

Date: April 4, 2024

To: Hon. Vedat Gashi Sunday Vanderberg
Chairman, Board of Legislators Clerk, Board of Legislators

From: John M. Nonna
County Attorney

Re: Legislation concerning 'payments in lieu of taxes' for certain properties located in the Town of Cortlandt that comprised the former Indian Point Energy Center. — Rule 13.1 Request for Immediate Consideration

Attached please find legislation that would, if approved, authorize the County to exempt from taxation, in accordance with the provisions of Section 485 of the New York Real Property Tax Law, certain properties located in the Town of Cortlandt that comprised the former Indian Point Energy Center, and to enter into an agreement with Holtec Indian Point 2, LLC and Holtec Indian Point 3, LLC for payments in lieu of taxes for those properties.

I respectfully request that the Board of Legislators add the attached legislation to the agenda for its April 8, 2024 meeting, pursuant to Rule 13.1 of the Rules of the County Board of Legislators (LWC §960.01).

Please let me know if you have any questions concerning either the legislation or this request. Thank you.

JMN/bdm/nn

Westchester County

George Latimer
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

April 4, 2024

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review and approval is a local law that, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to, (1) exempt the Facility (as defined below) from real property taxes, special *ad valorem* levies, and special assessments imposed by the County and any County improvement district within the County, to the extent provided in Section 490 of the New York Real Property Tax Law, pursuant to Section 485 of the New York Real Property Tax Law (“Section 485”), for the period from January 1, 2024 through December 31, 2029, (the “Exemption”) and (2) enter into an agreement with Holtec Indian Point 2, LLC and Holtec Indian Point 3, LLC (collectively, “Holtec”), pursuant to which Holtec, as owner of the Facility, will make payments in lieu of taxes (“PILOT”) in accordance with the provisions of Section 485, for the period from January 1, 2024 through December 31, 2029 (the “PILOT Agreement”). The Exemption shall be contingent upon the execution of the PILOT Agreement and shall be effective only for the period during which the PILOT Agreement is in effect.

The “Facility” is defined as being comprised of the units and associated property and equipment covered by tax parcel numbers SBL # 43-10-2-1 (containing Unit 1, Unit 2, Unit 3, the Independent Spent Fuel Storage Facility, and the Generation Support Building); SBL # 43.10-2-2 (containing the Training Building), and SBL # 43.10-2-3 and # 43.14-2-1.1 (containing associated property and equipment).

The existing PILOT agreement with the County concerning the Facility expired on December 31, 2023. The County and the other taxing jurisdictions for the Facility—the Town of Cortlandt (the “Town”) and the Hendrick Hudson Central School District (the “School District”)—have been in negotiations with Holtec, for three years, regarding a new PILOT agreement, and have now come to an agreement.

The terms of the PILOT Agreement are reflected in the attached draft agreement. It should be noted that the County, the Town, and the School District obtained an appraisal for the Facility, and that appraisal was the starting point for the valuation for the negotiated PILOT Agreement. The appraisal was done by Federal Appraisal LLC. The appraisal valued the Facility at \$298 million based in large part on the fact spent nuclear fuel is being stored on site in dry cask storage facilities. Following extended negotiations, the parties reached agreement on the gross amount of the PILOT: \$28,241,757. The County, Town, and School District negotiated an agreed allocation of the gross amount of the PILOT among themselves.

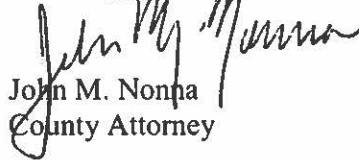
The proposed local law also provides that the Clerk of the Board shall make all filings concerning the Exemption and the PILOT Agreement that are required by Section 485.

Under Section 209.141(4) of the Laws of Westchester County, every local law shall be presented in writing and introduced at a meeting of your Honorable Board. Your Honorable Board shall thereupon fix a day for a public hearing thereon before it, not less than five days thereafter, and direct the Clerk of the Board to cause notice of the time and place of such hearing to be published forthwith at least once in one or more newspapers selected by the Clerk of the Board for that purpose and published in the County. Therefore, transmitted herewith for your review and approval is a resolution that will set the time and date for the required public hearing regarding the proposed local law.

Under subsection 4 of Section 485, before an agreement for payments in lieu of taxes is executed by a taxing district, the taxing district must hold a public hearing on the proposed agreement. Therefore, transmitted herewith for your review and approval is a resolution that will set the time and date for the required public hearing regarding the PILOT Agreement.

I respectfully recommend your Honorable Board's approval of the attached local law.

