

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : **APPLICATION NO. FM-201300017**
THE DEPARTMENT OF ECONOMIC : **AUGUST 1, 2013**
AND COMMUNITY DEVELOPMENT-
FLOOD MANAGEMENT CERTIFICATION
EXEMPTIONS - STAMFORD

FINAL DECISION

I

SUMMARY

On July 23, 2013, the Department of Economic and Community Development (DECD) and the Department of Energy and Environmental Protection (DEEP) filed the attached Joint Findings of Fact and Conclusions of Law for my review and consideration. ([Appendix 1.](#)) Regs., Conn. State Agencies § 22a-3a-6(1)(3)(A). I have reviewed this submission, the record and the relevant law in this matter. I find that the Application filed by DECD for exemptions for certain flood management exemptions pursuant to General Statutes § 25-68d(d) and related to the construction of a headquarters for the Bridgewater Associates, LP (the Proposed Development) on approximately fourteen acres of land on a peninsula in Stamford Harbor (the Property) satisfies the applicable statutory standards. Furthermore, I find that the parties' Joint Findings of Fact and Conclusions of Law, as modified ([Appendix 2A](#) and [Appendix 2B](#)¹) and supplemented herein, satisfactorily conveys the factual findings and legal conclusions necessary to support my recommendation. I adopt the modified Joint Findings of Fact and Conclusions of Law as part of this Final Decision.

¹ A redlined version of the parties' joint filing is attached as Appendix 2B. I note that strikeouts in this document do not necessarily indicate that a statement is incorrect or unsupported by the record, just that certain statements were not necessary to this decision. Text in green has been relocated within the document without its content being altered.

The DEEP has prepared draft exemptions authorizing the Proposed Development. ([Appendix 3.](#)) The record and these draft exemptions reflect its consideration of all the relevant criteria set forth in the applicable statutes and regulations governing the proposed activity. If conducted as proposed and in accordance with the terms and conditions of the draft exemptions, the regulated activities will be in the public interest, will not injure persons or damage property, and will comply with the requirements of the National Flood Insurance Program. DECD’s request for exemptions from the provisions General Statutes § 25-67d(b)(4) and Regs., Conn. State Agencies § 25-68h-2(d)(1) is granted.²

II

DECISION

A

FINDINGS OF FACT

I find the following facts in addition to those set forth by the parties in their joint filing.

1. Nelson Tereso, who holds a degree in engineering, and Craig Lapinski, a professional engineer, both filed written testimony on behalf of the DECD. DECD’s submissions also included a letter prepared by Kirk Bosma of the Woods Hole Group, a professional engineer who holds a master’s degree in coastal engineering. Colin Clark, a professional engineer, filed written testimony on behalf of DEEP. Mr. Tereso, Mr. Lapinski, and Mr. Clark were qualified as expert witnesses; their testimony was uncontradicted. (Exs. DECD-2, 4, 11-12, DEEP-1, 7-8.)
2. Most of the Property, including where the proposed office building will be constructed, is in an area designated as a “community center” by the State Plan of Conservation and Development. The

² I have been delegated the authority to issue a final decision in this matter. Delegation of Authority § VIII, F.4.c.iii. Daniel C. Esty, July 12, 2011.

remaining portions of the Property are adjacent to areas identified as a “community center” on the State Plan of Conservation and Development. (Ex. DECD-13.)

3. Environmental remediation is being performed on the Property.

Currently, there is hot spot remediation that is being performed. [22a-133k] is also known as the Remediation Standard Regulations and work is complying with the Remediation Standard Regulations under the supervision of a Licensed Environmental Professional. So right now what is going on is hot spots. Permission has been received from the City of Stamford for hot spot remediation only. And in the future, once all applicable approvals have been received and the site is developed, remaining impacted soils will be excavated and removed from the site and the building itself and the development itself will act as an integral part of the remediation by capping remaining impacted soils and rendering them environmentally isolated and inaccessible.

(Test. 6/24/13, C. Lapinski.)³

4. Other permits and permissions will be required. These include: including a structures dredging and fill permit for estuary work; a sedimentation forebay and proposed crossing into Kosciuszko Park; a structures dredging and fill permit to fill the existing travel lift well; a Certificate of Permission to re-establish the marina on eastern side of the Property; and a separate structures dredging and fill permit for the proposed barge and helicopter pad. Several local approvals are also required, including from the Stamford Planning and Zoning Commission and other Stamford boards and commissions which will review aspects of the Proposed Development. Approvals or permission will be required from the Office of State Traffic Administration and the Army Corps of Engineers.

(Test. 6/24/13, C. Lapinski, N. Tereso.)

5. On behalf of DECD, Mr. Bosma evaluated potential hazards to persons and adjoining property, including the Ponus Yacht Club, and made certain recommendations to address these potential

³ The testimony and proceedings in this matter were recorded; no written transcript has been prepared.

hazards. Plans for the Proposed Development were revised as a result of Mr. Bosma's recommendations. (Ex. DECD-2).

6. A flood contingency plan has been prepared and submitted which is intended to mitigate the risk of personal injury or property damage. This contingency plan was reviewed by DEEP staff and modified by DECD to address DEEP staff's comments. Site design measures to ensure safe and dry egress from the site in the event of a flood have also been incorporated into plans for the Proposed Development. (Exs. DECD-1, 8.)
7. Mr. Tereso, Mr. Lapinski and Mr. Clark testified that the Proposed Development will comply with the provisions of the National Flood Insurance Program. (Exs. DECD-4, DEEP-7, see also ex. DECD-1.)
8. DEEP staff has advised DECD and the owner of the Property that increased flood insurance premiums may result from the location of the Proposed Development. (Ex. DEEP-7.)

B

CONCLUSIONS OF LAW

I

SCOPE OF REVIEW UNDER GENERAL STATUTES § 25-68d

When considering whether to grant a flood management certification exemption, I am limited by the specific statutory criteria set forth in General Statutes § 25-68d(d). That section states, in relevant part, that,

[t]he commissioner may approve or approve with conditions such exemption if the commissioner determines that . . . the agency has shown that the activity or critical activity is in the public interest, will not injure persons or damage property in the area of such activity or critical activity, complies with the provisions of the National Flood Insurance Program, and, in the case of a loan or grant, the recipient of the loan or grant has been informed that increased flood insurance premiums may result from the activity or critical activity. An activity shall be considered to be in the public interest if it is a

development subject to environmental remediation regulations adopted pursuant to section 22a-133k and is in or adjacent to an area identified as a regional center, neighborhood conservation area, growth area or rural community center in the State Plan of Conservation and Development pursuant to chapter 297. . . .

General Statutes § 25-68d(d). My review of the Proposed Development, the record developed during the hearing process, and public comment is constrained to these criteria and only these criteria.

A great deal of public comment, both in writing and at the public hearing, questioned whether the Proposed Development was an appropriate use of the Property. However, this issue is not properly the subject of this application for flood management certification exemptions and therefore is not within my authority to decide. It should also be noted that this decision is neither the only approval required nor the final opportunity for public comment on the Proposed Development. Issues outside this review may well be within the jurisdiction of a different administrative agency tasked with approving a certain aspect the Proposed Development.

2

EXPERT TESTIMONY

I rely upon the testimony and materials submitted by Mr. Tereso, Mr. Lapinski, Mr. Bosma and Mr. Clark as expert testimony. “An administrative agency is not required to believe any of the witnesses, including expert witnesses... but it must not disregard the only expert evidence available on the issue” *Bain v. Inland Wetlands Commission*, 78 Conn. App. 808, 817 (2003). “The trier of fact is not required to believe un rebutted expert testimony, but may believe all, part or none of such un rebutted expert evidence.” *Bancroft v. Commissioner of Motor Vehicles*, 48 Conn. App. 391, 405 (1998). In this instance, I find the uncontradicted expert testimony of Mr. Tereso, Mr. Lapinski, Mr. Bosma and Mr. Clark to be credible and reliable.

The substantial evidence rule governs judicial review of administrative fact finding under General Statutes (Rev. to 1987) § 4-183(g). . . . An administrative finding is supported by 'substantial evidence' if the record affords a substantial basis of fact from which the fact in issue can be reasonably inferred. . . . In determining whether an administrative finding is supported by substantial evidence, a court must defer to the agency's assessment of the credibility of the witnesses and to the agency's right to believe or disbelieve the evidence presented by any witness, even an expert, in whole or in part. . . .

