

# MIAMI BEACH

## City Commission Meeting SUPPLEMENTAL MATERIAL 1

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
March 5, 2014

Mayor Philip Levine  
Vice-Mayor Micky Steinberg  
Commissioner Michael Grieco  
Commissioner Joy Malakoff  
Commissioner Edward L. Tobin  
Commissioner Deede Weithorn  
Commissioner Jonah Wolfson

City Manager Jimmy L. Morales  
City Attorney Jose Smith  
City Clerk Rafael E. Granado

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### ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

### SUPPLEMENTAL AGENDA

#### C7 - Resolutions

- C7M A Resolution Approving The City's Fiscal Year 2014/15 Federal Legislative Agenda.  
(City Manager's Office)  
(Memorandum)
- C7N A Resolution In Support Of The City's Water Project Funding Requests For The Governor's Fiscal Year (FY) 2014/15 Budget.  
(Budget & Performance Improvement)  
(Memorandum)

**R5 - Ordinances**

- R5P An Ordinance Amending Chapter 70 Of The Code Of The City Of Miami Beach, Entitled "Miscellaneous Offenses," By Amending Article II, Entitled "Public Places" To Prohibit Motorized Means Of Transportation On The Beachwalk Between 15<sup>th</sup> To 23<sup>rd</sup> Streets And On Lummus Park Promenade (Also Known As The Lummus Park Serpentine Walkway) Between 5<sup>th</sup> And 15<sup>th</sup> Streets; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**  
(Sponsored by Commissioner Jonah Wolfson)  
(Legislative Tracking: City Attorney's Office)  
**(Revised Memorandum & Ordinance)**

**R7 - Resolutions**

- R7A A Resolution Adopting The Third Amendment To The Capital Budget For Fiscal Year (FY) 2013/14.  
**11:20 a.m. Public Hearing**  
(Budget & Performance Improvement)  
**(Revised Resolution & Attachments)**
- R7F A Resolution Waiving, By 5/7ths Vote, Competitive Bidding, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager To Negotiate An Agreement For The Management And Operation Of The City's Flamingo And North Shore Park Tennis Centers With Miami Beach Tennis Management, LLC And, If Successful, Further Authorizing The City Manager To Bring The Final Negotiated Agreement Back To The City Commission For Approval.  
(Parks & Recreation)  
**(Memorandum)**

**R9 - New Business and Commission Requests**

- R9L Discussion Regarding An Ordinance Amending Chapter 70 Of The Code Of The City Of Miami Beach, Florida, Entitled "Miscellaneous Offenses," By Amending Section 70-2, Entitled "Reserved" To Create Regulations That Define Nicotine Vaporizer And Liquid Nicotine And That Prohibit The Sale, Barter, Providing Directly Or Indirectly, Gifting, Making Available For Use Or Possession, Or The Furnishing Of Nicotine Vaporizers And Liquid Nicotine To Persons Under The Age Of Eighteen (18); Moreover, Making The Possession Of Nicotine Vaporizers And Liquid Nicotine Illegal For Persons Under The Age Of Eighteen (18); And Providing Penalties For Violations; Providing For Repealer; Severability; Codification; And An Effective Date.  
(Requested by Vice-Mayor Micky Steinberg)  
**(Memorandum from Legal & Ordinance)**

**Condensed Title:**

A Resolution approving the City's 2014/15 Federal Legislative Agenda

**Key Intended Outcome Supported:**

Supports Multiple KIOs

**Supporting Data (Surveys, Environmental Scan, etc.):** The quality of the beaches appears as one of the most important areas affecting quality of life. More recreational opportunities is ranked as one of the changes that will make Miami Beach a better place to live. Storm drainage catch basins cleaning citywide; improving infrastructure was listed number 5 in important safety areas for the City to address.

**Item Summary/Recommendation:**

Each year, the Mayor and City Commission adopt the City's funding and legislative priorities that will be pursued by the City's representatives in Washington D.C. during the annual Congressional session. The proposed priorities include project, authorization, and policy requests which will continue to evolve as the Congressional process continues.

This year the proposed agenda includes the following:

- Coastal Flooding
- Miami Beach Convention Center
- Transportation
- Education
- North Beach Revitalization
- Flood Insurance
- Beach Renourishment
- Atlantic Greenway Network
- Municipal Bond
- Re-authorizations
- Support of Local Funding Programs

**Advisory Board Recommendation:**

N/A

**Financial Information:**


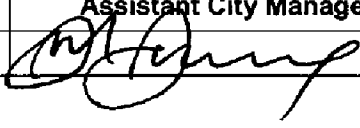
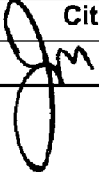
Source of Funds:		Amount	Account
<div style="border: 1px solid black; padding: 5px; width: fit-content;">N/A</div> OBPI	1		
	2		
	3		
	<b>Total</b>		

**Financial Impact Summary:**

**City Clerk's Office Legislative Tracking:**

Joe Jimenez, City Manager's Office/ Judy Hoanshelt

**Sign-Offs:**

<b>Department Director</b>	<b>Assistant City Manager</b>	<b>City Manager</b>
		



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: March 5, 2014

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE CITY'S FISCAL YEAR 2014/15 FEDERAL LEGISLATIVE AGENDA.**

### ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

### ANALYSIS

Each year, the Mayor and City Commission adopt the City's funding and legislative priorities that will be pursued by the City's representatives in Washington D.C. during the annual Congressional session. The proposed priorities include project, authorization, and policy requests which will continue to evolve as the Congressional process continues.

The proposed Federal Legislative Agenda below includes the following items:

#### **Coastal Flooding**

The City of Miami Beach urges the Federal Government to identify and fully fund programs to address coastal flooding caused by sea level rise, climate change, high tides, and any other source. Flooding in high hazard coastal areas— we need resources and funding support to deal with flooding issues, including improvements and upgrading the stormwater system including installation of projects including valley gutters, stormwater pump stations, injection wells, and other technology which increases the capacity flow of the stormwater system. Additional support to address coastal flooding including dune system restoration and maintenance, and improving seawalls is also a necessary component to achieve full infrastructure resilience. Prioritization of areas with high groundwater elevation and drainage basins that are barely above sea level should be a priority, since flooding occurs in many of these basins during periods of high tides when there has not even been any rain. This recurring flooding has a significant environmental, health and economic impact, causing businesses to be inaccessible to customers, and resulting in the additional cost of replacing and repairing damaged property. The high groundwater elevation results in slow drainage, leading to deterioration and failure of paved roads, mosquito breeding, and other public health issues.

Additionally, the City strongly supports the establishment of a National Catastrophe Fund.

### **Miami Beach Convention Center**

There is a need for Federal support for high-impact tourism industry infrastructure investments, especially in attracting an increase share of worldwide meeting and convention business. Infrastructure, such as convention and meeting facilities and related support systems, including transportation access and energy efficiency are critical to enhance the United States' competitiveness in this international marketplace. Targeted debt and equity funding opportunities through the New Market Tax Credits program of the Treasury Department should be prioritized, especially in states that are underserved by the program. Providing support to the strong foundation that already exists is critical, especially for large, transformational projects that provide significant return on investment. The Miami Beach Convention Center is South Florida's third largest economic engine, after Miami International Airport and the Port of Miami. Discussion about enhancements to the Miami Beach Convention Center has been ongoing for almost ten years, culminating with a plan of action that was agreed upon by the City of Miami Beach and Miami-Dade County, in conjunction with interested stakeholders, to develop a long-term vision and master plan for this regional convention facility.

