

1247, 1250, 1255 WEST AVENUE & 1234 13 STREET
TERM SHEET FOR DEVELOPMENT AGREEMENT

This term sheet (this "**Term Sheet**") sets out the key terms which are proposed for an agreement between the City of Miami Beach, a Florida municipal corporation (the "**City**") and, on the other hand, and ***West Hospitality Owner LLC*** ("**Sponsor**") in connection with a public-private collaboration to eliminate a legal nonconforming transient use, convey the property located at c at 1247-1255 West Avenue and 1234 13th street to the City, and construct the missing segments of the Bay Walk. Promptly following the approval of this Term Sheet by the Mayor and City Commission, the parties will negotiate in good faith and enter into an Development Agreement (the "**Development Agreement**") containing the key terms set forth in this Term Sheet together with other terms and conditions customarily included in such agreements entered into by the City of Miami Beach and developers, subject to good faith negotiations between the parties.

Recitals.

- a) The Sponsor or an affiliate of Sponsor is the intended purchaser of the property located at 1247-1255 West Avenue and 1234 13th Street (the "**Hostel Site**").
- b) The Sponsor is an affiliate of 1250 West Ave Owner LLC (collectively, "**Sponsor Affiliates**").
- c) Sponsor Affiliates control the Bay Garden Manor Condominium located at 1250 West Avenue and intend to own 100% of the Condominium (the "**Development Property**").
- d) The Sponsor Affiliates wish to make certain improvements to the Development Property as more specifically defined below (the "**Private Project**").
- e) The Sponsor and the City desire to collaborate as follows: (i) for Sponsor or an affiliate of Sponsor to acquire the Hostel Site, ensure compassionate relocation of any unhoused persons residing at the Hostel Site, demolish the existing improvements thereupon and thereafter sod and fence the Hostel Site (the "**Hostel Project**"), and convey the vacant Hostel Site to the City ; and (ii) to construct missing segments of the Baywalk adjacent to 800 West Avenue, 1228 West Avenue, and 1450 Lincoln Road (such project, the "**Baywalk Project**" and such segments, the "**Baywalk Segments**");, (the Hostel Project and Baywalk Project, collectively, the "**Public Projects**," and each, a "**Public Project**").

2) The Public Projects. The main elements of the Public Projects and public benefits are proposed as follows:

- a) Acquisition of and demolition of the existing non-conforming improvements on the Hostel Site and sod and fence the Hostel Site at Sponsor's sole cost and expense and with adequate assurances that the population of unhoused individuals residing at the Hostel Site are compassionately relocated to another facility or longer term housing.
- b) Acquire, at Sponsor's sole cost cost and expense, easements or riparian rights from the fee owner(s) of the properties located at 800 West Avenue and 1228 West Avenue, with joinders by all applicable mortgagees and other third parties as required to acquire a title-insurable interest, and finalize such easements and rights under, over and on the Baywalk Segments, as necessary or desirable to design and construct the Baywalk Project (such easements and rights, the "**Baywalk Easements**"), and design construct, at Sponsor's sole cost and expense, the Baywalk Segments, with aggregate costs with respect to the Baywalk Easements and hard and soft costs of the Baywalk Project estimated at \$5,000,000.00;
- c) The design of the Baywalk Segments shall be consistent with the Concept Plan, subject to obtaining the Baywalk Easements and issuance of the necessary City approvals not to be unreasonably withheld as provided below;
- d) Conveyance of the Hostel Site to the City in accordance with Section [7];

3) Implementation of Public Projects. The City and Sponsor will collaborate as follows:

- a) Within sixty (60) days after satisfaction of the Private Project Conditions, or waiver of the Private Project Conditions in Sponsor's and Sponsor Affiliates' sole discretion, Sponsor shall submit to the City a concept plan for the Baywalk Project for the City to approve (the "**Concept Plan**"), provided that the City shall not require a scope, design or specifications such that the aggregate hard and soft costs for the development and construction of the Baywalk Project exceeds \$5,000,000.00 (for avoidance of doubt, including the costs of the Baywalk Easements). The City shall review and either confirm, approve or disapprove the Concept Plan within thirty (30) days after receipt of the same. If the City fails to confirm, approve or disapprove such concept plan within such thirty (30)

day period, then such concept plan shall be deemed confirmed/approved by the City. However, if the City timely disapproves such concept plan, it shall give the specific and detailed reasons for such rejection, in which event, Sponsor shall, at its election, either (x) submit the City's disapproval to an expedited arbitration process to be set forth in the Agreement or (y) within sixty (60) days after such disapproval, submit proposed modifications to such concept plan, and then re-submit the concept plan to the City pursuant to the foregoing process until such concept plan has been or is deemed to have been confirmed/approved by the City (once confirmed/approved or deemed confirmed/approved by the City, such concept plan, the "**Approved Concept Plan**");

