

Date: February 10, 2021

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held electronically via conference call on the 10th day of February, 2021, the following members of the Agency were:

Present: Frederick C. Braun III, Chairman
Felix J. Grucci, Jr., Vice Chair
Martin Callahan, Treasurer
Ann-Marie Scheidt, Secretary
Gary Pollakusky, Asst. Secretary
Frank C. Trotta, Asst. Treasurer

Recused:

Excused:

Also Present: Lisa M. G. Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
James M. Tullo, Deputy Director
Jocelyn Linse, Executive Assistant
Terri Alkon, Administrative Assistant
Amy Illardo, Administrative Assistant
Annette Eaderesto, Esq., Counsel to the Agency
William F. Weir, Esq., Transaction Counsel
Howard R. Gross, Esq., Transaction Counsel

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 leasehold interest in and title to a certain industrial development facility more particularly described below (AE-ESS Cassel, LLC 2021 Facility) and the leasing of the facility to AE-ESS Cassel, LLC.

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

Voting Aye

Voting Nay

Braun
Grucci
Callahan
Scheidt
Pollakusky
Trotta

RESOLUTION OF THE TOWN OF BROOKHAVEN
INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE
APPOINTMENT OF AE-ESS CASSEL, LLC, A DELAWARE
LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF
AND/OR THE PRINCIPALS OF AE-ESS CASSEL, LLC
AND/OR AN ENTITY FORMED OR TO BE FORMED ON
BEHALF OF ANY OF THE FOREGOING AS AGENT OF THE
AGENCY FOR THE PURPOSE OF ACQUIRING,
CONSTRUCTING AND EQUIPPING THE FACILITY,
APPROVING THE ACQUISITION, CONSTRUCTION AND
EQUIPPING OF SUCH INDUSTRIAL DEVELOPMENT
FACILITY AND MAKING CERTAIN FINDINGS AND
DETERMINATIONS WITH RESPECT TO THE FACILITY
AND APPROVING THE FORM, SUBSTANCE AND
EXECUTION OF RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the “**Act**”), the Town of Brookhaven 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**”), and AE-ESS Cassel, LLC, a Delaware limited liability company, on behalf of itself and/or the principals of AE-ESS Cassel, LLC, and the equity investors in and any tax credit investors in AE-ESS Cassel, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), have applied to the Agency, to enter into a transaction in which the Agency will assist in the acquisition of a long term ground leasehold interest in an approximately 0.13 acre parcel of land located at 550 North Ocean Avenue, Patchogue, New York 11722 (more particularly described as Suffolk County Tax Map No. 0200-953.00-01.00-019.003) (the “**Land**”), owned by the Town of Brookhaven (the “**Town**”), and the construction of a battery energy storage system thereon (the “**Improvements**”), and the equipping thereof (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility will be sub-subleased, subleased and leased by the Agency to the Company and used by the Company for electrical energy storage and discharge to reduce peak electricity load on the Town’s power grid (collectively, the “**Project**”); and

WHEREAS, the Agency will acquire a subleasehold interest in the Land and a leasehold interest in the Improvements pursuant to a certain Company Lease Agreement, dated as of February 1, 2021 or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the “**Company Lease**”), by and between the Company and the Agency; and

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

WHEREAS, the Agency will sub-sublease the Land, sublease the Improvements and lease the Equipment to the Company pursuant to a certain Lease and Project Agreement, dated as of February 1, 2021 or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the “**Lease Agreement**”), by and between the Agency and the 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 \$4,400,000 but not to exceed \$6,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$33,000 but not to exceed \$45,000, 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 approximate amount not to exceed \$347,000, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof); and

WHEREAS, in connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the Cost Benefit Analysis (“**CBA**”) developed by the Agency in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit D; 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, as security for a loan or loans, the Agency and the Company will execute and deliver to a lender or lenders to be 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, a public hearing (the “**Hearing**”) was held on February 9, 2021 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 Facility is either an inducement to the Company to maintain and expand the Facility in the Town of Brookhaven 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 an Environmental Assessment Form and related documents (collectively, the “**Questionnaire**”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency; and

WHEREAS, the Town of Brookhaven Town Board (the “**Town Board**”) determined that the Action in connection with the Facility (the “**Action**”), is an Unlisted Action for SEQR purposes; and

