

# MIAMI BEACH

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## COMMITTEE MEMORANDUM

TO: Finance and Economic Resiliency Committee Members

FROM: Alina T. Hudak, City Manager 

DATE: March 30, 2022

SUBJECT:

**UPDATE ON NEGOTIATIONS PURSUANT TO RFP 2021-173-KB FOR MIXED-USE DEVELOPMENTS INCORPORATING CLASS A OFFICE SPACE WITH RESPECT TO CITY-OWNED PARKING LOTS P25, P26 AND P27**

### History:

The City Commission has expressed an interest in diversifying the City's economy and its revenue sources by capitalizing on economic growth opportunities presented by the current and projected business growth in the region, particularly by making a concerted effort to increase Class A office space inventory throughout the City to attract targeted industries.

At its December 11, 2019 meeting, the City Commission discussed the possibility of making available surface parking lots along Lincoln Lane North to promote the development of Class A office space in the city center/Lincoln Road area. To gauge interest from the development community, the City Commission directed staff to issue a request for letters of interest (RFLI) for the development of Class A office space on surface parking lots immediately north of Lincoln Lane.

On October 9, 2020, the Administration issued RFLI 2021-029-KB seeking expression of interest from developers interested in building Class A office developments on surface parking lots P25, P26, and P27. The RFLI yielded expression of interest from eighteen (18) respondents.

Based on the results of the RFLI, on February 19, 2021, the Finance and Economic Resiliency Committee (FERC or the Committee) recommended the Administration seek City Commission authorization to prepare a Request for Proposals (RFP) for ground leases and development agreements for the development of Class A office space on three Lincoln Lane surface parking lots (P25, P26, and P27). On February 24, 2021, the City Commission discussed the results of the RFLI, accepted the FERC's recommendation, and directed the Administration to include all three surface parking lots as well as the 17<sup>th</sup> Street parking garage (parking garage G5) in a forthcoming RFP.

On March 17, 2021, the City Commission adopted Resolution No. 2021-31617, authorizing the preparation of a RFP for mixed-use development incorporating Class A office space at three City-owned sites along Lincoln Lane North as well as the 17th Street parking garage (G5).

On June 23, 2021, the Mayor and City Commission approved the issuance of Request for

Proposals (RFP) 2021-173-KB for mixed-use developments incorporating Class A office space on City-owned parking lots P25, P26, P27, and parking garage G5. The RFP included multiple site options for proposed development.

The goals of the RFP included:

- (1) encouraging the development of Class A office space to meet the growing demand from targeted industries;
- (2) providing world-class commercial space in concert with increasing market demand;
- (3) maintaining parking capacity while providing alternative and sustainable transportation and mobility options;
- (4) transforming and activating North Lincoln Lane from a service alley to a vibrant and pedestrian-friendly street with amenities that will enhance the urban experience; and
- (5) connecting the Convention Center District with Lincoln Road.

Key RFP Terms	
Required Class A Office & Retail	<ul style="list-style-type: none"> <li>50% floor area ratio (FAR) available at each site must be Class A office space.</li> <li>Ground floor portions of the project facing a street, sidewalk, or Lincoln Lane North must include an activated liner of retail, restaurant, personal service, or similar active uses.</li> </ul>
Replacement Parking	<ul style="list-style-type: none"> <li>Projects must provide in-kind replacement of existing public parking spaces displaced by the development, in addition to satisfying City Code off-street parking requirements applicable to proposed uses.</li> <li>Project must be staged to minimize the number of parking spaces temporarily displaced during development.</li> </ul>
Lease Term	<ul style="list-style-type: none"> <li>99-year maximum lease term.</li> <li>Each ground lease structured as a "triple net" lease, with lessee solely responsible for all real estate taxes, utilities, assessments or other public charges, insurance, maintenance, and all other costs and expenses associated with the operation of the Project.</li> </ul>
Voter Referendum for Lease Approval	<ul style="list-style-type: none"> <li>Lease of all three lots would require approval by a majority of voters (i.e., greater than 50%) in a citywide referendum (Referendum).</li> <li>Development agreement and ground lease between City and one or both Developers must be in final form and approved by City Commission prior to placement of Referendum question on the ballot. To qualify for November 8, 2022 General Election, ballot items due to Supervisor of Elections by July 29, 2022.</li> <li>At City Commission's sole discretion, the Referendum could be scheduled for a special election on a different date if: (1) the development agreement and lease for the applicable Option(s) are finalized and approved by City Commission and (2) the Developer pays its pro-rated share (based on total number of</li> </ul>