The City is seeking to identify opportunities for Federal partnership related to:

- o Economic Development with the Department of Commerce
- o Water, Sewer and Transportation Infrastructure with the Department of Transportation/Convention Center Access and Infrastructure Improvements with the Departments of Transportation and Commerce
- o Security System with the Department of Homeland Security which will be a Model Security System for Destination Cities.
- o Sustainability, LEED, Renewable Energy and Green Building Components with the Department of Energy and the EPA;
- o Debt and Equity Funding Opportunities through New Market Tax Credits and the Department of Treasury;

### **Transportation**

- o Intelligent Transportation System (ITS)
- o Seawalls
- o Trolley
- o I-395 MacArthur Causeway/Connector to the mainland

### **Education**

The City is seeking to identify funds for educational programs through a coordinated grant development campaign to include funding and legislation. Focus will be on Middle School Achievement/Nautilus Middle School and STEM education (science, technology, engineering and mathematics).

### **North Beach Revitalization**

The City proposes to lead an effort to develop a comprehensive plan for revitalization of the North Beach area of the City. This area is considered blighted and the revitalization effort is designed to review existing conditions in the area, prepare a vision for the area's future, and design an implementation strategy to move towards the vision. The project will involve significant interaction with and input from residents, business owners and property owners. Federal funds, in the area of Economic Development are needed for this major revitalization effort.

**Flood Insurance**

The City seeks to secure relief from Flood Insurance changes inordinately affecting Miami Beach residents, primary and secondary home-owners, and real estate markets.

**Beach Renourishment**

The City urges the Army Corps of Engineers to initiate this project and apply for the necessary permits from the State of Florida to secure the necessary amount of domestic sand.

**Atlantic Greenway Network**

The City seeks authorization of \$12 million for the Atlantic Greenway Network Project in the new Transportation Authorization Bill to provide continued funding support for alternative modes of transportation that connects the workforce and consumers with centers of commerce and employment, cultural and tourism centers, parking facilities, parks, and schools. Dense urban areas, especially with historic districts, should be prioritized, both in terms of population density as well as density of housing units and other forms of habitation, such as hotel rooms. Effective modes of transportation are crucial to the continued economic success of urban historic districts, especially where less than two-thirds of the population drove to work alone and over 15% walk to work. The return on investment of alternative modes of transportation in dense urban areas is significant, since these areas have already demonstrated the local population's acceptance of the modes.

**Municipal Bonds**

The City supports the current tax exemption for municipal bonds, and opposes its elimination. The City further opposes the proposed cap of the exemption at 28%.

**Re-Authorizations**

The City supports the reauthorization of the following programs:

- o Transportation: MAP – 21
- o Workforce Investment Act

**Local Funding Programs**

The City opposes funding reductions to programs such as the Community Development Block Grant, HOME Housing Partnerships, Energy Efficiency Block Grant, Urban Area Security Initiative, Hazard Mitigation and Pre-Disaster Mitigation programs.

The City will work to identify potential resources and associated criteria for local development of alternative water sources, including funding support for a study of the feasibility of desalinization in Miami Beach, as well as funding opportunities for water reclamation activities.

The City will monitor, report and advocate for full funding of budget allocations which fund social services and other programs provided by Miami Beach organizations.

The City strongly encourages and supports the direct allocation of federal funding to local governments, without state and/or county pass-through. The City further feels that this position should be a key element of the White House's new Urban Policy.

*Commission Memorandum  
March 5, 2014  
Federal Legislative Priorities*

The City will pursue funding under the following specific grant programs/agencies:

- EDA – Department of Commerce
- Choice Neighborhoods – Department of HUD
- TIGER – Department of Transportation
- Funding for coastal flooding/sea level rise
- Environmental Protection Agency
- Department of Labor
- Homeland Security

**CONCLUSION**

The Administration recommends that the Mayor and City Commission review the proposed Federal legislative agenda, establish the priorities and adopt the attached Resolution.

JLM/JMJ/JMH

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**RESOLUTION TO BE SUBMITTED**



**Condensed Title:**

A Resolution In Support of the City's Water Project Funding Requests for the Governor's Fiscal Year 2014/15 Budget.

**Key Intended Outcome Supported:**

Maintain City's infrastructure.

**Supporting Data: Community Satisfaction Survey 2012:**

N/A

**Item Summary/Recommendation:**

The Florida House and Senate are accepting Water Project funding applications for consideration on behalf of the Governor to be considered when developing the FY 2014/15 General Appropriations Act. The Mayor and Commission support the following two applications for Water Project Funding Requests for the Governor: 1) Force Main Replacement; 2) Water Line Replacement. Funding for these projects will enable necessary improvements to be made to the sewer and water system, providing protection to Biscayne Bay Aquatic Preserve, and ultimately, protection to the beaches which are valuable to tourism and to the economic base of Miami Beach and the entire state.

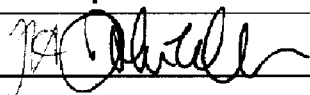
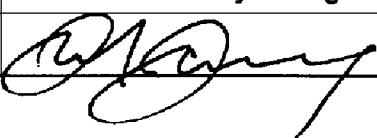

**Financial Information:**

Source of Funds	#	Amount	Account

**City Clerk's Office Legislative Tracking:**

Jose Jimenez, City Manager's Office/Judy Hoanshelt

**Sign-Offs:**


Department Director	Assistant City Manager	City Manager
		





## COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager 

DATE: March 5, 2014

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA IN SUPPORT OF THE CITY'S WATER PROJECT FUNDING REQUESTS FOR THE GOVERNOR'S FISCAL YEAR 2014/15 BUDGET**

### ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

### ANALYSIS

The Florida House and Senate are accepting Water Project funding applications for consideration on behalf of the Governor Scott, to be considered when developing the FY 2014/15 General Appropriations Act. At the February 12, 2014 Commission meeting, the Mayor and Commission authorized the City Manager to submit Water Projects for funding consideration to the Members. The following two projects were submitted:

1. Force Main: The 54-inch diameter force main carries primary waste from the Flamingo Park neighborhood. The City needs to construct a sanitary sewer force main from the Miami-Dade County Water and Sewer Department force main on Commerce Street to the City pump station on 11<sup>th</sup> Street in order to correct a 54-inch diameter force main with several compromised sections. The Flamingo Park neighborhood is a low-moderate income neighborhood, with a density of 50-70% low moderate income persons. A request of \$500,000 was submitted for this project.
2. Water Line: This is the replacement of a 20-inch diameter cast iron water line. The lead-packed connections are leaking throughout the entire length of 5,000 feet. This project stretches from Alton Road at 51<sup>st</sup> Street to Alton and 63<sup>rd</sup> Street. Alton Road is a State roadway. A request of \$500,000 was submitted for this project.

Both projects support the key intended outcome to maintain city's infrastructure. Funding for these projects will enable necessary improvements to be made to the sewer and water system, providing protection to Biscayne Bay Aquatic Preserve, and ultimately, protection to the beaches which are valuable to tourism and to the economic base of Miami Beach and the entire state.

### CONCLUSION

The Administration recommends that the Mayor and City Commission Support the City's Water Project funding requests for the Governor's Fiscal Year 2014/15 Budget.

