THE TOWN OF ONTARIO,
WAYNE CENTRAL SCHOOL DISTRICT
AND COUNTY OF WAYNE

AND

R.E. GINNA NUCLEAR POWER PLANT, LLC

PAYMENT IN-LIEU OF TAXES AGREEMENT
FOR THE
R.E. GINNA NUCLEAR POWER PLANT

DATED AS OF JULY 1, 2019
R.E. GINNA NUCLEAR POWER PLANT

PAYMENT IN-LIEU OF TAXES AGREEMENT

This PAYMENT IN-LIEU OF TAXES AGREEMENT, dated as of the 1st day of July, 2019 (the “Agreement”), by and between the TOWN OF ONTARIO, a body corporate and politic existing under the laws of the State of New York (the “Town”), the WAYNE CENTRAL SCHOOL DISTRICT, a central school district existing under the laws of the State of New York with an office at 6200 Ontario Center Road, Ontario Center, New York (the “School District”), the COUNTY OF WAYNE, a body corporate and politic existing under the laws of the State of New York (the “County”) (the Town, the School District, and the County are referred to herein as the “Tax Jurisdictions”), and R.E. GINNA NUCLEAR POWER PLANT, LLC, a limited liability company duly organized and validly existing under the laws of the State of Maryland and authorized to conduct business in the state of New York (the “Company”) (the Tax Jurisdictions and the Company are referred to herein as the “Parties”),

WITNESSETH:

THAT, WHEREAS, the R.E. Ginna Nuclear Power Plant is a nuclear-powered electric generating facility with a capacity of approximately 614.0 megawatts (“MW”), is located in the Town on land described on Exhibit A attached hereto (the “Land”), and is identified by the tax parcel identification numbers listed on Exhibit B attached hereto (the “Tax Parcels”) (the Land and all facilities, Equipment (including additions and replacements), improvements (including modifications and additions and the facility’s Independent Spent Fuel Storage Installation (“ISFSI”)), and related property currently located on the Land or that comes to be located on the Land during the Term (as defined below) shall be referred to collectively herein as the “Facility”); and

WHEREAS, , the Company filed a real property tax assessment challenge against the Town pursuant to Article 5 of the RPTL (the “Assessment Challenge”) with respect to the Facility’s valuation in relation to the 2019 Assessment Roll Year; 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 Challenge, and the Tax Jurisdictions and the Company have agreed to enter into this Agreement regarding the Company’s obligation to make payments in lieu of taxes to the Tax Jurisdictions for the Facility in relation to the Tax Jurisdictions’ fiscal years based on the 2019 – 2028 Assessment Roll Years; and

WHEREAS, New York Real Property Tax Law Section 485 (“Section 485”) permits the exemption from taxation of nuclear-powered electric generating facilities, such as the Facility, upon the adoption of a local law or resolution by each of the tax jurisdictions in which such facility is located and to authorize such tax jurisdictions to enter into a payment in-lieu of taxes agreement such as this Agreement with the owner of such facility; and
WHEREAS, the Town conducted a public hearing on July 19, 2019 pursuant to the Municipal Home Rule Law and Section 485 with respect to Local Law No. 6 of the Year 2019, and a public hearing on July 19, 2019 pursuant to Section 485 with respect to the Town’s execution of this Agreement, 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 28, 2019 pursuant to Section 485 with respect to a resolution granting an exemption from taxation and the School District’s execution of this Agreement, notices of which were duly published and at which the public was given the opportunity to be heard; and

WHEREAS, the County conducted a public hearing on July 16, 2019 pursuant to the Municipal Home Rule Law and Section 485 with respect to County Local Law No. 6 of 2019, and a public hearing on July 16, 2019 pursuant to Section 485 with respect to the County’s execution of this Agreement, 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. 6 of the Year 2019 on July 19, 2019, a copy of which is attached hereto as Exhibit C, providing for exemption of the Facility from taxation by the Town as permitted by Section 485 commencing January 1, 2020, and a resolution authorizing the execution and adoption of this Agreement by the Town Supervisor as of July 19, 2019, a copy of which is also attached hereto as Exhibit C; and

