



# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

July 2, 2025

Erie County Legislature  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, New York 14202

**RE: Payment in Lieu of Taxes (PILOT) Agreement for Solar Energy Systems – 4635  
River Road, Town of Tonawanda**

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 Tonawanda. The resolution authorizes the County Executive to execute an agreement with AC Power 38, 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 distinguishable.

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 – 4635 River Road, Town of Tonawanda  
**Date:** July 2, 2025

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### **SUMMARY**

The resolution authorizes the County Executive to execute a PILOT Agreement with AC Power 38, LLC.

The owner is seeking a PILOT agreement from Erie County in connection with the development and operation of an approximately 2.875-megawatt solar photovoltaic facility (“Project”) located at 4635 River Road (SBL 52.09-1-14) in the Town of Tonawanda (“Site”). The PILOT agreement is multi-jurisdictional including the Town of Tonawanda and the Kenmore-Tonawanda Union Free School District as signatories. 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 38, LLC provides for total annual payments to Erie County of \$1,114.00. This is based on a price of \$5,000 based per megawatt, divided pro rata among all three 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 Town of Tonawanda Town Board supports the PILOT agreement, and the Town Board intends to take action on the proposed PILOT agreement at their June 23, 2025, meeting. The Kenmore-Tonawanda Union Free School District Board of Education also supports the PILOT agreement, and the Board of Education intends to take action on the proposed PILOT agreement at their July 1, 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 otherwise conforms to the Town of Tonawanda Comprehensive Plan and zoning ordinance and makes productive use of an otherwise underutilized property.

### **BACKGROUND INFORMATION**

AC Power 38, LLC is proposing the development of an approximately 2.875-megawatt solar photovoltaic facility on a 14.04-acre parcel, located at 4635 River Road (SBL 52.09-1-14) in the Town of Tonawanda, Erie County.

On June 3, 2025, the Town Board determined the project to be a Type II Action pursuant to the New York State Environmental Quality Review Act.

The Site is located within the MU-1 Mixed Use Industrial District. Solar energy systems are permitted, subject to the issuance of a Special Use Permit, in the M-1 District.

On June 3, 2024, the Town Board issued a Special Use Permit. On June 5, 2025, the Town Board approved the final Site Plan for the Project.

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 August 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- 4635 River Road, Town of Tonawanda

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 38, 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 2.875 Megawatts AC on one parcel totaling approximately 14.04 acres of land located within the Town of Tonawanda, identified as 4635 River Road, SBL 52.09-1-14; 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 Tonawanda 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 38, LLC, and any other organizations necessary to complete this PILOT Agreement, pertaining to the Real Property located at 4635 River Road, SBL 52.09-1-14; and be it further

RESOLVED, that said Agreement shall include an annual approximate PILOT payment to Erie County in the amount \$1,984.22, 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, the Division of Budget and Management, the Department of Real Property Tax Services, the Department of Environment and Planning, the Comptroller's Office, and the Department of Law.

## Schedule A

### PILOT Payment Schedule

Note: The following schedule is for illustrative purposes only based on the anticipated project capacity of 2.875 Megawatts AC. The PILOT will commence in accordance with Section 2(b) of this Agreement.

<u>Agreement Year</u>	<u>Total</u>	<u>County</u>	<u>Town</u>	<u>School District</u>
1	\$14,375.00	\$1,984.22	\$4,947.12	\$7,443.67
2	\$14,662.50	\$2,023.90	\$5,046.06	\$7,592.54
3	\$14,955.75	\$2,064.38	\$5,146.98	\$7,744.39
4	\$15,254.87	\$2,105.67	\$5,249.92	\$7,899.28
5	\$15,559.96	\$2,147.78	\$5,354.92	\$8,057.27
6	\$15,871.16	\$2,190.74	\$5,462.01	\$8,218.41
7	\$16,188.58	\$2,234.55	\$5,571.26	\$8,382.78
8	\$16,512.36	\$2,279.24	\$5,682.68	\$8,550.43
9	\$16,842.60	\$2,324.83	\$5,796.33	\$8,721.44
10	\$17,179.46	\$2,371.32	\$5,912.26	\$8,895.87
11	\$17,523.04	\$2,418.75	\$6,030.51	\$9,073.79
12	\$17,873.51	\$2,467.12	\$6,151.12	\$9,255.27
13	\$18,230.98	\$2,516.47	\$6,274.14	\$9,440.37
14	\$18,595.60	\$2,566.80	\$6,399.62	\$9,629.18
15	\$18,967.51	\$2,618.13	\$6,527.61	\$9,821.76