WHEREAS, pursuant to a resolution dated October 3, 2019, the Town Board determined that the Action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared; and

WHEREAS, this determination constitutes a negative declaration for purposes of SEQR; and

WHEREAS, as an Involved Agency, the Agency must make its own findings under SEQR prior to funding, undertaking, or approving an Action; and

WHEREAS, the Agency has reviewed the Questionnaire and such other documents as the Agency felt it necessary or appropriate to examine to adequately review the proposed Action; and

WHEREAS, the Agency finds that the negative declaration of the Town Board accurately and adequately examines environmental issues presented by the Action; 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, 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 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 Action, that the Action would not have a “significant effect” on the environment and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR. The Agency hereby adopts the Lead Agency’s negative declaration as its own negative declaration under SEQR.

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; and

(b) The Facility constitutes a “project”, as such term is defined in the Act; and

(c) The acquisition, construction and equipping of the Facility and the leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

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

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

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

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

(i) 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. The Agency has assessed all material information included in connection with the Company's application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Company.

Section 4. In consequence of the foregoing, the Agency hereby determines to: (i) sublease the Land and lease the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) lease, sublease and sub-sublease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) grant a mortgage on and security interest in and to the Facility pursuant to the Loan Documents, and (vi) execute, deliver and perform the Loan Documents to which the Agency is a party.

Section 5. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the 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 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 \$4,400,000 but not to exceed \$6,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$33,000 but not to exceed \$45,000, 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 approximate amount not to exceed \$347,000, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof), all consistent with the policies of the Agency. In connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the CBA developed by the Agency in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit D.

Section 7. Subject to the provisions of this resolution, the Company is herewith and hereby appointed the agent of the Agency to acquire, construct and equip the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to its

agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the 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 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 Company, as agent 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 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 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 Company, as agent of the Agency. The aforesaid appointment of the Company as agent 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 \$347,000 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 Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Company is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 8. The Company is hereby notified that it will be required to comply with Section 875 of the Act. The Company shall be required to agree to the terms of Section 875 pursuant to the Lease Agreement. The Company is further notified that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent 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 Lease Agreement.

Section 9. The form and substance of the Company Lease, the 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.

(a) The Chairman, the Chief Executive Officer of the Agency or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the 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, the Chief Executive Officer of the Agency 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, the Chief

Executive Officer of the Agency or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, the Chief Executive Officer of the Agency 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 the Lease Agreement).

Section 11. 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 12. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company. The Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 13. This resolution shall take effect immediately.

ADOPTED: February 10, 2021

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that due to the Novel Coronavirus (COVID-19) Emergency State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 202.1 issued on March 12, 2020, as amended to date, permitting local governments to hold public hearings by telephone and video conference and/or similar device, the Public Hearing scheduled for February 9, 2021, at 10:00 a.m., local time, being held by the Town of Brookhaven Industrial Development Agency (the "**Agency**"), in accordance with the provisions of Article 18-A of the New York General Municipal Law will be held electronically via conference call instead of a public hearing open for the public to attend. Members of the public may listen to the Public Hearing, and comment on the Project (defined below) and the benefits to be granted by the Agency to the Company (defined below) during the Public Hearing, by calling 712-770-5505 and entering access code 884-124. Comments may also be submitted to the Agency in writing or electronically. Minutes of the Public Hearing will be transcribed and posted on the Agency's website, all in connection with the following matters:

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**"), and AE-ESS Cassel, LLC, a Delaware limited liability company, on behalf of itself and/or the principals of AE-ESS Cassel, LLC, and the equity investors in and any tax credit investors in AE-ESS Cassel, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), have applied to the Agency, to enter into a transaction in which the Agency will assist in the acquisition of a long term ground leasehold interest in an approximately 0.13 acre parcel of land located at 550 North Ocean Avenue, Patchogue, New York 11722 (more particularly described as Suffolk County Tax Map No. 0200-953.00-01.00-019.003) (the "**Land**"), owned by the Town of Brookhaven (the "**Town**"), and the construction of a battery energy storage system thereon (the "**Improvements**"), and the equipping thereof (the "**Equipment**"); and together with the Land and the Improvements, the "**Facility**"), which Facility will be sub-subleased, subleased and leased by the Agency to the Company and used by the Company for electrical energy storage and discharge to reduce peak electricity load on the Town's power grid (collectively, the "**Project**"). The Facility will be initially owned, operated and/or managed by the Company.

