



New York City Economic Development Corporation

MINUTES OF THE MEETING OF THE  
REAL ESTATE AND FINANCE COMMITTEE  
OF  
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION  
January 22, 2019

A meeting of the Real Estate and Finance Committee (the "Committee") of the Board of Directors (the "Board") of New York City Economic Development Corporation ("NYCEDC"), was held on Tuesday, January 22, 2019, at NYCEDC's offices at 110 William Street, in Conference Room 5B, New York, New York.

The following members of the Committee were present:

William Candelaria (by conference telephone)  
James McSpirtt  
Patrick J. O'Sullivan, Jr. (by conference telephone)  
Mark Russo (by conference telephone)  
Betty Woo (by conference telephone)

Members of NYCEDC staff also were present.

The meeting was chaired by Mr. O'Sullivan and called to order at 2:06 p.m. Meredith Jones, an Executive Vice President, General Counsel and Secretary of NYCEDC, served as secretary of the duly constituted meeting, at which a quorum was present. (Attached hereto as Attachment 1 is a definition sheet that contains the definitions of certain frequently used terms that may be contained in the Exhibits attached hereto.)

1. Approval of the Minutes of the October 23, 2018 Committee Meeting

It was moved that the minutes of the October 23, 2018 meeting of the Committee be approved, as submitted. Such a motion was seconded and unanimously approved.

2. Long Term Ground Lease to The Community Builders, Inc.

Molly Anderson, a Senior Associate of NYCEDC, presented a proposal for (i) New York City Land Development Corporation ("NYCLDC") to lease from the City of New York (the "City") Block 15705, Lot 69 and part of Lot 59 on the Tax Map of the Borough of Queens (the "TCB Site"), (ii) NYCLDC to assign such lease to either (a) The Community Builders, Inc. d/b/a TCB New York Affordable Housing ("TCB") or an affiliated entity, or (b) an affiliated housing development fund corporation or other entity

whose purpose is to facilitate affordable housing and/or obtain financing for the proposed project on the TCB Site, and (iii) NYCLDC and NYCEDC to enter into any related agreements and documents and consents and amendments to effectuate the development of the TCB Site into a 10-story mixed-use development comprising approximately 245,000 square feet, on substantially the terms set forth in Exhibit A hereto.

In answer to a question, Ms. Anderson stated that NYCEDC learned through its community outreach that the community wanted a mixed income project with a range of incomes on the TCB Site. In answer to a question from Mr. O'Sullivan, Ms. Anderson explained that TCB was selected in part because the range of incomes and the number of family-size units that were included in its proposal appropriately met the preferences that had been expressed by the community. She added that NYCEDC also liked that TCB was a not-for-profit housing developer. In answer to an additional question from Mr. O'Sullivan, Ms. Anderson stated that the New York City Department of Housing Preservation and Development ("HPD") was involved in TCB's Park Haven project in the Bronx, and that TCB also had experience developing affordable housing projects in other parts of the country. Ms. Anderson further noted that NYCEDC and HPD jointly released the request for proposals ("RFP") for this project, and that NYCEDC had been coordinating with HPD on the process, including the negotiation process, the selection of TCB and the pre-development period.

In answer to another question from Mr. O'Sullivan, Ms. Anderson stated that TCB was working with a leasing broker for the commercial portion of the project, but that no tenant was signed at this point. In answer to an additional question from Mr. O'Sullivan, Ms. Anderson explained that NYCEDC anticipated that the regulatory period (the "Regulatory Period") for the non-permanent affordable housing units might be approximately 40 years. Sarah Govier, a Vice President of NYCEDC, added that NYCEDC anticipated that following the Regulatory Period, the annual base rent would be based on an appraisal of the fair market value, subject to the Lease. In answer to a question from Mr. McSpirtt, Ms. Anderson stated that TCB proposed that 97 parking spaces would fit into the underground parking area. Ms. Govier also noted that some parking was required by zoning.

A motion was made that the Committee recommend that the Board of Directors approve the matters set forth for approval in the Proposed Resolutions section of Exhibit A hereto. Such motion was seconded and unanimously approved.

### 3. Sublease for Restaurant Located in the New Essex Market

David Hughes, a Vice President of NYCEDC, presented a proposal for NYCEDC to enter into a sublease with Essex Hospitality LLC or an affiliated entity (the "Subtenant") for a portion of a new public market to be known as the "Essex Market", on substantially the terms set forth in the Exhibit B hereto. Essex Market will be located in a building located at Block 352, Lots 1001-1007 on the Tax Map of the Borough of Manhattan, and the sublease would be for a portion of the market consisting of an

approximately 1,238 square foot ("SF") restaurant space together with an approximately 195 SF subcellar storage area.

