MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Steven Meiner and Members of the City Commission

FROM: Alina T. Hudak, City Manager

DATE: April 3, 2024

SUBJECT:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND ECONOMIC RESILIENCY COMMITTEE, TO AWARD REQUEST FOR PROPOSALS NO. 2023-115-KB, FOR THE REDEVELOPMENT OF THE CITY-OWNED PROPERTY LOCATED AT 1940 PARK AVENUE (THE BARCLAY) AND AUTHORIZING THE CITY MANAGER TO ENTER INTO NEGOTIATIONS FOR A DEVELOPMENT AND GROUND LEASE AGREEMENT WITH 1940 BARCLAY PARTNERS, LLC, THE SOLE PROPOSER, WITH THE FINAL MATERIAL TERMS FOR THE PROJECT SUBJECT TO PRIOR APPROVAL OF THE MAYOR AND CITY COMMISSION; AND FURTHER, REFERRING THE PROPOSED PROJECT AND ANY ACCOMPANYING AMENDMENTS TO THE CITY'S LAND DEVELOPMENT REGULATIONS TO THE FINANCE AND ECONOMIC RESILIENCY COMMITTEE, THE LAND USE AND SUSTAINABILITY COMMITTEE, AND THE PLANNING BOARD FOR REVIEW, IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY CODE.

RECOMMENDATION

It is recommended that the Mayor and City Commission approve the Resolution awarding Request for Proposal 2023-115-KB and authorizing the Administration to enter into negotiations with 1940 Barclay Partners LLC, the sole proposer. The final agreement requires prior approval of the Mayor and City Commission.

The solicitation is currently under the cone of silence.

BACKGROUND/HISTORY

The Barclay Plaza property, located at 1940 Park Avenue (the "Property"), is distinguished by its architectural, historic, and geographic attributes. Architectural firm Kiehnel & Elliott, the architects for the Coconut Grove Playhouse and the Shorecrest Hotel, 1535 Collins Avenue, designed the Barclay for transient use. Constructed in 1935, the three-story, L-shaped building is oriented with a main entrance on Park Avenue. Designed with a terrazzo lobby floor and façade detail that is representative of traditional Art Deco design, the Property is a contributing structure in the Museum Historic District and Miami Beach Architectural District.

A prime geographic location in the Collins Park neighborhood, the Property is immediately adjacent to another City-owned residential property, the London House Apartments, currently providing 24 affordable housing units and operated and managed by the Office of Housing and Community Services. Abutting Washington Avenue and situated directly across from the Miami Beach Convention Center, the Property is within walking distance of the Collins Park Cultural Arts District, Lincoln Road, and the beachfront.

Per City Code, real property owned by the City automatically assumes GU (Government Use) zoning. The Land Development Regulations (LDRs) of the City Code provide that zoning for GU properties, i.e., setbacks, floor area ratio (FAR), signs, parking, etc., shall be the average of the requirements contained in the surrounding zoning districts[1], which, in this case, are RM-2 (Residential Multifamily Medium Intensity) and CCC (Convention Center District). As exists today, the approximately 27,505 sf, three (3)-story, 38-foot-high building once provided 66 efficiency units, each with a kitchen and bathroom. The site is well below its maximum development capacity with an existing FAR of 0.9 as compared with the permitted FAR of 2.37 where GU zoning would allow for more than double the existing floor area and up to 75 feet in height (plus an additional three (3) feet as may be approved by the Historic Preservation Board (HPB)). Any changes and improvements to the building, including, but not limited to, exterior modifications, alterations to public interior spaces such as the lobby, and attached or detached additions, will require a Certificate of Appropriateness from the City's Historic Preservation Board. A feasibility study prepared by MC Harry Associates in August 2021 stated that many components of the existing building envelope and all major building systems required replacement to extend the building's useful service life.

<u>Property History</u>

The Property operated as the bustling Barclay Plaza Hotel from 1935 to 1942, when the United States Army Air Forces Training Command took control of the commercial property to house soldiers training in Miami Beach. The Property reverted to hotel use following World War II, until 1957, when it was converted to apartment use. The Property continued to operate as residential apartments until it was no longer suitable for tenants and later acquired vacant by the City in 2015.

A. <u>MBCDC Ownership (2007 – 2015)</u>

Within the City Center/Historic Convention Village (City Center) Redevelopment and Revitalization Area Plan, adopted by the City Commission and Miami Beach Redevelopment Agency (the RDA) on February 12, 1993, a primary objective for promoting redevelopment is the renovation and preservation of historically designated structures.

