

Empire Offshore Wind LLC

Empire Wind 1 Project

Exhibit 7

Local Ordinances

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ACRONYMS AND ABBREVIATIONS

| | |
|-----------------------|--|
| BOEM | Bureau of Ocean Energy Management |
| ConEdison | Consolidated Edison Company of New York, Inc. |
| CECPN | Certificate of Environmental Compatibility and Public Need |
| EM&CP | Environmental Management and Construction Plan |
| Empire, the Applicant | Empire Offshore Wind LLC |
| EW 1 Project | Empire Wind 1 Project |
| HVAC | high-voltage alternating-current |
| km | kilometer |
| kV | kilovolt |
| Lease | Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf OCS-A 0512 |
| Lease Area | BOEM-designated Renewable Energy Lease Area OCS-A 0512 |
| m | meter |
| mi | mile |
| M3 | Manufacturing 3 |
| MSGP | Multi-Sector General Permit |
| nm | nautical mile |
| NYCDOT | New York City Department of Transportation |
| NYCDEP | New York City Department of Environmental Protection |
| NYCRR | New York Codes, Rules and Regulations |
| NYISO | New York Independent System Operator, Inc. |
| NYSPSC or Commission | New York State Public Service Commission |
| POI | Point of Interconnection at the Gowanus 345-kV Substation |
| Project | EW 1 Project transmission facilities in New York |
| PSL | New York Public Service Law |
| SBMT | South Brooklyn Marine Terminal |
| SWPPP | Stormwater Pollution Prevention Plan |

EXHIBIT 7: LOCAL ORDINANCES

7.1 Introduction

Empire Offshore Wind LLC (Empire, or the Applicant) proposes to construct and operate the Empire Wind 1 (EW 1) Project as one of two separate offshore wind projects to be located within the Bureau of Ocean Energy Management (BOEM) designated Renewable Energy Lease Area OCS-A 0512 (Lease Area). The proposed transmission system for the EW 1 Project will connect the offshore wind farm to the point of interconnection (POI), and will include 230-kilovolt (kV) export and 345-kV interconnection lines traversing a total of approximately 17.5 miles (mi) (15.2 nautical miles [nm], 28.2 kilometers [km]) within the State of New York. An electric transmission line with a design capacity of 125 kV or more, extending a distance of one mile or more, is subject to review and approval by the New York State Public Service Commission (Commission or NYSPSC) as a major electric transmission facility. This application is being submitted to the Commission pursuant to Article VII of the New York Public Service Law (PSL) for the portions of the EW 1 Project transmission system that are located within the State of New York (collectively, the Project).

The Project will interconnect to the New York State Transmission System operated by the New York Independent System Operator, Inc. (NYISO) at the Gowanus 345-kV Substation (the point of interconnection, or POI). The Gowanus 345-kV Substation is owned by the Consolidated Edison Company of New York, Inc. (ConEdison). The Project's onshore facilities, including the onshore cable route, onshore substation, and the POI, are located entirely within Brooklyn, Kings County, New York.

The Article VII components of the EW 1 Project include:

- Two three-core 230-kV high-voltage alternating-current (HVAC) submarine export cables located within an approximately 15.1-nm (27.9-km)-long, submarine export cable corridor from the boundary of New York State waters 3 nm (5.6 km) offshore to the cable landfall in Brooklyn, New York;
- A 0.2-mi (0.3-km)-long onshore cable route and substation including:
 - Two three-core 230-kV HVAC EW 1 onshore export cables buried underground from the cable landfall either directly to the cable terminations or to a vault within the onshore substation;
 - An onshore substation located at the South Brooklyn Marine Terminal (SBMT), which will increase the voltage to 345 kV for the onshore interconnection cables; and
 - Two 345-kV cable circuits, each with three single-core HVAC onshore interconnection cables, buried underground from the onshore substation to the POI.