WHEREAS, pursuant to Section 485, the School District adopted resolutions dated June 28, 2019, copies of which are attached hereto as Exhibit D, providing for exemption of the Facility from taxation by the School District as permitted by Section 485 commencing July 1, 2019, and authorizing the execution and adoption of this Agreement by the Superintendent of the School District or the President of the Board of Education of the School District; and

WHEREAS, pursuant to Section 485, the County adopted County Local Law No. 6 of the Year 2019 on July 16, 2019, a copy of which is attached hereto as Exhibit E, providing for exemption of the Facility from taxation by the Town as permitted by Section 485 commencing January 1, 2020, and a resolution authorizing the execution and adoption of this Agreement by the Chairperson of the Board of Supervisors as of July 16, 2019, a copy of which is also attached hereto as Exhibit E;

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

ARTICLE I

DEFINITIONS

Section 1.1 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 herein except as otherwise expressly provided for herein or as the context hereof otherwise requires.

“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 taxes agreement by and among the Parties dated as of the first date written above.

“Assessment Challenge” means the Company’s real property tax assessment challenge against the Town pursuant to Article 5 of the RPTL with respect to the Facility in relation to the 2019 Assessment Roll Year.

“Assessment Litigation” means the Company’s potential real property tax assessment challenge against the Town pursuant to Article 7 of the RPTL with respect to the Facility in relation to the 2019 Assessment Roll Year.

“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.

“Board of Education” means the Board of Education of the School District.

“CENG” means Constellation Energy Nuclear Group, LLC.

“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 R.E. Ginna Nuclear Power Plant, LLC, a limited liability company duly organized and validly existing under the laws of the State of Maryland and authorized to conduct business in New York, and its successors and assigns.

“Company Notice of Termination” means a notice provided by the Company to the Tax Jurisdictions regarding its election to terminate this Agreement.

“County” means the County of Wayne.

“County Board of Supervisors” means the Board of Supervisors of the County.

“County Local Law” means County Local Law No. 30 of 2019 adopted by the County on July 16, 2019, pursuant to the Municipal Home Rule Law and Section 485, to provide for exemption of the Facility from taxation as permitted by Section 485.

“Court” means the New York State Supreme Court, Wayne County.
“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 equipment used in the generation of electricity from nuclear power, including, but not limited to, any equipment required or used to provide for the safe shutdown or cooling of the Facility or to provide a backup source of power or to prevent or reduce radiation exposure, any equipment leading from the Facility to the point of interconnection with the Electric Transmission System, and any spare parts or subassemblies for any of the foregoing, but does not include any equipment in the Electric Transmission System.

“Facility” means the Nuclear Facility owned by the Company including, but not limited to, all existing and future facilities and improvements (including modifications or additions) used in connection with operation of such Nuclear Facility located on the Land such as: (a) office, simulator, visitor center, Manor House, laboratory, or training center buildings, (b) maintenance shop, warehouse or Equipment storage facilities as well as the ISFSI, (c) material processing facilities, (d) cooling facilities, (e) roads, walkways, street lighting or parking areas serving such facilities and improvements, (f) firing range, fencing, siren towers or other safety or security-related improvements, (g) interconnection modifications, (h) water or sewer modifications serving such facilities or improvements, (i) regulator-required modifications or new installations, (j) any other facilities and improvements (including modifications or additions) used in connection with operation of such Nuclear Facility located on the Land, (k) Equipment, and (l) the Land.

“Guaranty” means a parent guaranty provided by the Company as security for PILOT Payments.

“ISFSI” means the Facility’s Independent Spent Fuel Storage Installation, including spent nuclear fuel (however stored) and loaded or unloaded dry cask storage and support facilities.

“Land” shall mean the land described on Exhibit A attached hereto and covered by the Tax Parcels.

“MW” means megawatt.

“NRC” means the United States Nuclear Regulatory Commission.


“Nameplate Capacity” means the nameplate rated generating capacity of the Facility of 614.0 MW.

“Notice of Default” means a notice provided by a Tax Jurisdiction to the Company regarding failing to timely pay a PILOT Payment.

“Nuclear Facility” means a facility that generates electricity using nuclear power for sale, directly or indirectly, to the public, including the land upon which the facility is located, any equipment used in such generation, and equipment leading from the facility to the point of
interconnection with the electric transmission system, but shall not include any equipment in the Electric Transmission System.

“Parties” means the Town, the School District, the County, and the Company.