On April 23, 2007, the City's sole community housing development organization (or CHDO), the not-for-profit Miami Beach Community Development Corporation (MBCDC), obtained title to the Barclay Plaza Apartments property. Consistent with the redevelopment activities outlined in the City Center RDA Redevelopment Plan, and specifically authorized by RDA Resolution Nos. 540-2007 and 545-2007, property acquisition funds totaling $13.7 million were authorized to be loaned (as a forgivable loan) to the MBCDC by the RDA for the purchase and rehabilitation of the Barclay and the adjacent Allen and London House apartments. With respect to the Barclay, the principal

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[1] Resiliency Code Section 7.2.16

amount of the Loan Agreement between the RDA and MBCDC, using the Barclay as collateral, was $5,692,400.[2] As a stipulation of the forgivable loan, MBCDC, via a recorded restrictive covenant, was required to maintain the property as affordable housing for a thirty-year period, which covenant may be released by the City. The sale price was consistent with a July 2005 appraisal, attached to RDA Resolution No. 545-2007, which estimated the property's "as-is" value at $5,124,545.

In addition to funding property acquisition costs, the City awarded U.S. Department of Housing and Urban Development (HUD) funds to the MBCDC, the City's largest HUD-funded beneficiary at the time, to renovate the Property, including upgrades necessary for the 40-Year Building Recertification. Based on engineering inspection reports obtained by MBCDC, concrete rebar spalling was observed, and the deteriorated plumbing and electrical systems required replacement for code compliance. The July 2005 property appraisal described the Barclay building as in "Fair-Poor" condition.

City / MBCDC Funding Agreements for the Barclay		
Amount	Agreement	Parties
$ 5,692,400	Loan Agreement & Promissory Note (with RDA)	RDA and MBCDC: The Barclay, LLC
$ 500,000	Home Investment Partnership Program (HOME) Program Agreement, secured by Mortgage and Security Agreement	City and MBCDC
$ 75,018	Community Development Block Grant (CDBG) Agreement	City and MBCDC
$ 6,267,418	**TOTAL**	
Source: Release Agreement between the City and MBCDC: The Barclay LLC, dated January 30, 2015		

B. <u>Property Acquisition by the City of Miami Beach (2015)</u>

Under MBCDC ownership, certain operational and compliance lapses jeopardized MBCDC's affordable housing portfolio and raised concerns regarding MBCDC's operational capacity, including at the Barclay, where the City's Building Department expressed concern over ongoing violations that threatened the displacement of tenants. On September 17, 2014, via Resolution No. 2014-28756, the City Commission authorized the City Manager to acquire five (5) affordable housing apartment buildings (Allen, Barclay, Lottie, Madeleine Village, and Neptune) from MBCDC[3], to ensure the well-being of tenants housed by MBCDC and to secure the City's investment in these assets. MBCDC voluntarily surrendered the five (5) properties to the City, with the City responsible for closing costs (approximately $79,530 for the Barclay). Pursuant to a release agreement between the City and MBCDC, in exchange for five (5) properties, the City (and RDA) released the MBCDC of any obligations and penalties related to the loan agreement

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[2] The Miami-Dade County Property Appraiser reflects the purchase price of the Barclay by MBCDC in 2007 as $5,668,000.
[3] The City did not ultimately acquire the Allen Apartments.

and entitlement funds associated with maintaining and operating the property as provided by HUD via the City.

Using $113,105 of uncommitted Community Development Block Grant (CDBG) funds toward closing costs associated with acquisition of the Allen Apartments and Barclay Plaza Apartments, the City recorded a declaration of restrictive covenants against the Property, requiring its use as an affordable rental property during a fifteen (15) year affordability period commencing from January 30, 2015 (i.e., the date of acquisition by the City). This restrictive covenant exists today in Miami-Dade County Official Records, but no requirement, from HUD or otherwise, will prevent the City from rescinding it, as may be required, prior to expiration of the covenant in 2030.

As a condition to City acquisition of the Barclay on January 30, 2015, all operational agreements (management, leasing, and service contracts) and tenant leases were terminated, and the City assumed responsibility for relocating the Barclay's existing residential tenants. According to closing documents, at the time of the City's acquisition of title, the City assumed responsibility for twelve (12) open code and building violations attached to the Property, with outstanding liens and assessments totaling $197,645. Due to the condition of the Property, these violations remain unresolved today, including Miami-Dade County Unsafe Structures Panel and Special Magistrate violations for failure to comply with the required recertification of a 40-year-old building and for operating as an apartment without a certificate of occupancy (CO) and certificate of use (CU). The Property had fallen into disrepair, became non-compliant with 40-year recertification requirements, and was declared unfit for residential tenancy before the City acquired the Property in 2015.

On February 2, 2015, immediately after City acquisition, the Barclay was the victim of arson and criminal mischief resulting in extensive damage to the building's lobby and electrical system. Following the damage, the Property's estimated repair and renovation costs were approximately $6,000,000 and the City's then-existing and anticipated affordable housing funds were insufficient to make the necessary repairs to rehabilitate the property and maintain it as affordable housing within HUD's required timeframe controlling the use of HUD funds. As a result, the use of HUD funds for the Barclay would not adequately meet HUD program objectives or provide its intended benefits.

