



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

July 2, 2025

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

**RE: Payment in Lieu of Taxes (PILOT) Agreement for Solar Energy Systems – 777
Indian Road, Town of Cheektowaga**

Dear Honorable Members:

Please find enclosed a resolution from the Department of Environment and Planning regarding a Payment in Lieu of Taxes (PILOT) Agreement for a Solar Project in the Town of Cheektowaga. The resolution authorizes the County Executive to execute an agreement with AC Power 44, LLC.

Should your Honorable Body require further information, I encourage you to contact Commissioner Daniel R. Castle, A.I.C.P. Thank you for your consideration on this matter.

Sincerely yours,

A handwritten signature in blue ink, reading "Mark C. Poloncarz". The signature is fluid and cursive, with the first name "Mark" and last name "Poloncarz" clearly visible.

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/nb
Enclosure

cc: Daniel R. Castle AICP, Commissioner

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Environment and Planning
Re: Payment in Lieu of Taxes (PILOT) Agreement for Solar Energy Systems – 777 Indian Road, Town of Cheektowaga
Date: July 2, 2025

SUMMARY

The resolution authorizes the County Executive to execute a PILOT Agreement with AC Power 44, LLC.

The owner is seeking a PILOT agreement from Erie County in connection with the development and operation of an approximately 3.25-megawatt solar photovoltaic facility (“Project”) located at 777 Indian Road (SBL 103.19-2-2) in the Town of Cheektowaga (“Site”). The PILOT agreement is multi-jurisdictional including the Cheektowaga Central School District as a signatory. Given the nature of the Project, it is otherwise exempt from taxation pursuant to Real Property Tax Law § 487 unless the taxing jurisdictions enter into a PILOT Agreement with the owner.

FISCAL IMPLICATIONS

Under Real Property Tax Law § 487(2), solar energy facilities are tax exempt. Notwithstanding such exemption, Real Property Tax Law § 487(9)(a) states that certain taxing jurisdictions, including counties and cities, may require the owner of a property that includes a solar energy system to enter into a PILOT agreement that provides for annual payments to the taxing jurisdictions.

The PILOT agreement proposed by AC Power 44, LLC provides for total annual payments to Erie County of \$2,838.59. This is based on a price of \$5,000 based per megawatt, divided pro rata among both taxing jurisdictions, with an annual escalation factor of 2%. These payments will be made each year over a 15-year term.

The intent of entering into the PILOT agreement with the owner is for the County to receive tax payments that it would not otherwise receive due to the tax exemption applicable to the Project.

REASONS FOR RECOMMENDATION

The Cheektowaga Central School District Board of Education supports the PILOT agreement, and the Board of Education intends to approve the PILOT agreement at their July 8, 2025, meeting. The proposed agreement conforms to the provisions of Real Property Tax Law § 487 and was negotiated between the project owner and taxing jurisdictions. The Project makes productive use of a capped former landfill.

BACKGROUND INFORMATION

AC Power 44, LLC is proposing the development of an approximately 3.25-megawatt solar photovoltaic facility on a 41.82-acre parcel, located at 777 Indian Road (SBL 103.19-2-2) in the Town of Cheektowaga, Erie County.

Under Real Property Tax Law (“RPTL”) § 487, a partial tax exemption is available for properties which are developed for solar and wind renewable energy systems. RPTL § 487(2) exempts from real property taxation “any increase in the value [of real property] by reason of the inclusion of a [solar and wind energy system] for a period of fifteen years.” Erie County has not opted out of the RPTL § 487 exemptions and therefore may require renewable energy systems to enter into a PILOT agreement to replace a portion of the tax revenue. Erie County was notified of the project owner’s intent to construct a solar project in September 2024.

CONSEQUENCES OF NEGATIVE ACTION

Without the PILOT, pursuant to RPTL § 487, the County would receive no property taxes from the solar development project.

STEPS FOLLOWING APPROVAL

The County Executive will enter into a PILOT Agreement with the noted parties.