The Article VII regulations require the Applicant to “submit a list of all local ordinances, laws, resolutions, regulations, standards, and other requirements applicable to the proposed facility [collectively, “Local Ordinances”], together with a statement that the location of the facility as proposed conforms to all such local legal provisions, except any that the applicant requests that the Commission refuse to apply because, as applied to the proposed facility, such local legal provision is unreasonably restrictive in view of the existing technology, factors of costs or economics, or the needs of consumers.” 16 New York Codes, Rules and Regulations (NYCRR) § 86.8. This Exhibit addresses the requirements of 16 NYCRR § 86.8, as well as the applicability of PSL §130’s preemption of local and state approvals, consents, permits, certificates or other conditions (Niagara

Mohawk Power Corp., Opinion No. 93-17, 1993 N.Y. PUC LEXIS 25, *21-22, 33 NY PSC 885 (issued August 20, 1993) (finding “[s]tate and local laws and regulations that require approvals, consents, permits, certificates, or other conditions from the construction or operation of a utility facility (including those which afford agencies other than the Commission the discretion to apply their provisions) are inapplicable under PSL §130.”).

7.2 Local Ordinance Summary

The Project is proposed to be sited in Brooklyn, New York, a borough of New York City that is coterminous with Kings County. Kings County does not have independent regulations, codes, or policies because it is wholly governed by the City of New York. This Exhibit therefore identifies the substantive New York City Local Ordinance provisions that are applicable or potentially applicable to the Project. For technical codes to which the Project may be subject, this Exhibit summarizes their contents and affirms that the Applicant will comply with their substantive requirements.

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

Table 7.2-1 Summary of Local Ordinances

| Ordinance | Compliance or Request for Relief |
|---|---|
| New York City Zoning Resolutions | |
| Article IV, Chapter 2, Manufacturing District – Use Regulations | The Applicant will comply with the substantive requirements of this chapter. |
| Article IV, Chapter 2, Manufacturing District – Bulk Regulations | The Applicant will comply with the substantive requirements of this chapter. |
| Article VI, Chapter 2, Special Regulations Applying in the Waterfront Areas | The Applicant will comply with the substantive requirements of this chapter. |
| Article VI, Chapter 4, Special Regulations Applying in Flood Hazard Areas | The Applicant will comply with the substantive requirements of this chapter. |
| New York City Administrative Code | |
| Title 19, Transportation | The Applicant will comply with the substantive provisions of this title, as well as certain procedural requirements detailed below. |
| Title 24, Environmental Protection and Utilities | The Applicant will comply with the substantive and procedural requirements of this title as detailed below, except that the Applicant requests a waiver for certain requirements of § 24-223. |

| Ordinance | Compliance or Request for Relief |
|---|---|
| Title 27, Construction and Maintenance, Chapter 3 | The Applicant requests a waiver from these requirements as they are unreasonably restrictive in view of existing technology and economics, and because this Local Ordinance is not designed for the construction or operation of major electric transmission facilities. However, the Applicant will comply with the National Electric Safety Code for the construction and operation of all facilities, structures, and equipment. |
| Title 28, New York City Construction Codes | The Applicant will comply with the substantive requirements of the New York City Construction Codes as to all facilities, structures, and equipment on the Project site other than electric transmission facilities, structures, and equipment. |
| Title 28, New York City Fire Code | The Applicant will comply with the substantive provisions of this code. |
| Rules of the City of New York | |
| Title 1, Department of Buildings | The Applicant will comply with the substantive provisions of these rules, as well as certain procedural requirements detailed below. |
| Title 15, Department of Environmental Protection | The Applicant will comply with the substantive and procedural provisions of these rules, as detailed below, except that the Applicant requests a waiver from the requirements of § 8-01. |
| Title 34, Department of Transportation | The Applicant will comply with the substantive provisions of these rules, except that the Applicant requests a waiver from the requirements of § 2-06 for land contour work because it is unreasonably restrictive in view of factors of existing technology, costs and economics. The Applicant will comply with the substantive and procedural requirements of § 4-15. |
| Title 62, City Planning | The Applicant will comply with the substantive provisions of these rules. |
| Title 66, Department of Small Business Services | The Applicant will comply with the substantive provisions of these rules. |

7.3 New York City Local Ordinances

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

7.3.1 New York Zoning Resolution

The landed portion of the Project will be located within the M3-1 Zoning District, the Coastal Zone Boundary, and the Base Flood Elevation Area. Based on the definition of Zoning Lot provided in Article I, Chapter 2 § 12-10 of the New York Zoning Resolution, the Applicant considers the whole SBMT parcel (Brooklyn, Block 662, Lot 1) to be the Zoning Lot for the onshore substation.