In 2016, HUD's Office of Inspector General prepared an independent audit report of the City's HOME Investment Partnership (HOME) program, which resulted in the recapture and reallocation of funds in the amount of $300,278 from the Barclay Plaza to the London House Apartments project via Resolution No. 2015-29080.

C. <u>Fiscal Year (FY) 2018 Request for Proposal (RFP 2018-021-KB)</u>

On October 22, 2014, via Resolution No. 2014-28794, the City Commission accepted the recommendation of the Neighborhoods/Community Affairs Committee (NCAC) to identify a property for development as workforce housing. At its March 20, 2015 meeting, the NCAC unanimously endorsed the Property, contingent upon it being free of HUD funding and/or use restrictions, as a potential site for workforce housing.

On May 6, 2015, via Resolution No. 2015-29017, the City Commission accepted the NCAC recommendation to issue a RFP to identify a public-private partnership (P3) for workforce housing redevelopment of the Barclay, serving tenants earning between 120% and 140% Area Median Income (AMI) and employed in the public safety, education, and municipal sectors.

On May 11, 2016, the City Commission approved issuing Request for Qualifications (RFQ) No. 2016-097-KB for Consulting Services for Public-Private Partnerships (P3) for Workforce/ Affordable Housing Projects, which RFQ cited the Barclay first among projects within a scope of engagement. On September 14, 2016, via Resolution No. 2016-29547, the City Commission authorized an agreement for P3 consulting services with the RFQ's top-ranked proposer, the Concourse Group.

On January 25, 2017, at its Workforce/Affordable Housing Workshop, the City Commission offered direction for a Barclay RFP, to coincide with the Concourse Group's analysis of the Barclay site in anticipation of the RFP process.

On July 27, 2017, via Resolution No. 2017-29925, the City Commission accepted recommendations made by the Finance and Citywide Projects Committee (FCWPC) on March 31, 2017 and June 16, 2017 regarding certain parameters for the Barclay P3 RFP.

1. Projected rents at 30% of targeted AMI ranges and adjusted for unit size.
2. Units with minimum onsite amenities (such as laundry facilities), with the RFP providing survey data to aid developers in adequately gauging tenants' needs. (The Resolution attached neighborhood analysis compiled by the Concourse Group, to be included in the RFP issuance.)
3. Prospective P3 partners must demonstrate sufficient experience with projects of comparable size and scope, and demonstrate financial capacity to fully finance the project.
4. Project *must* include rehabilitation of existing building to ensure historic preservation, and *may* include the construction of an accessory building on the existing parking lot to maximize site development.

On October 18, 2017, the City Commission authorized the City Administration to issue the RFP and provide notice to the City Commission via Letter to Commission (LTC). Accordingly, LTC 566-2017, announced the issuance of RFP 2018-021-KB Barclay Plaza Apartments Lease, dated November 17, 2017, and summarized the RFP scope to include:

1. No public funding or public financing for the Project.
2. Developer solely responsible for all costs and expenses associated with the development, design, construction, equipping, and installation of all FF&E and other improvements. Developer responsible for subsequent operation or use, and all alterations, repairs, or replacements thereof.
3. Developer must repay $485,832.22 to HUD for HUD funds previously invested in the property.

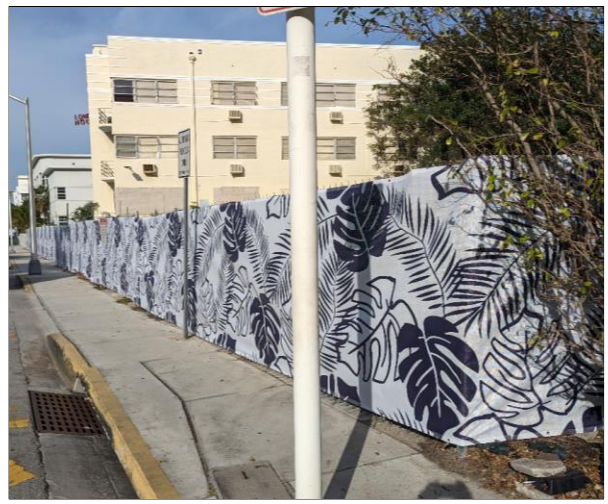
Subsequently, LTC 367-2018, dated June 28, 2018, reported that, despite 91 prospective bidders accessing the advertised solicitation, the City received one (1) response to the RFP, which proposal was deemed non-responsive.

D. <u>Fiscal Year (FY) 2019 Request for Proposal (RFP 2019-098-KB)</u>

On January 16, 2019, the Mayor and City Commission approved the issuance of RFP 2019-098-KB for the Development of the Barclay Workforce Housing Project, and the City received three (3) responses. On October 16, 2019, Resolution No. 2019-31020 authorized negotiations for a Development and Ground Lease Agreement with top-ranked proposer Atlantic Pacific Communities, LLC (Atlantic Pacific), with the final material terms for the project subject to prior approval of the City Commission. Atlantic Pacific proposed multiple development scenarios, each requiring a combination of funding sources including a financial contribution from the City. The

City commenced the negotiation process with Atlantic Pacific in early 2020. With onset of the COVID-19 pandemic soon thereafter, the City prioritized urgent issues with a focus on maintaining fiscal stability and public safety. On March 17, 2021, during an update discussion about the Property, the Finance and Economic Resiliency Committee (FERC) recommended exploring all available options for its future use, including site analysis with a pending feasibility study and an appraisal of the Property's real estate value for potential sale on the market. The City has since obtained an initial and updated property appraisal prepared by Cushman & Wakefield in 2021 and 2022. The 2022 appraisal reported an as-is, fee simple value of $9.1 million.