(Citations omitted; internal quotation marks omitted.) *Connecticut Bldg. Wrecking Co.* 218 Conn. at 580, 593 (1991). The expert testimony of Mr. Tereso, Mr. Lapinski, Mr. Bosma and Mr. Clark affords a substantial basis of fact from which I can determine compliance with General Statutes § 25-68d(d). To the extent that specific factual findings, conclusions of law or conditions of approval as set forth in the attached joint filing as modified ([Appendix 2A](#)) and the draft exemptions ([Appendix 3](#)) are based upon evidence and the expert testimony of Mr. Tereso, Mr. Lapinski, Mr. Bosma and Mr. Clark, those findings, conclusions and conditions are supported by substantial evidence in the record.

3

THE PROPOSED DEVELOPMENT IS IN THE PUBLIC INTEREST

The Proposed Development is in the public interest because it is in, or is adjacent to, an area designated as a “regional center” by the State Plan of Conservation and Development and is undergoing remediation pursuant to the standards set forth in Regs., Conn. State. Agencies §§ 22a-133k-1 through 22a-133k-3, known as the Remediation Standard Regulations (RSRs). General Statutes § 25-68d(d) states, “[a]n activity *shall be* considered to be in the public interest if it is a development subject to environmental remediation regulations adopted pursuant to section 22a-133k and is in or adjacent to an area identified as a regional center . . . in the State Plan of Conservation and Development. . . .” (Emphasis added.) When the

word “*shall*” is used by the legislature in such a way that it “relates to a matter of substance” then “the statutory provision is mandatory.” *Fidelity Trust Co. v. BVD Associates*, 196 Conn. 270, 278 (1985). There is substantial evidence in the record which demonstrates that the Property is in or adjacent to an area designated as a “regional center” and the Property is being remediated pursuant to the standards set forth in the RSRs. The Proposed Development is in the public interest.

Some members of the public commented that this remediation is being performed only because it was required by the General Statutes § 22a-134, known as the “Transfer Act.”⁴ However, the RSRs specifically state that those regulations, “apply to any action taken to remediate polluted soil, surface water or a ground-water plume at or emanating from a release area which action is: (1) required pursuant to Chapter 445 or 446k of the General Statutes . . .” which includes the Transfer Act. Regs., Conn. State Agencies § 22a-133k-1(b). Standards contained in the RSRs apply to the remediation even if it is being performed as a result of the requirements of the Transfer Act. Clean up of the Property is ongoing and is being conducted under the supervision of a Licensed Environmental Professional, a requirement of the RSRs. There is substantial evidence in the record which demonstrates that the Proposed Development is a development subject to the RSRs. Based on the substantial evidence in the record, I conclude that the Proposed Development is in the public interest.

In their joint filing, the parties set forth several additional reasons why they consider the Proposed Development to be in the public interest, including: the creation of jobs and other economic benefits to Stamford and the State; the incorporation of Low Impact Development methodologies in designing the proposed stormwater management system; public access and connectivity to Kosciuszko Park; operation of a waterfront marina; and construction of a tidal wetland system within the East Creek Estuary. In their

⁴ At the time of this decision, Public Comment was available online <http://www.ct.gov/deep/cwp/view.asp?A=2586&Q=523544>. Should public comment no longer be available online, it is available by contacting the Office of Adjudications.

comments, members of the public argued that these benefits were not significant enough to constitute a “public interest.” Many also argued that the economic benefits claimed by DECD were unrealistic or exaggerated. The Proposed Development is in the public interest for the reasons stated above. I need not determine if any of these factors also satisfy the “public interest” criteria of General Statutes § 25-68d(d).

4

THE PROPOSED DEVELOPMENT WILL NOT INJURE PERSONS OR DAMAGE PROPERTY

There is substantial evidence in the record which indicates that the Proposed Development will not injure persons or damage property. In addition to the facts and law set out in the parties’ joint filing, the record includes Mr. Bosma’s report and subsequent plan revisions, the flood contingency plan and measures undertaken to ensure safe, dry egress from the Property. I conclude that there is substantial evidence that the development will not injure persons or damage property, as required by General Statutes § 25-68d.

5

THE PROPOSED DEVELOPMENT COMPLIES WITH THE NATIONAL FLOOD INSURANCE PROGRAM

I conclude that there is substantial evidence in the record, specifically the testimony of Mr. Tereso, Mr. Lapinski and Mr. Clark, that the Proposed Development will comply with the provisions of the National Flood Insurance Program, satisfying that requirement of General Statutes § 25-68d.

6

THE RECIPIENT OF THE GRANT HAS BEEN INFORMED THAT INCREASED FLOOD INSURANCE PREMIUMS MAY RESULT

General Statutes § 25-68d requires that the owner of the Property be informed that increased flood

insurance premiums may result from the location of the Proposed Development. There is substantial evidence in the record that DEEP staff provided this information to the owner of the Property.

III

CONCLUSION

The Application meets the relevant statutory and regulatory criteria for the grant of exemptions from statutory and regulatory requirements regarding the location of an intensive use and storage of certain materials within a floodplain. This conclusion is supported by substantial evidence in the record, including uncontradicted expert testimony, as well as other evidence as set out in the parties' Joint Filing of Facts and Conclusions of Law and this decision. I grant the DECD exemptions from Conn. Gen. Stat § 25-68(b)(4) and Regs., Conn. State Agencies § 25-68h-2(d)(1).



Brendan Schain, Hearing Officer

APPENDIX 1



Connecticut Department of Economic and Community Development

Connecticut
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IN THE MATTER OF

: APPLICATION NO.: FM-201300017

**DEPARTMENT OF ECONOMIC AND
COMMUNITY DEVELOPMENT
– STAMFORD FLOOD MANAGEMENT
EXEMPTION**

: July 24, 2013

PROPOSED FINDING OF FACTS

A. Project Overview

The Connecticut Department of Economic and Community Development (DECD – the “Applicant”) is working with Harbor Point Development in supporting Bridgewater Associates’ proposed new corporate headquarters expansion in Stamford, CT. This approximately 14-acre property is situated at the foot of Bateman Way in Stamford, Connecticut. The site is a timber and riprap-reinforced peninsula extending into the Stamford Harbor, between the West Branch of Stamford Harbor to the west and East Creek to the east (the “site”). The elevation of the site ranges from approximately 7 to 11 feet (NGVD 29) with the lowest areas being located in the northwestern corner and along the edges of the site. At the time of application submittal, the 100-year coastal Federal Emergency Management Agency (FEMA) floodplain elevation at the site was 12.1 feet or 13.1 feet (NGVD 29) depending on the location at the site. As of July 8, 2013, new FEMA flood mapping became effective / current and revised the floodplain elevation at the site to 14.1 feet (NGVD 29).

The proposed construction activities at the site include the following:

- Construction of a five-story office building atop a three story parking garage to be used as the future corporate headquarters for Bridgewater Associates.
- Construction of a new access road from Pacific Street Extension and re-construction of Bateman way to provide access to the parking garage.
- Construction of new walkways within the private site as well as in public areas to enhance public access, such as along the bulkhead. This will include connectivity to Kosciusko Park, which is a large City-owned public park located east of the site.
- Construction of associated site improvements including fences, walls, pathways, utilities, and other appurtenances.

Connecticut General Statute (CGS) Section 25-68c authorizes the Commissioner of the DEEP to regulate actions by state agencies that affect floodplains. "Proposed state action" has been defined by Statute to include, "any state or federal grant or loan proposed to be used to fund a project that affects land use." Because the DECD, a state agency, intends to partially fund the Bridgewater project, which is located within a FEMA designated floodplain, they are required to seek authorization for that funding activity by applying for a Flood Management Certification (FMC) authorization from DEEP.

B. Application Procedural History

On December 17 of 2012, DECD submitted the FMC application (DECD-1) to DEEP. During the sufficiency and technical review of the submitted materials, it was determined that the project did not meet standards established by Connecticut Flood Management Statutes and by the Regulations of Connecticut State Agencies (RCSA). Specifically, the application did not meet CGS Section 25-68d(b)(4), which requires that proposed activities promote long-term nonintensive floodplain use, and RCSA Section 25-68h-2(d)(1), which prohibits storage of materials which could be injurious to human, animal, or plant life below the base flood for a critical activity.

