

APPENDIX A-2
B-East Residential Development
Term Sheet for Contract of Sale or Lease

This non-binding term sheet (the “Term Sheet”) sets forth the proposed terms to be negotiated between New York City Economic Development Corporation (“NYCEDC” or “Seller”) and (the “Purchaser” or “Developer”), (collectively, the “Parties”), for either a) a contract of sale (the “Contract” or “Contract of Sale”) and deed (“Deed”) or b) a Pre-Development Agreement (the “PDA”) and a long-term ground lease (the “Lease”), as determined by NYCEDC (collectively a and b are “Transaction Documents”) for seven (7) lots of land known as B-East located between East 125th Street and East 126th Street along 2nd Avenue (Block 1790, Lots 25, 26, 27, 28, 29, 30, and 31 on the tax map of the Borough of Manhattan) (the “Site”) for the development of mixed-income housing (the “Project”).

Respondents must complete terms of sale (Contract Terms, below). The terms of lease (Additional Lease and PDA terms below) should only be completed, if Respondents are also additionally electing to propose the Lease as an additional optional Disposition Structure.

This Term Sheet is intended solely as a basis for non-exclusive discussions and is not intended to, nor does it create or give rise to, any contractual or other legally binding or enforceable rights, obligations or liabilities of any kind on the part of the Parties, NYCEDC or the City, it being the intent of the Parties that only subsequently formalized Transaction Documents executed and delivered by the respective Parties, subject to all necessary review and approvals, obligate the Parties on the matters set forth herein. The terms set forth herein do not include and should not be construed as including all material terms and conditions to be set forth in executed Transaction Documents. The Parties shall keep this Term Sheet and its terms and conditions confidential except to the extent disclosure is required by applicable law or legal process.

Contract Terms: It is anticipated that the Contract, subject to all applicable approvals and conditions, will include, without limitation, the terms below.

1. Site	Block 1790, Lots 25, 26, 27, 28, 29, 30, and 31 on the tax map of Borough of Manhattan.
2. Seller	NYCEDC
3. Purchaser	[Legal Name] The Developer will consist of the following: [name of entity or individual, % equity owned] [name of entity or individual, % equity owned]
4. Development Program	The Developer’s proposed conceptual plans, elevations and floor plans as presented in the Proposal (together with changes

	approved by NYCEDC) will be attached to the Contract as preliminary specifications of the development program (“Development Program”). Final plans and specifications shall be subject to approval by NYCEDC. It is anticipated that construction obligations in accordance therewith will encumber the Site, through Deed, restrictive covenant, Lease, or other like documents as applicable. The Development Program must comply with all laws and approvals, including but not limited to land use approvals, relevant zoning, and any permit requirements. Developer will be expected to comply with the affordability requirements of New York State Real Property Tax Law (“<u>RPTL</u>”) §485-x. All affordable units will be permanently affordable. Development Program as described below: <table border="1"> <thead> <tr> <th></th><th>ZSF</th><th>GSF</th><th>RSF</th></tr> </thead> <tbody> <tr> <td>Residential</td><td></td><td></td><td></td></tr> <tr> <td>Community Serving uses¹</td><td></td><td></td><td></td></tr> <tr> <td>Description</td><td></td><td></td><td></td></tr> <tr> <td>Retail including...</td><td></td><td></td><td></td></tr> <tr> <td>Locally-Owned Business</td><td></td><td></td><td></td></tr> <tr> <td></td><td>ZSF</td><td>GSF</td><td># of Spaces</td></tr> <tr> <td>Parking</td><td></td><td></td><td></td></tr> <tr> <td></td><td>ZSF</td><td>GSF</td><td></td></tr> <tr> <td>Open Space</td><td></td><td></td><td></td></tr> </tbody> </table> Unit Mix:				ZSF	GSF	RSF	Residential				Community Serving uses¹				Description				Retail including...				Locally-Owned Business					ZSF	GSF	# of Spaces	Parking					ZSF	GSF		Open Space			
	ZSF	GSF	RSF																																								
Residential																																											
Community Serving uses¹																																											
Description																																											
Retail including...																																											
Locally-Owned Business																																											
	ZSF	GSF	# of Spaces																																								
Parking																																											
	ZSF	GSF																																									
Open Space																																											

¹ For any community-serving use as indicated, please provide square footage, proposed tenant, and agreement structure with tenant, including economic terms.