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

“PILOT” means payment in-lieu of tax.

“PILOT Payments” means the PILOT payments to be made with respect to the Facility and specified in Article III of this Agreement.

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

“School District” means the Wayne Central School District.

“School District Resolution” means the resolution dated June 28, 2019, adopted by the Board of Education pursuant to Section 485, to provide for exemption of the Facility from taxation as permitted by Section 485.

“Section 485” means RPTL Section 485, as amended from time to time, providing for exemption of Nuclear Facilities 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.

“State” means the State of New York.

“Stipulation of Discontinuance” means the stipulation discontinuing the Assessment Litigation.

“Tax Jurisdiction Notice of Termination” means a notice provided by the Tax Jurisdictions to the Company regarding their election to terminate this Agreement.

“Tax Jurisdictions” means the Town, School District, and County.

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

“Tax Year” means the Tax Jurisdictions’ respective fiscal years tied to a specific Assessment Roll Year. For example, the School District’s 2019-2020 Tax Year and the Town’s and the County’s 2020 Tax Years are tied to the 2019 Assessment Roll Year.

“Term” means ten (10) payment years covering the 2019 – 2028 Assessment Roll Years, or such reduced period of time created by an earlier termination.

“Town” means the Town of Ontario.
“Town Board” means the Town Board of the Town.

“Town Local Law” means Local Law No. 23 of 2019 adopted by the Town on July 2019, pursuant to Section 485, to provide for exemption of the Facility from taxation as permitted by Section 485.

“Triggering Event” means an event giving rise to a right on the part of the Tax Jurisdictions or the Company to terminate this Agreement.

“ZEC” means a New York State Zero Emissions Credit.

Section 1.2 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 2.1 Representations and Warranties of all Parties.

Each of the Parties executing this Agreement hereby represents and warrants 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; and

(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.

Section 2.2 Tax Jurisdiction Representations and Covenants.

(a) The Town represents and warrants 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 and warrants 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 School District represents and warrants that the School District 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 School District Resolution and the execution and delivery of this Agreement have occurred and been satisfied. The School District further represents and warrants that the School District 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 School District Resolution) and execution (in the case of this Agreement).

(c) The County represents and warrants 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 and warrants 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).

Section 2.3 Company Representations.

The Company represents and warrants that the Facility constitutes a Nuclear Facility.

ARTICLE III

PAYMENTS IN-LIEU OF TAXES

Section 3.1 Term and Effective Dates.

The term of this Agreement will be ten (10) payment years covering the 2019 – 2028 Assessment Roll Years, as illustrated in the schedule below, or such reduced period of time created by an earlier termination pursuant to Article V hereof (the “Term”). For the School District, this Agreement is effective upon July 1, 2019 and continues through 11:59 p.m. on June 30, 2029. For the Town and the County, this Agreement is effective upon January 1, 2020 for the Town and the County and continues through 11:59 p.m. on December 31, 2029.

<table>
<thead>
<tr>
<th>Assessment Roll Year</th>
<th>School District Tax Year</th>
<th>Town / County Tax Year</th>
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<td>2019</td>
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<td>2028</td>
</tr>
<tr>
<td>2028</td>
<td>2028-2029</td>
<td>2029</td>
</tr>
</tbody>
</table>
Section 3.2 Tax-Exempt Status of the Facility.

Pursuant to Section 485 and following adoption by the Town, County, and School District of the Town Local Law, County Local Law, and School District Resolution, respectively, the Facility shall be categorized as exempt from all real property taxes, special assessments, special ad valorem levies, and other similar charges by any of the Tax Jurisdictions or any special improvement district as permitted by Section 485 and as limited by Section 490 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 properly levied on the Facility, and such usage charges will be paid by the Company in addition to PILOT Payments hereunder. Except for special ad valorem levies and special assessments permitted by Section 490, if Section 485 or any other applicable law provides for the levy of any ad valorem taxes or charges against the Facility, or any portion thereof, during the Term, then the amount of such ad valorem taxes or charges will be a deduction from the amount of PILOT Payments due hereunder.

Section 3.3 PILOT Payments; Taxes Covered; Due Dates.