Two Notice of Deficiency (NOD) letters dated January 14, 2013 (DEEP-2) and March 1, 2013 (DEEP-3), were issued to DECD notifying them of the statutory and regulatory provisions in addition to other technical deficiencies. DECD was advised to submit a request for exemption from those specific statutory and regulatory provisions as permitted by CGS Section 25-68d(d) and to specify how they meet the provisions of that same Section. DECD subsequently submitted a request for exemption on February 21, 2013 (DECD-2), from those statutory and regulatory requirements in their response to the first NOD letter.

On April 26, 2013, DEEP issued a Notice of Tentative Determination (DEEP-5) to approve the exemption application pursuant to CGS Section 25-68d(d). The statute requires that any tentative decision to approve or deny exemption requests be subject to a public notice and 30 day comment period and, in addition, allow for the opportunity for a public hearing.

On April 29, 2013, a notice for a Status Conference was issued by the Hearing Officer Brendan Schain and the parties were informed of the Office of Adjudication Email Filing and Documents Policy.

A Status Conference was held on May 7, 2013 during which the parties were named, dates for a site visit, pre-hearing conference and hearing were scheduled, and procedural directives for the parties were issued.

A Pre-hearing Conference was held on June 5, 2013. At this conference the Hearing Officer together with the parties, reviewed the issues presented for adjudication, considered the parties' proposed witnesses and exhibits, confirmed dates for the hearing and discussed outstanding matters in preparation for the hearing.

A public hearing was held on June 19, 2013 at 6 PM, at the Gen Re Auditorium on the University of the University of Connecticut Stamford Campus. Prior to the evening hearing, a site visit at the location of the proposed development located at the foot of Bateman Way, Stamford, CT was held. All parties, including members of the public, were present at the site. During the site visit, the characteristics and features of the site were viewed and the locations of all important project components were identified. The purpose of the evening hearing was to describe the Applicant's proposal and provide an opportunity for public comment. The Hearing Officer made brief opening remarks regarding the agenda and the procedures for public comment. DECD staff made brief opening remarks regarding its FMC statutory and regulatory requirements along with discussing why the project is considered to be in the public interest. The Applicant's engineer, Craig Lapinski, P.E., presented an overview of the Applicant's proposal that is the subject of the FMC application. DEEP staff presented a summary of their FMC application review and administrative process. Following the presentations the remainder of the evening hearing was reserved for receiving public comments.

In addition to receiving oral and written comments during the evening of the public hearing, DEEP received comments via email during the 30-day public comment period from the Stamford Harbor Management Commission, Connecticut Fund for the Environment, Cynthia Reeder, Matthew Ruhnke, Guy Adams, and Tim Rath. Those comments were submitted for the record via an email on June 20, 2013, from Colin Clark of the DEEP Inland Water Resources Division to the Hearing Officer Brendan Schain. All written public comments received were made available for review on DEEP's website.

C. Proposed Flood-Proofing Measures

The project will comply with the current (effective) FEMA Flood Insurance Rate Map (FIRM) dated July 8, 2013. As depicted on this map, the development is located within a Special Flood Hazard Area designated as an AE flood zone. The elevation of the AE Zone on the FIRM is also known as the Base Flood Elevation (BFE). Within an AE zone, a structure's lowest floor (including basement) must be elevated to a foot above the BFE (i.e, the "BFE+1"). The BFE+1 is also referred to as the "Minimum Elevation Standard" in the City of Stamford *Flood Prone Area Regulations*.

Although BFE's for the site were lower at the time of application submittal and review, DEEP required that the applicant comply with proposed elevations and FEMA mapping that were considered preliminary and under review at the time of application submittal. Under the newly revised and now effective mapping, the BFE is 14.1' NGVD 29 (13' NAVD 88). Therefore, the BFE+1' for the same zone is 15.1' NGVD 29 (14' NAVD 88).

Various grading and elevation revisions proposed as part of the development will likely affect the current FIRM. As a condition of approval, the Applicant will obtain a Letter of Map Revision (LOMR) from FEMA for the expected changes to the existing Special Flood Hazard Area boundary resulting from the project. The proposed building will not be constructed within the coastal velocity zone (designated as the "VE" zone).

The source of flooding at this location is the Long Island Sound. As such, there is no Regulatory floodway associated with the site. Since potential flooding is coastal rather than riverine in nature, there is no need to provide compensatory storage.

Proposed drainage conditions will generally mimic the overall existing drainage patterns. The buildings and structures will be designed with low-impact strategies, including those focused on providing a natural transition to the surrounding environments. Nearly the entire property will include open grass or landscaped space, including green roofs over the buildings and parking structures. To this end, sheet flow off the property is promoted wherever possible.

The parking garage will be designed to withstand hydrostatic, hydrodynamic, and buoyancy forces associated with the base flood event, and/or will include vents, louvers, or water relief valves to facilitate equalization of hydrostatic forces due to floodwaters. The garage will be designed to minimize flood damage and will not include interior finish materials. Electrical and mechanical utilities, machinery and equipment supporting the development will be placed at least one foot above the new base flood elevation. Site utilities will be designed to prevent water from entering during the base flood. Potable water and sanitary sewage systems will be designed to minimize infiltration or discharge. Vehicular and pedestrian egress is available from the upper levels of the garage during the base flood.

The proposed project includes non-intensive floodplain uses as cited in CGS 25-68d. Only non-critical activities and/or water-dependent uses such as parking, storage, public walkways, and a marina are proposed below the base flood elevations. Other uses such as office space are well above the elevation of the regulatory floodplain and will be provided with safe egress to upland areas. The presence of this development, built with consideration given to flooding and flood-proofing, will serve to preempt future, intensive use development at this prime urban location.

Construction and post-construction Flood Contingency Plans have been prepared for the property, and will be implemented during and after construction. These plans include weather monitoring procedures, as well as procedures to be followed by site personnel in the event of a flood.

D. Design Requirements

Site utilities will be designed to prevent water from entering during the base flood as follows:

- Stormwater drainage systems from the building will be fitted with high-overflows to allow hydraulic release of collected stormwater from the building envelope.
- Potable water and sanitary sewage systems will be designed to minimize infiltration or discharge.
- Electrical service, HVAC equipment, including transmission, transformers, switchgears, furnaces, breakers, and other appurtenances for building supply and function will be installed on or above floor P-1 (El. 24' NGVD 29), which is approximately 8.9' above the BFE+1.

Regarding occupied parking spaces, the lowest floor used for office space in the proposed structure will be elevated above the BFE+1 (Floor "L-1", with finished floor at Elevation 35' NGVD 29). In addition, the entrances to the building will either be constructed above the BFE+1, or will be protected by a passive measure of flood protection. The entrances below floor L-1 include the following:

- The main entrance to the site and building will enter at Parking Level P1 via the Upper Entrance Road. This entrance will be constructed well above the base flood elevation, and will interface with the building at approximately Elevation 24' NGVD 29 (Approximately 8.9' higher than the BFE +1).
- Outside of the proposed entrance tunnel to Parking Level P-2, the Lower Entrance Road has been graded to provide a high point of elevation 16.02 ' NGVD 29 at the crown and elevation 15.54 ' NGVD 29 at the gutter line. Thus, the entrance to P-2 will be passively flood-proofed.
- A pedestrian entrance and a vehicular entrance along the west facade of the parking garage, and one pedestrian entrance along the east facade will each be passively flood-proofed with a surrounding flood wall enclosure raised to the BFE+1'. A ramp system inclining up and over the flood walls will provide safe access to and from each of the parking garage entrances.

CONCLUSIONS OF LAW

All issues identified for adjudication in the prehearing conference summary were addressed. The hearing record contains ample evidence and testimony that the application is complete and that the applicant has satisfied the criteria contained in CGS 25-68(d) to obtain an exemption from the flood management certification requirements of CGS 25-68d(b)(4), which requires that proposed activities promote long-term nonintensive floodplain use, and RCSA Section 25-68h-2(d)(1), which prohibits storage of materials which could be injurious to human, animal, or plant life below the base flood for a critical activity.