The Agency will acquire a subleasehold interest in the Land, a leasehold interest in the Improvements and title to or a leasehold interest in the Equipment and will sub-sublease, sublease and lease the Facility to the Company. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency.

A representative of the Agency will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. Prior to the hearing, all persons will have the opportunity to review on the Agency's website (<https://brookhavenida.org/>), the application for financial assistance filed by the Company with the Agency and an analysis of the costs and benefits of the proposed Facility.

Dated: January 29, 2021

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON
February 9, 2021

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(AE-ESS CASSEL, LLC 2021 FACILITY)

Section 1. Lisa MG Mulligan, Chief Executive Officer of the Town of Brookhaven Industrial Development Agency (the “**Agency**”) called the hearing to order.

Section 2. Lisa MG Mulligan then appointed herself the hearing officer of the Agency, to record the minutes of the hearing.

Section 3. The hearing officer then described the proposed transfer of the real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility as follows:

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**”), and AE-ESS Cassel, LLC, a Delaware limited liability company, on behalf of itself and/or the principals of AE-ESS Cassel, LLC, and the equity investors in and any tax credit investors in AE-ESS Cassel, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), have applied to the Agency, to enter into a transaction in which the Agency will assist in the acquisition of a long term ground leasehold interest in an approximately 0.13 acre parcel of land located at 550 North Ocean Avenue, Patchogue, New York 11722 (more particularly described as Suffolk County Tax Map No. 0200-953.00-01.00-019.003) (the “**Land**”), owned by the Town of Brookhaven (the “**Town**”), and the construction of a battery energy storage system thereon (the “**Improvements**”), and the equipping thereof (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility will be sub-subleased, subleased and leased by the Agency to the Company and used by the Company for electrical energy storage and discharge to reduce peak electricity load on the Town’s power grid (collectively, the “**Project**”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency will acquire a subleasehold interest in the Land, a leasehold interest in the Improvements and title to or a leasehold interest in the Equipment and will sub-sublease, sublease and lease

the Facility to the Company. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency.

Section 4. The hearing officer then opened the hearing for comments from the floor for or against the proposed transfer of real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:

N/A

Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 10:30 a.m.

EXHIBIT C

Proposed PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Patchogue-Medford Union Free School District, Suffolk County and Appropriate Special Districts

Definitions:

Normal Tax Due = Those payments for taxes and assessments, other than special ad valorem levies, special assessments and service charges against real property located in the Town of Brookhaven (including any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Patchogue-Medford School District, Suffolk County which are or may be imposed for special improvements or special district improvements, that the Company would pay without exemption.

<u>Year</u>	<u>Payment</u>
1	0% Normal Tax Due
2	0% Normal Tax Due
3	0% Normal Tax Due
4	0% Normal Tax Due
5	0% Normal Tax Due
6	0% Normal Tax Due
7	0% Normal Tax Due
8	0% Normal Tax Due
9	0% Normal Tax Due
10	0% Normal Tax Due
11	0% Normal Tax Due
12	0% Normal Tax Due
13	0% Normal Tax Due
14	0% Normal Tax Due
15	0% Normal Tax Due
16	0% Normal Tax Due
17	0% Normal Tax Due
18	0% Normal Tax Due
19	0% Normal Tax Due
20	0% Normal Tax Due

The Facility will receive a 100% exemption for twenty (20) years based on the Agency's Uniform Tax Exemption Policy (UTEP).

