



## **City Commission Meeting**

### **ADDENDUM MATERIAL 3**

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
February 11, 2015**

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

City Manager Jimmy L. Morales  
City Attorney Raul J. Aguila  
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.

#### **ADDENDUM AGENDA**

##### **R7 - Resolutions**

- R7F A Resolution Cancelling Request For Proposals No. 2014-294-ME, For Design/Builder Services For The Miami Beach Convention Center Renovation And Expansion Project (The Project); Rejecting All Phase I Proposals And Terminating The Phase II Evaluation Process; And Directing The City Manager To Prepare A New Request For Qualifications For A Construction Manager At Risk Firm (CMR) To Provide Pre-Construction Services And Construction Phase Services Via A Guaranteed Maximum Price Amendment For The Project.  
(Office of the City Manager)

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**Condensed Title:**

A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Cancelling Request For Proposals No. 2014-294-ME, For Design/Builder Services For The Miami Beach Convention Center Renovation And Expansion Project (The Project); Rejecting All Phase I Proposals And Terminating The Phase II Evaluation Process; And Directing The City Manager To Prepare A New Request For Qualifications For A Construction Manager At Risk Firm (CMR) To Provide Pre-Construction Services And Construction Phase Services Via A Guaranteed Maximum Price Amendment For The Project.

**Key Intended Outcome Supported:**

Improve alliance with key business sectors, namely hospitality, arts & international business with a focus on enhanced culture, entertainment & tourism.  
**Supporting Data (Surveys, Environmental Scan, etc.):** N/A

**Item Summary/Recommendation:**

On July 30, 2014, the Mayor and City Commission authorized the issuance of RFP 2014-294-ME for Design Builder Services for the Project (the "RFP"), pursuant to Section 287.055 of the Florida Statutes, commonly referred to as the Consultant's Competitive Negotiation Act (CCNA).

On November 19, 2014, the City Commission adopted Resolution No. 2014-28848, accepting the recommendation of the City Manager to short-list the top three proposers (Clark, Hunt, and Hensel Phelps) to proceed to Phase II of the RFP evaluation process. Following the City Commission's adoption of this Resolution, Hensel Phelps Construction informed the City of its decision to withdraw from the RFP process.

On December 18, 2014, the City Commission adopted Resolution No. 2014-28882, approving the issuance, of the Design Criteria Package prepared by Fentress Architects to the two remaining proposers (Clark and Hunt).

On January 21, 2015, the City received notice that Hunt Construction Group was formally withdrawing from the RFP process, leaving only one qualified bidder – Clark Construction Group. On January 27, 2015, the City Commission directed the Administration to meet with Clark to better understand Clark's ability to deliver the Project within the City's budget and ascertain whether the City and the public could be assured that Clark's pricing is competitive, notwithstanding Clark's position as the sole remaining bidder for the Project.

On February 5, 2015, we met with several members of Clark's team, and it became clear that the Project, as designed, could not be delivered within the City's budget unless the City hastily agreed to a number of "value engineering" or re-design proposals. And most importantly, because of the lack of competition, it is the collective judgment of the internal and external professionals on the City's team, that ensuring the City achieves the best price is not possible under the current design-build approach.

**ADOPT THE RESOLUTION.**

**Advisory Board Recommendation:**

N/A

**Financial Information:**

Source of Funds:	Amount		Account
	1	2	
OBPI			
	Total		

**Financial Impact Summary:**

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

Maria Hernandez, Extension 7284

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
AD <i>[Signature]</i> MH <i>[Signature]</i>	MTL <i>[Signature]</i>	JLM <i>[Signature]</i>

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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: February 11, 2015

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CANCELLING REQUEST FOR PROPOSALS NO. 2014-294-ME, FOR DESIGN/BUILDER SERVICES FOR THE MIAMI BEACH CONVENTION CENTER RENOVATION AND EXPANSION PROJECT (THE PROJECT); REJECTING ALL PHASE I PROPOSALS AND TERMINATING THE PHASE II EVALUATION PROCESS; AND DIRECTING THE CITY MANAGER TO PREPARE A NEW REQUEST FOR QUALIFICATIONS (RFQ) FOR A CONSTRUCTION MANAGER AT RISK FIRM (CMR) TO PROVIDE PRE-CONSTRUCTION SERVICES AND CONSTRUCTION PHASE SERVICES VIA A GUARANTEED MAXIMUM PRICE AMENDMENT FOR THE PROJECT.**

### **ADMINISTRATION RECOMMENDATION**

Adopt the Resolution.

