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**Gomez Barker
Associates, Inc.**

Memorandum

To: Hon. Franklin Caplan, Mayor
Hon. Mayra Peña Lindsay, Vice Mayor
Hon. Michael Davey, Councilmember
Hon. Theodore J. Holloway, Councilmember
Hon. Michael E. Kelly, Councilmember
Hon. Edward London, Councilmember
Hon. James Taintor, Councilmember

From: Fausto B. Gomez

CC: John C. Gilbert, Village Manager

Date: May 31, 2013

Re: End-of-Session Report (2013)

We are pleased to present this report detailing the accomplishments of the Village of Key Biscayne during the 2013 legislative session. Aided by the first projected budget surplus in three years, legislators presided over a relatively smooth session as excess revenues did much to pave over significant disagreements. As one observer remarked "More money; less problems."

Florida legislators passed a record \$74.5 billion state budget (an increase of more than \$4 billion from the current fiscal year) along with significant legislation dealing with Elections, Ethics, and Campaign Finance. It was also, nevertheless, a session marked by unresolved policy differences in state and local pensions, an expansion of Medicaid eligibility, economic development incentives, and taxes.

In the midst of this, Key Biscayne fared well. Along with Senator Gwen Margolis and Representative Jose Javier Rodriguez, this firm worked to:

- Secure a Budget Line Item (1685A) of \$642,000 for the Florida Recreational Assistance Program (FRAP) Small Project Fund. From that amount Key Biscayne will receive \$50,000 for the Village Green. This is the first time in at least three years that local park support has been funded by Tallahassee and we alerted budget

chairpersons that their hometown projects were also highly ranked and urged them to fully fund the list.

- Preserve \$981,847 in funding to Key Biscayne from the Communications Services Tax (CST). SB4122 and HB303 would have repealed the authority of local governments to levy the CST. These bills failed. Additionally, the House Finance and Tax Subcommittee held a workshop to tax all communications services at the same rate, regardless of the type of service, method of delivery, or location of the user. Although the Finance and Tax proposal was intended to be revenue neutral, there were scant details.
- Maintain \$143,293 in funding to Key Biscayne from local Business Taxes. The House Finance and Tax Subcommittee held a workshop to establish three uniform tax classifications based on the square footage of the business. Again, although the Finance and Tax proposal was intended to be revenue neutral, there were scant details.
- Incorporate in SB1132 and HB7127, the respective Florida Department of Transportation (FDOT) Legislative Packages, language authorizing FDOT to improve and maintain any county or city road that provides access to a state park. Although statewide in application, this language was particular to Crandon Boulevard and the Department endorsed it subsequent to conversations last year between Secretary Ananth Prasad, Vice Mayor Peña Lindsay, and us. The transportation package failed on the last night of session as the Miami Dolphins issue was amended onto it on the floor of the Senate and the House refused to consider it. We have been assured that this item will again be added next year.
- Include in the Conforming Bill to the state budget language directing the Department of Children and Families to study the Sober Home problem and look for ways to stop these unlicensed homes from establishing or expanding in residential neighborhoods. DCF must report back to the Governor, President of the Senate, and Speaker of the House by December of this year with their finding and recommendations.
- Help pass CS/SB52 by Senator Nancy Detert which prohibits the operation of a motor vehicle when texting.
- Defeat HB4011, which was an outright ban on Red-Light cameras. Changes on the application of it to right-on-red, however, were approved in the Department of Highway Safety bill (HB7125). This would prevent a notice of violation or traffic citation as long as the vehicle came to a complete stop, even after crossing the white line, prior to making an allowed right turn during a red light. The other provisions give drivers 60 days to appeal a citation and the appeals would now be managed by the cities and counties that collect and/or issue the fines. An administrative fee of \$250 could be charged for an unsuccessful appeal. The specifics of how the process will be set up remain to be worked out.

An interesting fact is that the Red Light Camera program generated more than \$100 million in revenue last year in approximately 70 Florida communities, with 52.5% of the revenue going to the state. The rest is divided by cities, counties, and the camera companies. In 2013, the cameras are on pace to generate \$120 million.

- Meet with FDOT Secretary Ananth Prasad and arranged for the Vice Mayor and Senator Gwen Margolis to meet with him as well regarding the Bear Cut Bridge. Representative Rodriguez also met with the Secretary and/or his staff in support of Key Biscayne. Also, met with Danielle Fondren, Deputy Director of Water Resource Management at the Department of Environmental Protection, on how Key Biscayne could be ranked higher for beach nourishment funding. I previously provided a report to Council on the latter and relayed the strategies suggested by the DEP.