EXHIBIT D

Cost Benefit Analysis

Cost-Benefit Analysis for AE-ESS Cassel, LLC/Agilatas Energy, LLC

Prepared by Town of Brookhaven using InformAnalytics

Executive Summary

INVESTOR

**Agilitas Energy, LLC/
AE-ESS Cassel, LLC**

TOTAL INVESTED

\$4.4 Million

LOCATION

**550 North Ocean Ave
Patchogue, NY**

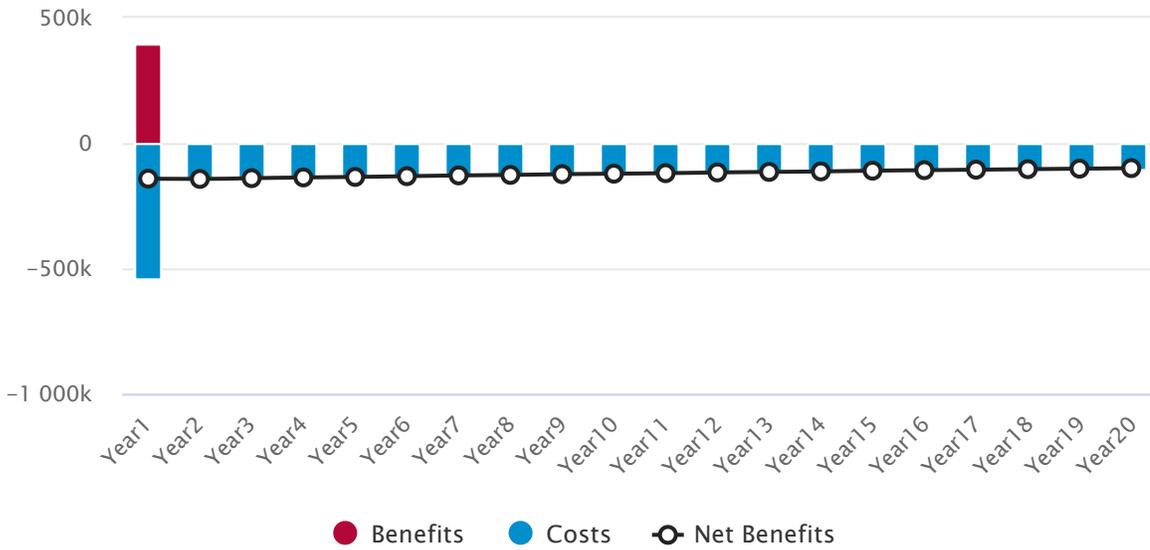
TIMELINE

20 Years

F1 FIGURE 1

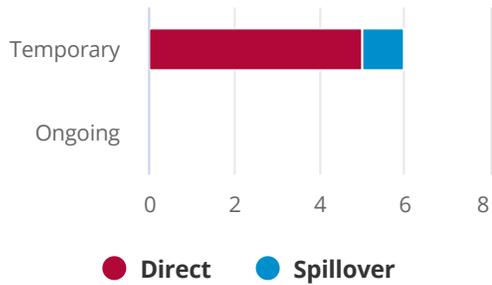
Discounted* Net Benefits for AE-ESS Cassel, LLC/Agilitas Energy, LLC by Year

Total Net Benefits: **-\$2,427,814**



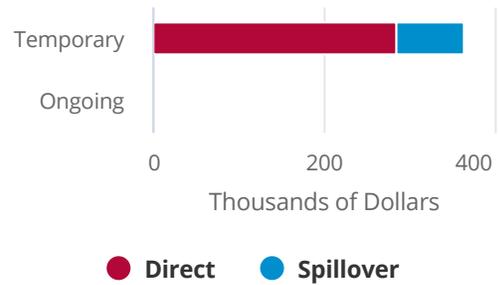
F2 FIGURE 2

Total Jobs



F3 FIGURE 3

Total Payroll



Proposed Investment

Agilitas Energy, LLC/ AE-ESS Cassel, LLC proposes to invest \$4.4 million at 550 North Ocean Ave Patchogue, NY over 20 years. Town of Brookhaven staff summarize the proposed with the following: Proposed battery /electricity storage project for peak load reduction located at the Town of Brookhaven's Cassel Trucks building at 550 North Ocean Ave in Patchogue. We expect that this project will be completed in a timely fashion. As per our Uniform Project Evaluation Criteria Policy, the criteria met for this project include, but are not limited to, advances renewable energy production goals and capital investment by the applicant.

T1 TABLE 1

Proposed Investments

Description	Amount
CONSTRUCTION SPENDING	
Battery storage project	\$690,000
OTHER SPENDING	
machinery and equipment	\$3,681,000
Total Investments	\$4,371,000
Discounted Total (2%)	\$4,371,000

May not sum to total due to rounding.

F4 FIGURE 4

Location of Investment



Cost-Benefit Analysis

A cost-benefit analysis of this proposed investment was conducted using InformAnalytics, an economic impact model developed by CGR. The report estimates the impact that a potential project will have on the local economy based on information provided by Town of Brookhaven. The report calculates the costs and benefits for specified local taxing districts over the first 20 years, with future returns discounted at a 2% rate.

