

**RESOLUTIONS OF THE OSWEGO COUNTY LEGISLATURE FOR  
JUNE 26, 2019**

- 126 RESOLUTION AUTHORIZING THE CHAIR OF THE LEGISLATURE AND SHERIFF  
TO EXECUTE AGREEMENTS WITH COUNTY SCHOOL DISTRICTS AND BOCES  
REGARDING PLACING SPECIAL PATROL OFFICERS IN SCHOOLS THROUGHOUT  
THE COUNTY
- 127 RESOLUTION AUTHORIZING BUDGETARY MODIFICATION SHERIFF'S OFFICE  
TO ACCEPT REVENUE FROM OSWEGO COUNTY SCHOOL DISTRICTS TO FUND  
SPO POSITIONS
- 128 RESOLUTION AMENDING RESOLUTION NUMBER 113 OF 2019
- 129 RESOLUTION TO ACCEPT AWARD FROM THE OFFICE OF CHILDREN AND  
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- 130 A RESOLUTION ADOPTING COUNTY OF OSWEGO LOCAL LAW NUMBER 1 OF  
2019, ENTITLED "A LOCAL LAW GRANTING AN EXEMPTION FROM GENERAL  
AD VALOREM TAXATION, SPECIAL AD VALOREM LEVIES, AND SPECIAL  
ASSESSMENTS AS PROVIDED FOR UNDER REAL PROPERTY TAX LAW §485  
AND §490 REGARDING THE JAMES A. FITZPATRICK FACILITY"
- 131 A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE LEGISLATURE TO  
EXECUTE A PROPOSED TAX AGREEMENT FOR THE JAMES A. FITZPATRICK  
FACILITY ON CERTAIN TERMS PURSUANT TO RPTL §485 WITH EXELON  
FITZPATRICK, LLC

OSWEGO COUNTY LEGISLATURE

**RESOLUTION NO. 126**

**RESOLUTION AUTHORIZING THE CHAIR OF THE LEGISLATURE  
AND SHERIFF TO EXECUTE AGREEMENTS WITH COUNTY SCHOOL  
DISTRICTS AND BOCES REGARDING PLACING SPECIAL PATROL OFFICERS  
IN SCHOOLS THROUGHOUT THE COUNTY**

By Legislator Terry Wilbur:

WHEREAS, school safety is a priority issue for parents and schools alike; and

WHEREAS, finite law enforcement resource at present mean that most schools do not have a law enforcement presence within their buildings; and

WHEREAS, the Oswego County Sheriff's Office has proposed to employ, train and deploy county Special Patrol Officers under NYS General Municipal Law within school districts wishing to participate in the Special Patrol Officer program; and

WHEREAS, school districts will be reimbursing the county for certain program costs to make this program possible; and

WHEREAS, this body has been supportive of the Sheriff's Office and the school districts in helping bring this program to fruition,

NOW, THEREFORE, upon the recommendation of the Public Safety Committee of this body, it is hereby,

RESOLVED, that the Chair of the Legislature and Sheriff be and are hereby authorized to enter into agreements with the several school districts within the county and Oswego County BOCES (CITI) on certain terms modeled on the annexed template agreement, with amendments to be approved by the County Attorney's Office; and, it is further

RESOLVED, that the Chair of the Legislature and Sheriff be and are hereby authorized to execute any Family Educational and Privacy Rights Act (FERPA) addendum to an agreement to the extent it may be applicable; and, it is further

RESOLVED, that said agreements may be renewed on a yearly basis, as the Sheriff and this body may deem necessary or convenient, provided that the SPO remain funded in the county budget.

**ADOPTED BY A VOICE VOTE ON JUNE 26, 2019:**

**YES: 18 NO: 0 ABSENT: 7 ABSTAIN: 0**

**RESOLUTION NO. 127**

**RESOLUTION AUTHORIZING BUDGETARY MODIFICATION SHERIFF'S  
OFFICE TO ACCEPT REVENUE FROM OSWEGO COUNTY SCHOOL  
DISTRICTS TO FUND SPO POSITIONS**

By Legislator Terry Wilbur:

Upon recommendation of the Public Safety Committee of this body, with the approval of the Finance and Personnel Committee, be it

RESOLVED, that the County Treasurer be, and he hereby is, authorized to transfer the funds from and to the accounts as shown on the attached budget modification request, and be it further

RESOLVED, that a certified copy of this resolution delivered to the County Treasurer shall be his authority to affect such transfer and make such adjustments.

**ADOPTED BY A VOICE VOTE ON JUNE 26, 2019:**

**YES: 18      NO: 0      ABSENT: 7      ABSTAIN: 0**

OSWEGO COUNTY LEGISLATURE

**Authorized Budget Modification**

**Res. 127 of 2019**

A3112.415200	(\$110,143.60)
A3112.514000	\$72,000
A3112.544500	\$14,200
A3112.545300	\$15,463.60
A3112.590898	\$8,480

**RESOLUTION NO. 128**

**RESOLUTION AMENDING RESOLUTION NUMBER 113 OF 2019**

By Legislator Stephen Walpole:

WHEREAS, this body at its June meeting in Oswego passed a resolution concerning a NYSDOT Grant and establishing a Capital Project to construct a Ten Bay T-Hangar at the Oswego County Airport; and

WHEREAS, the resolution as adopted created Capital Project #104; and

WHEREAS, Capital Project #104 is already existing and is assigned to Retirement Reserve; and

WHEREAS, a resolution is both necessary and desirable to change the Capital Project number for the Ten Bay T-Hangar construction to Capital Project #105,

NOW THEREFORE, upon approval of the Finance and Personnel Committee and of this body, it is hereby

RESOLVED, that Resolution Number 113 of 2019 be and is hereby amended to correct the Capital Project number for the Ten Bay T-Hangar at the airport from #104 to Capital Project #105; and it is further

RESOLVED that Resolution Number 113 of 2019 be and is hereby reaffirmed and restated as if more fully set forth herein.

**ADOPTED BY A VOICE VOTE ON JUNE 26, 2019:**

**YES: 16 NO: 2 ABSENT: 7 ABSTAIN: 0**

LEGISLATURE  
OSWEGO COUNTY

**RESOLUTION NO. 129**

**RESOLUTION TO ACCEPT AWARD FROM THE OFFICE OF CHILDREN AND  
FAMILY SERVICES TO THE HEALTHY FAMILIES OSWEGO COUNTY  
PROGRAM**

By Legislator James Karasek:

WHEREAS, the Healthy Families New York is an evidence-based home visiting program, effective in building bonds between parents and children;

WHEREAS, there is a 10% increase in the number of reports for child maltreatment referred to the DSS for investigation in the past 5 years;

WHEREAS, a pilot Healthy Family Oswego County (HFOC) program has strived to improve the safety and well-being of children and families who may be at risk for, or have experienced some form of child abuse, maltreatment, family violence, or trauma in the past three years;

WHEREAS, the OCFS' granted OCHD an award for the expansion of current HFOC in May 2019. The grant covers a 5-year period and potential funding up to \$562,500 with annual grant amounts reduced in later years to encourage the cultivation of community sustainability;

WHEREAS, the acceptance of this funding allows the County to expand OCHF services and to work closer with stakeholders in the community in the following five years.

NOW, on the recommendation of the Health Committee, with the approval of the Finance and Personnel Committee, be it

RESOLVED, that the County accept the HFOC expansion grant.

