on Sunday or Holidays, such that the sound therefrom creates a noise disruption across a residential real property boundary or within a noise-sensitive zone, except for emergency work or public service utilities.		



Table 7-3: Town of Oyster Bay Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
§ 156-4.B(12)	Vibration, prohibits the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at approximately 50 feet from the source if on a public space or public right-of-way. This section, however, does not apply to construction activities performed in compliance with all applicable federal, state and any local laws and ordinances.		<p>opinions, which, even if resolved amicably in favor of Applicant, would tend to impair the critical timing and pace of construction because unnecessary stoppage at one segment of Project due to noise or performance issues will delay subsequent construction of other segments in other localities that are dependent upon the cable being laid according to a strict schedule and sequence.</p> <p>Because the portions of the project located in the Town of Oyster Bay will be limited to underground HVDC transmission land cables and associated underground structures, no permanent noise sources are associated with the Project after construction.</p>
§ 156-6(D)	Standing Motor Vehicles, provides that no person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds or any auxiliary equipment attached to such a vehicle for a period longer than 10 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion on a public right-of-way or public space, within 150 feet of a residential area between the hours of 10:00 p.m. the previous day to 9:00 a.m., Monday through Saturday, and 9:00 p.m. the previous day to 8:00 a.m. on Sunday or Holidays.		
§ 156-7	Immediate threats to health and welfare; other remedies, prohibits exposing any person to continuous sound levels in excess of noise above 90 decibels for a period of 24 hours through a range of 108 decibels for a period of 22 minutes; or intermittent sound levels in excess of 125 decibels occurring 100 times through 145 decibels occurring 1 time.		

Table 7-3: Town of Oyster Bay Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Chapter 246; Zoning			
§ 246-5; District Regulations			
5.2.	<p>Schedule of Use Regulations, provides that any use not specifically listed on the Schedule of Use Regulations shall be deemed to be prohibited, unless the Town Board determines by the grant of a special permit that such use is of the same general character as other permitted uses in the district and that such use will not be detrimental to the district.</p> <p>The Project is intended to be located in or adjacent to "Residence Districts" designated as R1-1A, R1-10, R1-7, RMF-16. Because public utility buildings or structures are not listed as permitted uses on the Schedule of Use Regulations for Residential Districts, such uses are deemed prohibited in these Residential Districts.</p> <p>For portions of the Project intended to be located in or adjacent to "Nonresidence Districts" designated as NB, GB, and LI, public utility buildings or structures are designated as special permit uses subject to approval by the Zoning Board of Appeals for the Town of Oyster Bay.</p>	Existing Technology and Factors of Cost and Economics	<p>To the extent they are applicable to the Project, Applicant requests that the PSC refuse to apply the use, dimensional, setback, and area requirements detailed in Town of Oyster Bay zoning ordinance and listed in the Schedule of Use Regulations and Schedule of Dimensional Regulations described therein because they are unduly restrictive in view of existing technology and factors of cost. The proposed route for the Project has been developed with strong considerations of cost, efficiency, and technical feasibility. The individual structure locations for the HVDC cable will depend upon the location of existing site conditions and Applicants ability to utilize the existing rights-of-way, regardless of area and setback requirements. Failure to waive the use requirements in the Residence Districts affected by the Project would require the Applicant to seek a change in the zoning law, which would require substantial time and expense, while also injecting substantial uncertainty regarding the outcome. While re-routing the Project to avoid all Residence Districts, if possible, would increase the overall length of the Project and add substantial additional expense. Because of the configuration of the Project, waiver of these zoning restrictions would have no impact on the municipality. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.</p>
5.3.	<p>Schedule of Dimensional Regulations, provides that the Schedule of Dimensional Regulations sets forth the minimum and maximum dimensional requirements to be met in each zoning district.</p> <p>The Schedule of Dimensional Regulations establishes the following dimensional requirements for each district affected by the Project:</p>		