	ballot questions) of the cost of a special election (approximately \$400,000).
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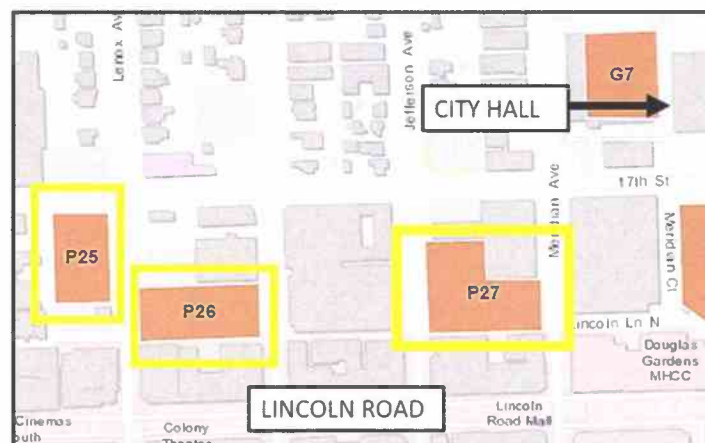
### Award & Authorization to Negotiate

RFP responses were due and received on January 12, 2022. The City received proposals from three (3) firms: Infinity Collective LLC, Lincoln Road Holdings LLC, and Lincoln Road Property Owners, L.P. On February 1, 2022, the Evaluation Committee reviewed and evaluated all proposals. Upon review of the results of the Evaluation Committee and an assessment of the proposals, the City Manager recommended that the Mayor and City Commission authorize the City Administration to:

- Negotiate with Lincoln Road Property Owner, L.P., (a joint venture among Integra Investments, Starwood Capital Group, and The Comras Company ("Integra") with regards to P25 and P26 (Option 5), and, if the Administration is not successful in negotiating an agreement with Integra, authorizing the Administration to negotiate with TPC; and
- Negotiate with Lincoln Road Holdings LLC (a joint venture among The Peebles Corporation, Scott Robins Companies, Inc., and the Baron Corporation) ("TPC") with regards to P27 (Option 3). Additionally, if the Administration is not successful in negotiating an agreement with TPC, authorizing the Administration to negotiate with Integra in regard to this option.

On February 23, 2022, via Resolution No. 2022-32054, the Mayor and City Commission accepted the recommendation of the City Manager and authorized the Administration to negotiate with the proposers. In addition to referring any potential amendments to the City Code (or otherwise) to appropriate land use boards, the Resolution also referred an item to this Committee to discuss the negotiations as a means of providing the Administration with direction during the negotiation phase.

Even though the RFP invited proposals to develop four sites (P25, P26, P27, and G5, or a combination thereof), at present, negotiations concern only three sites: P25 and P26 combined, and P27.



<b>P25</b>	1680 Lenox Avenue
Size	37,116 sq. ft. (0.85 acres)
Parking Spaces	86 spaces

Adjacent Zoning	CD-2 / CD-3
Max Height	70 feet
FAR	1.87

<b>P26</b>	1080 Lincoln Lane North
Size	48,863 sq. ft. (1.12 acres)
Parking Spaces	106 spaces
Adjacent Zoning	CD-3
Max Height	80 feet
FAR	2.75

<b>P27</b>	1664 Meridian Avenue
Size	60,972 sq. ft. (1.39 acres)
Parking Spaces	151 spaces
Adjacent Zoning	CD-3
Max Height	80 feet
FAR	2.75

## **Analysis**

Conducting contract negotiations with two different proposers on two complex development projects and long-term leases is ambitious given the July 29, 2022 deadline for placing these items on the November 2022 ballot. With a view toward finalizing Development Agreements and Ground Leases with both Proposer teams by such date, the Administration and City Attorney's Office have dedicated considerable staff resources and participate in regularly scheduled meetings with both Proposer teams at least twice per week to establish and refine the deal terms .