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

§ 42-14 – Use Group 17

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

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

§ 42-21 – Performance Standards Regulating Noise

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

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

§ 42-22 – Performance Standards Regulating Vibration

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

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

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

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

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

§ 42-24 – Performance Standards Regulating Odorous Matter

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

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

§ 42-25 – Performance Standards Regulating Toxic Noxious Matter

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

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

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

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

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

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

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

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

7.3.1.2 Article IV, Chapter 2, Manufacturing District – Bulk Regulations**§ 43-12 – Maximum Floor Area Ratio**

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

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

§ 43-24 – Measurement of Yard Width or Depth

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

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

§ 43-26 – Minimum Required Rear Yards

This provision of the Zoning Resolution requires a rear yard with a depth of not less than 20 feet at every rear lot line on any zoning lot, except as otherwise provided in the Zoning Resolution. This provision also requires rear yards along portions of side lot lines as set forth in section 43-261.

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

§ 43-43 – Maximum Height of Front Wall and Required Front Setbacks

This provision of the Zoning Resolution sets forth the maximum height of the front wall, required front setbacks, and the maximum sky exposure plane for buildings and structures.

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

7.3.1.3 Article VI, Chapter 2, Special Regulations Applying in the Waterfront Areas**§ 62-30 – Special Bulk Regulations**

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

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

§ 62-326 – Buildings in Manufacturing District

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

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

§ 62-33 – Special Yard Regulations on Waterfront Blocks

This provision of the Zoning Resolution states that for developments in Manufacturing Districts comprised predominantly of uses in Use Group 16, 17, or 18, yards shall be provided in accordance with the applicable district regulations.

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

7.3.1.4 Article VI, Chapter 4, Special Regulations Applying in Flood Hazard Areas

§ 64-12 – Applicability

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

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

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

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

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

§ 64-31 – Special Bulk Regulations for All Buildings

This provision of the Zoning Resolution sets forth optional modification to special floor area regulations, permitted obstructions and special height and setback regulations for construction within flood zones.

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

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

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

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

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

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

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

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

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

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

7.3.2 New York City Administrative Code

7.3.2.1 Title 19, Transportation

§ 19-102 – Unlawful use or opening of street

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

The Applicant will obtain permits from the NYCDOT as required by this provision. In addition, the Applicant will provide notice to public service corporations as required by this provision, if work requiring such notice occurs.

§ 19-103 – Permits

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

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

§ 19-104 – Revocable consents

This provision of the Code requires that the issuance of revocable consents by NYCDOT be subject to the provisions of chapter 14 of the City Charter and applicable rules, which are set forth in Title 34, chapter 7.

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

§ 19-107 – Temporary closing of streets

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

The Applicant will comply with the substantive provisions of this section. Procedural requirements to obtain any local approval, consent, permit or certificate are pre-empted under PSL §130. However, the Applicant will provide at least three (3) days' advance notice to NYCDOT before closing any street to pedestrian or vehicular traffic.

§ 19-108 – Display of permit

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

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

§ 19-109 – Protection at work site

This provision of the Code requires that any person who removes, opens, or otherwise disturbs the pavement of or excavates in a public street, or uses any part of the public street so as to obstruct travel, shall provide barriers, shoring, lighting, warning signs, or other protective measures in accordance with the rules of the department, and these protective measures shall be maintained according to the rules until the work is completed or the danger removed. Legible signs must be displayed, indicating the names of the permittee, the person for whom the work is being done, and any contractors.

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

§ 19-111 – Curbs

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

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

§ 19-112 – Ramps on curbs

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

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

§ 19-113 – Construction generally

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

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

§ 19-115 – Paving, generally

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

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

§ 19-117 – Licensing of vaults

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

The Applicant will comply with the substantive provisions of this section and will be seeking a revocable consent from NYCDOT.

§ 19-118 – Construction

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

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

§ 19-119 – Vault openings; protection of

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

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

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

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

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

§ 19-122 – Removal of debris

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

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

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

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

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

§ 19-137 – Land Contour Work

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

The Applicant will comply with the substantive provisions of this section. The Applicant will prepare a Stormwater Pollution Prevention Plan (SWPPP) and obtain a Stormwater Construction Permit from NYCDEP and coverage under the State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-020-001). Other procedural requirements, including any requirement to obtain a local permit, are preempted under PSL §130.