- b) Promptly following approval of the Concept Plan Sponsor shall prepare construction documents, including the preparation of design and permit plans, and the preparation of materials necessary for any development permits required by the City, County, and State, it being understood and agreed that the Sponsor's design professionals shall be responsible for preparing the construction documents in consultation with the City. Sponsor shall submit such final construction documents to the City for the City to confirm that such final construction documents conform in all material respects with the Approved Concept Plan. The City shall review and either confirm/approve or disapprove such final construction documents within thirty (30) days after receipt of the same, but for avoidance of doubt, the City may disapprove the final construction documents only if they do not conform in all material respects to the Approved Concept Plan or applicable law. If the City fails to confirm/approve or disapprove such final construction documents within such thirty (30) day period, then such final construction documents shall be deemed confirmed/approved by the City. However, if the City timely disapproves such final construction documents, it shall give the specific and detailed reasons for such rejection, in which event, Sponsor shall, at its election, either (x) submit the City's disapproval to an expedited arbitration process or (y) within sixty (60) days after such disapproval, submit proposed modifications to such final construction documents so that they conform in all material respects to the Approved Concept Plan and then re-submit them to the City pursuant to the foregoing process until such final construction documents have been or are deemed to have been confirmed/approved by the City, and such final construction documents, once confirmed/approved or deemed approved by the City, shall be the documents submitted for building permit.
- c) Sponsor shall select and engage a licensed general contractor and enter into a construction/demolition contract(s) for the development of the Public Projects..

- d) The City shall waive all land use board application fees and cost related to the development of the Public Projects. For the avoidance of doubt, Sponsor acknowledges and understands that the City may not waive applicable Building Departments fees, Mobility Fees, or Art in Public Places fees. To the extent any additional fees related to the development of the Public Projects may be levied, and the City may waive such fees under applicable law, the City shall waive such additional fees; and
 - e) Sponsor and the City shall mutually agree to project oversight and administration responsibilities for the Public Projects, it being understood and agreed that the Sponsor (or a consultant engaged by Sponsor) will have primary responsibility for the oversight and administration of the Public Projects, and the City may assign staff members (or a consultant engaged by the City) to participate in the oversight and administration of the Public Projects; and
 - f) Sponsor shall obtain environmental assessments of the Hostel Site to determine whether hazardous substances exist thereon in violation of applicable environmental laws, and if any such hazardous substances exist, Sponsor shall remediate same prior to Closing (as such term is defined in section 7(a) below) (it being understood and agreed that the Sponsor (or a consultant engaged by Sponsor) will have primary responsibility for obtaining such environmental assessments and performing any necessary remediation).
- 4) Alternative with respect to Baywalk Project. In the event Sponsor is unable to obtain Baywalk Easements for one or more of the Baywalk Segments or portions thereof, or that the costs thereof would cause the aggregate costs of the Baywalk Project to exceed the amount set forth in this term sheet, then upon the later of sixty (60) days after (i) satisfaction of the Private Project Conditions (as such term is defined in Section 6(b) of this Term Sheet) or (ii) the date on which Sponsor determines it is unable to obtain such Baywalk Easements (or that the costs thereof would so cause the aggregate costs to exceed the amount set forth in this Term Sheet), Developer shall owe a payment to the City calculated as follows:

Segment	Payment Amount
1228 West Avenue	\$2,500,000.00
800 West Avenue	\$1,250,000.00

[NOTE: 1450 Lincoln Road riparian rights agreements already signed]

- 5) Private Project. The main elements of the Private Project include:
- a) Demolition of the existing improvements on the Development Property; and