	Unit Count ²			RSF (#)	RSF (%)	
	Market Rate					
	Affordable					
	[]% AMI					
	[]% AMI					
	[]% AMI					
			Market	Affordable	RSF (#)	RSF (%)
	Studio					
	One Bedroom					
	Two Bedroom					
	Three Bedroom					
	Total					
5. Execution Date	Date Contract is fully executed (“ <u>Effective Date</u> ”).					
6. Closing Date	12 months from Execution Date (“ <u>Closing Date</u> ”)					
7. Downpayment	Upon execution of the Contract, Developer shall make a \$500,000 payment to NYCEDC as a one-time deposit (“ <u>Down Payment</u> ”).					
8. Consideration	The total consideration will be \$[] Dollars (“<u>Consideration</u>”). Developers should seek to maximize the total Consideration, inclusive of Purchase Price and Administrative Fee (as defined below). NYCEDC will determine the amounts to be allocated between the purchase price and Administrative Fee, and may direct the payment of the Purchase Price to another party, such as the local investment fund described in the POA (as defined in the RFP). Any amount of Consideration not allocated to the Administrative Fee will be considered the Purchase Price (“<u>Purchase Price</u>”), the balance of which shall be due at Closing.					

² Must be greater than 100

9. Administrative Fee	Upon execution of the Contract, the Developer shall pay a non-refundable fee to NYCEDC in the amount to be determined by NYCEDC (“<u>Administrative Fee</u>”). The Administrative Fee will be due and paid no later than the date of the execution and delivery of the Contract and in no event whatsoever shall Developer be entitled to a refund of the Administrative Fee.
10. Developer Accepts Site As-Is	Purchaser agrees to accept the Site “as is”. Purchaser is solely responsible for the cost of any due diligence it elects to undertake.
11. Preliminary Obligations	The Developer must complete the following obligations including but not limited to: a) Within 90 days of the Effective Date, obtain and send a title report and American Land Title Association survey of the Site to NYCEDC; b) Within 180 days of the Effective Date, deliver a schematic design package, including without limitation, site plans, elevations, sections, massing diagrams, floor plans, circulation plans, major systems plans, and construction staging; c) Within 180 days of the Effective Date, complete all due diligence.
12. Project Budget	Developer will provide a final Project budget no later than 30 days prior to the Closing Date.
13. Select Closing Conditions	Closing Conditions to be met by the Closing Date include, but are not limited to: a) No later than 90 days prior to the Closing Date, provide evidence of debt and equity financing greater than or equal to the Project budget; b) Closing on all construction financing; c) Posting the completion bond or guaranty; d) Regulatory agreement and/or restrictive declaration, as applicable; e) Receipt of all approvals including City Charter Section 384(b)(4) or NYS UDAAP or NYS Urban Renewal Area, and approval from NYCEDC board and, if applicable, New York City Land Development Corporation (“NYCLDC”) board;

	f) All approvals and permits needed to commence construction; g) Delivery of approved M/WBE participation plan to NYCEDC; and h) Delivery of the deed from the City to NYCEDC or NYCLDC and, if applicable, NYCLDC to NYCEDC.
14. Appraisal	Developer shall pay for all appraisal fees in connection with the Project, including appraisals procured by NYCEDC or the City. Developer shall pay for all appraisal fees in advance.
15. Permitted Uses	The Project will be constructed in accordance with the Development Program and Developer will not make any changes to the Development Program without prior written approval by NYCEDC. The Deed shall restrict the Site to the Development Program for 30 years from the Closing Date. All affordable residential units shall be permanently affordable pursuant to a regulatory agreement and/or restrictive declaration, which shall survive the restricted period.
16. Outside Closing Date	The outside closing date shall be no more than 18 months following Effective Date of the Contract of Sale (“<u>Outside Closing Date</u>”). In no event shall Unavoidable Delay or extension cause the Closing Date to extend beyond the Outside Closing Date. If the Outside Closing Date is not met, the Contract will automatically terminate and there will be no disposition of any part of the Site.
17. Construction Commencement Date	3 months from the Closing Date (“ <u>Construction Commencement Date</u> ”).
18. Construction Completion Date	Following the Construction Commencement Date, Developer shall prosecute construction of the Project with diligence and continuity and achieve substantial completion, as evidenced by receipt of a temporary certificate of occupancy (“ <u>TCO</u> ”) from DOB, within 36 months of the Construction Commencement Date; Developer shall then diligently and in good faith pursue a final certificate of occupancy for the Project.
19. Transfers/Assignments	Developer shall not be permitted to sell or otherwise assign its interest in the Contract prior to the Closing Date.