E. <u>Current Maintenance and Public Safety Services</u>



On December 12, 2014, one month prior to the City's acquisition of the Property, the Building Official issued an emergency demolition order directing that the Property was an unsafe structure and should be demolished immediately. As the Property's residential tenants were vacated and a negotiated settlement provided that the City would take title and rehabilitate the Property, the demolition order for the historic property was not enforced, with plans for structural preservation.

Since the date the City acquired the asset, it was anticipated that restoration of the Barclay would be extensive, due to the building being poorly maintained over the years prior to City ownership and noncompliance with the 40-year recertification. This was further exacerbated by the fire within its historic lobby shortly after acquisition by the City. Over the years, trespassing vagrants have vandalized or destroyed electrical wiring, windows, and access points. Notwithstanding efforts to plan for redevelopment of the site, the City has continued to ensure proper and adequate funding for ongoing maintenance and loss-prevention initiatives including, but not limited to, fencing of the site, boarding-up of access points, debris removal, etc.

Though the City had already implemented certain strategies, on May 17, 2023, the Miami-Dade County Unsafe Structures Board ratified a Compliance Agreement stipulating that the City shall secure the property, shutter the building, and maintain the tidiness of the grounds, with quarterly updates to the Special Magistrate, until such redevelopment plans bring the property into compliance. To maintain and secure the site on an ongoing basis, City records show that, in FY 2023, the City expended approximately $14,050 on insurance and landscaping services, among others, and $19,002 for internal maintenance and repair services by the Facilities and Fleet Management Department.

The Miami Beach Police Department (MBPD) has implemented regular monitoring of the site and the City has also recently upgraded the perimeter fence to enhance aesthetics.

F. Fiscal Year (FY) 2023 Request for Proposal (RFP) 2023-115-KB

On April 6, 2022, the Mayor and City Commission approved the recommendation of the Finance and Economic Resiliency Committee to direct the Administration to develop a Request for Proposals (RFP) for the redevelopment of the Property).The purpose of the RFP was to engage a development partner with proven experience in developing similar projects and the financial and professional qualifications to deliver a high-quality, economically feasible project

Through the RFP, the City sought proposals from parties interested in entering into a public-private development agreement and ground lease agreement to design, build, operate, and maintain the development. Developments could include residential apartments or other zoning-appropriate uses, including but not limited to office (e.g., general office space, tech hub), school campuses, etc. The City acknowledged that some of the proposed uses may require amendments to the LDRs and noted that affordable/workforce housing could be deemed a public benefit.

Further, the RFP noted that the City would consider a designation of a number of units as workforce housing as public benefit and may consider other conditional uses, subject to approval by the City's boards and the Mayor and City Commission.

On November 16, 2022, the City Commission authorized issuance of RFP 2023-115-KB (the “RFP”). On December 16, 2022, the RFP was issued. A voluntary pre-proposal conference to provide information to proposers submitting a response was held on January 5, 2023. Two (2) addenda were issued, and 107 prospective bidders accessed the advertised solicitation. RFP responses were due and received on February 23, 2023.

The City received a sole proposal from The Barclay Partners LLC, now 1940 Barclay Partners, LLC (“Legacy” or the “Developer”), a joint venture between Urban American and Legacy Real Estate Development LLC.

Legacy is a nationwide workforce and affordable housing development company. Legacy is led by CEO Jerrod Delaine and Chairman Donahue Peebles III and is focused on improving communities by leveraging their access to capital. Urban American is a privately held real estate investment management company that currently owns 5,000 units across the U.S. Urban America has deployed over $1 billion of equity from financial institutions, pension funds, foundations, endowments, and family offices.

The proposed development team includes a collection of firms and individuals. Architecture would be managed by Stuart Anson Architecture, Brooks & Scarpa, and March Architects. The proposed engineering team considers Feller Engineering (MEP), Green Coastal Engineering (Structural), Dynamic Engineering (Geotechnical), and Spinnaker Group (Environmental). The proposed team also has E.L. Waters and Company handling the planning and permitting process. The team’s General Contractor is Journey Construction and OHLA Group Construction. The proposal cited the leasing and marketing team as the firm of Eklund Gomes Team of Douglas Elliman.