<b>Key Project Terms</b>		
	<b>P25 + P26 (Option 5)</b>	<b>P27 (Option 3)</b>
<b>Developer Team</b>	Lincoln Road Property Owner, L.P., a joint venture among Integra Investments, Starwood Capital Group, and The Comras Company (referred to herein as Integra)	Lincoln Road Holdings LLC (a joint venture between The Peebles Corporation, Scott Robins Companies, Inc., and the Baron Corporation (referred to herein as TPC)
<b>Lease Term</b>	<ul style="list-style-type: none"> <li>99 years (51 years + two (2) consecutive, 24-year extensions)</li> <li>This Project concerns two independent (but interrelated) developments on separate sites. One (1) development agreement will govern and provide for the development of both P25 and</li> </ul>	99 years (51 years + two (2) consecutive, 24-year extensions)

Key Project Terms		
	P25 + P26 (Option 5)	P27 (Option 3)
	<p>P26. However, it is contemplated that upon completion of construction, P25 and P26 will each be governed by a separate Ground Lease.</p> <ul style="list-style-type: none"> <li>The Parties continue to negotiate how to protect the City's interest in terms of the Development Agreement's cross-default provisions for both sites during the development phase.</li> </ul>	
Proposed/ Preliminary Site Plan	<p><u>P25:</u></p> <p>6 stories (3 levels of office, 2.5 levels of parking, ground-floor retail)</p> <ul style="list-style-type: none"> <li>Office: 46,177 sf (66%)</li> <li>Retail: 10,772 sf (15%)</li> </ul> <p><u>P26:</u></p> <p>7 stories (3 levels of office, 4 levels of parking, ground-floor retail)</p> <ul style="list-style-type: none"> <li>Office: 63,340 sf (68%)</li> <li>Retail: 12,252 sf (14%)</li> </ul> <p><u>Total (P25 + P26):</u></p> <ul style="list-style-type: none"> <li>Total SF: 132,954 SF</li> <li>Total Class A Office: 109,517 SF (82%)</li> <li>Total Retail: 23,437 SF (18%)</li> </ul> <p>*Note: Percentages refer to the percentage of floor area attributable to total FAR</p>	<p><u>P27:</u></p> <p>6 stories (2 levels of residential, 3 levels of office, ground floor retail)</p> <ul style="list-style-type: none"> <li>Office: 77,944 sf (50%)</li> <li>Retail: 9,452 sf (6%)</li> <li>Residential: 69,604 sf (44%) (Market rate rental units contingent upon amendment of the Comprehensive Plan)</li> <li>Total SF: 157,000 sf</li> </ul> <p>*Note: Percentages refer to the percentage of floor area attributable to total FAR</p>
Construction Timeline	<ul style="list-style-type: none"> <li>Required target dates to achieve Project milestones remain under negotiation</li> <li>Integra is developing a construction phasing plan whereby they will not develop</li> </ul>	<ul style="list-style-type: none"> <li>Required target dates to achieve Project milestones remain under negotiation</li> </ul>

Key Project Terms		
	P25 + P26 (Option 5)	P27 (Option 3)
	both sites entirely at the same time in order to reduce the temporary forfeiture of existing City parking capacity.	
<b>Rent</b>	<ul style="list-style-type: none"> <li>Financial terms remain subject to negotiation</li> <li>Integra's RFP response proposed minimum guaranteed rent commencing <u>upon referendum approval</u> is the greater of either: (a) \$500,000 escalated annually at the greater of 2.0% or CPI or (b) 5.00% of Effective Gross Revenues throughout the term paid annually.</li> <li>Integra's RFP response has also proposed an initial one-time upfront payment to the City of \$2M upon referendum approval of its Project</li> </ul>	<ul style="list-style-type: none"> <li>Financial terms remain subject to negotiation</li> <li>TPC's RFP did not include an initial upfront payment and or rental payments during construction. The Administration has indicated to TPC that it expects an upfront payment as well as rent during construction. It is expected that TPC will be submitting a revised financial offer on or after March 29, 2022. In addition, at the City's request, TPC has submitted a financial proposal for a project that would include 9 workforce housing units (20% of the of 43 units would be priced at 140% AMI).</li> </ul>
<b>City Parking Revenue</b>	<ul style="list-style-type: none"> <li>100% of net revenues collected from the 192 replacement parking spaces provided back to the City. (Definition of "net" to be negotiated.)</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>
<b>Insurance, Taxes, Utilities</b>	<ul style="list-style-type: none"> <li>Both leases are "triple net" however City would be responsible for costs and expenses attributable to the Replacement Parking Component</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>
<b>Project Financing</b>	<ul style="list-style-type: none"> <li>Developer permitted to use multiple lenders including a mezzanine loan, provided that, in each case, an Institutional Lender shall be used and loan-to-cost ratio for construction financing or loan-to-value ratio for permanent financing) shall not exceed ninety percent (90%)</li> <li>In no event shall the City's fee interest in the Property be</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>