JLM/JJ/JMH

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**RESOLUTION TO BE SUBMITTED**

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# MIAMI BEACH

JOSE SMITH, CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY

## COMMISSION MEMORANDUM

TO: Mayor Philip Levine  
Members of the City Commission

CC: Jimmy Morales, City Manager  
Ralph Granado, City Clerk

FROM: Jose Smith, City Attorney

DATE: March 5, 2014

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE II, ENTITLED "PUBLIC PLACES" TO PROHIBIT MOTORIZED MEANS OF TRANSPORTATION ON THE BEACHWALK BETWEEN 15<sup>TH</sup> TO 23<sup>RD</sup> STREETS AND ON THE LUMMUS PARK PROMENADE (ALSO KNOWN AS THE LUMMUS PARK SERPENTINE WALKWAY) BETWEEN 5<sup>TH</sup> AND 15<sup>TH</sup> STREETS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

Pursuant to the request of Commissioner Jonah Wolfson, and the direction given by the City Commission at the February 12, 2014 City Commission meeting, the above-referenced Ordinance was prepared by the City Attorney's Office and is submitted for consideration by the Mayor and City Commission for First Reading.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE II, ENTITLED "PUBLIC PLACES" TO PROHIBIT MOTORIZED MEANS OF TRANSPORTATION ON THE BEACHWALK BETWEEN 15<sup>TH</sup> TO 23<sup>RD</sup> STREETS AND ON THE LUMMUS PARK PROMENADE (ALSO KNOWN AS THE LUMMUS PARK SERPENTINE WALKWAY) BETWEEN 5<sup>TH</sup> AND 15<sup>TH</sup> STREETS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Mayor and City Commission of the City of Miami Beach seek to encourage the safe use of pedestrian ways in the City; and to facilitate and balance the health, safety, and welfare interests of pedestrians, bicyclists, and others utilizing bicycle paths, sidewalks, and sidewalk areas in the City; and

**WHEREAS**, the City of Miami Beach is an international tourist destination that attracts visitors year round and experiences significant use and congestion on its bike paths, sidewalks, and pedestrian ways and, in particular, on the Beachwalk between 15<sup>th</sup> and 23<sup>rd</sup> and on the Lummus Park Promenade (also known as the Lummus Park Serpentine Walkway) between 5<sup>th</sup> and 15<sup>th</sup> Streets which are adjacent, or in close proximity, to Convention Center hotels and other high density hotel and residential buildings, and major City attractions including Ocean Drive, Lummus Park, Lincoln Road, The Fillmore Miami Beach at the Jackie Gleason Theater, and The New World Center and Soundscape Park; and

**WHEREAS**, Section 316.2068(5) of the Florida Statutes provides that a "municipality may regulate the operation of electric personal assistive devices on any road, street, sidewalk, or bicycle path under its jurisdiction if the governing body of the...municipality determines that regulation is necessary in the interest of safety"; and

**WHEREAS**, subject to limited exceptions, Section 316.1995 of the Florida Statutes provides that a person may not drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area; and

**WHEREAS**, motorized bicycles, mopeds, and motorized scooters are defined as vehicles under Section 316.003 of the Florida Statutes and, subject to limited exceptions, are not authorized on bicycle paths, sidewalks or sidewalk areas; and

**WHEREAS**, due to the safety concerns and injuries already experienced on the City's heavily traveled beachwalk, the Mayor and City Commission hereby determine that it is in the interest of public safety that all motorized means of transportation be prohibited on that portion of the Beachwalk between 23<sup>rd</sup> and 15<sup>th</sup> Streets and on the Lummus Park Promenade (also known as the Lummus Park Serpentine Walkway) between 5<sup>th</sup> and 15<sup>th</sup> Streets at all times,

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, THAT CHAPTER 70, ARTICLE II OF THE CODE OF THE CITY OF MIAMI BEACH IS AMENDED AS FOLLOWS:**

**SECTION 1.** That Division II of Article II of Chapter 70 of the Code of the City Miami Beach is hereby amended as follows:

**CHAPTER 70**  
**MISCELLANEOUS OFFENSES**

\* \* \*

**ARTICLE II. Public Places**

\* \* \*

**DIVISION II. Bicycling, Skateboarding, Roller Skating, In-Line Skating,  
and Motorized Means of Transportation**

\* \* \*

**Sec. 70-67. Prohibited activities.**

- (a) It shall be unlawful for any person to engage in skateboarding, or operating any motorized means of transportation, except for wheelchairs or other such motorized devices when used by disabled persons, in, on, or upon any portion of Lincoln Road Mall lying west of the westerly line of Washington Avenue to the easterly line of Alton Road at any time.
- (b) It shall be unlawful for any person to engage in bicycling, roller skating, in-line skating, skateboarding, or operating any motorized means of transportation, in, on, or upon any portion of the sidewalk on the west side of Ocean Drive between South Pointe Drive and 15<sup>th</sup> Street at any time.
- (c) It shall be unlawful to operate any motorized means of transportation in, on, or upon the Beachwalk between 15<sup>th</sup> and 23<sup>rd</sup> Streets and the Lummus Park Promenade (also known as the Lummus Park Serpentine Walkway) between 5<sup>th</sup> and 15<sup>th</sup> Streets at any time, except for wheelchairs or other motorized means of transportation when used by disabled persons.
- (~~e~~) (d) It shall be unlawful to operate any motorized means of transportation, in, on, or upon any sidewalk or sidewalk areas in the city, except for (a) wheelchairs or other motorized means of transportation when used by disabled persons and (b) electric personal assistive mobility devices, where otherwise not prohibited, which shall be restricted to a maximum speed of eight miles per hour.
- (~~e~~) (e) It shall be unlawful to operate an electric personal assistive mobility device on any bicycle path in the city, where otherwise not prohibited, at a speed greater than eight miles per hour.
- (~~e~~) (f) It shall be unlawful to grind, rail slide, launch, or stall on the skateboard, in-line skates, or roller skates or to engage in any other such type of activity which results in the damage of public or private property.
- (~~f~~) (g) It shall be unlawful to operate an electric personal assistive mobility device on interior pathways within South Pointe Park and Collins Park.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 3. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect on the \_\_\_\_\_ day of March, 2014.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

\_\_\_\_\_  
Philip Levine, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

(Sponsored by Commissioner Jonah Wolfson)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

*Julio D. ...*  
\_\_\_\_\_  
City Attorney  
*for* *29/2* *2-28-14*  
\_\_\_\_\_  
Date



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ADOPTING THE THIRD AMENDMENT TO THE CAPITAL BUDGET FOR FISCAL YEAR 2013/14.**

**WHEREAS**, the Miami Beach Capital Budget for FY 2013/14 was approved and appropriated via Resolution No. 2013-28354 on September 30, 2013; and

**WHEREAS**, the first amendment to the Miami Beach Capital Budget for FY 2013/14 was approved and appropriated via Resolution No. 2013-28442 on December 11, 2013; and

**WHEREAS**, the second amendment to the Miami Beach Capital Budget for FY 2013/14 was approved and appropriated via Resolution No. 2014-28470 on February 12, 2014; and

**WHEREAS**, it is recommended the FY 2013/14 Capital Budget be amended to add appropriations totaling \$25,250,000 and re-appropriate \$90,000 between existing projects as outlined in "Attachment C – Project"; and

**WHEREAS**, the proposed third amendment to the FY 2013/14 Capital Budget is included in "Attachment A – Source of Funds" and "Attachment B – Program".

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH**, that the Mayor and City Commission hereby adopt the Third Amendment to the Capital Budget for Fiscal Year 2013/14 as shown in Attachment A (Source of Funds), Attachment B (Programs) and Attachment C (Projects).