In answer to a question from Mr. Russo, Mr. Hughes stated that the proposed restaurant currently had a lease for a private space at its current location, and that the private lease was expiring. In answer to additional questions from Mr. Russo, Mr. Hughes described the other two respondents to the RFP and stated that the proposed restaurant had been at its current location for over ten years, was a locally owned small business, and was located only a couple of blocks from the new Essex Market site.

A motion was made that the Committee recommend that the Board of Directors approve the matter set forth for approval in the Proposed Resolutions section of Exhibit B hereto. Such motion was seconded and unanimously approved.

#### 4. BioBAT Sublease Amendment

John Hong, an Assistant Vice President of NYCEDC, presented a proposal for NYCEDC (i) to amend its sublease agreement with BioBAT, Inc. ("BioBAT") to facilitate the redevelopment of a portion of the Brooklyn Army Terminal ("BAT") into a bioscience/life science facility, and (ii) to enter into any related agreements and transactions needed to implement the proposed BioBAT project, on substantially the terms set forth in Exhibit C hereto. BioBAT would surrender some of its current space.

In answer to a question from Mr. Russo, Mr. Hong stated that NYCEDC expected that it would use the returned floors for similar uses as the rest of BAT, i.e. primarily, manufacturing and industrial businesses. Mr. Hong further stated that NYCEDC released an RFP for a broker for BAT that could bring potential tenants to the BioBAT space as well. In answer to a question from Mr. O'Sullivan, Mr. Hong explained that of the approximately 200,000 square feet of space that BioBAT was retaining, approximately 50,000 square feet was currently leased out or in use, including space that was being used by the New York City Department of Education for a PreK center, and that BioBAT was also in the process of developing approximately 20,000 square feet of space that would be leased to incubator subtenants.

In answer to a question from Mr. O'Sullivan, Matthew Kwatinetz, an Executive Vice President of NYCEDC, stated that the current space was too big given the current capacity and funding of BioBAT. Mr. Kwatinetz then explained that the amendments would allow for subleasing to move at a faster pace and for NYCEDC to receive reasonable payment for assistance it lends in the subleasing process.

Mr. Kwatinetz noted that an additional BioBAT staff member was put in place to work and coordinate with NYCEDC moving forward. In answer to a question from Mr. Russo, Mr. Hong stated that the proposed amendment contained new subleasing milestones. In answer to a question from Mr. McSpiritt, Mr. Kwatinetz stated that BioBAT retained the option for the approximately 39,000 SF option space because it had already spent money for its build out.

A motion was made that the Committee recommend that the Board of Directors approve the matters set forth for approval in the Proposed Resolution section of Exhibit C hereto. Such motion was seconded and unanimously approved.

5. Adjournment

There being no further business to come before the meeting, pursuant to a motion made, seconded and unanimously approved the meeting of the Committee was adjourned at 2:40 p.m.

Mark Schwesnitz  
Assistant Secretary

Dated: Apr 23, 2019  
New York, New York

## Attachment 1

### DEFINITIONS

Apple .....	Apple Industrial Development Corp.
Armand .....	Armand Corporation d/b/a Armand of New York
BAT .....	Brooklyn Army Terminal
Bovis .....	Bovis Lend Lease LMB, Inc.
CDBG .....	Federal Community Development Block Grant
CDBG-DR Funds .....	Federal Community Development Block Grant-Disaster Recovery Program funds
CEQR .....	City Environmental Quality Review process
City DEP .....	New York City Department of Environmental Protection
City DOT .....	New York City Department of Transportation
City Parks .....	New York City Department of Parks and Recreation
City Planning .....	New York City Department of City Planning or City Planning Commission
CM .....	A construction manager
CM Contract .....	A construction management contract
DCAS .....	New York City Department of Citywide Administrative Services
EIS .....	Environmental Impact Statement
ESDC .....	New York State Urban Development Corporation d/b/a Empire State Development Corporation
FEMA .....	Federal Emergency Management Agency
FM .....	A facilities manager
FM/CM Contract .....	A facilities management/construction management contract
Funding Source Agreement .....	Any agreement necessary to obtain funds for the Project, including IDA Agreements
Gilbane.....	Gilbane Building Company
HDC .....	New York City Housing Development Corporation
HPD .....	New York City Department of Housing Preservation and Development
Hunter Roberts .....	Hunter Roberts Construction Group, L.L.C.
IDA .....	New York City Industrial Development Agency
IDA Agreement .....	Agreement with IDA pursuant to which IDA retains NYCEDC to accomplish all or part of the Project and reimburses NYCEDC for the costs of the work
LiRo .....	LiRo Program and Construction Management, PE P.C.
LMDC .....	Lower Manhattan Development Corporation
McKissack .....	The McKissack Group, Inc. d/b/a McKissack & McKissack

