

Date: April 24, 2018

At a meeting of the Town of Islip Industrial Development Agency (the “**Agency**”), held at Islip Town Hall, 655 Main Street, Islip, New York on the 24th day of April, 2018, the following members of the Agency were:

Present:

Chairwoman Angie M. Carpenter  
Councilwoman Trish Bergin Weichbrodt  
Councilman John C. Cochrane Jr.  
Councilwoman Mary Kate Mullen  
Councilman James P. O’Connor

Absent:

Also Present:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a subleasehold interest in certain industrial development facilities more particularly described below (Agilintas Energy, LLC/ACE - Lincoln Avenue Solar, LLC/ACE - Blydenburgh Solar, LLC 2018 Facility) and the leasing of the facilities to ACE – Lincoln Avenue Solar, LLC and ACE – Blydenburgh Solar, LLC.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay

Chairwoman Angie M. Carpenter  
Councilwoman Trish Bergin Weichbrodt  
Councilman John C. Cochrane Jr.  
Councilwoman Mary Kate Mullen  
Councilman James P. O’Connor



RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY AND APPROVING THE APPOINTMENT OF AGILITAS ENERGY, LLC , A DELAWARE LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF AGILITAS ENERGY, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING, ACE - LINCOLN AVENUE SOLAR, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF ACE - LINCOLN AVENUE SOLAR, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AND ACE - BLYDENBURGH SOLAR, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF ACE - BLYDENBURGH SOLAR, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING CERTAIN INDUSTRIAL DEVELOPMENT FACILITIES AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS AND MAKING CERTAIN FINDINGS AND DETERMINATIONS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as may be amended from time to time (collectively, the “**Act**”), the Town of Islip Industrial Development Agency (the “**Agency**”), was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Agilitas Energy, LLC, a Delaware limited liability company, on behalf of itself and/or the principals of Agilitas Energy, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Developer**”), ACE – Lincoln Avenue Solar, LLC, a Delaware limited liability company, on behalf of itself and/or the principals of ACE – Lincoln Avenue Solar, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Holbrook Company**”), and ACE – Blydenburgh Solar, LLC, a Delaware limited liability company, on behalf of itself and/or the principals of ACE – Blydenburgh Solar, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Hauppauge Company**”); and together with the Developer and the Holbrook Company, the “**Company**”), have applied to the Agency, to enter into a transaction in which the Agency will assist in (i) the acquisition of a long term leasehold interest in an approximately 11.2 acre parcel of land located at 1155 Lincoln Avenue, Holbrook, New York 11741 (the “**Holbrook Land**”), and all buildings and other structures located thereon (the “**Holbrook Improvements**”), owned by the Town of Islip (the “**Town**”), and the construction of an approximately 11.2 acre solar array thereon and the equipping thereof, including, but not limited to, approximately 8,640 ground-mounted 350-watt solar modules and forty (40) 50 kilowatt inverters (collectively, the “**Holbrook Equipment**”; and together with the Holbrook Land and the Holbrook Improvements, the “**Holbrook Facility**”); and (ii) the acquisition of a long term leasehold interest in an approximately 8.4 acre parcel of land located at 440 Blydenburgh Road, Hauppauge, New York 11751 (the “**Hauppauge Land**”; and

together with the Holbrook Land, the "**Land**"), and all buildings and other structures located thereon (the "**Hauppauge Improvements**"; and together with the Holbrook Improvements, the "**Improvements**"), owned by the Town and the construction of an approximately 8.4 acre solar array thereon and the equipping thereof, including, but not limited to, approximately 6,000 ground-mounted 375-watt solar modules and twenty-five (25) 60 kilowatt inverters (collectively, the "**Hauppauge Equipment**"; and together with the Holbrook Equipment, the "**Equipment**") (the Hauppauge Equipment, together with the Hauppauge Land and the Hauppauge Improvements, is the "**Hauppauge Facility**"; and together with the Holbrook Facility, the "**Facility**") (collectively, the "**Project**"); and

WHEREAS, the Agency will acquire a subleasehold interest in the Holbrook Land and the Holbrook Improvements pursuant to a certain Company Lease Agreement, dated as of April 1, 2018 or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the "**Holbrook Company Lease**"), by and between the Holbrook Company and the Agency; and

WHEREAS, the Agency will acquire title to the Holbrook Equipment pursuant to a certain Holbrook Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Holbrook Lease Agreement) (the "**Holbrook Bill of Sale**"), from the Holbrook Company to the Agency; and

WHEREAS, the Agency will sub-sublease and lease the Holbrook Facility to the Holbrook Company pursuant to a certain Lease and Project Agreement, dated as of April 1, 2018 or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the "**Holbrook Lease Agreement**"), by and between the Agency and the Holbrook Company; and

WHEREAS, the Agency will acquire a subleasehold interest in the Hauppauge Land and the Hauppauge Improvements pursuant to a certain Company Lease Agreement, dated as of April 1, 2018 or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the "**Hauppauge Company Lease**"), by and between the Hauppauge Company and the Agency; and