**PASSED AND ADOPTED this 5<sup>th</sup> day of March, 2014.**

\_\_\_\_\_  
Philip Levine, Mayor

Attest:

\_\_\_\_\_  
Rafael Granado, City Clerk

*Rafael Granado*  
\_\_\_\_\_  
City Attorney

*2-28-14*  
\_\_\_\_\_  
Date

Agenda Item R7A  
Date 3-5-14

**ATTACHMENT A  
FY 2013/14 CAPITAL BUDGET  
SOURCE OF FUNDS  
Amended 03/05/14**

<b>Funding Source</b>	<b>Ameded 1/15/14</b>	<b>Amended 3/5/14</b>	<b>Revised</b>
1997 Parking Sys. Rev. Bonds	\$ 217,000		\$ 217,000
2003 GO Bonds - Neighborhood Improvement	148,000		148,000
2003 GO Bonds - Parks & Beaches	553,000		553,000
2010 Parking Bonds Reso. 2010-27491	160,000		160,000
7th Street Garage	1,900,000		1,900,000
Capital Projects Not Financed by Bonds	89,000		89,000
City Center RDA Capital Fund	15,073,000		15,073,000
Capital Reserve	691,355		691,355
Communications Fund	40,000		40,000
Convention Center	3,701,000		3,701,000
Equipment Loan/Lease	4,644,000		4,644,000
Fleet Management Fund	160,000		160,000
Gulf Breeze 2006	(83,759)		(83,759)
Half Cent Transit Surtax - County	1,569,000		1,569,000
Info & Communications Technology Fund	486,000		486,000
Local Option Gas Tax	544,000		544,000
Lowes Royal Palm Proceeds	0	14,000,000	14,000,000
MB Quality of Life Resort Tax Fund - 1%	1,024,000		1,024,000
MDC CDT Interlocal-CDT/Resort Tax Eligib	4,000,000		4,000,000
Miami-Dade County Bond	2,933,581		2,933,581
NB Quality of Life Resort Tax Fund - 1%	678,000		678,000
Parking Operations Fund	1,109,000		1,109,000
Pay-As-You-Go	1,726,000		1,726,000
RDA - Anchor Garage Fund	485,000		485,000
Renewal & Replacement Fund	2,746,000		2,746,000
SB Quality of Life Resort Tax Fund - 1%	980,000		980,000
South Pointe Capital	4,283,000	3,750,000	8,033,000
South Pointe RDA	1,636,000		1,636,000
Storm Water Bnd Fund 431 RESO#2011-27782	529,000		529,000
Stormwater Bonds 2000S	(256,000)		(256,000)
Stormwater LOC Reso. No 2009-27076	2,007,419	7,500,000	9,507,419
W&S GBL Series 2010 CMB Reso 2009-27243	81,759		81,759
HUD Section 108 Loans	17,391		17,391
Water and Sewer Bonds 2000s	34,000		34,000
People's Transportation Fund	13,000		13,000
<b>Total Appropriation as of 3/5/14</b>	<b>\$ 53,918,746</b>	<b>\$ 25,250,000</b>	<b>\$ 79,168,746</b>

*The Ocean rescue Lifeguard stands will be funded from funds previously appropriated for the 555 Building Recirculation Fan Installation and Exterior Door Replacement projects, which are on hold pending the final design of the Convention Center.*

**ATTACHMENT B  
FY 2013/14 CAPITAL BUDGET  
PROGRAMS  
Amended 03/05/14**

<b>Program Area</b>	<b>Amended 1/15/14</b>	<b>Amended 3/5/14</b>	<b>Revised</b>
Art in Public Places	\$381,000		\$381,000
Bridges	185,000		185,000
Convention Center	3,700,000	14,000,000	17,700,000
Environmental	2,275,000		2,275,000
Equipment	8,626,000		8,626,000
General Public Buildings	3,750,000		3,750,000
Golf Courses	967,000		967,000
Information Technology	493,000		493,000
Monuments	189,000		189,000
Parking	204,000		204,000
Parking Garages	12,525,000		12,525,000
Parking Lots	459,000		459,000
Parks	4,450,000		4,450,000
Renewal & Replacement	6,003,000		6,003,000
Seawalls	121,000		121,000
Streets/ Sidewalk Imps	5,295,746		5,295,746
Transit/ Transportation	3,432,000		3,432,000
Utilities	863,000	11,250,000	12,113,000
<b>Total Appropriation as of 3/5/14</b>	<b>\$ 53,918,746</b>	<b>\$ 25,250,000</b>	<b>\$ 79,168,746</b>

*The Ocean rescue Lifeguard stands will be funded from funds previously appropriated for the 555 Building Recirculation Fan Installation and Exterior Door Replacement projects, which are on hold pending the final design of the Convention Center.*

**ATTACHMENT C  
CAPITAL BUDGET  
PROJECT  
Amended 03/05/14**

<b>Capital Project Name</b>	<b>Current Capital Budget</b>	<b>Amended 03/05/14</b>	<b>CurrentCapital Budget</b>
6th, 10th and 14th Street Stormwater Pump Stations	\$0	\$11,250,000	\$11,250,000
Ocean Rescue Lifeguard Stands	0	90,000	90,000
555 Building Installation of Recirculation Fans	79,000	(79,000)	0
555 Building Exterior Door Replacements	55,098	(11,000)	44,098
Convention Center Renovation (CC- Improvements County GO)	600,000	14,000,000	14,600,000
<b>Total</b>	<b>\$734,098</b>	<b>\$25,250,000</b>	<b>\$25,984,098</b>



# MIAMI BEACH

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

## COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: March 5, 2014

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, WAIVING, BY 5/7THS VOTE, COMPETITIVE BIDDING, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT FOR THE MANAGEMENT AND OPERATION OF THE CITY'S FLAMINGO AND NORTH SHORE PARK TENNIS CENTERS WITH MIAMI BEACH TENNIS MANAGEMENT, LLC AND, IF SUCCESSFUL, FURTHER AUTHORIZING THE CITY MANAGER TO BRING THE FINAL NEGOTIATED AGREEMENT BACK TO THE CITY COMMISSION FOR APPROVAL**

### BACKGROUND

On April 15, 2007, the City entered into an agreement with Green Square, Inc. (Green Square) for the management and operation of the City's Flamingo Park and North Shore Tennis Center (the Agreement). The Agreement was for an initial term of three (3) years, with an option to renew for two (2) additional one year terms (the initial term and renewal options are hereinafter referred to collectively as the Term). The Term of the Agreement expired on April 14, 2012; since then, the Agreement has been on a month to month term, until such time as a Request for Proposals could be issued (to coincide with the conclusion of construction and re-opening of the new Flamingo Park Tennis Center), and a new contract entered into.

On February 6, 2013, the Mayor and City Commission approved and authorized the issuance of RFP 095-2013 for the Comprehensive Professional Tennis Management and Operations Services at the City's Flamingo Park and North Shore Tennis Centers (the RFP). The RFP process resulted in the receipt of seven (7) proposals (including one from the current operator, Green Square). An Evaluation Committee appointed by the City Manager convened to hear presentations from the proposers on May 13, 2013; following which, the Committee unanimously recommended Miami Beach Tennis Management, LLC (Miami Beach Tennis Management) as the top ranked proposer. It should also be noted that, of the four (4) proposers ranked by the Evaluation Committee, Green Square was ranked last (i.e. fourth).

After considering the Evaluation Committee's recommendation, the City Manager exercised his own due diligence pertaining to the ranked proposals, and concurred with the Committee's recommendation. The Manager's recommendation was presented to the City Commission at its September 11, 2013 meeting. After extensive deliberation,

which also included extensive public comment, the City Commission voted to reject all proposals submitted pursuant to the RFP; continued the current Agreement with Green Square on a month to month term; and directed the City Manager to report back with a recommendation as to how to proceed with regard to providing the aforesaid tennis management services. An additional motion was also made to refer a discussion regarding the maintenance of the tennis courts to the Neighborhood and Community Affairs Committee.