**ADOPTED BY A VOICE VOTE ON JUNE 26, 2019:**

**YES: 18      NO: 0      ABSENT: 7      ABSTAIN: 0**

**RESOLUTION NO. 130**

**A RESOLUTION ADOPTING COUNTY OF OSWEGO LOCAL LAW NUMBER 1 OF 2019, ENTITLED "A LOCAL LAW GRANTING AN EXEMPTION FROM GENERAL AD VALOREM TAXATION, SPECIAL AD VALOREM LEVIES, AND SPECIAL ASSESSMENTS AS PROVIDED FOR UNDER REAL PROPERTY TAX LAW §485 AND §490 REGARDING THE JAMES A. FITZPATRICK FACILITY"**

By Legislator David Holst:

WHEREAS, a public hearing was held on June 26<sup>th</sup>, 2019 and all interested parties having had an opportunity to be heard,

NOW, upon the recommendation of this body, be it

RESOLVED, that Local Law Number 1 of the year 2019 entitled "A LOCAL LAW GRANTING AN EXEMPTION FROM GENERAL AD VALOREM TAXATION, SPECIAL AD VALOREM LEVIES, AND SPECIAL ASSESSMENTS AS PROVIDED FOR UNDER REAL PROPERTY TAX LAW §485 AND §490 REGARDING THE JAMES A. FITZPATRICK FACILITY" be and is hereby adopted and enacted in its entirety.

**ADOPTED BY A VOICE VOTE ON JUNE 26, 2019:**

**YES: 18      NO: 0      ABSENT: 7      ABSTAIN: 0**

LEGISLATURE  
COUNTY  
OSWEGO

**COUNTY OF OSWEGO  
LOCAL LAW NUMBER 1 OF 2019**

**A LOCAL LAW GRANTING AN EXEMPTION FROM GENERAL AD VALOREM  
TAXATION, SPECIAL AD VALOREM LEVIES, AND SPECIAL ASSESSMENTS  
AS PROVIDED FOR UNDER REAL PROPERTY TAX LAW §485 AND §490  
REGARDING THE JAMES A. FITZPATRICK FACILITY**

**BE IT ENACTED** by the County Legislature of the County of Oswego as follows:

**SECTION 1. Purpose and Intent.**

The County of Oswego, by and through its Legislature, hereby finds and determines that it is in the best interests of the County to enter into a tax agreement with, and to grant a real property tax exemption under law for, the James A. FitzPatrick Nuclear Power Plant at this time. The purpose of this local law is to provide for an exemption from general *ad valorem* taxation, special *ad valorem*, levies and special assessments as provided for under New York State Real Property Tax Law §§485 and 490 regarding the James A. FitzPatrick Nuclear Power Plant owned by Exelon FitzPatrick, LLC, a subsidiary of Exelon Generation Company, LLC, being a nuclear powered electric generating facility and located in the Town of Scriba, County of Oswego and State of New York for the purpose of entering into a tax agreement to become effective July 1, 2019 with such exemption commencing for County tax purposes on January 1<sup>st</sup>, 2020 at 12:01 a.m. and expiring at 11:59 p.m. on December 31<sup>st</sup>, 2024.

**SECTION 2. Property Affected:**

The nuclear powered electric generating facility covered by this local law shall include Tax Parcel ID Numbers: 095.00-10-01.000 (*non-ceiling railroad*); 095.00-01-14.200 (*Nuclear Plant*); 095.00-01-50 (*Wellness Center*) together with any associated equipment, improvements, or land comprising the facility, being and intending to cover the facility for the period of this local law, notwithstanding any subsequent changes in Tax Map ID numbers, if any.

**SECTION 3. Tax District:**

This local law only covers taxes issued by the County of Oswego, the taxing district.

**SECTION 4. Rights Reserved:**

Notwithstanding the exemption granted hereunder for the tax roll section of the property as of the March 1<sup>st</sup>, 2024 taxable status date, the County expressly reserves the right to issue a county real property tax bill for the year 2025 if no other exemption is subsequently granted by local law or no other agreement is struck regarding the property affected herein.

## **SECTION 5. Effective Date.**

This law shall become effective upon its adoption. The exemption granted hereunder to the nuclear powered electric generating facility, however, shall commence on at January 1<sup>st</sup>, 2020 at 12:01 a.m. and shall expire at 11:59 p.m. on December 31<sup>st</sup>, 2024. This local law and the exemptions granted hereunder shall only become effective if and when a tax agreement for payment in lieu of taxes is agreed upon and executed by the County of Oswego. For the purposes of convenience, the County may enter into a joint tax agreement together with other taxing jurisdictions regarding the property affected herein or the county may execute same individually.

## **SECTION 6. Termination:**

This local law, and the exemptions granted hereunder, shall terminate on December 31<sup>st</sup>, 2024 at 11:59 p.m.

## **SECTION 7. SEQRA Determination:**

This Legislature, being the lead agency under the State Environmental Quality Review Act ("SEQRA"), N.Y. Environmental Conservation Law Article 8, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(26) of Title 6 of the New York Code of Rules and Regulations in that the action constitutes routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment. The Oswego County Office of Tourism, Planning & Community Development is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this local law.

## **SECTION 8. Severability:**

If any portion of this local law is found to be invalid by a court of competent jurisdiction, or because of intervening changes in New York State or Federal Law, the rest and remainder thereof shall not be affected thereby and shall remain in full force and effect.

## **SECTION 9. Filing.**

A copy of this local law shall be filed with the New York State Secretary of State, the Clerk of the County of Oswego, the Clerk of the Town of Scriba, the Clerk of the Mexico Academy and Central School District and the NYS Commissioner of Taxation and Finance no later than thirty (30) days after its adoption.

By Order of the Oswego County Legislature  
June 26, 2019  
Christopher A. Jones, Clerk



**RESOLUTION NO. 131**

**A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE LEGISLATURE TO  
EXECUTE A PROPOSED TAX AGREEMENT FOR THE JAMES A.  
FITZPATRICK FACILITY ON CERTAIN TERMS PURSUANT TO RPTL §485  
WITH EXELON FITZPATRICK, LLC**

By Legislator David Holst:

WHEREAS, a local law has heretofore been adopted granting a real property tax exemption to the James A. FitzPatrick Facility under the provisions of RPTL §485, *et seq.*; and

WHEREAS, a public hearing was held on June 26<sup>th</sup>, 2019 regarding the annexed tax agreement and the issues related thereto; and

WHEREAS, after due deliberation, this Legislature has determined that executing the annexed agreement is in the best interests of the County of Oswego,

NOW, THEREFORE, upon the recommendation of this body, it is hereby,

RESOLVED, that the Chairman of the Legislature be and is hereby authorized to execute the annexed proposed tax agreement with Exelon FitzPatrick, LLC (hereinafter referred to as "Owner"), regarding tax payments for the James A. FitzPatrick Facility on the same payment terms to the County of Oswego and regarding the same duration and exemption terms either individually with the Owner or severally together with one or more taxing jurisdictions and the Owner; and it is further

RESOLVED, that the Chairman of the Legislature be and is hereby authorized to execute any other related documents as may be necessary to effectuate same.

**ADOPTED BY A VOICE VOTE ON JUNE 26, 2019:**

**YES: 18      NO: 0      ABSENT: 7      ABSTAIN: 0**

EXECUTION COPY

TOWN OF SCRIBA,  
MEXICO ACADEMY & CENTRAL SCHOOL DISTRICT  
AND COUNTY OF OSWEGO

AND

EXELON FITZPATRICK, LLC

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PAYMENT IN LIEU OF TAX AGREEMENT

FOR THE

JAMES A. FITZPATRICK FACILITY

DATED AS OF JULY 1, 2019

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**JAMES A. FITZPATRICK FACILITY**  
**PAYMENT IN LIEU OF TAX AGREEMENT**

This **PAYMENT IN LIEU OF TAX AGREEMENT**, dated as of the 1<sup>st</sup> day of July, 2019, by and between the **TOWN OF SCRIBA**, a municipal corporation organized and existing under the laws of the State of New York, the **MEXICO ACADEMY & CENTRAL SCHOOL DISTRICT**, a public school district organized and existing under the laws of the State of New York, the **COUNTY OF OSWEGO**, a municipal corporation organized and existing under the laws of the State of New York, and **EXELON FITZPATRICK, LLC**, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to conduct business in the state of New York,

**WITNESSETH:**

**THAT, WHEREAS**, the James A. FitzPatrick Facility has a nameplate rated capacity of 882.0 megawatts<sup>1</sup> and is located in the Town on land described on Exhibit A attached hereto and is currently identified by the tax parcel identification numbers listed on Exhibit B attached hereto; and

