



# MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT  
Internal Audit Division

## INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager  
VIA: Kathie G. Brooks, Budget and Performance Improvement Director  
FROM: James J. Sutter, Internal Auditor

DATE: March 30, 2010  
AUDIT: Greensquare, Inc. Management Agreement Audit (Tennis Centers)  
PERIOD: April 15, 2007 through December 31, 2009

This audit report is the result of reviewing Greensquare, Inc.'s agreement to provide professional tennis management and operations services at the City's Flamingo and North Shore Park Tennis Centers.

### INTRODUCTION

On October 11, 2006, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 07-06/07 for Comprehensive Professional Tennis Management and Operations at the City's Flamingo and North Shore Park Tennis Centers. The services to be provided included the operation of the tennis courts, pro shop, a food and beverage concessions, and other tennis relation operations as approved by the City.

An evaluation committee deemed Greensquare, Inc. the top ranked proposer and negotiations were started. Greensquare, Inc was the prior operator of these facilities. Ultimately, an agreement was reached between the two parties and Resolution No. 2007-26432 was ratified by the City Commission for the three year term ending 04/15/10 with the City having the sole option and discretion to extend the management agreement for two additional one year terms.

A few of the deemed more important points covered in the current detailed management agreement are summarized as follows:

- The contractor shall remit to the City on the last business day of each month during the term of this agreement, the following amounts: 1) A fixed payment of \$3,250 per month for the first \$600,000 of yearly tennis only revenue collected from both Centers plus 5% of all concession gross sales (food and beverages) as approved by the City. 2) Any amount of tennis only gross revenue over the \$600,000 threshold will be subject to a 10% payment to the City, or \$3,250 whichever is greater in that particular month, plus the 5% of all concession gross sales for that month.
- The City Manager or his designee shall approve, in writing, the types of food and beverages, and prices for same, to be sold at the Centers, prior to such sales and shall further approve any changes, whether as to type of food and beverages to be sold, or as to changes in prices, in writing, prior to implementing a change. (Similar provisions exist for tennis court usage and the pro shop).
- Occupational licenses and background checks shall be required and obtained for each individual tennis instructor providing lessons and/or clinics at the Center.
- The contractor shall maintain a performance bond, cash deposit, irrevocable letter of credit, joint trust or a certificate of deposit in the amount of twenty five thousand dollars, to secure the faithful performance of this management agreement.

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- The contractor shall pay to all its employees, a living wage of not less than \$8.56 an hour with health benefits, or a living wage of not less than \$9.81 an hour without health benefits. (Section 8.5 of the management agreement).
- The contractor agrees to be bound by the minimum maintenance standards as delineated in Exhibit G of the management agreement.

## OVERALL OPINION

Although the contractor, Greensquare, Inc. has complied satisfactorily with some of the provisions stipulated in the management agreement (complied with the living wage ordinance, maintained an alternate security in lieu of Performance Bond, prepared bank reconciliations, essentially completed and organized documentation, etc), results from testing performed to reasonably assure compliance to selected provisions of the management agreement, stipulated policies and procedures, and to the contractor's and City's responsibility identified the following areas in need of improvement and/or corrective action:

- The contractor charged fifty-one of the fifty-seven or 89.47% non-City residents the lesser residents' membership rate in contradiction to Section E of the signed management agreement resulting in a loss of revenues to Greensquare, Inc. and possibly to the City. Similarly, the lower City resident tennis court rental rate was incorrectly given to all residents of neighboring cities (Surfside, North Bay Village, Bal Harbour, etc.).
- Internal control deficiencies were noted which could possibly lead to revenues not being recorded, contractor assets being misappropriated, etc. if not corrected. The most egregious involving the sale of contractor food and beverages as reported revenues were less than the products' actual cost.
- The contractor has not obtained valid occupational licenses/business tax receipts since being awarded the contract in 2002. They attempted to comply in 2006 but were denied due to facilities' deficiencies that are the City's responsibility to repair but have not been corrected to date.
- The Parks & Recreation Department stated that they performed routine site inspections to ensure that maintenance standards were satisfied during the audit period but did not document the results other than a 2009 analysis of the contractor's clay purchases to date.
- The contractor did not remit 5% of October, November and December 2007's food and beverage sales to the City resulting in a \$526.16 underpayment (including interest).
- Most contractor employed tennis instructors did not satisfy the signed management agreement's provisions to obtain designated business tax receipts (82.76%) and tennis certifications (72.41%).
- The Parks & Recreation Department did not indicate the date that the contractor's monthly payments were received for twenty-six of the thirty-three months sampled or 63.89%. Using other conservative means to estimate the date received, it was determined that fourteen months payments were received after the due date resulting in the contractor owing \$127.90 in interest.
- Although the City's signed management agreement with the contractor is detailed and comprehensive, several confusing or omitted terms are identified which need clarification.
- The contractor did not have an external accounting firm complete an audited annual statement of revenues during the audit period.
- The contractor's insurance coverage unknowing lapsed from November 2008 through May 2009 thereby increasing the City's risk exposure.
- Tested tennis center products and prices were not all approved in advance by the City Manager

- or his designee in adherence to the signed management agreement.
- The Finance Department correctly recorded the contractor's monthly payments but the 2007/08, 2008/09 and 2009/10 fiscal years each contained entries that were incorrectly recorded in a different fiscal year.