The applicant proposes to follow a proposed Flood Contingency Plan, which among other guidelines, provides an allowance for such materials to remain within the 500-year flood plain until reasonable assessment of impending flooding events determines removal is required.

A preliminary Construction Flood Contingency Plan has been prepared for the proposed site. This plan will be finalized upon preparation of the final construction plans and sequencing of the development. The actions contained within shall be performed when the National Weather Service issues warnings, watches, or alerts for severe weather events (i.e., coastal flooding, tropical storms, or hurricanes) for the Stamford area.

During construction, the person responsible for implementing this Plan is the Contractor responsible for oversight of construction activities at the site. The Contractor shall notify the Applicant of any impending significant weather event as soon as practicable and, if possible, no less than twenty four (24) hours before the onset of storm surge, significant precipitation, or high winds associated with a large hurricane or nor'easter. With such impending events, the Contractor shall relocate all construction equipment, tools, heavy equipment, vehicles, fuel, maintenance fluids, groundwater treatment systems, etc. and temporary soil stockpiles to upland areas outside of the 500-year flood plain, or directly load and transport to off-site disposal facilities.

A preliminary Flood Contingency Plan has been prepared and submitted as part of the FMC application, and revised during subsequent responses to the DEEP NOD letters (refer to DECD Exhibits 2 and 3).

Section 25-68d(d)(1) provides that the Commissioner, after notice and opportunity for a public hearing, may approve an exemption request if he determines that the activities or critical activities are in the public interest, will not injure persons or damage property in the area of such activity, and are consistent with the provisions of the National Flood Insurance Program (NFIP). The applicant has presented sufficient evidence to demonstrate that its exemption request satisfies these criteria.

THE ACTIVITY IS IN THE PUBLIC INTEREST

In addressing the first public interest requirement, the applicant has listed the following public benefits:

- a) The project will bring jobs and other economic benefits to Stamford and the state as a whole. Bridgewater, a leading worldwide hedge fund, will create up to 1,000 high paying jobs over 10 years and retain its existing workforce of 1,225 employees. These high income wage jobs and the associated spin-off effects provide growth opportunities in the financial sector but will also benefit other areas in Connecticut's economy. Their investment of up to \$750 million in Connecticut will contribute positively to the State's economy. DECD's review of the Bridgewater retention project included an economic impact analysis that captures the new capital investment and jobs that will be created for this project in order confirm that sufficient revenue is generated to support the State's investment in this project. Part of that analysis also includes reviewing the effects of Bridgewater relocating outside of Connecticut and associated negative impacts on the State's economy.
- b) Proposed activities are located within an area designated as a regional center (DECD-13) and incorporate remediation of an environmentally impacted property.
- c) Proposed activities incorporate numerous Low Impact Development methodologies to promote and improve quality of stormwater runoff draining from the site and prevent adverse environmental impacts from same.
- d) The project will include public access to over 3,300 linear feet of water front with eventual connectivity to Kosciuszko Park.
- e) The project will maintain a waterfront marina.
- f) The project includes a newly constructed tidal wetland system within the East Creek Estuary.

THE ACTIVITY WILL NOT INJURE PERSONS OR DAMAGE PROPERTY

IN THE AREA OF SUCH ACTIVITY

In addressing the second exemption approval requirement listed above, the applicant has submitted sufficient evidence showing that the project as designed will not injure persons or property in the area of proposed activity.

In response to concerns raised in the first Notice of Deficiency letter issued for the application, the applicant solicited a qualified third party coastal engineer to review the site plans and comment on the possible adverse flood impact to the adjacent Ponus Yacht

Club Property resulting from regrading the peninsula. It was the opinion of this qualified engineer that some modifications needed to be made to prevent channelization of flood flows, which the applicant subsequently addressed by revising the site grading plans (DECD-2).

The applicant has also responded to comments requiring that the below grade parking structures be dry-flood proofed to new FEMA flood elevations by providing revised site plans. As a condition of the FMC exemption approval, the applicant, prior to starting construction, will be required to submit a final site plan set along with certification from a Connecticut Licensed Professional Engineer stating that the building structures have been dry flood proofed to the new elevation and that the structure has been designed to FEMA construction standards.

Plans show that the proposed site can provide for safe/dry egress from the site during a flood event and the application includes adequate construction and post-construction flood contingency plans which outline actions that are to be taken before and during forecast flood events that will prevent adverse impact to people or property. These plans, also address how they intend to manage and handle any hazardous or injurious materials that may be brought to or generated on-site as a result of construction activities.

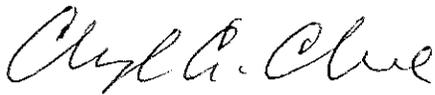
The applicant has also designed stormwater drainage systems to applicable local and state regulatory standards, and has demonstrated that they are coordinating with the National Pollution Discharge Elimination System permit program that is currently administered by DEEP's Bureau of Materials Management and Compliance Assurance.

***THE ACTIVITY COMPLIES WITH THE PROVISIONS OF THE
NATIONAL FLOOD INSURANCE PROGRAM***

Communities that participate in the National Flood Insurance Program (NFIP), agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce the risk of flooding. Section 60.3 of the NFIP Regulations provides floodplain management criteria for flood-prone areas. The City of Stamford has adopted compliant ordinance as part of their zoning regulations, and the applicant has detailed, as part of their application submittal, how the proposal meets the Stamford flood regulations and thereby the NFIP requirements. In addition to showing that dry-flood proofing will be provided to the new flood elevations and built to FEMA construction standards, all parts of the building and below ground parking structures will lie outside the V Zone boundary shown on the revised FEMA mapping for the community (DEEP-6 – Condition #3).

CONCLUSIONS

It is the professional opinion of DECD and DEEP staff that, based on the information provided with and subsequent to the application submittal, after completing all other required municipal, state, and federal permit processes, and after complying with all conditions of FMC authorization, the proposed activities will be in the public interest, should not injure persons or damage property in the area of such activity, and will comply with the provisions of the National Flood Insurance Program. As such, proposed activities meet the exemption approval requirements of CGS Section 25-68d(d), and the application for certification approval with exemptions from CGS Section 25-68d(b)(4) and RCSA Section 25-68h-2(d)(1) can be granted.



Cheryl A. Chase, Director
Inland Water Resources Division
Bureau of Water Protection & Land Reuse
Dept. of Energy & Environmental Protection

7/18/13
Date



Michael J. Lettieri, Executive Director
Office of Financial Review & Special Projects
Dept. of Economic & Community Development

7/25/13
Date

APPENDIX 2A

IN THE MATTER OF

: APPLICATION NO.: FM-201300017

**DEPARTMENT OF ECONOMIC AND
COMMUNITY DEVELOPMENT
– STAMFORD FLOOD MANAGEMENT
EXEMPTION**

: July 24, 2013

PROPOSED FINDING OF FACTS

A. Project Overview

The Connecticut Department of Economic and Community Development (DECD – the “Applicant”) is working with Harbor Point Development in supporting Bridgewater Associates’ proposed new corporate headquarters expansion in Stamford, CT. This approximately 14-acre property is situated at the foot of Bateman Way in Stamford, Connecticut. The site is a timber and riprap-reinforced peninsula extending into the Stamford Harbor, between the West Branch of Stamford Harbor to the west and East Creek to the east (the “site”). The elevation of the site ranges from approximately 7 to 11 feet (NGVD 29) with the lowest areas being located in the northwestern corner and along the edges of the site. At the time of application submittal, the 100-year coastal Federal Emergency Management Agency (FEMA) floodplain elevation at the site was 12.1 feet or 13.1 feet (NGVD 29) depending on the location at the site. As of July 8, 2013, new FEMA flood mapping became effective / current and revised the floodplain elevation at the site to 14.1 feet (NGVD 29). (Exs. DECD-4, 6-7, 9.)

The proposed construction activities at the site include the following:

- Construction of a five-story office building atop a three story parking garage to be used as the future corporate headquarters for Bridgewater Associates.
- Construction of a new access road from Pacific Street Extension and re-construction of Bateman way to provide access to the parking garage.
- Construction of new walkways within the private site as well as in public areas to enhance public access, such as along the bulkhead. This will include connectivity to Kosciusko Park, which is a large City-owned public park located east of the site.
- Construction of associated site improvements including fences, walls, pathways, utilities, and other appurtenances.

