

**APPROVING RESOLUTION  
311 PARTNERS LLC AND BBG VENTURES, LLC PROJECT**

A regular meeting of Ulster County Industrial Development Agency (the "Agency") was convened in public session in the Chambers of the County Legislature located on the 6<sup>th</sup> Floor of the Ulster County Office Building located at 244 Fair Street in the City of Kingston, Ulster County, New York on October 11, 2017 at 8:00 a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

John Morrow	Chairman
Randall Leverette	Acting Vice-Chairman and Treasurer
John Livermore	Assistant Secretary
Michael Bernholz	Member

**ABSENT:**

Robert Kinnin	Secretary
James Malcolm	Assistant Treasurer

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Suzanne Holt	Director, Office of Economic Development
Christopher J. Rioux	Chief Financial Officer
Timothy Weidemann	Office of Economic Development
Bernadette Andreassen	Office of Economic Development
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by Randall Leverette, seconded by John Livermore, to wit:

Resolution No. 1017-\_\_\_

**RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR 311 PARTNERS LLC AND BBG VENTURES, LLC (COLLECTIVELY, THE "COMPANY").**

WHEREAS, Ulster County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 787 of the 1976 Laws of New York, as amended, constituting Section 923 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial, manufacturing and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, 311 Partners LLC (“311 Partners”) and BBG Ventures, LLC (“BBG Ventures,” and collectively with 311 Partners, the “Company”), each a New York limited liability company formed under the State of New York, have each submitted an application (collectively, the “Applications”) to the Agency, copies of which Applications are on file at the office of the Agency, which Applications requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of land located at 311-315 Wall Street (Tax Map #48.331-1-16) in the City of Kingston, Ulster County, New York (the “Land”), together with the existing building located thereon containing approximately 35,000 square feet of space and the adjacent parking lot (collectively, the “Facility”), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to constitute an agri-tourism business facility to be owned by 311 Partners and leased to BBG Ventures and various other commercial entities and operated for various commercial uses, including, a food market, food hall, commercial kitchen facility and business incubator and other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Applicants or such other person as may be designated by the Applicants and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on August 9, 2017 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Director, Office of Economic Development of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on September 1, 2017 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on September 1, 2017 on a public bulletin board located at City of Kingston City Hall, 420 Broadway, in the City of Kingston, Ulster County, New York and on September 1, 2017 on the Agency’s website, (C) caused notice of the Public Hearing to be published on September 7, 2017 in The Shawangunk Journal, a newspaper of general circulation available to the residents of City of Kingston, Ulster County, New York, (D) caused notice of the Public Hearing to be published on September 7, 2017 in the Almanac Weekly, a newspaper of general circulation available to the residents of City of Kingston, Ulster County, New York, (E) conducted the Public Hearing on September 19, 2017 at 7:00 p.m., local in the City of Kingston City Hall located at 420 Broadway in the City of Kingston, Ulster County, New York, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”)

adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on October 11, 2017 (the "SEQR Resolution"), the Agency (A) concurred in the determination by the City of Kingston Planning Board (the "Planning Board") to act as the "lead agency" with respect to the acquisition, reconstruction, renovation and installation of the Project, and (B) indicated that the Agency had no information to suggest that the Planning Board was incorrect in determining that the acquisition, reconstruction, renovation and installation of the Project would not have a "significant effect on the environment" and, therefore, that an "environmental impact statement" is not required to be prepared with respect to the acquisition, reconstruction, renovation and installation of the Project; and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Ulster County, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Ulster County, New York by undertaking the Project in Ulster County, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"): (A) a certain lease to agency (the "Lease to Agency" or the "Underlying Lease") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located on said Land (collectively, the "Leased Premises"); (B) a certain license agreement (the "License to Agency" or the "License Agreement") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (1) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (2) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a certain lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Agency and the Company, pursuant to which, among other things, the Company agrees to undertake the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (D) a certain payment in lieu of tax agreement (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (E) a certain uniform agency project agreement (the "Uniform Agency Project Agreement") relating to the granting of the Financial Assistance by the Agency to the Company; (F) a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (G) a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance; (H) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (I) if the Company intends to finance the Project with

borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project ("the Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (the "Loan"); and (J) various certificates relating to the Project (the "Closing Documents");

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. All action taken by the Director, Office of Economic Development of the Agency, with respect to the Public Hearing with respect to the Project is hereby ratified and confirmed.

Section 2. The law firm of Hodgson Russ LLP is hereby appointed Agency Counsel with respect to all matters in connection with the Project. Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company, counsel to the Agency and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Agency Counsel has prepared and submitted an initial draft of the Agency Documents to staff of the Agency.