§ 19-139 – Excavations for private purposes

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

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

§ 19-142 – Workers on excavations

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

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

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

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

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

§ 19-146 – Prevention of disturbances of street surface

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

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

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

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

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

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

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

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

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

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

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

7.3.2.2 Title 24, Environmental Protection and Utilities

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

§ 24-109 – Registrations

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

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

§ 24-123 – General requirements for applications for work permits, certificates of operation, and renewal of certificates of operation

This provision sets forth general requirements for applications for work permits, certificates of operation, and renewal of certificates of operation.

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

§ 24-125 – Standards for granting work permits

This provision states that no work permit shall be granted unless the applicant certifies that the equipment is designed and will be installed or altered to operate in accordance with the provisions of this code and with any applicable rules the commissioner may promulgate pursuant to this code; the equipment has been certified by a registered design professional to meet the current applicable federal, state and city emission standards; and all parts of the equipment can be readily cleaned and repaired.

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

§ 24-141 – Emission of odorous air contaminants

This provision states that no person shall cause or permit the emission of an odorous air contaminant or steam or water vapor, if the air contaminant or steam or water vapor causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or causes or may cause damage to property or business, or if it reacts or is likely to react with any other air contaminant or natural air, or is induced to react by solar energy to produce a solid, liquid or gas or any combination thereof which causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or which causes or may cause damage to property or business.

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

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

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

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

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

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

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

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

This provision states that no person shall cause or permit any material that may generate dust to be transported or stored without taking such precautions as may be ordered by the commissioner or as established by the rules of the department to prevent dust from becoming air-borne; no person shall cause or permit a building or its appurtenances or a road to be constructed, altered or repaired without taking such precautions as may be ordered by the commissioner or as established by the rules of the department to prevent dust from becoming air-borne; no person shall cause or permit any use, as defined by section 12-10 of the zoning resolution of the city of New York, to be implemented or maintained without taking reasonable precautions as established by the rules of the department, including, but not limited to, planting or covering, to prevent dust from becoming air-borne; no person shall cause or permit the spraying of any insulating material, not otherwise prohibited by this code, in or upon any building or other structure during its construction, alteration or repair, unless he or she complies with the rules of the department regarding precautions for the spraying of insulating material; and no person shall cause or permit a building or other structure to be demolished, unless he or she complies with the precautions set forth in this section.

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

§ 24-148 – Architectural coatings; solvents

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

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

§ 24-149.6 – Stationary engines

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

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

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

This provision requires that no person shall cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of the air contaminant which would otherwise violate subchapter six of this code.

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

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

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

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

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

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

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

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

§ 24-155 – Maintenance of equipment and apparatus

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

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

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

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

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

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

This provision requires that no person shall cause or permit the use of fuel burning equipment that uses fuel oil and is less than fully automatic, or the use of fuel burning equipment, whether fully automatic or not, that uses residual fuel oil, except under the direct supervision of a person having a certificate of fitness pursuant to the New York City Fire Code.

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

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

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

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

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

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

The Applicant will comply with the substantive provisions of this section. § 24-169 – Sulfur content of fuel restricted

This provision requires that no person cause or permit the use, storage, or transportation of (a) fuel oil grade no. 2 that contains more than the amount of sulfur set forth in section 19-0325 of the environmental conservation law or as provided by an executive order of the governor issued pursuant to such section or (b) residual fuel oil and fuel oil grade no. 4 that contains more than a certain percentage of sulfur by weight as set forth in this provision.

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

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

§ 24-218 – General prohibitions

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

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

§ 24-220 – Noise mitigation plan

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

The Applicant will comply with the substantive and procedural provisions of this section, except that the noise mitigation plan shall be filed with the Public Service Commission rather than NYCDEP and may be included as part of the EM&CP for the applicable Segment.

§ 24-221 – Alternative noise mitigation plan

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

The Applicant will comply with the substantive and procedural provisions of this section to the extent they are applicable to the Project, except that the noise mitigation plan shall be filed with the Commission rather than NYCDEP and may be included as part of the EM&CP for the applicable Segment.

§ 24-222 – After-hours and weekend limits on construction work. This provision of the Code limits construction work to weekdays between 7 a.m. and 6 p.m. After-hours work authorization may be obtained in certain circumstances set forth in § 24-223.

The Applicant will comply with the substantive provisions of this section, provided that the requirements in this section will be waived to the extent that certain work is expressly permitted by the Commission in the applicable Segment of the EM&CP.