### **KEY INTENDED OUTCOME**

Improve alliance with key business sectors, namely hospitality, arts & international business with a focus on enhanced culture, entertainment & tourism.

### **BACKGROUND**

On July 30, 2014, the Mayor and City Commission authorized the issuance of RFP 2014-294-ME for Design Builder Services for the Project (the "RFP"), pursuant to Section 287.055 of the Florida Statutes, commonly referred to as the Consultant's Competitive Negotiation Act (CCNA).

The City received proposals from the following four (4) firms: Clark Construction Group, LLC ("Clark"); Hensel Phelps Construction Co. ("Hensel Phelps"); Hunt Construction Group, Inc. ("Hunt"); and Tutor Perini Building Corp. ("Tutor Perini").

On October 13, 2014, the City Manager, via Letter to Commission (LTC) No. 2014-348, appointed an Evaluation Committee (the "Committee"), which convened on October 29, 2014 to consider proposals received and interview the proposing teams, which resulted in Clark deemed by the Committee as first ranked, followed by Hensel Phelps as second ranked, followed by Hunt as third ranked, and Tutor Perini as fourth ranked.

On November 19, 2014, the City Commission adopted Resolution No. 2014-28848, accepting the recommendation of the City Manager to short-list the top three proposers (Clark, Hunt, and Hensel Phelps) to proceed to Phase II of the RFP evaluation process.

Later on November 19, 2014, and following the City Commission's adoption of Resolution No. 2014-28848, Hensel Phelps Construction informed the City of its decision to withdraw from the RFP process.

On November 24, 2014, in an effort to promote competition, the City Administration reached out to the fourth ranked firm, Tutor Perini, to assess its interest in moving forward to Phase II of the RFP process, but on or about November 25, 2014, Tutor Perini declined to continue to participate in the RFP selection process.

On December 16, 2014, the Miami-Dade County Board of County Commissioners adopted Resolution No. R-1110-14, approving, among other things, the issuance of tax increment revenue bonds in an amount not-to-exceed \$430,000,000, to be used for specified purposes, including the design and construction of the Project.

On December 18, 2014, the City Commission adopted Resolution No. 2014-28882, approving the issuance, to the two remaining proposers (Clark and Hunt), of the Design Criteria Package prepared by Fentress Architects, which included approximately 1,320 drawings, 2,326 pages of Technical Specifications and a 996 page design narrative, developed with the assistance of Fentress's team of fourteen sub-consultants and experts.

At the January 27, 2015 City Commission meeting, staff discussed the letter received on January 21, 2015, from Hunt Construction, notifying the City that they were withdrawing from the RFP process. This left Clark Construction (Clark) as the sole proposer. At that meeting it was my recommendation to: a) allow Clark the opportunity to offer the City their best number and schedule, and b) direct the Administration to prepare for "Plan B", transitioning the project to a "Construction Manager at Risk" project delivery approach. As part of that recommendation, staff planned to schedule pre-proposal meetings with Clark to better understand Clark's ability to deliver the Project within the City's budget, and ascertain whether the City and the public could be assured that Clark's pricing is competitive, notwithstanding Clark's position as the sole remaining bidder for the Project.

## **ANALYSIS**

On February 5, 2015, staff, our consultants, and I met with several members of the Clark Construction design-build team. The Clark team engaged in constructive conversation and acknowledged the difficulty created by the lack of competition.