(Exs. DECD 9, 10.)

Connecticut General Statute (CGS) Section 25-68c authorizes the Commissioner of the DEEP to regulate actions by state agencies that affect floodplains. "Proposed state action" has been defined by Statute to include, "any state or federal grant or loan proposed to be used to fund a project that affects land use." Because the DECD, a state agency, intends to partially fund the Bridgewater project, which is located within a FEMA designated floodplain, they are required to seek authorization for that funding activity by applying for a Flood Management Certification (FMC) authorization from DEEP.

B. Application Procedural History

On December 17 of 2012, DECD submitted the FMC application (DECD-1) to DEEP. During the sufficiency and technical review of the submitted materials, it was determined that the project did not meet standards established by Connecticut Flood Management Statutes and by the Regulations of Connecticut State Agencies (RCSA). Specifically, the application did not meet CGS Section 25-68d(b)(4), which requires that proposed activities promote long-term nonintensive floodplain use, and RCSA Section 25-68h-2(d)(1), which prohibits storage of materials which could be injurious to human, animal, or plant life below the base flood for a critical activity. (Ex. DEEP-2.)

Two Notice of Deficiency (NOD) letters dated January 14, 2013 (DEEP-2) and March 1, 2013 (DEEP-3), were issued to DECD notifying them of the statutory and regulatory provisions in addition to other technical deficiencies. DECD was advised to submit a request for exemption from those specific statutory and regulatory provisions as permitted by CGS Section 25-68d(d) and to specify how they meet the provisions of that same Section. DECD subsequently submitted a request for exemption on February 21, 2013 (DECD-2), from those statutory and regulatory requirements in their response to the first NOD letter.

On April 26, 2013, DEEP issued a Notice of Tentative Determination (DEEP-5) to approve the exemption application pursuant to CGS Section 25-68d(d). The statute requires that any tentative decision to approve or deny exemption requests be subject to a public notice and 30 day comment period and, in addition, allow for the opportunity for a public hearing.

On April 29, 2013, a notice for a Status Conference was issued by the Hearing Officer Brendan Schain and the parties were informed of the Office of Adjudication Email Filing and Documents Policy.

A Status Conference was held on May 7, 2013 during which the parties were named, dates for a site visit, pre-hearing conference and hearing were scheduled, and procedural directives for the parties were issued.

A Pre-hearing Conference was held on June 5, 2013. At this conference the

Hearing Officer together with the parties, reviewed the issues presented for adjudication, considered the parties' proposed witnesses and exhibits, confirmed dates for the hearing and discussed outstanding matters in preparation for the hearing.

A public hearing was held on June 19, 2013 at 6 PM, at the Gen Re Auditorium on the University of the University of Connecticut Stamford Campus. Prior to the evening hearing, a site visit at the location of the proposed development located at the foot of Bateman Way, Stamford, CT was held. All parties and members of the public, were present at the site. During the site visit, the characteristics and features of the site were viewed and the locations of all important project components were identified. The purpose of the evening hearing was to describe the Applicant's proposal and provide an opportunity for public comment. The Hearing Officer made brief opening remarks regarding the agenda and the procedures for public comment. DECD staff made brief opening remarks regarding its FMC statutory and regulatory requirements along with discussing why the project is considered to be in the public interest. The Applicant's engineer, Craig Lapinski, P.E., presented an overview of the Applicant's proposal that is the subject of the FMC application. DEEP staff presented a summary of their FMC application review and administrative process. Following the presentations the remainder of the evening hearing was reserved for receiving public comments.¹

In addition to receiving oral and written comments during the evening of the public hearing, DEEP received comments via email during the 30-day public comment period from the Stamford Harbor Management Commission, Connecticut Fund for the Environment, Cynthia Reeder, Matthew Ruhnke, Guy Adams, and Tim Rath. Those comments were submitted for the record via an email on June 20, 2013, from Colin Clark of the DEEP Inland Water Resources Division to the Hearing Officer Brendan Schain. All written public comments received were made available for review on DEEP's website. (Available online at <http://www.ct.gov/deep/cwp/view.asp?A=2586&Q=523544>)

C. Proposed Flood-Proofing Measures

The project will comply with the current (effective) FEMA Flood Insurance Rate Map (FIRM) dated July 8, 2013. (Ex. DECD-6.) As depicted on this map, the development is located within a Special Flood Hazard Area designated as an AE flood zone. (Ex. DECD-6.) The elevation of the AE Zone on the FIRM is also known as the Base Flood Elevation (BFE). (Exs. DECD 4, DEEP-7.) Within an AE zone, a structure's lowest floor (including basement) must be elevated to a foot above the BFE (i.e, the "BFE+1"). The BFE+1 is also referred to as the "Minimum Elevation Standard" in the City of Stamford *Flood Prone Area Regulations*.

¹ The June 19, 2013 Public Hearing was recorded. A copy of that recording is available upon request from the Office of Adjudications.

Although BFE's for the site were lower at the time of application submittal and review, DEEP required that the applicant comply with proposed elevations and FEMA mapping that were considered preliminary and under review at the time of application submittal. (Ex. DEEP-2.) Under the newly revised and now effective mapping, the BFE is 14.1' NGVD 29 (13' NAVD 88). Therefore, the BFE+1' for the same zone is 15.1' NGVD 29 (14' NAVD 88). (Ex. DEEP-2.)

Various grading and elevation revisions proposed as part of the development will likely affect the current FIRM. (Ex. DECD-9.) As a condition of approval, the Applicant will obtain a Letter of Map Revision (LOMR) from FEMA for the expected changes to the existing Special Flood Hazard Area boundary resulting from the project. (Ex. DEEP-6.) The proposed building will not be constructed within the coastal velocity zone (designated as the "VE" zone). (Ex. DECD-6-7.)

The source of flooding at this location is the Long Island Sound. As such, there is no Regulatory floodway associated with the site. (Ex. DECD-1.) Since potential flooding is coastal rather than riverine in nature, there is no need to provide compensatory storage.

Proposed drainage conditions will generally mimic the overall existing drainage patterns. The buildings and structures will be designed with low-impact strategies, including those focused on providing a natural transition to the surrounding environments. (Ex. DECD 1, 9.) Nearly the entire property will include open grass or landscaped space, including green roofs over the buildings and parking structures. (Exs. DECD-1, 8.) To this end, sheet flow off the property is promoted wherever possible. (Ex. DECD-2.)

The parking garage will be designed to withstand hydrostatic, hydrodynamic, and buoyancy forces associated with the base flood event, and/or will include vents, louvers, or water relief valves to facilitate equalization of hydrostatic forces due to floodwaters. (Exs. DECD-1-4.) The garage will be designed to minimize flood damage and will not include interior finish materials. (Exs. DECD-1-4.) Electrical and mechanical utilities, machinery and equipment supporting the development will be placed at least one foot above the new base flood elevation. (Exs. DECD-1-4.) Site utilities will be designed to prevent water from entering during the base flood. (Exs. DECD-1-4.) Potable water and sanitary sewage systems will be designed to minimize infiltration or discharge. (Exs. DECD-1-4.) Vehicular and pedestrian egress is available from the upper levels of the garage during the base flood. (Exs. DECD-1-4.)

Construction and post-construction Flood Contingency Plans have been prepared for the property, and will be implemented during and after construction. (Exs. DECD 1, 4; DEEP 2-3.) These plans include weather monitoring procedures, as well as procedures to be followed by site personnel in the event of a flood. (Ex. DECD-1.)

D. Design Requirements

Site utilities will be designed to prevent water from entering during the base flood as follows:

- Stormwater drainage systems from the building will be fitted with high-overflows to allow hydraulic release of collected stormwater from the building envelope. (Ex. DECD-4.)
- Potable water and sanitary sewage systems will be designed to minimize infiltration or discharge. (Ex. DECD-4.)
- Electrical service, HVAC equipment, including transmission, transformers, switchgears, furnaces, breakers, and other appurtenances for building supply and function will be installed on or above floor P-1 (El. 24' NGVD 29), which is approximately 8.9' above the BFE+1. (Ex. DECD-4.)