WHEREAS, the Agency will acquire title to the Hauppauge Equipment pursuant to a certain Hauppauge Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Hauppauge Lease Agreement) (the "**Hauppauge Bill of Sale**"), from the Hauppauge Company to the Agency; and

WHEREAS, the Agency will sub-sublease and lease the Hauppauge Facility to the Hauppauge Company pursuant to a certain Lease and Project Agreement, dated as of April 1, 2018 or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the "**Hauppauge Lease Agreement**"), by and between the Agency and the Hauppauge Company; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$7,132,660 but not to exceed \$8,500,000 in connection with the financing of the acquisition, construction and equipping of the Facility and

any future financing, refinancing or permanent financing of the costs of acquiring, constructing and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$477,489, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, (iii) exemption from real property taxes on the Holbrook Land and the Holbrook Improvements thereon (as set forth in the PILOT Schedule attached as Exhibit C-1 hereof), and (iv) exemption from real property taxes on the Hauppauge Land and the Hauppauge Improvements thereon (as set forth in the PILOT Schedule attached as Exhibit C-2 hereof), all consistent with the policies of the Agency; and

WHEREAS, as security for a loan or loans (as such term is defined in the Lease Agreement), the Agency and the Company will execute and deliver to a lender or lenders not yet determined (collectively, the “**Lender**”), a mortgage or mortgages, and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility (collectively, the “**Loan Documents**”); and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, a public hearing (the “**Hearing**”) was held and notice of the Hearing was given and such notice (together with proof of publication) together with the minutes of the Hearing are in substantially in the form annexed hereto as Exhibits A and B respectively; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed transfer of a subleasehold interest or a fee title interest is either an inducement to the Company to maintain and expand the Facility in the Town of Islip or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “**SEQR Act**” or “**SEQR**”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency Full Environmental Assessment Forms and related documents (collectively, the “**Questionnaires**”) with respect to the Holbrook Facility and the Hauppauge Facility, copies of which is on file at the office of the Agency; and

WHEREAS, the Questionnaires have been reviewed by the Agency; and

WHEREAS, the Town of Islip Resource Recovery Agency (the “**RRA**”) determined that the Action in connection with the Holbrook Facility (the “**Holbrook Action**”), is a “Type I” Action for SEQR purposes, coordinated review with all potential Involved Agencies, and requested to act as Lead Agency for purposes of review of the Holbrook Action under SEQR; and



WHEREAS, the RRA determined that the Action in connection with the Hauppauge Facility (the “**Hauppauge Action**”; and together with the Holbrook Action, the “**Action**”), is a “Type I” Action for SEQR purposes, coordinated review with all potential Involved Agencies, and requested to act as Lead Agency for purposes of review of the Hauppauge under SEQR; and

WHEREAS, no Involved Agency objected to the RRA, acting as Lead Agency for purposes of review of the Facility under SEQR, and therefore, the RRA was the Lead Agency; and

WHEREAS, pursuant to a resolution dated February 9, 2016, the RRA determined that the Holbrook Action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared; and

WHEREAS, pursuant to a resolution dated February 9, 2016, the RRA determined that the Hauppauge Action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared; and

WHEREAS, these determinations constitute negative declarations for purposes of SEQR; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the sub-subleasing and leasing of the Facility by the Agency to the Company.

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. Based upon the EAF completed by the Company and other representations and information furnished regarding the Holbrook Action and the Hauppauge Action, the Lead Agency, following coordinated review, determined that, based upon its review of the EAF, the appropriate criteria for determination of significance, and such other and further information which the Lead Agency felt necessary to review the Holbrook Action and the Hauppauge Action, that neither the Holbrook Action or the Hauppauge Action would have a “significant effect” on the environment and, therefore, an environmental impact statement will not be prepared. Those determinations constitute negative declarations for purposes of SEQR, which are binding on the Agency.

Section 2. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act.

(b) Each Facility constitutes a “project”, as such term is defined in the Act.

(c) The acquisition, construction and equipping of each Facility, the leasing of the Holbrook Facility to the Holbrook Company and the leasing of the Hauppauge Facility to the Hauppauge Company will promote and maintain the job opportunities, health, general prosperity

and economic welfare of the citizens of Town of Islip, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act.

(d) The acquisition, construction and equipping of each Facility by the Agency is reasonably necessary to induce each Company to maintain and expand their respective business operations in the State of New York.

(e) Based upon representations of each Company and counsel to the Company, each Facility conforms with the local zoning laws and planning regulations of the Town of Islip and all regional and local land use plans for the area in which the Facility is located.