MOU .....	A memorandum of understanding
NYCEDC .....	New York City Economic Development Corporation, survivor of a November 1, 2012 merger of a local development corporation (the "LDC") named New York Economic Development Corporation with and into New York City Economic Growth Corporation. References to NYCEDC prior to such merger are references to the LDC.
NYCHA .....	New York City Housing Authority
NYCLDC .....	New York City Land Development Corporation
Noble Strategy .....	Noble Strategy NY Inc.
OMB .....	New York City Office of Management and Budget
Port Authority .....	The Port Authority of New York and New Jersey
RFP .....	Request for Proposals
Sanitation .....	New York City Department of Sanitation
SBS .....	New York City Department of Small Business Services
SEMO .....	New York State Emergency Management Office
SEQR .....	State Environmental Quality Review process
Skanska .....	Skanska USA Building Inc.
State DEC .....	New York State Department of Environmental Conservation
State DOS .....	New York State Department of State
State DOT .....	New York State Department of Transportation
State Parks .....	New York State Office of Parks, Recreation and Historic Preservation
Tishman .....	Tishman Construction Corporation of New York
Turner .....	Turner Construction Company
ULURP .....	Uniform Land Use Review Procedure

Exhibit A

**LONG TERM GROUND LEASE TO THE COMMUNITY BUILDERS, INC.  
Board of Directors Meeting  
February 6, 2019**

**LESSOR:** The City of New York (the "City")

**LESSEE/  
LEASE ASSIGNOR** NYCLDC

**LEASE ASSIGNEE:** The lease assignee will either be (i) The Community Builders, Inc. d/b/a TCB New York Affordable Housing ("TCB") or an affiliated entity, or (ii) an affiliated housing development fund corporation or other entity whose purpose is to facilitate affordable housing and/or obtain financing for the proposed project on the hereinafter defined Site (whichever, the "Lease Assignee").

TCB is a not-for-profit corporation.

**SITE  
LOCATION:** Block 15705, Lots 69 and p/o 59 (the "Site")  
10-37 Beach 21<sup>st</sup> Street  
Borough of Queens  
Community Board No. 14

**SITE  
DESCRIPTION:** The Site, which is located on the western side of Beach 21<sup>st</sup> Street between Mott and Cornaga Avenues, Queens, is approximately 42,560 square feet. The Site is owned by the City and is currently unimproved and is used as a bus layover and municipal parking lot.

It is anticipated that Lot 69 and the whole of Lot 59 (including the portion which does not form part of the Site) will form a single zoning lot, and that, under the terms of the proposed Lease, the project on the Site may use approximately 29,000 square feet of development rights in excess of those that would be available if the zoning lot comprised solely the Site.

The approximate configuration of the Site is depicted in Attachment A.

**BACKGROUND:** NYCEDC released an RFP on December 14, 2016, for the disposition and redevelopment of the Site and ultimately selected TCB as the successful respondent on June 29, 2018. Respondents to the RFP and a brief summary of their responses are listed on Attachment B.

**PROJECT  
DESCRIPTION:**

The Lease Assignee will develop the Site into a 10-story mixed-use development comprising approximately 245,000 square feet. The development is expected to include (i) approximately 179,000 square feet of affordable housing, (ii) approximately 22,000 square feet of commercial space, (iii) approximately 7,000 square feet of community facility space, and (iv) approximately 37,000 square feet of underground parking space for approximately 97 vehicles (collectively, the "Project").