Regarding occupied space, the lowest floor used for office space in the proposed structure will be elevated above the BFE+1 (Floor "L-1", with finished floor at Elevation 35' NGVD 29). (Ex. DECD 1,4,9,10.) In addition, the entrances to the building will either be constructed above the BFE+1, or will be protected by a passive measure of flood protection. (Ex. DECD 1,4,9, 10.) The entrances below floor L-1 include the following:

- The main entrance to the site and building will enter at Parking Level P1 via the Upper Entrance Road. This entrance will be constructed well above the base flood elevation, and will interface with the building at approximately Elevation 24' NGVD 29 (Approximately 8.9' higher than the BFE +1). (Ex. DECD 1, 4)
- Outside of the proposed entrance tunnel to Parking Level P-2, the Lower Entrance Road has been graded to provide a high point of elevation 16.02 ' NGVD 29 at the crown and elevation 15.54 ' NGVD 29 at the gutter line. Thus, the entrance to P-2 will be passively flood-proofed. (Ex. DECD 1, 4)
- A pedestrian entrance and a vehicular entrance along the west facade of the parking garage, and one pedestrian entrance along the east facade will each be passively flood-proofed with a surrounding flood wall enclosure raised to the BFE+1'. A ramp system inclining up and over the flood walls will provide safe access to and from each of the parking garage entrances. (Ex. DECD 1, 4)

CONCLUSIONS OF LAW

All issues identified for adjudication in the prehearing conference summary were addressed. The hearing record contains ample evidence and testimony that the application is complete and that the applicant has satisfied the criteria contained in CGS 25-68(d)d to obtain an exemption from the flood management certification requirements of CGS 25-68d(b)(4), which requires that proposed activities promote long-term nonintensive floodplain use, and RCSA Section 25-68h-2(d)(1), which prohibits storage of materials

which could be injurious to human, animal, or plant life below the base flood for a critical activity.

Section 25-68d(d)(1) provides that the Commissioner, after notice and opportunity for a public hearing, may approve an exemption request if he determines that the activities or critical activities are in the public interest, will not injure persons or damage property in the area of such activity, and are consistent with the provisions of the National Flood Insurance Program (NFIP). there is substantial evidence in the record which demonstrates that the emeption request satisfies the statutory criteria for the granting of an exemption.

THE ACTIVITY IS IN THE PUBLIC INTEREST

The proposed development is in the “public interest” as required by General Statutes § 25-67d(d) because:

- a) Proposed activities are located within an area designated as a regional center (DECD-13) and incorporate remediation of an environmentally impacted property.

THE ACTIVITY WILL NOT INJURE PERSONS OR DAMAGE PROPERTY

IN THE AREA OF SUCH ACTIVITY

In addressing the second exemption approval requirement listed above, the applicant has submitted substantial evidence showing that the project as designed will not injure persons or property in the area of proposed activity.

In response to concerns raised in the first Notice of Deficiency letter issued for the application, the applicant solicited a qualified third party coastal engineer, Kirk Bosma, M.C.E., P.E., to review the site plans and comment on the possible adverse flood impact to the adjacent Ponus Yacht Club Property resulting from regrading the peninsula. It was the opinion of this qualified engineer that some modifications needed to be made to prevent channelization of flood flows, which the applicant subsequently addressed by revising the site grading plans (DECD-2).

The applicant has also responded to comments requiring that the below grade parking structures be dry-flood proofed to new FEMA flood elevations by providing revised site plans. As a condition of the FMC exemption approval, the applicant, prior to starting construction, will be required to submit a final site plan set along with certification from a Connecticut Licensed Professional Engineer stating that the building structures have been dry flood proofed to the new elevation and that the structure has been designed to FEMA construction standards. (Ex. DEEP-6.)

Plans show that the proposed site can provide for safe/dry egress from the site during a flood event and the application includes adequate construction and post-construction flood contingency plans which outline actions that are to be taken before and during forecast flood events that will prevent adverse impact to people or property. (Ex. DECD-1.) These plans, also address how they intend to manage and handle any hazardous or

injurious materials that may be brought to or generated on-site as a result of construction activities. (Ex. DECD-1.)

The applicant has also designed stormwater drainage systems to applicable local and state regulatory standards, and has demonstrated that they are coordinating with the National Pollution Discharge Elimination System permit program that is currently administered by DEEP's Bureau of Materials Management and Compliance Assurance.

As an additional measure to ensure that the project will not cause injury to persons or damage to property, the applicant proposes to follow a proposed Flood Contingency Plan, which among other guidelines, provides an allowance for such materials to remain within the 500-year flood plain until reasonable assessment of impending flooding events determines removal is required. (Ex. DECD-1.)

A preliminary Construction Flood Contingency Plan has been prepared for the proposed site. This plan will be finalized upon preparation of the final construction plans and sequencing of the development. The actions contained within shall be performed when the National Weather Service issues warnings, watches, or alerts for severe weather events (i.e., coastal flooding, tropical storms, or hurricanes) for the Stamford area. (Ex. DECD-1.)

During construction, the person responsible for implementing this Plan is the Contractor responsible for oversight of construction activities at the site. The Contractor shall notify the Applicant of any impending significant weather event as soon as practicable and, if possible, no less than twenty four (24) hours before the onset of storm surge, significant precipitation, or high winds associated with a large hurricane or nor'easter. With such impending events, the Contractor shall relocate all construction equipment, tools, heavy equipment, vehicles, fuel, maintenance fluids, groundwater treatment systems, etc. and temporary soil stockpiles to upland areas outside of the 500-year flood plain, or directly load and transport to off-site disposal facilities. (Ex. DECD-1.)

A preliminary Flood Contingency Plan has been prepared and submitted as part of the FMC application, and revised during subsequent responses to the DEEP NOD letters (Exs. DECD-1-3.)

***THE ACTIVITY COMPLIES WITH THE PROVISIONS OF THE
NATIONAL FLOOD INSURANCE PROGRAM***

Communities that participate in the National Flood Insurance Program (NFIP), agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce the risk of flooding. Section 60.3 of the NFIP Regulations provides floodplain management criteria for flood-prone areas. The City of Stamford has adopted compliant ordinance as part of their zoning regulations, and the applicant has detailed, as part of their application submittal, how the proposal meets the Stamford flood regulations and thereby the NFIP

requirements. (Ex. DECD-4.) In addition to showing that dry-flood proofing will be provided to the new flood elevations and built to FEMA construction standards, all parts of the building and below ground parking structures will lie outside the V Zone boundary shown on the revised FEMA mapping for the community (DEEP-6 – Condition #3).

CONCLUSIONS

It is the professional opinion of DECD and DEEP staff that, based on the information provided with and subsequent to the application submittal, after completing all other required municipal, state, and federal permit processes, and after complying with all conditions of FMC authorization, the proposed activities will be in the public interest, should not injure persons or damage property in the area of such activity, and will comply with the provisions of the National Flood Insurance Program. As such, proposed activities meet the exemption approval requirements of CGS Section 25-68d(d), and the application for certification approval with exemptions from CGS Section 25-68d(b)(4) and RCSA Section 25-68h-2(d)(1) can be granted.

Cheryl A. Chase, Director
Inland Water Resources Division
Bureau of Water Protection & Land Reuse
Dept. of Energy & Environmental Protection

Michael J. Lettieri, Executive Director
Office of Financial Review & Special Projects
Dept. of Economic & Community Development

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APPENDIX 2B

IN THE MATTER OF

: APPLICATION NO.: FM-201300017

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– STAMFORD FLOOD MANAGEMENT
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The source of flooding at this location is the Long Island Sound. As such, there is no Regulatory floodway associated with the site. (Ex. DECD-1.) Since potential flooding is coastal rather than riverine in nature, there is no need to provide compensatory storage.

Proposed drainage conditions will generally mimic the overall existing drainage patterns. The buildings and structures will be designed with low-impact strategies, including those focused on providing a natural transition to the surrounding environments. (Ex. DECD 1, 9.) Nearly the entire property will include open grass or landscaped space, including green roofs over the buildings and parking structures. (Exs. DECD-1, 8.) To this end, sheet flow off the property is promoted wherever possible. (Ex. DECD-2.)