- b) The construction of a new high-rise residential building containing a minimum height of _____, a minimum square footage of _____ square feet of floor area, minimum number of residential condominium units of _____ units, and a minimum _____ square foot commercial unit(s) (collectively, the “**Minimum Private Project Elements**”) (it being understood that Sponsor and Sponsor Affiliates may in their sole discretion seek approvals for development parameters more restrictive than the Minimum Private Project Elements); and
- 6) Approvals Required for Private Project. It is anticipated the Private Project requires the following approvals (collectively, the “**Private Project Approvals**”):
- a) Amendments to the City’s Comprehensive Plan and to the City’s Resiliency Code as contemplated by Planning Board (“PB”) File Nos. are PB24-0698 and PB24-0703 (collectively the “**Legislative Approvals**”);
 - b) Design Review Board (“DRB”) approval;
 - c) Miami-Dade County Shoreline Review approval, as necessary;
 - d) Confirmation from the Miami-Dade Aviation Department and the Federal Aviation Administration that there are no aviation-related issues,
- 7) Public Project Proceeds if Approvals are Obtained.
- (a) The parties acknowledge and agree that the Private Project requires independent review and approval by the DRB. Sponsor and the Sponsor Affiliates acknowledge that nothing contained in the Agreement will obligate the City to cause the approval by the DRB application or limit the DRB’s respective quasi-judicial authority to impose conditions or take any action on such applications, except as otherwise provided by the City Code. Without limiting the generality of the foregoing, all considerations of and actions by the shall be undertaken in accordance with established requirements of state statutes, if applicable, and the City Code, in the exercise of the City’s jurisdiction under its police power. The City hereby reserves all of its rights to exercise its police powers with respect to the aforementioned actions, and nothing in this Agreement shall be construed to prohibit the City from duly acting under its police power to approve, approve with conditions, or reject any public hearing application dealing with the Hostel Site, the Baywalk Segments or the Development Property.
 - (b) The parties acknowledge and agree that the Baywalk Project may required independent review and approval by the United States Army Corps of Engineers (“**ACOE**”), and/or the Florida Department of Environmental Protection (“**FDEP**”), and/or the Miami-Dade County Regulatory and Economic

Resources Department Division of Environmental Resource Management (the “**DERM**”). Sponsor shall be responsible for obtaining such permits from the ACOE, FDEP, or DERM, as applicable, at Sponsor’s sole cost and expense. The City shall execute all documents necessary for such permitting, provide technical assistance, and generally cooperate with respect to such permitting, including by approving modifications to the Baywalk Project Concept Plan that are necessary to obtain the required permits from the ACOE, FDEP, and/or DERM.

(c) If Sponsor Affiliates (i) obtain the Legislative Approvals (as such term is defined in Section 6 below) without the imposition of terms, conditions or obligations that could have a material adverse effect on the Private Project or that could materially increase Sponsor Affiliates’ budgeted costs for the development and construction of the Private Project, and the time period for all appeal periods with respect to the Legislative Approvals has expired with no appeals having been filed (or, in the event an appeal is filed, the same has been resolved (by judgment, settlement or otherwise in a final non-appealable manner) on terms and conditions acceptable to Sponsor Affiliates in their sole discretion) (collectively, the “**Legislative Approval Conditions**”) or (ii) waive the Legislative Approval Conditions in their sole discretion, then within 120 days thereafter the Sponsor will proceed with demolition of the existing improvements on the Hostel Site subject to Sponsor successfully consummating the closing of the acquisition of the Hostel Site and compassionate relocation of the population of unoused individuals residing at the Hostel Site. If the Legislative Approval Conditions are not satisfied (or not waived by Sponsor Affiliates in their discretion), or Sponsor does not successfully consummate the closing of the acquisition of the Hostel Site, then the Agreement shall terminate.

(d) If Sponsor Affiliates (i) obtain all Private Project Approvals for not less than the Minimum Private Project Elements without the imposition of terms, conditions or obligations that could have a material adverse effect on the Private Project or that could materially increase Sponsor Affiliates’ budgeted costs for the development and construction of the Private Project, and the time period for all appeal periods with respect to each Private Project Approval has expired with no appeals having been filed (or, in the event an appeal is filed, the same has been resolved (by judgment, settlement or otherwise in a final non-appealable manner) on terms and conditions acceptable to Sponsor Affiliates in their sole discretion) (collectively, the “**Private Project Conditions**”) or (ii) waive the Private Project Conditions in their sole discretion, then the Sponsor will proceed with each Public Project subject to Sponsor (x) with respect to the Hostel Project, successfully consummating the closing of the acquisition of the Hostel Site, and with respect to the Baywalk Project, successfully obtaining the Baywalk Easements and (y) obtaining the Public Project Approvals substantially as presented in the Approved Concept Plan without the imposition of terms, conditions or obligations that could materially