Construction work outside the walls of buildings whose exterior walls and roof are substantially complete shall take place between 7:00 a.m. and 6:00 p.m. as required by this section. For certain construction phases and activities, additional work hours may be necessary. Nothing herein shall preclude the Applicant from making necessary arrangements for the extension of additional work hours with appropriate City authorities. Noise mitigation procedures shall follow those set forth in the approved EM&CP for the applicable Segment and shall not be less stringent than the citywide Construction Noise Mitigation Procedures set forth in Chapter 28 of Title 15 of the Rules of the City of New York. DPS Staff shall be notified at least twenty four (24) hours in advance if planned weekend, evening, or holiday construction becomes necessary. This condition is not intended to prohibit nighttime construction reasonably necessary to comply with restrictions on daytime construction on or along roadways or public access areas or to require the cessation of construction activities that require a continuous work effort once started. Construction vehicles used in New York City will be outfitted with smart back up alarms.

§ 24-223 – After hours work authorization

This provision of the Code authorizes agencies to issue an after hours work authorization which permits construction work to be performed before 7 a.m. or after 6 p.m. on weekdays and/or weekends under certain limited circumstances, including when planned construction activities will cause a minimal noise impact or

when the work hours will cause the permit holder undue hardship and the permit holder has obtained an alternative noise mitigation plan pursuant to § 24-221. Subsection (d) states that where there is full compliance with the noise mitigation plan yet aggregate sound levels from the site where an after hours authorization is in effect exceed 8dB(A) above the ambient sound level as measured in any residential receiving property dwelling unit, the Commissioner may request the person performing the work to confer with the Department regarding additional noise mitigation measures that may be employed, after which the Commissioner may direct amendment of the noise mitigation plan.

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

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

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

The Applicant will comply with the substantive provisions of this section, except that the noise mitigation plan shall be filed with the Commission rather than NYCDEP and may be included as part of the EM&CP for the applicable Segment.

§ 24-226 – Air Compressors

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

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

§ 24-227 – Circulation devices

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

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

§ 24-228 – Construction devices

This provision of the Code prohibits the use or operation of a construction device or combination of devices in such a way as to create an “unreasonable noise,” as defined in this provision.

The Applicant will comply with the substantive provisions of this section to the extent they are required by its noise mitigation plan, which shall be filed with the Commission rather than NYCDEP and may be included as part of the EM&CP for the applicable Segment.

Segment. To the extent the provisions of this section are outside the scope of the noise mitigation plan, the Applicant requests that the Commission not apply this section because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction and operation activities may result in transient and temporary occurrences of these conditions, and to the extent this section may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EMe&CP.

§ 24-228.1 – Exhausts

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

The Applicant will comply with the substantive provisions of this section to the extent they are required by its noise mitigation plan, which shall be filed with the Commission rather than NYCDEP and may be included as part of the EMe&CP for the applicable Segment. To the extent the provisions of this section are outside the scope of the noise mitigation plan, the Applicant requests that the Commission not apply this section because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction and operation activities may result in transient and temporary occurrences of these conditions, and to the extent this section may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EMe&CP.

§ 24-229 – Containers and construction material

This provision of the Code prohibits any person from handling, transporting, or causing to be handled or transported on any public right-of-way any container or construction material in such a manner as to create an unreasonable noise, as defined in this provision.

The Applicant will comply with the substantive provisions of this section to the extent they are required by its noise mitigation plan, which shall be filed with the Commission rather than NYCDEP and may be included as part of the EMe&CP for the applicable Segment. To the extent the provisions of this section are outside the scope of the noise mitigation plan, the Applicant requests that the Commission not apply this section because it is unreasonably restrictive in view of existing technology with regard to noise level limits to the extent that construction and operation activities may result in transient and temporary occurrences of these conditions, and to the extent this section may be interpreted as more restrictive than the conditions imposed by the Commission in its Article VII Certificate and its EMe&CP.

§ 24-230 – Paving breakers

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

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

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

This provision of the Code establishes maximum designated octave bands limits for commercial or business enterprises as measured within properties.

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

§ 24-236 – Motor vehicles

This provision states that no person shall cause or permit any motor vehicle to operate on a public right-of-way where the muffler or exhaust generates a sound that is plainly audible to another individual at a distance a certain distance, depending on the maximum gross weight of the vehicle. This provision also prohibits the use of compression brake systems on New York City streets with a speed limit of less than 35 miles per hour except in cases of emergency, and sets total sound limits from motor vehicles operating on public rights-of-way.