## **PURPOSE**

The purpose of this audit was to determine whether the contractor remitted the correct monthly payments based upon review of their supporting records, was otherwise in compliance with selected terms listed in the management agreement; and whether the City timely received and correctly recorded all revenues and effectively monitored the management agreement.

## **SCOPE**

1. Confirm that monthly payments to the City are correctly calculated and are properly entered into the City's Financial System.
2. Confirm that tested documentation is complete, well organized and sufficient; and that internal controls (bank reconciliations, segregation of duties, inventory counts, etc.) are adequate.
3. Confirm that required payments are submitted timely to the City. If not, were late charges levied in adherence to the signed management agreement.
4. Confirm that such required documents as the operating and cash flow budgets are submitted timely to the City.
5. Confirm that the type and pricing of food, beverages, court fees and tennis products sold had prior written approval by the City.
6. Confirm that designated contractor employees are properly certified and obtained business tax receipts. Also, confirm that staff members' hourly pay rates equal or exceed the City's designated living wage requirements.
7. Confirm that the City's Parks & Recreation Department periodically evaluate and document the facilities maintenance in accordance with the standards outlined in Exhibit G of the management agreement.
8. Confirm that the organization is current on all taxes, permits, licenses, etc.
9. Confirm that the appropriate insurance coverage and a \$25,000 performance bond or approved alternate security is maintained.
10. Confirm that the contractor complied with selected provisions in the submitted Request For Proposal that are either not covered or are more stringent than in the signed management agreement.

## FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding: Non-City Residents Charged Resident Membership and Court Rental Rate  
The contractor (Greensquare, Inc.) provided a listing of all their 2009 tennis centers members accompanied by their corresponding address, phone number, amount paid and membership expiration date. Review of this report found that 57 of the 366 members reported addresses were outside Miami Beach's boundaries. Per Exhibit E of the signed management agreement, these non-City residents should have been charged a higher membership fee than City residents but only six actually were. For example, non-resident adults should pay \$401.25 versus \$197.75 (includes 7% state sales tax), non-resident senior citizens should pay \$267.50 versus \$160.50 (includes 7% state sales tax) and so on.

The contractor was questioned as to the reasons for this lower charge and they said it was primarily twofold. One was that the Parks & Recreation Department had previously instructed them to offer the lower residential rate to anyone who lived in the surrounding cities to North Shore Tennis Center (Surfside, Bal Harbour, North Bay Village, etc.). The second reason was that the contractor allowed any non-City resident that plays in a Miami Beach tennis league to pay the lower residential rate.

Further inquiries discovered that the contractor was following the same logic in the charging of tennis court rental fees to residents of neighboring cities. Miami Beach residents are to be charged \$4.28 per hour (including 7% states sales tax) while non-residents are to pay \$8.56 (including 7% state sales tax) per hour according to Exhibit E in the management agreement.

When contacted, the Parks & Recreation Department denied knowledge or giving approval to charge these non-residents the same rates as City residents. As a result of charging these lower membership and court rental rates, the contractor is receiving less money.

Similarly, the City may also be impacted as the contractor's payments are fixed at \$3,250 per month for the first \$600,000 of yearly tennis only revenue collected for both Centers. Any amount of tennis only gross revenue over the \$600,000 threshold will be subject to a 10% payment to the City, or \$3,250, whichever is greater in that particular month according to Section 4.2.1 of the signed management agreement (please see finding 7a for further clarification).

### Recommendation(s):

Going forward, the contractor should comply with Exhibit E of the signed management agreement and charge non-City residents the listed higher rates for tennis memberships and court rentals. The Parks & Recreation Department should decide if they want the contractor to pursue collection of the difference between the City resident and non-resident rate for the current fiscal year. Finally, the Parks & Recreation Department should perform periodic reviews of the prices charges for memberships, court rentals, etc. to ensure that they are in adherence to the signed management agreement.

### Management Response:

#### Parks and Recreation Dept. Response:

The Department will more closely monitor the daily charges to participants, and randomly audit, on a quarterly basis, the daily tapes and reports. It will also request that Greensquare clearly post all pricing at the Tennis Centers and will immediately procure appropriate signage, with City logos, colors, etc to attain this goal. In addition, the department will

evaluate when they can incorporate the current registration software used by the Department, including any future upgrade or software into the tennis centers in order to standardize the registration with all other Parks and Recreation Department programs, as well as to be able to monitor the registration and participation numbers and dollars.