TCB anticipates that the affordable housing space will include approximately 224 affordable housing units. As required by HPD and HDC, the Lease Assignee will set aside approximately 10% of the affordable housing units for formerly homeless households. The balance of the affordable housing units will be spread across multiple income bands with an anticipated range from approximately 30% to 90% of Area Median Income. It is currently anticipated that a total of approximately 40% of the residential units will be permanently affordable: approximately 25% by reason of the City's Mandatory Inclusionary Housing program ("MIH"), and approximately 15% in accordance with requirements of financing being provided by HPD and/or HDC for the Project. The remaining 60% of the residential units are expected to remain affordable for a period of time (the "Regulatory Period") set by HPD and/or HDC.

**PURPOSE OF THE  
DISPOSITION/BENEFIT  
TO THE PUBLIC:**

It is anticipated that the disposition of the Site will transform an underutilized City-owned asset into a mixed-use development that provides affordable housing, retail and community facility uses.

**LEASE TERMS:**

The City (as lessor) and NYCLDC (as lessee) will enter into a lease for the Site (the "Lease") and NYCLDC will then assign such Lease to the Lease Assignee.

The initial term of the Lease will be 40 years, or such term as is required to accommodate a low-income housing structure or other financing structure, as determined in cooperation with HPD and/or HDC, with up to three renewal options, for a total term of no more than 99 years.



The annual base rent during the Regulatory Period will be at least \$1. After the end of the Regulatory Period it is anticipated that, subject to negotiation, the annual base rent will be based on an appraisal of the fair market value subject to the Lease.

The Lease Assignee will make payments in lieu of taxes ("PILOT") in amounts equal to the real property taxes that would be assessed and levied against the Site as improved, except that PILOT will reflect (i) any as-of-right exemptions, abatements, credits, or other reductions for which Lease Assignee would have qualified if Lease Assignee was the fee owner based on Lease Assignee's exempt status and exempt use of the Site, and (ii) to the extent that any portion of the Site as improved is being used for a regulated affordable housing use, a discretionary abatement in line with abatements for projects encumbered by a regulatory agreement under then-applicable laws, regulations, policies and/or programs.

**APPRAISED  
VALUE:**

An independent appraisal of the Site was commissioned in December 2018. The appraisal valued the fair market annual rent for the Site, accounting for the specific development requirements and restrictions pertaining to the use and transfer of the Site, at \$0. The appraisal also valued the highest and best use fair market annual rent for the Site (with the approximately 29,000 extra development rights as described above) at \$350,000.

**EXISTING  
ZONING:**

The Site is zoned R6/C4-2 within the Special Downtown Far Rockaway District, and is within a designated MIH area.

**PUBLIC  
APPROVALS:**

City Planning on July 10, 2017 (Calendar Nos. 2, 4, and 8) and the New York City Council on September 7, 2017 approved the disposition and rezoning of the Site, as part of the wider Downtown Far Rockaway rezoning.

Pursuant to Section 384(b)(4) of the City Charter, the proposed disposition of the Site is anticipated to go before the Queens Borough Board for approval in March 2019.

The Project design is subject to review and approval by the Public Design Commission ("PDC"). The Project received Conceptual Approval from PDC on August 13, 2018 and will

return to PDC for preliminary approval and final approval over the coming months.

**PROPOSED  
RESOLUTIONS:**

Approval for NYCLDC to (i) lease the Site from the City substantially as described herein and (ii) assign such lease to the Lease Assignee, substantially as described herein, and approval for NYCLDC and NYCEDC to enter into any related agreements and documents and consents and amendments to effectuate the Project substantially as described herein

The Board of Directors further resolves that there is no reasonable alternative to the proposed transfer to the Lease Assignee that will achieve the same purpose as the transfer

**NYCEDC  
PROJECT CODE:**

6541

**NYCEDC STAFF:**

Molly Anderson, Senior Associate, Real Estate Transaction Services  
Sarah Govier, Vice President, Real Estate Transaction Services  
Susan Goldfinger, Senior Vice President, Real Estate Transaction Services  
Richard Palumbo, Senior Counsel, Legal