From the budget perspective, it became clear that Clark did not believe they could deliver the project for the City's budget, without the City hastily agreeing to a number of "value engineering" or re-design proposals previously not considered by the City of its consultants. While these design changes may be viable and warranted, the City's Design Criteria Package would have to be modified in a manner that would either loosen certain criteria placing decision control with the Clark team, or would require our Design Criteria Professional (Fentress) to revise the Design Criteria Package, extending the selection process. If an ultimate agreement with the Clark team could not be reached, this extension would not leave the City ample time to implement "Plan B" while still maintaining the overall project schedule.

The second major item discussed related to the method of assuring a competitive price. The Clark team indicated they would be willing to share the results of their sub-contractor bidding process and allow the City to review all bids prior to award, but would not allow the bids to be made public until after execution of the Design-Build Agreement. Furthermore, they indicated they would be requesting less than three (3) bids for at least three (3) of the major trades, limiting competition considerably. While I appreciate the effort by Clark to “open” their bids, the proposed process is not transparent enough and further, it is not sufficient to assure the City and public that we have received the best price prior to entering into a contract.

### **CITY MANAGER’S RECOMMENDATION**

Both Clark and the City are victims of a robust local and national construction industry. It is the collective judgment of the internal and external professionals on the City’s team that ensuring the City achieves the best price is not possible under the current design-build approach. Therefore, I recommend cancelling RFP number 2014–294–ME and moving forward with Plan-B, which is to deliver the Project under a Construction Manager at Risk (CMR) approach.

Under a CMR approach, the CMR will competitively bid to the construction trades in an open and transparent process, and guarantee that the project will be delivered for a fixed price (a GMP) for the sum total of the bids plus the cost of contractor fees and project general conditions, which the City will negotiate with the selected CMR. However, prior to engaging the CMR approach, the City will need to 1) engage Fentress to complete the design documents and 2) procure a CMR firm through a Request for Qualifications process.

Under this approach, the project schedule can be maintained, meeting the targeted Art Basel events and 2018 completion.

I would like to reiterate that the change in project delivery approach should in no way be perceived as anything negative toward Clark Construction. They are a well-qualified firm that has successfully built convention centers around the country. Moreover, they offered to be as open book as possible under a design-build approach. Unfortunately, such efforts would not ultimately serve as a substitute for true and open competition, and the lack of competitors ultimately makes it not possible to move forward under the design-build approach.

### **CONCLUSION**

The Administration recommends that the Mayor and City Commission cancel Request for Proposals no. 2014-294-ME, for Design/Builder Services for the Miami Beach Convention Center Renovation And Expansion Project (The Project); reject all Phase I proposals and terminate the phase II evaluation process; and direct the City Manager to prepare a new Request For Qualifications (RFQ) for a Construction Manager at Risk Firm (CMR) to provide pre-construction services and construction phase services via a Guaranteed Maximum Price Amendment for the Project.

JLM:MT:MH:AD

**RESOLUTION NO. 2015-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CANCELLING REQUEST FOR PROPOSALS NO. 2014-294-ME, FOR DESIGN/BUILDER SERVICES FOR THE MIAMI BEACH CONVENTION CENTER RENOVATION AND EXPANSION PROJECT (PROJECT); REJECTING ALL PHASE I PROPOSALS AND TERMINATING THE PHASE II EVALUATION PROCESS; AND DIRECTING THE CITY MANAGER TO PREPARE A NEW REQUEST FOR QUALIFICATIONS FOR A CONSTRUCTION MANAGER AT RISK FIRM (CMR) TO PROVIDE PRE-CONSTRUCTION SERVICES AND CONSTRUCTION PHASE SERVICES VIA A GUARANTEED MAXIMUM PRICE AMENDMENT FOR THE PROJECT.**

**WHEREAS**, on July 30, 2014, the Mayor and City Commission authorized the issuance of RFP 2014-294-ME for Design Builder Services for the Miami Beach Convention Center Renovation and Expansion (the "RFP") pursuant to Section 287.055 of the Florida Statutes; and

**WHEREAS**, RFP 2014-294-ME was issued on August 5, 2014, with an opening date of September 29, 2014; and

**WHEREAS**, the City received proposals from the following four (4) firms: Clark Construction Group, LLC ("Clark"); Hensel Phelps Construction Co. ("Hensel Phelps"); Hunt Construction Group, Inc. ("Hunt"); and Tutor Perini Building Corp. ("Tutor Perini"); and