The Department will instruct Greensquare to collect the difference paid between the Miami Beach resident member rate and the non-member rate for those non-residents that were charged incorrectly. This includes collecting retroactive for this fiscal year only. Therefore, each non-resident in this category will be asked to pay \$203.50 if adult, or \$107 if senior.

2. Finding: *Internal Control Deficiencies Identified*

The contractor's internal controls over revenues and cash handling were reviewed and the following deficiencies were noted that could lead to misappropriated contractor's assets, unreported revenues, damaged/altered records, etc:

- a. All the 2009 calendar year contractor invoices were reviewed and it was determined that actual food and beverage purchases equaled \$45,405.34. Reasonable assumptions were made that there was no spoilage, the sales mark-up is 100% of cost, beginning and ending inventories are equal and that \$4,500 in goods were provided at no charge to Summer Camp and Match Tough participants. Given these reasonable assumptions based upon discussions with the contractor's management, Internal Audit calculated that food and beverage revenues should have been approximately \$81,810.68. Yet, reported food and beverage revenues to the City only equaled \$39,728.14 which is below the aforementioned cost and \$42,082.54 below estimated revenues. As a result, the City did not collect \$2,104.13 (\$42,082.54 x 5%) per Section 4.2.1 of the signed management agreement.

Internal Audit had no known way to determine if the food and beverage differences were due to underreported revenues or misappropriated contractor's inventories and/or monies. The contractor did not implement sufficient internal controls to help ensure that these revenues are reported other than the reliance on staff to accurately process all sales through the cash register.

- b. It was learned that typically up to five different contractor employees will process customer sales and handle the contractor's monies during the normal day. Compounding matters is that no safeguards or precautions are taken (x-tapes done at the end of the shift, mystery shoppers, distribution of register receipts to customers, signage stating that if a receipt is not provided to inform management and their next snack or beverage purchase is free, etc.) to ensure that these transactions were processed correctly and that all the contractor's monies are accounted for. Consequently, it would be difficult to determine who is responsible for any contractor's cash shortages observed which inquiries revealed do occasionally occur.
- c. Review of the contractor's provided z-tapes found days whereby an excessive number of no sale transactions were entered on the cash register which could mean that unscrupulous employees are not processing customer purchases and are misappropriating the received monies. For example, a high number of 22 no sale transactions were processed on 04/12/08 at the Flamingo Park Tennis Center, while the daily average for the month of January 2009 was 12.63.

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- d. The contractor does not prepare Daily Revenue Reports for days in which no revenues were apparently received. Therefore, it becomes difficult to determine whether the absence of a Daily Revenue Report was due to inclement weather, the courts being repaired, the report was either not prepared or was misplaced, etc. Internal Audit found dates in which Daily Revenue Reports were submitted for one tennis center but not the other, dates in which revenues were received but not submitted (less than \$100), etc. thereby creating concern that more revenues may not have been reported.
- e. The tennis centers' accounting records were found stored in several different rooms at the Flamingo Park Tennis Center. Subsequent inquiries found that staff had keys to access these rooms whereby a disgruntled employee could alter or destroy records.

Recommendation(s):

The implementation of the following internal controls should help ensure that revenues are more accurately reported and that documents are better safeguarded:

- a. Inventory control sheets should be used daily to determine the amount of food and beverage and pro shop sales. Inventory control sheets require inventories be done daily to calculate daily revenues and to compare the result with those processed by the cash register. Also, an independent supervisor should periodically conduct physical inventory counts to verify the accuracy of the inventory control sheet entries.
- b. Access to monies should be restricted as much as possible to one person per shift. Then, x-tapes (summary to date totals processed by the cash register) should be printed and reconciled to the monies collected at the end of each shift with any differences investigated immediately. Register receipts should be distributed to customers along with placing signage stating that if a receipt is not provided to inform management and their next snack or beverage purchase is free.
- c. The number of no sale daily transactions should be reviewed by a supervisor as part of the reconciliation process. Any noticeable trends or unusually high numbers should be further investigated as it could mean that revenues are not being recorded.
- d. A Daily Revenue Report should be completed every day for each tennis center. It should also indicate anything that occurs out of the norm or any reason why revenues were adversely impacted (inclement weather, courts under construction, etc.).
- e. Valuable contractor accounting records should be adequately safeguarded so that access is restricted to help prevent damage, disposal or altering.

Management Response:

Greensquare, Inc. Response:

All the recommendations are viable. We will try to follow them as closely and as soon as possible.