While the Administration subsequently met with Green Square and did, in fact, continue to extend the Agreement on a month to month basis (terminable for convenience and without cause by the City upon notice to Green Square), there were no Neighborhoods and Community Affairs Committee meetings in November and December. The remaining action items were to be placed for discussion at the January Neighborhoods/Community Affairs Committee meeting; however, on January 9, 2014, Commissioner Tobin placed a discussion and action item to be heard at the January 15<sup>th</sup> City Commission meeting, which included discussion regarding the selection of the management contract for the tennis facilities at North Shore and Flamingo Park. At the request of several members of the public who contacted his office, Commissioner Tobin deferred his Agenda item to the February 12, 2014 City Commission meeting.

Following discussion and public comment at the February 12, 2014 meeting, the City Commission voted to waive competitive bidding as permitted pursuant to Section 2-367(e) of the City Code, and authorized the City Manager to negotiate an agreement for the operation and management of the City's tennis centers with Miami Beach Tennis Management (the top ranked proposer recommended by the Evaluation Committee, as well as by the City Manager, under the prior RFP). However, in light of an allegation made by Green Square's counsel at the meeting, objecting to the waiver of competitive bidding, on the grounds that the City had not complied with the procedural requirements of Section 2-367(e) of the City Code; and, further, in order to be fully transparent with regard to this issue, the City Commission, acting on the recommendation of the City Attorney's Office, subsequently amended its motion (at the same February 12, 2014 meeting) to clarify that the action taken on February 12<sup>th</sup> was not intended to be final and binding, but rather an expression of sentiment of the Commission's intent to waive competitive bidding. It was concluded that the matter would be brought back at the March 5, 2014 City Commission meeting, as a formal request for waiver of competitive bidding to award the contract to Miami Beach Tennis Management. That way too, there would be no issue as to the City's compliance with the procedural requirements under Section 2-367(e) of the City Code, and any objection as to the City's alleged failure to comply with such procedural requirements would therefore be cured.

### **CITY MANAGER'S RECOMMENDATION**

One of the procedural concerns that arose at the February 12, 2014 City Commission meeting was that I did not make a *written* recommendation with regard to the proposed waiver of competitive bidding, which would, in this instance, have authorized me to negotiate an agreement with Miami Beach Tennis Management. While I did give my recommendation verbally at the February 12<sup>th</sup> meeting, I strongly believe, as does this City Commission, that any mandate for effective government must include transparency and accountability. To that end, I support the City Commission's final motion on February 12, 2014 which, rather than take final action on the waiver at that time, required that this item be brought back to the March 5 2013 City Commission meeting, so that it could be placed and noticed on the agenda, and heard, as a formal request to

waive competitive bidding (with all the conditions precedent incident thereto -- including my written recommendation -- having been satisfied in accordance with City Code requirements).

Following the February 12<sup>th</sup> meeting, I met with the City Attorney's Office to review Section 2-367(e) of the City Code (which is the enabling legislation that grants the City Commission the authority to waive competitive bidding); particularly with regard to what is intended and required by that Code section pertaining to my written recommendation. The City Attorney's Office has opined (and I concur) that, while the City Code requires me to give a written recommendation as a condition precedent to the City Commission's consideration of a waiver of competitive bidding, my recommendation need not necessarily be in favor of the waiver. In other words, my recommendation, as with all the other recommendations that I make to the City Commission, including those with regard to the procurement of goods and services, is merely advisory, and the City Commission is not bound by it. Having considered my written recommendation, the City Commission's determination for waiving competitive bidding under Section 2-367(e) is that the proposed waiver be *in the best interest of the City*.

As I stated at the February 12<sup>th</sup>, 2014 City Commission meeting, when asked what my recommendation would be with regard to a waiver of competitive bidding in this matter, it is my general belief that waivers of competitive bidding should only be considered under exigent circumstances and, therefore, my preference would be that, whenever possible, a competitive bidding process be the preferred means for procurement of goods or services. As such, my recommendation was, and is, not in favor of waiving a competitive procurement process.

At the February 12, 2014 meeting, I also addressed allegations that the prior RFP process was somehow faulty. I stated that I believed that the prior RFP process, which resulted in an independent Evaluation Committee's, as well as my own, recommendation to negotiate with Miami Beach Tennis Management (as the top ranked proposer), was a fair process. In light of numerous members of the public who opposed the recommendation to award to Miami Beach Tennis Management, as the first ranked proposer, and who, in the alternative, strongly urged that the contract be awarded to the *fourth* ranked proposer (Green Square), the City Commission felt that it would be more appropriate—and legally sustainable—to reject all proposals, and come back at a later date with other alternatives.

I understand this City Commission's concerns, particularly as enunciated by Commissioner Steinberg at the February 12<sup>th</sup> City Commission meeting, that the current tennis management contract has been on a month to month term for far too long (i.e. since April 2012), and that there is a strong argument to be made that it would be in the City's best interest to not delay this matter any further; select a manager; and negotiate and execute a new contract, with better and stronger safeguards and benchmarks than the current Agreement offers. Clearly, going through another procurement process would result in a further delay and, in the interim, we would continue to operate under the terms of the existing Agreement. In fact, if the City Commission decides to waive competitive bidding and award, I would recommend that it be on terms no less favorable to the City than the terms proposed as part of the earlier procurement (i.e. the prior RFP).

I also note that when the motion was made by Commissioner Grieco at the February 12<sup>th</sup> meeting to issue a new Request for Proposals, that motion (which ultimately failed) was specific that the new solicitation be on terms identical to the prior RFP. The concern

expressed by some was that this would undermine the competitive process by giving bidders a second bite at the apple. I don't think that going through a new competitive bid process, under the same terms, would, in this case, be in the best interest of the City. If the Commission were inclined to issue a new RFP, there would be some revisions we would request (e.g. children's programming, clinics). In the event the Commission elects not to issue a new RFP, we would recommend that any selection would include giving staff the authority to negotiate such additional items.

In the event that the City Commission elects to not delay the selection of a manager for the City's tennis centers any further, and the motion to waive a new competitive solicitation for these services is adopted, I stand by my original recommendation on September 11, 2013, which requested authorization to negotiate with Miami Beach Tennis Management, as the top ranked proposer. Even though the City Commission rejected all proposals pursuant to the prior RFP, it does not negate the fact that there was a comprehensive review process for all proposals received pursuant to that RFP (including the two that have been at issue since September 2012, Miami Beach Tennis Management and Green Square). Therefore, in now making my written recommendation (with regard to a proposed waiver of competitive bidding to authorize me to negotiate with Miami Beach Tennis Management), I think it's entirely appropriate for me to refer back to the due diligence that I did with respect to Miami Beach Tennis Management (including the recommendation that I made) under the prior RFP. For ease of reference, I have attached and incorporated the September 11, 2013 City Commission Memorandum, containing the Evaluation Committee's and my written recommendation pursuant to the prior RFP, as Attachment "A" to this Memorandum.

## **CONCLUSION**

I do not recommend waiving a competitive procurement process. However, as the City Commission has previously expressed a sentiment to waive competitive bidding and, further, if the City Commission does in fact vote to waive competitive bidding today, finding that it is in the best interest of the City to do so, then I stand by my recommendation of September 11, 2013, which was the result of a competitive process. Accordingly, in such event, I would also request that the Mayor and City Commission authorize me to negotiate a new contract for the comprehensive management and operation of the City's tennis centers, at terms no less favorable than the business terms continued in Miami Beach Tennis Management's proposal pursuant to the prior RFP, and such other items that staff believes would be important for the effective operation of the Tennis Centers. Upon conclusion of negotiations, the final contract will be brought back to the City Commission for its consideration and approval.





# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: September 11, 2013

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF PROPOSALS, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 95-2013ME, FOR THE COMPREHENSIVE PROFESSIONAL TENNIS MANAGEMENT AND OPERATIONS SERVICES AT THE CITY'S FLAMINGO AND NORTH SHORE PARK TENNIS CENTERS.**

### ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

### KEY INTENDED OUTCOME SUPPORTED

Increase satisfaction with recreational programs.

### FUNDING

As this Management Agreement calls for a minimum payment to be made by Contractor to the City, General Funds allocation is not designated.

### BACKGROUND

The current agreement with Greensquare, Inc., for the management and operations of the City's tennis centers was due to expire in April, 2012.

On October 27, 2011, the Finance and Citywide Projects Committee held a discussion pertaining to the "Issuance of the Request for Proposals (RFP) for the Comprehensive Professional Tennis Management and Operations Services at the City's Flamingo Park and North Shore Park Tennis Centers". The discussion focused on the issues related to the timing of the issuance of this RFP, taking into consideration that the Flamingo Park Tennis Center was anticipated to be under complete reconstruction in the near future. It was reported at that time it was anticipated that the demolition and construction of the Flamingo Park Tennis Center would begin in January, 2012. It was further reported that the construction would take approximately one year, with an expected completion date of January, 2013. The Tennis Center has since opened with full operations of the Pro Shop, locker rooms and maintenance facility along with the 17 Clay Hydro-Courts.

Following discussion of the issue at their October 27, 2011 meeting, the Finance and Citywide Projects Committee recommended that the RFP for the selection of the operator of the City's tennis facilities not be issued at that time but, rather, that the RFP be issued with sufficient time for the selected operator to be able to assume operations of the tennis facilities concurrent with the opening of the renovated Flamingo Park Tennis Center. As such, they

recommended the extension of the current Agreement with Greensquare, Inc. on a month-to-month basis until such time as that competitive process is complete. On February 8, 2012, the Commission approved the Finance and Citywide Committee's recommendation to extend on a month to month basis the aforementioned agreement until such time that an RFP be issued to coincide with the conclusion of construction and the re-opening of the Flamingo Park tennis center.

On June 6, 2012, the City Commission approved a referral for a discussion to the Land Use and Development Committee regarding the possibility of separation the Maintenance component of the Tennis Centers from the Operations and Management of the Tennis Centers. The item was deferred from the September and November LUDC meetings and subsequently discussed at the December 19, 2012 meeting. The Committee discussed the item and recommended not to separate the maintenance from the operations. However, the Committee did recommend a great emphasis be placed on maintenance standards and requirements in the RFP.

In addition to the revised scope of services to include greater emphasis on maintenance standards, the Administration further facilitated a public industry review meeting on January 22, 2013 with the intent of obtaining feedback on the proposed revised scope of services; the RFP requirements; and to consider best practices or operations efficiencies that may be proposed by the attendees. The attendees to the industry review meeting included industry matter experts, residents, and members of the Tennis Advisory Committee. Suggestions, recommendations, and opinions were reviewed by staff and incorporated in the RFP by the Administration.

At the January 28, 2013 Tennis Advisory Committee meeting, the members of the committee discussed the timing of the issuance of the RFP and its impact on the Summer Program curriculum and registration, and more specifically the impact on parents and children that have been involved with prior Summer programming. The committee's desire was to encourage the new contractor and agreement to consider hiring those professionals that have good reputations and are familiar with the participants.

It was the Administration's objective that by issuing the RFP at this time there will be no break in quality operations or services to the City's tennis playing residents and guests. The time line as indicated below permitted the timely submission of responses, an evaluation committee process, and sufficient time to negotiate and award a contract that is in the best interest of the City.

#### **RFP PROCESS**

On February 6, 2013, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) 095-2013ME For the Comprehensive Professional Tennis Management and Operations Services at the City's Flamingo and North Shore Park Tennis Centers.

RFP 095-2013ME was issued on February 13, 2013, with an opening date of March 28, 2013. A pre-proposal conference to provide information to the proposers submitting a response was held on February 25, 2013. Seven (7) prospective proposers downloaded the solicitation from The Public Group. Additionally, the Procurement Division notified over 60 additional individuals and/or potential proposers via e-mail, which resulted in the receipt of proposals from the following seven (7) firms:

September 11, 2013

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1. Annacone Tennis Management, LLC
2. Belkin Tennis, LLC
3. Cliff Drysdale Management, Inc.
4. Greensquare, Inc.
5. Jane Forman Sports
6. Miami Beach Tennis Management, LLC
7. Premier Tennis Management, Inc.

On March 25, 2013, the City Manager via Letter to Commission (LTC) No. 094-2013, appointed an Evaluation Committee (the "Committee") consisting of the following individuals:

- David Berger, Resident and Chair of the City's Tennis Advisory Committee
- Dolores Hirsh, Resident and member of the City's Tennis Advisory Committee
- Jonathan Groff, Resident and Chair of the Parks and Recreational Facilities Board
- Andrew Plotkin, Park Facility Manager of North Shore Park Youth Center and Tennis Center
- Cynthia Casanova, Park Facility Manager of Flamingo Park and Tennis Center
- Lowell Coffman, City of Plantation, Tennis Center Maintenance Supervisor ( United States Professional Tennis Association member, certified P1 Teaching Professional and Acting Assistant Director of the Frank Veltri Tennis Center)
- Lew Brewer, Director, Junior Competition, United States Tennis Association ( USTA) Player Development

Alternates:

- Sidney Goldin, Resident, and Leadership Academy, Police Academy Graduate
- Robert Cardenas, Resident, previous CFO with Fox Pan American Sports

Committee member Dolores Hirsh and Lew Brewer were submitted as references by two (2) of the proposers and therefore, replaced by the alternate committee members, Sidney Goldin and Robert Cardenas.

The Committee convened on May 13, 2013 to consider proposals received and interview the proposing teams. The Committee was provided with an overview of the project, information relative to the City's Code of Silence Ordinance and the Government Sunshine Law. The Committee was also provided with general information on the scope of services, Performance Evaluation Surveys, and additional pertinent information from all responsive proposers. Additionally, the Committee engaged in a Question and Answer session after the presentation of each proposer. Committee member Robert Cardenas was not in attendance.

The Evaluation Committee was also presented with a comparative analysis, prepared by the City's Finance Department, of financial proposals submitted by each proposer, which, as requested in the RFP asked that proposers submit a monthly guaranteed minimum revenue to the City and a percentage of gross revenue, when the gross revenue is in excess of \$650,000, to be paid monthly thereafter. The comparative analysis is attached.

The Committee was instructed to score and rank each proposal pursuant to the evaluation criteria established in the RFP, which was as follows:

<b>Qualifications of the Proposer</b>	<b>25 points</b>
<ul style="list-style-type: none"> <li>• Qualifications of the management company, key personnel proposed, and the maintenance Sub-Contractor, if any, as part of the Team.</li> <li>• Past Performances based on number and quality of the Performance Evaluation Surveys.</li> <li>• Financial Capacity.</li> </ul>	
<b>Scope of Services</b>	<b>25 points</b>
<ul style="list-style-type: none"> <li>• Strength and Sustainability of the Operating Plan.</li> <li>• Maintenance Procedures including the quality of the Maintenance Sub-Contractor.</li> </ul>	
<b>Methodology and Approach</b>	<b>25 points</b>
<ul style="list-style-type: none"> <li>• Corporate Responsibility (Community involvement/Clinics/Tournaments)</li> <li>• Strength of the Quality Control / Quality Assurance plans</li> </ul>	
<b>Fee Proposal</b>	<b>25 points</b>

Additional points, over the aforementioned potential points were to be allocated, if applicable and in accordance to following ordinances.