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

Title 24, Chapter 4 governs Gas and Electric Lines.

§ 24-415 – Conditions to granting permit for conduit construction; security

This provision of the Code provides that the commissioner will only grant a permit for conduit construction pursuant to § 24-404 if there is an existing demand for the construction, the occupation of such conduits is reasonably assured, and the public interests require their construction.

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

Title 24, Chapter 5 governs Drainage and Sewer Control

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

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

The Applicant will comply with the substantive and procedural provisions of this section that pertain to the submission of plans and specifications, guarantee of payment of the expense of supervision of such construction, payment of such supervision, and ownership of the connection.

§ 24-509 – Construction of sewers

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

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

§ 24-513 – Constructors; license and bond

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

The Applicant will comply with the requirement of this section that the constructor of any sewer connection be licensed as described in this section.

§ 24-514 – Sewer rents

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

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

§ 24-518 – Obstructing substances

It shall be unlawful for any person to permit any substance to flow or pass into any sewer, drain or receiving basin, connecting with a public sewer, if such substance may form a deposit tending to choke such sewer, drain or basin.

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

§ 24-519 – Volatile, flammable liquids

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

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

§ 24-520 – Steam and hot water

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

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

§ 24-520.1 – Non-stormwater discharges prohibited

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

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

§ 24-523 – Industrial waste; sewer surcharges

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

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

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

Chapter 5-A governs Water Pollution Control

§ 24-551 – Stormwater construction permit required

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

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

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

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

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

§ 24-554 – SWPPP to be retained on site

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

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

§ 24-555 – Recordkeeping

This provision of the Code requires that a developer keep and maintain records of all inspections and tests required to be performed pursuant to this subchapter and rules of the department, as follows: records of inspections and tests performed during construction must be maintained throughout construction and for 5 years after completion of construction; and records of post-construction inspections and tests must be maintained for 5 years after performance of such inspections or tests. Such records and tests shall be made available to the department in accordance with the rules of the department.

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

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

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

The Applicant will comply with the substantive and procedural requirements of this section, except that updates and changes to the SWPPP shall be subject to approval by NYSDEC.

§ 24-559 – Post-construction stormwater management facilities

This provision of the Code requires that, where post-construction stormwater management facilities are required, the department shall not issue a stormwater construction permit for the project until the execution and recording of a maintenance easement, which shall be binding on all subsequent owners of the real property served by such post-construction stormwater management facility, except where the corporation counsel has

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

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

§ 24-560 – Stormwater maintenance permit

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

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

§ 24-571 – Authority to enter and inspect

This provision of the Code requires that the department have authority to enter and inspect any premises or facility, or industrial stormwater source, including, but not limited to, their equipment, practices, operations and records, consistent with applicable law and in accordance with the rules of the department related to such entry and inspection, and shall, at a minimum, conduct inspection of industrial stormwater sources in accordance with the schedule and requirements for such inspections set forth in the NYC MS4 Permit.

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

§ 24-572 – Compliance with the Multi-Sector General Permit (MSGP)

This provision of the Code requires that all industrial stormwater sources comply with all applicable conditions of the MSGP.

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

§ 24-573 – Recordkeeping

This provision of the Code requires that industrial stormwater sources, upon the department's request or pursuant to rules of the department, submit to the department any information or records necessary to determine compliance with the MSGP and this subchapter and any rule promulgated pursuant thereto. Such

records may include, but need not be limited to, stormwater pollution prevention plans and reports of monitoring activities and results required pursuant to the MSGP.

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

7.3.2.3 Title 27, Construction and Maintenance

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

The procedural requirements of this Local Ordinance are pre-empted under PSL §130, but the Applicant will comply with the National Electric Safety Code for the construction and operation of all facilities, structures, and equipment.

7.3.2.4 Title 28, New York City Construction Codes

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

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

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

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

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

The Applicant will comply with the substantive requirements of the New York City Construction Codes as to all facilities, structures, and equipment on the Project site other than the electric transmission facilities, structures, and equipment.

The Applicant may, pursuant to §28-103.3 of the New York City Administrative Code, seek a variance or modification from the Commission of any requirement of the New York City Construction Codes where an equally safe alternative would be used, provided that the Applicant first consults with New York City Department of Buildings regarding such alternative.