(a) PILOT Payments and Taxes Coverage. The Company shall make annual payments in-lieu of taxes ("PILOT Payments") during the Term to the Town (for general and highway tax purposes and including Fire District, Sewer District, Watershed Management District, Agricultural District, and Town Library tax purposes), the School District (for general School District, Ontario Public Library, and School District library tax purposes), and the County in the individual Tax Jurisdiction and total amounts set forth in Section 3.3(g) below, subject to Section 490.

(b) Change in Nameplate Capacity. According to the New York Independent System Operator ("NYISO"), the nameplate rated generating capacity of the Facility ("Nameplate Capacity") is 614.0 MW. PILOT Payments shall not be increased or decreased if the Nameplate Capacity changes during the Term.

(c) ISFSI. PILOT Payments shall not be increased or decreased relative to the ISFSI, so-called dry cask storage units, spent nuclear fuel, or any related spent nuclear fuel storage property. The Tax Jurisdictions may advocate for legislation which would create a right to impose a fee on an ISFSI, but only for legislation which would allow such imposition after expiration of this Agreement. If legislation permitting such fee imposition during the Term becomes law (and was not advocated for by the Tax Jurisdictions), the fee will be payable by the Company without impact on this Agreement. If, however, the fee imposition becomes law and the Tax Jurisdictions advocated for its imposition during the Term, the Company shall receive a credit against future PILOT Payments in an amount equal to such fee. The Town further agrees not to unilaterally impose a fee on the ISFSI.

(d) Payment Timing. The Company shall make PILOT Payments to (a) the School District on or before September 30 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.

(e) Payment Split. The Tax Jurisdictions have agreed to the percentage shares of the total PILOT Payments set forth in Section 3.3(g) below.
(f) The final PILOT shall have no bearing relative to Facility assessment following expiration or early termination of this Agreement.

(g) PILOT Payment Amounts and Due Dates. The PILOT Payments and respective due dates are as follows:

<table>
<thead>
<tr>
<th>Assessment Roll Year</th>
<th>School District Tax Year</th>
<th>Town / County Tax Year</th>
<th>School District PILOT Payment Due Date</th>
<th>Town / County PILOT Payment Due Date</th>
<th>Town PILOT Payments ($)</th>
<th>School District PILOT Payments ($)</th>
<th>County PILOT Payments ($)</th>
<th>Total PILOT Payments ($)</th>
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<tbody>
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<td>2021</td>
<td>September 30, 2020</td>
<td>January 31, 2021</td>
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<td>January 31, 2022</td>
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<td>January 31, 2023</td>
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<td>September 30, 2024</td>
<td>January 31, 2024</td>
<td>678,000</td>
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<td>September 30, 2025</td>
<td>January 31, 2025</td>
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<td>September 30, 2029</td>
<td>January 31, 2029</td>
<td>270,000</td>
<td>1,428,750</td>
<td>551,250</td>
<td>2,250,000</td>
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</tbody>
</table>

Section 3.4 Credits for Real Property Tax Payments.

Any general ad valorem real property tax payments made by the Company to a Tax Jurisdiction with respect to the Facility or any portion thereof, during a Tax Year to which this Agreement applies, will be applied as a credit against the PILOT Payment due to that Tax Jurisdiction in that Tax Year (and future Tax Years to the extent taxes paid exceed the PILOT Payment for that Tax Year), to the extent such tax 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 Tax Year any amounts in the nature of general ad valorem taxes levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company, then the Company’s obligation hereunder to make PILOT Payment to that Tax Jurisdiction in such Tax Year will be reduced by the ad valorem tax amount which the Company so paid or is obligated to pay to such Tax Jurisdiction in such Tax Year (and future Tax Years to the extent taxes paid exceed the PILOT Payment for that Tax Year). Notwithstanding the foregoing, this Section shall not apply to special ad valorem levies and special assessments excepted from the coverage of Section 485 by Section 490.

Section 3.5 Invoices; Payee.

(a) Invoices. The Tax Jurisdictions will prepare invoices pursuant to this Agreement and deliver them to the Company approximately thirty (30) days in advance of each of the PILOT Payment due date described in Section 3.3 hereof. The failure of a Tax Jurisdiction to issue an invoice does not waive the due date or the Company’s responsibility to make the PILOT Payment on or before the due date specified in Section 3.3 hereof.