On March 21, 2023, the City Manager appointed the Evaluation Committee as shared via LTC # 143-2023. The Evaluation Committee convened on April 19, 2023, to consider the proposal received. The Committee was comprised of Ozzie Dominguez, Asset Management Division Director, Facilities and Fleet Management Department; Ariel Guitan, Senior Capital Projects

Coordinator, Office of Capital Improvement Projects; Marcela Rubio, Assistant Director, Office of Housing and Community Services; and Heather Shaw, Assistant Director, Economic Development Department.

The Evaluation Committee was provided an overview of the project, information relative to the City's Cone of Silence Ordinance, and the Government Sunshine Law. The Evaluation Committee was also provided with general information on the scope of services and a copy of each proposal. The Evaluation Committee was instructed to score and rank each proposal pursuant to the evaluation criteria established in the RFP. The results of the evaluation process is included in Attachment A. No ranking is available as the proposal from Legacy was the sole proposal. However, the Evaluation Committee scored the proposal highly with an average score of 87 out of 100 available points based on the evaluation criteria in the RFP.

The RFP submittal included three (3) options with noteworthy design concepts for the site that retain and renovate the existing building. The designs incorporate resiliency measures to account for sea level rise. The team has demonstrated its ability to complement the architectural significance of the neighborhood. Some of the public benefits offered by the team included affordable and workforce housing, financial benefits including generation of tax revenue, enhancing public safety, and adding to the cultural vibrancy of the area. Additionally, Legacy also plans to contribute to the cultural vibrancy of the Miami Beach community by activating the street with new retail options, public art, and community amenities; the project will create a more vibrant and attractive neighborhood for both residents and visitors.

G. <u>September 13, 2023 City Commission Meeting</u>

On September 13, 2023, the City Commission unanimously directed separate, simultaneous discussions with RFP proposer Legacy, and the Housing Authority, who had not submitted a proposal pursuant to the RFP. The City Commission requested that the Administration determine which entity could provide the City with the most affordable and/or workforce housing units (not microunits) and which provides the City with the best economic benefits. The City Commission also referred an item to the FERC to review a proposal from each entity as well as a referral to the Affordable Housing Advisory Committee (AHAC). Still subject to the Cone of Silence, the Administration held discussions with Legacy, as directed by the City Commission, on nine (9) occasions between the September 13, 2023 City Commission and February 22, 2024 FERC meetings.

H. <u>City Development Scenario vs. P3 Approach</u>

The P3 transaction approach can be attractive because it enables the City to transfer risk and responsibility to private sector partners during some or all key stages of development: design/construction (project concept planning, delivery schedule, and construction management), financing (allocation of resources, funding financial close, asset ownership structure), and the operational stage (obligations for asset management, programming, and maintenance). Without a P3 partner to develop and lease the Property, the City will have total responsibility to finance, construct, and operate the facility.

Nonetheless, there are advantages and disadvantages to retaining complete control over how projects are planned, developed, operated and maintained. One advantage associated with a City-developed project is continuous control of the land. Under a 99-year ground lease model, as contemplated in the RFP Proposal and Updated Proposal dated March 13, 2023 (Updated Proposal), although the Ground Lease would restrict a portion of the property for use as workforce and affordable housing (with compliance verified annually by the City), the City would not have operational control of the property for 99 years. This extensive time period would limit the City's ability to modify activities and uses at the site, or potentially sell the Property at its discretion. Furthermore, adding and maintaining occupied residential buildings within the City's portfolio would promote a holistic approach to delivering housing services and encourage affordable and workforce units as outlined in the City's 2040 Comprehensive Plan and 2019 Strategic Plan. The City is equipped with the knowledge base, infrastructure and exposure to renovating, managing, operating and maintaining affordable housing assets through the Offices of Capital Improvement Projects and Housing and Community Services. As such, the City does not necessarily need to outsource development, operations and facility management for the Barclay.

However, when comparing a P3 to a development scenario in which the City controls project construction and subsequent facility operations and management, the City could benefit from private sector organizational efficiencies, as the City is often constrained by procurement requirements and other processes, the impact of compliance with laws regulating government function, funding priorities and limitations, and the operational capacity of City staff. As a result, a project built and operated solely by the City could potentially take longer to develop and possibly be more expensive to build, with a substantially greater reliance on taxpayer funding. The City's former P3 consultant, the Concourse Group, recommended the City leverage the private sector's comparative advantages to deliver the same project result in less time and with less cost to taxpayers. For the foregoing reasons, the City's three (3) procurements over the past five (5) years sought public-private partnership opportunities for Barclay redevelopment.

I. <u>Housing Authority Participation</u>

Following Commission direction provided at the September 13, 2023 City Commission meeting, the Administration met with Housing Authority staff on two (2) occasions before the Housing Authority authorized a potential partnership with Legacy pursuant to HACMB Reso. No. 2024-01. Both the Housing Authority and Legacy were provided equal opportunities by City staff to conduct discussions and exchange correspondence. Although it was the direction of the City Commission to engage in discussions with the Housing Authority and allow the submittal of a development proposal or terms, the Housing Authority did not provide the Administration with any proposal terms, project concept or detailed analysis prior to announcing its intention to partner with Legacy.

