

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☒ County ☐ City ☐ Town ☐ Village
(Select one.)
of Erie

FILED
STATE RECORDS

JAN 02 2020

DEPARTMENT OF STATE

Local Law No. 5 of the year 2019

A local law entitled The Erie County Solar Power Improvement Act of 2019
(Insert Title)

Be it enacted by the Erie County Legislature of the
(Name of Legislative Body)

☒ County ☐ City ☐ Town ☐ Village
(Select one.)
of Erie

as follows:

Section 1. Legislative Findings and Intent.

The Erie County Legislature is supportive of renewable energy and efforts by the Erie County government to reduce the County's carbon footprint through renewable energy initiatives such as the development of solar and wind resources to generate electricity and reduce County costs for utilities.

The Erie County Legislature hereby finds: (i) that portions of the property on parcels SBL 65.12-1-1, 235.00-1-19, 142.23-1-4, 150.50-1-1 and 52.20-2-5 (hereinafter referred to as the "Erie County Facilities parcels") and parcels SBL 81.02-1-1, 160.19-1-4.1, 160.16-1-12 and 161.00-5-1 (hereinafter referred to as the "Erie Community College Facilities parcels") are not currently needed for the County's purposes and that such parcels shall be best utilized to the County's benefit by permitting their lease to Montante Solar Corporation; and (ii) said parcels shall be used for the construction of solar photovoltaic (PV) systems, where Montante Solar Corporation would own, operate and maintain said systems and the County would purchase the electricity generated from the solar PV systems under a power purchase agreement.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 2: Authorization to Enter in Contract

The Legislature has already voted twice to allow solar PV projects with Montante Solar Corporation to commence.

On September 26, 2019, the Legislature approved Comm. 18E-18, "Authorization to Enter into Contract for the Purpose of a Solar Power Purchase Agreement." That resolution authorized the County Executive to enter into an agreement with Montante Solar for (1) their construction of solar arrays on five County properties, and then (2) a power purchase agreement with Montante Solar for the County's purchase of electricity generated from those five solar PV systems.

On October 24, 2019, the Legislature approved Comm. 20E-18, "SUNY Erie Campus-Wide 2019 Solar Power Purchase Agreement." That resolution authorized the County Executive to enter into an agreement with Montante Solar for (1) their construction of solar arrays at Erie Community College's (ECC) South Campus, and then (2) a power purchase agreement with Montante Solar for ECC's purchase of electricity generated from the solar PV systems at their South Campus.

As memorialized in Comm. 18E-18 and Comm. 20E-18, the County is authorized to enter into power purchase agreements with Montante Solar Corporation relating to such surplus space pursuant to the conditions set forth in those resolutions and pursuant to the conditions set forth in any section hereafter in this local law.

Section 3: Authorization of Extended Lease Length

Notwithstanding the provisions of Section 215 of New York State County Law or any special act or local law to the contrary, the County shall permit the lease to Montante Solar, for a period greater than five (5) years, of any unused portion of the above referenced parcels that are necessary for the power purchase agreements authorized pursuant to Comm. 18E-18 and Comm. 20E-18.

Section 4: Assignment of Rights

Should any portion of the Erie County Facilities parcels or Erie Community College Facilities parcels be subdivided, split, or suffixed, the rights provided for in this Local Law shall be transferred to the subdivided, split, or suffixed parcels.

Section 5: Effective Date

This Local Law shall take effect upon filing with the New York State Secretary of State.

Section 6: Severability

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall

not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its specific application.

Sponsors:

Timothy Meyers
Lisa Chimera
Kevin Hardwick
Howard Johnson
April N.M. Baskin
John Bruso
Thomas Loughran

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 20 19 of the (County) _____ of Erie was duly passed by the Erie County Legislature on December 19 20 19, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the Erie County Executive and was deemed duly adopted (Elective Chief Executive Officer*) on December 30, 20 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, 2 above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date:

12/30/2019

(Seal)

A Public Hearing was held on the foregoing **Local Law Intro. No. 10-1-2019** on **December 30, 2019** due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 30 day of December, 2019.


Mark C. Poloncarz

A Public Hearing was held on the foregoing **Local Law Intro. No. 10-1-2019** on **December 30, 2019** due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this _____ day of _____, 20____.

Mark C. Poloncarz