(b) Payee. Unless otherwise directed by the Tax Jurisdictions, PILOT Payments shall be made payable to the following:
If to the Town, payable to the “Town of Ontario” and mailed or delivered to:

Town of Ontario  
1850 Ridge Road  
Ontario, New York 14519  
Attention: Receiver of Taxes

If to the School District, payable to the “Wayne Central School District” and mailed or delivered to:

Wayne Central School District  
P.O. Box 155  
6200 Ontario Center Road  
Ontario Center, New York 14520-0155  
Attention: Assistant Superintendent for Business

If to the County, payable to the “Wayne County” and mailed or delivered to:

Wayne County  
P.O. Box 8  
16 William Street  
Lyons, New York 14489  
Attention: County Treasurer

Section 3.6  Late Payments.

PILOT Payments not made to any of the Tax Jurisdictions prior to the date due shall be subject to the same interest and penalties as unpaid real property taxes; provided, however, that interest and penalties shall not be due and owing with respect to any such PILOT Payment if the Tax Jurisdictions fail to issue an invoice to the Company pursuant to Section 3.5(a) hereof at least two (2) weeks prior to the date due.

Section 3.7  Payment Security.

The Company shall provide a guaranty by its indirect parent company, Constellation Energy Nuclear Group, LLC ("CENG"), in a form acceptable to the Company, CENG, and the Tax Jurisdictions as security for PILOT Payments (the “Guaranty”).

Section 3.8  Notice of Default; Default.

In the event that any PILOT Payment is not received by a Tax Jurisdiction by its due date, the Company shall be in default and the Tax Jurisdictions may provide written notice of default to the Company (“Notice of Default”). In the event that any PILOT Payment for which a Notice of Default is issued is not received by the Tax Jurisdiction(s) within thirty (30) days after the Company’s receipt of the Notice of Default, such Tax Jurisdiction(s) may exercise its/their rights under the Guaranty.
Section 3.9 Property Covered and Additional Improvements.

This Agreement and the PILOT Payments contemplated hereby apply to the Facility and all existing and future facilities and improvements used in connection with or associated with operation of the Facility, whether or not described by the Tax Parcels and without regard to the creation of new or additional tax parcels for future facilities and improvements located on, above, or under the Land; provided, however, this Agreement and the underlying exemption shall not apply to non-nuclear power generation added to the Land that is unrelated to the current operation and maintenance of the Facility.

Section 3.10 Partial Release; No Reduction.

The Company may, without the consent of any Tax Jurisdiction, sell, transfer, or assign any portion of the Facility, provided that thirty (30) days’ advance written notice of such sale, transfer, or assignment is provided to the Tax Jurisdictions. If any portion of the Land is sold or transferred, the PILOT Payments due hereunder shall not be reduced. The released property shall be placed on the tax roll and will become subject to taxation pursuant to the RPTL.

Section 3.11 Payments After Expiration or Early Termination of Term.

At the expiration or early termination of this Agreement pursuant to Article V, the assessment, levy, and collection of taxes related to the Facility shall be made pursuant to then current law. Pursuant to State statutes, the Company shall have the right to challenge any assessments relating to such taxes.

ARTICLE IV

ASSESSMENT LITIGATION AND WAIVER OF REFUNDS

Section 4.1 2019 Assessment Challenge

Within thirty (30) days following execution and delivery of this Agreement by all Tax Jurisdictions, the Assessment Challenge shall be withdrawn and discontinued with prejudice. The Company may file an RPTL Article 7 petition with the New York State Supreme Court, Wayne County (the “Court”) challenging the Town’s 2019 assessment of the Facility if this Agreement is not executed and delivered by all Tax Jurisdictions by July 25, 2019 (the “Assessment Litigation”). If this Agreement is executed and delivered following the filing of the Assessment Litigation, the Company shall withdraw and discontinue the Assessment Litigation within thirty (30) days following execution and delivery of this Agreement by all Tax Jurisdictions (the “Stipulation of Discontinuance”).

Section 4.2 Refunds

As part of its agreement to withdraw and discontinue the Assessment Challenge and Assessment Litigation, 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 the refund of any taxes paid for the period covered by the Assessment Challenge and the Assessment Litigation.
Section 4.3 Court to Retain Jurisdiction

If Assessment Litigation is filed, 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 of Discontinuance.