Key Project Terms		
	P25 + P26 (Option 5)	P27 (Option 3)
	<p>subordinate to any mortgage or liens and the City shall have first priority right of payment of rent at all times</p> <ul style="list-style-type: none"> <li>Developer shall at all times maintain not less than ten percent (10%) equity in the Project, including Developer's initial equity contribution to the Project.</li> <li>The City is not and shall not be required to provide any funding or financing for the Project, including without limitation, any tax credits and/or subsidies.</li> </ul>	
Termination for Convenience	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>
Termination for Cause  (Development Agreement)	<ul style="list-style-type: none"> <li>Developer may terminate the Development Agreement at any time prior to issuance of the building permit in the event: (1) any of the Required Approvals render the Project economically unfeasible in the reasonable business judgment of Developer; (2) the Project cannot meet concurrency requirements under Section 163.3180, Florida Statutes, or the costs of concurrency mitigation are, in the reasonable business judgment of Developer, economically unfeasible; (3) Developer, after diligent, good faith efforts, has been unable to obtain a full building permit for the Project pursuant to the Approved Plans; (4) Developer, after diligent, good faith efforts, is unable to secure adequate financing on financial terms that are commercially reasonable; or (5) there shall exist any material adverse change in national or</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>

Key Project Terms		
	P25 + P26 (Option 5)	P27 (Option 3)
	<p>global economic conditions that in the Developer's reasonable and good faith judgment would materially, adversely affect the financial viability of the Project.</p> <ul style="list-style-type: none"> <li>City may terminate the Development Agreement as a result of any default by Developer, which continues beyond the expiration of any applicable notice and cure period, in the Development Agreement and the Ground Lease.</li> <li>In any event of termination by Developer or by the City as a result of a default by Developer, (i) the Developer shall assign to the City all right, title and interest the Developer has in and to the Plans and any other materials pertaining to the Project and (ii) the City shall have no further obligation to the Developer following such termination, financial or otherwise other than those obligations, if any, which expressly survive such termination.</li> </ul>	
Reimbursement	<ul style="list-style-type: none"> <li>Developer has executed an agreement pledging to reimburse the City for the City's out of pocket transactional and professional costs and expenses associated with the due diligence, negotiation and drafting of the Development Agreement and Ground Lease and development of the Project, up to \$150,000.00, including without limitation fees for the City's parking bond covenant analysis, real estate and transaction appraisals and other required reports; the City's</li> </ul>	<ul style="list-style-type: none"> <li>Same</li> </ul>



Key Project Terms		
	P25 + P26 (Option 5)	P27 (Option 3)
	outside counsel and paralegal fees; and any surveys, environmental assessments (if any), title searches, and other reviews engaged by the City	
<b>Proposed/Preliminary Public Benefits</b>	<ul style="list-style-type: none"> <li>• Integra's RFP response proposed creation of new employment opportunities for residents of the City and neighboring communities;</li> <li>• diversification of the City's economy by attracting new employers from various industries to the City;</li> <li>• enhancing public parking around Lincoln Road;</li> <li>• an approximately 0.11-acre pocket park on the ground floor of Lot P26 (the "Public Park Component");</li> <li>• additional public meeting space as well as new health, recreational, entertainment, and cultural opportunities;</li> <li>• achieving LEED Gold designation; and</li> <li>• addressing the issue of sea level rise by providing onsite stormwater retention.</li> </ul>	<ul style="list-style-type: none"> <li>• TPC's RFP response proposed a Project that will:</li> <li>• Activate, revitalize, enhance and bring new life and energy to this part of the City;</li> <li>• Serve as a benefit to the City by improving and replacing the City Spaces with covered, secure and structured parking.</li> <li>• Create new rental housing for City residents</li> <li>• Create new Class-A office space;</li> <li>• Further the City's sustainability and resiliency efforts for new development;</li> <li>• Improve lighting, providing increased safety for area;</li> <li>• Create temporary and construction jobs and long-term permanent jobs;</li> <li>• Increase the tax base and increase the tax revenue to the City;</li> <li>• Provide landscaping and overall beautification of the area surrounding the Project;</li> <li>• Create a live, work, and play environment within the Project;</li> <li>• Provide economic stimulus to the City;</li> <li>• Encourage future development of areas surrounding the Project; and</li> <li>• Create a pedestrian walkway connecting the Lincoln Lane neighborhood with landscaping, lighting, benches and storefronts.</li> </ul>