7.3.2.5 Title 29, New York City Fire Code

Chapter 2 sets forth the New York City Fire Code, which governs the design, installation, operation and maintenance of devices, equipment, and systems designed to prevent, mitigate, control, and extinguish fire,

explosions, or other safety hazards. This chapter requires permits for various construction and maintenance activities, as well as for various building uses.

The Applicant will comply with the applicable substantive and procedural provisions of this Chapter and the corresponding Fire Department rules, including the provision of information to the Fire Department that is required to obtain work permits and approvals, except that the requirements to obtain work permits and approvals for the Project are preempted by PSL §130.

7.3.3 Rules of the City of New York

7.3.3.1 Title 1, Department of Buildings

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

The Applicant will comply with the applicable substantive provisions of this title.

7.3.3.2 Title 15, Department of Environmental Protection

Chapter 8 – Industrial Equipment

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

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

Chapter 11 – Hazardous Substances Emergency Response

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

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

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

§ 13-04 requires that every construction site undertake actions to control the amount of airborne dust released off site from construction operations, by wetting the construction material as necessary with appropriate spraying agents, provided wetting will not damage utility infrastructure or create any safety hazards. This section also requires that trucks and other vehicles used to transport particulate matter be covered and any particulate matter kept on site be sufficiently wetted or stored to prevent it from becoming airborne. This section further sets forth the method for the wet method dust control – for excavation jobs, a fine mist is deemed to be an adequate supply of water.

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 19 – Use of the Public Sewers

§ 19-02 prohibits any person from discharging into any storm sewer or into any catch basin or manhole any substance other than stormwater or allowable runoff. This section also prohibits any connection to the sewerage system without the written approval of the Commissioner. This section also prohibits any person from discharging, or cause to be discharged, directly or indirectly, groundwater into a public sewer without a groundwater discharge permit from the NYCDEP's Bureau of Customer Services; provided that no person shall discharge, or cause to be discharged, directly or indirectly, over 10,000 gallons per day of groundwater,

into a public sewer without a letter of groundwater quality approval from the NYCDEP's Bureau of Wastewater Treatment, a letter of approval contingent upon a review of the capacity and capabilities of the receiving sewer from the NYCDEP's Bureau of Water and Sewer Operations, and a groundwater discharge permit from the NYCDEP's Bureau of Customer Services. Finally, this section requires that any groundwater discharges to a storm sewer which discharges directly to a receiving water receive a State Pollution Discharge Elimination System permit, a non-jurisdictional determination letter, or such other written approval as may be required from the NYSDEC, in addition to a groundwater discharge permit from the NYCDEP's Bureau of Customer Services, and if over 10,000 gallons a day, a letter of approval contingent upon a review of the capacity and capabilities of the receiving sewer from NYCDEP's Bureau of Water and Sewer Operations.

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

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

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

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

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

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

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

Chapter 20 – Governing and Restricting the Use and Supply of Water

§ 20-01 requires permits for various activities relating to the use and supply of water, including the use of a hydrant, meter accuracy test, a meter attachment, meter disconnect for repair or change of piping, meter setting, meter testing, termination of service, relay, repair of, or thawing of service connection, tap installation, plug of prior tap, and wet connection installation.

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

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

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

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

The Applicant will comply with the substantive and procedural provisions of this section, including the requirements to obtain design approvals under this section.

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

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

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

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

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

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

Chapter 23 – Construction of Private Sewers or Private Drains

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

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

Chapter 28 – Citywide Construction Noise Mitigation

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

The Applicant will comply with the substantive and procedural provisions of this section, except that the requirement to file a Construction Noise Mitigation Plan with the NYCDEP is pre-empted under PSL §130.

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

The Applicant will comply with the substantive and procedural provisions of this section, except that the requirement to file a Construction Noise Mitigation Plan with the NYCDEP is pre-empted under PSL §130.

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

The Applicant will comply with the substantive and procedural provisions of this section, provided that the requirements in this section will be waived to the extent that such work is expressly permitted by the Commission in the applicable Segment of the EM&CP or is authorized by the PSC or DPS Staff.

§ 28-107 requires that noise barriers be used for all construction projects and sets forth the design options and specifications for noise barriers.

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

§ 28-108 sets forth requirements for temporary or portable noise barriers.