**WHEREAS**, the Company filed real property tax assessment challenges and a certiorari proceeding against the Town pursuant to Article 5 and Article 7 of the RPTL (the "Assessment Litigation") with respect to the Facility in relation to the 2018 and 2019 Assessment Roll Years (the "Litigation Period"); and

**WHEREAS**, as a consequence of negotiation as to the future real property tax treatment of the Facility, the Company has agreed to discontinue the Assessment Litigation for the Litigation Period, and the Tax Jurisdictions and the Company have agreed to enter into this Agreement regarding the Company's obligation to make payments to the Tax Jurisdictions for the Facility in relation to the Tax Jurisdictions' fiscal years based on the 2019, 2020, 2021, 2022, and 2023 Assessment Roll Years; and

**WHEREAS**, New York Real Property Tax Law Section 485 permits the exemption from taxation of a Nuclear Powered Electric Generating Facility, such as the Facility, upon the adoption of a local law or resolution by the tax jurisdictions in which such facility is located to confer the exemption and to authorize such tax jurisdictions to enter into payment in lieu of tax agreements such as this Agreement with the owner of such facility; and

**WHEREAS**, the Town conducted public hearings on June 19, 2019 pursuant to the Municipal Home Rule Law and Section 485, with respect to the Town's compliance with Section 485, notices of which were duly published and at which the public was given the opportunity to be heard; and

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<sup>1</sup> Based on the 2019 "Name Plate Rating" set forth in the New York Independent System Operator's 2019 Load & Capacity Data report released in April 2019.

WHEREAS, the County conducted public hearings on June 26, 2019 pursuant to the Municipal Home Rule Law and Section 485, with respect to the County's compliance with Section 485, notices of which were duly published and at which the public was given the opportunity to be heard; and

WHEREAS, the School District conducted public hearings on June 27, 2019 pursuant to Section 485, with respect to the School District's compliance with Section 485, notices of which were duly published and at which the public was given the opportunity to be heard; and

WHEREAS, pursuant to Section 485, the Town adopted Local Law No. 1 of 2019 on June 19, 2019, a copy of which is attached hereto as Exhibit C, providing for exemption of the Facility from Taxation, Special *Ad Valorem* Levies and Special Assessments imposed by or within the Town commencing on January 1, 2020 and expiring on December 31, 2024, and a resolution dated June 19, 2019 authorizing the execution of this Agreement by the Town Supervisor, a copy of which is also attached hereto as Exhibit C; and

WHEREAS, pursuant to Section 485, the Legislature of the County adopted Local Law No. 1 of 2019 on June 26, 2019, a copy of which is attached hereto as Exhibit D, providing for exemption of the Facility from Taxation, Special *Ad Valorem* Levies and Special Assessments imposed by or within the County commencing on January 1, 2020 and expiring on December 31, 2024, and a resolution dated June 26, 2019 authorizing the execution of this Agreement by the Chairperson of the Oswego County Legislature, a copy of which is also attached hereto as Exhibit D; and

WHEREAS, pursuant to Section 485, the Board of Education of the School District adopted a resolution dated June 27, 2019, a copy of which is attached hereto as Exhibit E, providing for exemption of the Facility from Taxation, Special *Ad Valorem* Levies and Special Assessments imposed by or within the School District commencing on July 1, 2019 and expiring on June 30, 2023, and a resolution dated June 27, 2019 authorizing the execution of this Agreement by the Superintendent of the School District or the President of its Board of Education, a copy of which is also attached hereto as Exhibit E;

NOW, THEREFORE, in consideration of the matters recited above and the mutual covenants hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1. Definitions

For all purposes of this Agreement, defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in this Section.

"Affiliate" means an "affiliate" of, or a Person "affiliated" with, a specified Person, and is a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified.

"Agreement" means this payment in lieu of tax agreement by and among the Parties dated as of the first date written above.

"Assessment Litigation" means the real property tax assessment challenges and a certiorari proceeding commenced by the Company against the Town pursuant to Article 5 and Article 7 of the RPTL with respect to the Facility in relation to the 2018 and 2019 Assessment Roll Years.

"Assessment Roll Year" means the year in which an assessment roll is established by the Town and is related to the Tax Jurisdictions' respective fiscal years tied to a specific assessment roll. For example, the 2019 Assessment Roll Year is tied to the School District's 2019-2020 fiscal year and the Town's and the County's 2020 fiscal year, and covers the period commencing on July 1, 2019 and terminating on June 30, 2020 for the School District, and the 2020 calendar year for the Town and the County. Unless earlier terminated, this Agreement covers the 2019, 2020, 2021, 2022, and 2023 Assessment Roll Years.

"Board of Education" means the Board of Education of the School District.

"Commissioner" means the Commissioner of the New York State Department of Taxation and Finance, of which the Office of Real Property Tax Services is a division.

"Company" means Exelon FitzPatrick, LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to conduct business in New York, and its successors and assigns.

"County" means the County of Oswego, New York, a municipal corporation organized and existing under the laws of the State of New York.

"County Legislature" means the County Legislature of the County.

"County Local Law" means Local Law No. 1 of 2019 adopted by the County on June 26, 2019, pursuant to Section 485, to provide for exemption of the Facility from Taxation, Special *Ad Valorem* Levies and Special Assessments imposed by or within the County.

"Court" means the New York State Supreme Court, Oswego County.

"Cure Period" means thirty (30) days after each Payment due date.

"Electric Transmission System" means the regulated utility-owned transmission lines and equipment dedicated to the bulk transfer of high voltage electrical energy between electric generating stations and power purchasers.

"Equipment" means any machinery and/or equipment that is or was used in the generation of electricity from nuclear power, any equipment used in the storage or handling of spent nuclear fuel or related materials and any equipment and generation tie lines leading from the Facility to an interconnection with any Electric Transmission System, but does not include any equipment in the Electric Transmission System.

"Exelon Generation" means Exelon Generation Company, LLC.

"Facility" means the James A. FitzPatrick Facility located in the jurisdictional boundaries of the Tax Jurisdictions, which has a nameplate rated capacity of 882.0 MW, including any property, machinery, equipment, buildings, and improvements currently located, and to be located, on the Land. The Facility is currently identified on the assessment roll of the Town by the Tax Parcels.

"Fire District" means the Town of Scriba Fire District.

"Force Majeure Event" means an event for which the Company is not responsible or act of God resulting in damage or destruction to greater than fifty-one percent (51%) of the Facility.

"Guaranty" means a parent guaranty provided by the Company as security for Payments.

"ISFSR" means the Facility's Independent Spent Fuel Storage Installation.

"Land" means the land located in the Town underlying the Facility described on Exhibit A attached hereto and currently identified by the Tax Parcels.

"Library" means the library for the School District.

"Litigation Period" means the 2018 and 2019 Assessment Roll Years associated with the Assessment Litigation.

"MW" means megawatt.

"NRC" means the United States Nuclear Regulatory Commission.

"Non-Nuclear Electric Generating Facilities" means all electric generating facilities which generate electricity from non-nuclear power for sale, directly or indirectly, to the public, including the land upon which such facilities are located, but excluding any back-up generating facilities or generators that are or become part of the Facility.

"Notice of Termination" means a written notice provided by either the Tax Jurisdictions or the Company to the other regarding its election to terminate this Agreement.

"Nuclear Powered Electric Generating Facility" shall have the meaning set forth in Section 485.

"Parties" means the Town, the School District, the County, and the Company.

"Payments" means the payments to be made with respect to the Facility, determined in accordance with Article III of this Agreement.

"Person" means an individual, partnership, limited liability company, corporation, trust, unincorporated organization or governmental authority.

"RPTL" means the Real Property Tax Law of the State, as amended from time to time.



"School District" means the Mexico Academy and Central School District, a public school district organized and existing under the laws of the State of New York and located in Oswego County, New York.

"School District Resolution" means the resolution dated June 27, 2019, adopted by the Board of Education pursuant to Section 485, to provide for exemption of the Facility from Taxation, Special *Ad Valorem* Levies and Special Assessments imposed by or within the School District.