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~~The proposed project includes non-intensive floodplain uses as cited in CGS 25-68d. Only non-critical activities and/or water-dependent uses such as parking, storage, public walkways, and a marina are proposed below the base flood elevations. Other uses such as office space are well above the elevation of the regulatory floodplain and will be provided with safe egress to upland areas. The presence of this development, built with consideration given to flooding and flood-proofing, will serve to preempt future, intensive use development at this prime urban location.~~

Construction and post-construction Flood Contingency Plans have been prepared for the property, and will be implemented during and after construction. [\(Exs. DECD 1, 4; DEEP 2-3.\)](#) These plans include weather monitoring procedures, as well as procedures to be followed by site personnel in the event of a flood. [\(Ex. DECD-1.\)](#)

D. Design Requirements

Site utilities will be designed to prevent water from entering during the base flood as follows:

- Stormwater drainage systems from the building will be fitted with high-overflows to allow hydraulic release of collected stormwater from the building envelope. [\(Ex. DECD-4.\)](#)
- Potable water and sanitary sewage systems will be designed to minimize infiltration or discharge. [\(Ex. DECD-4.\)](#)
- Electrical service, HVAC equipment, including transmission, transformers, switchgears, furnaces, breakers, and other appurtenances for building supply and function will be installed on or above floor P-1 (El. 24' NGVD 29), which is approximately 8.9' above the BFE+1. [\(Ex. DECD-4.\)](#)

Regarding occupied ~~parking~~ spaces, the lowest floor used for office space in the proposed structure will be elevated above the BFE+1 (Floor "L-1", with finished floor at Elevation 35' NGVD 29). [\(Ex. DECD 1,4,9,10.\)](#) In addition, the entrances to the building will either be constructed above the BFE+1, or will be protected by a passive measure of flood protection. [\(Ex. DECD 1,4,9, 10.\)](#) The entrances below floor L-1 include the following:

- The main entrance to the site and building will enter at Parking Level P1 via the Upper Entrance Road. This entrance will be constructed well above the base flood elevation, and will interface with the building at approximately Elevation 24' NGVD 29 (Approximately 8.9' higher than the BFE +1). [\(Ex. DECD 1, 4\)](#)
- Outside of the proposed entrance tunnel to Parking Level P-2, the Lower Entrance Road has been graded to provide a high point of elevation 16.02 ' NGVD 29 at the crown and elevation 15.54 ' NGVD 29 at the gutter line. Thus, the entrance to P-2 will be passively flood-proofed. [\(Ex. DECD 1, 4\)](#)
- A pedestrian entrance and a vehicular entrance along the west facade of the parking garage, and one pedestrian entrance along the east facade will each be passively flood-proofed with a surrounding flood wall enclosure raised to the BFE+1'. A ramp system inclining up and over the flood walls will provide safe access to and from each of the parking garage entrances. [\(Ex. DECD 1, 4\)](#)

CONCLUSIONS OF LAW

All issues identified for adjudication in the prehearing conference summary were addressed. The hearing record contains ample evidence and testimony that the application is complete and that the applicant has satisfied the criteria contained in CGS 25-68(d) to obtain an exemption from the flood management certification requirements of CGS 25-68d(b)(4), which requires that proposed activities promote long-term nonintensive floodplain use, and RCSA Section 25-68h-2(d)(1), which prohibits storage of materials which could be injurious to human, animal, or plant life below the base flood for a critical activity.

Section 25-68d(d)(1) provides that the Commissioner, after notice and opportunity for a public hearing, may approve an exemption request if he determines that the activities or critical activities are in the public interest, will not injure persons or damage property in the area of such activity, and are consistent with the provisions of the National Flood Insurance Program (NFIP). The applicant has presented sufficient evidence to demonstrate that its exemption request satisfies these criteria. there is substantial evidence in the record which demonstrates that the exemption request satisfies the statutory criteria for the granting of an exemption.

~~The applicant proposes to follow a proposed Flood Contingency Plan, which among other guidelines, provides an allowance for such materials to remain within the 500-year flood plain until reasonable assessment of impending flooding events determines removal is required.~~

~~A preliminary Construction Flood Contingency Plan has been prepared for the proposed site. This plan will be finalized upon preparation of the final construction plans and sequencing of the development. The actions contained within shall be performed when the National Weather Service issues warnings, watches, or alerts for severe weather events (i.e., coastal flooding, tropical storms, or hurricanes) for the Stamford area.~~

~~During construction, the person responsible for implementing this Plan is the Contractor responsible for oversight of construction activities at the site. The Contractor shall notify the Applicant of any impending significant weather event as soon as practicable and, if possible, no less than twenty four (24) hours before the onset of storm surge, significant precipitation, or high winds associated with a large hurricane or nor'easter. With such impending events, the Contractor shall relocate all construction equipment, tools, heavy equipment, vehicles, fuel, maintenance fluids, groundwater treatment systems, etc. and temporary soil stockpiles to upland areas outside of the 500-year flood plain, or directly load and transport to off-site disposal facilities.~~

~~A preliminary Flood Contingency Plan has been prepared and submitted as part of the FMC application, and revised during subsequent responses to the DEEP NOD letters (refer to DECD Exhibits 2 and 3).~~

~~Section 25-68d(d)(1) provides that the Commissioner, after notice and opportunity for a public hearing, may approve an exemption request if he determines that the activities or critical activities are in the public interest, will not injure persons or damage property in the area of such activity, and are consistent with the provisions of the National Flood Insurance Program (NFIP). The applicant has presented sufficient evidence to demonstrate that its exemption request satisfies these criteria.~~

THE ACTIVITY IS IN THE PUBLIC INTEREST

~~In addressing the first public interest requirement, the applicant has listed the following public benefits: The proposed development is in the “public interest” as required by General Statutes § 25-67d(d) because:~~

- ~~a) The project will bring jobs and other economic benefits to Stamford and the state as a whole. Bridgewater, a leading worldwide hedge fund, will create up to 1,000 high paying jobs over 10 years and retain its existing workforce of 1,225 employees. These high income wage jobs and the associated spin-off effects provide growth opportunities in the financial sector but will also benefit other areas in Connecticut’s economy. Their investment of up to \$750 million in Connecticut will contribute positively to the State’s economy. DECD’s review of the Bridgewater retention project included an economic impact analysis that captures the new capital investment and jobs that will be created for this project in order confirm that sufficient revenue is generated to support the State’s investment in this project. Part of that analysis also includes reviewing the effects of Bridgewater relocating outside of Connecticut and associated negative impacts on the State’s economy.~~
- b)a) Proposed activities are located within an area designated as a regional center (DECD-13) and incorporate remediation of an environmentally impacted property.
- ~~e) Proposed activities incorporate numerous Low Impact Development methodologies to promote and improve quality of stormwater runoff draining from the site and prevent adverse environmental impacts from same.~~
- ~~d) The project will include public access to over 3,300 linear feet of water front with eventual connectivity to Kosciuszko Park.~~
- ~~e) The project will maintain a waterfront marina.~~
- ~~f) The project includes a newly constructed tidal wetland system within the East Creek Estuary.~~

THE ACTIVITY WILL NOT INJURE PERSONS OR DAMAGE PROPERTY

IN THE AREA OF SUCH ACTIVITY

In addressing the second exemption approval requirement listed above, the applicant has submitted sufficient-substantial evidence showing that the project as designed will not injure persons or property in the area of proposed activity.

In response to concerns raised in the first Notice of Deficiency letter issued for the application, the applicant solicited a qualified third party coastal engineer, Kirk Bosma, M.C.E., P.E., to review the site plans and comment on the possible adverse flood impact to the adjacent Ponus Yacht Club Property resulting from regrading the peninsula. It was the opinion of this qualified engineer that some modifications needed to be made to prevent channelization of flood flows, which the applicant subsequently addressed by revising the site grading plans (DECD-2).

The applicant has also responded to comments requiring that the below grade parking structures be dry-flood proofed to new FEMA flood elevations by providing revised site plans. As a condition of the FMC exemption approval, the applicant, prior to starting construction, will be required to submit a final site plan set along with certification from a Connecticut Licensed Professional Engineer stating that the building structures have been dry flood proofed to the new elevation and that the structure has been designed to FEMA construction standards. (Ex. DEEP-6.)

Plans show that the proposed site can provide for safe/dry egress from the site during a flood event and the application includes adequate construction and post-construction flood contingency plans which outline actions that are to be taken before and during forecast flood events that will prevent adverse impact to people or property. (Ex. DECD-1.) These plans, also address how they intend to manage and handle any hazardous or injurious materials that may be brought to or generated on-site as a result of construction activities. (Ex. DECD-1.)