	Developer shall not be permitted to sell or otherwise assign its interest in the Site for a period of 10 years following the Project's stabilization. This restriction shall <u>not</u> apply to a foreclosure or a transfer in lieu of foreclosure under a mortgage held by a qualified institutional lender (to be defined in the Transaction Documents) securing construction financing or a permanent "take-out" loan with regard to such construction financing.
20. Sustainability	Project shall be compliant with all applicable laws, including Local Law 97, and achieve a minimum rating of LEED Gold, Enterprise Green Communities, or equivalent standard, as outlined in the RFP.
21. Development Rights	City to retain all excess development rights for the Site pursuant to the Zoning Lot Development Agreement (" <u>ZLDA</u> ") covering the Site.
22. Recording Costs and Transfer Tax	Developer will be solely responsible for any and all transfer taxes calculated as if the Site were owned by a private entity rather than by the City.
23. Completion Guaranty	A performance or completion bond or guaranty satisfactory to the City and NYCEDC, to secure the faithful performance and completion of the Project, shall be required. Any completion or performance bond must be issued by a surety company licensed or authorized to do business in New York State for 100% of the aggregate costs and expenses. If prior to substantial completion as evidenced by receipt of a TCO, the completion bond is cancelled or otherwise ceases to be in full force and effect, then, within ten (10) days after notice of the foregoing, Developer shall provide a replacement bond acceptable to the City in its sole discretion.
24. Environmental Remediation and Indemnification	Developer is responsible for all costs associated with environmental remediation and shall indemnify the City, NYCEDC, and NYCLDC from any liability relating to environmental conditions.
25. M/WBE Participation	Developer shall make good faith efforts to ensure that participation of minority- and women-owned businesses (" <u>MWBEs</u> ") meets or exceeds its utilization goal of 30% of hard and soft costs of the design and construction of the Project. Developer shall submit its MWBE participation plan

	to NYCEDC for review and approval at or before the Closing Date.
26. Indemnification	Developer shall forever defend, indemnify, and hold harmless the City, NYCLDC, NYCEDC, and their respective officials, directors, members, principals, servants, officers, agents, representatives and employees from and against any and all obligations, liabilities, claims, demands, penalties, fines, settlements, damages, costs, expenses and judgments of whatever kind or nature, known or unknown, contingent or otherwise arising from the Contract and/or the use and/or ownership of the Site, including, without limitation, personal or bodily injury (including death) of or to any person or persons, including, without limitation from or related to the presence, release or threatened release, storage, transportation or disposal of hazardous materials, or any damage to property of any nature or any and all environmental liabilities. The provisions of this section shall survive the closing. The City's and NYCEDC's standard indemnification language will be used.
27. General Terms	In addition to the key business terms set forth above, the Contract will include all provisions included in and conform to NYCEDC's form Contract.

Additional Lease and PDA Terms: If the Transaction Documents include a Lease and a PDA, the terms will include, but not be limited to, the items below in addition to those detailed above, as modified for a Lease or PDA. A PDA is typically used to govern the period between the selection of the tenant (“Tenant”) and signing of the Lease.

1. Landlord	The City of New York
2. Tenant	[Legal Name] The Developer will consist of the following: [name of entity or individual, % equity owned] [name of entity or individual, % equity owned]
3. Lease Administrator	NYCEDC
4. Lease Term	99 Years
5. PDA Security Deposit	Upon execution of the PDA, Developer shall make a \$500,000 payment to NYCEDC as a security deposit (“ <u>PDA Security Deposit</u> ”). NYCEDC will retain the PDA Security Deposit and upon Closing credit the PDA Security Deposit against the Lease Security Deposit.
6. Administrative Fee	Upon execution of the PDA, the Developer shall pay a non-refundable Administrative Fee to NYCEDC in the amount to be determined by NYCEDC. The Administrative Fee will be due and paid no later than the date of the execution and delivery of the PDA and in no event whatsoever shall Developer be entitled to a refund of the Administrative Fee.
7. Lease Base Rent	The rent will be \$[] Dollars (“Base Rent”), paid in one lump sum at Closing. Developers should seek to maximize the total Base Rent, inclusive of the Administrative Fee. NYCEDC will determine the amounts to be allocated between the Base Rent and Administrative Fee, and may direct the payment of Base Rent to another party, such as the local investment fund described in the POA (as defined in the RFP).