Parks and Recreation Department Response:

The Department will continue to receive the monthly reports and will more closely monitor the daily reporting to assure that a Daily Revenue Report is provided and accounted for, and that it specifically lists any adverse impacts to revenues for that date. Additionally, the Department will spot check the physical facility to assure that financial records are kept in a more confidential and secure environment.

The Department will also work closely with Greensquare to designate which programs may or may not be entitled to free food and beverages that are included in the price of the program offered. Lost inventory, theft, or bad inventory management does not represent a direct liability to the City, but may lead to some lost revenue to the City in the amount of 5% of such lost sales.

3. Finding: Business Tax Receipts Not Received Since the Inception of the Initial Management Agreement in 2002

Section 7.1 of the signed management agreement states "*Contractor shall also pay for any fees imposed by law for licenses or permits for any business or activities of Contractor at the Centers under this Agreement.*" Review of both the City's Permits Plus and Eden Systems found that valid occupational licenses/business tax receipts have not been issued to the contractor during their operation of the tennis centers (Greensquare began operations at Flamingo Park in April 2002, and in June 2004 at North Shore Park when the new tennis center was opened for operations).

Attempts were made to rectify this situation as RL06002449 (Flamingo Park Tennis Center) and RL06002451 (North Shore Park Tennis Center) were created and billed in the Permits Plus System on 08/07/06. At that time, the contractor was separately billed \$1,490.76 for the 2005/06 and 2006/07 fiscal years at each tennis center. However, the occupational licenses/business tax receipts were denied at Flamingo Park because the A.D.A. signs at the bathrooms need to be replaced, burn protection is required under the sink, the power strip and extension cords need to be removed, the exit sign above the front door is not maintained, etc. In addition, North Shore Park was denied because the contractor had not obtained their Certificate of Occupancy. Therefore, both occupational licenses/business tax receipts' status were changed to pending until the listed items were repaired and the facilities passed inspection.

Meanwhile, Section 11.3 of the signed management agreement states that "*The City shall continue to maintain all electrical, HVAC, plumbing and structural systems, at its sole cost. The City is responsible for repair or replacement caused by normal and regular wear and tear of that machinery, equipment and real property supplied to contractor in the regular course of business.*" Consequently, the City's responsible for making many of the repairs currently prevents the contractor from obtaining their needed occupational licenses/business tax receipts.

No known documented actions were taken until May 2009 when a Code Compliance Officer cited the contractor for not having valid occupational licenses/business tax receipts. These needed repairs at Flamingo Park were recently completed in March 2010 while the North Shore Park Tennis Center received their Certificate of Occupancy in September 2006. Consequently, the Finance Department's Licensing Section is presently calculating the amount owed by the contractor so that they can finally obtain their delinquent occupational license/business tax receipts.

Recommendation(s):

Once the amount owed is received by the contractor, they should promptly send the required payment in full so as to make their occupational licenses/business tax receipts current. Furthermore, the Finance and Code Compliance Departments' ongoing internal review should continue whereby all pending occupational license/business tax receipt cases are reviewed to determine which businesses, individuals, etc. are not being billed and/or owe monies to the City.

Management Response:

Parks and Recreation Department Response:

On May 6, 2009 it was brought to the Flamingo Park Facility Manager's attention that Greensquare Inc. was in violation of not obtaining a Business Tax Receipt (BTR) by Code Officer Vega.

Following the inspection and notification from Code Officer Vega, a letter and two City Code Notices of Violations addressed to Greensquare Inc. were given to the Park Facility Manager by Victor Weithorn. An email was then generated by the Park Facility Manager, and sent out to Kevin Smith, Julio Magrisso and John Toledo informing them of the situation and violations at the Flamingo Park Tennis Center (an attached copy of the letter and violations were supplied).

On Friday March 12, 2010, after much diligent work by all related departments, inspectors and Code Compliance, all violations at the Flamingo Park Tennis Center were remedied and a follow up inspection of the facility was conducted and passed. Greensquare Inc. as of March 12, 2010 is cleared to pay for their BTR.

The Parks and Recreation Department had not previously audited or requested proof of a BTR for either North Shore Park or Flamingo Park Tennis Centers. The Department has also since clarified with the Finance Department that a BTR is required for both sites. The Department was not informed that the pending status for North Shore Park could have been resolved independently of the pending building violations at Flamingo Park. Greensquare will be required to provide proof of valid BTR's as of their Agreement Anniversary date of April, on a yearly basis.

On March 23, 2010 Greensquare paid \$9,655.80 to make the business tax receipts current for both tennis centers.