The applicant has also designed stormwater drainage systems to applicable local and state regulatory standards, and has demonstrated that they are coordinating with the National Pollution Discharge Elimination System permit program that is currently administered by DEEP's Bureau of Materials Management and Compliance Assurance.

As an additional measure to ensure that the project will not cause injury to persons or damage to property, the applicant proposes to follow a proposed Flood Contingency Plan, which among other guidelines, provides an allowance for such materials to remain within the 500-year flood plain until reasonable assessment of impending flooding events determines removal is required. (Ex. DECD-1.)

A preliminary Construction Flood Contingency Plan has been prepared for the proposed site. This plan will be finalized upon preparation of the final construction plans and sequencing of the development. The actions contained within shall be performed when

the National Weather Service issues warnings, watches, or alerts for severe weather events (i.e., coastal flooding, tropical storms, or hurricanes) for the Stamford area. (Ex. DECD-1.)

During construction, the person responsible for implementing this Plan is the Contractor responsible for oversight of construction activities at the site. The Contractor shall notify the Applicant of any impending significant weather event as soon as practicable and, if possible, no less than twenty four (24) hours before the onset of storm surge, significant precipitation, or high winds associated with a large hurricane or nor'easter. With such impending events, the Contractor shall relocate all construction equipment, tools, heavy equipment, vehicles, fuel, maintenance fluids, groundwater treatment systems, etc. and temporary soil stockpiles to upland areas outside of the 500-year flood plain, or directly load and transport to off-site disposal facilities. (Ex. DECD-1.)

A preliminary Flood Contingency Plan has been prepared and submitted as part of the FMC application, and revised during subsequent responses to the DEEP NOD letters (refer to DECD Exhibits 2 and 3). (Exs. DECD-1-3.)

THE ACTIVITY COMPLIES WITH THE PROVISIONS OF THE NATIONAL FLOOD INSURANCE PROGRAM

Communities that participate in the National Flood Insurance Program (NFIP), agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce the risk of flooding. Section 60.3 of the NFIP Regulations provides floodplain management criteria for flood-prone areas. The City of Stamford has adopted compliant ordinance as part of their zoning regulations, and the applicant has detailed, as part of their application submittal, how the proposal meets the Stamford flood regulations and thereby the NFIP requirements. (Ex. DECD-4.) In addition to showing that dry-flood proofing will be provided to the new flood elevations and built to FEMA construction standards, all parts of the building and below ground parking structures will lie outside the V Zone boundary shown on the revised FEMA mapping for the community (DEEP-6 – Condition #3).

CONCLUSIONS

It is the professional opinion of DECD and DEEP staff that, based on the information provided with and subsequent to the application submittal, after completing all other required municipal, state, and federal permit processes, and after complying with all conditions of FMC authorization, the proposed activities will be in the public interest, should not injure persons or damage property in the area of such activity, and will comply with the provisions of the National Flood Insurance Program. As such, proposed activities meet the exemption approval requirements of CGS Section 25-68d(d), and the

application for certification approval with exemptions from CGS Section 25-68d(b)(4) and RCSA Section 25-68h-2(d)(1) can be granted.

Cheryl A. Chase, Director
Inland Water Resources Division
Bureau of Water Protection & Land Reuse
Dept. of Energy & Environmental Protection

Date

Michael J. Lettieri, Executive Director
Office of Financial Review & Special Projects
Dept. of Economic & Community Development

Date

FLOODPLAIN MANAGEMENT

Connecticut Department of Economic and Community Development
505 Hudson Street,
Hartford, CT 06103

Attn: Michael J. Lettieri, Executive Director
Office of Financial Review & Special Projects

RE: Approval of Certification & Exemption Request
FM-201300017
Harbor Point – Bridgewater Headquarters
Stamford, CT

Dear Mr. Lettieri:

The Inland Water Resources Division of the Department of Energy and Environmental Protection has reviewed the flood management certification and exemption request for the subject project submitted by Michael Lettieri of the Department of Economic and Community Development and prepared by Craig M. Lapinski, P.E., of Fuss & O'Neill. Specifically, an exemption is requested from the provisions of Section 25-68d(b)(4) of the Connecticut General Statutes (CGS) and Section 25-68h-2(d)(1) of the Regulations of Connecticut State Agencies (RCSA). CGS Section 25-68d(b)(4) requires that proposed activities promote long-term nonintensive floodplain use, and RCSA Section 25-68h-2(d)(1) prohibits storage of materials which could be injurious to human, animal, or plant life below the base flood for a critical activity.

The project includes construction of a new headquarters building, parking garage, access driveways, public accessways, utilities, grading, landscaping, and other appurtenant site improvements in the City of Stamford, as shown on plans entitled, "*Bridgewater Headquarters, Bateman Way, Stamford, Connecticut, Site Development Plans*," signed by Craig M. Lapinsky, P.E., dated October 15, 2012, and last revised March 28, 2013. The project is located within the coastal Special Flood Hazard Area of Long Island Sound.

The agency has determined that the activity is in the public interest, will not injure persons or damage property in the area of such activity or critical activity, and will comply with the provisions of the National Flood Insurance Program. Therefore, in accordance with CGS Section 25-68d(d), your request for approval of the above referenced certification and exemption request from CGS Section 25-68d(b)(4) and RCSA Section 25-68h-2(d)(1) is granted.

The applicant is hereby authorized to perform proposed construction in accordance with the exemption request identified above. This authorization is subject to the following exclusions and conditions:

1. The construction of the viewing platform / helipad and recreational barge as currently shown on the referenced site plans is excluded from this approval.
2. This authorization specifically excludes Flood Management Certification approval of the new estuary crossing as currently shown on the referenced site plans. If the applicant still intends to provide funds for construction of that portion of the project, they will be required to submit a new Flood Management Certification application for that crossing at a time when there is sufficient information to show that the crossing design will satisfy the program interests of both the Office of Long Island Sound Programs and the Inland Water Resources Division.
3. Prior to the commencement of any construction activities authorized by this Flood Management Certification approval, the applicant shall submit to the Inland Water Resources Division a final site plan set along with certification from a Connecticut Licensed Professional Engineer stating that the building structures lie entirely outside of the new FEMA V Zone boundary, have been dry flood proofed to an elevation equating to the most recent FEMA Base Flood Elevation plus 1 foot, and have been designed to FEMA construction standards for same. If the applicant intends to obtain a Conditional Letter of Map Revision (CLOMR) in order to meet this condition, they will be required to acquire and submit a copy of the CLOMR prior to starting construction. A copy of the certification shall be submitted to the local floodplain coordinator of the City of Stamford for their record.
4. The applicant shall be responsible for applying for and obtaining a Letter of Map Revision (LOMR) from FEMA for the expected changes to the existing Special Flood Hazard Area (SFHA) boundary resulting from the project. This LOMR must be obtained from FEMA no later than two (2) years following completion of construction activities.

This authorization is subject to and does not derogate any present or future property rights or other rights or powers of the State of Connecticut, conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, state, or local laws or regulations pertinent to the property or activity affected thereby. No revisions or alterations to the approved plans are allowed without first obtaining written approval from the Inland Water Resources Division of such alterations.

If there are any questions, contact Colin Clark of the Inland Water Resources Division at 860-424-3214.

Date

Macky McCleary
Deputy Commissioner

CAC/CJC

cc: Nelson Tereso, DECD, 505 Hudson Street, Hartford
Craig M. Lapinski, P.E., Fuss & O'Neill, Inc., 146 Hartford Road, Manchester
Kristen Bellantuono, DEEP, WPLR, OLISP
Jeff Wilcox, DEEP, WPLR, Remediation Division
Neal Williams, DEEP, MMCA, Water Permitting & Enforcement Division
Norman F. Cole, AICP, Land Use Bureau Chief, Stamford, CT
Richard Talamelli, Environ. Planner, Environmental Protection Board, City of Stamford

DRAFT

P A R T Y L I S T

Proposed Final Decision concerning the Department of Economic and Community Development
– Flood Management Certification Exemption, Stamford, Application No. FM-201300017.

PARTY

REPRESENTED BY

The Applicant

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COURTESY COPIES

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Save Our Boatyard

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