(f) It is desirable and in the public interest for the Agency to lease the Holbrook Facility to the Holbrook Company and the Hauppauge Facility to the Hauppauge Company; and

(g) The Holbrook Company Lease will be an effective instrument whereby the Agency leases the Holbrook Land and the Holbrook Improvements from the Holbrook Company; and

(h) The Holbrook Lease Agreement will be an effective instrument whereby the Agency leases and subleases the Holbrook Facility to the Holbrook Company, the Agency and the Holbrook Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Holbrook Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Holbrook Facility and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Holbrook Company; and

(i) The Hauppauge Company Lease will be an effective instrument whereby the Agency leases the Hauppauge Land and the Hauppauge Improvements from the Hauppauge Company; and

(j) The Hauppauge Lease Agreement will be an effective instrument whereby the Agency leases and subleases the Hauppauge Facility to the Hauppauge Company, the Agency and the Hauppauge Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Hauppauge Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Hauppauge Facility and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Hauppauge Company; and

(k) The Loan Documents to which the Agency is a party will be effective instruments whereby the Agency and the Company agree to secure the loan made to the Company by the Lender.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Holbrook Land and the Holbrook Improvements from the Holbrook Company pursuant to the Holbrook Company Lease, (ii) execute, deliver and perform the Holbrook Company Lease, (iii) sublease and lease the Holbrook Facility to the Holbrook Company pursuant to the Holbrook Lease Agreement, (iv) execute, deliver and perform the Holbrook Lease Agreement, (v) lease the Hauppauge Land and the Hauppauge Improvements from the Hauppauge Company pursuant to the Hauppauge Company Lease, (vi) execute, deliver and perform the Hauppauge Company Lease, (vii) sublease and lease the Hauppauge Facility to the Hauppauge Company pursuant to the

Hauppauge Lease Agreement, (viii) execute, deliver and perform the Hauppauge Lease Agreement; (ix) grant a mortgage on and security interests in and to each Facility pursuant to the Loan Documents, and (x) execute and deliver the Loan Documents to which the Agency is a party.

Section 4. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Holbrook Lease Agreement, the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Hauppauge Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 5. The Agency is hereby authorized to acquire each Facility and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed. The Agency is hereby further authorized to execute and deliver the Loan Documents in connection with the financing of the costs of acquiring, constructing and equipping each Facility and any future Loan Documents in connection with any future refinancing or permanent financing of such costs of acquiring, constructing and equipping of each Facility without the need for any further or future approvals of the Agency.

Section 6. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the acquisition, construction and equipping of the Facility in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$7,132,660 but not to exceed \$8,500,000 in connection with the financing of the acquisition, construction and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$477,489, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, (iii) exemption from real property taxes on the Holbrook Land and the Holbrook Improvements thereon (as set forth in the PILOT Schedule attached as Exhibit C-1 hereof), and (iv) exemption from real property taxes on the Hauppauge Land and the Hauppauge Improvements thereon (as set forth in the PILOT Schedule attached as Exhibit C-2 hereof), all consistent with the policies of the Agency.

Section 7. Subject to the provisions of this resolution, the Developer, the Holbrook Company and the Hauppauge Company are herewith and hereby appointed the agents of the Agency to acquire, renovate equip the Facility. The Developer, the Holbrook Company and the Hauppauge Company are hereby empowered to delegate their respective status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Developer, the Holbrook Company and the Hauppauge Company may choose in order to acquire, construct and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Developer, the Holbrook Company and the Hauppauge Company as agents of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Developer, the Holbrook Company and the Hauppauge Company, as agents of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This



agency appointment expressly excludes the purchase by the Developer, the Holbrook Company and the Hauppauge Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Developer, the Holbrook Company and the Hauppauge Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Developer, the Holbrook Company and the Hauppauge Company, as agent of the Agency. The aforesaid appointment of the Developer, the Holbrook Company and the Hauppauge Company as agents of the Agency to acquire, construct and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company has received exemptions from sales and use taxes in an amount not to exceed \$477,489 in connection with the purchase or lease of equipment, building materials, services or other personal property; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Developer, the Holbrook Company and/or the Hauppauge Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Developer, the Holbrook Company and the Hauppauge Company is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 8. The Developer, the Holbrook Company and the Hauppauge Company are hereby notified that they will be required to comply with Section 875 of the Act. The Holbrook Company shall be required to agree to the terms of Section 875 pursuant to the Holbrook Lease Agreement and the Hauppauge Company shall be required to agree to the terms of Section 875 pursuant to the Hauppauge Lease Agreement. The Developer, the Holbrook Company and the Hauppauge Company are further notified that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Developer, the Holbrook Company and the Hauppauge Company as agents of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Holbrook Lease Agreement and the Hauppauge Lease Agreement.

Section 9. The form and substance of the Holbrook Company Lease, the Holbrook Lease Agreement, the Hauppauge Company Lease, the Holbrook Lease Agreement and the Loan Documents to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 10. The Chairman, Vice Chairman, Executive Director or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Holbrook Company Lease, the Holbrook Lease Agreement, the Hauppauge Company Lease, the Holbrook Lease Agreement and the Loan Documents to which the Agency is a party, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Executive Director or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “**Agency Documents**”). The execution thereof by the Chairman, Vice Chairman, Executive Director or any member of the Agency shall constitute conclusive evidence of such approval.

Section 11. The Chairman, Vice Chairman, Executive Director or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to each Lease Agreement).

Section 12. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 13. This resolution shall take effect immediately.

ADOPTED: April 24, 2018  
STATE OF NEW YORK )  
  : SS.:  
COUNTY OF SUFFOLK )

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Islip Industrial Development Agency (the “**Agency**”), including the resolutions contained therein, held on the 24th day of April, 2018, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law,

constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 24th day of April, 2018.

By:   
Assistant Secretary