**LOCAL PREFERENCE:** The Procurement personnel assigned an additional five (5) points to Proposers, which are, or include as part of their proposal team, a Miami Beach-based vendor as defined in the City's Local Preference Ordinance. Please note that one (1) proposer, Greensquare, was eligible for Local preference.

**VETERANS PREFERENCE:** The Procurement personnel assigned an additional five (5) points to Proposers, which are, or include as part of their proposal team, a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise, as defined in the City's Veterans Preference Ordinance. Please note that no proposer was eligible for Veterans preference.

The Committee discussed its individual perceptions of the proposers' qualifications, experience, and competence, and further scored and ranked the proposers accordingly. The Committee's final rankings are as follows:

<b>Final Rankings</b>	David Berger	Sidney Goldin	Jonathan Groff	Andrew Plotkin	Cynthia Casanova	Lowell Coffman	<b>LOW AGGREGATE TOTALS</b>
Miami Beach Tennis Management, LLC	(90) 1	(80) 3	(87) 1	(76) 1	(87) 1	(92) 1	(8) 1
Cliff Drysdale Management, Inc	(65) 3	(95) 1	(84) 3	(73) 2	(76) 3	(86) 3	(15) 2
Jane Forman Sports Greensquare, Inc	(60) 5	(90) 2	(74) 4	(67) 5	(83) 2	(89) 2	(20) 3
Annacone Tennis Management, LLC	(65) 3	(52) 5	(86) 2	(71) 3	(63) 4	(84) 4	(21) 4
Premier Tennis Management, Inc	(45) 6	(70) 4	(55) 6	(71) 3	(40) 6	(77) 6	(31) 5
Belkin Tennis, LLC	(70) 2	(45) 6	(57) 5	(64) 6	(37) 7	(80) 5	(31) 5
	(35) 7	(35) 7	(26) 7	(44) 7	(43) 5	(75) 7	(40) 7

Following the review of the rankings, a motion was presented by David Berger, seconded by Jonathan Groff, and unanimously approved by all Committee members, to recommend entering into negotiations with the top-ranked proposer, Miami Beach Tennis Management, LLC; and should the Administration not be successful in negotiating an agreement with the top-ranked proposer, authorizing negotiations with the second-ranked proposer, Cliff Drysdale Management, Inc; and should the administration not be successful in negotiating an agreement with the second-ranked proposer, authorizing negotiations with the third-ranked proposer, Jane Forman Sports; and should the Administration not be successful in negotiating an agreement with the third-ranked proposer, authorizing negotiations with the fourth-ranked proposer, Greensquare, Inc.

#### **MIAMI BEACH TENNIS MANAGEMENT, LLC**

According to information presented by the proposer:

Miami Beach Tennis Management (MBTM), is a full service tennis management company, which specializes in the management of public tennis centers and is dedicated to developing, promoting, teaching, and evaluating community focused tennis programs.

The firm, founded by Mr. Howie Orlin, manages, maintains, and develops world-class public tennis facilities. Mr. Orlin has spent nearly four decades promoting tennis. Prior to his current position, he was the Director/Manager of the Flamingo Park Tennis Center for 26 years (1976-2002). He has spoken at USPTA seminars throughout the country.

MBTM's philosophy is to integrate into the Miami Beach community as a "good corporate citizen;" establishing a balance between developing revenue opportunities for the City, increasing employee fulfillment and quality of life, providing excellent customer service, and serving the Miami Beach environment and community.

MBTM provides the following spectrum of products and services in addition to routine maintenance, management and operation of the tennis centers:

- Clinics—one and a half hour group sessions; capped at six players per court. A typical configuration is four professionals, four courts and 24 players; offered to Miami Beach residents, non-residents and members.
- Tennis Instruction—private and semi-private lessons to players of all abilities from certified and licensed tennis professionals with three levels of expertise.
- Camps—certified, licensed and respected tennis professionals provide players the opportunity to improve their game, work hard, make new friends and most of all, have fun.
  - For the youth and junior segments, MBTM will host summer camps and holiday camps. Full-day includes morning and afternoon sessions with lunch. A half-day session is also available, morning or afternoon
  - For adults, weekly and weekend camps MBTM will be available to help them take their game to the next level
- Specialty Events, Tournaments and League Play
  - Specialty Events—Pro-Ams, fundraisers, charitable events
  - Tournaments—U.S.T.A. sanctioned events, inter club, competitive ladder
- Academy—an in residence program for those most committed to excellence. The best junior players come to the Academy to help achieve goals of playing on the Pro Tour or receiving a Division I NCAA scholarship. Players are challenged daily in preparation to compete with other top ranked juniors at National and International USTA tournaments. The junior tennis academy is designed to offer an elite and demanding tennis training schedule, and is known for its intensity on the court and dedication to player growth and development.

- Food and Beverage—a snackbar operation that will provide healthy food and beverages to both tennis and park patrons.
- Pro Shop—features the latest tennis fashions and state-of-the art equipment for men, women and children. Everything from socks to sunblock and everything in between—rackets, shoes, apparel, duffle bags, sunglasses and other specialty items. Brands include Wilson, Prince, Babolat, Head, Nike, Fila, Lacoste, and New Balance. The facility also offers same-day racket stringing, game arranging , ball machine and racket rentals. In the future, MBTM will have a web storefront as well, offering products and services.

**MANAGER'S DUE DILIGENCE & RECOMMENDATION**

After considering the review of the recommendation of City staff, the City Manager exercised his due diligence and is recommending that the Mayor and the City Commission enter into negotiations with the top-ranked proposers, Miami Beach Tennis Management, LLC; and should the Administration not be successful in negotiating an agreement with the top-ranked proposer, authorizing negotiations with the second-ranked proposer, Cliff Drysdale Management, Inc; and should the administration not be successful in negotiating an agreement with the second-ranked proposer, authorizing negotiations with the third-ranked proposer, Jane Forman Sports; and should the Administration not be successful in negotiating an agreement with the third-ranked proposer, authorizing negotiations with the fourth-ranked proposer, Greensquare, Inc.

In addition to the results of the Committee evaluation, the City Manager considered the following in recommending Miami Beach Tennis Management as the top-ranked firm:

- As Appendix A indicates, Miami Beach Tennis Management of the top-ranked proposers, submitted the highest guaranteed revenue to the City in comparison to other top-ranked proposers as follows:

Miami Beach Tennis Management	\$120,000
Cliff Drysdale Management	\$12,000
Jane Forman Sports	\$72,000
Greensquare	\$48,000

In addition to the minimum guaranteed revenue, proposers were asked to submit the percentage of revenue that would be received by the City when gross revenue exceeded \$650,000. When this amount is added to the minimum guaranteed revenue, Miami Beach Tennis Management continues to offer the City the overall most lucrative financial proposal.

- Miami Beach Tennis Management has indicated a willingness to consider retaining current contractor staff employed at both tennis centers. In the event that the City is unable to negotiate a successful agreement with Miami Beach Tennis Management, other top-ranked proposers will be encouraged to do the same during the negotiation process.