4. Finding: Tennis Center Employees Did Not Obtain the Proper Certifications, Licenses and Business Tax Receipts

Various sections of the signed management agreement are detailed regarding the hiring, certifications and pay of Flamingo and North Shore Park Tennis Center employees. Testing conducted in these areas found the following deficiencies:

- a. Section 3.6 requires that each individual tennis instructor providing lessons and/or clinics obtain an occupational license/business tax receipt. Yet, only five of the twenty-nine known tennis instructors or 17.24% obtained valid business tax receipts for the 2009/10 fiscal year. The current annual fee for tennis instructors is \$200 thereby resulting in \$4,800 in lost fess (excluding late charges) for this fiscal year alone.
- b. Section 8.4 summarized states that the contractor, and its employees and/or

independent contractors shall undergo a comprehensive background check and drug screening at the contractor's expense. The City's Parks & Recreation Department paid for these items until April 2007 so some long term employees would already have these procedures performed and passed. Yet, inquiries found that the contractor did not perform background checks or drug screenings on any new employees hired after April 2007 as it was prohibitive due primarily to the cost involved. Instead, they require that each candidate pass several interviews before being hired.

- c. Section 8.3 requires that the Head Tennis Professional and all Teaching Assistants shall be certified Tennis Professionals by the USPTA (United States Professional Tennis Association), USTA (United States Tennis Association) or USPTR (United States Professional Tennis Registry). It was discovered that only nine of the twenty-eight known current tennis instructors or 32.14% actually complied with this provision.

Recommendation(s):

The contractor should comply with all the provisions in the signed management agreement unless the City Administration and Commission instruct them otherwise in writing.

Management Response:

Greensquare Response:

It was Greensquare's interpretation that the intent for section 8.3 was that the partners in Greensquare Inc., including Tom Mar, James Bollettieri and Victor Weithorn, would have USPTA certification (professional level one), which we do. The independent tennis pros would be hired upon our review based on the Bollettieri System. The individual pros would not necessarily have to be certified with any other organization.

Parks and Recreation Dept. Response:

The Department will immediately request proof of BTR and of USTA certification for all employees for whom these requirements would apply, and develop a sixty (60) day action plan to bring this component into compliance. The Department will clarify the USTA requirement with Greensquare, research other similar facilities and obtain a further understanding of industry standards. If a change in language is warranted, an amendment to the agreement may be requested in the future.

In accordance with 8.4, all staff that had not previously undergone a comprehensive background check as of this audit report's date has now completed this requirement. Out of all the checks performed, one of Greensquare's staff came back with prior history unacceptable to the City. Greensquare was instructed to dismiss the employee. Effective immediately, all future staff, instructors or employees of Greensquare will be required to register through the new Human Resources Department website and undergo the standard background check.

5. Finding: *Incorrect Contractor Monthly Payments Resulted in a \$526.16 Underpayment (including \$50.51 in interest)*

Section 4.2.1 of the management agreement requires the contractor to remit 5% of all concession or food and beverage gross sales for that month. Testing found that the submitted Monthly Revenue Reports began including food and beverage gross sales in October 2007 but the City's monthly payments were not increased accordingly until January 2008. As a result, the contractor did not remit a total of \$453.43 ((\$9,068.60 gross sales x

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5%) to the City for the months of October, November and December 2007. Additionally, the July 2008 payment was inadvertently understated resulting in a total underpayment of \$526.16 (including \$50.51 in interest) to the City. The Parks & Recreation Department was not cognizant of these underpayments so the Finance Department was not instructed to create a City Bill to invoice the contractor during the audit period.

Recommendation(s):

The City's Parks & Recreation Department should request that the Finance Department create a \$526.16 City Bill to be sent to the contractor requesting payment. If paid within thirty days of issuance of this audit report, then the total amount owed should not be increased. Also, the Parks & Recreation Department should closer scrutinize the contractor's Monthly Revenue Reports and corresponding remittances for adherence to the signed management agreement's terms.

Management Response:

Greensquare's Response:

Upon review of our records there was an oversight at year end of 2007 for not paying 5% of food and beverage. We will pay the \$526.16.

Parks and Recreation Department Response:

Previous practice had all paperwork and payments submitted by Greensquare sent directly to the Finance Department. Finance would review and advise the Parks and Recreation Department of any possible discrepancies or past due payments for follow through with Greensquare. This procedure was modified in January 2008. The Parks and Recreation Department now receives and reviews all monthly reports directly, sums up all minimum payment requirements PLUS the 5% required payment for Food and Beverage. The Department logs in, date stamps and confirms that proper payments have been made prior to sending the original documents and check to the Finance Department. Errors like this should not occur again. In addition, the Parks and Recreation Department has instructed the Finance Department to prepare a \$526.16 City Bill to be sent to Greensquare which was paid in full on March 25, 2010.

6. Finding: *Tennis Centers Maintenance Reviews Not Sufficiently Documented by the Parks & Recreation Department*

Section 11.3 of the signed management agreement states that the contractor agrees to be bound by the minimum maintenance standards as specified in Exhibit G. These standards were created by Welch Tennis Courts regarding the maintenance of hydrocourts which they installed at the North Shore Park Tennis Center. Although similar plans are afoot to install these hydrocourts at the Flamingo Park Tennis Center, they have not as of yet.