T2 TABLE 2

Estimated Costs or Incentives

Town of Brookhaven is considering the following incentive package for Agilitas Energy, LLC/ AE-ESS Cassel, LLC.

Description	Nominal Value	Discounted Value*
Property Tax Exemption	\$2,915,000	\$2,431,000
Sales Tax Exemption	\$347,000	\$347,000
Mortgage Recording Tax Exemption	\$43,000	\$43,000
Total Costs	\$3,306,000	\$2,822,000

May not sum to total due to rounding.

* Discounted at 2%

State & Regional Impact (Life of Project)

The following table estimates the total benefits from the project over its lifetime.

Description	Direct	Spillover	Total
REGIONAL BENEFITS	\$290,000	\$81,000	\$371,000
To Private Individuals	\$286,000	\$80,000	\$366,000
Temporary Payroll	\$286,000	\$80,000	\$366,000
To the Public	\$4,000	\$1,000	\$5,000
Temporary Sales Tax Revenue	\$4,000	\$1,000	\$5,000
STATE BENEFITS	\$18,000	\$5,000	\$23,000
To the Public	\$18,000	\$5,000	\$23,000
Temporary Income Tax Revenue	\$15,000	\$4,000	\$19,000
Temporary Sales Tax Revenue	\$3,000	\$926	\$4,000
Total Benefits to State & Region	\$308,000	\$86,000	\$394,000
Discounted Total Benefits (2%)	\$308,000	\$86,000	\$394,000

May not sum to total due to rounding.

T4 TABLE 4

Benefit to Cost Ratio

The following benefit to cost ratios were calculated using the discounted totals.

Description	Benefit*	Cost*	Ratio
Region	\$371,000	\$2,617,000	0:1
State	\$23,000	\$204,000	0:1
Grand Total	\$394,000	\$2,822,000	0:1

May not sum to total due to rounding.

* Discounted at 2%

CGR has exercised reasonable professional care and diligence in the production and design of the InformAnalytics™ tool. However, the data used is provided by users. InformAnalytics does not independently verify, validate or audit the data supplied by users. CGR makes no representations or warranties with respect to the accuracy of the data supplied by users.

Date: October 26, 2022

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held on the 26th day of October, 2022, at 1 Independence Hill, 2nd Floor Media Room, Farmingville, New York 11738, the following members of the Agency were:

Present: Frederick C. Braun III, Chairman
Felix J. Grucci, Jr., Vice Chair (via Zoom)
Martin Callahan, Treasurer
Ann-Marie Scheidt, Secretary
Gary Pollakusky, Asst. Secretary (via Zoom)
Frank C. Trotta, Member

Recused:

Absent: Mitchell H. Pally, Member

Also Present: Lisa M. G. Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
John LaMura, Deputy Director
Jocelyn Linse, Executive Assistant
Terri Alkon, Administrative Assistant
Amy Illardo, Director of Marketing & Project Development
Annette Eaderesto, Esq., Counsel to the Agency
Terance V. Walsh, Esq., Transaction Counsel
Howard Gross, Transaction Counsel

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 a certain industrial development facility more particularly described below (AE-ESS Cassel, LLC 2021 Facility) and the leasing of the facility to AE-ESS Cassel, LLC.

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

Voting Aye

Voting Nay

Braun
Grucci
Callahan
Scheidt
Pollakusky
Trotta

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE INCREASE OF SALES TAX EXEMPTIONS AND THE EXTENSION OF COMPLETION DATE FOR THE AE-ESS CASSEL, LLC 2021 FACILITY, AND THE EXECUTION OF RELATED DOCUMENTS AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the “**Act**”), the Town of Brookhaven 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, 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, the Agency previously provided its assistance to 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 (the “**Developer**”), and AE-ESS Cassel, LLC, a Delaware limited liability company, on behalf of itself and/or the principals of AE-ESS Cassel, LLC, and the equity investors in and any tax credit investors in AE-ESS Cassel, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (the “**Company**”), in the acquisition of a long term ground leasehold interest in an approximately 0.13 acre parcel of land located at 550 North Ocean Avenue, Patchogue, New York 11722 (more particularly described as Suffolk County Tax Map No. 0200-953.00-01.00-019.003) (the “**Land**”), owned by the Town of Brookhaven (the “**Town**”), and the construction of a battery energy storage system thereon (the “**Improvements**”), and the equipping thereof (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility will be sub-subleased, subleased and leased by the Agency to the Company and used by the Company for electrical energy storage and discharge to reduce peak electricity load on the Town’s power grid (collectively, the “**Project**”); and