"Section 485" means RPTL Section 485, as amended from time to time, providing for exemption of a Nuclear Powered Electric Generating Facility from Taxation, Special *Ad Valorem* Levies and Special Assessments, except as limited by Section 490.

"Section 490" means RPTL Section 490, as amended from time to time, extending the Section 485 exemption to cover Special *Ad Valorem* Levies and Special Assessments, but excepting certain of those.

"Special Assessment" shall have the meaning set forth in RPTL Section 102(15), as amended from time to time.

"Special Ad Valorem Levy" shall have the meaning set forth in RPTL Section 102(14), as amended from time to time.

"Special District" shall have the meaning set forth in RPTL Section 102(16), as amended from time to time.

"State" means the State of New York.

"Stipulation and Order of Settlement and Discontinuance" means a stipulation and order of settlement and discontinuance to be entered into by the Tax Jurisdictions and the Company, and so-ordered by the Court, in relation to discontinuation of the Assessment Litigation.

"Taxes" and "Taxation" shall have the meaning set forth in RPTL Section 102(20), as amended from time to time.

"Tax Jurisdictions" means the Town, School District, and County.

"Tax Parcels" means all tax parcels listed on Exhibit B attached hereto.

"Term" means five (5) payment years covering the 2019, 2020, 2021, 2022, and 2023 Assessment Roll Years, or such reduced period of time created by an earlier termination pursuant to Article III Section 8, Article III Section 11, or Article IV Section 2 of this Agreement.

"Town" means the Town of Scriba, New York, a municipal corporation organized and existing under the laws of the State of New York and located within the County of Oswego.

"Town Board" means the Town Board of the Town.

"Town Local Law" means Local Law No. 1 of 2019 adopted by the Town on June 19, 2019, pursuant to Section 485, to provide for exemption of the Facility from Taxation, Special *Ad Valorem* Levies and Special Assessments imposed by or within the Town.

"Triggering Event" means an event giving rise to the right of either the Tax Jurisdictions or the Company to terminate this Agreement.

"ZEC" means Zero Emissions Credit.

## **Section 2. Interpretation**

In this Agreement, unless the context otherwise requires:

a. The terms "hereby," "hereof," "herein," "hereunder," and any similar terms as used in this Agreement refer to this Agreement, the term "heretofore" shall mean before, and the term "hereafter" shall mean after, the date of this Agreement;

b. Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

c. ~~Any certificates, letters, or opinions required to be given pursuant to this Agreement shall mean a signed document attesting to or acknowledging the~~ circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Agreement.

## **ARTICLE II**

### **REPRESENTATIONS AND WARRANTIES**

#### **Section 1. Representations of all Parties**

Each of the Parties executing this Agreement hereby represents that, as of the date of this Agreement:

a. it is duly organized, validly existing, and in good standing under the laws of the State in which it is formed as set forth in the first paragraph of this Agreement and has requisite authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement;

b. it has the power and authority to execute, deliver, and carry out all applicable terms and provisions of this Agreement;

c. all necessary action has been taken to authorize its execution, delivery, and performance of this Agreement, and this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms;

d. with respect to its signatory hereto, such signatory has been duly authorized to execute this Agreement in her or his official or corporate capacity and has the power to bind her or his respective Party to this Agreement;

e. no governmental approval by or with any government authority is required for the valid execution, delivery, and performance under this Agreement by such Party except such as have been duly or will be obtained or made and, in the case of the Company, except such as are required for the operation or maintenance of the Facility, and the Company has no reason to believe that any such government approval will not be made or obtained as required for the Company's performance hereunder;

f. none of the execution or delivery of this Agreement, the performance of the obligations in connection with the transaction contemplated hereby, or the fulfillment of the terms and conditions hereof will (i) conflict with or violate any provision of its charter, certificate of organization, limited liability company agreement, or bylaws; (ii) conflict with, violate, or result in a breach of any applicable law; or (iii) conflict with, violate, or result in a breach of or constitute a default under or result in the imposition or creation of any mortgage, pledge, lien, security interest, or other encumbrance under this Agreement or under any term or condition of any mortgage, indenture, or any other agreement or instrument to which it is a party or by which it or any of its properties or assets are bound;

g. there is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against it, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement;

h. the conduct of its business is in compliance with all applicable governmental approvals with which a failure to comply, in any case or in the aggregate, would result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement; and

i. the Facility constitutes a Nuclear Powered Electric Generating Facility for purposes of Section 485.

## **Section 2. Tax Jurisdiction Representations**

a. The Town represents that the Town Local Law remains in full force and effect and has not been modified, rescinded, or revoked as of the date hereof and that all actions on the part of the Town necessary or appropriate for the effectiveness of the Town Local Law and the execution and delivery of this Agreement have occurred and been satisfied. The Town further represents that the Town Local Law and a copy of this Agreement were or will be filed with the Commissioner and the Town Clerk within thirty (30) days of its adoption (in the case of the Town Local Law) and execution (in the case of this Agreement).

b. The County represents that the County Local Law remains in full force and effect and has not been modified, rescinded, or revoked as of the date hereof and that all actions on the part of the County necessary or appropriate for the effectiveness of the County Local Law and the execution and delivery of this Agreement have occurred and been satisfied. The County further represents that the County Local Law and a copy of this Agreement were or will be filed with the Commissioner and the County Clerk within thirty (30) days of its adoption (in the case of the County Local Law) and execution (in the case of this Agreement).

c. The School District represents that the Section 485 Resolution remains in full force and effect and has not been modified, rescinded, or revoked as of the date of this Agreement and that all actions on the part of the School District necessary or appropriate for the effectiveness of the Section 485 Resolution and the execution and delivery of this Agreement have occurred and been satisfied. The School District further represents that the Section 485 Resolution and a copy of this Agreement were or will be filed with the Commissioner and the School District Clerk within thirty (30) days of its adoption (in the case of the Section 485 Resolution) and execution (in the case of this Agreement).

### **Section 3. Company Representations**

a. The Company represents that all actions necessary or appropriate for the execution and delivery of this Agreement have occurred and been satisfied.

b. the Company has paid all lawfully levied Taxes and related charges with respect to the 2018 Assessment Roll Year.

## **ARTICLE III**

### **PAYMENTS**

#### **Section 1. Payment Amount**

a. Payment Amount. The Company will make annual Payments to the Tax Jurisdictions in the total amounts set forth below for Assessment Roll Years 2019-2023.

Assessment Roll Year	Town Payment Share (\$) (includes Fire District)	School District Payment Share (\$) (includes Library)	County Payment Share (\$) (includes all County taxes)	Payments (\$)
2019	552,000	9,039,000	4,209,000	13,800,000
2020	552,000	9,039,000	4,209,000	13,800,000
2021	552,000	9,039,000	4,209,000	13,800,000
2022	552,000	9,039,000	4,209,000	13,800,000
2023	552,000	9,039,000	4,209,000	13,800,000
Payment Total	2,760,000	45,195,000	21,045,000	69,000,000

Payments shall cover Taxes, Special *Ad Valorem* Levies and Special Assessments currently imposed on the Facility by the Tax Jurisdictions, including Town general and highway taxes and Fire District taxes, School District general and Library taxes, and County general, Community College, and Workers Compensation taxes, and any other future Taxes, Special *Ad Valorem* Levies and Special Assessments covered by Section 485 imposed by the Tax Jurisdictions or a Special District. Payments will not be increased or decreased if the nameplate capacity of the Facility changes during the Term. Payments shall not be increased or decreased relative to the ISFSI, so-called dry cask storage units, or any related spent fuel storage property or Equipment.

b. Payment Split. The Tax Jurisdictions have agreed that annual Payments shall be split as follows:

Tax Jurisdiction	Share
Town	4.0%
School District	65.5%
County	30.5%
Combined	100.0%

## Section 2. All Property Taxes, Levies and Assessments Covered

To the extent provided for in Section 485, the Payments are inclusive of all Taxes, Special Assessments, Special *Ad Valorem* Levies, and other similar charges by any of the Tax Jurisdictions or any Special District which would have been or are assessed against the Facility during the Term. The Company will remain responsible for any water or sewer usage charges lawfully and properly levied on the Facility, and such usage charges will be paid by the Company in addition to Payments hereunder.