**Attachment A**

**Site Location Map**



Attachment B

Respondent Comparison Table

Developer	Proposed Project	Proposed Ground Rent or Sale Payment	HPD Term Sheet	Housing Units <i>All 100% Affordable</i>	% of 2- and 3-Bedroom Units	Total commercial and community facility space (GSF)	Parking Spaces
An entity to be formed by Alexander Berkovitch, Allen Pilevsky, and David Shteierman, RA	Mixed-use development with affordable housing, commercial and community facility	Sale: \$1.00	Mix & Match	180	46%	~17,000	161 below-grade
Camber Property Group, LLC	Mixed-use development with affordable housing, commercial, and community facility	Ground Rent: \$1.00	Mix & Match	240	54%	~27,000	131 total, including stackers
Georgica Green Ventures, LLC	Mixed-use development with affordable housing, commercial and community facility	Ground Rent: \$1.00	ELLA	180	45%	~30,000	130 total
MacQuesten Development, LLC	Mixed-use development with affordable housing, commercial, and community facility	Ground Rent: \$1.00	Mix & Match	245	33%	~33,000	62 below-grade
The Beechwood Organization	Mixed-use development with affordable housing, commercial and community facility	Ground Rent: \$1.00	ELLA	220	50%	~42,000	116 below-grade
The Community Builders, Inc.	Mixed-use development with affordable housing, commercial, and community facility	Ground Rent: \$1.00	Mix & Match	224	50%	~29,000	97 below-grade

The data is the current proposed position and changed in the course of negotiations with certain respondents. Various respondents were eliminated at various stages of negotiations.

Exhibit B

**SUBLEASE FOR RESTAURANT LOCATED IN THE NEW ESSEX MARKET  
Board of Directors Meeting  
February 6, 2019**

**OVERVIEW:** NYCEDC anticipates that in April 2019, NYCEDC will enter into a lease (the "Essex Market Lease") from Delancey Street Associates LLC ("DSA"), the developer of the Essex Crossing Development, for a public market to be known as the "Essex Market" and located at 88 Essex Street, in the Lower East Side of Manhattan.

NYCEDC proposes to enter into a sublease for a portion of the Essex Market consisting of an approximately 1,238 square foot ("SF") restaurant space together with an approximately 195 SF subcellar storage area (together, the "Site"). The restaurant space is approximately depicted in Attachment A.

The Essex Market is located within a twenty-six story mixed use building (the "Building") that is part of the Essex Crossing Development. The Building is located at Block 352, Lots 1001-1007 on the Tax Map of the Borough of Manhattan.

The proposed sublease is the result of an RFP for a restaurant lease opportunity that was issued in May of 2017.

In November 2013, the Board authorized NYCEDC to enter into the Essex Market Lease. Immediately after NYCEDC has entered into the Essex Market Lease with DSA, which is anticipated to be in April 2019, DSA will convey to the City the condominium unit portion of the Building constituting the Essex Market. The Essex Market condominium unit will be conveyed to the City subject to the Essex Market Lease and, thereafter, NYCEDC shall become the tenant of the City for the Essex Market.

**SUBLEASE TERMS**

**SUBLESSOR:** NYCEDC

**SUBLESSEE:** The sublessee (the "Subtenant") will be Essex Hospitality LLC or an affiliated entity. Essex Hospitality LLC is principally owned by Debabrata Roni Mazumdar.

**INITIAL TERM:** The term will be 10 years, commencing approximately on May 1, 2019.



**BASE RENT:** Base Rent is to commence at \$99,040 per annum or approximately \$80/SF for ground floor area in Sublease Years 1-3, and increases in Sublease Years 4-10 as set forth in Attachment B. The Base Rent in Sublease Years 1-2 shall be subject to abatements not to exceed 4 months of Base Rent for certain capital investment and tenant fit-out work. The rent for the subcellar area is approximately \$5/SF in Sublease Years 1-10.

**PARTICIPATION RENT:** Participation Rent in Sublease Years 1-3 is 7% of gross sales above \$900,000 and changes in Sublease Years 4-10 as depicted in Attachment B.

**RENEWAL TERMS:** Subtenant shall have two 5-year options to renew. Base Rent for the Site in each renewal term shall be the greater of the fair market value of the Site at the commencement of the renewal term or 103% of the annual Base Rent of the Site for the Sublease Year immediately preceding the renewal term. There may be periodic increases in Base Rent for the Site during one or both renewal terms and there may be Participation Rent during one or both renewal terms.

**USE:** The Subtenant shall use the Site as a food and beverage establishment. The Subtenant shall primarily serve Indian and South East Asian cuisine. Subtenant shall have the exclusive right to be the only restaurant in the Essex Market to primarily serve Indian cuisine.

**APPRAISED VALUE:** An appraisal by an independent appraiser has determined that the current fair market value is \$127/SF (approximately \$157,226) annually for the ground floor area and that rent attributable to the subcellar area is negligible. NYCEDC conducted an open solicitation for the Site through an RFP. The Subtenant responded to the RFP; two other respondents withdrew their proposals. Therefore, while the Subtenant's Base Rent may be below the fair market value of the Site as determined by the appraisal, this was the only rental offer based upon the public RFP.