A RESOLUTION SUBMITTED BY:
DEPARTMENT OF ENVIRONMENT AND PLANNING

RE: Payment in Lieu of Taxes (PILOT) Agreement for Solar Energy Systems - 777 Indian Road, Town of Cheektowaga

WHEREAS, consistent with Erie County's Commitment to Paris goals, the County encourages the development of solar facilities which reduce dependence upon fossil fuels and further climate goals to mitigate global warming; and

WHEREAS, Project Owner (AC Power 44, LLC), has submitted a Notice of Intent to the Taxing Jurisdictions that it plans to build and operate a Solar Energy System as defined in New York Real Property Tax Law ("RPTL") Section 487(1)(b) (the "Project") with an expected nameplate capacity ("Capacity") of approximately 3.25 Megawatts AC on one parcel totaling approximately 41.82 acres of land located within the Town of Cheektowaga, identified as 777 Indian Road, SBL 103.19-2-2; and

WHEREAS, the County has not opted out of RPTL § 487; and

WHEREAS, pursuant to RPTL § 487(9)(a) the County has indicated their intent to require a Payment in Lieu of Taxes Agreement ("PILOT") with the Project Owner, under which the Project Owner will be required to make annual payments to the Taxing Jurisdictions for each year during the term of this Agreement; and

WHEREAS, the Project Owner has submitted or will submit to the Assessor of the Town of Cheektowaga an Application for Tax Exemption of Solar or Wind Energy Systems or Farm Waste Energy Systems ("Form RP-487"); and

WHEREAS, the Real Property not part of the Project will be assessed for any statutory real property taxes levied by the Taxing Jurisdictions; and

WHEREAS, Project parcel identification numbers and/or addresses may be amended.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive or Deputy County Executive to execute a Payment in Lieu of Taxes (PILOT) Agreement with AC Power 44, LLC, and any other organizations necessary to complete this PILOT Agreement, pertaining to the Real Property located at 777 Indian Road, SBL 103.19-2-2; and be it further

RESOLVED, that said Agreement shall include an annual approximate PILOT payment to Erie County in the amount \$2,838.59, subject to annual escalation of 2%; and be it further

RESOLVED, that said Agreement shall include an estimated annual PILOT based on the amount of taxes due as set forth on Schedule A attached hereto; and be it further

RESOLVED, that the Director of Real Property Tax Services is hereby authorized to amend said Agreement based on revisions to parcel identification numbers and/or addresses in a manner consistent with the description of land, set forth in the PILOT agreement; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive's Office, Comptroller's Office, Division of Budget and Management, Department of Real Property Tax Services, Department of Environment and Planning, and the Department of Law.

Schedule A

Payment Schedule

Note: The following schedule is for illustrative purposes only based on the anticipated project capacity of 3.25 MWac allocated pro rata, in proportion to the share of taxes collected between the County and School District. The PILOT will commence in accordance with Section 2(b) of this Agreement.

<u>Agreement Year</u>	<u>Total</u>	<u>County</u>	<u>School District</u>
1	\$12,000.03	\$2,838.59	\$9,161.43
2	\$12,240.03	\$2,895.37	\$9,344.66
3	\$12,484.83	\$2,953.27	\$9,531.56
4	\$12,734.52	\$3,012.34	\$9,722.19
5	\$12,989.21	\$3,072.58	\$9,916.63
6	\$13,249.00	\$3,134.04	\$10,114.96
7	\$13,513.98	\$3,196.72	\$10,317.26
8	\$13,784.26	\$3,260.65	\$10,523.61
9	\$14,059.94	\$3,325.86	\$10,734.08
10	\$14,341.14	\$3,392.38	\$10,948.76
11	\$14,627.97	\$3,460.23	\$11,167.74
12	\$14,920.52	\$3,529.43	\$11,391.09
13	\$15,218.94	\$3,600.02	\$11,618.91
14	\$15,523.31	\$3,672.02	\$11,851.29
15	\$15,833.78	\$3,745.46	\$12,088.32