Section 4.4 No Effect on Facility Value

Any reference in the Stipulation of Discontinuance to the Facility’s assessment shall have no bearing as to Facility value following expiration or termination of this Agreement. The Company’s discontinuance of the Assessment Challenge and Assessment Litigation or failure to challenge the Facility’s assessments in any Assessment Roll Year shall not constitute an acceptance of or agreement to such assessments.

ARTICLE V

TERMINATION

Section 5.1 Termination.

The Tax Jurisdictions or the Company may terminate this Agreement upon the occurrence of any of the following events set forth under “a” through “g” and the Tax Jurisdictions exclusively may terminate this Agreement upon the occurrence of the event described in “h” (each a “Triggering Event”):

(a) The Company receives approval from the Nuclear Regulatory Commission (“NRC”) for an extension of the Facility’s operating license.

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

(c) The Company is compelled by (1) New York State, (2) Facility regulators, or (3) a material equipment condition as to a single issue or set of concerns, to: (aa) invest greater than $50,000,000 in the Facility, or (bb) incur greater than $50,000,000 within a six-month period in lost generation revenue to comply with new or existing regulations, requirements, or guidance.

(d) Any new New York State or Federal legislation is passed which directly increases the annual revenue the Facility receives through amendments to the New York State Zero Emissions Credit (“ZEC”) program, carbon pricing, or any other program that provides payments for the environmental attributes of the Facility’s operation.

(e) The ZEC program is terminated, discontinued, or struck down by a non-appealable decision of a court before the date it is currently scheduled to expire and is not replaced with a comparable program.
(f) 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 and the Tax Jurisdictions.

(g) The Company, following delivery of a shut-down notice to the NRC, is required by the NYISO to keep running the Facility.

(h) Any new New York State or Federal legislation is passed which would make spent nuclear fuel or spent nuclear fuel storage property subject to real property tax during the Term.

Section 5.2 Notices of Termination.

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

Section 5.3 Effect of Company Election to Terminate.

Should the Company elect to terminate this Agreement upon a Triggering Event, and provided the Company Notice of Termination is mailed on or before December 31 of any calendar year, said termination will be effective for the fiscal years tied to the third assessment roll following the Company Notice of Termination. For example, if the Company provided a Company Notice of Termination on December 1, 2023, the Company would pay: (a) one hundred percent (100%) of the scheduled PILOT Payments for the 2023-2024 School District Tax Year (which would have been paid in September 2023) and the 2024 Town and County Tax Years, (b) one hundred percent (100%) of the scheduled PILOT Payments for the 2024-2025 School District Tax Years and the 2025 Town and County fiscal years, and (c) one hundred percent (100%) of the scheduled PILOT Payments for the 2025-2026 School District Tax Year and the 2026 Town and County Tax Year, and the Facility would be classified as taxable on the 2026 assessment roll. If the Company does not elect to terminate this Agreement in connection with a Triggering Event, the PILOT Payments shall continue to be as specified in Section 3.3 hereof.

Section 5.4 Effect of Tax Jurisdiction Election to Terminate.

Upon the occurrence of a Triggering Event, if the Tax Jurisdictions elect to terminate this Agreement, such termination will be first effective for the set of fiscal years tied to the first final assessment roll following the date of the Tax Jurisdiction Notice of Termination.
ARTICLE VI

ASSIGNMENT

Section 6.1 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) The Company may assign this Agreement to a third party without the prior written consent of the Tax Jurisdictions, provided such third party assumes and agrees to be bound by this Agreement. In the event the Facility is sold to a third party with the approval of the NRC, this Agreement and all of its obligations herein shall be assigned to and assumed by such third party. In such event, the Company shall have no further obligations hereunder.

(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

Section 7.1 Limited Obligation.