**PURPOSE OF DISPOSITION / BENEFIT TO THE PUBLIC:** NYCEDC's sublease of the Site will provide an affordable and essential sit-down restaurant for the customers of the Essex Market and the general public and is anticipated to add 4-5 living wage

jobs and provide community support through cooking demonstrations and lessons.

**PROPOSED**

**RESOLUTIONS:** Approval of NYCEDC to enter into a sublease with the Subtenant on substantially the above described terms.

The Board of Directors further resolves that there is no reasonable alternative to the proposed sublease that will achieve the same purpose as the proposed transfer.

**NYCEDC**

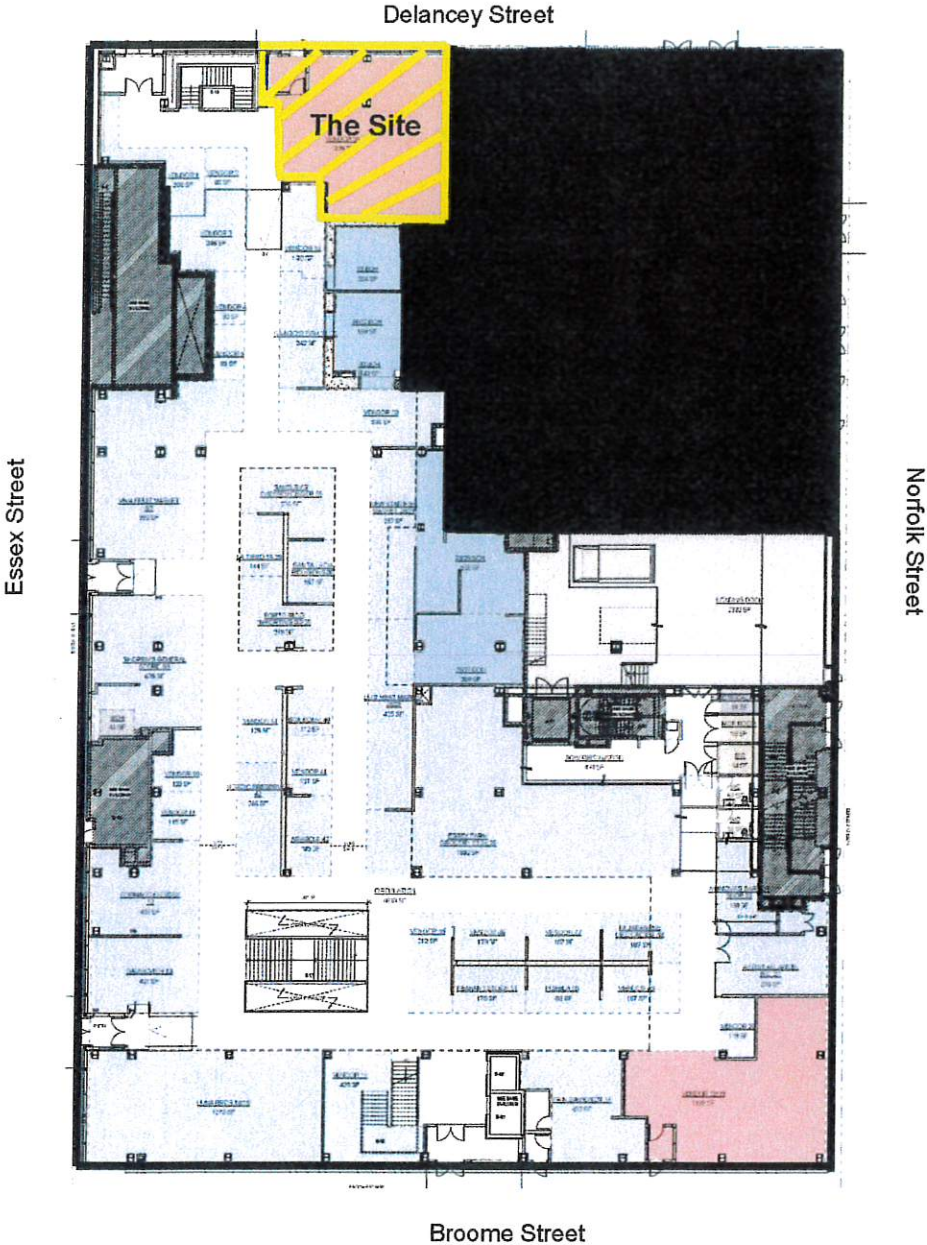
**PROJECT CODE:** 7512

**STAFF:**

Matthew Kwatinetz, Executive Vice President, Asset Management  
David Hughes, Vice President, Asset Management  
Mehga Chopra, Assistant Vice President, Asset Management  
Orion Hinkley, Senior Associate, Asset Management  
Scott Shostak, Senior Counsel, Legal