Section 3. The Agency hereby finds and determines that:

(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) The Project constitutes a "project," as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of Ulster County, New York;

(D) It is estimated at the present time that the costs of the planning, development, acquisition, reconstruction, renovation, construction and installation of the Project Facility (collectively, the "Project Costs") will be approximately \$9,183,495;

(E) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York;

(F) The Project is likely to attract a significant number of visitors from outside the Mid-Hudson economic development region, and therefore meets the definition of a "tourism destination" project within the meaning of Section 862(2)(a) of the Act. Accordingly, although facilities or projects that are primarily used in making retail sales of goods or services to customers who personally visit such facilities may constitute more than one third of the costs of the Project, the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act;

(G) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Ulster County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(H) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(I) The Project should receive the Financial Assistance in the form of exemption from sales tax and mortgage recording tax and a real property tax abatement based on the description of expected public benefits to occur as a result of this Project, as described on Exhibit A attached hereto; and

(J) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 4. In consequence of the foregoing, the Agency hereby determines to: (A) accept the License Agreement; (B) lease the Project Facility to the Company pursuant to the Lease Agreement; (C) acquire, reconstruct, renovate, construct and install the Project Facility, or cause the Project Facility to be acquired, reconstructed, renovated, constructed and installed; (D) enter into the Payment in Lieu of Tax Agreement; (E) enter into the Uniform Agency Project Agreement, (F) enter into the Section 875 GML Recapture Agreement; (G) secure the Loan by entering into the Mortgage; and (H) grant the Financial Assistance with respect to the Project.

Section 5. The Agency is hereby authorized (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the "Bill of Sale to Agency") from the Company to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 6. The Agency is hereby authorized to acquire, reconstruct, renovate, construct and install the Project Facility as described in 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, reconstruction, renovation, construction and installation are hereby ratified, confirmed and approved.

Section 7. The Chairman (or Vice Chairman) of the Agency, with the assistance of Agency Counsel and/or Special Counsel, is authorized to negotiate and approve the form and substance of the Agency Documents.

Section 8. (A) The Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

(C) The Chairman (or Vice Chairman) of the Agency is hereby further authorized, in order to grant the Financial Assistance, to enter into separate sets of the Agency Documents with 311 Partners and BBG Ventures.

Section 9. 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, to 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 10. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

John Morrow	VOTING	<u>YES</u>
Randall Leverette	VOTING	<u>YES</u>
Robert Kinnin	VOTING	<u>ABSENT</u>
John Livermore	VOTING	<u>YES</u>
James Malcolm	VOTING	<u>ABSENT</u>
Michael Bernholz	VOTING	<u>YES</u>

The foregoing Resolution was thereupon declared duly adopted.

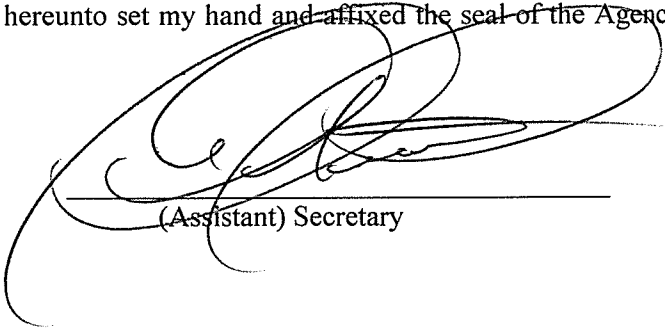
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF ULSTER         )

I, the undersigned (Assistant) Secretary of Ulster County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on October 11, 2017 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and ~~affixed the seal of the Agency~~ this 11<sup>th</sup> day of October, 2017.



\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

## DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that the Project is expected to provide the following benefits to the Agency and/or to the residents of Ulster County, New York (the "Public Benefits"):

Description of Benefit		Applicable to Project (indicate Yes or NO)		Expected Benefit
1.	Retention of existing jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	There are existing jobs on the Project site and therefore this Project will retain existing jobs at the Project site.
2.	Creation of new permanent jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project will create additional new jobs. See Application.
3.	Estimated value of tax exemptions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Approximately \$313,000 of sales tax exemptions, \$60,000 of mortgage recording tax exemptions. The real property tax exemption is described in the Applications.
4.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$9,183,495 at the Project Facility within 2 years of the date hereof.
5.	Likelihood of project being accomplished in a timely fashion	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	High likelihood of project being completed in a timely manner.
6.	Extent of new revenue provided to local taxing jurisdictions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project involves the further development of a developed site located in the City of Kingston, so there will be new tax revenue generated by the Company and made available to the local taxing jurisdictions.
7.	Any additional public benefits	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	This Project promotes further development in uptown City of Kingston and is consistent with tourism in Ulster County.
8.	Local labor construction jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Company has estimated that at least 75% of the construction jobs will be regional labor (i.e., from Ulster, Sullivan, Greene, Columbia, Dutchess and/or Orange Counties)
9.	Regional wealth creation (% of sales/customers outside of the County)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project is a tourism business facility, and is designed to attract customers/clients from outside of the County.
10.	Located in a highly distressed census tract	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project is located in a census tract that is adjacent to a highly



				distressed census tract, as defined in the IDA Statute.
11.	Alignment with local planning and development efforts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project is consistent with local planning and development efforts.
12.	Promotes walkable community areas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project site is located in an urban setting with sidewalks.
13.	Elimination or reduction of blight	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	The Project site is not a blighted area.
14.	Proximity/support of regional tourism attractions/facilities	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	As a tourism business facility, the Project will promote and support regional tourism attractions and facilities.
15.	Local or County official support	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project has local and County support.
16.	Building or site has historic designation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	There is no historic designation.
17.	Provides brownfield remediation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	No brownfields present.