At the December 13, 2023 City Commission meeting, Vice Mayor Rosen Gonzalez sponsored a resolution to terminate the RFP and refer an item to FERC to discuss identification of funds including possible use of Arts and Culture General Obligation (G.O.) Bond funding earmarked for affordable and workforce housing, to enable the City to fully renovate the Barclay as a City capital project, with the goal of creating new workforce and affordable housing units, with the completed project to be managed on the City's behalf by the Housing Authority. The proposed resolution also directed the Administration to identify revenue bond funding options for the project and state and federal grant opportunities to supplement City funding for the renovation of the Barclay. After discussion, the Mayor and Commission voted to defer the item for one month.

On January 30, 2024, the Housing Authority Board of Commissioners passed HACMB Resolution No. 2024-01, approving negotiations with Legacy to partner in developing the Property. The

Resolution, transmitted to the Mayor and City Commission on January 31, 2024, authorized a twenty percent (20%) equity interest in the project and repealed all previous resolutions in conflict or inconsistent therewith.

At the January 31, 2024 City Commission meeting, item R7F, a proposed resolution to terminate the RFP and commence the process to identify funding for City renovation of the Property, was withdrawn by its sponsor. The City Commission adjourned the January 31, 2024 meeting before considering companion item R9 M, an update by the Administration on the status of RFP discussions.

J. <u>February 23, 2024 Finance and Economic Resiliency Committee</u>

On February 23, 2024, pursuant to the City Commission's referral on September 13, 2023, the FERC discussed Legacy's Proposal dated February 13, 2024. During the meeting, the Committee requested the Developer explore refining certain proposal terms and return to the March 2024 FERC meeting. Among other considerations, the FERC requested that the Developer present the Committee with multiple development scenarios reflecting how compensation to the City is affected by adjustments to the tenant affordability mix, among other variables impacting Legacy's proposal.

At the meeting, Commissioner Rosen Gonzalez withdrew her companion referral item C4 E, to discuss the conveyance of the Property to the Housing Authority. The Committee unanimously passed a motion for the remaining item (originating on September 13, 2023 as R9 M) to return the following month when the Developer could present multiple development scenarios and financial terms to assist the Committee in discussion of a recommended redevelopment strategy. The Committee requested that staff not engage in substantive discussions with the Developer regarding the Updated Proposal prior to returning to the March 2024 Committee meeting.

K. <u>Updated Proposal dated March 13, 2024</u>

Following the February 23, 2024 FERC meeting, the Developer modified proposal terms and provided additional potential development scenarios in the Updated Proposal dated March 13, 2024, as summarized in Attachment B (Key Terms Table).

<u>Option 1</u>

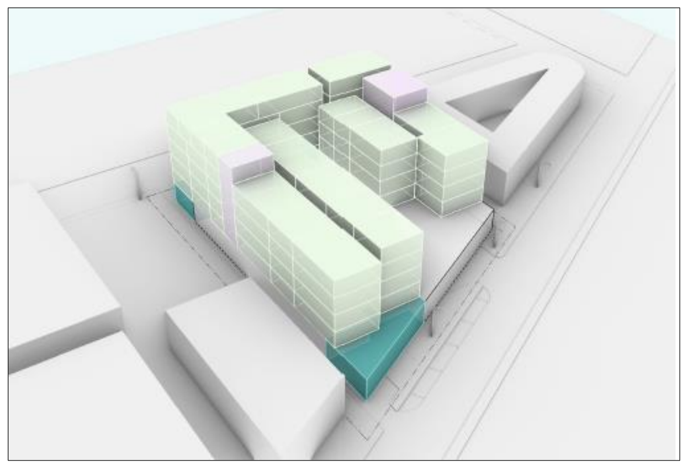
- **Retains existing 3-story historic structure** and proposes 7-story, 77-foot new construction tower.
- **Financial proposal offers second-lowest compensation** to City (following Option 5, which offers zero compensation).
- **Highest affordability rate** (65% of 71 total units) and highest diversity of income levels.
- Same design as previous proposal presented to Committee (Proposal dated February 13, 2024).

No image provided by Developer

<u>Option 2</u>

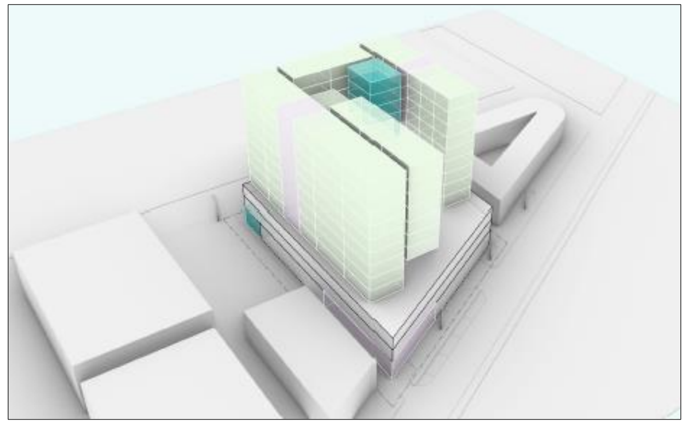
- **Retains existing 3-story historic structure** and proposes 12-story, 132-foot new construction tower.
- Upfront payment of approximately 26% Barclay purchase price by the City.
- **Low affordability rate** (32% of 113 total units) and affordable/workforce units segregated to the rehabilitated existing structure (i.e., new construction tower wholly contains market rate units).
- **Tallest building height proposed (along with Option 4)**.

