Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Airport & Seaport Committee

September 10, 2009
9:30 A.M.
Commission Chamber

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Miami-Dade County Board of County Commissioners
Office of the Commission Auditor

Legislative Notes
Airport & Seaport Committee
Meeting Agenda

September 11, 2009

Written analyses and notes for the below listed items are attached for your consideration:

Item Number(s)

3(C)
3(H)

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Esq., Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analysis prepared by:
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MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item: 3(C)

File Number: 092419

Committee(s) of Reference: Airport and Seaport Committee

Date of Analysis: September 8, 2009

Type of Item: Retroactive Lease Agreement

Summary

This resolution approves the Retroactive Lease Agreement with American Airlines (AA) for the continued lease of hangar and office space in Building 3095 at Miami International Airport (MIA). The Lease is retroactive to January 1, 2008 through December 31, 2012.

Additionally, this resolution approves the settlement of certain rental issues that arose under the prior lease by not imposing the disputed Consumer Price Index (CPI) rental adjustment retroactively on AA. As part of the Miami Dade Aviation Department's (MDAD) negotiations with AA, MDAD agreed not to impose any retroactive CPI adjustments to the previous Lease.

Background

AA has occupied the ground floor hangar and second floor office space in Building 3095 since November 1997. The previous lease was for five (5) years, eleven months with three (3) consecutive five (5) year renewal extensions at Lessee's option.

In 2007, MDAD noted that the rent had not been adjusted annually for the CPI and invoiced AA for $1,270,442 as retroactive, multi-year CPI adjustments. AA strongly disputed the invoice.

In December 2007, AA advised MDAD that they would not be exercising their option to extend the lease.

Relevant Legislation

On April 7, 2009 the Board of County Commissioners (BCC) adopted R-331-09 awarding a contract in the amount of $5,843,250 to Merkury Corporation d/b/a Merkury Development to refurbish Buildings 3094 and 3095 (hangar). Building 3094 is a seven-story parking garage adjacent to the hangar. The project consisted of refurbishment of the exterior exposed concrete and corrugated steel panel siding of the eleven-story hangar, repair of drainage system; prefabricated stairs and railings; several electrical repairs and other general repairs. The refurbishment will provide an additional 40 years life expectancy to the buildings that are approximately 25 years old. It will also bring the buildings into compliance with the South Florida Building Code and National Fire Prevention Association.

Budgetary Impact

The annual rent payable to the County is $3,535,807.40, in twelve equal monthly payments of $294,650.90.

According to MDAD, the previous Lease Agreement yielded $4.252 million annually. However, according to the Rent Analysis dated June 4, 2008, provided by Waronker & Rosen, Inc., Real Estate Appraisers and Consultants the revised rent is based on current market conditions, consideration to the large size of the hangar and the current supply and demand levels at MIA, increases in fuel costs which has caused a decrease in flights and a decrease in demand levels for maintenance hangar space. Additionally, the Rent Analysis states that if vacated the hangar building would likely require over a year to find a replacement tenant in this current depressed aviation market.

In addition to the annual rent, the tenant pays the utilities at $0.71 for electric and $0.40 for water.

According to MDAD, AA has been current in their payments, however, they see in Peoplesoft an amount of $1,325,333 is owed but there might be unapplied cash and a reconciliation pending.

Prepared by: Bia Marsellos

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	**3(H)**
File Number:	
Committee(s) of Reference:	**Airport & Seaport**
Date of Analysis:	**September 10, 2009**
Type of Item:	**Resolution**
Sponsor:	**Seaport Department**

Summary
This resolution does the following:

- Approves the execution of a Stevedoring Services Access Agreement between the County and Royal Caribbean Cruises, Inc.
- Approves the standard execution standardized Non-Exclusive Stevedoring Service Contracts between the County and permitted stevedores, after review of the County Attorney's Office.
- Waives the County policy of a conducting a competitive bidding process for contracts as it relates to services covered by the Non-Exclusive Stevedoring Service Contracts, and also allows Royal Caribbean to select its desired stevedore from among the Port's permitted stevedores.
    - Note: A 2/3's vote of the Board of County Commissioners present is required to waive competitive bidding procedures, pursuant to Section 5.03(D) of the County Charter, and Section 2-8.1 of the County Code.

Background and Relevant Legislation
This item represents the third phase in a three-phase process to implement a unitary fee for Royal Caribbean Cruise Lines (RCCL). The Board approved the phased-in implementation of the unitary fee model for RCCL when it approved Resolution **R-1345-08**, on Dec. 2, 2008.

As noted in the Manager's memo accompanying the item, Phase 1 of the unitary fee was implemented in Jan. 2009, and included the bundling of dockage, wharfage, harbor fee, and water into a single rate of $9.86 per embarking and disembarking passenger.

Phase 2 included adding security services to the fee. Under the agreement, the County will provide security services and RCCL will pay the County for the security services and an additional administrative fee. Phase 2 was approved by the Board on June 30, 2009.

Phase 3 of this unitary fee model will allow Royal Caribbean to access to the non-exclusive stevedoring contracts between the County and the Port-permitted stevedores.

Unitary Fee

The unitary fee model is relatively new to the cruise line industry, yet it is a trend that is being pursued by the select cruise lines at varying ports, according to officials at the Port of Miami and Port Everglades.

Benefits of bundling service charges into a single fee paid to the port include the simplified financial transaction between the port and the cruise line. A single fee per embarking and disembarking passenger which is paid to one vendor (in this case the Port of Miami) also allows the cruise line to cut down on back office staff, and may decrease financial computation errors. Unitary fees also allow a port to lock in guaranteed rate from cruise lines.

Currently, RCCL appears to be leading the push for unitary fees. RCCL currently has similar fee arrangements with the following ports: Everglades, Galveston and Southampton.

The unitary fee model approved by the Miami-Dade County Board of County Commissioners (R-1345-08) applies to RCCL only. According to Port of Miami staff, other cruise lines may request a unitary fee. Cruise lines at the Port of Miami are not mandated to adopt the unitary fee model.

Policy Change and Implication

This item represents Phase 3 in the implementation of a unitary fee service provided by Port of Miami to RCCL, pursuant to R-1345-08. The unitary fee is a new fee model at the Port of Miami. Based on the success of this fee model, other cruise lines at the Port of Miami may opt for similar arrangements.

Budgetary Impact

According to the Manager's memo, the stevedoring contracts associated with this item are revenue neutral as the costs incurred by the County will be billed to Royal Caribbean based on provisions of the unitary fee agreement. An annual fee of $100,000 will be charged to the cruise line to cover the Port's administrative costs.

Prepared By: Jason T. Smith