Parks & Recreation Department management stated that they routinely visit both tennis centers where they would evaluate the contractor's maintenance of the facilities. If any problems were noted, they would verbally inform the contractor but nothing was documented or retained.

The Assistant Parks & Recreation Director conducted his own analysis of the contractor's clay purchases between 2002 and 2009. The agreed upon tennis court maintenance procedures require that four 80 pound bags of proper clay material at a minimum be added to each court (base line and service box area) each month. He found that that the contractor complied initially but purchases were insufficient as time progressed. Therefore, he notified Greensquare, Inc. of the deficiency and they have complied since.

New procedures were implemented on a trial basis starting 09/22/09 whereby sheets were to be completed daily by the contractor detailing what maintenance was performed on each Flamingo Park court per day (what time were the courts brushed and lined, what time and for how long were they watered, when did they last receive clay and how much, etc.). The Parks & Recreation Department periodically collects these documents and reviews them for conformity to the maintenance standards listed in Exhibit G of the signed management agreement. The Parks & Recreation Department's intent is to have the North Shore Park Tennis Center convert to these same procedures in March 2010

Recommendation(s):

Although the Parks & Recreation Department apparently performed maintenance reviews of the tennis centers, they were not documented other than their 2009 analysis of the contractor's clay purchases. Going forward, maintenance inspections should be performed routinely with the documented results maintained in a centralized file. The contractor should be immediately notified of any found deficiencies and given a timeframe upon which they should be rectified. Finally, the new procedures regarding the completion of daily maintenance reports should be continued at both facilities and be closely reviewed by Parks & Recreation Department personnel for compliance.

Management Response:

Parks and Recreation Dept. Response:

Prior to September 2009, the Parks and Recreation Department performed random maintenance reviews at both tennis centers. To formally document the reviews, and in response to requests made by tennis participants that maintenance standards were not in accordance with industry standards, on September 22, 2009 a Tennis Court Maintenance Procedure was created by the Parks and Recreation Department for Flamingo Park and adapted by Greensquare Inc. Flamingo Park was used as the primary site for this Maintenance Procedure due to the deteriorated conditions of Flamingo as compared to North Shore Park, where the maintenance and playing conditions are superior to Flamingo.

In addition, a Parks and Recreation team member performs an inspection of the tennis courts on a weekly basis. Beginning in the summer of 2010, North Shore Park will also be inspected in accordance with the same newly drafted Tennis Court Maintenance Procedures.

The Department will further evaluate and implement other facility standards to include cleanliness, safety, storage, physical inventory, safeguarding of assets, etc.

7. Finding: *Monthly Payments Remitted After the Due Date Incurring \$127.90 in Interest*  
Section 4.2.1 of the signed management agreement requires that the contractor's monthly payment be received by the City prior to the last business day of each month. Review of the documentation maintained by the Finance Department to determine the timeliness of these remitted payments during the audit period found the following:

- The date that the Parks & Recreation Department received these monthly payments was present (time/date stamp or manually recorded) for only seven of the thirty-three sampled months or 21.21% during the audit period. The check date was used for the remaining twenty-six months as the received date to be conservative.
- It was determined that nine of the twenty-seven applicable sampled months were received late or after the aforementioned due date by a high of 34 days and a low of

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2 days. The months of April 2007 through September 2007 were excluded because the Parks & Recreation Department allowed the contractor to pay these six months (\$3,250 x 6 months = \$19,500) on 10/10/07 due to delays in signing the management agreement. The agreement took effect on 04/15/07 but was not finalized and signed until 12/07/07. Also, excluded from analysis was the month of March 2008 because the contractor's initial check was misplaced and a stop payment with a new check was issued in October 2008.

Interest of \$127.90 using a 10% annum rate is due on these nine late payments but the contractor was not billed and therefore did not remit any additional monies.

Recommendation(s):

The Parks & Recreation Department should time/date stamp all Greensquare, Inc. monthly payments to properly document the date received. This date should be compared to the signed agreement's due date and if deemed late, the Finance Department should be instructed to prepare a City Bill invoicing the contractor. Meanwhile, the Parks & Recreation Department should request that the Finance Department prepare a \$127.90 City Bill for the nine months in which the contractor's payments were not received timely during the audit period.

Future tennis center management agreements should be completed at or prior to their effective date. Finally, the Parks & Recreation Department should have instructed the contractor to remit mutually agreed upon good faith monthly payments while waiting for the management agreement to be finalized with any subsequent monetary differences then settled.

Management Response:

Greensquare Response:

In the future, we will make sure there are timely payments for rent.