Table 7-3: Town of Oyster Bay Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
§ 246-10; Performance Standards			
§ 10.3.1	Standards, establishes specific standards for Noise, Vibration, Odor, and other emissions, and established methods for the measurement or evaluation thereof.	Existing Technology	<p>Applicant requests that the PSC refuse to apply the provisions of this Chapter, including §§ 10.3.1, 10.3.2 and 10.3.11, which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including nighttime hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Additional details are provided in Exhibit 4.</p> <p>Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.</p> <p>Because the portions of the project located in the Town of Oyster Bay will be limited to underground HVDC transmission cables and associated underground structures, no permanent noise sources are associated with the Project in the Town of Oyster Bay.</p>
§ 10.3.2	Vibration, provides for regulations of vibration and requires that no activity shall cause or create a steady-state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of listed values.		
§ 10.3.11	Vehicular Traffic, provides that no use shall be permitted where it is determined by the Town Board that the type and number of vehicle trips to be generated would be expected to produce unusual traffic hazards or congestion, or cause or induce emissions which may be expected to interfere with the maintenance of air quality standards established by the U.S. Environmental Protection Administration, the New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction thereof, unless such impact is adequately mitigated.		



Table 7-4: Suffolk County Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Suffolk County Code			
Chapter 618; Noise			
§ 618-3	Prohibitions, prohibits any noise disturbance on any County highway or within the limits of the right-of-way of such highway.	Existing Technology and Factors of Cost and Economics	Applicant request that the PSC refuse to apply the provisions of this Chapter which would restrict operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including overnight hours for reasons of existing technology and factors of cost and economics. During construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. As a result, although Project construction and operational activities are expected to remain in compliance with this local ordinance, there is a limited potential to exceed the limits established by this local provision. Prior to construction, Applicant will have received all necessary approvals from the appropriate State and Federal authorities for the location and design of the Project and prepared an extensive EM&CP, which shall include detailed information regarding construction activities, including materials, construction schedules, construction methodologies, and verification procedures. Strict compliance with these requirements has the potential to add significant cost to the Project. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.
§ 618-4	618-4. Restrictions, defines a "noise disturbance" as noise that exceeds the following sound level limits: <ul style="list-style-type: none"> •Residential 7:00 a.m. to 10:00 p.m. (dBA) – 65 •Residential 10:00 p.m. to 7:00 a.m. (dBA) – 50 •Commercial all times (dBA) -- 65 •Industrial all times (dBA) – 70 		
§ 618-5	Applicability, provides an exception for the noise from construction activity, except for operating or permitting the operation of any tools or equipment used in construction, drilling, earth-moving, excavating or demolition work between the hours of 6:00 p.m. and 7:00 a.m. the following day on weekdays or at any time on weekends or legal holidays, except when the sound level does not exceed any applicable limit as specified; and noise from stationary emergency signaling devices owned and operated by any public utility.		



Table 7-5: Town of Huntington Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Town of Huntington			
Chapter 141. Noise			
§ 141-2	Prohibition: Noise Disturbance Prohibited, prohibits the making or continuing of any “noise disturbance” by any means within the Town of Huntington.	Existing Technology and Factors of Cost and Economics	Applicant requests that the PSC refuse to apply the provisions of this §§141-2 and 141-3 relating to noise disturbances and time time-of- day restrictions which would prevent the operation of construction equipment, and the use of standard construction techniques employed for similar projects at any time, including nighttime hours for reasons of existing technology and factors of cost and economics. During
§ 141-3	Noise disturbances enumerated, establishes that certain enumerated activities are prohibited as noise disturbances, including the sounding of any horn or signaling device on any vehicle on any street or public place of the Town of Huntington except as a danger warning (§143-3(B); the operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, pneumatic hammer, derrick, electric hoist or other appliance, the use of which is creates a noise disturbance (§143-3(E)); loud disturbance in connection with the loading or unloading of any vehicle, boat, barge or train or the opening and destruction of bales, boxes, crates and containers (§143-3(H); construction (including excavating) other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays; operation of any noise-creating blowers for longer than 2 hours or prior to 8:00 a.m. or after 7:00 p.m. or on a Saturday, Sunday or legal holiday prior to 9:00 a.m. or after 5:00 p.m. The Building Inspector is authorized to grant permission for construction such work to be done between the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.	Existing Technology and Factor of Cost and Economics	construction, motorized equipment will be used for vegetation clearing, excavation, and the erection of structures. These activities typically produce composite noise levels between 80 and 90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1000 feet. Additionally, because under this local law, a “noise disturbance” is not precisely defined, there is a potential, if left to local enforcement, for construction and operation of the Converter Station to be found in violation. The use of phrases like “annoys or disturbs a reasonable person” or “disturbs two or more residents who are in general agreement” may leave the determination of whether a violation has occurred to the subjective opinions of local officials charged with enforcing the code. Consequently, the Applicant’s onsite personnel will have no predictable, reliable, or objective way to determine whether they are complying with the law at all times during the construction process or while the Project is in operation. This type of unpredictability may result in conflicting opinions, which, even if resolved amicably in favor of Applicant, would tend to impair the critical timing and pace of construction because unnecessary stoppage at one segment of Project due to noise or performance issues will delay subsequent construction of other segments in other localities that are dependent upon the cable being laid according to a strict schedule and sequence. The inability to adhere strictly to such schedules has the potential to add significant cost to the Project, which would provide no corresponding value to consumers. Once in operation, sound produced at the Converter Station as measured in nearby sensitive receptors will meet relevant standards.