Sincerely,



John M. Nonna
County Attorney

JMN/bdm

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Attorney wherein he requests that your Honorable Board adopt a local law that, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to, (1) exempt the Facility (as defined below) from real property taxes, special *ad valorem* levies, and special assessments imposed by the County and any County improvement district within the County, to the extent provided in Section 490 of the New York Real Property Tax Law, pursuant to Section 485 of the New York Real Property Tax Law (“Section 485”), for the period from January 1, 2024 through December 31, 2029, (the “Exemption”) and (2) enter into an agreement with Holtec Indian Point 2, LLC and Holtec Indian Point 3, LLC (collectively, “Holtec”), pursuant to which Holtec, as owner of the Facility, will make payments in lieu of taxes (“PILOT”) in accordance with the provisions of Section 485, for the period from January 1, 2024 through December 31, 2029 (the “PILOT Agreement”). Your Committee has been advised that the Exemption shall be contingent upon the execution of the PILOT Agreement and shall be effective only for the period during which the PILOT Agreement is in effect.

Your Committee has been advised that the “Facility” is defined as being comprised of the units and associated property and equipment covered by tax parcel numbers SBL # 43-10-2-1 (containing Unit 1, Unit 2, Unit 3, the Independent Spent Fuel Storage Facility, and the Generation Support Building); SBL # 43.10-2-2 (containing the Training Building), and SBL # 43.10-2-3 and # 43.14-2-1.1 (containing associated property and equipment).

Your Committee has been advised that the existing PILOT agreement with the County concerning the Facility expired on December 31, 2023. Your Committee has been advised that the County and the other taxing jurisdictions for the Facility—the Town of Cortlandt (the “Town”) and the Hendrick Hudson Central School District (the “School District”)—have been in negotiations with Holtec, for three years, regarding a new PILOT agreement, and have now come to an agreement.

Your Committee has been advised that the terms of the PILOT Agreement are reflected in the attached draft agreement. Your Committee has been advised that it should be noted that the County, the Town, and the School District obtained an appraisal for the Facility, and that appraisal was the starting point for the valuation for the negotiated PILOT Agreement. Your Committee has been advised that the appraisal was done by Federal Appraisal LLC. Your Committee has been advised that the appraisal valued the Facility at \$298 million based in large part on the fact spent nuclear fuel is being stored on site in dry cask storage facilities. Your Committee has been advised that, following extended negotiations, the parties reached agreement on the gross amount of the PILOT: \$28,241,757. Your Committee has been advised that the County, Town, and School District negotiated an agreed allocation of the gross amount of the PILOT among themselves.

Your Committee has been advised that the proposed local law also provides that the Clerk of the Board shall make all filings concerning the Exemption and the PILOT Agreement that are required by Section 485.

Your Committee has been advised that, under Section 209.141(4) of the Laws of Westchester County, every local law shall be presented in writing and introduced at a meeting of your Honorable Board. Your Committee has been advised that your Honorable Board shall thereupon fix a day for a public hearing thereon before it, not less than five days thereafter, and direct the Clerk of the Board to cause notice of the time and place of such hearing to be published forthwith at least once in one or more newspapers selected by the Clerk of the Board for that purpose and published in the County. Therefore, the County Attorney requests that your Honorable Board review and approve a resolution that will set the time and date for the required public hearing regarding the proposed local law.

Your Committee has been advised that, under subsection 4 of Section 485, before an agreement for payments in lieu of taxes is executed by a taxing district, the taxing district must hold a public hearing on the proposed agreement. Therefore, the County Attorney requests that your Honorable Board review and approve a resolution that will set the time and date for the required public hearing regarding the PILOT Agreement.

According to the memorandum from the Planning Department, dated January 8, 2024, which is on file with the Clerk of the Board, with respect to the State Environmental Quality Review Act, the proposed local law does not constitute an action as defined in section 617.2(b) of 6 NYCRR Part 617. As such, no environmental review is required. Your Committee concurs with the Planning Department's conclusion.

Your Committee has been advised that the adoption of the proposed local law requires an

affirmative vote of a majority of the voting members of your Honorable Board.

After due consideration, your Committee recommends adoption of the proposed local law.

Dated: _____, 2024
White Plains, New York

COMMITTEE ON

RESOLUTION NO. _____ - 2024

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. _____ – 2024, entitled “A LOCAL LAW authorizing the County of Westchester to exempt from taxation, in accordance with the provisions of Section 485 of the New York Real Property Tax Law, certain properties located in the Town of Cortlandt that comprised the former Indian Point Energy Center, and to enter into an agreement with Holtec Indian Point 2, LLC and Holtec Indian Point 3, LLC for payments in lieu of taxes for those properties.” The public hearing will be held at _____ .m. on the _____ day of _____, 2024 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.