Attachment A

Essex Market Layout





Attachment B

Rent Schedule			
Year	Approximate Annual Base Rent per SF for ground floor space	Participation Rent Threshold	Participation Rent Percentage
1	\$80	\$900,000	7%
2	\$80	\$900,000	7%
3	\$80	\$900,000	7%
4	\$90	\$1,000,000	5%
5	\$95	\$1,000,000	4%
6	\$110	\$1,200,000	3%
7	\$112	\$1,200,000	3%
8	\$115	\$1,300,000	3%
9	\$118	\$1,400,000	2%
10	\$121	\$1,500,000	2%

Exhibit C

**BIOBAT SUBLEASE AMENDMENT  
Board of Directors Meeting  
February 6, 2019**

**OVERVIEW:** BioBAT, Inc. ("BioBAT") is a not-for-profit corporation created by NYCEDC and The Research Foundation of the State University of New York ("SUNY RF") in 2006 to facilitate the redevelopment of a portion of BAT into a bioscience/life science facility (the "Project"). The Board previously approved the terms for a sublease to BioBAT for space at BAT for sublease and build out. As the Project changed over the years, the Board approved changes to the sublease, the last approved changes being in September 2009. A sublease was executed as of November 13, 2009, and commenced on May 22, 2012 (the "Sublease"). As the Project has faced obstacles such as difficulties in finding tenants and financing, it is recommended that the Project and Sublease be further changed. The more substantial proposed changes include the following:

- The space being subleased be downsized
- NYCEDC be given access to use certain common areas in the subleased space
- Performance measures be modified to relate to sub-subleasing obligations
- Payments be modified, including Common Area Charges ("CAC") and Common Reserve Contributions ("CRC") being replaced by new charges to reflect the changed space and maintenance changes

**LESSOR:** The City of New York

**LESSEE AND  
SUBLESSOR:** NYCEDC

**SUBLESSEE:** BioBAT

**ORIGINAL  
SUBLEASED  
PROPERTY:** Subleased property (the "Original Premises") consists of approximately 486,400 gross square feet ("gsf") located in the southern portion of Building A of BAT (including space for supporting mechanical systems) on the dock level and 1<sup>st</sup> through 8<sup>th</sup> floors, and a garage adjacent to the above space and a portion of the roof.

BIOBAT also has an option to sublease Units 8 J and 8L of Building A (the "Option Space"), consisting of approximately 39,000 gsf, currently subleased by NYCEDC to International

Aids Vaccine initiative ("IAVI"), if IAVI vacates the space and BioBAT is not in default and is in good standing.

**USE:**

The Original Premises and the New Premises (hereinafter defined) under the amended Sublease is to be used primarily as a bioscience/life science facility. Uses may include, without limitation, commercial, academic, manufacturing, laboratory, research, training center and related product development uses and office space, and related uses such as for mechanical systems, electrical and parking. A small portion of the facility is used for a pre-kindergarten.

**SUBLEASE TERM:**

Expires no later than January 31, 2085, representing the total term remaining under the lease agreement between the City and NYCEDC

**CURRENT  
BASE RENT:**

\$1.00 in total for the Sublease term

**ORIGINAL  
ADDITIONAL  
PAYMENTS:**

BioBAT is responsible to pay \$3.50/gsf of CAC and \$1.00/gsf of CRC with (i) discounts for spaces not leased and in the event portions of or the entire space goes dark, and (ii) reductions if there are certain increases in space rental. Various escalations were also specified.

**PERFORMANCE  
MEASURES  
UPDATE:**

Pursuant to the Sublease, BioBAT was required to complete certain performance measures, including (i) subleasing of a minimum of 30,000 rentable square feet to certain types of subtenants within 5 years of the commencement date and (ii) certain construction requirements, which have not been satisfied.