### Section 3. Payment Due Dates

The Company will make Payments to (a) the School District on or before October 1 of each School District fiscal year during the Term, and (b) the Town and the County on or before January 31 of each calendar year during the Term.

Assessment Roll Year	School District Tax Year	Town/County Tax Year	School District Payment Installment Due Dates	Town/County Payment Due Date
2019	2019-2020	2020	October 1, 2019	January 31, 2020
2020	2020-2021	2021	October 1, 2020	January 31, 2021
2021	2021-2022	2022	October 1, 2021	January 31, 2022
2022	2022-2023	2023	October 1, 2022	January 31, 2023
2023	2023-2024	2024	October 1, 2023	January 31, 2024

### Section 4. Invoices; Payee

a. Invoices. The Tax Jurisdictions will prepare invoices pursuant to this Agreement and deliver them to the Company at least thirty (30) days in advance of each of the Payment due dates described in Section 3 of this Article. ~~The failure of a Tax Jurisdiction to issue an invoice does not waive the due date or the Company's~~ responsibility to make the Payment on or before the date specified in Article III Section 3 hereof. Invoices shall be sent to the following address:

Exelon FitzPatrick, LLC  
c/o Exelon Business Services Company  
10 South Dearborn, 51<sup>st</sup> Floor  
Chicago, Illinois 60603  
Attention: Senior Property Tax Manager  
Telephone No.: (312) 394-7410

b. Payee. Unless otherwise directed by the Tax Jurisdictions, Payments shall be made payable to the following:

If to the Town, payable to the "Town of Scriba" and mailed or delivered to:

Town of Scriba  
Municipal Building  
42 Creamery Road  
Oswego, New York 13216  
Attention: Tax Collector

If to the School District, payable to the "Mexico Academy & Central School District" and mailed or delivered to:

Mexico Academy & Central School District  
40 Academy Street  
Mexico, New York 13114  
Attention: Assistant Superintendent for Business

If to the County, payable to the "County of Oswego" and mailed or delivered to:

County of Oswego  
County Office Building  
46 East Bridge Street  
Oswego, New York 13216  
Attention: County Treasurer

#### **Section 5. Credits for Taxes, Special *Ad Valorem* Levies, and Special Assessments**

Any Taxation, Special *Ad Valorem* Levies, or Special Assessments resulting in payments made or to be made by the Company to a Tax Jurisdiction or to a Special District with respect to the Facility or any portion thereof, during an Assessment Roll Year to which this Agreement applies, ~~will be applied as a credit against the Payment share due to that respective Tax~~ Jurisdiction in that Assessment Roll Year (and future Assessment Roll Years to the extent taxes paid exceed the Payment for that Assessment Roll Year), to the extent such payments are not timely refunded to the Company. Should the Company, under any subsequently adopted State or local law, pay to any Tax Jurisdiction in any Assessment Roll Year any amounts for Taxes, Special Assessments or Special *Ad Valorem* Levies charged, levied, and/or assessed upon the Facility, then the Company's obligation hereunder to make Payment to that Tax Jurisdiction in such Assessment Roll Year will be reduced by the amount which the Company so paid or is obligated to pay to such Tax Jurisdiction in such Assessment Roll Year (and future Assessment Roll Years to the extent Taxes, Special *Ad Valorem* Levies and Special Assessments paid exceed the Payment for that Assessment Roll Year). If the Company desires to claim a credit against any particular Payment due hereunder, the Company will give the respective Tax Jurisdiction prior written notice of its intention to claim any credit pursuant to the provisions of this Section, with such notice to be given by the Company at least ten (10) days prior to the final date on which such Payment is due pursuant to the provisions of Article III Section 3 of this Agreement. Notwithstanding anything to the contrary herein, for any Assessment Roll Year during which this Agreement applies, the sum of Taxes, Special *Ad Valorem* Levies and Special Assessments paid or owed and the Payments paid or owed (after application of the credit/reduction for Taxes, Special *Ad Valorem* Levies and Special Assessments) shall in no event be less or more than the total Payments for such Assessment Roll Year calculated pursuant to Article III Section 1 of this Agreement. Notwithstanding anything herein to the contrary, the Company shall not be entitled to a credit for any payments made other than payments for Taxes, Special *Ad Valorem* Levies, and Special Assessments.

## Section 6. Late Payments; Default; Penalties and Interest

Payments not made on or before the date due shall be considered in default of this Agreement. Upon the failure of the Company to make a Payment when due, the Tax Jurisdictions owed payment shall provide writing notice of default to the Company. The Company shall have thirty (30) days to cure any such default (the "Cure Period"). Payments not made to any of the Tax Jurisdictions on or before the date due shall be subject to the same interest and penalties as unpaid real property taxes, calculated from the date due; *provided, however*, that interest and penalties shall not be due and owing with respect to any such Payment if the Tax Jurisdictions fail to issue an invoice to the Company pursuant to Article III Section 4(a) hereof at least two (2) weeks prior to the date due. The officer collecting Payments for the Tax Jurisdictions hereunder shall be entitled to present to the County a statement to the effect that Payments, if any, remain unpaid. The County shall be entitled, upon receipt of such statement, to levy against the Facility for any unpaid Payments set forth in such statement, together with all applicable interest and penalties, and collect and enforce such levy in the same manner and to the same extent as provided by law for the collection of real property taxes, notwithstanding the fact that the Facility is otherwise wholly exempt from Taxation, Special *Ad Valorem* Levies and Special Assessments. Crediting pursuant to Article III Section 5 hereof, supported by tax bills paid, shall not constitute a default hereunder.

## Section 7. Payment Security

The Company will provide a guaranty by its parent company, Exelon Generation Company, LLC ("Exelon Generation"), in a form acceptable to the Company, Exelon Generation, and the Tax Jurisdictions as security for Payments (the "Guaranty").

## Section 8. Default and Remedies

In the event Payments, together with any interest due, are not received by any of the Tax Jurisdictions within the Cure Period, such Tax Jurisdiction(s) may exercise its rights under the Guaranty.

## Section 9. Payments After Expiration or Early Termination of Term

At the expiration or early termination of the Term, the assessment, levy, and collection of Taxes related to the Facility shall be made pursuant to then-current law. The Company shall have the right to challenge any assessments relating to the Facility for the period following the expiration or early termination of this Agreement.

## Section 10. Additional Property and Improvements

Future improvements or modifications to the Facility and property and any Equipment that becomes located on the Land during the Term shall be covered by this Agreement and shall not cause any increase in the Payments; *provided, however*, that this Agreement shall exclude any Non-Nuclear Electric Generating Facilities that are constructed on the Land.



## Section 11. Damage

In the event the Facility is substantially damaged or destroyed by a Force Majeure Event, this Agreement may be terminated by the Company in its entirety. Termination pursuant to this Section shall be first effective for the first Assessment Roll Year tied to the first taxable status date following the date upon which damage first occurs to the Facility. The Company shall provide written notice to the Tax Jurisdictions of its decision to terminate this Agreement pursuant to this Section within ninety (90) days after the date upon which damage first occurs to the Facility. The assessment, levy, and collection of Taxes related to the damaged Facility for that Assessment Roll Year shall be made pursuant to then-current law. The Company shall have the right to challenge any assessments relating to such Taxes payable on the Facility following such termination.

## Section 12. No Effect of Final Payments on Facility Value

The Payments under this Agreement shall have no bearing relative to Facility value following expiration or termination of this Agreement.

# ARTICLE IV

## TERM AND TERMINATION RIGHTS

### Section 1. Term and Effective Dates

The Term will be five (5) payment years covering the 2019, 2020, 2021, 2022, and 2023 Assessment Roll Years, as illustrated in the schedule below, or such reduced period of time created by an earlier termination pursuant to Article III Section 8, Article III Section 11, or Article IV Section 2. For the School District, this Agreement is effective upon July 1, 2019 and continues through 11:59 p.m. on June 30, 2024. For the Town and the County, this Agreement is effective upon January 1, 2020 and continues through 11:59 p.m. on December 31, 2024.