Table 7-5: Town of Huntington Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Article III; Damage to Highways			
§ 173-12	<p>Operation of Certain Vehicles Prohibited No tractor, tractor crane, power shovel, farming equipment or other vehicle or conveyance equipped with metal lugs, chains or spiked wheels such that they threaten damage to the surface of a paved road shall be operated upon or over any Town highway.</p>	Existing Technology and Factor of Cost and Economics	<p>Applicant requests that the PSC refuse to apply the provisions of §173-12 which prohibit the operation of certain vehicles, conveyance equipment, or power shovels to the extent that it would prevent Applicant from employing standard construction techniques commonly used in projects similar to the Project for reasons that such prohibition would be unreasonably restrictive in light of existing technologies and factors of cost and economics. Installation of the HVDC cable will require applicant to perform dredging operations, transport lengths of cable, and other materials which will require the use of cranes and other vehicles which might threaten damage to the surface of roads. Prior to construction, Applicant will have received all necessary approvals through the Article VII process and prepared a comprehensive EM&CP addressing construction techniques, including protective measures for affected roadways, schedules, verification procedures, and appropriate remediation and restoration work. The additional restriction imposed by this local law may result in Applicant being required to obtain specialized equipment or alter construction methods in a manner that would increase costs without providing additional benefit to consumers. Because Applicant will comply fully with construction measures and remediation requirements set forth in the EM&CP, there will be no impact to the municipality from waiving this provision.</p>

Table 7-5: Town of Huntington Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Article II; Zoning Districts; Map; General Regulations			
§ 198-10	<p>General Restrictions, sets forth a number of restrictions regarding land use, including §§ 198-10 (A)-(F), which require that: (A) no land may be used except for a purpose permitted in the district in which it is located; (B) no building may be erected except for a purpose permitted in the district in which it is located; (C) no building shall be erected except in conformity with the area regulations in the district in which it is located; (D) no building shall be erected which exceeds the height limits established for the district in which the building is located; (E) no building shall be constructed, except in conformity with the off-street parking and loading regulations; (F) minimum lot areas shall not be reduced. In addition, §198-10(G) states:</p> <p>In no case shall the Planning Board approve more than one (1) main (principal) building on a lot where any of the main buildings is less than ten thousand (10,000) square feet or within one hundred (100) feet of a front property line and, in commercial zoning districts, within fifty (50) feet of any residence district boundary and, in the industrial zoning districts, within one hundred fifty (150) feet of any residence district boundary.</p>	Existing Technology and Factor of Cost and Economics	<p>Applicant requests that the PSC refuse to apply the height, area, and setback, provisions of §198-10, because, as applied to the Converter Station, such requirements would be unduly restrictive in light of existing technology. The Converter Station and facilities necessary to connect the Project to the existing Ruland Road Substation will be located in the R-40 district. Underground HVDC transmission cables will be located primarily within the bed of existing roadways and location of individual underground structures along the route will depend upon possible span lengths regardless of dimensional requirements. The Converter Station including all buildings, structures, roadways and boarder fencing will fully occupy the 3.1 acre (135,040 sq. ft.) parcel Poseidon has optioned. The area covered by structures (approximately 65%) within the Converter Station is the minimum possible given the demands of the chosen technology. The Converter Station Primary building will be 55 feet above grade and the next tallest structure will be 30 feet above grade, again heights dictated by existing technology. The size and configuration of the Converter Station and associated equipment have been determined on the basis of prudent engineering considerations, available alternative designs, and on factors of cost. Accordingly, it would be technically impossible to meet the maximum building height restrictions without resort to extra-ordinary and costly measures. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local height and area requirements.</p>
§ 198-12	<p>Screening and Buffer Area, sets forth a number of criteria relating to required or designated screening areas or buffer areas that must be maintained by the owner of the property.</p>	Existing Technology and Factor of Cost and Economics	<p>Applicant also requests that the PSC refuse to apply the screening and buffer requirements contained in §198-12 to the extent that they would require landscaping that is different than the landscaping approved in the Article VII conditions, because, as applied to the Converter Station, such requirements would be unduly restrictive in light of reliability criteria, security concerns and the needs of Applicant's customers, which are best met by enabling the Applicant to construct the Project and employ vegetation management and landscaping designs which are based on state law, reliability standards, and the experiences of similar facilities. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local requirements.</p>