<u>Option 3</u>



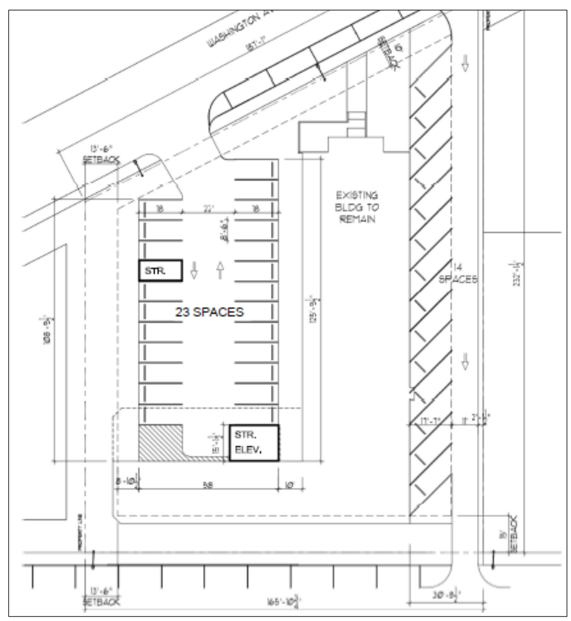
- **Demolishes the existing historic structure** and proposes 12-story, 132-foot new construction building.
- **Largest development option proposed** (in terms of gross area (162,048 sf) and FAR (5.33)).
- Upfront payment exceeding 100% Barclay purchase price. **Offers the greatest financial compensation to the City.**
- **Tied for lowest affordability rate** (16% of 141 total units) and affordability is limited to tenants of 30% AMI households (in addition to market rate tenants).
- **Tallest building height proposed** (along with Option 4).

<u>Option 4</u>



- **Demolishes the existing historic structure** and proposes 12-story, 132-foot new construction building.
- **Largest development option proposed** (in terms of gross area (162,048 sf) and FAR (5.33)).
- Upfront payment exceeding 100% Barclay purchase price. **Offers the greatest financial compensation to the City.**
- **Tied for lowest affordability rate** (16% of 141 total units) and affordability is limited to tenants of 30% AMI households (in addition to market rate tenants).
- **Tallest building height proposed** (along with Option 3).

<u>Option 5</u>



- **Preserves the existing 3-story historic structure with NO new construction**.
- Highest affordability concentration (100% of all 70 units used solely for affordable housing tenants) and no market rate or workforce housing units proposed.
- **Zero compensation to the City** (i.e., no upfront payment, no recurring rent, no City participation throughout Lease Term) and would require gap project financing from the City in the amount of $3.9 million.
- Requires application and approval of several highly competitive public subsidies, funding sources, and tax exemptions (from federal, state, and local entities including the City). **The only option contingent upon public subsidy, according to the Developer.**

<u>March 22, 2024 Finance and Economic Resiliency Committee</u>

On March 24, 2024, the FERC reviewed five (5) development options from the Developer which differed in approach towards historic preservation of the existing structure, proposed financial benefits to the City, affordability mix of the residential tenants, and architectural design. Among the five (5) development options proposed by the Developer, the FERC highlighted Option 2 as striking an appropriate balance among preservation of the historic structure, providing a financial return, and increasing the City's residential housing supply. Noting that the proposed design includes new construction of a tower exceeding permitted height and floor area, the Committee expressed willingness to compromise on greater building height and mass because the Developer proposes using FAR as a tool to make the project financially viable. As a condition to the FERC making a recommendation to the City Commission, the Developer agreed that the Option 2 proposal would include a minimum Upfront Payment of $6 million, subject to other terms to be negotiated.

Motion: The Committee recommends that the City Commission award RFP 2023-115-KB to 1940 Barclay Partners, LLC, based on the Proposal dated March 13, 2024, Option 2, provided that the financial proposal includes a minimum Upfront Payment of $6 million. (3-0; Proffered by Commissioner Fernandez and seconded by Commissioner Bhatt).

The information presented herein is preliminary and based solely on the Updated Proposal received. As is typical in these developments, the City must undergo extensive negotiations with the proposer to arrive at a final agreement, which will require approval by the City Commission.