Parks and Recreation Department Response:

Once all monthly documents are received by the Parks and Recreation Department, the date received will be entered on the monthly report along with the approval signature, check number, etc. If it is noted that payment was made late, the documents and check will be accepted and deposited, and a late charge will be assessed immediately in accordance with the contract. In addition, the Parks and Recreation Department has requested the Finance Department to prepare a \$127.90 City Bill to be sent to Greensquare which was paid in full on March 25, 2010.

8. Finding: Needed Management Agreement Amendments

Although the signed management agreement is well written and comprehensive, Internal Audit believes that the following items need to be considered amending:

- a. Among other things, section 4.2.1 states "On a monthly basis, a fixed payment of \$3,250 per month for the first \$600,000 of yearly tennis only revenue collected for both Centers." While contractor revenues have yet to result in more than the minimum monthly guaranteed payment of \$3,250 during any twelve month period since the 04/15/07 inception of the agreement, confusion arises as to what twelve month period is applicable. Internal Audit believes that the agreement's fiscal year should be used but the contractor tracks these figures on a calendar year and the City requires budgets and other reports submitted on the 10/01 through 09/30 fiscal

year.

In addition, the contractor's submitted Monthly Revenue Reports don't contain cumulative figures for the twelve month period followed to provide support for the remitted amount. Therefore, the reader has no easy means to quantify the contractor's annual tennis only sales to determine if the contractor has exceeded the \$600,000 threshold.

- b. Section 4.2.4 requires that the contractor prepare and submit, prior to October 1<sup>st</sup> of each fiscal year that is within the Term hereof, a cash flow budget, based on its submitted operating budget for such City fiscal year. Budgets were not requested or received during the audit period.

Recommendation(s):

If the City elects to extend the current management agreement, then an amendment clarifying these items and any others noted should be completed as soon as possible. However, the aforementioned revisions should be incorporated into the new agreement if a Request For Proposal (RFP) is issued. Until then, the terms outlined in the signed management agreement should be followed. Finally, the Monthly Revenue Reports should contain cumulative figures for the agreed upon twelve month period to support the payment amount and better inform the reader.

Management Response:

Parks and Recreation Response:

a) The Department agrees with the Internal Audit Division that the agreement's fiscal year should be used when calculating the \$ 600,000 threshold referenced in section 4.2.1. Even though Greensquare is a calendar year taxpayer and reports accordingly, all analysis for purposes of section 4.2.1 has been done by the Department based on the agreement's fiscal year. The Department will require Greensquare to revise their monthly reporting to provide for year-to-date revenues and expenditures, using the agreement's fiscal year to assist in both the contractor and the city in tracking collected revenues.

b) On a calendar yearly basis, Greensquare has always presented an annual profit and loss statement, Greensquare will be requested to also provide an annual operating budget for the current contract year within thirty (30) days.

9. Finding: *Annual Audited Statements of Revenues Not Performed*

Section 6 requires the contractor to submit at the end of each contract year, an audited annual statement of revenues consistent with Generally Accepted Accounting Principles to the City. However, these audits were not completed for any fiscal years tested.

Recommendation(s):

The contractor should comply with section 6 and have an audited statement of revenues completed annually. Once completed, they should be promptly forwarded to the City's Parks & Recreation Department so that reported monthly revenues could be compared to these audited figures with any noted differences investigated immediately.

Management Response:

Parks and Recreation Response:

Although Greensquare has presented to the City profit and loss statements prepared by an in-house bookkeeper, the Department will request Greensquare to comply with the audit

provision and have an external auditor prepare an audited annual statement of revenues.

10. Finding: *Tennis Center's Insurance Coverage Allowed to Lapse*  
Section 12 of the signed management agreement lists the insurance coverage that the contractor shall maintain at all times. Although the contractor's current insurance policy was sufficient and approved by the City's Risk Manager, further inquiries found that their insurance coverage lapsed from November 2008 through May 2009 which increased the City's risk exposure. The contractor stated that there were no injuries or claims made during this six month period of no insurance coverage.

Recommendation(s):

The contractor should maintain sufficient insurance coverage during the entire term of their signed management agreement. In addition, the Parks & Recreation Department should use the Eden System's Contract Management Module information to centralize and monitor all relevant contract requirements (insurance, maintenance inspections, etc.).

Management Response:

Greensquare's Response:

There was an inadvertent lapse of coverage due to a change in insurance providers.

Parks and Recreation Response:

The Department will more closely monitor, and in conjunction with Risk Management assure that all insurance certificates have the City named as an additional insured. The Department will develop and implement a more comprehensive contract monitoring process (whether the Eden module or other method) to track required remissions, including annual proof of insurance.