In January 2018, the Board of BioBAT had a meeting, reevaluated BioBAT's performance and discussed reducing the size of the Original Premises. Subsequently, BioBAT and NYCEDC negotiated an amendment to the terms of the Sublease substantially as follows.

**PROPOSED  
MODIFICATIONS**

**Modified  
Subleased  
Property:**

BioBAT shall release (i)(a) the 4<sup>th</sup> floor through 8<sup>th</sup> floors including certain shafts for elevators on those floors as well as those shafts for elevators on the remaining floors of the Original Premises, and (b) approximately 400 square feet on each of the dock level and the 1<sup>st</sup> through 3<sup>rd</sup> floors designated for a freight elevator or other mechanical uses, together consisting of approximately 282,400 gsf of the Original Premises, and (ii) the roof space. Therefore only approximately 204,000 gsf, consisting of the majority of the dock level, 1<sup>st</sup> floor, 2<sup>nd</sup> floor and 3<sup>rd</sup> floor, and the adjacent garage, shall remain in the leasehold interest (the "New Premises").

Although BioBAT will no longer be leasing the roof space or some elevator shafts, BioBAT will still have access to the roof space for its mechanical systems and certain elevators. In the event NYCEDC does not use the above described approximately 400 square foot area on the released 4 floors, at tenant's request NYCEDC may put it back in BioBAT's Sublease at a later date. NYCEDC will have access to common areas in the BioBAT space, including certain water and electrical infrastructure.

BioBAT will retain the existing option to sublease the Option Space, which could become part of the New Premises.

**Modified  
Performance  
Measures:**

References to, and requirements for, Phase I, Phase II and Phase III construction will be deleted.

Instead of phased construction, new milestones will be implemented based on sub-subleasing milestones, substantially as follows:

- Sub-sublease a minimum of 50,000 rentable square feet within 3 years of the Sublease amendment ("First Leasing Milestone")
- Sub-sublease a minimum of an additional 50,000 rentable square feet within 5 years of the Sublease amendment ("Second Leasing Milestone")

**Modified  
Utilities:**

Permit NYCEDC usage of BioBAT water and electricity infrastructure; NYCEDC to pay for its usage.

**Modified  
Payments:**

**(1) Base Rent will be replaced with the following:**

\$5.00 per rentable square foot from the proceeds of the sub-subleased rent before the Second Leasing Milestone is complete, such amount to be increased annually by 2%.

\$7.00 per rentable square foot from the proceeds of the sub-subleased rent after Second Leasing Milestone is complete, such amount to be increased annually by 2%.

In no event shall the Base Rent be less than \$1.00 in total for the Sublease term.

**(2) CAC and CRC will be replaced with the following sharing of operations, maintenance and replacement costs:**

BioBAT is responsible for 33% of a portion of common area maintenance cost, within the portions of Building A shared by NYCEDC and BioBAT, including, but not limited to, the roof, shared elevators, dock level and first floor lobby and corridors, loading dock, mechanical and electrical systems, water/plumbing service, and stairs. If BioBAT exercises the option on the IAVI space, it will pay certain operation, maintenance and replacement costs with regard to the related space.

**(3) Negotiation fee**

BioBAT may request that NYCEDC negotiate a sub-sublease for which, at NYCEDC's option, BioBAT will pay NYCEDC 3% of each year's sub-sublease base rent for the life of the sub-sublease. If desired, NYCEDC will have the option to engage a commercial real estate broker (to be paid for by BioBAT) to sub-sublease, in which case NYCEDC is not entitled to the negotiation fee. To the extent BioBAT does not have adequate funds to pay the broker, NYCEDC may work out a financing arrangement to assist BioBAT.

**(4) Additional rent**

Subject to negotiations, after satisfaction of the Second Leasing Milestone, to the extent there is money after expenses to pay an

additional rent to NYCEDC, BioBAT may be required to pay a portion of such money as additional rent.

**SUBLEASE  
NEGOTIATION  
BY NYCEDC:**

NYCEDC and BioBAT plan to develop a standard marketing term sheet subject to BioBAT Board's approvals, which defines the sub-sublease terms.

**PROJECT  
DESCRIPTION/  
BENEFITS TO  
THE PUBLIC:**

Promote life science and biotech industry in New York City and create related jobs

**PROPOSED  
RESOLUTION:**

The approval for NYCEDC to amend the Sublease agreement with BioBAT and NYCEDC to enter into any related agreements and transactions needed to implement the proposed BioBAT project on substantially the terms described herein

**NYCEDC STAFF:**

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