Outstanding items in continued negotiation are set forth more fully below. Unless specified

otherwise, reference to Developer below refers to the developers of either project.

i. Amendments to Land Development Regulations and Comprehensive Plan

Both Projects will benefit from one or more of three proposed amendments: two amendments to the Land Development Regulations and one minor amendment to the Comprehensive Plan. All three items must be approved by the City Commission and the Comprehensive Plan amendment is reviewed and approved by the State of Florida. Both Projects can be adjusted to remain viable in the event that the proposed amendments do not succeed.

ii. Non-Disparagement Clause

The Developers shall not, and shall cause each and all of its partners, directors, members, managers, employees, agents, representatives, affiliates and subsidiaries, not to, disparage, criticize or campaign against the other Project and voluntarily and knowingly waives their First Amendment rights in connection therewith.

iii. Referendum Ballot Questions

The effectiveness of the Ground Lease and the Development Agreement shall be contingent upon voter approval of the Ground Lease at the November 8, 2022 general election in accordance with the City of Miami Beach Charter. In the event the Referendum is not successful or if the ballot question(s) are not approved, for whatever reason, the Ground Lease and Development Agreement shall be null and void. For the Project concerning P25 and P26, developer Integra will propose ballot question(s) addressing two Ground Leases instead of one on or before May 15, 2022, pending a determination by the City whether there can be more than one ballot question for this Option.

iv. Project Construction Phasing and Implications for Project Development

The Administration notes that if both Projects are approved by the City Commission and by a majority of the City's voters in the Referendum, the two Projects will likely be phased taking into account all appropriate factors, including without limitation, impacts on parking availability in the area, the construction of the Miami Beach Convention Center Hotel, provided that the City may make a determination, in its sole, reasonable discretion, that both Projects can reasonably be constructed in tandem or otherwise simultaneously without having an adverse impact on the City's residents, businesses, and visitors. The uncertainty at the present time as to the sequencing of the two Projects may adversely affect development and construction costs, and both TPC and Integra have expressed concern with the possibility that its respective Project will not be first to proceed. The City's determination as to phasing and order of commencement (i) shall be made in the City's sole, reasonable discretion no later than sixty (60) days following official certification of the Referendum results and (ii) shall be final and binding on the Developers with no right of appeal.

v. Preliminary Analysis of Development Impacts

The City Commission requested the preparation of preliminary independent analysis regarding the potential impacts to traffic, parking, and infrastructure for each Project, both during construction and upon development, including the Developer's proposed plan to mitigate these impacts. Following discussion between the City and each of the proposers regarding scope and methodology, Developers are to provide initial reports of their

findings on April 13, 2022.

vi. Operation of the City's Public Parking Replacement Component

As currently negotiated, the City shall operate all Public Parking Replacement Components for each Project, provided that, the City shall have the right, in its sole discretion, to decide that the Developer shall operate the Public Parking Replacement Components if notice is provided to the Developer by or before sixty (60) days following official certification of the Referendum results. If the City operates the Public Parking Replacement Component, the applicable terms will be incorporated into a separate operating agreement. If the City requires Developer to operate the Public Parking Replacement Component, the Developer and the City will negotiate terms such as standards of operation, responsibility for costs and expenses, etc. In all circumstances, the City and Developer stipulate that parking rates for Public Parking Components shall not be higher than the City's then applicable rates for similar parking facilities.

vii. Rent and Financial Terms

Principal financial terms shall be subject to negotiation and approval by the parties prior to finalization of the Development Agreement and Ground Lease. Although the financial and other terms in the RFP are the framework for the negotiations between the City and Developer, such terms have not been accepted by the City. The Administration is also in the process of procuring real estate appraisal services pursuant to City Code.

**CONCLUSION**

The Administration seeks Committee direction as to the policy and business issues outlined in this Memorandum as the Administration continues negotiations before returning to the Committee with a negotiated term sheet for each Project, P25 and P26 combined and P27. With an aggressive negotiation timeline, the Administration respectfully requests an additional FERC meeting in April to discuss the Term Sheet for each Developer.

EC RW