11. Finding: *Products and Pricing Not Always Approved In Advance by City*  
Sections 10.1 and 10.2 of the signed management agreement requires the City Manager or his designee's written approval prior to setting the tennis court usage fees and instructor rates. Similarly, Section 3.3.2 pertains to the sale and prices for food and beverages sold at the tennis centers.

Internal Audit's comparison of products sold and their pricing found the following differences:

**Tennis Court Usage Fees and Instructor Rates**

- Ten of the thirty-eight (26.32%) reviewed tennis court usage fees and instructor rates were not present in the signed management agreement. Examples of those items not listed include a half day camp with surf only, tournament juniors and pee wees in the juniors after school program, etc.
- One of the remaining twenty-eight or 3.57% items reviewed actual sales price is higher than that amount specified in the management agreement. The item was participants wishing to experience a full day week at the Tennis and Surf Camp were charged \$400 when the agreement states \$375.

**Food and Beverages**

- Four of the twenty-two items sold or 18.18% of the products sold were not previously approved in the management agreement. These items included coconut water, egg rolls, Jamaican beef patties and Pepparoni Hot Pockets.
- Six of eighteen items sold that are presently listed in the management agreement or

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33.33% contained higher prices than allowed. The differences involved granola bars and crackers selling for \$1.00 and not \$.50, Gatorade selling for \$1.50 and not \$1.25, Vitamin Water selling for \$2.00 and not \$1.50 and Red Line Energy Drinks which previously sold for \$3.00 when energy drinks are listed at \$2.00.

No documentation was provided to indicate that any of these identified product and/or price differences were previously approved by the City Manager or his designee prior to the items being sold.

Recommendation(s):

The contractor should submit a new list of all items being sold at the tennis centers and their prices to the City Manager or his designee for approval. Any future desired product or price changes should be first submitted and approved by the City before being offered for sale.

Management Response:

Greensquare's Response:

Greensquare has recently sent a list of all food and beverage products and prices currently for sale to the Parks and Recreation Department for written approval.

Parks and Recreation Department Response:

Although the specific items were not properly documented as approved by the City in writing, as required, the City does and has visited the facilities with regularity, and was aware of the items being sold and the unit pricing. In the future, the department will properly document in writing any new items or programs they observe that have not been previously approved, and advise Greensquare. Greensquare will be notified immediately that City approval of changes to pricing or products is required PRIOR TO the sale of such items. The Department will more closely monitor the daily charges to participants, and implement a random audit of the daily tapes and reports at least once each quarter to confirm appropriate pricing. Greensquare will also be required to post all pricing at the Tennis Centers.

12. Finding: *Contractor Monthly Payments Recorded in the Incorrect Fiscal Year*

The contractor remits monthly payments to the Parks & Recreation Department which is ultimately processed by the City's Central Cashier with the designated amounts entered into general ledger account number 011-8000-347268. Consequently, there should be twelve months covering from October through September in each fiscal year with the September payment being accrued. Yet, review of this account's entries found the following inaccuracies:

- Fiscal year 2007/08 only contained nine entries or October 2008 through July 2009's figures. The March 2008 check was properly recorded in the 2008/09 fiscal year as the initial check was misplaced and a second check was cut on 10/31/08.
- Excluding March 2008, thirteen payments for August 2008 through August 2009 were recorded in the 2008/09 fiscal year entries.
- Review of the 2009/10 fiscal year's entries on 02/01/10 discovered that it included September 2009 through December 2009's payments.

Recommendation(s):

The Finance Department should more closely scrutinize their general ledger accounts at year end to ensure that they contain only the correct entries. Any inaccuracies noted should be corrected via journal entry before the fiscal year's accounting entries are closed.

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Management Response:

Parks and Recreation Department Response:

The Department can closely monitor payments into the Eden system, and prior to any year end fiscal closings, review with Finance any and all possible journal entries to correct posting errors.

Finance Department Response:

The Finance Department will closely review general ledger entries at year end to help ensure that listed general ledger balances are accurate and properly accrued.

## **EXIT CONFERENCE**

An exit conference was held on March 2, 2010 in the Office of Budget and Performance Improvement between Kevin Smith (Parks & Recreation Director), Julio Magrisso (Assistant Director – Parks), Andrew Plotkin (Park Facilities Manager), James Sutter (Internal Auditor) and Mark Coolidge (Senior Auditor). A subsequent meeting was held on March 5, 2010 with the contractor and Parks & Recreation management. Management responses were solicited and included above. All parties were in agreement as to the contents of this report.

JJS:MC:mc

Audit performed by Mark Coolidge

cc: Hilda Fernandez, Assistant City Manager  
Kevin Smith, Parks & Recreation Director  
Patricia Walker, Chief Financial Officer  
Alex Rey, Building Director  
John Toledo, Assistant Property Management Division Director  
Tom Mar, President, Greensquare, Inc.

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