Assessment Roll Year	School District Tax Year	Town / County Tax Year
2019	2019-2020	2020
2020	2020-2021	2021
2021	2021-2022	2022
2022	2022-2023	2023
2023	2023-2024	2024

### Section 2. Termination; Triggering Events

Either the Tax Jurisdictions or the Company may terminate this Agreement upon the occurrence of any of the following events (each a "Triggering Event"):

a. The NRC orders a shutdown or revokes, terminates, or otherwise cancels the license to operate to generate electricity or refuses to approve resumption of operations to generate electricity.

b. The New York State ZEC program is terminated or discontinued by legislative, regulatory or administrative action, or is struck down by a non-appealable decision of a court, during the Term and is not replaced with a comparable program.

c. Any new New York State or Federal legislation is passed which directly increases the annual revenue the Facility receives through the ZEC program, carbon pricing or any other program that provides payments related to the environmental attributes of the Facility.

d. The Company adds generating capacity to the Facility or the Land on which the Facility is located.

e. The Company decides to permanently shut down the Facility for reasons other than those covered above and notice of shut-down is provided to the NRC.

Upon the occurrence of any such Triggering Event, the Tax Jurisdictions or the Company may at any time thereafter elect to terminate this Agreement by providing written notice of termination (the "Notice of Termination").

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### Section 3. Effect of Election to Terminate

Upon the occurrence of a Triggering Event, if either the Tax Jurisdictions or the Company elect to terminate this Agreement, such termination will be first effective for the set of fiscal years tied to the second final assessment roll following the date of the Notice of Termination. If either the Tax Jurisdictions or the Company do not elect to terminate this Agreement in connection with a Triggering Event, the Payments will continue to be as specified in Article III hereof.

## ARTICLE V

### ASSESSMENT LITIGATION AND WAIVER OF REFUNDS

#### Section 1. 2018 and 2019 Assessment Challenges

Within thirty (30) days following execution and delivery of this Agreement by all Tax Jurisdictions, the Assessment Litigation shall be withdrawn and discontinued with prejudice.

#### Section 2. Assessment Challenges

a. Potential 2019 Assessment Challenge. The Company may challenge the assessments on the Facility for the 2019 Assessment Roll Year. Pursuant to Section 1 of this Article, such assessment challenge(s), if any, shall also be withdrawn and discontinued with prejudice pursuant to the terms of a stipulation and order of settlement and discontinuance (the "Stipulation and Order of Settlement and Discontinuance").

b. 2020-2023 Assessment Challenges. Except as otherwise provided in this Agreement, the Company agrees not to challenge the assessments on the Facility for the 2020, 2021, and 2022 Assessment Roll Years. The Company may challenge the assessment for the final year of this Agreement (the 2023 Assessment Roll Year).

c. No Implied Agreement to Assessed Value. Neither the Company's agreement not to challenge the assessments on the Facility nor its failure to do so in the final year of the Agreement shall constitute an acceptance of or agreement to such assessments.

### **Section 3. Refunds**

As part of its agreement to withdraw and discontinue the Assessment Litigation and assessment challenges, and conditioned on the adoption of the Section 485 exemption by all Tax Jurisdictions and execution and delivery of this Agreement by all Parties, the Company irrevocably waives refund of taxes paid for the Litigation Period.

### **Section 4. Disqualification Decision**

In connection with entry into and filing with the Court of the Stipulation and Order of Settlement and Discontinuance, the Tax Jurisdictions will (i) agree their appeal of the Court's March 5, 2019 decision regarding disqualification of Tax Jurisdiction counsel in connection with the Assessment Challenges is moot, and (ii) take all necessary steps to withdraw and discontinue with prejudice such appeal within thirty (30) days following execution and delivery by the Company and the Tax Jurisdictions of the Stipulation and Order of Settlement and Discontinuance.

### **Section 5. Court to Retain Jurisdiction**

The Court shall retain jurisdiction to enforce or construe the terms of this Agreement as part of the settlement of the Assessment Litigation, despite the Company's discontinuance of such litigation through the Stipulation and Order of Settlement and Discontinuance.

### **Section 6. No Effect of Stipulation and Order of Settlement and Discontinuance on Facility Value**

Any reference in the Stipulation and Order of Settlement and Discontinuance to the Facility's assessment shall have no bearing as to Facility value following expiration or termination of this Agreement.

## **ARTICLE VI**

### **ASSIGNMENT**

#### **Section 1. Assignment**

a. The Company may assign this Agreement to any Affiliate without the prior written consent of the Tax Jurisdictions provided such Affiliate assumes and agrees

to be bound by this Agreement. In such event, the Company shall have no further obligations hereunder.

b. In the event the Facility is sold to a third party, this Agreement shall be assigned to and assumed by such third party, including the obligations articulated in Section 4 of the Guaranty. In such event, the Company shall have no further obligations hereunder; provided, however, that if such third party does not assume and agree to be bound by this Agreement and provide a parent guaranty, the Company shall not be released from its obligations hereunder. The Company shall provide written notice to the Tax Jurisdictions of any such impending sale of the Facility within thirty (30) days following the date of submission of the Company's application to the NRC for transfer of the Facility's operating license.

c. The Company may also, without the consent of any Tax Jurisdiction, sell, transfer, assign, pledge, mortgage, hypothecate, or otherwise dispose of and encumber all or any of its rights, title, and interests in, to, and under this Agreement to any lender as security for the performance of its obligations under any loan agreement with such lender. The Tax Jurisdictions agree to execute, deliver, and furnish such consents, documents, certificates, opinions of counsel, and other instruments and information which any lender may reasonably request as a condition to the financing or refinancing provided in relation to the Facility.

## ARTICLE VII

### LIMITED OBLIGATION OF THE PARTIES

All obligations of the Parties contained in this Agreement shall be deemed to be the corporate obligations of the respective Parties and not obligations of any member, officer, agent, servant, employee, or affiliate of the Parties. No recourse upon any obligation contained in this Agreement, or otherwise based on or in respect of this Agreement, shall be had against any past, present, or future member, officer, agent, servant, employee, or affiliate of the Parties.

## ARTICLE VIII

### NOTICES

All notices, demands, requests, consents, or other communications provided for or permitted to be given pursuant to this Agreement shall be in writing and shall be mailed, communicated by electronic mail, or delivered to the Parties at the respective address set forth below:

If to the Town:

Town of Scriba  
Municipal Building  
42 Creamery Road  
Oswego, New York 13216  
Attention: Supervisor  
Telephone No.: (315) 343-3019

with a copy to:

Caraccioli Law, PLLC  
175 East Seventh Street  
Oswego, New York 13126  
Attention: Kevin C. Caraccioli, Esq., Scriba Town Attorney  
Telephone No.: (315) 343-1939

If to the County:

County of Oswego  
County Office Building  
46 East Bridge Street  
Oswego, New York 13216  
Attention: Philip R. Church, County Administrator  
Telephone No.: (315) 349-8235

with a copy to:

County of Oswego  
County Office Building  
46 East Bridge Street  
Oswego, New York 13216  
Attention: Richard C. Mitchell, County Attorney  
Telephone No.: (315) 349-8296

If to the School District:

Mexico Academy & Central School District  
40 Academy Street  
Mexico, New York 13114  
Attention: Superintendent  
Telephone No.: (315) 963-8400

with a copy to:

Ferrara Fiorenza P.C.  
5010 Campuswood Drive  
East Syracuse, New York 13057  
Attention: Joseph G. Shields, Esq.  
Telephone No.: (315) 437-7600

If to the Company:

Exelon FitzPatrick, LLC  
c/o Exelon Business Services Company  
10 South Dearborn, 51st Floor  
Chicago, Illinois 60603  
Attention: Senior Property Tax Manager  
Telephone No.: (312) 394-7410

with a copy to:

Swartz Moses PLLC  
1583 East Genesee Street  
Skaneateles, New York 13152  
Attention: Peter H. Swartz, Esq.  
Telephone No.: (315) 554-8166

All such notices, demands, requests, consents, or other communications will be deemed to have been duly given when transmitted by electronic copy, or personally delivered, or, in the case of a mailed notice, upon receipt, in each case addressed as aforesaid. Each of the Parties may from time to time change its address for notices by written notice of such change to the other Parties given in accordance with this Section.