Table 7-5: Town of Huntington Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Chapter 198. Zoning: Article III. Residence Districts			
§ 198-14	<p>R-40 Residence District, sets forth the uses specifically permitted in the R-40 zoning district. In addition, §§ 198-14 (B)-(E) specify the applicability, within the R-40 district, of regulations contained in Articles VII and VIII (Off-street parking and loading regulation); Article IX (Height, area and bulk regulation); and Article XI (Supplementary use regulations and conditionally permitted uses). Public utility buildings and structures are not specifically listed uses within this zoning district.</p> <p>The dimensional requirements for the R-40 district include a lot area of 1 Acre (43,560 square feet), a minimum lot width of 125 feet, front and rear yard depth of 50 feet, a minimum side yard depth of 25 feet, and a maximum building height of 35 feet.</p>	Existing Technology	<p>Applicant requests that the PSC refuse to apply the height, area, and bulk restriction detailed in Article VII and Article IX of the Town of Huntington zoning ordinance, for reasons of existing technology and availability of property. The portions of the Project located in these zoning districts will include portions of the underground HVDC transmission cables, together with associated facilities necessary to connect the spans. Applicant also requests that the PSC refuse to apply the minimum yard requirements. The Converter Station and facilities necessary to connect the Project to the existing Ruland Road Substation will be located in the R-40 district. Underground HVDC transmission cables will be located primarily within the bed of existing roadways and location of individual underground structures along the route will depend upon possible span lengths regardless of dimensional requirements. Moreover, the installation of the underground HVDC transmission cables will not change the dimensions of any lot or street used. The Converter Station including all buildings, structures, roadways and boarder fencing will fully occupy the 3.1 acre (135,040 sq. ft.) parcel Poseidon has optioned. The area covered by structures (approximately 65%) within the Converter Station is the minimum possible given the demands of the chosen technology. The Converter Station Primary building will be 55 feet above grade and the next tallest structure will be 30 feet above grade, again heights dictated by existing technology. The size and configuration of the Converter Station and associated equipment have been determined on the basis of prudent engineering considerations, available alternative designs, and on factors of cost. Accordingly, it would be technically impossible to meet the maximum building height restrictions without resort to extra-ordinary and costly measures. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local height and area requirements.</p>