WHEREAS, the Agency by resolution duly adopted on February 10, 2021 (the “**Authorizing Resolution**”), authorized the acquisition, renovation and equipping of such facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, pursuant to the Authorizing Resolution, the Agency contemplated providing financial assistance to the Company in the form of exemptions from sales and use taxes in an amount not to exceed \$347,000 in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, consistent with the policies of the Agency (the “**Original Sales Tax Benefit**”); and

WHEREAS, the Company leased the Facility to the Agency pursuant to a Company Lease Agreement, dated as of April 1, 2021 (the “**Company Lease**”), between the Company and the Agency; and

WHEREAS, the Agency leased the Facility to the Company pursuant to a Lease and Project Agreement, dated as of April 1, 2021 (the “**Lease Agreement**”), between the Agency and the Company; and

WHEREAS, pursuant to Section 3.6 of the Lease Agreement, the Company agreed to complete the acquisition, renovation and equipping of the Facility no later than December 31, 2022 (the “**Original Completion Date**”); and

WHEREAS, in order to complete the costs of the acquisition, renovation and equipping of the Facility the Company has now requested that the Agency extend the expiration date of the Original Completion Date and the Original Sales Tax Benefit to December 31, 2024 (the “**Completion Date Extension**”); and

WHEREAS, in connection with the Completion Date Extension, the Company has requested an increase in the Original Sales Tax Benefit of an amount not to exceed \$88,250 (the “**Sales Tax Benefit Increase**”; and together with the Original Sales Tax Benefit, the “**Sales Tax Benefit**”); and

WHEREAS, in connection therewith, the Agency contemplates it will authorize additional financial assistance to the Company in the form of the Sales Tax Benefit Increase of \$88,250, for a total Sales Tax Benefit of \$435,250, less the amount of Sales Tax Benefit utilized by the Company prior to the Original Completion Date, all consistent with the policies of the Agency; and

WHEREAS, to provide for the Completion Date Extension and the Sales Tax Benefit Increase, the Agency and the Company will enter into a certain Letter Agreement, dated as of October 1, 2022, or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the “**Letter Agreement**”), by and between the Agency and the Company; 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

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

Section 1. 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; and

(b) The Facility constitutes a “project”, as such term is defined in the Act; and

(c) The acquisition, renovation and equipping of the Facility, the continued subleasing and leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of

Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, renovation and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) The Letter Agreement will be an effective instrument whereby the Agency grants the Completion Date Extension and the Sales Tax Benefit Increase to the Company.

Section 2. In consequence of the foregoing, the Agency hereby (i) approves the Completion Date Extension, (ii) approves the Sales Tax Benefit Increase, (iii) approves the form and substance of the Letter Agreement, and (iv) authorizes the execution and delivery of the Letter Agreement and such other related documents as may be necessary or appropriate to effect the Completion Date Extension and the Sales Tax Benefit Increase.

Section 3. The Agency hereby authorizes and approves additional economic benefits to be granted to the Company in the form of exemptions from sales and use taxes in an amount not to exceed \$88,250, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, consistent with the policies of the Agency.

Section 4. Counsel to the Agency and Nixon Peabody LLP, Transaction Counsel to the Agency are hereby authorized and directed to prepare, for submission to the Agency, the Letter Agreement and all documents necessary to effect the Completion Date Extension and the Sales Tax Benefit Increase described in the foregoing resolution.

Section 5. The Chairman, the Chief Executive Officer, and any member of the Agency are each hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 6. This resolution shall take effect immediately.

STATE OF NEW YORK)
 : SS.:
COUNTY OF SUFFOLK)

I, the undersigned Chief Executive Officer of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

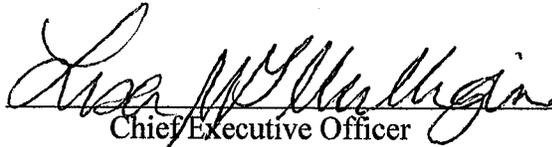
That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 26th day of October, 2022, with the original thereof on file in my office, and that the same is a true 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 all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 26th day of October, 2022.

By:


Chief Executive Officer