## ARTICLE IX

### MISCELLANEOUS

#### Section 1. Governing Law; Venue

This Agreement will be governed by and construed in accordance with the laws of the State without giving effect to the conflict of laws principles thereof. All disputes arising out of or in connection with this Agreement will be decided in the first instance by the New York State Supreme Court, County of Oswego, to the exclusion of all other courts, except that the Parties shall have all appeal rights allowed by State law. The Parties hereby submit to the jurisdiction of the New York State Supreme Court, County of Oswego, for purposes of all such suits.

#### Section 2. Severability

In the event any provision of this Agreement is held to be unenforceable or invalid by any court or regulatory authority of competent jurisdiction, the validity and enforceability of the

remaining provisions shall not be affected; *provided, however*, that the Parties shall renegotiate in good faith the unenforceable or invalid provision(s) in order to accomplish the goals and intent of this Agreement consistent with Section 485.

### **Section 3. Amendment**

This Agreement may not be amended except by an instrument in writing signed by the Parties hereto.

### **Section 4. Binding Effect**

This Agreement will inure to the benefit of and be binding upon each of the Parties and, as permitted by this Agreement, their respective successors and permitted assigns.

### **Section 5. Execution in Counterparts**

This Agreement may be executed by the Parties hereto in several counterparts, and each such counterpart will be deemed to be an original and all of which together constitute but one and the same agreement.

### **Section 6. Table of Contents and Section Headings Not Controlling**

The Table of Contents and the Section headings in this Agreement have been prepared for convenience of reference only and will not control, affect the meaning of, or be taken as an interpretation of any provision of this Agreement.

### **Section 7. Effective Date**

This Agreement will be effective as of the dates set forth in Article IV Section 1 hereof.

### **Section 8. Filing with the Commissioner**

The Tax Jurisdictions will file copies of this Agreement within thirty (30) days after the execution hereof by the Parties with the Commissioner and with the Clerks of the Town, School District, and County. Copies of the Town Local Law, County Local Law, and School District Resolution shall be included in such filings with the Town Clerk, County Clerk, and School District Clerk, respectively.

### **Section 9. Change of Tax Identification Numbers; Creation of New Tax Parcels**

The change or amendment of the, or increase or decrease in the number of, Tax Identification or parcel numbers currently used by the Town to identify or classify all or any part of the Facility, or the creation of new or additional tax parcels for future facilities and property, Equipment, buildings, and improvements located on, above, or under the Land, will not in their totality cause the Payments and/or computations agreed to, or upon which this Agreement is based, to change; *provided, however*, this provision shall not apply to tax parcels created in connection with a sale or transfer of a portion or portions of the Land to a third party or parties that identify such sold or transferred portion(s) of the Land.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the day and year first above written.

**TOWN OF SCRIBA**

By: \_\_\_\_\_  
Robert Ramsey  
Town Supervisor

**COUNTY OF OSWEGO**

By: \_\_\_\_\_  
James Weatherup  
Chairman, Oswego County Legislature

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**MEXICO ACADEMY & CENTRAL SCHOOL DISTRICT**

By: \_\_\_\_\_  
Sean C. Bruno  
Superintendent of Schools

**EXELON FITZPATRICK, LLC**

By: \_\_\_\_\_  
Joseph Pacher  
Vice President



## LIST OF EXHIBITS

Exhibit A	LEGAL DESCRIPTION OF THE FACILITY	A-1
Exhibit B	TAX PARCELS	B-1
Exhibit C	TOWN LOCAL LAW AND AUTHORIZING RESOLUTION	C-1
Exhibit D	COUNTY LOCAL LAW AND AUTHORIZING RESOLUTION	D-1
Exhibit E	SCHOOL DISTRICT RESOLUTIONS	E-1

## Exhibit A

### Legal Description of the Facility

Tax ID# 095.00-01-14.200 (FitzPatrick Facility), and  
Tax ID# 095.00-01-50 (Wellness Center)

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Scriba, County of Oswego, State of New York, including all of Lots #7, #8, #9 and #42, and part of Lots #6, #10, and #41 in the 18<sup>th</sup> Township of Scriba's Patent, bounded and described as follows:

Beginning at the southerly mean low water mark (elevation 245 U.S. Lake Survey Datum) of Lake Ontario; Thence S. 07° 07' 00" W. passing through the southerly water's edge (1999) of Lake Ontario and two iron pins set at 56.84 feet 99.84 feet and 2846.38 feet, respectively, and continuing a total distance of 2871.27 feet to a nail set at the center of Lake Road;

Thence N. 88° 29' 00" W. along the center of Lake Road a distance of 371.04 feet to a nail set at the intersection with the centerline of Lake Road and County Route 29;

Thence S. 06° 48' 13" W. along the center of County Route 29 a distance of 1152.12 feet to a nail set;

Thence S. 07° 18' 13" W. along the centerline of County Route 29 a distance of 1775.22 feet to a nail set;

Thence S. 07° 54' 13" W. along the centerline of County Route 29 a distance of 1173.66 feet to a nail set;

Thence S. 07° 58' 13" W. along the centerline of County Route 29 a distance of 1109.42 feet to a nail set;

Thence N. 82° 34' 00" W. passing through an iron pin set at 25.00 feet and continuing a total distance of 3930.06 feet to an iron pin set at the point where the southerly line of Lot #41 intersects the E. 548.300 coordinate line at central zone (N.Y. coordinate system);

Thence N. 10° 01' 00" E. along the coordinate line, passing through an iron pin set at 7890.93 feet said iron pin being situate S. 65° 15' 54" W. 278.69 feet from U.S. Lake Survey Monument "Camp" and continuing a total distance of 7935.93 feet to the southerly water's edge (1999) of Lake Ontario;

Thence N. 10° 01' 00" E. a distance of 50 feet more or less to the mean low water line of Lake Ontario at elevation 245 (U.S. Lake Survey Datum);

Thence along the mean low water line a distance of 4093.63 feet to the point of beginning, being situate S 84° 44' 27" E. 3929.81 feet from the end of the last course.

Containing 720.738 acres of land more or less.

Together with a right-of-way and easement for the purposes of ingress and egress on foot or with vehicles over so much of said former County Route 29 (Lake Road) extending from the westerly boundary of the above described premises in a generally westerly direction across the premises of Niagara Mohawk Power Corporation to the westerly boundary of the premises of Niagara Mohawk Power Corporation, said westerly boundary being coincident with the centerline of Lakeview Road (so-called) at its point of intersection with said former County Route 29.

Tax ID# 095.00-10-01 (Railroad Spur)

ALL THAT CERTAIN portion of right of way of railroad of Consolidated Rail Corporation, formerly Penn Central Transportation Company, known as the Fulton Secondary and identified as Line Code 4748 in the records of the United States Railway Association, situate in the Town of Scriba, County of Oswego and State of New York.

BEGINNING at the Mile Post 38.35 which is about 792 feet east of the southwest line of Four Mile Crossing (aka County Route 1A); and extending from said Beginning thence in an easterly direction to about Mile Post 39.8 and Station 95+543 which is at the end of Consolidated Rail Corporation's ownership, all as indicated by "PS" on the Consolidated Rail Corporation's Case Plan No. 68652, sheets 1 of 2, which sheets are attached to the Parcel B Deed and made a part thereof.

BEING a part of portion of the same premises which Robert W. Blanchette, Richard C. Bond and John H. McArthur, as Trustees of the Property of Penn Central Transportation Company, Debtor, by Conveyance Document No. PC-CRC-RP-128, dated March 30, 1976 and recorded on September 20, 1978, in the Recorder's Office of Oswego County, New York, in Liber 821 at Page 3&c., granted and conveyed the aforesaid property unto Consolidated Rail Corporation.