Table 7-5: Town of Huntington Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Article VII; Off-Street Parking			
§ 198-43	General Requirements and Procedures, provides that no building in a zoning district shall be erected unless off-street parking spaces as specified in §198-47, the table of this article, or in another section of this chapter are provided for the entire premises. In addition, §198-45 states that parking requirements for uses not listed in §198-47 shall be the same as for a listed use of the same general characteristics of demand generation. Public utility structures are not specifically listed in §198-47.	Existing Technology	Applicant requests that the PSC refuse to apply the requirements of §198-43 in a manner that would require more than ten (10) parking spaces for the Converter Station Site, because such a requirement would be unreasonably restrictive based on factors of cost. The site of the Converter Station has been chosen based on a consideration of available parcels and proximity to points of interconnection. The size of the parcel is limited by the available land. The operation of the Converter Station will be automated and require only a minimum number of personnel at any given time, together with the intermittent presence of maintenance personnel. Applicant intends to provide sufficient parking spaces to accommodate such personnel; however, a requirement to construct additional parking facilities would be interfere with the design of the Converter Station and impose additional, unnecessary expense. Accordingly, the needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local height and area requirements.
Article IX. Height, Area and Bulk Regulations			
§ 198-55	Chart of height, area and bulk requirements, sets forth height, area and bulk requirements for the various districts, together with other height, area and bulk requirements contained elsewhere in the chapter.	Existing Technology and Factor of Cost and Economics	Applicant request that the PSC refuse to apply the requirements contained in §§ 198-55 and 198-56, which requires a maximum building height of 35 feet in the R-40 zoning district and limit permits for structures that exceed that limit by greater than 25 feet on the basis of current technologies and/ or factors of cost and economics. The configuration of the Converter Station is anticipated to have a maximum height greater than 55 feet. The configuration of the Project has been determined on the basis of prudent engineering considerations, available alternative designs, and on factors of cost. Accordingly, it would be technically impossible or unreasonably expensive to configure the Converter Station to meet the height restriction. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.
§ 198-56	Height exceeding specified building height, prohibits the issuance of any permit for any building where any structure appurtenant thereto, is designed to exceed the specified building height limit for the district by more than twenty-five (25) feet until the Town Board has reviewed and approved the site and building plans.		

Table 7-5: Town of Huntington Local Ordinance Waiver Requests

Chapter	Description	Statutory Basis	Justification for Waiver Request
Article XI. Conditional Uses; Supplementary Regulations			
§ 198-77	Landscaping and Screening, establishes criteria for landscaping and screening for the protection of residential areas from the adverse effects of nonresidential development resulting from the transmission of dust, glare and noise. A screening strip not less than ten (10) feet is required, and all other areas not used for structures, parking or loading areas must be planted with grass and shrubs.	Factors of Cost and Economics	Applicant request that the PSC refuse to apply the requirements contained in §§ 198-77 which may be perceived as requiring landscaping that is different that the landscaping approved in the Article VII conditions, because, as applied to the Converter Station, such requirements would be unduly restrictive in light of reliability criteria, security concerns and the needs of Applicant's customers, which are best met by enabling the Applicant to construct the Project and employ vegetation management and landscaping designs which are based on state law, reliability standards, and the experiences of similar facilities. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to waive these local requirements.
Article XIII. Performance Standards			
§ 198-87	Procedure for issuance of permits for uses subject to performance standards, requires that all public utility substations and generating plants comply with the performance standards set forth in this chapter.	Existing Technology and Factor of Cost and Economics	Applicant request that the PSC refuse to apply the requirements contained in §§198-87 through 198-89, which restrict noise levels and vibration to the extent that such restrictions will prevent the use of customary construction equipment and practices on the grounds that such local legal provision is unreasonably restrictive in view of the existing technology. During construction, Applicant will employ standard construction techniques and equipment commonly used to construct similar facilities, including motorized equipment for vegetation clearing , excavation, and the erection of structures. These activities typically produce composite noise levels between 80-90 decibels at a distance of 50 feet from the source and between 50 and 60 decibels at a distance of 1,000 feet from the source. Permanent noise sources will include only minor sources from routine inspections and maintenance of the facilities. The needs of consumers outweigh the impact on this municipality that would result from the PSC's refusal to apply these local requirements.
§ 198-89	Measurement of elements at lot line, sets forth specific performance criteria applicable to, inter alia, public utility substations and generating plants, as measured at any point inside the premises, including a maximum allowable vibration (§198-89A), and maximum allowable noise level (§198-89B). Maximum permissible sound-pressure levels for noise radiated continuously from an establishment between the hours of 10:00 p.m. and 7:00 a.m. range from 69 decibels at 20-75 cycles per second to 28 decibels at 4,800 to 10,000 cycles per second. If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., decibel levels may be adjusted up or down, depending upon the characteristic of the noise.		