8. Lease Security Deposit	Upon execution of the Lease, the PDA Security Deposit shall become the security deposit under the lease (“Lease Security Deposit”).
9. Asset Management Fee	Asset Management fee shall be \$40,000 per year, escalating 3% per year.
10. Additional Preliminary Obligations – PDC Approval	Within 180 days of execution of the PDA, Developer shall submit to NYCEDC all materials necessary for conceptual review of the Project by the City’s Public Design Commission (“PDC”) and then pursue preliminary and final design approval from PDC with diligence.
11. Additional Select Closing Conditions	Conditions to be met by the beginning of the Lease Term include, but are not limited to: (a) Posting a payment bond or guaranty that complies with Section 5 of the New York State Lien Law with requirements as specified in the Lease; (b) receipt of all PDC approvals.
12. Wage Levels / 485-x	Developer agrees to comply with all requirements of the Affordable Neighborhoods for New Yorkers tax incentive, RPTL 485-x including, but not limited to, affordability, labor requirements and any other wage and labor laws applicable to the Project.
13. Payment in Lieu of Taxes (“PILOT”)	The Lease will require Developer to pay PILOT in an amount equivalent to taxes that would otherwise have been payable to the City if the Site were owned in fee by a private entity rather than by the City. If the Project meets the requirements for a property-tax exemption or abatement that would have been available under any New York State law, such as RPTL Section 485-x, then Developer would be entitled to an abatement of PILOT payments consistent with such statute. Developer shall pay all transfer taxes, mortgage recording taxes, and sales taxes imposed by the City and the State of New York in connection with the transaction contemplated herein, regardless of the involvement of the City or NYCEDC in the transaction.
14. Payment Bond / Guaranty	Prior to commencement of any construction work or other work with a cost in excess of \$250,000, Developer shall deliver, a payment bond or other form of undertaking that complies with

	Section 5 of the New York Lien Law guaranteeing prompt payment of moneys due to all contractors, subcontractors and persons furnishing labor or materials for such work. With respect to any payment guaranty provided in fulfillment of this requirement, substantially in a form to be provided by Landlord and Lease Administrator, the guarantor shall be subject to a net worth covenant and financial reporting requirements during the term of the guaranty and shall be acceptable to Landlord in its sole discretion. Any payment bond must be satisfactory to the Landlord in its sole discretion and issued by a surety company licensed or authorized to do business in New York State for 100% of the aggregate costs and expenses. If prior to Substantial Completion of the applicable construction work, the payment bond is cancelled or otherwise ceases to be in full force and effect (other than pursuant to its terms), then, within thirty (30) days after notice of the foregoing, Lessee shall provide a replacement bond acceptable to Landlord in its sole discretion.
15. Indemnification	Developer shall forever defend, indemnify, and hold harmless the City, NYCLDC, NYCEDC, and their respective officials, directors, members, principals, servants, officers, agents, representatives and employees from and against any and all obligations, liabilities, claims, demands, penalties, fines, settlements, damages, costs, expenses and judgments of whatever kind or nature, known or unknown, contingent or otherwise arising from the PDA and/or the use of the Site, including, without limitation, personal or bodily injury (including death) of or to any person or persons, including, without limitation from or related to the presence, release or threatened release, storage, transportation or disposal of hazardous materials, or any damage to property of any nature or any and all environmental liabilities. The provisions of this section shall survive the Closing Date. The City's and NYCEDC's standard indemnification language will be used.
16. General Terms	In addition to the key business terms set forth above, the Lease and PDA will include all provisions included in and conform to the City's form Lease and NYCEDC's PDA.

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

By: _____

Name:

Title: _____

Date: _____

[DEVELOPER]

By: _____

Name:

Title: _____

Date: _____