Equally critical to the above was the ability to pass legislation that reduced Key Biscayne's operating responsibilities and expenditures and to thwart bad policy that would have preempted home rule authority or imposed additional unfunded mandates. An example of the latter was HB7123 by the House Select Committee on Claims Bills which would have significantly raised sovereign immunity limits. Under current law, the state has waived sovereign immunity in tort actions up to \$200,000 for individual actions and up to \$300,000 for all actions arising out of the same incidence or occurrence. The bill would have increased the waiver of sovereign immunity for political subdivisions only (defined to include cities, counties, and school board), up to \$1 million for individual actions or up to \$1.5 million for all actions arising out of the same incidence or occurrence. This is a five-fold increase on the current waiver of sovereign immunity. Another example was SB1716 by Senator Rene Garcia that would have exempted certain new developments from having to comply with impact fee, transportation concurrency, or proportionate share requirements for three years.

Following is a detailed list of key issues that my partners, associates, and I lobbied and/or monitored on your behalf. We were actively engaged both in helping pass legislation that facilitated local governance as well as assuring that bills that would have negatively impacted Key Biscayne did not become law.

- Pension Reform

CS/CS/SB 458 and CS/HB 1399 were the two bills relating to city firefighter and police officer pensions. To keep existing plans sustainable, sound, and secure for current and future police/fire retirees, cities must have the flexibility to negotiate a sustainable benefit level and the Senate bill, as amended, would have prevented this from occurring.

On April 10th, CS/CS/SB458 was amended to prohibit cities from negotiating police/fire pension benefits that are lower than the benefit level that existed as of 1999 in each individual city. While CS/HB 1399 did not include the same amendatory language, the Senate action indicated that body's position thus there was no reason to pursue further pension reform this past session.

Both bills would have removed from law the statutory basis for the current Florida Department of Management Services (DMS) interpretation on the use of insurance premium tax revenues (as reflected in the "City of Naples" letters). The current DMS interpretation provides cities and police/fire unions, for the first time since 1999, with the flexibility to collectively bargain pension benefit levels and use of insurance premium tax revenues for these benefits. Both bills would have also provided a complicated process for the use of insurance premium tax revenues based upon when a tax amount was generated and whether the plan has an assets-to-liabilities funded ratio of less than or greater than 80 percent.

- Property Insurance

During the legislative session, 63 bills were filed regarding property insurance, 45 of which specifically proposed changes to Citizens, and one of which passed (SB1770). That bill did not make the robust structural changes proposed by the Senate and others. The House of Representatives prevailed, but still Citizens' coverage levels will be reduced from \$1 million to \$700,000 over three years, a clearinghouse will be set up to shop customers in the private market, and coverage is prohibited for new buildings seaward of the coastal construction line. The legislation also sets up an Inspector General for Citizens.

Of particular importance, existing Citizens customers keep the 10% rate cap on annual rate hikes. This was crucial to legislators from Southeast Florida and to Chief Financial Officer Jeff Atwater. He said "I do not believe that the Legislature should rip these caps off and try to accelerate rates. It will damage the economic growth that is now taking place."

- Right to Speak

The Florida Legislature passed legislation that says public agencies must make "reasonable" accommodations for public testimony – subject to time constraints and other normal limits (SB50). The bill is a result of two District Court of Appeal rulings that held that while the Florida Constitution and the "Government in the Sunshine" laws require public governing bodies to meet openly, there is no legal requirement that they let the public speak at meetings.

- Ethics

One of the overriding priorities of the legislature this session was ethics reform. CS/SB2 by Senator Jack Latvia gives the Florida Commission on Ethics (COE) the authority to place liens on real property in order to collect financial disclosure fines. The bill provides a grace period to amend financial disclosure forms and now requires municipal finance directors to file financial disclosure. Finally, the COE is authorized to initiate investigations and candidates or elected officials are prohibited from accepting public employment if known that the position is being offered for the purpose of gaining influence over the official. The Governor approved this measure on May 1st.

- Campaign Finance

The Governor has already approved CS/CS/CS/HB569 relating to campaign finance. Of interest to local governments that have adopted the Florida Election Code as the controlling law for elections; the contribution limit is increased to \$1,000 per person per election. Also, candidates would have to file an increased number of campaign finance reports.

- Comprehensive Plan Amendments

We understand that Key Biscayne has a requirement that changes to Local Development Regulations require a referendum. Because of that we monitored CS/CS/HB537, which would prohibit local government initiative or referendum processes for local comprehensive plan or map amendments affecting more than five parcels of land, except for those processes in effect as of June 1, 2011, and specifically authorized by charter language. Although this may not be directly on point with regard to Key Biscayne, we thought it important to

follow the legislation so that there would no spillover with regard to the Village's practices.

As always, please do not hesitate to contact me if you have any questions or desire additional information. We appreciate the Vice Mayor joining us in Tallahassee and helping with the lobbying effort, just like we value the support and guidance provided by the other elected and appointed officials of Key Biscayne. Thank you for allowing us to represent the Island Paradise.