**CONCLUSION**

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida accept the recommendation of the City Manager pertaining to the ranking of proposals, pursuant to request for proposals (RFP) No. 095-2013ME For the comprehensive professional tennis management and operations services at the City's Flamingo and North Shore Park Tennis Center; authorizing the administration to enter into negotiations with the top-ranked proposer, Miami Beach Tennis Management, LLC; and should the Administration not be successful in negotiating an agreement with the top-ranked proposer, authorizing negotiations with the second-ranked proposer, Cliff Drysdale Management, Inc; and should the administration not be successful in negotiating an agreement with the second-ranked

Commission Memorandum – RFP # 095-2013 Tennis Management

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proposer, authorizing negotiations with the third-ranked proposer, Jane Forman Sports; and should the Administration not be successful in negotiating an agreement with the third-ranked proposer, authorizing negotiations with the fourth-ranked proposer, Greensquare, Inc.; And Further Authorizing The Mayor And City Clerk To Execute An Agreement Upon Conclusion Of Successful Negotiations By The Administration.

  
JLM / KGB / AD / ME

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# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

JOSE SMITH, CITY ATTORNEY

## COMMISSION MEMORANDUM

**TO: MAYOR PHILIP LEVINE  
MEMBERS OF THE CITY COMMISSION  
CITY MANAGER JIMMY MORALES**

**FROM: CITY ATTORNEY JOSE SMITH** *Zal Cas. L. (for C. Attorney)*

**DATE: March 5, 2014**

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING SECTION 70-2, ENTITLED "RESERVED" TO CREATE REGULATIONS THAT DEFINE NICOTINE VAPORIZER AND LIQUID NICOTINE AND THAT PROHIBIT THE SALE, BARTER, PROVIDING DIRECTLY OR INDIRECTLY, GIFTING, MAKING AVAILABLE FOR USE OR POSSESSION, OR THE FURNISHING OF NICOTINE VAPORIZERS AND LIQUID NICOTINE TO PERSONS UNDER THE AGE OF EIGHTEEN (18); MOREOVER, MAKING THE POSSESSION OF NICOTINE VAPORIZERS AND LIQUID NICOTINE ILLEGAL FOR PERSONS UNDER THE AGE OF EIGHTEEN (18); AND PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

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Pursuant to the request of Commissioner Micky Steinberg, the attached Ordinance is submitted for consideration by the Mayor and City Commission on First Reading, and for referral to the Neighborhood/Community Affairs Committee for consideration prior to Second Reading/Public Hearing.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING SECTION 70-2, ENTITLED "RESERVED" TO CREATE REGULATIONS THAT DEFINE NICOTINE VAPORIZER AND LIQUID NICOTINE AND THAT PROHIBIT THE SALE, BARTER, PROVIDING DIRECTLY OR INDIRECTLY, GIFTING, MAKING AVAILABLE FOR USE OR POSSESSION, OR THE FURNISHING OF NICOTINE VAPORIZERS AND LIQUID NICOTINE TO PERSONS UNDER THE AGE OF EIGHTEEN (18); MOREOVER, MAKING THE POSSESSION OF NICOTINE VAPORIZERS AND LIQUID NICOTINE ILLEGAL FOR PERSONS UNDER THE AGE OF EIGHTEEN (18); AND PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**WHEREAS**, new unregulated high-tech nicotine vaporizers (also referred to as electronic cigarettes or e-cigarettes) have recently been made available to consumers, including minors, and allow users to inhale vaporized liquid nicotine created by heat through an electronic ignition system, and the vapors are expelled by a cartridge that usually contains a concentration of pure nicotine; and

**WHEREAS**, after inhaling, the user then blows out the heated vapors producing a "cloud" of undetermined substances; and

**WHEREAS**, recently, many State Attorney Generals sent a letter to the Food and Drug Administration ("FDA") urging the agency to regulate electronic cigarettes in the same way it regulates tobacco products stating that e-cigarettes are being marketed to children through cartoon-like advertising characters and by offering fruit and candy flavors, much like cigarettes were once marketed to attain new smokers; and

**WHEREAS**, the FDA and public health advocates have warned these flavorings are purposefully meant to appeal to and attract young people and are commonly referred to as "training wheels" for traditional cigarettes; and

**WHEREAS**, studies show that adolescents can become addicted to nicotine after ingesting the equivalent of 20 traditional cigarettes, the amount typically available in a single pack, which can lead young people into a lifetime of nicotine addiction; and

**WHEREAS**, in the United States, more than 90% of current adult smokers began smoking before the age of 18 and the younger an individual is when he or she experiments with smoking, the more likely he or she is to become a regular or daily smoker; and

**WHEREAS**, two-thirds of children who begin smoking in the sixth grade become regular adult smokers, and almost half (46%) of those who initiate smoking in the eleventh grade become regular adult smokers; and

**WHEREAS**, the percentage of United States middle and high school students who use electronic cigarettes, or e-cigarettes, more than doubled from 2011 to 2012, according to data published by the Centers for Disease Control and Prevention; and

**WHEREAS**, federal law restricting the sale of tobacco products to minors currently applies only to cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco, and does not apply to nicotine vaporizers; and

**WHEREAS**, the City Commission finds that it is in the best interest of the City of Miami Beach and necessary to protect the health, safety, and welfare of the residents and visitors of the City to prohibit the sale of nicotine vaporizers and liquid nicotine to minors and to prohibit the possession of these items by minors.

**NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1.**

That Chapter 70, Section 70-2, of the Miami Beach City Code is hereby amended as follows:

**Chapter 70**

**MISCELLANEOUS OFFENSES**

**Article I. In General**

\* \* \*

**Sec. 70-2. ~~Reserved.~~ Sale of Nicotine Vaporizers (E-Cigarettes) and Liquid Nicotine to Minors Prohibited; Penalties.**

**(a) Definitions.**

Liquid Nicotine means any liquid product composed either in whole or in part of pure nicotine which can be used with Nicotine Vaporizers.

Minor means a person under the age of eighteen (18).

Nicotine Vaporizer means any electronic or battery-operated device that can be used to deliver an inhaled dose of nicotine or other substance, and any device that can be used to deliver nicotine by inhaling vaporized nicotine from the device, including those devices composed of a mouthpiece, heating element, and battery or electronic circuits that provide a vapor of Liquid Nicotine or other substances to the user. This term shall include, but is not limited to, such devices as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, an e-cigarette, an e-cigar, e-cigarillo, an e-pipe, and an e-hookah, whether they are manufactured, distributed, marketed, or sold under any other product name, and includes any replacement nicotine cartridge for the device.

**(b) Prohibitions:**

- (1) It shall be unlawful to sell, give, furnish, barter, or make available directly or indirectly a Nicotine Vaporizer or Liquid Nicotine to a minor. The buyer or recipient's identification shall be examined to confirm that the buyer or recipient is at least 18 years of age.
- (2) In order to minimize the physical accessibility to minors, no person shall offer Nicotine Vaporizers or Liquid Nicotine in vending machines.
- (3) It shall be unlawful for a person under the age of 18 to possess or use Nicotine Vaporizers or Liquid Nicotine.

**(c) Penalties.**

A violation of any provision of this section shall be punished as provided in Section 1-14 of the Code of the City of Miami Beach.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 3. SEVERABILITY.**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

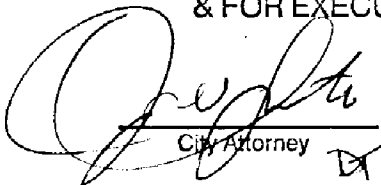
\_\_\_\_\_  
RAFAEL E. GRANADO, CITY CLERK

\_\_\_\_\_  
PHILIP LEVINE, MAYOR

(Sponsored by Commissioner Micky Steinberg)

Underline denotes additions  
~~Strike through~~ denotes deletions

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney      2/27/14  
Date

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