**WHEREAS**, on October 13, 2014, the City Manager, via Letter to Commission (LTC) No. 2014-348, appointed an Evaluation Committee (the "Committee"), which convened on October 29, 2014 to consider proposals received and interview the proposing teams; and

**WHEREAS**, on November 19, 2014, the City Commission adopted Resolution No. 2014-28848, accepting the recommendation of the City Manager to short-list the top three design/build proposers (Clark, Hunt, and Hensel Phelps) to proceed to Phase II of the RFP evaluation process; and

**WHEREAS**, on November 19, 2014, following the City Commission's adoption of Resolution No. 2014-28848, Hensel Phelps informed the City of its decision to withdraw from the RFP process; and

**WHEREAS**, on November 24, 2014, in an effort to promote competition, the City Administration reached out to the fourth ranked firm, Tutor Perini, to assess its interest in moving forward to Phase II of the RFP process, but on or about November 25, 2014, Tutor Perini declined to continue to participate in the RFP selection process; and

**WHEREAS**, on December 16, 2014, the Miami-Dade County Board of County Commissioners adopted Resolution No. R-1110-14, approving, among other things, the issuance of tax increment revenue bonds in an amount not-to-exceed \$430,000,000, to be used for specified purposes, including the design and construction of the Project;

**WHEREAS**, on December 18, 2014, the City Commission adopted Resolution No. 2014-28882, approving the issuance, to the two remaining proposers (Clark and Hunt), of the Design Criteria Package prepared by Fentress Architects, which included approximately 1,320

drawings, 2,326 pages of Technical Specifications and a 996 page design narrative, developed with the assistance of Fentress's team of fourteen sub-consultants and experts; and

**WHEREAS**, on January 21, 2015, Hunt notified the City of its withdrawal from the Phase II evaluation process; and

**WHEREAS**, on January 27, 2015, the City Commission adopted Resolution No. 2015-28907, modifying the Evaluation Process and directing the City Administration to meet with Clark to better understand Clark's ability to deliver the Project within the City's budget and confirm for the benefit of the City and the public that Clark's pricing is competitive, notwithstanding Clark's position as the sole remaining bidder for the Project; and

**WHEREAS**, on February 5, 2015, the City Administration met with over 20 members of Clark's team, and it became clear that the Project, as designed, could not be delivered within the City's budget unless the City hastily approved a number of "value engineering" or re-design proposals; and

**WHEREAS**, at the February 5, 2015 pre-proposal conference, Clark voluntarily offered a process to "open" or share certain of its subcontractor bid prices in an effort to assure the City that its pricing is competitive, but it further became clear to the City Administration that in this case, such efforts would not serve as an adequate substitute for true and open competition; and

**WHEREAS**, although the City has made substantial progress with regard to developing the design for the Project and securing the necessary approvals with respect to the Project's funding, proceeding with the renovation of the Convention Center is critical to the City and needs to continue to be expedited; and

**WHEREAS**, in order to permit the City to meet the existing Project timeline, calling for completion of the Project by 2018 while also accommodating Art Basel and other events at the Convention Center during construction, the City Manager has recommended cancelling the RFP and moving forward with a new Request for Qualifications for a Construction Manager-At-Risk firm to deliver the Project;

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby cancel Request For Proposals No. 2014-294-ME, for Design/Builder Services for the Miami Beach Convention Center Renovation And Expansion Project (Project); reject all Phase I Proposals and terminate the Phase II Evaluation Process; and direct the City Manager to prepare a new Request for Qualifications for a Construction Manager-at-Risk firm to provide pre-construction services and construction phase services via a guaranteed maximum price amendment for the Project.

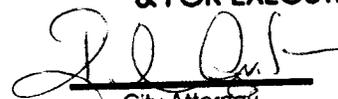
**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

**ATTEST:**

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

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

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

2-9-15  
\_\_\_\_\_  
Date