The Applicant will comply with the substantive provisions of this section to the extent applicable to the Project.

Chapter 31 – Rules Governing House/site Connections to the Sewer System

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

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

Chapter 57 – Rules Concerning Drilling and Excavation

§ 57-03 – Standards for Drilling and Excavation

This provision prohibits any person from drilling or excavating in a corridor within the City of New York to certain depths, or to any depth within 200 feet horizontal distance of a water tunnel shaft, without obtaining a permit from the Department.

The Applicant will seek a variance from the requirements of this section for the offshore cable installation pursuant to § 57-07.

§ 57-04 – Application for Drilling and Excavation Permit

This provision sets forth the requirements for obtaining a drilling and excavation permit as required by § 57-03.

The Applicant will seek a variance from the requirements of this section for the offshore cable installation pursuant to § 57-07.

§ 57-05 – Issuance of Drilling and Excavation Permit

This provision sets forth the general permit conditions for a drilling and/or excavation permit. § 57-05(a)(1) prohibits drilling and/or excavation within a corridor and inside the No Drilling and/or Excavation zone, unless a variance is sought pursuant to § 57-07.

The Applicant will seek a variance from some of the requirements of this section for the offshore cable installation pursuant to § 57-07. The Applicant will comply with the substantive and procedural provisions of this section as required by the variance.

§ 57-06 – Assumption of Risk, Indemnification, and Insurance

This provision states that the permittee and contractor assume the risk of, and shall be responsible for, any loss or damage to property of the City of New York or the Water Board arising out of or related to operations for which the Department has issued a permit. This provision also requires that the permittee and contractor indemnify the City of New York and Water Board against claims arising out of or related to operations for which the Department has issued a permit, and/or the permittee's and/or contractor's failure to comply with the requirements of the permit. Finally, this provision sets forth insurance requirements for the permittee.

The Applicant will comply with the substantive and procedural requirements of this section to the extent applicable to the Project.

§ 57-07 – Variance Requests

This provision states that the Department may, upon written request from any owner who is subject to these rules, grant a variance from § 57-05(a)(1), and sets forth the requirements for variance requests.

The Applicant will comply with the substantive and procedural requirements of this section and will seek a variance for the offshore cable installation.

7.3.3.3 Title 34, Department of Transportation

Chapter 2 – Highway Rules

§ 2-05 – Construction Activity

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

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

§ 2-06 – Land Contour Work

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

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

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

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

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

§ 2-11 – Street Openings and Excavations

This provision requires that permittees and owners of underground facilities comply with State of New York Industrial Code Rule 53 relating to Construction, Excavation and Demolition Operations at or near Underground Facilities. Permittees also must bear the expense of taking all necessary precautions to protect pipes, mains, conduits, and other appurtenances. The Police Department and the Communications Centers of the Fire Department and the NYCDOT must be notified at least twenty-four hours in advance of non-emergency construction operations which require street closing permits. The pre-cutting of pavement wearing course and base is required for all pavement removal. This provision also requires the sheeting and bracing of every open excavation five feet or more in depth. Office of Construction Mitigation and Coordination stipulation or Commissioner approval is necessary to obstruct more than one lane of traffic. Any unattended street opening or excavation must be plated. If traffic must be diverted to another lane, the permittee must provide either a flagperson or an authorized plan for the maintenance and protection of traffic at the point

where traffic is diverted to assist motorists and pedestrians. This provision also regulates worksite maintenance, storage of materials, backfill and compaction, plating and decking, base, wearing course, concrete pavements, color coding at each excavation, and the quality control program requirement for roadways. Finally, the permittee must maintain a street opening location form to be presented upon request.

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

§ 2-13 – Vaults

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

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

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

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

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

Chapter 4 – Traffic Rules and Regulations

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

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

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

7.3.3.4 Title 62, City Planning

Chapter 4 – Procedures for New York City Waterfront Revitalization Program (WRP) Consistency Review by the City Coastal Commission and the Department of City Planning

This chapter sets forth the procedures applicable to the review of actions located within the Coastal Zone Boundary. Projects subject to City Environmental Quality Review within the Coastal Zone Boundary must be reviewed by the Department of City Planning, Waterfront and Open Space Division, for consistency with Waterfront Revitalization Program policies.

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

7.3.3.5 Title 66, Department of Small Business Services

§ 2-11 – Hazardous, Flammable or Explosive Substances

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

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