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

Section 8.1 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, sent by overnight courier, or delivered to the Parties at the respective addresses set forth below:
If to the Town:

   Town of Ontario
   1850 Ridge Road
   Ontario, New York 14519
   Attention: Supervisor
   Telephone No.: (315) 524-7105

If to the School District:

   Wayne Central School District
   P.O. Box 155
   6200 Ontario Center Road
   Ontario Center, New York 14520-0155
   Attention: Superintendent
   Telephone No.: (315) 524-1000
   Telexcopy No.: (315) 524-1049

If to the County:

   Wayne County
   26 Church Street
   Lyons, New York 14489
   Attention: County Administrator
   Telephone No.: (315) 946-5400
   Telexcopy No.: (315) 946-5407

with copy to:

   County Attorney Office
   Wayne County Courthouse
   26 Church Street
   Lyons, New York 14489

If to any Tax Jurisdiction:

   Ferrara Fiorella P.C.
   5010 Campuswood Drive
   East Syracuse, New York 13057
   Attention: Katherine E. Gavett, Esq. / Joseph G. Shields, Esq.
   Telephone No.: (315) 437-7600
If to the Company:

R.E. Ginna Nuclear Power Plant, 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 copies to:

R.E. Ginna Nuclear Power Plant, LLC
1503 Lake Road, Ginna Engineering Bldg. Ontario, New York 14519
Attention: Site Vice President
Telephone No.: (585) 771-3494
Telecopy No.: (585) 771-3943

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 personally delivered, or, in the case of a mailed notice or notice by overnight courier, 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 9.1 Governing Law; Venue.

This Agreement shall 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 Wayne, 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 Wayne, for purposes of all such suits.

Section 9.2 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 so long as the Parties renegotiate the unenforceable or
invalid provision(s) in order to accomplish the goals and intent of this Agreement consistent with Section 485.

Section 9.3 Amendment.

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

Section 9.4 Binding Effect.

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

Section 9.5 Execution in Counterparts.

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

Section 9.6 Section Headings Not Controlling.

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

Section 9.7 Effective Date.

This Agreement shall be effective as of the dates set forth in Section 3.1 hereof.

Section 9.8 Change in Identification Numbers.

The change, amendment, increase or decrease of the Tax Identification or parcel numbers currently used by the Town to identify or classify all or any part of the Facility will not in their totality cause the amounts and/or computations agreed to, or upon which this Agreement is based, to change.

Section 9.9 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 Section 485 Resolution shall be included in such filings with the Town Clerk, County Clerk, and School District Clerk, respectively.

Section 9.10 No Admission as to Value and Reservation of Rights.

The Company and the Tax Jurisdictions agree that in no event will the values potentially implied with respect to the Facility by this Agreement be used by the Tax Jurisdictions against the Company or by the Company against the Tax Jurisdictions in the context of any
administrative proceeding or litigation for any purpose (except to enforce the terms hereof). Each of the Parties expressly reserves all of its rights regarding the future tax treatment of the Facility.
IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the day and year first above written.

WAYNE CENTRAL SCHOOL DISTRICT

By:
   Name: _______________________
   Title: _______________________

TOWN OF ONTARIO

By:
   Name: _______________________
   Title: _______________________

COUNTY OF WAYNE

By:
   Name: _______________________
   Title: _______________________

R.E. GINNA NUCLEAR POWER PLANT, LLC

By:
   Name: William Carsky
   Title: Site Vice President
# LIST OF EXHIBITS

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A</td>
<td>LEGAL DESCRIPTION OF THE FACILITY</td>
<td>A-1</td>
</tr>
<tr>
<td>Exhibit B</td>
<td>TAX PARCELS</td>
<td>B-1</td>
</tr>
<tr>
<td>Exhibit C</td>
<td>TOWN LOCAL LAW AND AUTHORIZING RESOLUTION</td>
<td>C-1</td>
</tr>
<tr>
<td>Exhibit D</td>
<td>SCHOOL DISTRICT RESOLUTIONS</td>
<td>D-1</td>
</tr>
<tr>
<td>Exhibit E</td>
<td>COUNTY LOCAL LAW AND AUTHORIZING RESOLUTION</td>
<td>E-1</td>
</tr>
</tbody>
</table>
EXHIBIT A

LEGAL DESCRIPTION OF THE FACILITY
EXHIBIT B

LIST OF TAX PARCELS COMPRISING THE FACILITY

1. Tax Parcel ID# 62119-00-620478
2. Tax Parcel ID# 62119-00-860424
3. Tax Parcel ID# 62119-00-426493
4. Tax Parcel ID# 62119-00-315465
5. Tax Parcel ID# 62119-00-483350
EXHIBIT C

TOWN LOCAL LAW AND AUTHORIZING RESOLUTION
EXHIBIT E
COUNTY LOCAL LAW AND AUTHORIZING RESOLUTION