increase Sponsor's budgeted costs for the development and construction of such Public Project, and the time period for all appeal periods with respect to such Public Project Approval has expired with no appeals having been filed (or, in the event an appeal is filed, the same has been resolved (by judgment, settlement or otherwise in a final non-appealable manner) on terms and conditions acceptable to Sponsor in its sole discretion (the conditions set forth in the immediately preceding clauses (x) and (y), collectively, with respect to the applicable Public Project, the "**Public Project Conditions**"). If any of the Private Project Conditions are not satisfied (or not waived by Sponsor Affiliates in their discretion) or if any of the Public Project Conditions with respect to the Hostel Project are not satisfied (or not waived by Sponsor in its sole discretion), then the Agreement shall terminate, For avoidance of doubt, if Sponsor or Sponsor Affiliates (i) are unable to obtain the Private Project Approvals, (ii) are able to obtain the Private Project Approvals but the Private Project Approvals contain terms, conditions or obligations that could have a material adverse effect on the Private Project or that could materially increase Sponsor Affiliates' budgeted costs for the development and construction of the Private Project, or (iii) are able to obtain the Public Project Approvals for the Baywalk Project but the Public Project Approvals for the Baywalk Project contain terms, conditions or obligations that could materially increase Sponsor's budgeted costs for the development and construction of the Baywalk Project, then Sponsor and Sponsor Affiliates may, at their sole discretion, elect to (i) diligently prepare a revised applications for the Private Project and/or applicable Public Project, as applicable, so long as same still conforms to the terms of the Agreement; (ii) exercise any rights of appeal, in which event the City will cooperate with Sponsor (at Sponsor's sole cost and expense) in exercising such rights; (iii) revise the scope of the Private Project; (iv) revise the scope of the applicable Public Project, so long as same still conforms to the terms of the Agreement; or (v) abandon its applications for the Private Project and terminate the Agreement. The Sponsor or Sponsor Affiliates agree that the DRB's imposition of conditions requiring architectural changes to the Private Project would not alone constitute a material adverse effect on the Private Project. Terms, conditions, or obligations imposed by the DRB that would have a material adverse effect on the Private Project would instead include those mandating a reduction in height, density, or floor area; the relocation of the proposed residential tower within the site; imposition of greater setbacks, limitations on use; and/or significant design modifications that, in the opinion of the Sponsor or Sponsor Affiliates, reduce the marketability of the Private Project.

For the avoidance of doubt, if a new DRB or other land use board approval of the Private Project is necessary as a result of any modification to the Private Project, the Sponsor and Sponsor Affiliates shall be responsible for the preparation and submission of all necessary materials for the DRB and/or other land use board (as applicable) review of the revised Private Project at its sole cost and expense.

8) Bay Walk Segment Completion

- a) Sponsor shall make good faith efforts to secure the Bay Walk Easements, and shall deliver such Bay Walk Easements, or the alternative payment identified in Section 4 if one or more of the Bay Walk easements cannot be obtained, prior to issuance of a master building permit for the Private Project.
- b) Sponsor shall provide notice to the City of completion of segments of the Bay Walk constructed, and for which the alternative in Section 4 has not been exercised, no earlier than sixty (60) days following Sponsor Affiliates' receipt of Temporary Certificate of Occupancy for the Private Project.

9) Closing – Hostel Site.

- a) Upon completion of demolition of the existing improvements on the Hostel Site, and sodding and fencing the Hostel Site, the Sponsor shall provide notice to the City. The parties will thereafter set a mutually-agreed upon date for the closing of the conveyance of the Hostel Site to the City, but no earlier than sixty (60) days following Sponsor Affiliates' receipt of Temporary Certificate of Occupancy for the Private Project (the "Hostel Site **Closing**").
- b) At the Hostel Site Closing, Sponsor shall deliver to the City the following: (i) a Special Warranty Deed (the "**Deed**") conveying to the City fee title to the Hostel Site free and clear of all liens and encumbrances other than certain standard permitted exceptions which do not render title uninsurable or unmarketable (to be further defined in the Agreement); (ii) customary title affidavit reasonably required by the title company; (iii) a "marked-up" title commitment issued by Fidelity National Title Insurance Company, Chicago Title Insurance Company or First American Title Insurance Company committing to issue an owner's policy to the City with an effective date as of the date and time of recording the Deed in the Public Records of Miami-Dade County, Florida, with an insured amount equal to the estimated market value of the Hostel Site as of the Hostel Site Closing.
- c) City shall be responsible at its sole cost and expense for the operations, maintenance, repair, restoration of the Hostel Site from and after the Hostel Site Closing, and all obligations of the Sponsor with respect to the Hostel Site shall terminate at the Hostel Site Closing except for the warranties in the Deed.

10) Cooperation The Parties agree to mutually cooperate in good faith with respect to the Hostel Project and conveyance of the Hostel Site to the City, the acquisition of the Baywalk Easements and construction of the Baywalk Project, and in connection with the other activities contemplated by the Agreement.