## Exhibit B

### List of Tax Parcels comprising the Facility

1. Tax ID# 095.00-01-14.200 (FitzPatrick Facility)
2. Tax ID# 095.00-01-50 (Wellness Center)
3. Tax ID# 095.00-10-01 (Railroad Spur)

**Exhibit C**

**Town Local Law and Authorizing Resolution**

**Exhibit D**

**County Local Law and Authorizing Resolution**

**Exhibit E**

**School District Resolutions**

**GUARANTY**

This **GUARANTY**, made and entered into as of July 1, 2019 (the "Guaranty"), from EXELON GENERATION COMPANY, LLC, a Pennsylvania limited liability company, with an office at 300 Exelon Way, Kennett Square, Pennsylvania 19348 ("Guarantor"), to the MEXICO ACADEMY & CENTRAL SCHOOL DISTRICT, a central school district existing under the laws of the State of New York (the "School District"), the COUNTY OF OSWEGO, a body corporate and politic existing under the laws of the State of New York (the "County"), and the TOWN OF SCRIBA, a body corporate and politic and existing under the laws of the State of New York (the "Town"),

**WITNESSETH:**

**THAT, WHEREAS**, the School District, the Town, and the County (together, the "Tax Jurisdictions") have entered into a payment in lieu of tax agreement (the "PILOT Agreement") with Exelon FitzPatrick, LLC (the "Company") dated as of July 1, 2019 regarding the Company's obligation to make payments in lieu of real property taxes ("PILOT Payments") to the Tax Jurisdictions for the Company's James A. FitzPatrick Nuclear Power Plant (the "Facility") in relation to the Tax Jurisdictions' fiscal years based on the Town's 2019 through 2023 assessment rolls; and

**WHEREAS**, the Facility is identified on the 2019 tentative assessment roll of the Town by the following tax parcels: Tax ID# 095.00-01-14.200; Tax ID# 095.00-01-50; and Tax ID# 095.00-10-01; and

**WHEREAS**, as a condition to entering into the PILOT Agreement, the Tax Jurisdictions have required that the Guarantor execute and deliver this Guaranty with respect to the Company's PILOT Payment obligations to the Tax Jurisdictions under the PILOT Agreement; and

**WHEREAS**, the Guarantor is the direct corporate parent of the Company and desires that the Tax Jurisdictions enter into the PILOT Agreement with the Company to facilitate the settlement of certain real property tax matters and is willing to enter into this Guaranty as an inducement to the Tax Jurisdictions to enter into the PILOT Agreement with the Company;

**NOW, THEREFORE**, for good and valuable consideration, the Guarantor does hereby, represent, warrant, covenant and agree with the Tax Jurisdictions as follows:

1. Guarantor hereby guarantees the full and prompt payment of all sums due and payable (without acceleration) by the Company under the PILOT Agreement, and the due and punctual performance of all of Company's other obligations thereunder upon written demand by the Tax Jurisdictions; *provided, however*, that the aggregate amount guaranteed under this Guaranty shall not exceed the Company's remaining obligations under the PILOT Agreement, declining over time as PILOT Payments are made (the "Cap"). Upon payment by the Guarantor



to the Tax Jurisdictions of an aggregate amount equal to or exceeding the Cap, the Guarantor shall have no further obligations or responsibilities hereunder. This Guaranty and Guarantor's obligations hereunder shall immediately terminate upon the expiration or termination of the PILOT Agreement, provided no uncured payment default under the PILOT Agreement has occurred and no payment obligations under this Guaranty are outstanding.

2. Notwithstanding anything contained herein, Guarantor hereby guarantees the due and punctual payment in full of any and all interest or penalties for late payments arising out of default by the Company in making payments under the PILOT Agreement, including but not limited to, reasonable attorneys' fees which the Tax Jurisdictions incur as the result of the enforcement of this Guaranty.

3. The Tax Jurisdictions and the Company may, from time-to-time, waive compliance with the terms of the PILOT Agreement or any default thereunder or modify or supplement any of the provisions of the PILOT Agreement without in any way affecting or terminating any of Guarantor's obligations and liabilities hereunder.

4. Guarantor's obligations hereunder (a) shall be primary; (b) shall not be conditioned upon the Tax Jurisdictions' pursuit of any remedy which they have against the Company or any other person; and (c) shall survive and shall not be diminished, impaired or delayed in connection with (i) any bankruptcy, insolvency, reorganization, liquidation, or similar proceeding relating to Company, its properties or creditors or (ii) any transfer, assignment, or termination of the PILOT Agreement or the Company's interest in the Facility, except as provided herein. In the event Guarantor sells its membership interest(s) in the Company or sells the Facility and assigns the PILOT Agreement to the purchaser of the Facility pursuant to Article VI of the PILOT Agreement, Guarantor shall remain obligated to guarantee payments to the Tax Jurisdictions under the PILOT Agreement; *provided, however*, that this Guaranty shall be of no further force and effect if the Tax Jurisdictions accept a replacement parent guaranty provided for the benefit of the Facility's purchaser, and the Company is not in default regarding payments under the PILOT Agreement and no payment obligations under this Guaranty are outstanding.

5. All rights and remedies of Tax Jurisdictions under this Guaranty, the PILOT Agreement, or by law are separate and cumulative and the exercise of one shall not limit or prejudice the exercise of any other such rights or remedies, subject to the Company's right to cure defaults under the PILOT Agreement. Any waivers or consents by Guarantor as set forth in this Guaranty shall not be deemed exclusive of any additional waivers or consents by Guarantor which may exist in law or equity.

6. This Guaranty shall be binding upon the Guarantor, and Guarantor's successors and assigns, and shall inure to the benefit of Tax Jurisdictions and their successors and assigns.

7. Guarantor shall not be required to perform its obligations under this Guaranty unless and until it receives a written demand for payment by the unpaid Tax Jurisdiction(s) to the Guarantor after (but not before) (a) any default by the Company in a PILOT Payment obligation of the Company under the PILOT Agreement, and (b) the failure of the Company to cure such default within one month after such default (the "Guaranty Notice"). Guarantor will make the

required PILOT Payment on behalf of the Company, subject to the Cap, within fifteen (15) days after the Guarantor's receipt of the Guaranty Notice. In the event the Company's PILOT Payment obligations under the PILOT Agreement are performed by it or on its behalf after the Cure Period (as such term is defined in the PILOT Agreement) but before payment by the Guarantor hereunder, the Guarantor shall be relieved of its obligation to make the required Payment on behalf of the Company.

8. Guarantor represents and warrants to the Tax Jurisdictions that this Guaranty does not conflict with or constitute a breach of, or constitute a default under, any contract, agreement or other instrument by which Guarantor is bound or to which Guarantor is a party.

9. If any provision of this Guaranty is held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Guaranty shall remain in full force and effect.

10. Guarantor agrees that this Guaranty shall be governed by and construed according to the laws of the State of New York. The Guarantor irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Guaranty may be brought in the courts of record of the State of New York in Oswego County or the courts of the United States, Northern District of New York, (b) consents to the jurisdiction of each such court in any such suit, action or proceeding, and (c) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts.

11. Any notice required to be sent to the Guarantor shall be in writing and shall be sufficiently given and deemed given when delivered personally, or two (2) days after it is sent by registered or certified mail, postage prepaid, or two (2) days after it is sent by overnight courier, postage prepaid, to the Guarantor at Exelon Generation Company, LLC, c/o Exelon Business Services Company, 10 South Dearborn, 51<sup>st</sup> Floor, Chicago, Illinois 60603, Attention: Senior Property Tax Manager, with a copy to Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, Illinois 60555, Attention: Associate General Counsel, or to such other address as may be furnished in writing by the Guarantor to the Tax Jurisdictions.

12. Terms not specifically defined herein shall have the meaning for such term set forth in the PILOT Agreement.

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EXECUTION COPY

IN WITNESS WHEREOF, the Guarantor has duly executed this Guaranty as of the day and year first above written.

**EXELON GENERATION COMPANY, LLC**

By: \_\_\_\_\_