ANALYSIS

As recommended by the FERC, the Developer's Option 2 Proposal, Attachment C, includes the following:

i. Lease Term and Structure

The Developer assumes responsibility for designing, financing, constructing, delivering, and operating the project. The City would retain ownership and title to the land and the Developer (Ground Lessee) would operate the project under a 99-year ground lease. **As such, the RFP requires that the Property remain in the public domain.** The Ground Lease shall be "triple net" (NNN), with the Ground Lessee solely responsible for all real estate taxes, utilities, assessments, and all other costs and expenses associated with the operation of the Project. The City's fee simple interest would be senior, and not subordinated to, any financing obtained by the Ground Lessee, and shall be non-recourse to the City.

ii. Design and Site Plan

The project includes renovation of the existing structure for mixed-use (ground floor commercial and mixed-income residential) and new construction of a 12-story, 132-foot residential tower with ground floor parking. With ground floor commercial proposed, the existing structure's history and character will be preserved; however, the proposed tower's 132' height and 3.46 FAR are above that which is permitted by the Code. Recognizing that preservation constrains development capacity and limits the number of developable housing units, this scenario compensates with a larger tower that exceeds what would normally be permitted.

Zoning Information	Applicable GU Zoning	Existing Property	Option 2
Gross Floor Area (sf)	82,880	27,505	105,146
Permitted/ Estimated FAR	2.37	0.9	3.46
Total Buildings	n/a	1	2
Height	75'	38'	132'
Stories	n/a	3	12

iii. <u>Residential Unit Mix and Affordability</u>

As currently proposed, Option 2 contemplates 32% affordability, with limited diversity as the project would only serve qualified tenants at 140% and 30% AMI, and nowhere in between. Further, the affordable and workforce tenants would be limited to renting studio units and nothing larger in size.

Unit Mix	Option 2
Total Units	113
% Market Rate	68%
% Affordable/ Workforce	32%
140% AMI	16
120% AMI	0
80% AMI	0
60% AMI	0
30% AMI	20
Market Rate	77
Total Studios	66
Total 1BR	35
Total 2BR	12
Total 3BR	0

iv. <u>Compensation to the City</u>

Option 2 proposes a one-time Upfront Payment and guaranteed recurring Annual Rent, with Annual Rent Escalation tied to the Consumer Price Index (CPI), with a floor of two percent (2%) and a ceiling of three percent (3%). In addition, Options 2 also proposes City participation in Net Operating Income (NOI) at one percent (1%) and City participation in any sale or transfer of the property, after the initial sale, at one percent (1%) of the value. Option 5 includes none of the foregoing because it is the sole option in which zero compensation whatsoever is offered as part of the development and ground lease proposal.

Financial Proposal	Option 2
Upfront Payment	$1,500,000
Annual Rent	$100,000
Projected Rent (99 years)	$ 31,810,971
Annual Escalation	CPI, with 2% Min and 3% Max
Transfer Participation	1%
NOI Participation	1%
% Market Rate	68%
% Affordable/Workforce	32%
Total Units	113

The information presented herein is preliminary and based solely on the Updated Proposal received. As is typical in these developments, the City must undergo extensive negotiations with the proposer to arrive at a final agreement, which will require approval by the City Commission.

LOBBYIST DISCLOSURE

In accordance with Resolution No. 2023-32857, adopted by the City Commission on December 13, 2023, the following information has been provided by the Administration as it relates to the subject resolution:

1. Was the Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

2. If so, specify name of lobbyist(s) and principal(s): N/A

SUPPORTING SURVEY DATA

The Mayor and City Commission identified the need for workforce and affordable housing as a key objective in the City's 2019 Strategic Plan Through the Lens of Resilience. The City's 2040 Comprehensive Plan prioritizes affordable housing, with the express goal "to encourage redevelopment that provides workforce and affordable housing" within the City."

FINANCIAL INFORMATION

Preliminary details on the proposal are included herein. Final financial terms will be provided as negotiations are concluded, and the final agreement is presented to the FERC and City Commission for approval.

CONCLUSION

The Developer's Option 2 proposes a redevelopment project which preserves the historic structure at the Barclay, provides financial benefit to the City, and a roadmap for activation of a vacant asset that currently provides no benefit to the community. While it is incumbent upon the City Commission to prioritize its development objectives for the Barclay, action is needed to provide additional housing to the City's workforce and activate an underutilized City asset for the betterment of the community.

Upon authorization to negotiate, the City shall seek a comprehensive package of resident and community benefits. **Should additional deal terms arise which have not been explicitly outlined within the Updated Proposal, it would not preclude the City from negotiating more favorable terms during a formal negotiation process.**

For the reasons stated herein, it is recommended that the Mayor and City Commission approve the Resolution awarding the RFP and authorizing the Administration to enter into negotiations with 1940 Barclay Partners LLC, as the sole proposer. The Administration would formally commence negotiation of terms more favorable to the City's interests, which interests and objectives should be clearly defined by the City Commission, to yield the greatest public benefit. Following City Commission direction, negotiated terms would again be presented to the FERC and the City Commission for consideration and approval.